



National Law School
of India University
Bengaluru

EXPLAINER 2022

Policewomen in India:
Legal mandate and policy
guidelines for exclusive and
preferable functions



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Introduction

Over the years, criminal law in India has expanded the ambit of functions only women personnel within police services are required to perform. These functions involve responding to women and children who come in contact with the criminal justice system, either as victims or as suspects. They are broadly aimed at instilling a gender-sensitive approach to assisting women and children through multiple stages of the legal process. The delineation of specific policing functions for

personnel, in particular new recruits at different levels and officials serving in police stations, in order to promote a deeper understanding of the legal imperatives for increasing women's representation in the police. It further intends to clarify that effective implementation of these provisions is linked to increasing women's representation in the police. It is hoped it will inform anyone interested in joining the police service as well as scholars and advocates of policing, human rights and gender equality.

Fulfilling these statutory obligations require state governments and police departments to substantially increase representation of women at all levels within the police. In 2009, the Government of India adopted for the first time a target of 33% representation of women in the police.¹ While some states had reservation for women in the police before 2009, this move was a spur for states to adopt reservation targets. Official data as of 2020² shows that nine states³ and all union territories except Jammu and Kashmir and Ladakh have adopted 33% reservation; five states 30%,⁴ and five states have 25% or less reservation.⁵ Bihar stands out with 35% as its target, while Goa, Haryana, Kerala and Mizoram do not provide any reservation for women.

women personnel is considered necessary to overcome the persistent sociocultural barriers women experience when dealing with a male-dominated police institution, and to help create an enabling environment for women to avail justice. In the long term, such measures are geared towards ensuring that police authorities—like all other public authorities—respond to every segment of society in a lawful and sensitive manner. It is also important to note that policewomen are to perform these functions along with, and not instead of, their general policing responsibilities. In recruiting more women, police services in India are committed to ensuring equal opportunity in all roles and positions within the police.

This explainer summarizes provisions under criminal law in India that specify functions women police personnel are required to perform, either exclusively or to the extent possible due to constraints. It is designed to serve as an easy reckoner for police

¹ Advisory on Crimes against Women, F. NO.15011/48/2009-SC/ST-W, Ministry of Home Affairs, Government of India, 4.9.2009, https://mha.gov.in/sites/default/files/AdCrime-Agnst-Women170909_3.pdf.

² Ministry of Home Affairs, Bureau of Police Research and Development, Data on Police Organizations as on 1.1.2020: <https://bprd.nic.in/WriteReadData/userfiles/file/202101011201011648364DOPO01012020.pdf>.

³ Andhra Pradesh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Nagaland, Odisha, Punjab and Sikkim.

⁴ Assam, Chhattisgarh, Rajasthan, Tamil Nadu and Uttarakhand.

⁵ Arunachal Pradesh (10%), Karnataka (25%), Meghalaya (6%), Tripura (10%) and Uttar Pradesh (20%)

Statutory functions exclusively for policewomen

Receiving complaints at the police station and registering First Information Report

When it comes to crimes against women and children, anyone who has information that an offence has been committed can approach the police to report it. This could be a victim of any age, a witness to the crime, or anyone else who has reliable information that a crime may have happened. On receiving information alleging crimes against women and children, the police are duty bound to register a First Information Report without delay and begin investigation.

The Criminal Law (Amendment) Act 2013 introduced an important change in the procedure for the police to register *select* crimes against women. When the victim herself files a complaint with the police alleging *select crimes defined under the Indian Penal Code*, the Criminal Procedure Code now makes it necessary for a woman police officer or *any woman officer* to record the information/complaint. Notably, this is mandatory specifically when a woman makes the complaint. *If anyone else makes the complaint, a male or female police officer can conduct the process of registering the First Information Report.* Further, this requirement of having a woman officer record the FIR is limited to *certain offences* that are stipulated in law, as listed in the table below.⁶ Complaints alleging offences *other than those listed in the table below* can be recorded by either a male or female police officer.

