



A comparative study into the changes needed in the criminal investigation in India

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Abstract

Criminal investigation efficiency entails a direct relationship between the efficiency of a given nation's criminal justice system. In India, the current position of criminal investigation poses many problems: the legislation is outdated, procedural provisions are intricate, and there is no use of modern technology and no Separate investigating agency. Solutions to these problems are required to prevent unjust outcomes and enhance the number of people who trust the measures implemented. This paper tries to identify the changes required in the Indian criminal investigation procedure for its reform and enhancement. The systems for criminal investigation in the U.K. and the USA- give India an idea of what practice to adopt. The areas of improvement include the implementation of superior forensic procedures, Compulsory forensic education for investigators, Application of new technological solutions, The idea is to strengthen the framework, which complies with industry standards, minimize unnecessary delays, and provide impartiality. Therefore, this paper discusses how criminal investigations in India can be enhanced to modern ones that support the current type of crime.

Keywords: Investigation, Forensic, New Technologies, scientific, Reforms

Introduction

Criminal investigations are the fundamental blocks of any justice system and take a central stage in delivering justice. Criminal investigation in India has been an area of concern in India for several reasons, including procedural complexities, inadequate modern tools, and, unfortunately, alleged cases of torture during police custody. Due to the complex and sophisticated nature of the techniques used, the primitive methods of identification of the criminals on the basis of eyewitness have become obsolete. This paper will undertake a comparative analysis of criminal investigation systems in India with those of the United Kingdom (U.K.) and the United States of America (USA) to establish the necessary reforms in the system. The findings of this paper will proceed with recommendations that will help close the gaps within India's criminal investigation system.

Investigation: Meaning and Scope.

To investigate means to examine or to enquire in to the causes and consequences of certain happenings. The aim of investigation being discovery of truth, it should not be illegal or unethical. Improper investigation may leads to wrongful conviction or wrongful acquittal. Investigating officers are primarily the guardian of the liberty of innocent persons. According to Paul B Weston," Criminal investigation is a lawful search for people and things useful in reconstructing the circumstances of an illegal act or omissions and mental state accompanying it. It is a probing from the known to unknown, backward in time, and its goal is to determine truth as far as it can be discovered in any post factum ^[1]. It is an applied science that involves study of facts, used to identify, locate and prove the guilt of criminal ^[2]. Primary function of Criminal investigation is to gather information, determine the validity of this information, identity and locate perpetrators of crime and provide evidence of his guilt for a court of law. Inherent in this function is a responsibility to protect the innocent ^[3].

Purpose of investigation is to establish that, in fact a crime was committed, to identify and apprehend the suspect, to recover stolen property, to assist the State in prosecuting the party charged with the offence ^[4]. In order to effectively conduct or perform criminal investigative functions, investigating officer must understand the basic purpose of investigation and the result of his investigation and must be able to establish the crime beyond reasonable doubt, Opportunity to commit crime, Corpus delict, Motive and Modus operandi ^[5].

Code of Criminal Procedure, 1973 defines investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf ^[6]. Thus any step taken by a police officer or a person authorized by a magistrate towards collection of evidence in regard to an offence would fall within the definition of investigation as per the Code ^[7]. In keeping this definition apex Court in *H. N. Rishbud and Inder Singh vs The State of Delhi* ^[8] held that investigation consist of the following steps.

(1) proceeding to the spot. (2) Ascertainment of the facts and circumstances of the case. (3) Discovery and arrest of the suspected offender (4) Collection of evidence relating to the commission of offence which may consist of examination of various persons (including the accused) and reduction of their statement into writing, if the officer thinks fit (b) reach of the places or seizure of things considered necessary for the investigation and to be produced at the trial (5) and formation of opinion as to whether on the material collected there is a case to place the accused before the a Magistrate for trial and if so taking the necessary steps for the same by the filing of a charge sheet under section 173. These steps means that investigation should commence with the prompt reaching to the crime scene to determine the facts and circumstances followed by arrest of suspected offender. In brief it means as part of investigation

investigating officer has to collect all evidence by examining various persons including accused and takes their statement and conduct search and seizure for material evidence, and submit charge sheet under section 173.

