

# Policing in India: The Politics of Justice in a Poor Democracy

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# Chapter 1

## Introduction

### 1.1 The Problem

Protecting citizens from personal violence and property expropriation is one of the core functions of states [Weber, 2009], but one that the Indian state is, by its own admission often unwilling or unable to perform [National Police Commision, 1981]. This failure stems from the problematic performance of India's least trusted social institution, the police [Desai and Vanneman, 2015]. Policing in India is almost exclusively reactive: Patrolling is relatively rare, preemptive policing strategies are unusual, and conscious community engagement practices virtually unheard of. With a few revealing exceptions, like the lavish provision of bodyguards for politicians and the wealthy, policemen in India wait in fixed posts for citizens to bring them complaints to investigate.

Even given this narrow mission, police in India are often not particularly responsive to ordinary citizens: One survey found that the police only registered criminal complaints immediately (the legal requirement) in 31% of cases. In 91 percent of cases, the crime is only registered after the intervention of a third party—a senior officer, lawyer, or politician. In some cases, the police actually use physical threats to dissuade petitioners—while approximately half paid a bribe as well. Many citizens do not even bother to try—in 56 percent of disputes, the subject was dissuaded from approaching the police. Indian crime statistics thus bear little relationship to social reality: By one calculation, 99.1% of rapes

in India go unreported. Even murder rates are subject to “minimization,” with cases of suspicious death are often reclassified as accidental unless there is some pressure from the family or community.<sup>1</sup>

The police are also widely thought to allow law breaking by the certain types of criminals, particularly those with political connections, giving them effective impunity to violate the persons and property rights of others. [Barry, 2017] with the common practice of “grabbing” land being one of the more obvious manifestations [Guha, 2016]. Despite a widespread perception that India has high levels of corruption among politicians and civil servants [Bertrand et al., 2007, Vaishnav, 2017], most such crimes go unprosecuted. The close relationship between political power and criminal impunity is one of the motivating factors for the widely noted increase in the involvement of criminals in Indian politics [Vaishnav, 2017, Aidt et al., 2011, Chemin, 2012, Prakash et al., 2015], with 44% of successful candidates at the 2019 election facing criminal charges.

Even when the police does act against crime, it often flouts legal norms—85% of those who have been in police custody report being tortured, and extrajudicial “encounter” killings are common. They may also extort businessmen for bribes and “expenses,” with the majority of Indian businessmen reporting that their interactions with the police required bribery [World Bank, 2005]. In some areas, the unpopularity of the police has created openings for alternative providers of protection, such as insurgents [Shah, 2006, Mukherjee, 2013, Staniland, 2012, ?], criminal gangs [Weinstein, 2008, Mehta, 2009], or local political bosses [Vaishnav, 2017].

The phenomena of the police as a “lagging sector” of public services is one that extends well beyond India. Brazil, for instance, was praised for improving some education, health and poverty outcomes since 1990, but its police forces have been widely criticized for allowing “unprecedented levels of both corruption and crime” during this same period [Hinton, 2006]. Similarly, the relative social and economic achievements of the South African state contrast with levels of crime that are among the highest in the world, and widespread criticism of police [Brogden and Shearing, 2005]. Even in the United States,

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<sup>1</sup>Officer F Interview, 11/16/17

the growth and professionalization of police forces (and the associated reduction in crime) lagged by a generation the creation of programs for mass education and highway improvement by at least a generation [Walker and Walker, 1998], as urban police departments in the early 20th century remained patronage-driven adjuncts of local political machines. Fogelson [1977], for instance, described American police departments as both reluctant to patrol and more focused on licensing crime than eliminating it.

This book will show that the poor performance of the Indian police is the result of two interdependent policy choices. Firstly, the Indian police is severely *underresourced*. India has the second lowest police population ratio in the world [United Nations Office on Drugs and Crime, 2010] and massive vacancies at all vacancies of the police service (in 2012, 23% of authorized positions).<sup>2</sup> This underresourcing has been present for some time. Since 1971, the police population ratio only increased from 128 to 138 per 100,000, much lower than the ratios of the United States (227), Spain (387) or England (251) [United Nations Office on Drugs and Crime, 2010]. However, it is not true that India is incapable of expanding the police: in the period after independence the police population ratio nearly doubled relative to late colonial levels.

Those policemen India does have work long hours for pay that has steadily slipped behind the private sector. In 2014, 90% of officers worked more than 8 hours a day, and 68% percent reported working more than 11 hours a day [Bureau of Police Research, 2014]. Police salaries are also low. The starting salary for a police constable in Delhi is about half the annual income of a taxi driver. While the police are provided with housing, it is widely regarded as substandard: In 2008, only 23% of families expressed satisfaction with their housing (BPR). The police have to scuffle for other types of resources as well: Nationally, the force only 12 number of vehicles per 100 officers, a major factor in the low level of proactive patrolling by police, and their inability to respond to many calls.

Secondly, the Indian police have very *low autonomy* relative to politicians and social elites. The low autonomy is especially remarkable in light of the structure of its formal

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<sup>2</sup>The vacancy rate was 32.3% among investigative officers in state CID departments (the investigative branch), and 19% among senior officers [Bureau of Police Research, 2015]

institutions, which were designed to insulate it from political pressure. The modern Indian police, like many Indian formal institutions, is a product of colonial rule, and its creators were suspicious of the influence of local elites and politicians on law enforcement [Government of India, 1905]. The most senior officers, who monopolize important supervisory posts, are recruited by the central government, which controls their promotion, salary and dismissal. However, these policies are undermined by another colonial legacy, the centralization of police power in the state government. Each states chief minister has full executive authority over the filling of police jobs and law enforcement policy, and are intimately involved in the posting of senior and mid level police officers, being careful to post sympathetic or pliable officers to important positions, and to quickly transfer those who prove troublesome. In an average year, 48% of SPs and IGs are transferred between after less then two years of service, both reducing their efficiency and incentivizing loyalty. The Chief Minister thus has defacto veto power over criminal investigations, and in police deployment. One noticeable consequence of this fact is the startlingly large proportion of Indian policemen are deployed as bodyguards for politicians and important people, or as security at political events, making their status as servants of the party in power humiliatingly clear.

Both these problems are found in other poor democracies. While the UN recommends a ratio of 220 officers per 100,000 people, some Asian, African and Latin American countries have much lower ratios—168 in Nicaragua, 104 in Kenya, 135 in the Philippines [United Nations Office on Drugs and Crime, 2010]. These forces are also frequently underpaid and provided with limited resources for communications and logistics. Similarly, political influence over day to day policing was probably the more salient feature of the justice system in the gilded age United State [Walker and Walker, 1998, Stuntz, 2011] and has also been noted in other parts of contemporary Africa and Asia.

This book explains how nations can find themselves in the “policy trap” of low police resources and low police autonomy, and why they find it so hard to get out again. It argues that these conditions are mutually reinforcing: As long as one exists, there are strong political barriers to reform on the other dimension. As long as these conditions

exist, ordinary police officers are driven to avoid both police prevention and most investigation, while concentrating on the protection of the politically prominent. It will suggest, however, that these problems are solvable through political action, and that their solution should be one of the most important goals of 21st century India.

## 1.2 The Puzzle

**Why Should Democracies Provide Policing?** Before we examine why Indian democracy fails to provide policing, it is worth examining why we might expect it to provide anything at all. Most recent scholarship of the politics of public service provision describe politics as an exchange between politicians and citizens, with votes being traded (implicitly or explicitly) for state resources.<sup>3</sup> Politicians would prefer to distribute only to voters who have backed them or are likely to do so, in order to avoid free-riding by voters, and their targeting may involve the use of clientelistic distribution (where distribution is made conditional on observed support), or pork distribution (where distribution is targeted to communities or groups thought to be supporters [Stokes et al., 2013]). At least in theory, the distributive politics literature is optimistic about the relationship between democracy and public service provision Golden and Min [2013]. Fear of punishment by voters will incentivize politicians to provide services. To be sure, they may choose to do this only to those who they consider supporters, leading to the construction of socially inefficient clientelistic networks [Stokes et al., 2013], deficit spending, surges in distribution at election time, a focus on visible goods or bias towards members of specific ethnic groups.<sup>4</sup> While politicians may ignore reelection incentives to focus on private rentseeking, this type of

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<sup>3</sup>This pattern has been shown to apply to a wide variety of goods, including electric power [Min, 2015, Chen, 2013], education [Stasavage, 2005], disaster relief [Besley and Burgess, 2002b], private social services [Thachil, 2014] and government funds Keefer and Khemani [2009, 2005], Chhibber and Nooruddin [2004].

<sup>4</sup>This last may be either because ethnic networks make monitoring easier or because ethnicity is a visible marker of political sympathies [Kramon, 2013, Burgess et al., 2015, Bates, 1983, Lindberg, 2010, Besley et al., 2004, Lee, 2018]

behavior may also be punished by the voters, at least if they have sufficient information to do so [Besley and Burgess, 2002a, Dixit and Londregan, 1996].

The basic distributional logic does not provide an explanation for why bureaucracies are able to become autonomous of the politicians who create them—in fact, it would lead us to expect politicians to fight to keep all discretionary power in their own hands, even if bureaucrats handle day to day decisionmaking [Calvert et al., 1989]. However, there are several persuasive explanations for why autonomy might emerge notwithstanding [Helmke, 2012, Huber and Shipan, 2002, Carpenter, 2001]. Politicians, mistrustful of their successors, might prefer to insulate agencies they favor from the political process [Reenock and Gerber, 2007], or where the policy distance from their successors is large [Hanssen, 2004]. Leaders might also grant autonomy to take advantage of the expertise of the bureaucracy [Gailmard, 2002, Gailmard and Patty, 2007, Huber and Shipan, 2002] or their legitimacy [Carpenter, 2001].

Outside of policing, India might seem to provide support to these arguments. In the past few decades, certain types of public services have seen marked improvements: Between 1971 and 2011, literacy rates increased from 34% to 74%, the percent of villages with electricity rose from 18% to 68%, and there were even modest improvements in certain types of citizen-bureaucratic interaction in some states [Bussell, 2012]. During the 1980-2009 period, real per capita expenditure on social services rose by 354%, while real per capita expenditure on the police rose by only 220%. While these improvements have been unevenly implemented across states [Min, 2015, Singh, 2015] and have tended to be implemented in ways that reinforce the power of locally dominant elites [Lee, 2019a], they indicate that, at least in some places and for some people, India's system of democratic accountability can improve social well being.<sup>5</sup>

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<sup>5</sup>The distribution politics logic is also widely attested in the social scientific literature on India. Distribution in India has increased with the democratization of political system [Thachil and Teitelbaum, 2015], is higher in areas with a large press [Besley and Burgess, 2002b], and higher at election times [Khemani, 2004, Saez and Sinha, 2010]. Another set of studies have found evidence for bias in distribution, either towards supporters of the ruling party [Dunning and Nilekani, 2013], members of the same caste as the powerful [Besley et al., 2012], or social elites in general [Lee, 2018].

Why, then, do states often fail to provide protection to citizens? Policing has obvious potential as a distributive good: Citizens value security from violence and expropriation, and governments can win support by promising more or better police protection, either to society as a whole or to specific groups. If policing just other distributive good, fundamentally analogous to rural electrification or disaster assistance grants, we should expect its politicians to have strong incentives to provide it, at least to their supporters. And this logic does appear to work in some rich countries. Politicians win election by promising “law and order” [Beckett, 1999] and make efforts to improve provision around election time and when under media scrutiny [Levitt, 2002].

**Other Explanations for the Indian Police:** Policing, considered broadly, is hardly an understudied area, though a majority of attention has been focused on the United States and other developed democracies. Particularly in the recent years, this literature had tended to emphasize not underpolicing, but overpolicing or biased policing. Some topics of particular concern include the ways in which police prioritize certain types of crimes over others [Harcourt, 2009, Matusiak et al., 2017, Meier, 2016] the ways in which police favor members of specific ethnic groups and classes over others [Weitzer and Tuch, 1999, Smith et al., 2017, Warren et al., 2006, Knox et al., 2019] excessive use of force by police officers [Westley, 1953, Skolnick and Fyfe, 1993, ?], or police militarization [Mummolo, 2018a, Bove and Gavrilova, 2017]. These policies are attributed to a lack of accountability of police agencies to the residents of the neighborhoods they police and the development of a superficial “law and order” politics at the national and state level [ie Stuntz, 2011, Alexander, 2020]. These accounts provide only a limited purchase on the Indian experience: Enforcement is as likely to be non-existent as intrusive, while law and order is seldom a political issue.

The large literature on the bureaucratic dynamics of the police, provides similarly partial answers to chronic problems of the Indian police. The many studies on the ways in which police bureaucracies constrain (or fail to constrain) the behavior of individual officers in developing countries [Wilson, 1968, Brown, 1988, Bayley, 1990, Bittner, 1973, Mummolo, 2018b] fail to address where such policies come from. Similarly, the small

literature on the India police has either focused on issues of authority and institutional control [Jauregui, 2016, Bayley, 1969] or focused on the efficacy of specific reforms [Verma, 2005, National Police Commision, 1981, Banerjee et al., 2012], rather than the origins of underresourcing and low autonomy, though most authors would probably concede the importance of both problems.

One obvious explanation that the Indian police works less efficiently than the United States because India is poorer than the United States, and thus less able to afford to generously fund its police institutions. However, while wealth certainly appears to be correlated with state capacity and institutional autonomy [Fearon and Laitin, 2003, Rodrik et al., 2002, Glaeser et al., 2004], there are numerous cases where poor countries can develop institutions that are both impressively autonomous and effective [Evans, 1995], and many democratizing countries have police forces that are both large and autonomous, often to a problematic degree [Hinton, 2006].

It is certainly possible that the current set of policies reflects the preferences of Indian voters, who would prefer roads or low taxes to an effective police. However, it is not true that law enforcement is an issue that is unimportant to voters, or one which they do not care about. One 2014 study found that corruption was the second most important issue to Indian voters, and law and order the fifth [Vaishnav et al., 2014]. Issues of police corruption and violence are widely reported in the Indian media, and voters are well aware of the importance of political influence in the criminal justice process.

A related argument would be that the current set of outcomes serves the interests of a majority of voters, even if some marginal segment of the population suffers. However, one interesting element of India's underprovision of policing is that it empirically weighs on even the relatively wealthy and well-connected. Indians who know an elected official, know a police officer, have a college education, or have an income in the top 10% all have levels of confidence of the police that are just as low as those without these advantages.<sup>6</sup>

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<sup>6</sup>Only 26% of Indians who know a politician express full confidence in the police (versus 25% of others), as do 28% of Indians who know a police inspector (versus 25% of others), 26% of those with a college education (versus 25% of others) and 25% of those in the top income quintile (versus 25% of

Similarly, rates of crime victimization are only slightly lower among the wealthy than the poor, and higher among the well-connected than those without connections.<sup>7</sup>. While very wealthy and powerful Indians may avoid the consequences of living in an under-policed society, the vast majority of voters do not.

A final potential explanation for the weakness of the Indian police is that it reflects the presence of alternative providers of protection and dispute resolution: Mafias, landlords, insurgents etc. The strength of these competitors determines the ability of the state to monopolize the provision of protection. In fact, in some cases these competitors might lobby to deliberately weaken state institutions. The major obstacle to testing this explanation is that the strength of alternative providers of protection is endogenous to the strength of the police—if the police turn people away, alternative protection mechanisms will tend to emerge. However, to the extent that we can identify exogenous variation in the strength of non-state providers of protection, there does not seem to be an especially strong relationship. Areas with secessionist insurgencies, for instance, are some of the most heavily policed parts, due to the central government’s desire to see off dangerous rivals.

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## 1.3 Explaining a Dysfunctional System

### The Framework

Consider a standard model of the provision of public services by politicians. Politicians are office seeking, while voters seek to maximize the level of resources that they receive. Politicians and voters develop a mutually profitable exchange, with votes being exchanged others). [Desai and Vanneman, 2015]

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<sup>7</sup>Five point seven percent of Indians who know a politician have been a victim of a theft, burglary or assault in the previous year (versus 5.4% of others), as have 5.6% of Indians who know a police inspector (versus 5.5% of others), 4.6% of those with a college education (versus 5.6% of others) and 5.5% of those in the top income quintile (versus 5.5% of others) [Desai and Vanneman, 2015]

for high levels of transfers. While politicians might be tempted to slack (either to spare themselves effort or to gain rents) the existence of other potential candidates keeps this in check. The result should be a (mostly) virtuous cycle of democratic accountability: Politicians who distribute at higher levels (or who credibly promise to do so) are (re)elected, and others are driven to emulate them [Dixit and Londregan, 1996].

