

Police Reforms and Human Rights

Towards an Understanding of transforming police from a 'Force' to 'Social Force'

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ABSTRACT:

Service is a difficult proposition to measure. This is particularly so when the service is delivered on request of the client. This service provided by the police is also one of these services. Maintaining the satisfaction in the eyes of public is difficult task for them. And they worsen it by not adhering to human rights of the individual. Human rights and the police co-exist for sacred objective of enabling the individual to lead a happy and qualitative living. In fact, police perform unending list of functions which revolves around protection of rights of the people. But the manner in which these functions are performed is the real matter of concern. The police in India, since its birth, have been known as unfriendly with human rights and this has not changed even today. The modern era consists of liberal democracy where rights of individuals have prominent stake. The police, therefore, are required to act in accordance with rule of law laid down in the constitution. Police forces have the authority to exercise force to enforce laws and maintain law and order in a state. However, this power may be misused in several ways. For example, in India, various kinds of complaints are made against the police including complaints of unwarranted arrests, unlawful searches, torture and custodial rapes. This paper is an attempt to explore the relationship between human rights and police and to put a light on the necessity of application of ethics policing to ensure meaningful enjoyment of human rights of India.

I. INTRODUCTION

The discourse on human rights and the police on a common platform attract the attention of everyone whether it is liked or not. This debate has attained recognition in the present era that is known by human rights. There are two sides in this debate, one who support absolute state where police is free from check and balances of the human rights bodies and other who supports human rights having voluminous space in policing. It must be right to give some academic input to the debate that all major civilizations of the world, including India have struggle for human rights. It is right to say that protective and favorable social environment is inevitable for qualitative living and such environment is possible in well maintained law and order and crime controlled society which is responsibility of the police.

II. HUMAN RIGHTS -

Harold Laski rightly defined human rights in his own words as “rights are those conditions of social life without which no man can seek, in general, to be himself at his best.”¹Section 2 of Protection of Human Rights Act, 1993 also defines human rights as “right to life, liberty, equality and dignity of individual guaranteed by the constitution or embodied in the international Covenants and enforceable by Courts in India”. Human right is not a new concept, it is present in old civilizations which can be traced by ancient epics, scriptures and holy books. The reference in Vedas that “whole world is one family” addresses the importance of humanity, human values

¹Studies in Law and Politics by Harold J. Laski

and human rights. The A.L basham, a German historian, compared Indian condition of human rights with other civilization in his work entitled 'The Wonder That Was India (1958)' yet our overall impression is that in no other part of ancient world were the relation of man and man, and of man and of the state, so humane.

Westerns on the other hand, want to get credit of defining human rights to rest of the world through document like Magna Carta (1215), French Revolution (1789) and political ideas of crafting modern state.

But the very issue of human rights are not understood in the same perspective, nor accepted and fulfilled at the same level of appreciation in society across the world. The world has witnessed two world wars in its first half, upheavals, end of traditional imperialism and colonialism, downfall of Political supremacy of Europeans powers, emergence of dominating nations, cold war, proliferation of weapons and race for nuclear weapons, technological advancement , human entry into space all these give rise of human rights in the world.

The shocking results of two world war especially of second one in which mankind suffered a number of atrocities, genocide, violent racial prejudices and suppression forced the leading leaders and loving personalities to evolve such safe world for preservation of humanity by ensuring rights and freedom friendly climate in the nation. The formation of United Nation under universal declaration for human rights is the major step towards this goal. Our Indian Constitution was drafted by giving importance to Bill of Rights. It is given high place in Indian Constitution that is the fundamental rights in Part III (Article 12 to 35).But meaningful enjoyment of these rights cannot be imagined until every citizen is assured of proper protection through good governance per se good policing laced with ethics.

III. POLICE AND HUMAN RIGHTS

The police and human rights are generally perceived as contradictory and in conflict with each other but this is not true and far away from the reality. Both are closely inter-linked supplementing each other. This relationship lies in the perspective of both that is to uphold the dignity and honor of the individual to pursue a happy and honorable life.

The theory of contract by John Locke brought out that the question of safety to the natural rights such as right to life, liberty and property of individual which the reason for the origin of the state. The state expresses its will through the government and it is the police through which the government exercises its authority or power.²The police thus hold the status of a legitimate coercive power of the state to perform a series of functions with more emphasis on the maintenance of law and order, and crime prevention and crime investigation.