Whatever be the definition of investigation ultimate aim is to search for truth as Malimath committee observed that, "For the common man truth and justice are synonymous so when truth fails, justice fails"^[9]

Procedure of investigation under the Code of Criminal Procedure, 1973

Code of Criminal procedure is the main legislation dealing with the criminal investigation in India. Though we have a number of statutory laws which deals with powers of different investigating agency^[10], this paper is going through the conventional method of investigation and the procedure of investigation under the Code of Criminal Procedure. Chapter X11 of the Code dealing with certain procedures to be observed in conducting investigation^[11]

For the purpose of investigation offences are classified in to cognizable^[12] and non-cognizable offences^[13]. Section 154 Cr PC is a relevant provision regarding registration of a cognizable case, it regulate the manner of recording First Information. Any citizen can lodge a first information report or file a complaint and set the criminal law in motion and his locus standi cannot be questioned^[14] The primary purpose of the FIR, from the perspective of the informant is to set criminal law in motion and from the perspective of the investigating agency is to acquire information about the alleged criminal activity, so that appropriate measures can be taken for tracing and bringing to book the guilty party. The objective of asking to promptly report a crime is to gather early information regarding circumstance, name of culprit, their involvement and also the eye witness present at the scene of occurrence. The report doesn't have to be exhaustive, but the informant has to share all the information known to them. Credibility of information is not prerequisite for registering and information. Whether a police officer has to conduct preliminary enquiry before registration of FIR was decided in *Lalita Kumari vs Govt. Of U.P. & Ors*^[15] Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. The legislative intent is therefore quite clear to ensure that every cognizable offence is promptly investigated in accordance with law. Compulsory registration ensures transparency in criminal justice system.

Though F.I.R is a valuable document that throws much light on the crime, it is not a substantive piece of evidence. It can be used to corroborate or contradict the informant when he comes as a witness at the time of trial^[16]. About the delay in lodging of F.I.R it was held to be violation of constitutional guarantee of speedy investigation which is guaranteed by article 21 of the constitution but at the same time Hon'ble court observed that it is not fatal if delay is properly explained.

In India investigation is considered to be the prerogative of the police, the executive arm of the state. They can investigate any cognizable case without the order of a magistrate within the limit of his jurisdiction^[17]. They enjoy wide discretion in prosecuting the offender and can conduct investigation, and decide whether to prosecute an offender, depending on the availability of the evidences. The power of

police to investigate a cognizable offence is uncontrolled by the magistrate, and it is only in cases where the police decide not to investigate the case that the magistrate can intervene and either direct investigation, or in the alternative, himself proceed or to depute a magistrate subordinate to him to enquire into the case^[18].

As regards the procedure and importance of investigation, Hon'ble Supreme Court held that "Police and other investigating agencies are at the heart of the criminal justice system of India"^[19]. The investigation by the police is fundamental to the Criminal Justice System. When the police are intimated about commission of an offence, it is their responsibility to investigate the matter to find out who is the culprit, find out the facts and circumstances relevant to the crime and to collect evidence, oral or circumstantial, which is necessary to prove the case in the court. The outcome of the case completely depends on the work of the investigating officer Investigating agencies are guardians of the liberty of innocent citizens. Therefore, a heavy responsibility devolves on them of seeing that innocent persons are not charged on an irresponsible and false implication^[20].

As per the Code of Criminal procedure, there is no set rule regarding the procedure of investigation. When a police officer has reasonable suspicion regarding the commission of a cognizable offence, they must immediately send a report of the circumstance creating the suspicion to a Magistrate having power to take cognizance of such offence upon a police report.

The procedure of investigation varies from case to case and no elaborate procedures are dealt under Code of Criminal Procedure regarding procedures of investigation or how evidences are collected. Unfortunately Code of criminal procedure is silent regarding the procedure of crime scene investigation. In the absence of specific procedure of Crime scene investigation in the Code Investigating officers, prosecutors and lawyers and even judges are totally ignorant of what all procedures to be done by investigating officers in crime scene, how physical evidences are collected, how it is preserved and how it is transported to forensic science laboratories. As per the definition of investigation it is clear that investigation includes all procedures for collection of evidence. All procedures here mean it depends on the facts and circumstances of each case. Now a day investigating agencies use number of scientific techniques for conducting criminal investigation. Even though number of amendments was made in CrPC it is also silent regarding the aspects of scientific investigation. Hence an amendment should be needed in the Code of Criminal procedure with respect to Crime scene and scientific investigation.

