



A Study on Human Rights and Police Excesses

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India is a sovereign, socialist, secular, democratic republic. Every attribute of the republic is bed-rocked on human rights-the sovereignty of the people over the entire resources of the nation, the secular, liberation which interdicts discrimination against individuals and groups on religious grounds, the socialist harvest of economic, cultural and other rights. These are meaningful significant constitutional position implicit in the system of republic and made more explicit in the preamble and parts III and IV which have been called the Conscience of the Constitution.

A policeman is constitutionally and statutorily imbued with the authority and power to protect citizens and maintain law and order in the society. Law gives powers to the police to exercise force for the purpose of peace-keeping. Indeed, the mandate of the police to use force to curb greater violence and disorder raises the key issue that the police themselves should not indulge in abuse or misuse of force. Exercise of police powers must be subjected to checks and balances and should not be arbitrary in nature which would prevent the common citizen to approach him.

As a matter of fact, no State body with the possible exception of the armed forces stands on a routine basis between the protection and endangerment of human rights.

Key words: - Human Rights, Police, Atrocities.

Introduction : The word police comes via French from the Latin lexicon *Politia* ("Civil Administration"), which itself derives from the Ancient Greek for *polis* ("City").

Ever since civilized societies came into being, police force, in one form or the other has been made to function. Dating back the very history of police from ancient times Kautilaya and Yajnavalkya categorically defined the basic functions of police as Detection of crime, arrest of suspicious person, protection of civil population and Prevention of illegal acts.

With the dawn of the East India Company on Indian soil, there was nothing specific to pronounce as the administration of police system was left untouched till 1792 A.D. Lord Cornwallis brought out certain changes in the police administration which culminated in making the police force responsible to the company.

The present police system is developed on the basis of the police act, 1861. The Archaic police law needs

important modifications due to changing socio-economic situation. Of late, with the advisory guidelines put forth by the various eminent police officers, researches and the guidelines of National Police Commission, the process of revitalizing the police administration has taken new dimensions in the educational qualification, training and also with a humanitarian touch to deal with the common man and general public. The work culture includes impartial dealing of everyone.

Hypothesis :

The study of police brutality is important since it illustrates fundamental conflict that arises from policing in a democratic society. The existence of the police brutality is due to these reasons enumerated below :

- The vast arbitrary powers given to the police have corrupted many of them.
- State or the central govt., they have almost

invariably supported the version of police.

- The state machinery is totally contaminated by politics.
- Non awareness of people towards their rights.

Objectives :

- To present a study examining the police atrocities and the violation of the human rights by the police personnel
- Define the term police and police excess
- Identify the primary function of the police organization
- Identify the explanation of police excesses
- List methods of police excesses

Methodology :

- Primary and secondary methods have been used in our study which includes books, internet surfing and visiting and collecting facts and information from different libraries
- Questionnaire has been prepared which was answered by police personnel and general masses.

The police is a state subject and its organization and working are governed by the rules and regulations framed by the state governments. These rules and regulations are outlined in the police manuals of the state police forces. Each state / union territory has its separate police force.

The Police Act of 1861 laid down the following duties for the police officers:

- (i) Obey and execute all orders and warrants lawfully issued by any competent authority.
- (ii) Collect and communicate intelligence affecting the public peace;
- (iii) Prevent commission of offences and public nuisances;
- (iv) Detect and bring offenders to justice; and
- (v) Apprehend all persons whom he legally authorized to apprehend and for whose apprehension sufficient ground exists.

Types of Police Excesses

Police excesses can be classified into two:-

- Instrumental
- Non-instrumental

Instrumental:- When the police use unlawful force in order to achieve some kind of goal, most frequently to exhort confessions.

- False arrest
- False confession
- Falsified evidence
- Intimidation
- Police brutality
- Police corruption
- Political repression
- Racial profiling
- Sexual abuse
- Surveillance abuse
- Fake encounter

Non-instrumental:-Non-instrumental brutality covers the brutal actions of police that occur in everyday police Work without a clear purpose.

Methods used by the Police Official in Dealing with Convicted/Alleged person or the Persons in General

Physical abuse:- person faced ill treatment by law enforcing authorities which is considered inhumane such as they were beaten severely by **instruments like gun, rod, wire, sticks, belts etc.** were used in dealing with alleged person.

Torture: This is the most common and brutal form used by cops while investigating or interrogation

Third degree: Third degree is generally meant for high profile criminal that is a threat for the society or planning something dangerous to harm the society. In such situation the third degree is used but cops generally use this method either for their entertainment or for the false confession. The methods and tools used by the police officials in third degree are:-

- Electrocutation
- Beating
- Removing of toe nails
- Burning bodies with cigarettes
- Using an electric drill
- Placing genital in drawer and closing the drawer

- Hanging upside down and beaten repeatedly
- Crushing the muscles of the suspect with a wooden log being rolled on his leg

Psychological abuse: - It has often been noted that the police regularly use unparliamentary or unofficial language against the person which often leads to mental pressure such as

- Humiliation:- degrading and humiliating treatment faced by the alleged person by the cops while interrogation
- Keeping detainees half naked
- Spitting on the face of the detainees
- Or spitting on ground and making the person to lick it
- Making a man or woman dance naked
- Mocking or criticising

Taunting:- needless insult and vulgar irreverent speech or action to gain a feeling of superiority by any figure of authority.