Office seeking politicians allocates funds among different categories distributional goods within a budget constraint (or attention and care within a finite limit). He must choose to allocate funds and attention to either law enforcement (by hiring new policemen, buying them new jeeps, or intensively supervising the appointment of effective senior officers) or infrastructure and social services (by building bridges, hiring teachers, or giving students grants for textbooks). Both types of goods provide broad scope for both clientelistic and programmatic distribution, and politicians may focus on either category based on what their constituencies value more.

As with other types of distributional goods, politicians might prefer to that the provision of policing services be conditional on voters supporting them. A variety of different techniques can achieve this end. They might only allocate funding and personal to areas inhabited by their supporters, or instruct the police to focus on enforcement of crimes targeted against their supporters, or avoid enforcement of crimes committed by supporters. A party supported by the wealthy, for instance, might redeploy police to wealthy neighborhoods and instruct them to aggressively enforce laws against begging, while not enforcing laws against drugs preferred by the wealthy. Less legitimately, politicians might instruct the police to ignore the wrongdoing of prominent supporters, or to arrest non-supporters who are not guilty of any wrongdoing. Conversely, they could attempt to distribute *programmatically* allowing these decisions to be made by the the police themselves based on non-political criteria.

Politicians cannot distribute personally to voters, at least on a large scale. Instead, they must rely on bureaucrats or informal brokers (for individual goods) to actually provide the good. This leads to a situation, where the agent (the broker) seeks to divert the resources from the voters to themselves. Powerful brokers, in control of large networks

of potential supporters, may be able to demand substantial favors from politicians but pass on only a portion of these transfers to voters [Stokes et al., 2013].

Bureaucratic agents, however, may be unreliable agents in other ways, diverting resources to policy goals or recipients not favored by the politician [Kitschelt and Wilkinson, 2007]. They may find the clientelistic targeting politicians demand to be incompatible with their own desires and values, may have policy goals incompatible with those of politicians, or they may have goals internal to the organization, such as high pay or easy working conditions for themselves or their subordinates. Gailmard [2002] refers to this threat as *subversion*, and an extensive literature has grown up around the techniques politicians use to constrain bureaucrats to do as they say [McCubbins et al., 1987, McCubbins and Schwartz, 1984, Dasgupta and Kapur, Forthcoming]. Like most principal agent problems, this one may lead to inefficiently low levels of goods distribution, as politicians may hesitate to transfer resources to individuals when they cannot guarantee that these resources will eventually reach their supporters.

Note, however, that “subversion” might well be positive in a normative sense. Bureaucrats may seek to serve the public according to the law or the official mission of the agency, without considering political loyalties. For this reason, many bureaucrats are protected by formal rules—recruitment by examination, dismissal only for cause etc.—designed to hamper politicization. However, this may simply drive politicians to other expedients: Officers known (on the basis of reputation or ethnicity) to not be amenable to control by politicians may be denied promotions, be frequently shunted from post to post, or be given undesirable assignments or face charges for some real or imagined maleficence.

However, politicians may prefer to grant bureaucrats autonomy, and even to guarantee that autonomy with precisely the types of institutional safeguards that in other circumstances they might seek to overturn. Firstly, they may wish to guarantee that the distributional program they announce will continue after they leave office. If a program or institution is not somewhat insulated from the political process, a successor of a different political persuasion will find it easy to eliminate these benefits or switch them to their supporters, using the same types of formal and informal tools of influence discussed

above. However, this type of reversal can be made less likely (or more difficult) if a politician insulates a program or agency from the political process. The American politics literature has many examples of the ways in which this insulation can be guaranteed— independent boards, fixed terms for agency heads, meritocratic recruitment, a guaranteed discretionary budget etc [Huber and Shipan, 2002, Wilson, 1989]. The comparative politics literature had found many examples of such insulations: For instance, this is one of the most prominent explanations for the emergence of independent judiciaries [Hanssen, 2004]. Obviously, politicians with policy preferences similar to the bureaucracy will be more willing to make this choice, since there is little risk that autonomy will lead to subversion.

Secondly, some level of bureaucratic autonomy may be an inevitable part of distribution on a large scale. While a politician might prefer to choose personally who receives a benefit, his time is limited. While he may outsource some aspects of the patron client relationship to brokers or bureaucrats, this will also eventually either lead to limitations of scale or lower quality monitoring of brokers or bureaucrats. A politician who insists on approving every job seeker, for instance, will only be able to provide a limited number of jobs. An autonomous bureaucracy, by contrast, can operate on any scale, regulated by its own (licit) hierarchical procedures. In the American politics literature, this efficiency advantage of bureaucrats is sometimes referred to as their “expertise” Gailmard [2002].

Politicians must thus make two choices regarding provision of any type of good, the level of resources and the level of autonomy. This leads to four combinations of behaviors: high autonomy/high resources, high autonomy/low resources, low autonomy/high resources, and low autonomy/low resources.

## How the Police are Different: Costs and Attribution

Why would a politician deny resources to a police force over which she exercises full control? Why is the combination of low autonomy and high resources rare, at least in democracies? Policing exhibits two key differences from other types of public services that make it relatively unattractive to provide: The high relative social costs of policing and

the attribution problems that it creates.

While policing, like other types of distributional goods, involves the spending of taxes on the provision of benefits, it also involves the imposition of highly concentrated *costs*. Individuals, even powerful ones, can be arrested, fined or constrained in their activities by an aggressive policeman. The police may, for instance, choose to aggressively enforce laws against public demonstrations, the sale of ganga, or encroachment on undeveloped land. All of these campaigns will have vigorous public supporters—the targets of the demonstrations, opponents of drug use, landowners—who may reward politicians for initiating these campaigns. However, all these campaigns will also generate committed opponents, who will face steep cost from vigorous enforcement—the demonstrators themselves, users and sellers of ganga, and those doing the land encroaching. Unlike other competitors for resources within a fixed budget, policing has not just supporters, but opponents who individual costs are very high.<sup>8</sup>

These sort of costs, and the political incentives that they create, are not unknown in the politics of other types of public services. The operators of a private ferry might lobby against the construction of a new bridge that would take away their business, and private health insurers might lobby against the provision of public health insurance [Starr, 2013]. Private landlords might even fight the the provision of services to their tenants if they think this will increase their labor costs [Anderson et al., 2015, Shami, 2012]. However, these political costs are much greater in the cases of policing, where the coercion of non-beneficiaries is a key attribute of the good itself, rather than a side effect of it.

In consequence, the low-autonomy high resources policing is most common where the political power is unequally distributed. This is most common in dictatorships, where power is concentrated in a small selectorate. Such a regime may support a large police

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<sup>8</sup>While the idea of criminals lobbying for weak law enforcement may seem cynical, those making these demands do not usually perceive of themselves as criminals, or their demands as illegitimate. They may believe themselves to have been unjustly targeted for personal or ethnic reasons, or believe the laws or procedures under which they are prosecuted are illegitimate, or that the facts of the cases actually support them. Such forms of self-justification are well attested in the psychological literature [Sherman and Cohen, 2006] and in the literature on the legitimacy of criminal justice systems [Rocque, 2011].

force that coerces political opponents, members of minority ethnic groups, the poor, or criminals to obey the laws of the regime while remaining indifferent to the unpopularity that these policies create. In fact, a large police force may enhance the stability of the regime by deterring rebellion. It is unsurprising, that, conditional on wealth, dictatorships often have large and well-resourced police forces.

The other set of conditions where a political coalition can be assembled for a well resourced police force is where the group bearing the costs of law enforcement are politically powerless or marginal: Immigrants, the poor, foreigners etc. These groups may be the losers in most “law and order” campaigns, even when they are not the only or primary committers of the crimes in question.

In the last section we mentioned three types of goods and social problems that tended to get high levels of attention from politicians: Those that are highly visible to voters, those where the results of spending may be observed during the politician’s time in office, and those where voters are easily able to link outcomes to inputs. Law enforcement is certainly a highly visible activity: Crime and public disorder, and police efforts to combat it, is in most countries well-covered by the media, even in proportion to its social importance. However, the attribution and timing problems raised by investments in law enforcement are complex, and encourage lower levels of investment, even when the cost problem can be surmounted. The relationship between policing inputs (money and attention) and the outcomes that matter to voters (lower crime) is unusually long, complex and difficult to observe. The construction of a school, or road, for instance, while expensive and time consuming, is not only highly visible but results in benefits that are immediate and tangible: The ability to travel on a road or send a child to school. Efforts to actively pursue certain sorts of crimes, by contrast, are not particularly visible in the vast majority of cases, except to the small minority who are perpetrators or victims. Police efforts to prevent crime present an even more complicated attribution problem for voters, since they must not only determine if crime has actually declined (something that is difficult for any one individual to observe) but decide to what extent this decline is attributable to the policies enacted (frequently, something that not even experts can agree on). To the

extant that voters are similarly confused about whether policing is working, it will lead politicians to spend money in other areas.

This attribution problem is compounded by the fact that changes in the resources allocated to policing may take an extended period of time to take effect on the ground. Policing is a labor intensive activity [Skogan and Hartnett, 1999, 27], and “investments” in policing thus usually involve either deploying more officers or retraining the officers that already exist. Both may take an extended period of time. New officers must be recruited, trained, and then go through a period of mentoring and acclimatization before they can become fully effective [Bayley and Bittner, 1984]. Similarly, efforts to retrain a police force may take a long time to become visible on the street, because the demands of everyday operations mean that only a small proportion of officers can be retrained at any one time. Politicians might find that their investments may rebound to their successors credit rather than theirs.

As with other attribution problems in public service provision, this one encourages over investment in visible inputs. Highly publicized cases or types of crime, for instance, might receive more investigative resources than other crimes. Similarly, the prevention of certain highly visible types of crimes, such as terrorism, make take priority over other, more private crime

## **How the Police are Different: Subversion**

The other option for a politician is to grant the police autonomy, with or without increasing their level of resources. This is difficult because of another unique problem of policing, the costs of subversion. More specifically, the consequences of successful bureaucratic subversion will be more negative for the politicians than for other types of goods, and the possibility of such subversion will be higher.

Some of this is simply a consequence of the high social costs of policing mentioned in the last section. Compare a police officer to a highway engineer. A highway engineer may be able to exercise some control over the project that he implements, and possibly divert some funds to himself. However, the worst possible outcome for the politician is

that he does not implement the project or implements it in a way that does not reflect the politicians wishes, leaving him no worse than he was before. An unconstrained police officer, by contrast, can take away a citizens life or liberty

The political costs of strict law enforcement become clearer when we consider that they can be imposed on those with close links to politicians. For example, the police may pursue cases against the allies of politicians: The brokers, donors and campaign workers who make their electoral success possible. In many countries, both rich and poor these contributors and brokers are deeply implicated in illegal activities [Vaishnav, 2017]. While a politician's ability to protect their allies may be an electoral advantage, this can be nullified or reversed if the politicians' allies become targets. More subtly, the police may turn a blind eye to the actions of politicians opponents, allowing them to use coercion against a politician's supporters. The most extreme form that this sanctioning can take is the actual arrest of lawbreaking politicians themselves, completely removing them from the political game.<sup>9</sup> In theory, a perfectly law abiding politician will have nothing to fear from even a very hostile police. However, in most poor countries this caveat has little practical meaning. Many poor countries have complicated collections of laws that criminalize a wide variety of ordinary middle class behaviors, or have political norms that encourage or condone illegal activity, such as the violation of campaign finance laws [Vaishnav, 2017].

If a politician can guarantee that the police will favor his supporters consistently, the potential costs of subversion will not matter. This is the most common pattern in the literature on distributive politics and pork, and also appears to be common among the unapologetically politicized and often lavishly funded police forces of authoritarian regimes. However, in police organizations, the potential for subversion is higher. In part this is because the goals of politicians within these organization, such as impunity for certain type of perpetrators, are both formally illegal and in conflict with the broad

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<sup>9</sup>Note that in most principal agent games with repeated play, the agent will in equilibrium carry out some of the principal's wishes to sustain a continued flow of resources. This restriction on agency will be greatly weakened if the unilateral ability to remove the principal.

mission of the organization. Choosing to build schools only in the constituencies of ruling party members is legal, and broadly consistent with the mission of expanding education, in a way that biased policing can never be. Even the most politicized policing organizations thus have a supply of honest or politically independent officers, who would become more prominent if the institution were given greater autonomy.

The possibility of subversion is compounded by the culture of police organizations. The students of the sociology of police organization have emphasized the uniqueness of the organizational culture of police forces [Crank, 2014, Young, 1991]. Police organizations tend to be somewhat insular and suspicious of outsiders, and their staff are often recruited through processes of selection and self-selection that make them unrepresentative (ethnically, politically, and attitudinally) of the population as a whole [Lovrich Jr et al., 1986]. The strong internal cultural of the organization thus can serve to reward behaviors that may differ from those desired by outsiders.

The relative influence of crime perpetrators and crime victims on politicians is important in determining the cost of subversion. Politicians are more likely to find “law and order” an attractive strategy when criminals are, or can be portrayed as being, politically powerless and socially marginal. [Stuntz, 2011], for instance, discusses how drugs were first criminalized in the United States after they became associated with African Americans. Where lawbreakers have political and social power, by contrast, politicians are likely to be less enthusiastic about moving against them. In the extreme case, politicians who themselves break the law are unlikely to favor a police force that is generously resourced and outside their control. Note that the point also works in the opposite way: Protection is likely to be provided when the victims are more powerful than the perpetrators. While professional criminals are a small segment of voters, they often make up a large scale of clientelistic brokers, if only because vote buying is generally illegal [Stokes et al., 2013], and politicians dependent on these brokers will be correspondingly reluctant to allow the police autonomy.

When politicians are in a strong electoral position relative to these elites, they are less sensitive to seeing them persecuted by an autonomous police force. These governments

can afford to allow the police more autonomy, since losses among brokers and lower ranking politicians are less likely to compromise the hold of the top decision-makers on power. This prediction is the opposite of what some theories of distributive politics would lead us to expect: While electoral competition is usually linked to higher levels of distribution [Harding and Stasavage, 2014], it is the politicians most insulated from democratic accountability mechanisms are *weakest* who have the strongest incentives to build strong police institutions. In areas with high levels of competition, the desire of politicians is (re)distribute protection is frustrated by the knowledge that their successors may have the same power in the future, leading them to invest in other types of public services.

## A Policy Trap

Politicians thus face tradeoffs in deciding to grant autonomy to their bureaucracies or increase the level of resources flowing to particular types of distribution. In deciding the level of autonomy to grant, they must weigh the benefits of increased efficiency and a lower probability of policy change by successors against the cost of a reduced ability to target goods towards supporters. Similarly, in deciding when how to distribute resources, politicians must weigh the amount of electoral credit they would gain with voters from increased distribution against the opportunity costs of not providing other goods. At least some of the time for some goods, these tradeoffs can be overcome. However the differences between policing and other types of public services noted above means that politicians have little incentive to expend resources on the police, or grant them autonomy. While providing protection (either to all citizens or to certain favored supporters) does help one support, the gains to be made from it are our small (due to the attribution problem), while any increase in autonomy will run a risk of being actually counterproductive. Given this mix of costs and benefits, politicians will generally prefer to devote resources to areas where the political costs and benefits are more clear cut, leaving policing neglected.

Note that both underresourcing and low autonomy are likely to be self-reinforcing in the long-term. As a police force grows more and more overstretched, it loses the

ability to absorb resources quickly. The small base of existing officers may be unable to quickly absorb and supervise a mass of new recruits, and may have such poor skills that they are unable to train them properly or handle new equipment. This means that any rational expansion strategy must be phased in slowly, further compounding the attribution problem for politicians. Low autonomy tends to beget low autonomy. An autonomous bureaucracy will produce entrepreneurial leaders who will lobby for further autonomy, as long term FBI director did so successfully. Conversely, a politicized agency will produce leaders who command little respect within the political system and are thus unable (and, perhaps, unwilling) to lobby either for more autonomy or greater resources for their agencies [Carpenter, 2001]. This creates a “policy trap,” [Starr, 2013] where a socially suboptimal policy is sustained by the constituencies (or lack of constituencies) it itself created.

The policy trap is even more apparent in the incentives of activists and ordinary citizens. Given the low autonomy of the police, they have little incentive to press the government to give it more resources, since they will simply be expended on supporters of the government of the moment, rather than on those needing police protection. Since in a democracy, particularly a competitive one, citizens know they will not always be supporters of the government of the moment, they will prefer other types of goods to policing. Conversely, as long as the police are underresourced citizens may prefer to keep them autonomous, since they may not trust the type of people attracted by an underresourced police force to exercise discretion without being monitored by elected politicians.

Note that the two reforms could potentially work if tried together. While a highly resourced, autonomous police service would not selectively provide higher levels of protection to a politician’s supporters, it could provide service to the whole population programmatically. Politicians could mandate universal service and formal mechanisms to ensure that the bureaucracy complied, something that would be futile if underresourcing made universal service impossible. While a politician would not be able to provide protection conditionally (and might see some of her supporters sanctioned), she would be able to

provide services to a very large group of voters.

