Impact of Police Act, 1861 & National Police Commission Recommendations on Indian Policing

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Abstract:

This study examines the impact of the Police Act, 1861 and the National Police Commission's recommendations. The historical background of the Police Act, its applicability in modern, democratic India, and the necessity of reform are all critically examined in this paper. The objective of the paper is to offer insights into the prospects and challenges for improving police administration in the nation by analyzing the deficiencies of the current legislation and the suggested amendments. The need for new police laws that uphold police accountability, represent democratic principles, and conform to modern policing practices. The Model Police Act and other more recent laws should be substituted for the Police Act of 1861 in order to improve police professionalism, performance, and compliance with the law in a democratic society. The study's research technique entails a thorough examination of primary materials, including the Police Act of 1861, National Police Commission reports. This study's main research question is: What effects has the Police Act of 1861 had on Indian police forces, and what are the proposals for police reform made by the National Police Commission? The study seeks to look into the Police Act's historical significance, conformity to democratic ideals, difficulties it presents for contemporary law enforcement, and possible advantages of implementing the suggested changes.

Keywords- **Police act, 1861, National police recommendations, Model police act, Police reforms, Implemented reforms**

1. Evolution of the policing system in India:

"There have been two distinct police systems in India throughout its whole history: one rooted in rural villages and the other coming from the dominant section of the society that is currently closer to power. The history of Indian police can actually be primarily understood in terms of attempts to establish an imperial framework that would connect the country's dispersed, native system to a centralised, effective one. The hamlet serves as the fundamental unit of the old police system, which is not surprising[1]. The headman was in charge of policing, and he or she was typically supported by a watchman as well as occasionally by a special police assistant (such as the "Patel" of western India).

I. Policing in ancient india:

a) The pre-Aryan phase:

Archaeologists claim that several buildings that have been discovered at Mohenjadaro resemble watchmen's apartments or guardhouses. It is assumed that the heavily urbanised inhabitants of the Indus Valley had to have kept up a police force.

b) The vedic phase:

The oldest Vedic era in Indian history is when police first appeared there. The two Vedas, the Rig Veda and the Atharvana Veda, discuss specific forms of punishment that were common in Vedic India. Manu, the first legislator, discusses the use of covert information in his day to deter and identify criminal activity. The King's nominee was the Gramani village headman.

The prevention and identification of criminal activity was the collective responsibility of the hamlet.

A vivid account of the "Dandayavadha Dharakas" parading the streets of Ravan's small realm during Hanuman's spy missions is found in Valmiki's Ramayana's "Lanka land." These demon king police officers, equipped with "lathis," are comparable to the police constables on a patrol duty today.

c) Post Vedic- Pre Mauryan phase:

There are thorough and reliable records of the Gupta and Mauryan periods of Indian history's police organisation and operations. Written in 310 B.C., Kautalya's Arthasasthra is a colossal work that provides structured information about agencies and tactics for investigations, punishment for the guilty, and vice control activities. Kautilya divides spies into nine different groups, including female spies. She also discusses spies who came from respectable homes, were dependable, faithful, and skilled at disguising their identities. As a result, Arthasastra is not only an interesting historical phenomenon but also a testament to the type of law enforcement that existed in India 2300 years ago.

1.) Mauryan Empire was divided into provinces and districts. District officer with general executive, judicial, and tax collection authority (Rajuka).

2.) There were legal courts and police offices in every major city.

(i) All foreigners were required to register and report

(ii) nighttime travel was prohibited;

(iii) spies and informers were used to gather information, verify it, and provide feedback.

3.) Some officers known as the "city perfect" (Nagar adtyaksha) and the "warden of the fort" (Durgapal) were given the responsibility of handling police matters. The village had a collective obligation to prevent and identify crime.

