



INDIAN POLICE- AWAITING THE REFORMS.

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ABSTRACT

Police force is a body constituted of persons empowered by state to enforce the law, to protect people and property, to prevent crime and civil disorder. Their powers include the power to arrest and the legitimized use of force. The modern day Indian police system originated during the British rule in India. The purpose of setting up police stations and appointing Darogas was prevention of any conspiracy against the British Rule and prevent any revolt like that of 1857. For this sole purpose they appointed Indians as Darogas because after the Revolt of 1857, they had realized that they can never replace the home rulers and an Indian Daroga would be best suited to know any conspiracy against the British.

The long spell of British Rule laid down the foundations of the Police and the Judicial Systems in India. The Police system of India is still governed by the age old Police Act of 1861, and the problems in the police setup are so subtle that they cannot be deciphered by a layman. However, various commissions and committees in various states have time and again reiterated the need for police reforms and they have implied in their reports that there is no dearth of creative and innovative ideas in the sector concerning police machinery. Police essentially implies a civil

functionary responsible for maintaining law and order. In the words of P.K Basu¹, “*The concept of police as ‘limb of law’ in a society, wedded to “Rule of Law” it is expected that this executive arm of the government must be depoliticized. “Conversely, the police organization cannot be left to its own also, because the job of policing requires political direction and discretionary interpretations, subject to the overall control of the judiciary of the country.”*”

The paper thus deals with the prospective reforms that can be brought about in the police system in India.

INDIAN POLICE- AWAITING THE REFORMS

Police reforms in India have long been a topic of debate. Even after the apex court’s intervention in the matter, and recommendations given by the Hon’ble Supreme Court in *Prakash Singh V. Union of India*², the states have failed to comply with the same. As a result, ever since the inception of modern police system in the colonial era, the system remains largely stagnated and governed by age old Police Act of 1861.

In the direction of the police reforms, the following infrastructural issues need to be focused upon:

- (A) The democratic nature of the Constitution of India does not get reflected in the organizational concept of the police.

¹ Basu.P.K. Use of Discretion in Police, opt. pp27-43.

² *Prakash Singh V. Union of India* (2006) (6) Suppl. SCR 473



- (B) The political executive has asserted its executive power by the political influence of the police.
- (C) The political parties, the press and the ideologies of the political leader have done very little to develop the Indian Police System as an efficient and responsible organization.

The Indian police, being engulfed in such complex scenarios, finds it difficult to function efficiently and it has aptly been described as a “Prisoner of History” and “A victim of Social Change” The police, in order to function properly as law enforcers and to maintain law and order, largely need public support and the public on the other hand needs to support the police in order to secure for themselves, a sense of security for body and property. The police and the public will fail without each other and the police inadequacies have largely been due to the communication gap between the police and the public.

POICE IN THE ANCIENT INDIA

Although the mention of a law and order maintaining authority can be found in epics as well as the Vedas, but in the ancient India, the first mention of an organized, authoritative and accountable system can be traced back to the Mauryan empire. Dr. R. K. Mookerji in his book “Chandragupta Maurya and his Times” refers to Kautilya's Arthashastra in which 18 great officers had been mentioned. These officers are (1) Mantrin, (2) Purohita, (3) Senapati, (4) Yuvaraja, (5) Dauvarika, (6) Antarvansika, (7) Prasasta, (8) Samaharta, (9) Sannidhata, (10) Pradeshta, (11) Nayaka, (12) Pauravyavaharika, (13) Karmantika, (14) Mantri Parishat Adhyaksha, (15) Dandapala, (16) Durgapala, (17) Antapala, (18) Atavika. Dauvarika was responsible for

the maintenance of law and order of the outer life of the palace, and Antarvansika was in charge of the peace and security in its inner life. The Dandapala, the Durgapala and the Antapala were military officers but were discharging a good deal of police functions, they being in charge of the peace and order of the country at large. The Dandapala in later times became out and out a Police Officer; so also was the case of Durgapala, who in later times became known as Kotapala and subsequently as Katuala (or Kotwal). Kautilya describes the administration of criminal law as Kantaka Sadhana, the clearing of

thorns, which means the eradication of the dangerous elements by criminal laws and police regulations. The police, system under Asoka consisted of Mahamatras, who were the highest executive officer in the province responsible for the maintenance of peace and order.