Criminal Investigation - U.K. and USA

The United Kingdom (U.K.) and the United States of America (USA) have developed complex criminal investigation regimes that are effective, transparent, and compliant with human rights standards. Such systems are recognized as exemplary and non-suspect systems for efficient investigation. In England, the Police and Criminal Evidence Act (PACE) 1984 regulates crime investigation by outlining the rules concerning the gathering of evidence, treatment of suspects, and use of police authority. This legislation was passed to balance the authority of the police and the supremacy of the individual's rights. The U.K.'s system also relies more on procedural protections, including

the right to access legal advice before and during police interrogation ^[21]

It seeks to ensure that suspects who may be detained without their legal warrant or made to make statements when not advised by a lawyer are protected from their unlawful detainers. Also, suspects have a right not to be asked certain questions, and breaching these provisions will result in the relevant evidence being released from the trial. The last and equally crucial element of the criminal investigation system in the U.K. is a police officer's body-worn camera. This technology enhances the fight against police misconduct and provides crucial evidence in cases involving police misconduct accusations ^[22] Video recording of the suspect and witness statements in an interview gives an account of the event in which the investigation team is accused of bias. There has also been a decrease in force used by the officers and by the public, therefore indicating that there has been improvement in police-police citizen relations due to the body-worn cameras

The procedure of criminal investigation in the USA is based on provisions of the Constitution of the United States of America, the Fourth, the Fifth, and the Sixth Amendments. These amendments prohibit unreasonable searches and seizures, require the accused to be witnesses against themselves, and guarantee the citizens a trial. Miranda rights are one of the most recognized protections in the United States of America, and they refer to the rights that suspects should be told by police officers any time they arrest them ^[23]. This practice assists in preventing the use of forceful interrogation because the suspect is told that he or she has the right to remain silent and retain an attorney. Such failure will result in excluding confessions or statements where police could not provide Miranda warnings.

Forensic science is the central part of the criminal investigation process in the United States of America. The country has come to depend on modern techniques of combating crime, such as DNA matching, fingerprinting, ballistics, and other related tests. CODIS has also enhanced the identification of suspects, particularly when the work is being done across jurisdictions. CODIS enables investigators to compare the sample collected from a crime scene to the sample within a national database since it is easy to identify repeat offenders or cold cases. Another area that has been enhanced in use is forensics, which has greatly assisted in prosecution since wrong cases are not charged.

As for now, the U.K. and the USA have embraced the culture of independent monitoring authorities that ensure police accountability and efficiency so that the police remains the people's institution. In the U.K., independent oversight is offered by the Independent Office for Police Conduct (IOPC), which investigates any police misconduct and police adherence to legal requirements Like the USA, Civilian Complaint Review Boards (CCRBs) exist in large urban regions, for instance, in New York; civilian monitoring raises police responsibility and public confidence The oversight bodies of both countries show the necessity of having an independent means to monitor police conduct. To some extent, this model could be implemented in India about custodial torture, abuse of power, and misconduct during an investigation.

Loopholes in India's Criminal Investigation System

Though India has sound legislation in the IPC 1860, CrPC 1973, and the IEA 1872, the Criminal Investigation System

of India has several deficiencies that affect its efficiency, impartiality, and transparency. The first is need of more forensic infrastructure. Today Forensic Science Laboratories are not adequate enough to meet the needs of Investigating officers. In most cases, these delays prolong investigations and, ultimately, unsatisfactory judicial decisions. While forensic science plays a crucial role in criminal investigation in the U.K. and the USA, the Indian system over-relies on the witnesses, which only adds to the chances of a wrongful conviction. The reliance on human testimony is a real problem because the witnesses themselves may have a false memory, be coerced into giving a statement, or have their testimony coerced or influenced in some way, which underlines the need for India to improve its forensic capacity.

The other major weak link is the need for more professional training for the police officers who perform investigations. Indian police personnel are doing administrative and investigational roles and, therefore, cannot focus on the investigation and collection of evidence properly. On the other hand, the U.K. and the USA have specialized detective forces for criminal investigation, making the process more accurate and efficient ^[24]. In India there are no defence investigators, private or official as in USA or UK it becomes sacred duty of the police to find out truth by an honest and straight forward investigation ^[25]. Furthermore, in India, there needs to be a fixed procedure followed for investigation procedures, which leads to numerous problems in the recovery and storage of evidence or mishandling of the same, which in turn causes many cases to be thrown out of court. Such procedural slips can be averted by having well-laid-down rules on handling evidence, like the chain-of-custody principles used in the U.K. and USA.