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[1] Studocu, "Police Law History - DJR2A - POLICE ADMINISTRATION Unit-I: Basics of Police Administration History - Studocu" (Studocu) <https://www.studocu.com/in/document/university-of-lucknow/law-of-crime/police-law-history/44727000>.

d) Under the Guptas:

The people in charge of collecting taxes and upholding law and order were the village headman (Gramika), the district officer (Vishayapati), and the commissioner of police (Nagararikshaka). In South India, each village had a collective responsibility for preventing and detecting crime (under the Satavahanas, Pallavas, Chalukyas, and Rashtrakutas).

e) Sangam Age:

The Sangam era spans 3 BC to 3 AD. Thirukkural, a magnificent feat of monumental architecture, lists five prerequisites for a nation:

1. Illness avoidance,

2. Stability of the economy

3. Wealth;

4. Agricultural production surplus;

5. Personal and property protection.

The police are primarily concerned about the last one. The convenient yet cliched phrase "maintenance of law and order" can be used to refer to it differently of course, in other circumstances as well, the police are crucial. Therefore, the need for police presence is evident in both peaceful and turbulent periods, which is why Thirukkural emphasises this administrative aspect so much in its list of requirements for a good State. Ten kurals are also provided by Thiruvalluvar under the adhikaram "Ortradal." It provides a succinct explanation of the traits and duties of spies as well as how one should be.

A work from Silappadikaram makes clear that urban watch and village watch systems existed in the past. It also implies that the king, following in the footsteps of Caliph Haroun al Rashid, went out at night in disguise to monitor patrols and find out what the people were complaining about.

A dark, rainy night is described in Pathupattu (Maduraikanchi 631-653), a classic Tamil work from the second century AD. The darkness is as thick and black as the skin of an elephant. The robbers wait in the shadows, wearing all-black clothing, carrying sharp knives, tools for breaking into houses, and foldable rope ladders that are wound around their waists. The guardsmen, who are well-known for their ability to spot thieves, their lion-like bravery, their unwavering perseverance, and their unrelenting surveillance, follow these nighthawks like tigers on the hunt who are about to attack wild elephants. They do not give a damn about the rain that is falling outside.

We are introduced to strong young people in Pandi Kovai of the 7th century A.D. who watch over Madurai, the Pandyan Capital.

II.   Police under the Mughals:

The empire was split up into districts (Sarkars) and provinces (Subas). The two provincial officials were:

a) Subadar, also known as Nazim, was in charge of general administration and the armed forces.

b) Diwan was in charge of civil justice and revenue collection.

2) Under Thanadars,' districts were split up into thanas for the sake of maintaining law and order. The duties of a thanadar included road security, stopping blacksmiths from making weapons, and working with armed gangs to put an end to unrest.

The Faujdar held superiority over the Thanadars. Within a rural district's boundaries, the Faujdar stood in for the government's executive authority. Although he was primarily a military commander, he also served as the region's top police officer. Because they employed and managed the village headman, the Zamindars provided assistance to the Faujdar and assumed responsibility for the village headman's police duties.

3) An official known as the "Kotwal" carried out police tasks in towns. His primary responsibilities included:

a) keeping an eye on travellers disembarking in Sarais;

b) keeping an eye out for robbers and recovering pilfered goods or compensating for the loss;

c) supervising prostitutes, distilling spirits and selling intoxicants;

d) keeping spies and informers to gather intelligence.

4) The Zamindars took on the role of preventing and identifying crime in the villages**.**

III.   Police under the british east india company:

Diwani of Bengal was acquired by Lord Clive for the East India Company in Bengal (1765).

2) Lord Cornwallis established the Thanadari Police, or Darogah, in 1788.

3) Zamindars lost their authority over the police and European East Indian Company officers took sole responsibility for it.

4) The Judge-Magistrate (1793) was given command over the police in each district. 1793: The 1793 Regulation XXII was issued.

1808: In the divisions of Kolkatta, Dacca, and Murshidabad, a superintendent of police was appointed to oversee and coordinate anti-dacoity measures. This was an attempt to provide the police unique, professional control for the first time. He was in charge of the Patna division

1810: In 1810, another S.P. was assigned to the Benares/Bareilly division. The corporation went back to the old system of local policing in 1814, abolishing the darogah system. The position of the S.P. was eliminated in 1829, and Commissioners of Revenue and Circuit took over his responsibilities.

1839: The District Magistrate, a new official in charge of police and lower criminal justice administration, replaced the Collector as the person in control of the police force, rather than the District Judge.

1840: A Superintendent of Police was appointed in each district in accordance with the Bird Committee's proposal. The district magistrate remained in general command of the district's police force and lower criminal justice system.

