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To Frame the Draft Arrest Policy for India : Critical Analysis

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Definition and Meaning of Arrest

Arrest entails the deprivation of a person's liberty and freedom of movement. It refers to holding someone in police custody when accused of committing a crime.

On the other hand, the Criminal Procedure Code of 1973 deals with the notion of arrest but does not reference what constitutes an arrest. When a person is arrested, they are brought into the custody of any legitimate authority to detain them, or in other words, they are placed under restraint. The subject is then requested to respond to the charges for which he is being held to prevent him from committing future crimes.

According to the legal dictionary, arrest means "to take or hold a suspected criminal with legal authority, as by law enforcement officer. An arrest may be made legally based on a warrant issued by a court after receiving a sworn statement of probable cause to believe there has been a crime committed by this person, for an apparent crime committed in the presence of the arresting officer, or upon probable cause to believe that person has committed a crime."¹

Procedure to Arrest an Individual under Indian Law

The misuse of power to arrest the citizens, which has been bestowed upon the Police, is no new tale. There have been numerous cases where police have detained people without cause and for their evil motivations. The putative accused is frequently held in prison without having their name entered into the records,

effectively obstructing any potential legal assistance. Aside from that, the act violates Article 21 of the Indian Constitution, which protects fundamental rights.

It is a well-established legal principle that every act that infringes on human liberty must be subjected to due process². According to Section 41 (1) (b) of the Code of Criminal Procedure, arrests may be made based on reasonable suspicion. There is no denying the ambiguity of this term, as it is impossible to draw a line in the sand and define reasonable suspicion in black letters. Despite all of this confusion caused by the misuse of the law, it is vital to check on the authorities promptly; that does not reduce police power but makes them more accountable through a transparent method.

The authority to arrest without any checks on its use has resulted in several misdeeds, including false arrests, forced confessions, and presenting false evidence. The cops have a “blue code of silence,” which states that they will not turn on one another in case of a crime or wrongdoing. Unless the accused is produced for custody in court, there is no check on the necessary preparation of records. In this case, the magistrate checks excessive detention and abuse of power and procedure³. The mere verification of the accused’s statements should not be grounds for detention. As a result, in cases involving unjustified arrests, the magistrate must note it in the order and take disciplinary action. The goal should be to balance human rights observance, the threat of organized crime, and a deteriorating law and order situation. In this chapter, the author provides a detailed analysis of the provisions and court declarations, outlines principles on which the reasons for non-compliance with the law are founded, and provides additional proposals to address these flaws.

Discrepancies Circumscribing Police Power of Arrest

Section 46 of the Criminal Procedure Code provides the procedure to arrest a person. It specifies that a verbal or physical submission to custody is sufficient to constitute an arrest. The police officer may touch or restrain the person’s body without oral submission. It gives no right to cause the death of a person not charged with a crime punishable by death or life imprisonment while in custody.

The Criminal Procedure Code divides offences into two categories: cognizable and non-cognizable⁴. The purpose of the arrest power is to allow authorities to act on the presumption that a prima facie suspect is unfounded. The fact that the creators of this statute left this power unrestrained, allowing the police to act according to their whims and fancies, is ironic. This is covered in great detail in the reports. According to the Law Commission, preventive arrests have been more common than arrests for substantive offences.

The arrestee is protected by Section 220 of the CrPC in cases of malicious nature, although the right does not manifest well unless and until the accused has some political approach. To establish detention, the detainee must show that

impairment of rights provided by articles 21 or 22 has occurred or that he has had no opportunity to make an effective defence against imprisonment. The court cannot order the cancellation of custody unless and until this is proven⁷.