IPC SECTION	OFFENCE
326A	VOLUNTARY CAUSING GRIEVOUS HURT BY USE OF ACID
326B	VOLUNTARY THROWING OR ATTEMPTING TO THROW ACID
354	ASSAULT OR CRIMINAL FORCE TO WOMAN WITH INTENT TO OUTRAGE MODESTY
354A	SEXUAL HARASSMENT
354B	ASSAULT OR CRIMINAL FORCE TO WOMAN WITH INTENT TO DISROBE
354C	VOYEURISM
354D	STALKING
376	RAPE
376A	CAUSING DEATH OR RESULTING IN PERSISTENT VEGETATIVE STATE
376B	SEXUAL INTERCOURSE BY A HUSBAND UPON HIS WIFE DURING SEPARATION WITHOUT HER CONSENT

⁶ Section 154(1), Code of Criminal Procedure, 1973

IPC SECTION	OFFENCE
376C	SEXUAL INTERCOURSE BY A PERSON IN AUTHORITY
376D	GANG RAPE
376E	REPEAT OFFENDERS (UNDER S.376, 376A, 376D)
509	WORD, GESTURE ACT TO INSULT MODESTY OF A WOMAN

As the offences listed above relate to the commission of cognizable offence, it becomes the duty of the woman police officer who receive the information to ensure that the FIR is registered immediately so that investigation can begin without losing time. During registration, the woman officer must comply with the procedures specified in law including

- writing down the information/complaint received;
- reading the recorded information to the informant to make sure it is accurate to the information received;
- getting the informant to sign the recorded information;
- giving a copy free of cost to the informant after they endorse it; and
- recording the contents of the FIR in the police station diary.⁷

In cases where the a woman survivor of violence is mentally or physically disabled, the woman officer must record the information at a place where the survivor feels safe and comfortable, and in the presence of an interpreter or a special educator.⁸

It is important to note that under the 2013 criminal law amendments, the police's failure to record information alleging select sexual offences has been classified as an offence amounting to disobeying direction under law and is punishable with rigorous imprisonment of up to two years.⁹ In other words, a police officer can be held criminally liable for failure or refusal to register an FIR for the specified sexual offences.

Investigation of sexual offences against women and children

In 2013, as part of larger efforts to make the legal system more responsive to women, numerous changes were made in criminal law giving specific functions to women police personnel while dealing with women survivors of sexual violence. These include

- Recording the statement of a woman survivor of rape, in a place of the survivor's choice and in the presence of her parents/guardians or social worker of the locality.¹⁰
- Recording the statement of the woman survivor alleging any of the sexual offences listed in the table.¹¹
- Recording the statement of a child survivor of sexual offences as defined under the Protection of Children from Sexual Offences Act 2012, either at the residence of the child or a place of their choice.¹² The Act specifies a woman police officer not below the rank of Sub-Inspector for recording the child's statement.

⁷ Section 154(1), Code of Criminal Procedure, 1973

⁸ Section 154 (1)(a), Code of Criminal Procedure, 1973

⁹ Section 166A(c), Indian Penal Code

¹⁰ Section 157(1), proviso, Code of Criminal Procedure, 1973

¹¹ Section 161, proviso, Code of Criminal Procedure, 1973

¹² Section 24(1), The Protection of Children from Sexual Offences Act, 2012

Two other police procedures required upon registration of a sexual offence, particularly rape, must ideally be performed by a woman police officer at the police station. First is getting the statement of the woman survivor recorded before a Judicial Magistrate.¹³ This must be recorded as soon as the information of the offence is brought to the notice of the police. The second is to ensure a medical examination of a woman survivor of rape within 24 hours of the police receiving the information, if the woman consents to such examination.¹⁴ Both these steps are time sensitive and should take place soon after the police receive the information/complaint. Given the urgency, and keeping in mind the sensitivities and comfort of the survivor, a woman officer will be best placed to perform these functions.