1843: Under Sir Charles Napier's leadership, the company captured Sind. He saw an opportunity to create a completely new police system for Sind because there was neither a local police system nor a revenue system in place there. With the assistance of two joint commissioners, Sir Richard Maine and Sir Charles Rowan, Sir Robert Peel created the Royal Irish Constabulary Model, which he implemented for police in Sind. A distinct police force led entirely by its own officers was established by Sir Charles Napier. While the SP oversaw each district, the IG was in charge of maintaining law and order over the entirety of Sind. The Collector was in charge of the IG. As a result, the collector served as the agent of the Government of Sind to keep the peace, but a new and independent department was given charge of organising and training the police.

IV.   Policing under british crown:

1860: The All India Police Commission was established in 1860. It investigated issues related to police administration, proposed solutions to boost police productivity, and made recommendations on how to cut costs associated with the force. The Police Commission's proposals were adopted by the directly elected Queen-controlled Government, and a measure was enacted. The Indian Police Act, 1861 was enacted on March 22, 1861, following the bill's passage on March 16, 1861, and the Governor General's approval. A portion of the Major recommendations found their way into the 1861 Police Act. In British India, a uniform police system was established under the Police Act.

1902-03: An important turning point in the history of law enforcement is the Indian Police Commission of 1902-03.

The commission implemented several organisational modifications, proposing the creation of a department dedicated to criminal investigations, railway police, increased compensation, and the deployment of armed reserve forces at the district level. After leaving India, the British abandoned the same system.

V. Police after independence:

Article 246 of the Indian Constitution designates "Police" as a state subject.

The CBI was established in 1963, the CISF in 1964, the BSF in 1965, and the CRPF in 1947.

Other than CBI, there are police organisations with a paramilitary bent. With the exception of the CBI, no one else conducts investigations or has a public focus.

The National Police Commission was established in 1979 under the direction of Dharamvira, and it presented eight reports to the legislature in 1981. However, the government has yet to embrace the recommendations of the NPC, and we continue to abide by the antiquated Indian Police Act."

2. Emergence of the police act, 1861:

The origins of India's Police Act of 1861 can be found in the colonial period, more especially in the years following the Mutiny of 1857, popularly referred to as the First War of Independence. This regulation was primarily introduced by the British colonial administration with the intention of reorganising the police force to make it a more effective tool for crime prevention and detection. The Act created a police force to uphold law and order, quell opposition, and quell potential uprisings against British rule in order to further the interests of the colonial authorities[2].

The Police Act of 1861, which still governs policing in most states despite major changes in administration and India's transformation to a sovereign republic, is a holdover from colonial times and contains antiquated clauses that are at odds with contemporary democratic norms and policing requirements.

India did not have a cohesive police force till 1857. The police force was made up of a patchwork of

Village Watchmen: These were typically hereditary posts in charge of providing the bare minimum of protection in their communities.

Landlords, or zamindars: Although they kept their own private militias for security purposes, they frequently had their own interests ahead of that of the government.

Local Authorities: Although they had some police authority, mayors and magistrates in towns and cities were not very powerful.

There were other flaws in this disjointed system:

Absence of Organisation and Training: In most cases, the militias and watchmen lacked the necessary training for crowd management, crime prevention, and investigation.

Accountability Problems: It was challenging to hold people genuinely responsible for security breaches or inefficiencies because there were several parties involved.

important turning point occurred in 1857 with the Sepoy Mutiny. The weaknesses in the current policing system were made clear by this massive uprising by Indian soldiers against the British East India Company. The British were unable to effectively put an end to the insurrection due to its disjointed organisation and lack of a cohesive force.

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[2] Indian Government, THE POLICE ACT, 1861 (1861) <https://www.mha.gov.in/sites/default/files/police_act_1861.pdf>.

Following the Mutiny, the British realised how important it was to have a more powerful, centralised police force that they could oversee directly. The new force would rectify the flaws in the prior arrangement:

Centralised Authority: A more coordinated reaction to possible threats would be ensured by a single police organisation with distinct chains of command and control[3].

Better Equipment and Training: The new force would have the necessary training in crowd management, investigation, and other crucial policing skills

These concerns were directly addressed by the Police Act of 1861. It created a centralised police force in British India that included:

An Inspector General was at the head of the structure, followed by Deputy Inspectors General, District Superintendents, and other posts, as per the Act.