## 1.4 A Roadmap

This book will explain why the police is different: Why, both in India and elsewhere in the world, police institutions are less functional than other types of public services. Chapter Two will describe the institutional context of the Indian case for non-specialists, describing the structure of police and of the political system as a whole, their history going back to the colonial era, and the basic problems of law enforcement in South Asia.

Chapter Three, building heavily on a number of little used quantitative datasets of citizens' experiences with the police, will trace the street-level problems of justice in India to the underresourcing of the police and its lack of autonomy. It will then show how policemen manage these limitations at the local level, and the negative consequences their decisions have for citizens.

Chapter Four, will explain why politicians overmanage and under-resource police institutions, despite the fact that not doing so would serve their electoral interest just as well or better. It builds on a set of elite interviews conducted with senior police officers, which reveal some of the details of why and how policy choices about policing are made. This analysis will be supplemented with a detailed case study of the exceptional police reforms carried out in Bihar after the 2005 election.

Chapter Five, building on two new quantitative datasets of police resources and career paths, will compare policing resource levels in different states (policing in India is generally controlled by state governments) relating that variation to the changing composition of political coalitions in states. It will also discuss why voters and civil society appear indifferent to policing, and include a quantitative analysis of the effect of the election of criminal politicians on the tenure of police officers within their constituencies.

Chapter Six concludes with a discussion of the possibilities for reform in the Indian case. While alluding to specific technical reforms, it is more focused on how a political consensus for reform can be achieved. It cautions against specific types of proposed

reforms, specifically those that aim to centralize power in the IPS bureaucracy. It also briefly alludes to the other major feature of the India's flawed justice system, the courts, and how police reform can proceed in the absence of judicial reform. It argues that, while the police is one of the features of its democracy that Indians can be least proud of, reform is not just necessary, but possible.

## Chapter 2

# The Indian Police: An Institution and its Problems

The Indian police is an enormous institution: In 2019, the various state police forces, who have primary responsibility for law and order have just over two million officers and men, and the paramilitary forces of the central government add a further million. However, their responsibilities are equally vast: The protection of life and property in a country of 1.3 billion people, half of whom live in rural areas, and where many areas have powerful and well-armed groups with their own aspirations to provide protection. Controlling these millions of men and women, and motivating them to work hard towards these often ambiguous goals while respecting the human rights of ordinary citizens, is a formidable challenge to bureaucratic organization.

The institutional structure that strive to meet these challenges evolved in the colonial era, as a tiny group of British officials sought to exert their authority amid a population that was both unfamiliar with their language and administrative traditions and indifferent or hostile to their political goals. The Indian police thus evolved two traits that mark it out from police forces in many industrialized countries: a high level *de jure* administrative centralization, and an extreme level of horizontal stratification among police officers. These traits have persisted to this day, and give the Indian police many of its strengths and its weaknesses.

Since independence, two other major problems have become obvious, though the beginnings of each were apparent in the late colonial period. The first of these is the low autonomy of the police relative to political actors. While senior police officers are powerful relative to their juniors, they are powerless relative to state level politicians, and police policy and investigations are shaped by the priorities of ruling parties in ways that would be considered scandalous in most democracies. Secondly, the police have become accustomed to a very low level of resources, leading to a force that is underpaid, undermanned and under-equipped relative to the challenges it has to face.

## 2.1 A Colonial Institution

When the East India Company first came to India, it had no interest in the prosecution of crime, its interests being focused on the import and export of goods. As the company gradually acquired taxation rights over territory, it gradually acquired the law enforcement powers of their Indian former holders. Under the Mughals, landlords (zamindars) were responsible for the suppression of crime within their areas of control, while village communities were collectively responsible for crimes committed on their territory. There were no dedicated police in the modern sense, with the servants of landlords or the village playing the main role in the arrest and apprehension of criminals. In practice, the system served the interests of powerful elites at every level, and their core interest in turning coercive power into money.

This decentralized system, while cheap, had little attraction for colonial officials, since it placed local power, and a lucrative source of revenue in fines and bribes, outside their own hands. One report complained that the powers of the police were “turned against the State itself, and against each other, and were used for plans of personal aggrandisement, mutual revenge or public plunder” (Quoted in [Government of India \[1905, 6\]](#)). However, there was no thought of creating a police force in the modern sense—no such force existed in England at the time. The solution was to give power to Indian *darogas*, subordinate to British magistrates, paid through a system of rewards and forfeitures, and supervising a

staff of armed men. The darogas were too few for the tasks set them had every opportunity for corruption, particularly given that most magistrates were distracted with other duties to supervise them closely. The tendency during the first decades of the 19th century was either to abolish them and attempt to rely on village officials (as occurred in Madras in 1816 and Bombay in 1827) or to exert some central supervision over them through additional inspectors (instituted in Bengal in 1808). However, the early colonial period was thought to be associated with a general increase in crime” [Government of India \[1905, 6\]](#).

The eventual solution was the creation of a separate police force, with formal recruitment and disciplinary procedures and no other duties. The inspiration, as in many other areas of British imperial practice, came from Ireland, where the paramilitary Royal Irish Constabulary (founded 1822) was widely thought to be a success in preventing rural crime and political unrest. The first such constabulary was founded in Sind in 1843, but the reforms were quickly imitated in other provinces, with reforms following the 1857 rebellion providing the final impetus in northern India.

The structure of the police was shaped by two facts: the very small number of Indians who were literate,<sup>1</sup> and the even smaller number of British officials. This led to a three tiered structure, topped by a small number of British officers. Usually there was only one European (the superintendent of police) in each district, who answered to a small number of inspectors general and deputy inspectors general at the provincial level, who were in charge of the discipline and organization. The superintendent supervised a number of literate inspectors and sub-inspectors, who ran rural police stations and were in charge of criminal investigation. They in turn supervised a large number of unarmed and illiterate constables, whose duties were usually confined to running errands and crowd control. This basic organization was supplemented by the existence of armed police reserves at the district and provincial levels, designed to deal with local unrest, and a small, but growing set of officers at the provincial level charged with criminal investigation and political surveillance [\[Arnold, 1976\]](#).

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<sup>1</sup>Only 4.3% of the population in 1881.

The late 19th century was a period of the expansion and consolidation for the Indian police, and in many small Indian towns the police station and jail are still the cheery Victorian brick structures built in this period. Their construction was a key event in the establishment of state capacity in rural areas [Lee, 2019c], and even today rural Indians include the nearest police station in their addresses. In the cities, the investigative departments of the police were in some respects global leaders, with the Calcutta police creating modern system of fingerprint classification, and developing an comprehensive system for the surveillance of Indians suspected of nationalist views [Lee, 2011].

All this however, occurred within the context of an institution with serious resource constraints. In 1911, there were only 190,000 policemen in British India to police a population of 244 million, giving a police population ratio about half of the 2019 figure. While British policemen were well paid, the salaries of Indian constables were below the cost of living, and corruption was endemic. A 1905 official commission was shocked. “There is no part of our system of government of which such universal and bitter complaint is made...Everywhere they went the Commission heard the most bitter complaints of the corruption of the police...To pay a constable Rs. 6 or even Rs. 7 per mensem...is to offer strong inducement to dishonesty” *Government of India* [1905, 14]. The wealthy and powerful were thought to be able to commit crimes with impunity, while the poor might be extorted or beaten on the slightest excuse.

The general solution, adopted gradually over the Raj’s last half century, was to rationalize and further complicate the police personnel structure. British officers were recruited by competition rather than by appointment (1893) and formed into a unified imperial police service (1905). A new provincial service was created, composed of educated Indians who were allowed to fill some of the superintendent positions, but not to rise higher. The sub-inspectors, previously recruited from among constables, were now to be recruited directly among secondary school graduates. Pay was increased and professional training gradually became more common, though complaints about corruption and incompetence.

All these changes tended to intensify the centralization of the police organization. Authority ran upwards from village police stations to the home secretary and inspector

general of police in the capital, with no formal role for local government officials or local elites. To discourage informal contacts, officials were moved between posts frequently, and an informal segregation was enforced between British officials and Indians.

The Indian police played a key role in the suppression of the Indian nationalist movement, and early attempts at elected local and provincial government were careful to keep the police outside the control of British officials. However, when nationalist politicians took over full control of provincial ministries in the 1930s, they proved unwilling to sabotage or undermine the police structure, preferring to use it to suppress the activities of their political opponents [Arnold, 1976, 10].

In fact, the only major changes in the structure of the police after independence was a minor degree centralization. Throughout the colonial, non-political policing was a generally provincial matter. This changed in the last years of the Raj saw the expansion of the anti-subversive Intelligence Bureau, and the creation of a small unit to investigate corruption in military contracting, the ancestor of today's Central Bureau of Investigation. These investigative agencies expanded greatly after independence, which also saw the collection of crime statistics for the first time. Similarly, the small colonial "military police" organizations, charged with law enforcement in unruly frontier areas, saw their strength increased into a set of paramilitary bodies under central control, charged with policing the nation's new borders and the suppression of insurgency (a problem in some parts of independent India), but also available to support the state police in case of need, or impose central control in case the center decided to use some of its generous discretionary powers.

## 2.2 Police Recruitment and Service

The four tiered personnel structure of the colonial police was founded on the need for European control and a set of strong opinions about the relative capabilities of different "classes" of "natives." However, 21st century India retains exactly the same tiered approach to police organization. Individuals enter the police at one of four levels, each one

of which gives recruits access to a set of posts that are similar to the senior, late career, positions held by individuals recruited in the tier below them. Promotion between levels is rare, and generally occurs at the end of careers as a reward for long service. Let us explore these levels in detail.

**The Indian Police Service:** Unlike the three levels below it, the India Police Service is an “All India” service. While most officers spend their career within a specific state, they are recruited on a national basis, and many are attached to central government agencies. The central government also controls the training, pay and conditions of IPS officers, and must consent to their removal from the service, which in practice is very rare for anything other than blatant corruption. Crucially, however, the state government controls which of the IPS officers assigned to it hold specific posts, which gives it great scope to transfer officers. Despite their broad responsibilities, the number of IPS officers is tiny: only 4024 in the whole country in 2019.

The IPS is recruited through an annual national examination administered by the Union Public Service Commission (UPSC), which also provides recruits to the other central and All India services such as the Indian Administrative Service (IAS) and Indian Foreign Service. All college graduates between the ages of 21 and 32 are eligible, and around 400,000 people a year take the multiple choice preliminary exam, of whom the top 7,500 are invited to take the main exam [Bhavnani and Lee, 2019]. This exam is primarily a series of essay questions, drawing on a mix of mandatory questions (on history, reasoning and general knowledge of current affairs) and optional subjects, though there is also a personal interview and “qualifying” questions on language proficiency [Bhavnani and Lee, 2019].

Given the prestige of high level government employment in India, the exam is intensely competitive, and many students spend years studying for a retaking it. The need to support this study, and the general bias of the exam towards those who can fluently express positions on current affairs in English, mean that the successful candidates tend to come from comfortable middle class backgrounds, though the Indian media delights in covering the occasional successes of poor students. Half of all vacancies in each services

are “reserved” for members of specific traditionally marginalized categories of castes, but even these members tend to be affluent relative to these categories as a whole.<sup>2</sup>

Based on their score on the exam and caste category, candidates can choose a service until the quota for each service is filled. In recent years, the top candidates have chosen the IAS, while the Police has vied with the Foreign Service and the Revenue Service the second choice. In 2018, the candidates from non-reserved categories who chose the IPS were ranked between 94th and 236th on the exam.<sup>3</sup> IPS officers are thus an academic elite, among the top few hundred students in a country of 1.3 billion. However, the circumstances of their recruitment tend to create an inferiority complex relative to the IAS among IPS officers, and a feeling of superiority to and rivalry with the police among the IAS officers who run other government departments.<sup>4</sup>

After recruitment, IPS officers receive nearly two years of training, divided between the National Administrative Academy in Mussoorie, the National Police Academy in Hyderabad and a period of apprenticeship and observation in a rural district. During this period officers form intense bonds to their “batchmates” (the officers recruited in a given year) which persist throughout their careers. Midway through their training, officers are allocated to the IPS “cadres” associated with each state or group of small states, which they will be associated for the rest of their careers. The cadre allocation procedure is complex, and designed to both ensure that no more than a third of officers in each cadre will be residents of the state, and that the distribution of caste categories and academic rankings is roughly equal.

Once assigned to a cadre, officers begin a two years of probation as Assistant Superintendents of Police, during which they are mostly focused on learning their jobs, and (for

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<sup>2</sup>For a more thorough discussion of this system, see [Bhavnani and Lee \[2019\]](#).

<sup>3</sup>See <https://cseplus.nic.in/Home/DisplayPDF?streamId=PCsUnEplvZihdzEe8FEMf7N/>

DORTQ92U00Z6JmVYYb3wdL01cPRTPtn2MwalvSATkr09vmtyCI5aS0qZLWFKkG2DcRkXFFGTaoHfG4fCoJ13EAyJhh1QD7y9bcRjN

Retrieved 3/18/20

<sup>4</sup>For the strange story of a serving IPS officer who cheated on the UPSC exam to try to enter the IAS, see <https://timesofindia.indiatimes.com/city/chennai/caught-cheating-in-upsc-exam-police-officer-behind-bars/articleshow/61351043.cms> Retrieved 3/18/20

the many outsiders) familiarizing themselves with the language and culture of the state. After their probation, officers are assigned to districts, traditionally being either used as senior aides to the District Superintendent or placed in charge of a large subdivision of a police district, with a few dozen police stations and a population of several hundred thousand.

In the next step of their career, officers, still usually in their mid 30s are made Superintendents of Police (SPs). The majority of SPs are assigned as head of a police district, which is generally conterminous with an administrative district or large city, and has an average population of 1.2 million people. The DSP is an important figure, with general authority over law and order and the police in his district. He (only 6.4% of IPS officers are women [Beniwal et al., 2019]) greets VIPs, registers weapons, supervises elections, proclaims curfews, initiates the recruitment and training of constables, reports on political conditions in the district, and sometime takes direct charge of major investigations. SP grade officers may also supervise subdivisions of very large and important districts, serve as middle managers in the state police secretariat, the criminal investigation division, or the intelligence division, or command battalions in the state armed police.

After 14 years of service, IPS officers are promoted to Deputy Inspector General, after which promotions follow to Inspector General, Additional Director General and Director General. A few of these officers serve as heads of “ranges” supervising groups of districts, but most serve in the state secretariat, running divisions of the central police bureaucracy. In 2020, of the eight officers of the 1996 batch of the Bihar cadre, seven were in state service, serving as heads of special branch, liquor prohibition branch, the state crime records bureau, training, budget, and as a special secretary in the home ministry.<sup>5</sup> At the top of the IPS hierarchy is the Director General of Police, the professional head of the police in each state, who works closely with the Home Minister.

After they reach SP rank, officers can be “deputed” to the central government. Here, they serve as senior bureaucrats in the central investigative agencies or the Ministry of Home Affairs, or as senior commanders in the central paramilitary services. Service at

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<sup>5</sup>See “Actual Posting List of IPS officers.” <http://biharpolice.bih.nic.in> Retrieved 3/18/20.

the center, which usually allows living in Delhi, is popular with officers, especially those serving in poorer states or less attracted to the opportunities for both moneymaking and social change that service in the states provides. Many officers, once deputed, never return to the state whose cadre they are part of.

IPS officers are promoted and paid based on seniority, and officers of a batch are all promoted at the same time, and all must retire at the age of 60. The major differences between officers are thus in the importance of the jobs they hold. This is particularly apparent at the top of the hierarchy, as the organizational pyramid narrows while the number of officers does not.<sup>6</sup> Of the four remaining officers of 1988 batch of the Bihar police in 2020, one served as Director General of the state police and another as Joint Director of the central Intelligence Bureau, but two others served as chairman of the state police building construction corporation, and another as director of the state sports authority. However, since each job is identified with a police rank, the state government cannot promote a junior officer into the most important posts over his seniors. As we will see, however, the power to choose among officers of the same rank is a very important one.

In colonial times, senior police salaries, designed to attract English applicants, were very high by Indian standards, while officers were also provided with excellent pensions, healthcare, and government housing. In the 21st century, the pay of the IPS has declined somewhat relative to wages in the upper end of the private sector, and the housing (often in colonial era bungalows) is showing its age as well. However, the power and prestige accorded IPS officers are enormous. An IPS officer is surrounded constantly by saluting subordinates and fawning petitioners, and can “fix” many problems with a phone call. As we will see, the opportunities for illegal moneymaking are also extensive. One reflection of the prestige still accorded IPS officers is the premium that they can command on the marriage market. In 2013, an IPS officer can demand 5 million rupees (approximately 100,000 US dollars) from his prospective in laws.<sup>7</sup>

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<sup>6</sup>The number of officers does diminishes somewhat at the DG level, since some officers who enter the IPS at an older age are forced to retire before they spend much time in this rank.