Functions of Police Force :

²<https://plato.stanford.edu/entries/locke-political/> by A Tuckness - 2005

- Crime prevention
- Maintaining peace through controlled law and order
- Booking of law breakers, offenders and anti-socials in accordance with the procedures of law
- Safeguarding the lives and property of the citizens
- Protection of innocents, minorities and vulnerable sections
- Ensuring rights to liberty, equality and justice to all. However, the discourse of police duty to ensure human rights is that they must examine their own methods adopted in actions, behavior, and conduct while performing their duty.

IV. HUMAN RIGHTS INFRINGEMENTS BY POLICE -

The police perform their functions in such a manner in which rights are rarely respected and are frequently trampled. A wide range of complaints relating to human rights violations by the police can be traced in the print and electronic media. In present Article, the researcher is focusing on only custodial death in Maharashtra as an example of human rights infringement by police.

- **Custodial Deaths in Maharashtra**

The death of a member of the public whilst detained in police custody usually leads to intense media scrutiny and considerable public unease. Though, National Human Rights Commission of India has laid down strict guidelines to be followed after custodial deaths, these deaths show alarming trends, nationwide. To address the issue, a retrospective, autopsy based study on custodial deaths was conducted at Aurangabad for duration of 10 years (1999- 2008).

Among the 90 custodial deaths in the study, 89 were male, with maximum cases (33.3%) being from the age group of 31- 40 years. Natural causes accounted for 62 (68.9 %) deaths. Among the unnatural deaths (30 %), suicides constituted 59.3 % cases, homicides - 25.9 %, while 14.8 % were accidental deaths. Pulmonary tuberculosis was the most common cause for natural death, followed by ischaemic heart disease. Poisoning was the leading method for suicide.

- **Challenges within the Police Department**

Police Leadership has also failed the public, to an extent, and Police personnel in three major ways: inability to identify the police mission, improper training, and inadequate codification of police procedures. Of all these, the two failures that impact everything else are our failures to assess the quality of police performance objectively and their inability to define the ethical paradigm.

Performance appraisal in the police

The National Police Commission in its Seventh Report³ recommends that the performance appraisal system in the police should be broadly classified into two areas, namely, a continuous appraisal which is correctional and developmental in its impact and Annual performance Appraisal report which is for organizational purposes in the matter of training, placements and promotions.

Continuous appraisal pre-supposes continuous feedback

Feedback serves motivational function to the employee and at the same time provides managerial information to the organization. While on a job the employee has a right to know how he is being rated and what he should do to improve his performance. A proper communication based on rational feedback will enable the police personnel to understand his job and aim at better performance by building on his strength.

Issue of ethics

Police personnel must have integrity. All available evidence indicates that corruption occurs because community encourages it and the department allows it. Nothing destroys public confidence in police faster than allegations of bribery and cover-up. These many times lead to forget their ethics and principles and enter into world of crime where they ill-treat the accused as well as the victims. This in result refrain public from approaching to Police as if the accused belongs to influential family then the victim is scared to file complainant against them as under maximum instances police officers surrender under the power of money and justice is compromised. This can be changed if Police force have integrity against the alarming disease of corruption and join their hands to cure this disease.

Personnel Management

Many a time policemen hesitate to sit or give suggestions in the presence of senior police officers. A policing subculture that so de-humanizes its cutting edge staff, can hardly expect the same staff to behave differently with the public that it comes in contact with. In several circumstances the police officers only act like a puppet who can perform any Function on the commands of the superiors. They are not allowed to think for betterment of the general public for whom they were constituted. They only think of wooing the superiors for early promotion. But this have the whole Justice system at stake as people stop having trust in them because of their actions under the different scenario. Thus there is need of delegation of Authority with delegation of functions.

V. CONCLUSION

The country in which every citizen abides laws and policies of the Government is always prosper in every field.

³https://humanrightsinitiative.org/old/publications/police/npc_recommendations.pdf

To check whether laws are abided by the people police force is build up. Police are one of the most ubiquitous organizations of the society. In an hour of danger, crisis and difficulty, when a citizen does not know, what to do and whom to approach, police station and policeman happen to be the most appropriate and approachable unit. These roles and duties of the police force if fulfilled with full devotion and sincerity by taking ethics and norms in mind then no one will stop Indian Police from becoming SOCIAL FORCE.