Law and Order: The Act placed a strong emphasis on the police's duty to uphold public order and deter crime. This emphasis on control persisted as one of the force's distinguishing features.

Limited Scope of Duties: Although crime prevention and investigation were specified in the Act, upholding order and suppressing opposition continued to be the key priorities.

Catching Offenders: As long as there are appropriate reasons for the arrest, police personnel are permitted to take into custody anyone they have the legal authority to detain.

Entry and Inspection: Police officers are authorised to enter and examine establishments such as bars, casinos, and other venues linked to unruly conduct without a warrant in order to uphold law and order and prevent crime.

3. Key provision of police act, 1861:

"India's Police Act of 1861 established a framework that had a big impact on colonial-era policing and still has an effect on law enforcement today.

Centralized Control: The Act created a hierarchical framework with distinct lines of responsibility for the colonial government to oversee the police force.

Military Character: Equipped with ranks, insignia, and a paramilitary training approach to foster discipline and obedience, the police force established by this Act possessed a military character[4].

Recruitment and Training: The Act permitted the hiring of illiterate or semiliterate people, frequently from the poorer classes of society. Instead of emphasising communal involvement, training concentrated on control and obedience.

The principal aim of the Act was to uphold public order and suppress opposition, whereby the police force functioned as a deterrent to lawlessness by instilling a sense of fear."

4. Limitations of the police act, 1861:

Outdated Provisions: The Act's provisions were not updated to reflect contemporary democratic norms and were based on colonial principles, which made it difficult to adapt policing techniques to shifting societal demands.

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[3] MINISTRY OF HOME AFFAIRS, "GUIDELINES TO THE INDIAN POLICE CODE OF CONDUCT FOR THE POLICE IN INDIA" (1985) <https://police.py.gov.in/MHA%20-%20Model%20Code%20of%20Conduct%20-%20Indian%20Police.pdf>.

[4] Adeel Talib, "Doing Away with the 1861 Police Act" (PIDE, November 27, 2023) <https://pide.org.pk/research/doing-away-with-the-1861-police-act/>.

Emphasis on Coercion: The Act placed more emphasis on control and coercion than on community involvement and crime prevention, which made the police seem more like tools of terror than of assistance.

Lack of Accountability: The Act's absence of procedures for openness and accountability exacerbated problems with corruption, misuse of authority, and public mistrust of the police.

Opposition to Reforms: Efforts to modernise policing procedures were hampered by the Act's framework, which made it difficult to execute meaningful reforms in recruiting, training, and operational objectives.

Impact and Legacy: The Police Act of 1861 established the groundwork for Indian policing and shaped the mindset and organisation of law enforcement for many years.

Because of its colonial past, it left behind a centralised, hierarchical police force that prioritises maintaining power and order.

The inadequacies of the Act have been acknowledged in the modern era, leading to requests for reforms aimed at bringing policing methods into line with democratic norms, accountability, and community engagement.

5. Impact on policing pratices and accountability:

India's Police Act of 1861 has significantly altered the nation's accountability and policing procedures. The Act created a centralised, hierarchical police force that prioritised upholding law and order over crime prevention and community involvement. This has produced a culture of compulsion and control that has come under fire for failing to adapt to the changing demands of society[5].

For many years, there has been a serious problem with the police force's lack of transparency and accountability. While some Indian cities have made an effort to solve this by setting up civilian monitoring committees, these initiatives have not always been successful because of things like politics, the creation of laws and policies, and the readiness of the police and police unions to accept oversight.

In recent times, there has been a surge in awareness regarding police accountability, both domestically in India and internationally. For instance, the George Floyd Justice in Policing Act in the US seeks to improve police accountability by addressing problems including racial bias, the use of excessive force, and the requirement for impartial investigations into police wrongdoing[6].

In law enforcement, accountability is not limited to making sure that individual police make moral decisions. In addition to increasing confidence and collaboration between law enforcement and the communities they serve, an accountable culture within the force can also enhance overall policing effectiveness.

Departments of law enforcement must place a strong emphasis on principles like accountability, responsibility, and transparency in order to foster an environment of integrity. Formal declarations of core principles that serve as a basis for training programmes, rules, procedures, and other departmental operations can be created to accomplish this.