<sup>7</sup>See <https://www.indiatoday.in/magazine/living/story/19941015-new-generation-of-probationers-see-th>

**The State Police Services:** Each state in India possesses a state police service (SPS), usually slightly larger in size than the state's IPS cadre. Like IPS officers, directly recruited state police service officers are recruited through a competitive written exam, and must be university graduates. Unlike IPS officers, they are all residents of the state they serve in, and must master a slightly different syllabus, which in some states places a greater emphasis on regional languages. In general, however, these officers differ from IPS officer only in being slightly poorer test takers—in fact, the vast majority have unsuccessfully taken the UPSC exam. They also do not receive the national training of the IPS, instead being trained in state police academies. IPS officers are also paid substantially more than SPS officers, particularly in the poorer states

The entry positions of SPS and IPS officers, as Deputy Superintendents, are the same as the Assistant Superintendent positions of IPS officers. However, while IPS officers use these positions as brief apprenticeships, SPS officers spend eight or nine years in these positions, and compose a large majority of subdivisional officers. After they are promoted to SP, the primary goal of state police officer is to gain promotion to the IPS, and one third of IPS vacancies are reserved for them. This promotion, which is primarily by seniority, generally occurs around their 13th year in the service, though officers with negative comments in their records may be promoted later, or in rare cases never be promoted at all. Subsequently, these officers are IPS officers for all intents and purposes, but the combination of their late start and the strict retirement age means that few reach the top ranks of the service.

The existence of the SPSs thus serves key functions for the directly recruited IPS officers, providing a pool of officers with limited career ceilings who can fill junior post while not challenging the direct recruits for the highest ones. However, the existence of two distinct pools of senior police officers with different regional origins and formative experiences tends to create rivalries within the police. The SPS officer regard their (often much younger) IPS colleagues as arrogant and patronizing, which the IPS regards SPS officers as slow and provincial.

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Retrieved 3/18/20.

**Inspectors and SubInspectors:** Below the IPS and SPS are the “non-gazetted” officers, of which the most senior are the sub-inspectors and inspectors. Sub-inspectors are recruited through an annual exam at the state level like the SPS officers, and must also be graduates. However, academic standards are substantially lower, as is inevitable given the much larger number of recruits: In 2019, the Uttar Pradesh Police added 29 IPS officers and 88 SPS officers, but recruited over 5000 sub-inspectors. Based on the recommendation of the DSP, sub-inspectors can be promoted to inspector, and a large quota of vacancies in the SPS are reserved for inspectors; in fact a few state have abolished direct recruitment to the SPS entirely, or reduced it to a token amount. However, since they join the SPS in their 40s, few of these officer advance far.

Classically, sub-inspectors command police stations, while inspectors either command large urban police stations or supervise “circles” or smaller rural stations, while sub-inspectors and inspectors serve as platoon and company commanders in the state armed police forces and central paramilitaries. They are thus broadly equivalent to lieutenants and captains in large American police forces.

Sub-inspectors are the most junior officers who can charge suspects with crimes, and other officers can only investigate crimes as their deputies. Virtually all investigation, even of petty crimes, thus falls to officers of this rank, rather than to a specialized force of detectives. In rural areas, this means that officers must mix their administrative and investigative responsibilities, or at least move back and forth between the two frequently during their career. It also means that the staff of those relatively small police organizations that specialize in investigation are staffed almost exclusively with officers of this relatively senior rank.

**Constables:** Some 85% of Indian policemen are at the bottom level of the police hierarchy, where they serve as Constables (the entry rank), Head Constables, and Assistant Sub-Inspectors (who many be placed in charge of a police outpost or investigate petty crimes). Constable requirements vary by state, but are never less than elementary school graduation and never more than high school graduation. There is generally an exam, but it focuses on the physical size of applicants more than their academic prowess

Recruitment and training of constables was traditionally local and somewhat informal, and outside of the armed police most will not serve outside of their home districts. There have recently been attempts to centralize recruitment and training, though this has had only small effects on the quality of training provided

Constables are not able to charge suspects by themselves, and thus concentrate on patrolling, escorting prisoners or running errands for senior officers. In fact, some serve as little more than servants for higher ranks. Outside of the paramilitary armed police, they are not usually armed, though their officers carry pistols. Promotion is slow and uncertain. While some constable are eventually promoted to Sub-Inspector rank, many are never promoted at all. As an official committee noted in 1979, “a large majority of the Constables retire as Constables without even one rank promotion...[they] vegetate and waste out after working for nearly 30 years in the same rank at which they entered the system” [Kumar, 1993, 946].

Even within the culture of long hours and low pay within the Indian Police, which we will explore further below, the working of condition of constable are abysmal. Most live in overcrowded, decaying, police housing, sometimes doubling up on beds and receiving official meals that a senior officer described to me as “utterly disgusting.” In 2008, even official figures showed that only 23% of families expressed satisfaction with their housing [Bureau of Police Research, 2009]. The difficult working conditions are compounded by an arbitrary and authoritarian management style of most senior officers, who may deny leave or time off on short notice, or fine and punish officer for minor violations. Human Rights Watch quoted one UP officer’s lament.

We are being exploited. I have to work for 24 hours but I get the wage of a *chaparsi* [messenger]. I don’t get any leave. My meals are unhealthy and below caloric value. There is no fixed time for meals, sometimes we just get [meals] at nine, sometimes at 12. It’s just like I’m a prisoner. We are suffocating here. I feel like it’s still the British Empire. There’s no medical facilities, no toilet. The funds allocated by the government to constables are taken away by the superiors...I took three days’ medical leave and had 25 days’ salary deducted.

[Shah and Sandler, 2009]

The report of the National Police Commission [National Police Commision, 1981] is revealing, both in its candid assessment of working conditions and as an example of the patronizing language senior officers frequently use about their juniors

Unfortunately the wage scale of this cadre has been equated with unskilled labour for historical reasons. The police, therefore, attract only a very unsatisfactory kind of candidate who has not been able to get any other job. A police force composed of such poor specimens of humanity cannot rise very much above the lowest common denominator of its constituents...

**Conclusions:** The Indian Police is organized as a layer cake, with four different points of entry, only limited opportunities to move up to the next layer, and no opportunity at all to move up more than one layer. As this discussion should make clear, very different people fill the different layers, and their conditions of work. IPS officers are recruited from the scholastic elite of the whole country, and move from one powerful position to another, while constables are recruited from the working poor and trusted with only menial tasks. Unsurprisingly, there is little empathy or understanding between senior officers and the lower ranks, and nothing resembling the solidaristic “cop culture” sometimes found in the police forces of developed countries.<sup>8</sup> Senior officers find it easy to dismiss the concerns and aspirations of the lower ranks, and mistrust them, leading to senior officers taking many tasks personally, particularly in the field of investigation. Junior officers are more likely to fear their superiors than respect them, and see their motivation reduced by the fact that they cannot rise higher than the people who entered in the levels above them. This is compounded by the paramilitary nature of the organization, which is more marked than in most Anglo-Phone countries. Juniors generally stand to attention and salute when greeting a senior officer, and are reluctant to sit in his presence.

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<sup>8</sup>For a review of this literature see Reiner [2017].

## 2.3 Police Organization

**The Civil Police:** The police station is the building block of police organization in India, covering an urban neighborhood or a group of rural villages. Many stations have small outposts, but these serve merely as bases for patrolling or to secure their immediate neighborhood. All crimes must be reported at the police station, usually in person, and investigated by the inspectors and sub inspectors posted at the station. The station keep a record of all crimes committed within the district, and the station house officer controls the deployment and working hours of the police assigned there. The station house officer reports to officers at the circle and subdivisional levels, who may become involved in more complex important investigations.

The other important level of the police hierarchy is the district, which usually controls several dozen police stations. The District SP is an important local figure, with powers that go beyond the police, including the regulation of public meetings and festivals, the issuance of gun licenses, the regulation of traffic flow, and the registration of foreigners. He also has power to shift the investigation of cases away from station house officers, and to discipline and fire lower ranking officers. He also controls a group of District Armed Police equipped with rifles and riot gear, who can be deployed in cases of public disorder.

However, the district SP is not a dictator, or even an autonomous figure like an American Sheriff. He reports through the mostly unimportant range level, to the state secretariat, to whom he must send constant reports, and who have the power to direct his action. Importantly, the DGP of police in the capital has the power to transfer all police officers at will, which he can use to obtain their cooperation. The district SP is also subject to the authority of the district officer, the Indian Administrative Service officer who heads the district bureaucracy, thought the extent of this subordination is variable and bitterly contested by IPS officers. In large cities, the district SP has always been subordinated to the civilian bureaucracy, and the senior police officers in these areas are referred to as Commissioners and Assistant Commissioners. All these measures tend to concentrate power in the state government, and in fact the Police Act of 1861 (still the

governing document of the police) bans any “person, officer, or Court” other than the state government from exercising power over the police, even with its consent.

In addition to the main hierarchy of the civil police, the state secretariat also control a railway police with their own network of stations. Separate departments are in charge of training, administration, and communications for the state police force as a whole. However, the state police control *all* of the policing capacity in a state. There are no local police agencies, or autonomous state policing agencies.

**The Armed Police and the Central Paramilitary Forces:** In addition to the reserve of armed police in each district, each state has a number of battalions of state armed police, comprising on average around a quarter of the state force. They have a higher level of armament than the ordinary police, and are trained exclusively for riot control and public order—there is little exchange of personnel between them and the civil police except among senior officers. Since they are not involved in investigations or ordinary patrolling, they are less overworked than the civil police and senior police officer look upon a stint in the armed police as a period during which they can spend more time with their families.

Even more than the civil police, the armed police spend most of their time on *bandobast* [arrangements or discipline], the complicated business of arranging public events—election rallies, religious processions, student demonstrations, festivals, etc.—in India. Similarly, heightened communal tensions or natural disasters may lead to heavy patrolling by the armed police, should the political authorities wish to see it suppressed. When the event is especially important, “extra local bandobast” may call police from other areas and from other police stations. The state armed police also takes the lead in providing security to VIPs, though frequently the district police are requisitioned to take part in this as well.

Constitutionally, policing in India is a state matter. However, the central government controls a large number of armed police—some one million in 2019. These include three separate border security forces,<sup>9</sup> the Central Industrial Security force (which provides

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<sup>9</sup>One the Pakistani, Bangladeshi and Myanmar borders, one for the Nepali and Bhutanese borders, and one for the Chinese border.

security to airports and other major infrastructure, and the National Security Guards (who provide specialized counter terrorism response and VVIP security). The largest of these forces, the Central Reserve Police Force (CRPF), is in charge of providing help to the state forces in emergencies, and the other forces are often drawn into this role as well.<sup>10</sup>

In some rural areas of the subcontinent, the Indian state has for the past half century faced a challenge from armed groups professing a Maoist ideology, the so-called Naxalites. While these groups are often well armed and control substantial territory, the Indian state has traditionally been reluctant to deploy the army against them [Chakravarti et al., 2009, Mukherjee, 2018]. Given the low coercive capacity of the civil police, the lead in this struggle has been taken by the CRPF and the other armed police forces, and many armed police battalions spend all their time on what amounts of counterinsurgency work

**CID and the CBI:** While investigative and supervisory tasks are much more confused in India than in the police forces of developed countries, there are specialized investigative units in each state, the Criminal Investigation Department (CID), the Vigilance Department and the Special Branch. The Vigilance Department is concerned with investigating corruption and misbehavior among government officials and policemen, and is thus an area of great potential political importance. The Special Branch is the lineal descendent of the police units that spied on the Indian nationalist movement, and focuses on the surveillance of “subversive” and “extremist” movements, as well as the occasional foreign political science graduate student. CID has broad jurisdiction over crime, and is specially important for the investigation of white collar crime (which the district police are not trained to deal with) and *daicoty* [armed robbery] (which frequently spills across district boundaries). CID are also sometimes called in to investigate high profile or politically significant crimes, where the district response is viewed as potentially biased or inadequate.

The Central Bureau of Investigation (CBI) is India’s most prestigious law enforcement agency, though given the states’ exclusive legal authority over policing its constitutional

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<sup>10</sup>In Northeastern India, the Assam Rifles, commanded by seconded army officers, performs most of the CRPF’s functions.

status is thought by some to be dubious. The CBI focuses on investigating offenses committed by or against central government officials and large-scale white color crime. The CBI is also often “invited” to investigate high-profile ordinary crimes by the state government, often in cases where the state police has been unable or unwilling to make an arrest. Despite its prominence, the agency is tiny in the context of a country of 1.3 billion people, with fewer than 6000 officers in the late 2010s.

**Budgeting:** The Police budget is set annually by each state: local taxation plays no role, and, unlike in some other polciy areas, central assistance is minimal. The state DGP requests a set amount, and the final figure is decided by the Chief Minister, the Home Minister, the Finance Minister, and the senior IAS bureaucrats in their offices. Former DGPs express frustration with the civil servants who monitor their budgets, who they feel are unduly parsimonious and deny them discretionary authority.<sup>11</sup>

Lower-level officers are even more critical of the budgetary inflexibility that pervades the police. Any new expenditure of funds, even for a small amount, must be approved by authorities in the state capital, a time consuming and uncertain procedure. One officer complained of his difficulty in obtaining a small fund to pay for tea for crime victims and visitors to police stations, although the sum in question was perhaps a hundred USD a year for the whole district.<sup>12</sup> This, would encourage the police to seek sources of funding outside the legal process, even if their funding was plentiful. However, that is almost never the case.

## 2.4 Under-resourcing

**Manning:** Relative to its extensive responsibilities, the Indian police is very much undermanned. In 2017, there were 150 policemen in India per 100,000 people. This is one of the lowest such ratios in the world. Among the 50 countries ranked by the United Nations in 2010, India had the lowest such ratio in the world, ahead of only Uganda. The Indian figure is less than half the world average, and many countries have much higher

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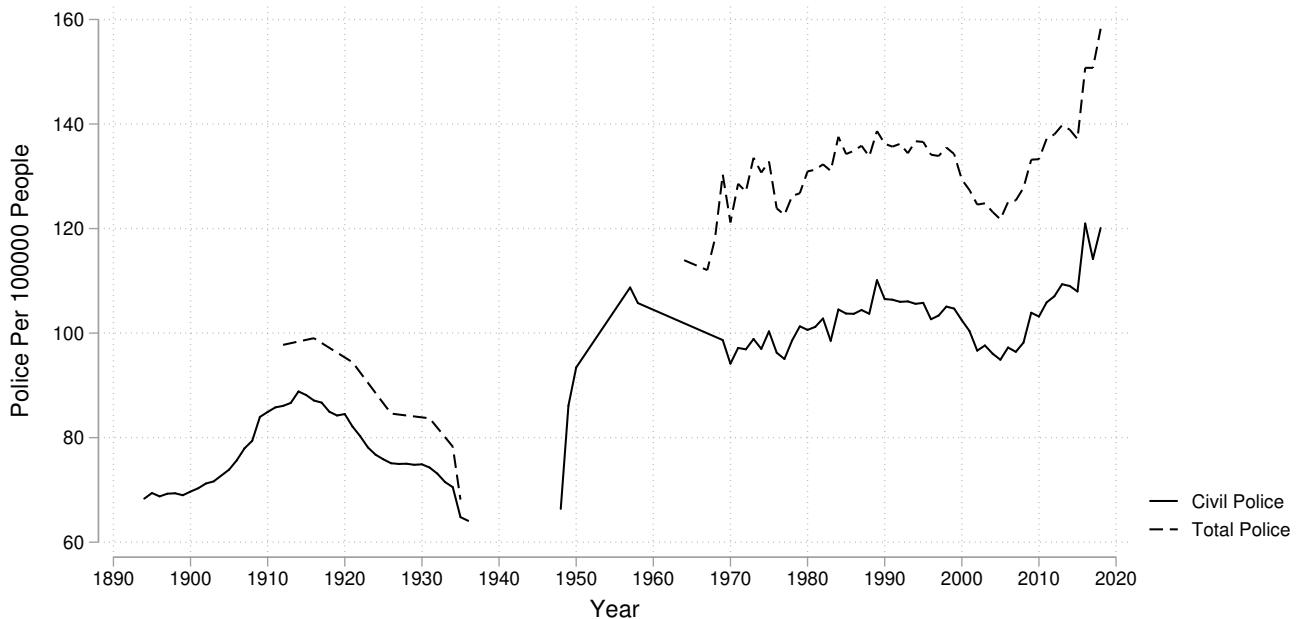
<sup>11</sup>Officer H Interview, 11/17/17, Officer J Interview, 11/20/17, Officer L Interview, 11/22/17.

<sup>12</sup>Officer F Interview, 11/16/17

figures: Mauritius had 849 policemen per 100,000 people, Mexico had 371, England had 251, Spain had 387 and the United States had 277.