White noise:- one of the ways of psychological abuse which can be frequently be seen inside the jails. The endless playing of random static (similar to that unused TV frequencies) with no pattern; this may also lead to insanity or mental disorder.

Sexual abuse: - mostly this type of abuse is faced by the women and children. Forced intercourse, genital mutilation etc. come in this category.

Other abuse: - it includes abuses like refusal of essential medical facilities etc.

Three main steps for monitoring excessive use of force

Step-1: Collect information on the law, political climate, organization of the security forces and armed groups.

Step-2: Record and follow-up individual allegations of excessive use of force.

Step-3: Analyze information and allegations and identify patterns.

Any complaint of police misconduct shall be conducted by an officer of the rank of Inspector of Police or above only, on the following pattern:

Complaints Against To be inquired into by:-

- Head Constables/Constables An officer not below the rank of Inspector of Police.
- Sub-Inspectors/Asst. Sub-Inspector An officer not below the rank of Deputy Superintendent of Police.
- Inspectors of Police/Deputy Superintendents An officer not below the rank of Police/Assistant Superintendents of Police.
- Superintendent of Police and above. Complaint Cells directly supervised by the Deputy Inspector General or Inspector General, as the case may be.

Any police-officer who commits any act or omission as envisaged by this section shall, be liable

To be punished with:-

- A penalty up to 3 month's pay; or
- Imprisonment up to 3 months; or
- Both penalty and imprisonment.

Law enforcement officials may use force only when:-

- **Strictly necessary:** law enforcement officials had no alternative but to use force. No force going beyond that may be used.
- **To the extent required for the performance of officer's duties:** These duties include: to prevent crimes, to affect a lawful arrest.
- **After all non-violent methods have been tried**

There are many committees have been formed such as

- (a) National Human Right Commission
- (b) Law Commission
- (c) Ribeiro Committee On Police Reforms (1998)
- (d) Padmanabhaiah Committee On Police Reforms (2000)
- (e) Malimath Committee On Reforms Of Criminal Justice System (2002-03)

All the aforesaid committee/bodies have broadly come to the same conclusions and emphasized the urgent need for police reforms in the context of newly emerging challenges.

- **State Security Commission:-** to ensure that the State Govt. does not exercise unwarranted influence or pressure on the State Police
- **Minimum Tenure of I.G. of Police & other Officers:-**
- **Separation of Investigation:-** The investigating police shall be separated from the law and order police to ensure speedier investigation
- **Police Establishment Board :-** There shall be a police establishment board in each state which shall decide all transfers, postings, promotions and other service
- **National Security Commission :-** The central Govt. shall also set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organization (CPO)

Conclusion :

On a broader spectrum, it would be wrong to certain extent to blame the whole department for the misbehavior of some officials, but we can't deny that exposing the policemen to the moral and ethical aspects of policing is the responsibility of the police department itself.

It's a harsh truth that the common man in India has lost faith in the police department and regaining it is going to be very difficult task for the police. The Salim case, should remind the country's police department of its duty and responsibilities to the country and its people. If our police do not discharge their duties properly and continue with their barbaric acts, then the day is not far off, when the victims will turn against the police department.

Hence, Indian police should wake up now, become more responsible understand their responsibilities and work for the welfare of the nation, since it is their prime duty.

Findings :

On the basis of the surveys, our findings, on the present state of police status, are as under:—

- Police-public relations at present are in a very unsatisfactory state.
- Police do in fact harass even those people who try to help them.
- A change in the style of police functioning is what they desire foremost.
- Due to lack of even the basic amenities, bullying cross-examinations and inadequate financial compensation, both in coverage and quantum, in order to avoid going to courts of law, try to avoid police.
- Even though criminogenic factors are not under the control of police, the press and the political leaders generally blame the police for rise in crime and spread of disorder.
- Policemen, in general, do not believe that they are very much at fault. They believe that the 'system' is like that.
- Police force throughout the country is in a most unsatisfactory condition, that abuses are common everywhere, that this involves great injury to the people and discredit to the Government, and that radical reforms are urgently necessary

Suggestions :

- That only the best-trained, candidates are employed as police officers.
- Psychological exam or aptitude test should be taken before admission to police academy, field training officer programs, and the length of probationary period tend to reduce citizen complaint rate against police use of physical force and abuse of power.
- Increasing the number of in-service training programs on the use of force within a police department, regular reviews of the use of force, written policy on the use of less lethal weapon, and the reporting requirement for the use of force are negatively related to the citizen complaint.
- The composition of a police department's personnel is related to the citizen complaint.

- If police officers were paid better there would be more candidates, a stricter system of selection could be applied, there were more officers, which would make it possible for policeman to have more time for recreation, which in turn would reduce their level of tension, frustration and aggression, and so on.

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