Regarding children in conflict with law

While dealing with children who are either in need of care and protection or in conflict with the law, women police officers are needed in instances where the Juvenile Justice Board or the Child Welfare Committee decide to transfer the case to the child's home district. In cases involving transfer of a girl child, a woman police officer is required to accompany her.¹⁵

Conducting search and interrogation of female suspects/victims

Women police officers have been assigned specific roles while conducting search of female suspects and/or victims for the purpose of investigation and/or prevention of crime:

- When the police make an arrest, with or without a warrant, they are allowed to search the person arrested and place in safe custody all articles found with the person upon sharing a receipt with the arrested person. The search of a female arrestee is required to be carried out by another female.¹⁶ Similarly, in carrying out a search of any place, the police may have to search a person suspected of concealing any article for which the search is being carried out.¹⁷ The law once again states that only a woman shall search a female in such situations. **In both these instances, it is expected that women police officers will perform this function.**
- Under the Immoral Trafficking Act, 1956, when the police have grounds to carry out an urgent search of any premise where suspicious activities are believed to be taking place, **at least two women police officers** are required to accompany the Special Police Officer or the trafficking police officer authorized to conduct the search without a warrant.¹⁸ The Act does not specify the ranks of the women police officers.
- Subsequent to the search, if the police have grounds for removing any woman or girl from such a premise, **a woman police officer is required to carry out the interrogation of the concerned woman/girl.**

¹³ Section 154(1)(c) read with Section 164(5A), Code of Criminal Procedure, 1973 ¹⁶ Section 51(2), Code of Criminal Procedure, 1973

¹⁴ Section 164A(1), Code of Criminal Procedure, 1973

¹⁷ Section 100(3), Code of Criminal Procedure, 1973

¹⁵ Section 95 (2), The Juvenile Justice (Care and Protection of Children) Act, 2015 ¹⁸ Section 15(6A), The Immoral Traffic (Prevention) Act, 1956

Carrying out arrests

Like in the case of search, carrying out arrests of female suspects was one of the earlier articulations in law of the importance of women police officers.

- In instances where a woman suspect is unwilling to submit voluntarily when informed about her arrest, only a woman police officer is allowed to ensure the arrest through physical contact with the woman.¹⁹ Male police officers are prohibited from touching a woman for the purpose of carrying out the arrest.
- While arresting women at night (after sunrise and before sunrise) is barred by law, when the arrest of a woman suspect is considered necessary during the night period due to exceptional circumstances, it is the duty of the arresting officer who should be a woman to seek prior permission of the Judicial Magistrate for the arrest within whose jurisdiction the offence is committed before making the arrest.²⁰

SUMMARY OF STATUTORY DUTIES

SECTION	STATUTORY DUTIES OF WOMEN POLICE OFFICERS
154, CrPC	RECORD COMPLAINT OF A WOMAN ALLEGING SEXUAL VIOLENCE
154, CrPC	REGISTER FIR FOR SELECT GENDER-BASED OFFENCES
24(1), POCSO ACT	RECORD STATEMENT OF CHILD SURVIVOR OF SEXUAL OFFENCE
161, CrPC	RECORD STATEMENT OF WOMAN SURVIVOR OF SEXUAL OFFENCE
164A(1), CrPC	FACILITATE MEDICAL EXAMINATION OF A WOMAN RAPE SURVIVOR
154(1)(C) r/w 164(5A)	FACILITATE RECORDING OF STATEMENT BEFORE JUDICIAL MAGISTRATE
95, JJ ACT	ACCOMPANY GIRL CHILD IN CASE OF TRANSFER OF CASE TO HOME DISTRICT
51(2) AND 100(3), CrPC	ARREST AND SEARCH OF A FEMALE ARRESTEE
15(6A), ITP ACT	ACCOMPANY SPECIAL POLICE OFFICER/TRAFFICKING OFFICER FOR SEARCH OF A PLACE UNDER SUSPICION
15(6A), ITP ACT	INTERROGATE FEMALE SUSPECT FOLLOWING SEARCH OF A PLACE UNDER SUSPICION FOR TRAFFICKING-RELATED OFFENCES
46(1) proviso, CrPC	CONDUCT ARREST OF FEMALE SUSPECT