These figures are not simply a continuation of colonial era policy. As Figure 2.1 shows, the current number of policemen per capita in India is actually higher than in the colonial era, and substantially higher than the very low figures of the last decades of the raj, when the British considered the police potentially disloyal and relied on the army for riot control. In the period immediately after independence, many new policemen were recruited, nearly doubling the police population ratio. However, the ratio of civil police to population has stagnated and even declined since the 1950s, with an especially marked decline in the 1990-2010 period and a small recovery since that time.

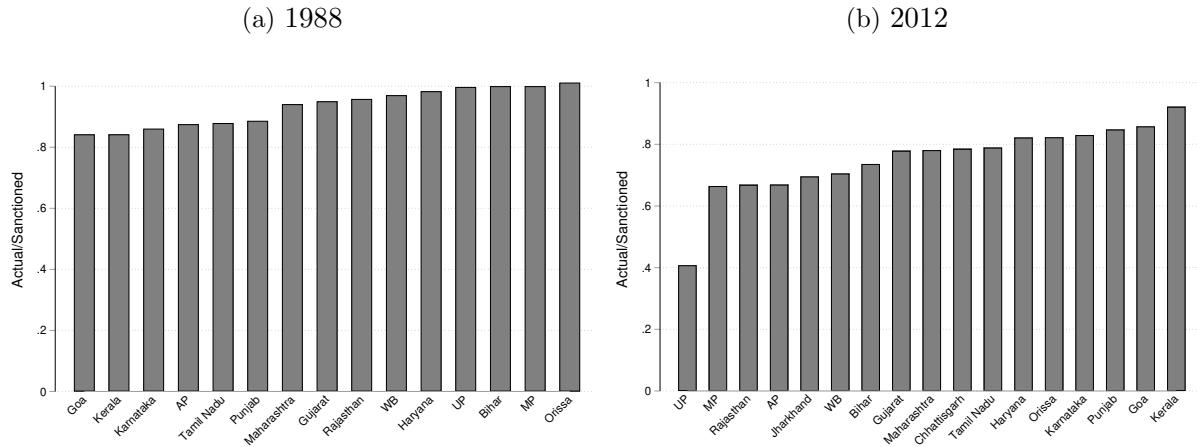
Figure 2.1: Police Per Capita in India, 1894-2017



Note: The Y axis shows the number of civil and total policemen per capita in India. The pre-1937 figures refer to British India, excluding the princely states but including parts of the modern nations of Pakistan, Bangladesh and Burma. Population figures are interpolated between census years. Sources: *Statistical Abstract of British India*, various years (pre 1940), *Statistical Abstract of India*, various years (1948-1963), *Crime in India*, various years (1964-2012), *Data on Police Organizations*, various years (post 2013).

Most the difference between India and other countries comes from conscious policy:

Figure 2.2: Inspector and Sub-Inspector Vacancies in the Police



Note: The Y axis shows the proportion of sanctioned civil inspector and sub-inspector posts that were vacant in each state and year.

Indian states set low recruitment targets. However, they have considerable difficulty in meeting even these targets. There is a growing gap between the “sanctioned” strength of the police set by policymakers and the actual strength of the police. In 1988, 94.3% of sanctioned positions were filled relative to 79.6% in 2019. Figure 2.2 shows the decline by state. These figures are even lower in the key investigative positions. Only 72.9% of civil police subinspector positions were filled in 2018, and only 61.5% of positions in the Criminal Investigation Departments of states [Bureau of Police Research, 2019, 102]

The natural consequence of this understaffing is overwork. In 2014, 90% of officers worked more than 8 hours a day, and 68% percent reported working more than 11 hours a day [Bureau of Police Research, 2014]. One officer joked that police officers never see their children grow up, because they only see them asleep (Officer Q Interview, 3/15/18). Lower ranking officers, with less means of controlling their time, have it particularly hard. One complained to Human Rights Watch that:

Here we do everything in one day: law enforcement, attending to VIPs and all that during the day. Then patrolling at night. In between, we have to write our reports, do investigation. We sleep at about 4 a.m. And have to be back on the job by 9 a.m [Shah and Sandler, 2009]

Another complained that

So many cases are pending, but we don't have time to follow up. Then our increment [pay] is cut as punishment...We work so hard, and yet, because we can't do enough, we are punished. Our officers have to realize that there is a limit to what we can do [Shah and Sandler, 2009]

Another casualty of this overwork is a lack of in service training. After their initial training, officers rarely receive refreshers or training in new techniques [Banerjee et al., 2012]. Officers are supposed to be trained upon promotion, but in practice this rarely occurs [Shah and Sandler, 2009]. Overall, the Indian police spends only 1.4 percent of its budget on training [Bureau of Police Research, 2019, 132].

**Spending:** The low levels of manning are a reflect in part of very low levels of spending on the police. In 2015, the Indian states and union spent approximately 3.8% of their budget on the police [Reserve Bank of India, 2019].<sup>13</sup>, equivalent to 1.07% of GDP. This is a very low figure in international terms; South Africa spends 3.59%, Mauritius 2.31%, the UK 1.8% and the United States 2.02% (though this includes the very high US expenditure on prisons).<sup>14</sup> The Indian figure is quite similar to Norway, despite having a reported homicide rate about six times as high

Is India's low police spending simply a function of poverty? Certainly, sometimes plead that they are unable to afford the level of spending on the police they would like. However, comparison with other policy areas belies this. Figure 2.1 shows that as India has grown wealthier over the past four decades, real per capita spending on the police has indeed increased. However, spending on education and roads has increased much faster. Clearly, there is money available, but it has been directed to purposes other than the police.

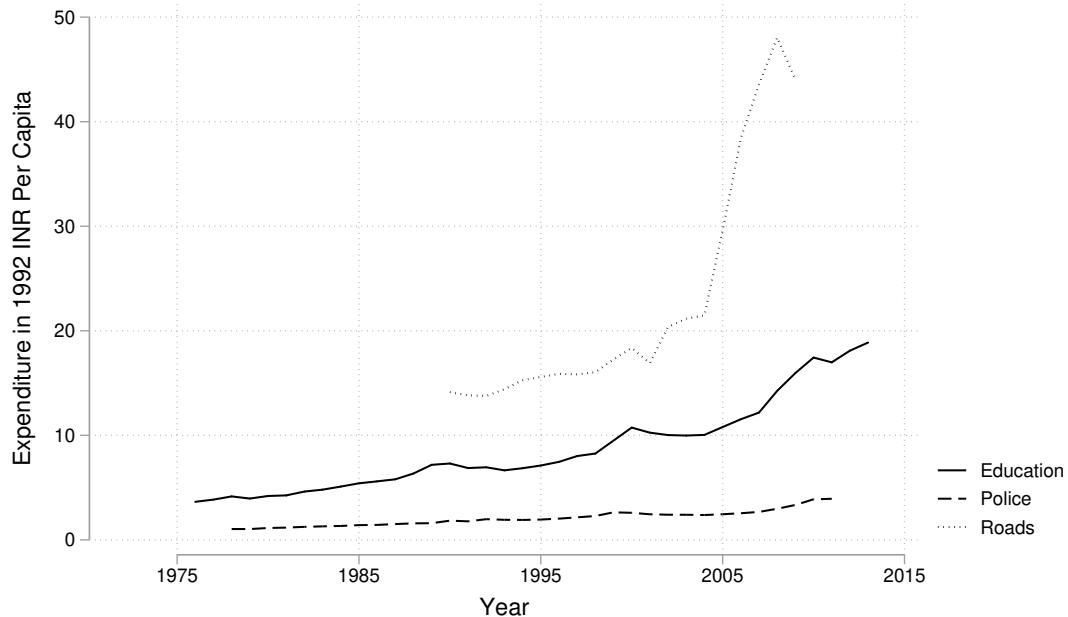
The most immediate consequence of the low level of police funding is the very low levels of pay in the India police, and the substandard quality of the official police housing

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<sup>13</sup>This figure includes by revenue and capital expenditure, but not jails.

<sup>14</sup>See the International Monetary Fund's Government Finance Statistics (GFS), Expenditure by Function of Government (COFOG).

Figure 2.3: Real Police and Educational Spending Per Capita in India, 1975-2012



Note: The Y axis shows the real per capita revenue expenditure in India on policing and education for a sample of large states (Andhra Pradesh, Assam, Bihar, Gujarat, Orissa, West Bengal, Haryana, Punjab, Rajasthan, Himachal Pradesh, Madhya Pradesh, Uttar Pradesh, Maharashtra, Kerala, Tamil Nadu and Karnataka). Road spending is for India as a whole, and includes capital expenditure Sources: *State Finances: A Study of Budgets*, various years.

compounds this problem. The base salary for a police constable in Haryana 21700 rupees (285 USD) is about the income of a taxi driver. Base salary for an assistant police superintendent is 53100 rupees (700 USD), well below the salaries at the technology companies that many of the academically distinguished IPS officers would otherwise be competing for.<sup>15</sup> This creates obvious incentives for policemen to develop additional sources of income, a problem we will discuss further. It also lowers the quality of people that can be recruited in the lower ranks, and one official report sadly concluded that “the emoluments and other service conditions of the lower ranks in the police, particularly the constabulary, require immediate and substantial improvement for achieving efficient police performance” [National Police Commission, 1981].

The other consequence of low levels of funding is low levels of equipment. This is visible

<sup>15</sup><https://haryanapoliceonline.gov.in/RTI/rtipart10.aspx>, Accessed 3/24/20.

throughout the Indian police. Most district armed police carry colonial-era Lee-Enfield rifles rather than modern automatic or semi automatic rifles. Even in 2019, hundreds of police stations are without a radio or phone connection, leaving them to rely, unreliably, on the officers cell-phones. Computers are rare—in 2019, there were only 6.9 per hundred policeman. This means that reports are written and stored by hand in many cases.

Perhaps the most noticeable problem is in the area of transport. In 2019, there were only 7.9 police vehicles for every policeman [Bureau of Police Research, 2019, 47]. This means that, after deducting the minimum of vehicles needed to transport prisoners and senior officers, it is difficult for Indian policemen to patrol in urban areas, and impossible in rural areas, leaving policemen tied to police stations and a few fixed posts. When they must travel, they must rely on their own private vehicles, public transit or hitchhiking. Other, less scrupulous, officers make informally requisition vehicles from the public. One officer described to me how, since his officers refused to allow the dead bodies from murder investigations into their own vehicles, they required local shopkeepers to transport them for them.

Perhaps the most damaging consequence of underfunding is in the weakness of police forensics. As in some American jurisdictions, delays of months in police laboratories are universal [Shah and Sandler, 2009]. But low quality is in some ways more concerning. In Bihar, the sophisticated IPS officers I interviewed compared the equipment of the state laboratory to their high school classrooms, and said that most of the staff there had been hired for political loyalty rather than expertise. In Delhi, about half of recruits to the state laboratory were accused of faking their academic qualifications in a 2009 scandal, only exposed because of litigation by disappointed applicants Chandra [2011]. As a result, and due to poor training, forensic evidence is often destroyed or ignored even in high profile cases.

## 2.5 The Police and the Politicians

**Indian Political Institutions:** India is a federal parliamentary democracy. In 2019, there were 28 states and 8 union territories, small areas which have slightly less autonomy. States are very large by international standards: The largest state, Uttar Pradesh, has a population of over 200 million people, which would make it the fifth largest country in the world.

In theory, state governments have a formidable range of powers over most areas of policy importance to citizens, including policing, education, road transport and social welfare. In practice, this is somewhat undermined by the fact that a large proportion of state funding comes from the central government, and that the centre has a set of emergency powers it can use to replace state governments. However, there is no separate federal court system or local administrative structure on the American model, and all central programs and laws must be administered by state officials.

The structure of state government is highly centralized. While village, district, and city councils exist, they tend to be weak and dependent on the state government for funding. This is particularly true in matters of policing, over which they have no control. The District Officer (an IAS official) is officially in charge of the entire administration, and reports more or less directly to ministers in the state capital [[Bhavnani and Lee, 2018](#)].

The state government is formed by the party or coalition of parties who can command a majority in the state assembly, the Vidhan Sabha. This assembly is composed of members (MLAs) elected from single member constituencies using a plurality electoral system. The ruling party forms a cabinet, headed by the chief minister (CM). In practice, Indian governments tend to be highly centralized, with the CM, his cronies, and perhaps the national leadership of his party making all key decisions. This pattern is a product of laws that restrict the power of ordinary members to vote against party wishes and the common practice of centralizing party nomination decisions in the leadership [[Lee, 2019b](#)]. Individuals members spend most of their time on distributional politics in local areas,

where their status as the only local elected officials in the all-important state government gives them a certain influence [Bussell, 2017].

The CM usually also keeps to herself the Home Ministry, which is responsible for the police, a revealing display of the importance of this portfolio. In 2019, 19 of India's 28 state Home Ministers were also chief minister, and in most other cases the minister was a close associate.<sup>16</sup> Given her other powers, the CM can thus act virtually unilaterally in police matters.

However, in doing so, she is constrained by her own long-term political interests, and the web of political ties in which she is enmeshed. India's "patronage democracy" is not for the squeamish. Many Indian voters do not respond to "programmatic" appeals, instead voting based on promises of jobs, favors, goods, or cash [Wilkinson, 2007, Thachil, 2014, Bussell, 2017]. This requires the services of an army of semi-reliable "brokers" to distribute the goods and monitor the voters [Anderson et al., 2015, Stokes et al., 2013, Dunning and Nilekani, 2013]. These brokers may be village politicians, individual MLAs, or large landlords, but are often just young men on the make. Politicians must give these brokers money or favors to keep the loyalty of the voters that they control.

As Milan [Vaishnav, 2017] has described, these local political figures may provide Chief Ministers not just with votes but with money, a role also played by the business community and organized crime leaders. Electoral campaigns in India are extremely expensive, and legal means for funding them are derisory. Politicians may also want unaccountable funds, even for their own private consumption (often extensive) or to fund vote buying. Thus, even as resources flow down through the political system "contributions" flow up through it.

As we will see, promises (or threats) of favorable or unfavorable treatment by the police is an important, perhaps the most important part of the currency with which Chief Ministers control this mass of lower level-political figures. This tool is important

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<sup>16</sup>All except Andhra Pradesh, Arunachal Pradesh, Chhattisgarh, Karnataka, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland and Telangana. In Karnataka, the Chief Minister retains control over the intelligence branch.

when controlling legitimate businessmen and local politicians, but is even more vital in influencing the large minority of local political bosses who have extensive involvement in illegal activities.

**The Tools of Control:** On paper, the Indian police, particularly the senior officers, have formidable protections against political interference from the state government. IPS officers cannot be removed without the consent of the UPSC, nor, in practice, can they be denied promotions, raises and pensions. Opportunities for patronage are further reduced by the fact that they cannot accept employment outside the police, and the very limited post-retirement opportunities (on blue ribbons committees etc.) tend to be under the central government's control. Similar (though more easily circumvented) civil service rules protect the locally recruited junior officers and constables.

However, in practice the police are completely under the control of the Chief Minister and his allies. This has some legal foundation, since the police are under the control of the state government [Jauregui, 2013, 663], which has the last word about the distribution of forces, enforcement priorities, curfews and other types of police policy. This control is not supposed to extend to investigations, and several senior IPS officers proudly told me investigations of when they had arrested someone in defiance of the state government's wishes. In practice, however, the line between a legitimate and illegitimate state government order is hard to draw, and many appear to regard it as their duty to follow any order from the Chief Minister that is not *prime face* illegal.

However, the most important power that the Chief Minister has is his unlimited and reviewable power to transfer police officers. Most simply, this can be used to ensure that the officers in the most important and politically significant posts are those ideologically sympathetic to the Chief Minister or have personal ties to him. The state DGP, the superintendent of police in the state capital, the head of the vigilance and intelligence departments, and the superintendent of police in areas with lucrative illegal mining industries are all likely to be men the Chief Minister can rely on to obey instructions. At a lower level, a MLA may demand that the SP in his home district or the station house officer (SHO) of his native town men he can work with, and most Chief Ministers will

grant such requests.

But the transfer power can also be used to reward and punish policemen on a broader scale. Even within the posts reserved for the IPS, some are much more desirable than others, either because of their location in big cities, the importance of the task, or the capacity for generating bribes. The state government can punish officers with undesirable postings, rapidly transferring them from post to post, or denying them a post: One former Director General of police recalled telling a misbehaving officer that he would have to spend six months “wondering the halls like a hungry ghost.”<sup>17</sup>

The overuse of the transfer mechanism has negative consequences for the police as whole, since it means that the average tenures of supervisory personnel are often brief. In an average year, 46% of IPS officers are transferred after less than two years of service, with the figure reaching nearly 207% during Mayawati’s period as chief minister of Uttar Pradesh.<sup>18</sup>

Blackmail is another tool in the politicians’ arsenal. Officers note that the desire of politicians to keep tractable officers in sensitive postings tends to favor corruption. Corrupt officers can easily be threatened with time consuming disciplinary proceedings, or promised postings that will maximize their income. One former DGP put it in this way.