If a person tries to evade arrest, section 49 of the Code of Criminal Procedure allows the police to use any measures necessary. However, it cannot result in death unless the arrestee faces death or life imprisonment. This appears to allow a police officer to use force that may result in the person's death if he is even accused of committing a crime punishable by life imprisonment or death. In such cases, it is unbelievable that the police have the right to kill a person based on mere suspicion. In such cases, court investigation is usually not the first option; instead, a departmental investigation is conducted, after which the case file is closed confidentially, and no legal action is taken. When actions like custodial rapes go unpunished, humanity is shattered into a million pieces. Because the accused bears the burden of proof, incarceration abuse goes uninterrupted.

The court gave seven orders in the famous *Prakash Singh v. Union of India & ors*⁸ verdict to bring police reforms. These directions included, among other things, the creation of a Police Complaint Authority, a Police Establishment Board, and techniques to isolate the investigation from the police's law-and-order function. In 2010, K.T Thomas issued a report claiming that the states never executed these directions in letter and spirit and expressed displeasure with the state's approach toward police reforms.⁹

It has been determined that an arrest without a valid justification violates the fundamental right to life and liberty¹⁰. The police must present compelling grounds for their conclusions, and the magistrate's judgement should not have relied solely on the ipse dixit of the police officer; instead, the facts and evidence should be evaluated by the magistrate himself before imposing detention¹¹. An arrest can be averted if the person is notified to appear at the station house and not depart without permission. However, any arrest for the common good accompanied by torture is not 'just and fair' and violates Article 21¹². Any arbitrary or scrupulous police act is punishable unless it follows the legal procedure¹³. Any legal system must be correct, equitable, and fair, not arbitrary, whimsical, or oppressive¹⁴. When a police officer and the person arrested have a personal grudge against each other, proof is required to show that the officer acted in good faith¹⁵.

As a result, no arrest can be made until the police have a basis for it, regardless of how lawful the police action is. Reasonable satisfaction must be established by examining the complaint's integrity and the need for arrest¹⁶.

Comparative Analysis of Police System in Different Countries

A broad view of the irregularities in the Indian Police Force could be gained by looking at police forces worldwide. A comparative comparison of police forces has been offered below, which shows a clear path for improving the police system.

- ***Training and Organized Divisions:*** Japan has the world's best-trained police force. The department is strategically organized into general affairs, which handles bookkeeping, and police department training, which prepares recruits to handle the paperwork and emergency calls. A community police training section and a criminal investigative division for people's assistance trace considerable evidence for a conviction. To lessen the pressure on the police, the Indian police force should tighten up officers' training and split departments similarly. The Indian police force is currently divided into two categories: armed police and civil police. The Indian police force is presently divided into two categories: armed police and civil police. A more compact split of the police force based on work allotment would allow Indian cops to respond to citizens' demands more equitably.
- ***Technology Upgradation:*** Five national police forces and two local police forces are responsible for maintaining law and order in Italy. State Police, Finance Police, Military Police, Prison Police, and Forestry Police are the national forces. All five police forces have formed a joint anti-mafia investigation bureau to combat organized crime. Having a police force that is so divided guarantees a higher level of security to the citizens.
- ***Community Policing:*** In India, community policing is absent, and politicians draft police regulations and legislation with only a rudimentary check on follow-up. On the other hand, the National Police Service of the United Kingdom employs flexible policing, which entails policing with the people's agreement, with tasks tailored to their preferences. This ensures that law and order can be enforced cooperatively, benefiting the country. The conference's membership comprises various groups from society who discuss policing methods and agree on how to carry out policing obligations.
Furthermore, under section 24 of PACE, a list of arrestable offences has been compiled for which the police have the authority to make an arrest. Unless it is to avoid injury to him or his property, the police do not have the immediate power to arrest for non-classified offences; instead, they should be reported, and the suspect summoned to court.

Suggestive Measures: A Way out to Guard the Guards

It can be interpreted that the efforts of the courts and committees to reform the Indian Police system to establish accountability are failing miserably. The foundation for restoring public trust and effective policing is the improvement of police accountability and honesty. This section contains suggestive actions to help the police system become more transparent and accountable.