CrPC: Code of Criminal Procedure

POCSO: Protection of Children from Sexual Offences Act

JJ: Juvenile Justice (Care and Protection of Children) Act

ITP: Immoral Traffic (Prevention) Act

¹⁹ Section 46(1) proviso, Code of Criminal Procedure, 1973

²⁰ Section 46(4), Code of Criminal Procedure, 1973

National level policy guidelines on the role of women in police

In addition to statutory provisions, the Government of India has issued several advisories, guidelines and standards that promote the role of women in policing. These documents collectively articulate a broader vision of the importance of women in policing that goes beyond recognizing their role in facilitating access to justice for women and children. They emphasize equally the importance of improved gender balance within the police as a vital measure of good governance, a catalyst for responsive policing and essential for deepening public trust in the police overall. This chapter summarizes the key elements of these documents, both to encourage deeper engagement with the importance and role of women in policing, as well as to highlight the policy and practical measures in place for increasing their numbers within the police.

Model Police Bill 2015, Bureau of Police Research and Development, Government of India

The Model Police Bill 2015 calls upon union and state governments to ensure adequate number of women in police services.²¹ It does not specify any proportion or target and instead leaves it to be determined by the state police chief.²² The Bill specifies the need for

- Adequate number of women units within the armed police battalions in each state;²³
- Women and Child Protection Desks in each police station, staffed by women police officers, to assist in and to record complaints of crimes against women and children, and to deal with tasks under special laws relating to them;²⁴
- Ensuring the right of every woman to submit complaints with due privacy in the presence of women police officers,²⁵ and
- Ensuring the presence of a woman police officer when any woman is held in custody.²⁶

²¹ Section 7, proviso, *The Model Police Bill 2015*

²² As explained above, most states have adopted a target for the representation of women in the police. See page 3 of this note.

²³ Section 22(4)(a), *The Model Police Bill 2015*

²⁴ Section 31(4)(c), *The Model Police Bill 2015*

²⁵ Section 33(2)(a), *The Model Police Bill 2015*

²⁶ Section 33(2)(b), *The Model Police Bill 2015*

The Model Police Act, introduced in 2005 and revised in 2015, was developed by the Government of India to serve as a guide for states to enact modern policing legislations that could replace the central 1861 Police Act. Given that policing is a state subject under the Constitution of India, state governments are responsible for introducing new police acts and regulations. As of today, 18 states have passed their own police acts and/or amendments.²⁷ Of these, 11 states – Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Kerala, Maharashtra, Rajasthan, Tamil Nadu and Uttarakhand – make no mention of ensuring adequate representation of women in their respective police organizations.

Model Police Manual, Bureau of Police Research and Development, Government of India

The Model Police Manual specifies the following functions *exclusively* for women police personnel:²⁸

- A. Arrest, search, guard and escort of women accused and convicts and work relating to women passengers, including security checks at airports, railway stations and bus stations;
- B. Conduct of enquiries in connection with passport applications of women who observe “purdah” and family investigations and keeping order in women meetings, processions and women enclosures in public meetings.
- C. Looking after the arrangements to help women and children in fairs, festivals, places of pilgrimage etc. and guidance and help to women passengers at railway/bus stations along with evacuation of and assistance to women and children during natural calamities and in troubled areas.
- D. Interrogation of female juveniles, women offenders, under trials, witnesses and victims of sexual offences, cruelty and dowry harassment along with Interrogation of male offenders, suspects and witnesses in cases of cruelty, assaults, outraging modesty and other offences committed against women.
- E. Security duties to protected persons (Women). It will be advantageous to deploy women police officers separately or along with male police officers for duties like investigation of offences involving women and children and crimes against women, particularly dowry harassment and deaths, cruelty and rapes, tracing of missing women and children, keeping watch over places of ill repute. Recovery and rescue of women and girls from prostitution, escorting them to rescue, protective homes, hospitals and to courts, rescue of women and girls who are victims in abduction and kidnapping cases VIP and other security duties and collection of intelligence particularly while dealing with agitations in which women are also involved.