You must understand that these men [the politicians] are masters of politics, they know far more about it than any political science professor. They judge a man’s character when he joins the service. One, two, postings, and they have him marked forever. (Officer F Interview, 11/16/17 )

A Bihari officer concurs:

This was [former Chief Minister] Laloo [Prasad Yadav]’s genius. He could see a man’s weakness. Despite what people say, he actually respected an

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<sup>17</sup>Officer F Interview, 11/16/17

<sup>18</sup>Two years is a widely used norm for the minimum about of time an officer must hold his position to gain local familiarity and act effectively. Officer B Interview, 11/14/17, Officer H Interview, 11/17/17

upright officer. But if a man had a weakness, they belonged to him.( Officer L Interview, 11/22/17 )

What Indians call “political interference” is thus a fact of life in the Indian bureaucracy, and officers speak of it in the same way they would describe bad weather. The tone can be seen in an internet posting which claims to be notes from a meeting of IAS trainees comparing their field experiences in different states.

[Bihar] First impression is that it's not a good cadre-there is excessive political interference.

[Himachal Pradesh] I was told by seniors that HP is a very peaceful state, an informal cadre with a good working environment and very little political interference. Everything except the last was proved to be correct. There is a lot of political interference, however criminalization of politics has yet not happened.

[Orissa] Least interference from the current political dispensation.

[Rajasthan] Systems are in place. Political pressures depend on the officer's response.

We were told that Tripura is a ‘well-administered’ state; we realised that it is ‘over-administered’...Hyper politicized state which makes life tough.

First impression on being allotted West Bengal is that one is doomed. Take a deep breath, listen to the obituaries recited by your batch mates and get depressed.<sup>19</sup>

**VIP Culture:** Perhaps the most obtrusive symbol of the Indian Police's subservience to politicians is the “VIP culture,” and especially the use of police as bodyguards. Elected officials, and any Indian who can convince the police that his life is threatened, is entitled to police protection. However, in contemporary India, the use of such guards is less

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<sup>19</sup><https://www.quora.com/What-are-the-best-states-to-work-in-as-an-IAS-officer> accessed 3/25/20.

about security than status [Jauregui, 2013]. Politicians regard the size of their security detail, and the security precautions that surround their movements as an index of their importance, and some politicians proudly told me their official security “level” (a lettered code that describes the number of policemen allotted to them). The high status of the Nehru-Gandhi family, who receive the same protection as the Prime Minister even when out of office, is widely noted. Similarly, film stars or prominent businessmen with political connection routinely have police bodyguards. Ordinary state legislators get two policemen armed with submachine guns, even in the absence of a concrete threat

Officially, some 40,000 officers are deployed on protective duties, protecting some 21,300 persons [Bureau of Police Research, 2019, 52]. However, this is widely acknowledged to be a massive underestimate, since the practice of informally borrowing officers from other duties is widespread, and state Chief Ministers have entourages in the hundreds [Jauregui, 2013, 658]. These informal borrowings are in some ways more damaging to police operations than official assignments, since they take policemen away from investigative and patrol assignments.

Jauregui [2013, 659-661] notes the symbolic power of VIP protection: the police become viewed as “mere tools, mechanical servants of...the political masters of the moment” and “some wealthy elites use police as props in performing their power to the world.” However, the psychological effects on the police are also notable. The policeman chosen for these assignment (who in Bihar, are generally from the member’s own caste) develop habits of obeying politicians, and develop ties to the politician which may help their later careers. For an ordinary policeman, these types of connections are much more valuable for advancement than arrests, hard work or educational qualifications. A routine example of this type of deference emerged in a deadly 2002 hit and run accident involving the film star Salman Khan, where Khan’s police bodyguard allowed him drive while drunk, sitting in the passenger seat and suggesting that he drive more slowly.<sup>20</sup>

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<sup>20</sup>When the bodyguard choose to testify against Khan, he was kidnapped by unknown persons, then fired from the police.

## 2.6 Conclusion

The Indian Police was designed as an instrument of colonial rule, and in consequence features a highly stratified career structure that gives little power or prospect of promotion to those at the lower levels, and an administrative structure that concentrates power at the higher levels. However, these features have only compounded the effect of two trends that have become more apparent since independence: The extreme underresourcing of the police relative to other countries and other public institutions and the dictatorial control over the police by the senior politicians in each state. The result is a bureaucracy that is only dubiously capable of preventing and investigating crime, and does so in a manner that suits the interests of the ruling party in each state. In the rest of this book, we will see why under resourcing and low autonomy have emerged and persisted, what effects these policies have on ordinary Indians.

# Chapter 3

## Policing as a Development Problem

During my fieldwork in India, I would often tell people that I was researching the police. While many were full of suggestions, others expressed skepticism of the importance of the question. The police, they admitted, were corrupt and incompetent, but hardly the most pressing problem facing the country. Why not focus on poverty, on violence against women, on political corruption, on pollution, or on communalism? Surely these were more pressing harms to ordinary Indians, many of whom do not have enough to eat on a daily basis, than police understaffing? And these areas, unlike the police, might actually be susceptible to change, whereas the police had been bad as long as anyone could remember.

This chapter is an answer to these arguments, and an attempt to show the under-resourcing and low autonomy that characterize the Indian Police have had far reaching negative consequences for ordinary Indians, many of which are now simply taken for granted or treated as unrelated to law enforcement. The dysfunctions of the police have led to a society that is poorer, more unequal and more violent than it would otherwise be, and than it could be. When the police are underpaid and take instructions from senior politicians, those who have enough money to pay them, or enough money and power to influence senior politicians will have disproportionate influence, an ordinary people who want protection for their lives and property are well advised to stay close to those with money and power.

The most important problems of the Indian police come from the misuse of its powers

to investigate crimes and deploy officers to deter their commission. While in a well-functioning police force these decisions are based on the gravity of the offenses involved, in India they are generally based on the relative political and economic influence of the victims and perpetrators. Policemen may choose to prosecute or deter offenses or ignore them, and they may choose to prosecute or ignore the behavior of criminals (who commit many serious offenses) or non-criminals (who commit minor offenses or none at all). This gives us the four types of police misconduct described in Table 3.1, all of which will be described in these chapter.

Table 3.1: Types of Police Behavior Caused by Undo Influence

		Type of Police Action	
		Prosecution	Non-Prosecution
Target of Police Action	Criminals	Fee for Service/ Biased Service	Impunity
	Non-Criminals	Punishment/Extortion	Alternative Taxation

While police misconduct due to corruption or political influence produces many problems for the average Indian, the high levels of underresourcing of the police also have direct effects on the level of service provided by the police and the type of services they provide. Put another way, a force of perfectly honest police officers perfectly independent of all external interference would struggle to protect the lives and property of citizens with the resources currently available to them. To protect the public under these constraints, they might be tempted to resort to “shortcuts” similar to those used by even the most honest and efficient policemen in India today, most notably the use of a shockingly high level of violence, up to and including extrajudicial murder towards suspects and the public.

### 3.1 Fee for Service: Reporting a Crime in India

A police force, at a minimum, should attempt to prosecute criminals, receiving complaints from the public, investigating them, and arresting the perpetrators. Citizens pay for this service through taxation, and should all have equal access to this service. This ideal is not always met, and both quantitative and anecdotal evidence in developed countries indicate

that more socially and politically influential victims may find it easier to get crimes against them investigated, even accounting for the seriousness of the underlying offence [Vik et al., 2020, Taylor et al., 2009, Briggs and Opsal, 2012]. Crimes against members of minority groups, for instance, may receive less attention than crimes against members of majority groups. In contemporary India, however, this bias goes much further: Social influence of some kind, or the ability to pay a bribe, are essentially necessary conditions for crimes against one being investigated.

In developed countries, the act of reporting a crime is straightforward, and almost always done by phone. In India, there have been attempts to introduce such a system, but the overwhelming practice is to require registration in person. The Thane police allow reporting over the phone, but require that the complainant “subsequently go to the police station for registration.”<sup>1</sup> Others treat phone reporting as something that “can” be used in case of emergency, but not as the normal procedure.<sup>2</sup> Bihar police officers told me that while they would expect their sub-inspectors to respond in person to phone report of a murder, for all other crimes they would tell the victims to come in person to the station.

<sup>3</sup>

At the station, the duty officer is supposed to take down the statement of the person reporting the crime, usually the victim but sometimes a relative or neighbor. This is typed up into a First Information Report (FIR), which is then signed by the reporting party and “registered” by entry in the station’s book, and becomes the basis for the subsequent Investigation. It is important to note that registration of all reports is in theory *mandatory* for police officers, and a refusal to do so is punishable by prison. The only exceptions are minor “non-cognizable” crimes, where the victim must secure a magistrate’s order to investigate, and crimes that occurred within the jurisdiction of another police station,

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<sup>1</sup><http://www.thanepolice.gov.in/faq14.php> Accessed 3/30/20.

<sup>2</sup><https://www.thehindu.com/features/the-yin-thing/all-you-must-know-about-the-fir/article5260951.ece> Accessed 3/30/20.

<sup>3</sup>One national survey found that 69% of contacts with police were at the station [Lokniti, 2018, 38]. However, in 2015 official statistics showed that 53% of criminal complaints in India were made over the phone. CITE

which must be recorded and transferred to that station.

In the Indian system, registration creates a statistic that must be resolved, and the police are required to “investigate the case, record statements of all witnesses, and file a final report, which is copied up the chain of command.”<sup>4</sup> If the case is “founded,” the officer must either file a “charge sheet” against a suspect or inform his superiors that he cannot, creating a negative statistic that can be used against him in his later career. If specific individuals are named in the FIR, they must be cleared by police. Junior officers complain that their superiors have unrealistic expectations for case clearance, and in fact reported case clearance rates in India are extraordinarily high. In 2018, 68.1% of all Indian Penal Code (IPC) Crimes, roughly the equivalent of felonies in the United States, resulted in criminal charges. The police claims to solve 84.2% of murders and 85.3% of rapes, dramatically higher than the US rates of 61.6% and 34.5% respectively CITE.

The police, therefore, have every reason to refuse to register FIRs, since registration entails considerable effort on their part, and the possibility of an embarrassing documented failure. This is especially true for crimes that are difficult to solve, such as the theft of cell phones or automobiles, or where the perpetrators are influential. The problem is compounded by the tiny number of officers available to investigate crimes, which makes some sort of control over their work load imperative. As a result, policemen take measures both passive and active to discourage crimes being reported, a process euphemistically described as “minimization” <sup>5</sup>. In many cases, a blank refusal will suffice, or a complainant will receive “friendly” advice to reconcile with the perpetrators rather than go to the “trouble” of a formal case. This tendency is particularly notable in crimes against women, where victims are often pressured to avoid litigation [Human Rights Watch, 2009, Belur et al., 2015].

More persistent complainants may be threatened or assaulted by the police. In a 2005 Goan case remarkable only for the publicity it received and the high rank of the officer involved, Greenpeace activists attempting to register cases against local factory

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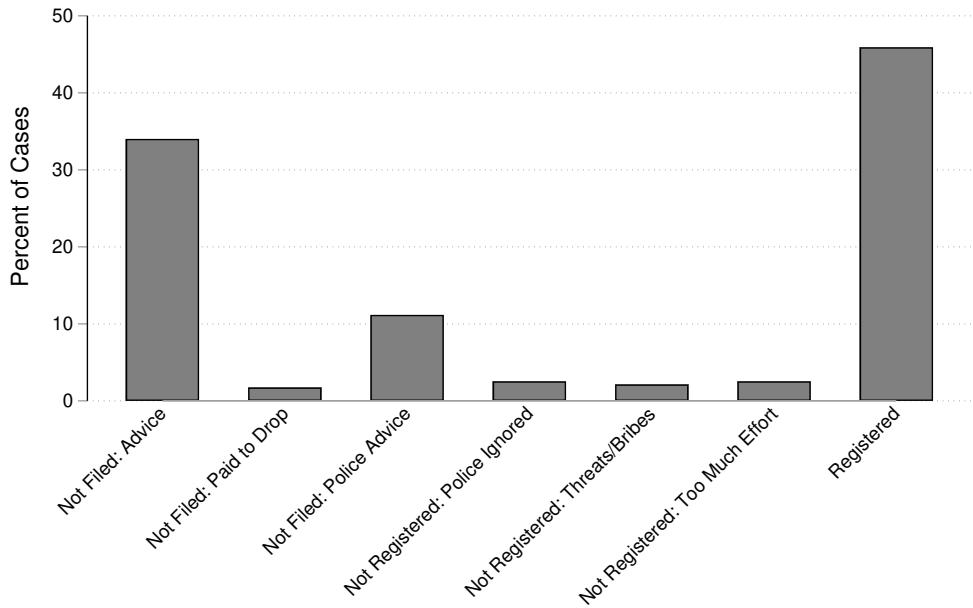
<sup>4</sup><https://www.thehindu.com/features/the-yin-thing/all-you-must-know-about-the-fir/article5260951.ece> Accessed 3/30/20.

<sup>5</sup>Officer B Interview, 11/14/17, N -Officer L Interview, 11/22/17

owners were beaten by the circle inspector, and then charged with attempted murder. Ordinary rural crime victims would not have dared make the attempt: “[if people] who had connections to the urban elite and access to the bureaucracy...could be assaulted in the custody of the police, what protection would ordinary villagers have?” [Gudavarthy and Vijay, 2012, 60]. Many Indian women regard police stations as inherently threatening environments, and will avoid them at all costs, a fear only partially palliated by the introduction of “all women” police stations [Amaral et al., 2018].

The results can be seen in Figure 3.1, based on a nationally representative survey conducted by the access to justice NGO Daksh. Of those citizens who attempted to register a complaint, only 45% were successful. The others either were “advised” or bribed (by the police, the perpetrators, or others, to not file a complaint, while others were not pursued, due to a similar combination of police indifference, threats and the need to pay bribes, and the shear cost of the enterprise.

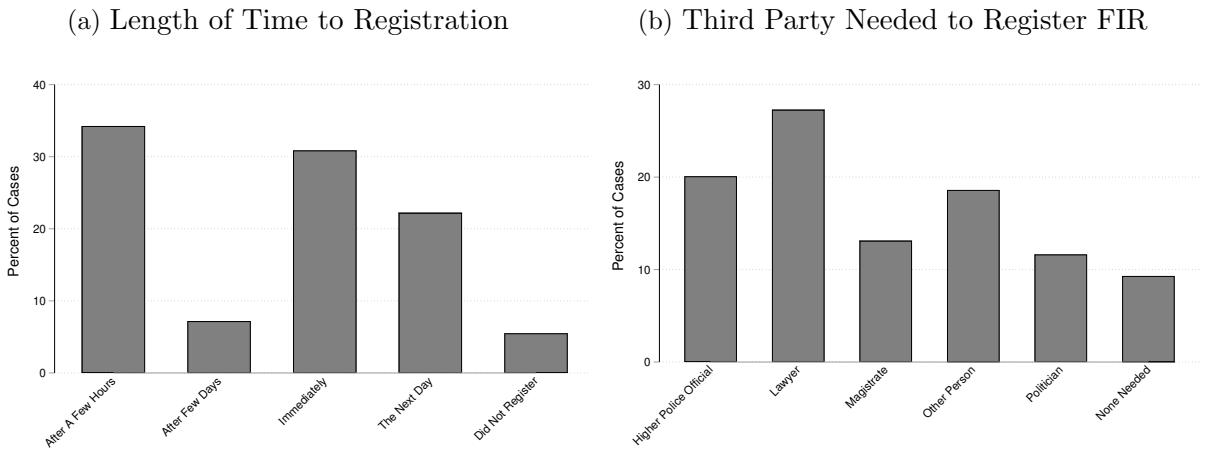
Figure 3.1: Outcomes of Criminal Complaints in India



Note: The Y axis shows the percentage of different outcomes for criminal complaints among those who reported giving or trying to give one. Sources: Daksh, 2014 Access to Justice Survey.

These discouraged filers were not necessarily being irrational. Figure 3.2, taken from

Figure 3.2: FIR Registration in India



Note: The Y axis shows the percentage or proportion of different outcomes for criminal complaints among who who attempted to file a complaint as part of a dispute in the last five years. N=473. Sources: Daksh, 2014 Access to Justice Survey.

Daksh's national survey of those with recent disputes, shows that the automatic registration of reported crimes, the legal requirement, is essentially unheard of. Only 31% of cases were registered immediately, while the others were delayed or not registered at all.<sup>6</sup> Even more telling is the pattern in Figure ???. In 91% of disputes, someone other than the litigant had to intervene to get the FIR registered. This might be a higher police official, a lawyer, a politician, or simply some locally influential person, capable of persuading the police than there will be tangible consequences for their failure to investigate this particular case.