- ***Community Policing and Reassurances*** Community policing is an organizational philosophy that systematically uses partnerships and problem-

solving tactics to proactively address the immediate factors that lead to public safety issues like crime, social disorder, and fear of crime¹⁷. It focuses on proactively reducing crime and eliminating the climate of fear by making community members stakeholders in their safety. This allows the police to understand the community better and address both needs and reasons contributing to crime.

- **Legislative Amendments:** Court directives on police arbitrary powers must be incorporated into the CrPC. For example, in the case of *Arnesh Kumar*, the court ruled that no arrest should be made solely because the offence is non-bailable and cognizable and that an arrest by a police officer is one thing, but the rationale for it is another. The police must be able to demonstrate that the arrest was justified¹⁸. As a result, section 41(1)(b), which allows for arrest based on mere suspicion, will be repealed, and directive grounds will be used to exercise arrest without a warrant.

The CrPC has been amended due to court decisions to regulate police power. But these verdicts were nothing more than old wine in a new bottle. The modifications to the arrest provisions allow for legitimate arrest but no accountability. Legislative changes such as single national police legislation and the transfer of police to the concurrent list would accomplish this. It would also reduce the number of inter-state crimes, which state laws would then govern. The NPC has also proposed that sections 132 and 197 of the Code of Criminal Procedure be repealed, which grants public workers broad immunity for offences committed while on duty¹⁹.

- **Work Culture:** The police force is overworked and understaffed as a whole. Police officers are responsible for many tasks, including preserving law and order and preventing and detecting crimes. Their workday can go up to 18 hours. As a result, they experience higher stress levels and other health-related issues, which impact their social relationships. As a result, increasing the number of police officers and limiting their working hours are critical.

Aside from physical aptitude, the training technique must contain psychological aptitude. To improve personnel's perspective, police training should be reorganized to instill human rights and ethos²⁰. It is recommended that an agency, "Knowledge Management Cell", be established to create, diffuse, renew, and apply knowledge toward organizational sustenance, survival, and progress for the department to become more professionally competent. The expertise would include various topics, from policymaking to simple direction. In addition, each police station will establish a prosecution cell to deal with situations of arrest without a warrant for cognizable offences. It would help deal with petty cognizable offences in Schedule I of the Code of Criminal Procedure, while magistrates can deal with more severe crimes.

- **Legitimacy in Investigation:** Sometimes, the investigation methods are harsh. According to the court, the presence of an accused's lawyer during interrogation would limit the likelihood of police using third-degree procedures during the inquiry. False incarceration, custodial brutality, and custodial mortality would be reduced. Medical examinations must be conducted before and after police custody is granted to rule out police torture. This would assure accountability and validity during police investigations, as there have been multiple incidents when the police have stated that the accused has confessed to them. Still, no confession occurs in front of the magistrate when the accused is brought before him for detention. This is significant because no confession to the police has evidence²¹.

Furthermore, non-governmental organizations (NGOs) should be allowed to attend police stations to check and ensure that no one is held in illegal custody or arrested without the incident being recorded in the station log.

- **Separation of Law and Investigation** The police have the twin power of preserving law and order and criminal investigation, keeping law and order taking precedence over the criminal investigation, detection, and investigation. As a result, two wings are required: a law-and-order wing and a crime wing. The idea was made in the sixth and seventh NPC reports and Prakash Singh's ruling. According to the report, the crime investigation unit should be isolated from law enforcement, but both should report to the same station house officer (SHO) ²².

According to the 5th Report of the Second Administrative Reform²³, a separate team should undertake investigations without outside influences. Clerical tasks such as serving antecedents, summons, and address verification will be contracted out to private or government agencies. According to experts, specialized social crimes should and must be handled by a distinct wing staffed by professionals such as students with a Social Science/Social Work degree²⁴. These suggestions will lighten the load on officers and make it easier for them to be held accountable for their duties.