²⁷ These include: Assam Police Act 2007; Andhra Pradesh Police Reforms (Amendment) Act 2014; Bihar Police Act 2007; Chhattisgarh Police Act 2007; Bombay Police (Gujarat Amendment) Act 2007; Haryana Police Act 2007; Himachal Pradesh Police Act 2007; Karnataka Police Act 2008; Kerala Police Act 2011; Maharashtra Police (Amendment and Continuance) Act 2014; Meghalaya Police Act 2011; Mizoram Police Act 2011; Punjab Police Act 2007; Rajasthan Police Act 2007; Sikkim Police Act 2007; Tamil Nadu Police (Reforms) Act 2013; Tripura Police Act 2007 and Uttarakhand Police Act 2007.

²⁸ Section 402, Functions of Women Police, Model Police Manual, Volume I: pg. 289

Ministry of Home Affairs Advisories

National advisories issued by the Ministry of Home Affairs, the central ministry overseeing public safety and security in the country, propose the following steps for ensuring adequate number of women personnel to fulfill the statutory roles:

- Creation of additional posts of women Constables and Sub-Inspectors (MHA, 2013);
- Conversion of vacant posts of male Constables into the post of women Constables (MHA, 2013);
- Ensuring at least 3 Women Sub-Inspectors and 10 Women Constables in every police station (MHA, 2013);
- Ensuring 1/3 women representation in the Investigative Units for Crimes against Women proposed to be constituted in select police districts for assisting local police with investigation of heinous crimes against women along with other measures for addressing and preventing crimes against women (MHA, 2015);
- Increase number of women officers in the mobile police vans (MHA, 2015);
- Constitute Women Help Desks in every police station to be headed by a woman officer preferably of the rank of Assistant Sub-Inspector but definitely not below the rank of Head Constable (MHA, 2020).

National Conferences for Women in Police

Starting 2002, the Bureau of Police Research and Development has partnered with different state police to hold a national conference for women in police biannually. These conferences bring together serving women police personnel and police leaders from all states and serve as an important platform to deliberate on measures towards mainstreaming the role of women in policing. 8 conferences have been held so far, Although majority of the recommendations from these conferences focus on recruitment, training, welfare and other service-related issues, a few pertain to the role and functions of policewomen, such as:

- Post 2 women Sub Inspector and 4 women Constables in every police station;
- Deploy more women in community-interface roles such as awareness sessions in schools and colleges;
- Consider more women for roles including crime prevention, investigation and supervisory posts including the Station House Officers (in charge of police station) and Sub-Divisional Police Officers (in charge of a sub-division); and
- Create Women and Child Help Desks in every police station.

Conclusion

It is important to note that most state police currently lack the numbers of women police needed to meet these statutory obligations. As of 2020, women constitute only 10% of the total police strength in India,²⁹ and only 7% of the ranks primarily responsible for crime investigation in the country.³⁰ Recruiting more women is therefore an urgent requirement without which policing in general, and police response to women and children in particular, will remain constrained. At the same time, absence of women personnel must not become a reason for the police to delay, refuse and/or meddle in any way the time-sensitive procedures required in sexual offence cases. Police departments can take this as an opportunity to equip both men and women police officers with the specialized training and orientation to instill gender-aware and sensitive approaches to dealing with women and children whether as victims or suspects.

²⁹ *Data on Police Organizations in India as on January 1 2020, Bureau of Police Research and Development, Ministry of Home Affairs, pg.106*

³⁰ *Ibid. The ranks responsible for conducting investigations include: Assistant Sub-Inspector of Police (ASI); Sub-Inspector (SI), Inspector, and in select cases, Deputy Superintendent of Police (DySP).*



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