Daksh did not ask about bribes, but these are widely assumed to be an almost universal of the criminal investigation process. Even in the minds of conscientious policemen, small payments are justified by the very low funding levels of the police, and the expenses involved in investigating a case. Several officers made this case to [Human Rights Watch](#) [2009]:

<sup>6</sup>The difference between the Figure for non-registration in Figure ?? and Figure 3.1 stems from the fact that Figure ?? focuses on the citizens most serious recent dispute, where the incentives to register a cases are larger.

If the family [of a kidnapped girl] were to wait for the police to respond, it would be days before the expense amount [was authorized] and the policeman able to reach the spot using public transport. So, if the father wants results, he will offer to provide transport.

The police station is allotted stationery, which is never enough. We even have to buy paper to write the FIRs. Every week, we are sending at least 8 or 10 statements to a number of officers so we have to make multiple copies. How do we fund this? With our salaries? But if we ask the victim to supply the paper, we are accused of corruption.

Payment of small sums, then, is an integral part of the of the crime reporting process. The 2005 Indian Corruption Survey conducted by the Centre for Media Studies and Transparency International. found that 75% of households that interacted with the police experienced some form of corruption, and FIR registration or “follow up” was by far the most common reason for payment [Centre for Media Studies, 2018, 20].<sup>7</sup> Similarly, [Lokniti, 2018, 41] found that 50% of registrants either admitted to paying a bribe or refused to answer the question. The average reported bribe for this service (INR 313 in 2018, less than five US dollars) was surprisingly modest by middle class standards, a reflection of low police salaries and general poverty. When the market will bear it, however, amounts can be much higher. In another Goan case, an Inspector General of Police charged a wealthy businessman INR 550,000 for the registration of a cheating case in 2016 [Ganapatiye, 2016].

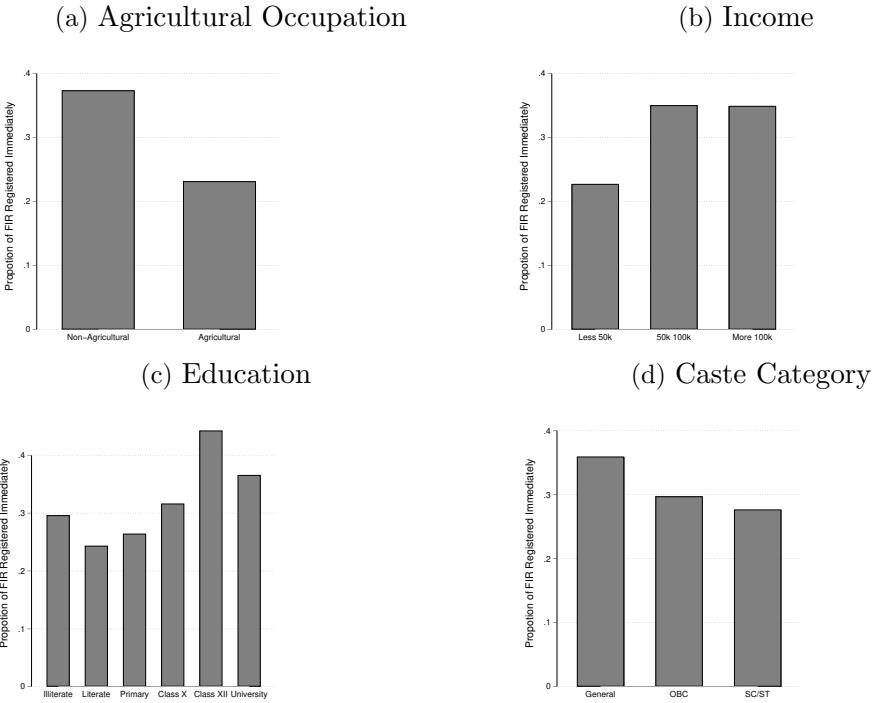
The bribery and influence necessary to register a crime thus tend to deter the poor from using the police, and make their experiences more difficult when they do. Daksh’s figures, reported in Figure 3.3 showed that members of socially disadvantaged groups—the rural, the poor, the uneducated and lower castes—are all less likely to see their cases registered

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<sup>7</sup>CMS’s 2018 survey found dramatically lower levels of all types of public sector corruption, though this appears anomalous, given that the public perception measures of corruption in this survey showed increased, and the percentage of people reporting interacting with the police nearly doubled. Police corruption also remained high relative to other areas of the public sector.

immediately than other groups. These differences are in all probability a considerable underestimate of the real ones, because Daksh's sample focused on those with ongoing, serious disputes.

Figure 3.3: FIR Registration and Socioeconomic Status



Note: The Y axis shows the proportion of FIRs registered immediately or within a few hours among those who attempted to file a complaint as part of a dispute in the last five years, broken down by socioeconomic traits. N=473. Sources: Daksh, 2014 Access to Justice Survey.

The Noida serial murders of 2005-2006 provide striking illustration of the inequalities created by the barriers to FIR registration, and the crimes that go unpunished as a result. Even as the children of poor migrants began to go missing (ultimately, 34 children were reported missing and 17 bodies were found) the local police station refused to register FIRs telling parents that they had probably run away, or to look for them themselves [Gentleman, 2007]. Those who persisted were threatened with “grave consequences” or ignored because of staff vacancies [Parashar, 2013]. The registration of the first case, which led directly to the catching of the perpetrators, only occurred because one courageous parent got the district magistrate to order the FIR to be filed. By way of comparison,

a month after this case was filed, the son of Adobe CEO Naresh Gupta was kidnapped in Noida. The Chief Minister issued a “do or die” order to the police brass, backed with a threat of transfer to “punishment postings” and the child was recovered within a day [Parashar, 2013]. Even a much smaller amount of political power might have sufficed to induce the police to register the FIRs. One village landlord, noting the non-local origins of the victims, told a journalist that “perhaps [the murders] figured we would raise a ruckus if they kidnapped children of villagers” [Yadav and Unnithan, 2007].

Many of India’s most and vulnerable poor have simply given up on the criminal justice process, letting crimes against them go unreported and unpunished. One back of the envelope calculation, based on the 2015-6 National Family Health Survey, estimated that 99.1% of rapes in India go unreported to the police.<sup>8</sup> Overall, Banerjee et al. [2012, 18] find that only 29% of crimes are reported.

This underreporting calls into question the use of crime statistics to access the effectiveness of the Indian Police, despite the common use of these statistics for this purpose in the Indian press.<sup>9</sup>. Underreporting of crime, of course, occurs outside of India as well as police officers classify offenses as less serious, or as non criminal to avoid a problematic increase in reported crime [Eterno and Silverman, 2012]. A common scholarly response to this phenomena is to focus on serious crimes, especially murder, on the assumption that they are impossible to minimize, However, in India even this assumption is doubtful. Bihari police officers note that cases of suspicious death are routinely reclassified as accidental unless there is some pressure from the family or community.<sup>10</sup>.

In fact, underreporting is so severe that there may be an inverse relationship between reported crime and institutional effectiveness. A police force that tries to improve its

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<sup>8</sup><https://www.livemint.com/Politics/AV3sIKoEBAGZozALMX8THK/99-cases-of-sexual-assaults-go-unreported.html> Accessed 3/30/20/ This estimate is roughly confirmed by additional evidence from the NFHS survey. For instance, only .58% of victims of domestic violence reported the matter to police, out of 14% who sought any help at all.

<sup>9</sup>See for instance *Times of India* “Delhi, Kerala record highest crime rate, says NCRB data” December 1, 2017

<sup>10</sup>Officer F Interview, 11/16/17

services, perhaps by reducing corruption or by establishing a police presence in remote rural areas will thus see its crime rate rise rather than fall. For this reason, campaigns to improve citizen-police relations are often associated with rise in the reported crime rate [Banerjee et al., 2012, 7].<sup>11</sup>

## 3.2 Impunity: The Protection of Criminals

The inverse of using money of influence to pursue a criminal investigation is using money or influence to get them to ignore criminal activity, and not aggressively investigate the crimes that do come to their notice. This type of behavior is common to the point of routineness in India, creating what Ashish Nandy calls a “culture of impunity,” where the public does not believe that crime leads to punishment.<sup>12</sup> This impunity may result from orders from politicians (a product of the police’s nonexistent autonomy from them) or from bribery (a result of the very low salaries of the police). Since the degree of impunity varies with the wealth and political power of the perpetrator, different types of criminal in India require separate discussions.

**Senior Politicians:** On a daily basis, virtually all Indian politicians commit crimes for which they could be jailed. Even “honest” politicians may face problems following the strict letter of Indian campaign finance laws, which limit campaign expenditures and contributions to only a tiny fraction of the actual cost of a competitive campaign. Politicians without independent wealth are forced to raise large sums of money illegally, and the promise of future favors in return is a natural part of this, even when the contributors are legitimate businessmen. However, as Vaishnav [2017] shows, individuals with large amounts of cash to spend on their own or other peoples campaigns are often already involved in illegal activities. Less scrupulous politicians may find that violence will advance their interests, either by inciting riots at strategic times, or intimidating rivals [Wilkinson, 2006], or on the bribery of members of rival parties.

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<sup>11</sup>See also Officer F Interview, 11/16/17, Officer H Interview, 11/17/17

<sup>12</sup><https://gulfnews.com/world/asia/india/culture-of-impunity-is-indias-bane-1.2177856>

Accessed 3/31/20

All of this, of course, is unrelated to the basic fact that many politicians are enriching themselves, by accepting bribes and diverting public funds to themselves and relatives. While quantitative studies have shown that election winners gain disproportionate wealth [Fisman et al., 2014], they barely scratch the surface of the illicit economic gain. Every year the press uncovers a series of “scams” or “cases”—Bofors, 2G spectrum, Taj Corridor, Choppergate, Vyapam, Fodder etc.—that blur together. The illicit wealth of senior Indian politicians in general, at state chief ministers in particular, is flaunted more often than it is denied. One indicator of this trend is the gradual increase in the percentage of Indian politicians who face criminal charges. There are several problems with using such cases as an indicator of criminality: A really powerful politician can deter people from filing cases against him, while an honest one might be the subject of false cases. Nevertheless, the percentage of politicians facing such charges is undeniably high and rising. In the 2004 Lok Sabha, 24% of members faced criminal cases (half of which were “serious”) while in 2019 44% of members faced criminal cases (68% of which were “serious”).

The relationship between this behavior and the weakness of the police is potentially endogenous: While a weak police may encourage official corruption, official corruption may lead to a weak police. This relationship will be examined more in Chapter Four. Here, it is sufficient to note that the chances of a politician having their career ended, let alone losing their assets of liberty, due to criminal investigation is small. Of the hundreds of MPs elected with criminal charges, since 2013 only two have been expelled from the Lok Sabha due to criminal convictions. Indeed, the police investigation of a sitting chief minister, or a close associate of a sitting chief minister, is essentially impossible within the Indian police as it currently exists: An officer with the courage to attempt it could be summarily transferred to other duties. In 2013, for instance when Siliguri Police Commissioner K Jayaraman dared to arrest an IAS bureaucrat over a particularly brazen act of embezzlement thought to have government approval, he was removed from his post by West Bengal Chief Minister Mamata Banerjee, and put on “compulsory waiting” for six months before being given a desk job, while the man he arrested was reinstated.<sup>13</sup>

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<sup>13</sup>See

<https://www.business-standard.com/article/pti-stories/>

Indeed, the exceptions—senior politicians who have faced consequences for their actions—tend to be leaders being punished for being out of power rather than for their crimes. The prosecution of predecessors for corruption is a very common act of new governments in India. Similarly, the central government can use its power over the CBI to keep regional leaders in line, speeding investigations of opponents and slowing investigations of supporters: The corruption cases against Uttar Pradesh Chief minister Mulayam Yadav was launched immediately after his 2007 loss of power, slowed when he supported the Congress government in a trust vote, speeded up when refused to agree to a seat sharing deal, and then quietly ended when he agreed to support the now Congress government.<sup>14</sup>

One specific type of immunity is that has been heavily studied in the Indian context is the refusal of the police to prosecute politicians and local bosses who incite riots or vigilantism against members of other caste or religious groups, or indeed to take measures to prevent them. As Steven Wilkinson [2006] showed, such riots are far from spontaneous outpourings of public sentiment, but are carefully planned for electoral benefit, and can only happen with the collusion of the police, on the orders of the state government. A recent example occurred in Delhi in 2020, where BJP party leaders encouraged attacks on anti-government protestors, leading to several days of violence between Hindus and Muslims in which 53 people were killed. During these events, very few policemen were deployed to the effected areas, and police refused to respond to calls from Muslim residents.<sup>15</sup> The Supreme Court had to intervene to get the police to file an FIR against the politicians involved, and there is widespread skepticism that the cases will proceed.

**Local Elites:** Underneath the politicians lie a class of individuals with political influence, “big men” with control over money, votes or both. In many cases, these men are involved in illegal businesses: unauthorized mining or timber extraction, liquor dis-

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finally-jayaraman-gets-posting-54-ips-officers-transferred-114061301371\_1.html      Accessed 3/31/20.

<sup>14</sup>For this and other examples see <http://www.sunday-guardian.com/investigation/cbi-ineffective-in-dealing-with-political-cases>. Accessed 3/31/20.

<sup>15</sup>See <https://www.nytimes.com/2020/02/27/world/asia/india-violence-hindu-muslim.html>  
Accessed 4/2/20

tribution in states with prohibition, fraud or collusion in government contracting, illegal property development on government land, or the seizure of private property (“land grabbing”). Others simply extort from local citizens in return for protection. While these individuals are often described as “mafias” or *goondas* [thugs], the impressions that these terms may give a Western reader are in some ways misleading. Many of these individuals are relatively wealthy for their localities, are members of families with traditionally high social status, and are more often organized in loose networks than in tight criminal organizations.

Friendly treatment by the police is absolutely essential to the success of these men. The very obtrusiveness and permanence of their local presence makes them vulnerable to pressure in a way that an American prison gang, for instance, would not be. A hostile station house officer or District Superintendent of Police can disrupt the local operations of Indian gangs. Illegal buildings can be sealed, houses can be raided and the inevitable illegal weapons and piles of mysteriously acquired cash confiscated, illegal mines can be “discovered” and closed. A less scrupulous police officer might jail a local criminal’s female relatives under various pretexts, or conduct extrajudicial executions of his followers. And while the glacial pace of the Indian courts can make final conviction difficult, it can by the same token make even unjust proceedings frustratingly difficult and costly to resolve.

To keep the police at bay, criminal elites follow two strategies, usually jointly: The bribery of police, and seeking of political influence in the state capital to keep the police under control. The amounts involved in the first can be immense: In one recent case, the Deputy Commissioner of Police in Bengaluru took INR 130,000,000 (USD 1.75 million) in cash and 25 kg of gold to sabotage the investigation of a Ponzi scheme.<sup>16</sup><sup>1</sup> Other criminals may give money to politicians or put their networks of influence and armed men at their disposal, or even run for office themselves. The politics of India’s mining districts, for instance, are notoriously dominated by leading illegal miners. They are frequently successful: [Vaishnav \[2017\]](#) shows that politicians with criminal records are *more* successful

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<sup>16</sup>See <https://www.deccanherald.com/city/ponzi-scam-victims-can-submit-claim-documents-online-769770.htm>. Accessed 3/31/20.

than otherwise similar politicians, due to their greater celebrity and control over “money and muscle.” Since it is imperative for these men to be on the winning side, they may switch sides frequently, contributing to India’s high level of electoral volatility.

The career of Raghuraj Pratap Singh, known as Raja Bhaiya (big brother) illustrates the way in which power at the state level and crime at the local level can reinforce each other through police impunity. Singh is the descendent of a local aristocratic family in Pratapgarh district, where he has won six consecutive elections to the state assembly, and is thought to control outcomes in several other constituencies as well. Singh’s local power is impressive: In Pratapgarh “not even a leaf can flutter without Raja Bhaiya’s permission” and he collects a share of local government spending [Vaishnav, 2017, 63-4]. This control is reinforced by violence: Singh is widely rumored to keep a pond full of crocodiles in which he disposes of the bodies of his opponents [Vaishnav, 2017, 63-4]. Due to his local power base and statewide appeal to members of the Rajput caste, Singh often is in power at the state level, serving stints as minister of Food and Prisons. He uses this power to ensure that the police in Pratapgarh do not intervene in his illegal activities: IPS officers are transferred rapidly if they displease him. After a one year period where five district superintendents were transferred, one anonymous official told the *Deccan Herald* that “From district police chiefs to the station house in-charge, Raja Bhaiya’s interference is everywhere.”<sup>17</sup> This in fact was Singh’s defense when a Deputy Superintendent in Pratapgarh was killed for intervening in a local gang war “Had I been so opposed to the CO, I would have easily got him transferred instead of getting him murdered”<sup>18</sup> The only investigations Singh faces occur when he is out of government: Twice governments of the Bahujan Samaj Party had him jailed, and twice he was freed

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<sup>17</sup><https://www.deccanherald.com/content/318725/raja-bhaiya-enjoys-clout-over.html> Accessed 4/2/20/

<sup>18</sup><http://archive.indianexpress.com/news/raja-bhaiya-why-would-i-kill-police-officer-when-i-could-e1082900/> Accessed 4/2/20/ However, six years earlier another DSP died in a mysterious road accident after filing charges against Singh <https://web.archive.org/web/20121014072702/http://www.expressindia.com/latest-news/Night-before-HC-says-yes-to-his-plea-for-CBI-probe-UP-cop-dies/21077/> Accessed 4/2/20/

immediately and cases filed against the officers involved after his friends in the Samajwadi party returned to power.