- **Technical Support:** In India, police not filing FIRs to keep crime figures low is common. A provision in the police legislation will be included to preserve an electronic record of every case that is filed and the actions that are performed. Electronic FIRs will also be established, allowing a person to file an FIR electronically to avoid manipulation. In addition, computerization and video recording of prison investigations will be implemented. This will help to reduce the autocratic power of arrest by preventing modifications and ensuring accountability in case registration. Instead of turning to short-cut ways of inflicting torture to obtain confessions, modern investigative procedures such as the lie detector test and narco analysis should be widely used. Due to the forthcoming cyber-crimes, students who have completed

an MCA or specialized computer course will be hired as inspectors/sub-inspectors.

Rights of the Arrested Persons under Indian Law

The arrested person has various rights under the Indian Constitution and the Code of Criminal Procedure, 1973. In law, there is a concept known as “presumption of innocence until proven guilty,” which states that an apprehended person must be treated with humanity, dignity, and respect until a court of law finds him guilty. The researcher in the present chapter has compared the Constitution and CrPC, both old and new Codes. ²⁵

The CrPC of 1973 included provisions that give the arrested person the following rights:-

- ***Right to be informed of the grounds of arrest:*** Article 22(1) deals with the grounds for arrest and how they should be disclosed to the individual who has been arrested. This article imposes a negative obligation on the State, requiring that no one be kept in the dark regarding the reason for their arrest. It makes it clear that if a person is arrested, it is the arresting officer’s exclusive responsibility to tell the arresting officer of the reason for the arrest as quickly as feasible.

The term “*start of investigation and trial*” was added to the new Criminal Procedure Code 1973 to give Article 22 a broader scope. The term “*commencement of inquiry and trial*” was too imprecise and caused too much delay because the commencement of trial may take months at times. As a result, Section 50 of the CrPC, 1973, mandates not only the notification of the grounds for arrest but also the notification of the arrested person’s right to bail if he is arrested for a bailable offence. ²⁶

The CrPC has also been amended to include Section 50 A, which requires the arresting authority to inform the arrested individual of his right to contact a friend or family member about his arrest. The police officer must also record the name of the individual who was told about the arrest in a book the state government gave. Furthermore, the Magistrate must check whether or not all of the procedures were followed by the police when the person is brought before the court.

Though this section is similar to the Law Commission’s recommended section in its 154 Report ²⁷, it is not as thorough as the report suggests. The Law Commission has outlined the procedures to be followed during an arrest or detention. To best serve the Constitutional principles²⁸, it is prudent to substitute the Law Commission’s suggested Section in place of Section 50A of the CrPC.

The Supreme Court stated in the *re Madhu Limaye case* ²⁹ that Article 22

(1) is an essential fundamental right that protects a person's liberty and keeps the Rule of Law flowing throughout the country. The Court went on to say that Article 22 (1) has two requirements: the right to be notified of the reason for arrest and the right to be represented by a lawyer. To give the imprisoned person the earliest opportunity to learn the full reasons for his imprisonment and to defend himself as soon as possible by seeing a legal practitioner of his choosing. He will be freed if he fails to report the reason for his arrest.

- **Right to get legal assistance:** In the former Code of Criminal Procedure, Section 340, the provision relating to legal assistance was enshrined as a Statutory right (1). This provision was extracted from there and enshrined in the Constitution as a fundamental right under Article 22(1), which gives an arrested person the right to consult a lawyer and “*to be defended by a legal practitioner of his own choice.*”³⁰

However, the creators of the CrPC failed to include an initial safeguard, demonstrating that the right to legal help under Article 22 accrues considerably earlier and that the Constitution's Article 20(3) protects against self-incrimination. The CrPC grants the right to be represented by counsel. In contrast, the Constitution grants the right to consult an attorney immediately after arrest, an essential safeguard against arbitrary arrest and detention.