It is obvious that accountability and policing procedures require systemic overhaul. Although India's Police Act of 1861 has had an impact on the condition of policing today, continuous attempts to modernise and reform the police force are necessary to guarantee efficient, responsible, and community-focused law enforcement.

These initiatives may involve actions like:

Community Policing: Putting into practice community policing tactics that prioritise police-community cooperation in order to combat crime and disturbance.

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[5] Santa Clara University, "Research Guides: Police Reform Ideas: Accountability / Transparency" <https://libguides.scu.edu/c.php?g=1048085&p=7605822>.

[6] "Importance of Accountability in Law Enforcement | PowerDMS" <https://www.powerdms.com/why-powerdms/law-enforcement/importance-of-accountability-in-law-enforcement>.

Training and Education: To guarantee that police officers have the abilities and information required to properly serve their communities, it is important to provide them with continual training and education.

Accountability Mechanisms: Putting in place impartial monitoring procedures to look into claims of misbehaviour by police and make sure that officers are held responsible for their acts.

Openness and Data Collection: To further accountability and openness, data on police operations, including instances involving the use of force and arrest rates, should be gathered and shared[7].

Community Engagement: Talking with people in the community to get their opinions on priorities and methods of police enforcement.

6. **National police commission recommended objective and principle:**

"The Indian government established the National Police Commission (NPC) in 1977 with the goal of recommending significant changes to the country's current law enforcement system. Between 1979 and 1981, the NPC published eight studies that recommended changes to several facets of law enforcement.

Complaints against the Police: The NPC suggested that any system for investigating police complaints should be approved by the police force as well as the general public. The Commission recommended that the supervisory ranks in the police hierarchy investigate and resolve a significant number of complaints against the police[8]. The Commission did, however, recommend that in some cases of complaints against the police, such as those involving the alleged rape of a woman while she was in police custody, deaths or serious injuries sustained while in police custody, and deaths of two or more people as a result of police shooting used to disperse unlawful assemblies, a judicial investigation should be made mandatory.

Appointment of the Criminal Justice Commission: The NPC suggested that the current Law Commission be expanded to serve as a Criminal Justice Commission by statute in order to keep an eye on all agencies' performance and occasionally implement remedial actions.

Norms for Police Stations: According to the NPC, a rural police station's jurisdiction should not extend beyond 150 km. One of the primary factors in urban areas should be population density. More than 60,000 people shouldn't need to be policed by a police station. It may be necessary to open another police station if it records more than 700 crimes a year.

Restructuring the Civil Police Hierarchy: The NPC suggested that the middle ASI/SI/Inspector positions should have more personnel. Reducing the number of officers in the lower echelons of the constabulary should balance any increase in the strength of these ranks. Numerous investigating officers will be available as a result, and lower-level employees will have better possibilities for promotion.

Management of the Police Force: The NPC suggested that the chief of police should have full authority over the internal operations of the state's police force. The authority of the chiefs of state police forces to oversee finances, manpower, and infrastructure for the police's expansion ought to be strengthened[9].

Central Law for Armed Police Forces: The NPC suggested that a central law be passed to guarantee consistency in the state armed police battalions' officering pattern, training, efficiency, and discipline.

Establishment of a Central Police Committee: The NPC suggested that the duties of oversight and consultation be handled by a Central Police Committee.

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[7] George L Kelling and others, "Police Accountability and Community Policing" (1988) <https://www.ojp.gov/pdffiles1/nij/114211.pdf>.

[8] The National Police Commission, "Some Selected Recommendations of the National Police Commission" (1977) <https://www.humanrightsinitiative.org/publications/police/npc_recommendations.pdf>.

[9] Adeel Talib, "Doing Away with the 1861 Police Act" (PIDE, November 27, 2023) <https://pide.org.pk/research/doing-away-with-the-1861-police-act/>.

Establishment of an All-India Police Institute: The NPC suggested creating an all-India police institute modelled after comparable professional associations for other professions."

7. Contrasting the police act, 1861 with NPC recommendations:

There are two distinct approaches to policing in India: the National Police Commission (NPC) recommendations and the Police Act of 1861. The NPC recommendations provide extensive reforms to modernise and enhance Indian policing, while the Police Act of 1861 is a colonial-era statute that defines the composition and duties of the police force[10].