**Everyday Impunity:** Political power on Raja Bhaiya's scale is not necessary to ensure immunity from criminal investigation in contemporary India: Even a modest amount of money and influence can secure this end. Indeed, payoffs for exoneration are somewhat routine. The 2018 Indian Corruption Study found that 19 percent of Indians who interacted with the police paid for their removal from FIRs or the quashing of the FIR, with the service costing a modest average bribe of 460 rupees.<sup>19</sup> Journalists frequently turn up cases where a payment to the police, and perhaps some pressure on the victim's family, can allow even a poor rural family to escape charges for a murder committed in front of many witnesses, or even ensure the cooperation of police in the murder.<sup>20</sup> Even as unsympathetic a figure as Moninder Singh Pandher, the Noida serial killer, was able to bribe the police to focus the investigation on his servant, and (possibly) to ignore his crimes while they were being committed [Parashar, 2013].

At a lower level, many, perhaps most, petty crimes in India can be settled by a bribe to policemen rather than an arrest and charge. Drunk driving offenses, for instance, and frequently ignored in return for bribes.<sup>21</sup> Similarly, in Gujarat where alcohol is illegal, the police receive retainers from bootleggers, much in the manner of American police forces during prohibition, with the police as a whole taking in INR one billion (USD 22.5 million) a year. One resigned senior officer told *India Today* resignedly that "When it comes to our junior police officers, we have fallen into the habit of taking note of their corruption only in non-liquor cases. It is understood that 90 per cent of the police force in Gujarat takes money from the illicit liquor business"<sup>22</sup>

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<sup>19</sup><https://www.im4change.org/siteadmin/tinymce/uploaded/India%20Corruption%20Study%202018%20by%20CMS.pdf> Accessed 4/23/20

<sup>20</sup>See for instance <https://www.nytimes.com/2020/02/27/world/asia/india-violence-hindu-muslim.html> Accessed 4/2/20 and <https://www.indiatoday.in/india/story/haryana-court-convicts-7-for-honour-killing-70194-2010-03-26> Accessed 4/2/20

<sup>21</sup>See [Banerjee et al., 2019] and <https://www.deccanherald.com/city/top-bengaluru-stories/4-cops-found-taking-bribes-from-drunk-drivers-via-paytm-785856.html> Accessed 4/2/20

<sup>22</sup><https://www.indiatoday.in/nation/story/illicit-liquor-business-thrives-in-gujarat-129333-2011-03-26>

### 3.3 False Accusation, Police Repression, and Protection Rackets: When Police Target the Innocent

**Harassment for Money:** Indian police frequently collect money from those who are neither criminals or their victims. Many policemen demand *hafta*, or regular payments of protection money, by all shopkeepers or small businessmen operating within their jurisdiction. Those who do not pay may be charged with spurious offenses, or even assaulted and beaten.<sup>23</sup> The division of the spoils from such collections may be formalized, with senior officers taking money from juniors, and in turn passing money to their seniors and, sometimes to politicians in return for their posting [Lamani and Venumadhava, 2013, 229]. Police checkpoints, (the primary mode of traffic law enforcement in India because of the police's lack of transport) also frequently become sites for extorting bribes from motorists CITE belur2011police The lack of resources of the police may also lead them to demand free food, free rides or supplies from shopkeepers.

**Harassment for Private Individuals:** In the same way that one can pay to have a true criminal complaint registered, one can pay to have a false one registered. Such "false cases" are part of the social landscape in India. They reflect in part the failures of India's justice system. While a civil lawsuit may be tied up in court for decades, a criminal case will not only move slightly faster but tie the other party up in a host of embarrassing and costly actions—being arrested, getting bail etc. The police thus frequently become a tool in private disputes, and FIRs become leverage in ongoing settlement negotiations. As far back as the colonial period, peasants were using false cases as way of "instert[ing] the disputes that were part of everyday life into the state's legal apparatus" [Kumar, 2017, 362]. Some rape allegations in India, for instance, are thought to be ways to extort

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Accessed 4/2/20

<sup>23</sup>For examples, see <https://nhrc.nic.in/press-release/nhrc-orders-compensation-fruit-vendor-beaten-dea>

Accessed 4/2/20 and <https://www.indiatoday.in/mail-today/story/delhi-nightclub-fails-to-pay-cops-policemen-thrash-staff-1047665-2017-09-19> Accessed 4/2/20

money or agreement to marriage after failed consensual relationships, and the criminal laws against dowry are also sometimes used in marital disputes.<sup>24</sup>

**Harassment for State Governments:** Perhaps the most invidious use of police powers against the innocent is when the police are used to harass political opponents of the state or national government of the moment. The most obvious example of this police violence towards anti-government protestors, and a corresponding tolerance towards pro-government demonstrators. There were many accusations of this types of bias during the 2020 Citizenship Amendment Act protests, with the police going so far as to teargas a hospital where protestors took shelter.<sup>25</sup> Riot control in India is not subtle, and “lathi charges,” where protestors are beaten with clubs, are common even against well behaved crowds—in 2015 there were 324 registered charges in India, and many unofficial ones. Where the protesters are from a politically powerless minority, things may go much further. In one notorious 1979 incident, West Bengal police killed an estimated 7000 people and raped many more while clearing 40,000 Bangladeshi refugees from an island [Halder, 2019].

More subtly, the police may be used to harass activists, journalists or opposition politicians. India has broadly written laws against “sedition,” “defamation,” and “incitement” that can be used to criminalize virtually any speech act. The 2016 legal ordeal of the student activists at Jawaharlal Nehru University because of “anti-national” slogans shouted at their rally became a national cause celebre, but this was far from an isolated incident: In 2018 there were 70 prosecutions for sedition and 38 for “imputation of assertions prejudicial to national integration.” The press in particularly sensitive to defamation charges and incumbent state governments use them frequently: The 2011-2016 Tamil Nadu government filed more than 200 such cases against media outlets [Human Rights Watch, 2016a]. More prosaically, activists may be the targets of false cases and other forms of

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<sup>24</sup><https://www.theguardian.com/global-development/2019/feb/11/spare-innocent-men-anguish-india-ruling-aims-to-end-false-claims> Accessed 4/2/20

<sup>25</sup><https://caravanmagazine.in/politics/good-bad-protestor-uneven-police-response>  
Accessed 4/2/20

petty harassment, or frequent jailings.<sup>26</sup> Those who use India’s Right to Information law to get embarrassing information about the government have become particular targets, with one official report noting that “registration of false cases, accusations of blackmailing and other means to harass RTI users are routinely exercised by vested interests” [Mishra, 2019, 5].

At the extreme, opponents of state governments may simply be extrajudicially executed by police, or with their cooperation. The 1998-2001 “secret killings” in Assam, in which some 400 people were killed by death squads controlled by the state government and in a “nexus” with police, became well known [Talukdar et al., 2009], as have similar killings of left wing activists and suspected insurgents in West Bengal in the 1970s. However, accusations of targeted killings by police at the direction of senior political figures remain common today.

### 3.4 Solutions of Despair: Police Brutality and Murder

In the last few sections, we have considered the strategies that police adapt when faced with low pay and a political leadership with full control over their actions: To ignore the powerless and poor and serve the wealthy and powerful, even to the point of ignoring their basic duties. Some policemen, of course, refuse to make such compromises, do not take bribes, and attempt to ignore political directives they consider illegitimate. However, in an underresourced and highly politicized system such officers still face enormous obstacles in bringing criminals to justice, let alone in preventing crime. Their staff are too small for their responsibilities, and usually poorly motivated and trained. Equipment is obsolete or nonexistent. The vagaries of the transfer system will usually move an officer to a new post just as any reforms he introduces becomes effective.

Most frustratingly, even if an officer is able to charge and arrest criminals, if they

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<sup>26</sup>See <https://www.theguardian.com/world/2020/feb/01/uttar-pradesh-india-activists-false-arrest-torture>  
Accessed 4/2/20

possess even a small amount of money or political pull they are often able to avoid punishment, either in a future change of government, through exploiting the vast potential for bribery and delay inherent in the Indian justice system, or by intimidating witnesses. This last set of practices, and the consequent problem of witnesses “turning hostile” has become routine in the Indian justice system [Bajpai, 210, Gupta and Gupta, ND]. More ruthless criminals may simply kill witnesses: During the investigation of the Vyapam Scam, a case of exam cheating in Madhya Pradesh where major politicians appear to have been involved, some 40 witnesses died under suspicious circumstances during the course of the investigation <sup>27</sup>

In consequence, even “honest” police officers often choose to violate the legal rules under which they operate, arguing that the end justifies the means. This section will discuss three important types of rulebreaking: Torture of suspects, murder of suspects, and evidence fabrication.

**Torture in Custody:** With only a limited ability to gather and analyze physical evidence, and witness statements unreliable in attaining convictions, confessions assume a great deal of importance for Indian police officers, particularly in cases where they face pressure from political authorities to close cases. One officer told Human Rights Watch “No one has the right to torture but it mostly happens when we are trying to get information to solve crime. Police are under tremendous pressure and that is why we use shortcuts. Because if you ask the accused they will only say they are not guilty” [Human Rights Watch, 2016b, 11]. Three decades ago, an officer in Tamil Nadu (where the “crushing of testicles” was said to be the standard technique) used virtually the same euphemistic phrasing: “when the police are pressurized when they don’t have adequate time or manpower to devote to crime investigations, they take short cuts to achieve their ends” [Arora, 1999, 523]. A more senior officer agreed that “we do not depend on forensics to the level we need to. It is sub-optimally used and instead police, especially junior level police officials, resort to extracting confessions using third-degree methods”

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<sup>27</sup><https://timesofindia.indiatimes.com/city/bhopal/Nobody-knows-how-40-PEB-accused-died/articleshow/47454826.cms> Accessed 4/6/20

[Human Rights Watch, 2016b, 14].

As a result, torture in police custody is ubiquitous in India. Based on the hundreds of complaints it receives each year, the National Human Rights Commission commented in 2016 that “custodial violence and torture continue to be rampant in the country” [National Human Rights Commission, 2016]. However, any such figures are vast underestimates, given that the majority of victims of torture are from “the lower strata of society” and thus unaware of their legal options [Human Rights Watch, 2016b, 6]. In Daksh’s survey of disputants, 85% of those who had been in police custody said they were tortured or harmed in custody, and a further 4.5% refused to say. Thirty four percent of respondents reported being tortured during interrogation, 25% before, 16% after, and 10% ”before, during and after.” Torture techniques vary, and many include stretching, suspension, electrocution and mock executions [Laws and Iacopino, 2002]. But beating with sticks and straps is the most common: One Mumbai police constable told an official inquiry that in the cases where suspects would not confess, they resorted naturally to “the ‘truth seeking’ belt” [Human Rights Watch, 2016b, 1].

**Falsification of Evidence:** In addition to false confessions, some officers adopt other methods to secure convictions. Given the limited role of physical evidence, the most common technique is the use of “stock” witnesses, who will testify to whatever they are told. In 2017, the CBI was criticized when the judges in a police corruption case discovered that the “independent witness” to the bribery had in fact testified for the CBI on 26 previous occasions.<sup>28</sup>

**Extrajudicial Killings:** Even a tortured suspect may soon gain bail, which in the clogged Indian legal system gives almost indefinite freedom and the ability to intimidate witnesses. Some policemen have in response resorted to the extrajudicial murder of suspects. In India this practice is referred to as “encounter killing” or “false encounters,” a term stemming from their legal pretext: That police “encounter” armed suspects by chance, and kill them in a shootout. However, it is widely assumed that a large propor-

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<sup>28</sup><https://www.dailymail.co.uk/indiahome/indianews/article-4143740/>

Court-questions-CBI-fake-witnesses-appearing-27-times.html Accessed 4/6/20

tion of encounter deaths are in fact suspects who were already in custody, who are simply executed [Jauregui, 2016, 92]. Officers known for this type of action are known (and, often, praised) as “encounter specialists.” Where the crimes are notorious, encounters may meet with public approval. In one well-known recent example, after all four suspects in an high profile rape in Hyderabad, were killed during a “reconstruction” of the crime, crowds threw rose petals at police, and their actions praised by politicians, journalists, and senior police officers.<sup>29</sup>

While the practice is found all over India, it is best known in Mumbai, where in the 1990s the Crime Branch of the Mumbai Police used the technique extensively against Mumbai’s criminal gangs, killing an official total of 580 people in a ten year period [Belur, 2007, 112]. Like so much else in Indian policing, the pace and targeting of Mumbai’s encounters followed a political logic, with Muslim-led gangs suffering especially under state governments led by the Hindu-nationalist Shiva Sena party, and the overall rate of encounters increasing during period when the police was under political and media pressure to reduce the crime rate [Belur, 2007, 101-116]. At the height of the conflict, gangsters spoke of the killings of the top encounter specialists like cricket players, commenting that one “is in good form nowadays” [Mehta, 2009, 224-5]. Officers openly boasted of their “totals” and witnesses who sought to testify tended to suddenly recant their testimony [Mehta, 2009, 169-75]. The encounter specialists gradually saw their role reduced as crime fell (reducing political demands for encounters) and their high profile created rivals in the police force, though none of the major officers went to jail.<sup>30</sup>

In recent years, encounters are most common in Uttar Pradesh, where the government of Chief Minister Yogi Adityanath announced a “thok do” [shoot them] policy against “hardened criminals.”<sup>31</sup> Since 2000, 44% (817) of the allegations of false encounters in India have been made in UP. The opposition alleged that the Chief Minister used the

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<sup>29</sup><https://www.bbc.com/news/world-asia-india-50682262> Accessed 4/6/20

<sup>30</sup><https://www.deccanherald.com/national/the-dirty-harrys-of-mumbai-are-a-vanishing-breed-759875.html> Accessed 4/6/20

<sup>31</sup><https://www.deccanherald.com/specials/insight/goonda-raj-turns-encounter-raj-in-uttar-pradesh-759875.html> Accessed 4/6/20

threat of transfers to keep officers conducting encounters “even if they are fake.”

### 3.5 Conclusion: Counting the Cost

This section has described some of the major problems of the Indian police: Principally, the tendency to investigate crimes only when they are either handsomely compensated for their trouble or are ordered to by the politically powerful, and their frequent indifference in their Investigations to both formal standards of police behavior and actual facts of guilt of innocence. These problems stem directly from the low autonomy and underresourcing of the police described in Chapter Two. A politicized police cannot ignore pressure from above to ignore the crimes of the well connected, or indeed to fabricate crimes or commit murder when it is politically expedient. An under resourced police are so underpaid that they find it difficult to resist the temptation to charge for their services, and so poorly trained, overworked and underequipped that they cannot solve crimes without taking extralegal “shortcuts.” The effects of low autonomy and underresourcing also compound eachother: When the police is force to spend a high proportion of its tiny resources on goals favored by politicians (or, indeed, on the physical security of these politicians), the problems of ordinary people are necessarily neglected.

The direct costs of living in a state where justice is dependent on money and contacts are obvious. A great deal of crime is not prevented: The Indian economy wastes billions of dollars a year on bribes, in theft and through embezzlement of public funds or land, much of which might be prevented if the perpetrators felt that there were any consequences to their actions. Similarly, many beatings and killings occur in India than would occur if the police were willing or able to properly investigate. While the bribes that are paid to police, and the large sums that upper class Indians spend on private security guards, might be rationalized as providing the funds for an essential service that cannot be met through taxation, such spending is extraordinarily inefficient from a social perspective, providing intensive protection to a small segment of society and non to anyone else.

However, the most important negative consequences of the Indian police’s failure may

be indirect. India remains a society where a friendship, a partnership, or an “equation” in politics or the police is necessary for many business activities, to provide protection against harassment by criminals or by the police. Naturally, extraordinary resources are invested in getting and maintaining these relationships: One reason why so much money and effort is spent on Indian elections, and on the maintenance of clientelist relationships, of is that they determine who will be on the right and who will be on the wrong side of the law in the short term. Those without such relationships cannot participate in the economy without running the risk of seeing their rights violated unpredictably. The much commented on inequalities of India’s political economy—with its small group of haves and its army of have nots in the state sector or small enterprise—are a mirror of the unequal protection of property rights on a day to day basis. In the next chapter, we shall see how these patterns have been able to persist, and indeed grow, in the presence of democratic politics.

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