The Supreme Court held in *Nandini Satpathy v. P.L. Dani*³¹ that a person's right to be represented by a counsel of his choice could not be taken away in any matter, whether or not he is in custody. The Supreme Court took a step forward in this case, holding that Article 22(1) does not preclude the right to counsel from being denied to anyone who is not strictly under arrest or detention. The Court expanded this right to include the right to counsel for any accused individual subjected to near-custodial interrogation.

As a result, to align with the immediate constitutional safeguard, the CrPC (Amendment) Act, 2008 added a new section 41D, which states that when a person is arrested and interrogated by the police, he is entitled to meet with an advocate of his choice during interrogation, but not throughout the interrogation.³²

- **Legal Aid:** Under the Directive Principle of State Policy, Article 39 A of the Indian Constitution has been introduced to offer legal aid to people who do not have the financial resources to do so. It claims that no one's right to justice should be denied because of a disability or economic hardship³³. Though this section is not binding on the State, it has now been declared a settled law in several cases³⁴, i.e. as a fundamental right of the accused as is implicit in the requirement of a fair, reasonable, and just procedure required

by Article 21 and also necessary under Article 14 which guarantees all person equality before the law and equal protection of the law and prevents the State from infringing on a person's liberty without allowing him to consult a lawyer³⁵.

In a recent decision, *Mohammad Ajmal Kassab v. State of Maharashtra*³⁶, the Court expanded the scope of legal aid to include non-citizens. Ajmal Kasab, a Pakistani citizen, was accused of the Bombay terror attack and was arrested. He was granted legal advice to defend himself but took the legal assistance offered by an Indian court when his own country provided none. As a result, India's top court declared that the accused could not be denied any of his constitutional rights, whether he is a citizen or not, and appointed him counsel immediately.

Section 304 of the CrPC 1973 provides legal aid to accused persons in certain circumstances. As a result, this section mandates that the Court provide legal assistance at no cost to needy people who cannot hire a lawyer or be defended by a pleader to have a fair chance at justice.³⁷ In India, where nearly two-thirds of the population is poor and illiterate, they are uninformed of these rights. So, they are limited to a few wealthy and educated individuals, which is not a fair, just, or rational justice process. Everyone deserves a fair trial, so legal aid has been incorporated into the law as an integral part of a fair trial under Article 21, but it still has no disadvantages.³⁸

- ***Right to be Produced before Magistrate within 24 hours:*** Article 22(2) of the Constitution stipulates an obligatory rule that no one can be detained longer than twenty-four hours without the magistrate's authority³⁹. This section explicitly states that everyone detained must appear before the nearest magistrate twenty-four hours after his arrest, discounting the time it takes to transport him to the Court. As a result, Article 22(2) has been incorporated to apply the judicial mind to check the legality of a person's arrest and detention within twenty-four hours because the power to arrest is constitutionally valid when it falls within the confines of Articles 14, 19, and 21. It should not contradict any of these Articles⁴⁰. This article establishes the maximum time restriction for detaining a person in police custody, 24 hours, and the minimum time limit required to pass the Constitutionality test. The reasonableness test determines whether a person's detention is constitutional.

Section 56 of the CrPC states that a police officer who arrests without a warrant must present the apprehended individual to the Magistrate with jurisdiction or any official in charge without delay. Section 57, which is equal to Article 22, mandates the immediate appearance of a person before the nearest magistrate. Section 76, however, provides the same procedure for a warranted arrest. This clause requires the police officer or any other person

executing a warrant to bring the suspect before the court “without unreasonable delay.”

In the case of *State of Punjab v. Ajaib Singh*⁴¹, the Court held that the right to be produced before the nearest magistrate is a Constitutional mandate, copied from CrPC⁴² and that the reason for including it in the Constitution is to make the provision mandatory, which cannot be violated under any circumstances. The Court said that if the 24-hour time limit has passed, the police officer must release the imprisoned person, and if more extended detention is required, he must get the Magistrate’s permission.