The major goals of the Police Act of 1861 are to uphold law and order and deter crime. It creates a hierarchical organisation for the police, with constables at the bottom and the Director General of Police (DGP) at the top. The Act grants law enforcement officers extensive authority to look into crimes, detain people, and use force when required. It has been faulted, nevertheless, for being antiquated, ineffective, and prone to interference from politicians.

On the other hand, the NPC's suggestions centre on enhancing the police force's professionalism, accountability, and openness. A State Security Commission (SSC) was suggested by the NPC in order to supervise law enforcement and guarantee that it is free from political influence. The SSC would be in charge of establishing performance guidelines, keeping an eye on compliance, and assessing the police force's effectiveness. In addition, the NPC suggested creating a Police Complaints Authority to look into citizen complaints against the police, a Police Establishment Board to handle transfers, postings, promotions, and other service-related matters, and a division of investigative and law enforcement functions.

The NPC proposals also stress the need of police officer education and training, as well as the necessity of police-community involvement. In order to educate and train police officers and foster professionalism within the police force, the NPC suggested creating the All India Police Institute.

Although the NPC recommendations offer extensive reforms to modernise and improve policing in India by emphasising accountability, transparency, professionalism, and police-community engagement, the Police Act of 1861 is a colonial-era law that focuses on upholding public order and preventing crime.

8. Obstacles to Reform NPC recommendations:

Resistance to Change: One major roadblock is the administrative system's reluctance to change. Workers may be resistant to changes that call for a change in their work environment and professional procedures since they are used to the way things are now.

Complexity and Timing of reforms: Putting administrative changes into action is a difficult undertaking that need for careful assessment of when and how much to change. Timing changes and the amount of change required provide difficult problems that are difficult to overcome[11].

Long-term Process and Uncertain Outcomes: Administrative change is a protracted procedure, and the results might not always be what is intended. Because reforms' outcomes are unpredictable, it can be difficult to successfully execute changes.

Lack of Support and Participation: Client support and active administration participation are two things that reforms frequently need. The execution of reform initiatives may encounter considerable challenges if they lack the support of stakeholders and the general public[12].

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[10] "Police Act 1861 and Model Police Act , 2006; an Analysis | Advocate, Divorce Lawyers and Corporate Consultants in Dwarka" <https://ssglawfirm.in/police-act-1861-and-model-police-act-2006-an-analysis/>.

[11] "Arun Umrao - Obstacle in Administrative Reform in India" <https://sites.google.com/view/arunumrao/short-notes/economics/obstacle-in-administrative-reform-in-india>.

[12] Arvind Panagariya, International Monetary Fund, and Research Department, "India in the 1980s and 1990s: A Triumph of Reforms" (2004) <https://www.imf.org/external/pubs/ft/wp/2004/wp0443.pdf>.

Political Interference: Reforms in public management are severely hampered by political meddling. Administrative reforms must be successfully implemented in order to receive political will and support. But political parties could use the government for their own gain, impeding sincere reform initiatives.

9. **Examples of implementation and non- implementation of NPC recommendations:**

Implementation of NPC recommendations:

Punjab Police Bill 2003: One endeavour that has put some of the suggestions from the NPC Model into practice is the Punjab Police Bill 2003. By adding elements that improve police accountability, community involvement, and local control, this bill sought to overhaul Punjab's police system.

The Madhya Pradesh Police Vidheyak 2001: Is a further example of a project that attempted to comply with the suggestions of the NPC Model. This project aimed to improve Madhya Pradesh's police laws by incorporating concepts and best practices from the NPC Model and other sources to raise police performance and accountability.

Non- Implementation of NPC recommendations:

Bombay State Reserve Police Act, 1951: In Maharashtra and Gujarat, the Bombay State Reserve Police Act, 1951 is an example of an initiative that did not fully execute the suggestions of the NPC Model. The NPC Model's aim of comprehensive reform actions that ensure accountability and public responsiveness was not realised by this act or comparable laws in other states.

State Armed Police Forces Act, 1952: The recommendations of the NPC Model were not entirely adopted by acts such as the State Armed Police Forces Act, 1952 in Andhra Pradesh and other like legislation. These programmes, which came from within the police hierarchy and took certain cues from the NPC Model, might enhance the police hierarchy without guaranteeing total transparency or public accountability.

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