Political interferences drastically hit the professionalism of the police investigations. It comes in a number of ways. In certain cases the police have to take into custody not the real culprits but the critics and the enemies of the political regime. In other cases they have to let off the actual perpetrators of the crime in order to appease the political leadership. External influences also come from the powerful corporate figures, religious leaders, bureaucrats, and even from the top hierarchy of the police. The sincere and unbiased officers are sometimes targeted and isolated within the force itself. Growing liaison between the police and politicians is a great hindrance to effective and impartial functioning of the Police

. In contrast to the Civilian Complaint Review Boards of the USA, India has no independent agency with the power to investigate police brutality The present complaint systems fail to meet the needs of the people through fairness and openness, and thus, police brutality continues to thrive. Introducing an independent police commission of inquiry in the same way as in the countries of the West could increase the role of police accountability and public confidence in the police. It is therefore important to close these loopholes in order to deliver justice, protect human rights, and develop the Indian system of investigation of criminal cases.

Suggestions for Reform

1. Modernization of Forensic Science Infrastructure

The most important step towards the professionalism of the police crime investigation is the comprehensive use of forensic science. Application of science in criminal investigation is not recent one. Earlier investigation was

mainly based on eye witness evidence. Now crimes are committed in a more sophisticated means with the misuse of advanced science and technology. In such a situation more and more scientific methods have to be included for collection of evidences and interrogation of suspect

2. Specialized Training for Investigative Officers

Success or failure of entire investigation depends on the proper handling of investigation procedures. Hence investigating officers should possess skillful knowledge and experience for collection of evidence. He must fully conversant with collection and recognition of physical evidences, found at the crime scene. He is solely responsible for handling the clue materials. Due to lack of training they are not skilled in collection of forensic evidences. A police training curriculum should be developed with specific modules on current methods of investigation, evidence collection, and respect for human rights. In the U.K., officers must undergo detective training to improve the quality of their investigations ^[26] India should adopt a similar model if enough skilled and qualified officers handle investigations.

3. Integration of Technology and Artificial Intelligence (AI)

AI can greatly improve their work efficiency when applied in any criminal investigation. Facial recognition systems and predictive policing algorithms have also shown high efficiency in the USA ^[27]. India's investigative agencies should follow the same trend in the use of technology to enhance case solvability rates. However, strict data privacy laws should follow such a shift to avoid exploitation.

4. Establishment of Independent Oversight Bodies

Police in India need to be made more accountable. The formation of autonomous civilian complaint commissions, such as in the USA, would improve police accountability. They would provide independent investigations on police abuses, thus improving police credibility among citizens.

5. Introduction of Evidence-Based Investigation Practices

India should shift from witnesses-based analysis to evidence-based analysis. Forensic evidence and scientific databases prove the effectiveness of such an approach in the U.K. and the USA, respectively This change would help to eliminate cases of wrongful conviction and preserve the evidence collected in court.

6. Legislative Reforms

Procedural delays and uncertainty, therefore, require legislative changes. The CrPC needs to be amended to incorporate separate investigating agency for investigation as like Crime Scene investigators in UK and USA. Furthermore, changes to custodial procedures should require that interrogations be recorded in video, as is done in the U.K. They would also enhance procedural transparency, which is a category of legal reforms that would require significant efforts in the future.

7. Digitalization of Case Management

India needs to automate its case management system to enhance investigative processes. Automated case tracking systems would enhance openness and decrease the time

taken. Indian courts could follow the USA's case tracking model to process cases quickly. Electronic case files would provide up-to-date information on case status to help create more responsibility.

Conclusion

India's criminal investigation system is now at a crossroads and needs some overhaul to meet the challenges posed by modern crimes. Although the current legislation is based on colonial legal thought, it must be revised to address today's problems. India should learn from such systems in the U.K. and the USA and has to adopt the best practices of developed countries to enhance the investigation procedures. To transform the existing system, the necessary measures include improving the forensic infrastructure, increasing the training of police officers, incorporating advanced artificial intelligence technologies, and introducing independent control bodies. It is also important to note that these reforms are not only utilitarian in increasing the effectiveness of investigations but also necessary for justice, minimizing wrongful convictions, and preserving the public's confidence in the criminal justice system. Such comprehensive changes would ensure that the criminal justice system in India meets the contemporary international best practices and thereby offers society an efficient, transparent, and fair investigation process. In this way, India can obtain a system that is strong and adaptable to the requirements of a society for the effective administration of criminal justice system.

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