The old Code⁴³ is quiet on the time limit, expressly set at twenty-four hours in the new Code of 1973. The Code of Criminal Procedure allows a police officer to detain a person for more than 24 hours with the permission of a Magistrate, with a fifteen-day extension. Suppose the officer believes that further detention is necessary for the investigation. In that case, he can apply to the Magistrate under Section 167 for permission to detain the person for up to 60 days and a maximum of 90 days, after which the person will be released on bail. The police officer will be liable for compensation if the victim is detained again.⁴⁴

As a result, it is clear from the judgments of numerous instances that the judiciary is concerned about the protection of the arrested person’s rights as well as their dignity, declaring that a person’s dignity is essential and should be protected in all circumstances. It should also be noted that some international standards have already been incorporated into the Constitution. In contrast, others have been incorporated due to the judiciary’s ongoing efforts to implement global standards. That arrest is not a rule but rather an exception that can only be made for grave offences⁴⁵.

Modernizing Criminal Laws: Implications for Arrest Policies in India

The momentum toward reforming India’s criminal laws began in 2020 with the formation of the Committee for Reforms in Criminal Laws (CRCL). This initiative reached a pivotal moment on August 11, 2023, when the Home-Minister introduced three bills in the Lok Sabha aimed at completely overhauling the foundational legal frameworks of the Indian Penal Code of 1860, the Code of Criminal Procedure of 1973 (originally from 1898), and the Indian Evidence Act of 1872. These bills sought to replace these age-old statutes with the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, respectively. This legislative effort signifies a broader movement toward enhancing India’s legal framework. The proposed changes have significant implications for various aspects of the criminal justice system, including arrest policies. In the subsequent sections, we delve into the potential impact of these reforms on India’s approach to arrests, exploring key provisions and considerations

that may shape the future of arrest policies in the country.

Bharatiya Nyaya Sanhita: The Bharatiya Nyaya Sanhita, 2023, introduces significant reforms to criminal laws in India, including provisions that have direct implications on the arrest policy. This sub-chapter critically analyzes critical provisions from the Bharatiya Nyaya Sanhita and their relevance in shaping a modern and effective arrest policy in India.

Bhartiya Nagarik Suraksha Sanhita: The new criminal code introduces significant measures to enhance transparency and efficiency in police investigations and judicial processes. Under Section 173, FIRs for cognizable offences can now be filed either orally or electronically to the officer in charge of a police station. This change facilitates faster and more accessible reporting of crimes. Section 193(3)(ii) mandates that police officers keep informants and victims updated on the progress of investigations within 90 days, promoting accountability and communication between law enforcement and stakeholders.

Furthermore, the code sets specific timelines for investigations and court judgments to ensure timely resolution of cases. Police officers must maintain a detailed record of proceedings (Section 193), promptly documenting the initiation and conclusion of investigations. Notably, investigations concerning offences against women and children, including rape and gang rape under the POCSO Act, must be completed within two months of the police recording the information (Section 193). Additionally, the code mandates that courts pronounce judgments within 30 days of completing arguments (Section 258), with a provision for an extension of up to 60 days under specific circumstances. These provisions in the Bharatiya Nagarik Suraksha Sanhita aim to expedite legal proceedings and improve access to justice within the Indian criminal justice system.

Bharatiya Sakshya Adhiniyam: The Bharatiya Sakshya Adhiniyam, aimed at replacing the Indian Evidence Act of 1872, encompasses 170 provisions primarily focused on enhancing the acceptance and presentation of electronic evidence within legal proceedings. One significant highlight of the new Act is the expanded definition of evidence, as outlined in Section 2(1)(e), which now includes electronic statements or information. This provision enables witnesses, accused individuals, experts, and victims to appear before the court electronically to record their testimony, marking a pivotal shift toward digital inclusion within legal processes.

Moreover, the Act broadens the scope of secondary evidence under Section 58, permitting oral and written admissions and evidence from individuals who have examined relevant documents. Introducing a new schedule, the Act aims to enhance the authenticity of electronic evidence certificates by incorporating the hash value of original records. It clarifies in Section 61 that electronic or digital records hold the same legal validity and enforceability as traditional documents, capable of being proved as primary or secondary evidence in legal proceedings.

It can be deciphered that these advancements underscore the Act's focus on modernizing evidence presentation and recognition, aligning legal practices with the digital era.

Conclusion

It can be inferred that while some regulations exist about how an arrest should be made and the rights of the arrested individual, these provisions have been breached and are not being used appropriately. The police officers abused their authority and failed to do their tasks correctly. Furthermore, the leading cause was people's lack of knowledge about their rights. We console ourselves by thinking that these law enforcement officers are doing their jobs properly, but there are numerous examples of how they abuse their authority.

Even though the Indian Code of Criminal Procedure, 1973, contains many safeguards and rights, the truth remains that the power of arrest is being misused and illegally exploited in many situations across the country. In numerous cases across India, the power of arrest is being misused and exploited unlawfully. An arrest is frequently used to extort money or other valuable property, especially in the case of the arrested person's enemy. The extensive discretion the CrPC grants to arrest a person in circumstances of bailable offences and the right to undertake preventive arrests provides police officers immense power that can quickly and easily be exploited.

The Supreme Court ruled in *D.K. Basu v. State of West Bengal*⁴⁶ that using the third-degree procedure to collect information from the accused is prohibited. The Supreme Court also stated in this case that it is the duty of the police officer not to use third-degree torture to extract any information, that the police officer should inform the arrested person of his rights, and that the police officer must write a memo that is attested by at least one family member of the accused. In addition, the court has mandated that the police officer in charge of the arrest of the accused adopt specific preventive measures.

Suggestions

The researcher has come up with a few suggestions, which are elucidated below-

- An arrest is a significant intrusion into an individual's liberty, and police officers are entitled to make arrests when needed. The police must be well-versed in the legal laws relating to arrest and the Supreme Court's instructions and judgements to execute this power efficiently, especially when detaining vulnerable members of society. Malice or vindictiveness have no place in this world. Police officers must defend themselves and project an image of being law enforcers rather than lawbreakers.
- The government should enlist the assistance of non-governmental

organizations to put these laws into effect. The government should work to restore public trust in the police. Because of the fear or threat of authorities, most cases of human rights breaches go unreported and unregistered. For a better society, the police force's image should be improved.

- The researcher proposes the following law commission recommendations in arbitrary arrest and detention circumstances. The government should be held vicariously accountable for the actions of its employees. The police must be free of political interference, and steps must be taken to increase efficiency and modernize training. The Supreme Court's decision in *Prakash Singh v. Union of India*⁴⁷ must be implemented as quickly as possible because the antiquated and archaic Police Act is the fundamental reason for the abuse of arrest power. The judiciary has periodically introduced additional safeguards to avoid arbitrary deprivation of liberty. This demonstrates that we have complete control over the situation; the law is correct; the only issue is implementation.
- The government should adopt these concepts and raise public understanding of the law and individual rights. Allowing NGOs to visit police stations to check police compliance with the law would be helpful, just as the NHRC recommended that instructions be broadcast on the Doordarshan channel.
- An arrest has a demoralizing and lowering effect on an individual's personality when he is arrested under the guise of some suspicion and afterwards discovered to be an innocent man. In this case, the police search and investigative process turn him antagonistic. As a result, Justice M.N. Venkatachaliah⁴⁸ has stated that a compromise must be made between the needs of the State's security and an individual's freedom. Measures that do not interfere with the State's responsibility to maintain law and order and preserve peace in society and individual rights and freedom must be made. These laws must be implemented correctly. The author opines that the NHRC standards should be followed to implement the arresting law and ensure strict adherence to the law.

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45. *Ibid*.
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47. *Prakash Singh v. Union of India & ors.*, (2006) 8 SCC 1.
48. 2nd Chairman National Human Rights Commission (In office 26 November 1996 – 24 October 1999).