POLICE IN THE MODERN INDIA:

A new phase in the system of the police in India was opened with the annexation of Sind in 1843. Sir Charles Napier, who took the administration of the newly conquered province, organized the police system in Sind. The Sind Police, may fairly be claimed as the parent of the modern Indian Police. It consisted of a military preventive police and a civil detective police. The Sind system was introduced in Bombay in 1853. In every district a Superintendent of police was appointed who, while generally subordinate to the Magistrate had exclusive control over the police. He realized that only under a recognized organization, the police could function properly and produce desired results. He reorganized the native police system on the basis of a colonial model of police, namely *Royal Irish Constabulary*. His



system was based on two basic principles; first, the police must be completely separated from the military, and second, they must act as an independent body, assisting Collectors in discharging the responsibilities for law and order, but under their officers.

The events of 1857 necessitated an instrument to control the vast lands at an economical cost. After facing a real threat of losing power in 1857, the British rulers were determined to ensure complete suzerainty and suppression of all challenges to their power. A Police Commission was appointed in August 1860 with the aim of making police an efficient instrument for the prevention and detection of crime. The commission was told to bear in mind **that functions of a police are either protective and repressive or detective and that the line which separates the protective and repressive functions of a civil force from functions purely military, may not always be very clear.**³

The *Indian Police Act* (IPA) of 1861 imposed a uniform police system on the entire country. The Act established organized police forces the responsibility of the various provincial governments. Within the provinces the police was to be recruited, trained, disciplined and control by British officers. The Act established Indian police (IP), a superior police service. It was conceived to relieve the District Magistrate of his duties to keep check over the local police and make it more professional in nature. Thus, police force became organized, disciplined and well-supervised. The Act instituted a system of policing in India which is still in force.

In the present day, the Article 246 of the Constitution of India and the Section 3 of the Indian Police Act, 1861, makes police system a state subject. The states are free to regulate the subject in the best interests of the state. In addition to civil and armed forces there are departments like detective police, traffic police revenue police, mounted police, fire police, and technical branches like prosecution branch, radio branch and intelligence police. The head of the police in the state is the Director General of Police. The following reforms can be suggested in the Indian Police System:

I. MODERNIZATION OF INVESTIGATION METHODS:

In *Prakash Singh V. Union of India*⁴, the apex court directed for the division of the police system into two branches, one that would be dedicated to the investigation purpose and the other that would work for the maintenance of law and order. It was noted that the investigation of cases, particularly of the heinous crimes and the specialised crimes such as bank robbery, forgery and the cyber crimes are flawed and half cooked. The Investigating officers are burdened with the maintenance of law and order, which takes overriding precedence over all other functions of the police. It was also found that the investigating officers were poorly trained in dealing with crimes that fall under the category of cyber crimes or the Narcotic Drugs and the Psychotropic Substances Act, 1985, cases of bank frauds and also the cases involving the interstate verifications. Such cases require specialised training that needs

³Imperial Gazetteer of India, Part IV, reprint 1909, p. 380

⁴Supra note 2.



to be imparted to the Investigating officers at the grass root levels of their training, which is lacking in the present police system.

The states have grossly failed to comply with the directives of the Hon'ble apex court regarding the investigation process amendments.

II. PROSPECTIVE AMENDMENTS TO THE TRAINING:

The training of the police officials is by and large, in the nature of physical fitness and weapon training. In the present scenario, where the evolution of cyber space has added a whole new dimension to the world of crime, such training process needs colossal amendments. The crimes these days operate beyond a specific jurisdiction and, thus, the police must be imparted with specialised training to deal with the cyber crimes, bank frauds and the similar.

Moreover they must be provided with periodical training sessions to keep the police system updated with the criminal trends and to ensure their efficiency. Meanwhile the Central Government provides for the regular training sessions to the police officers empanelled through the Union Public Service Commission, the states have failed to keep the state police machinery updated and in vogue of the criminal pattern, which is changing with the changing times.

According to the Malimath Committee: ***“There is, thus, a great need to develop and sharpen investigative skills of the officers through regular training programmes at the***

induction stage and periodical in-service training courses.^{5”}

Currently there are only three Central Detective Training Schools in India, in Kolkata, Chandigarh and Hyderabad. There are state training institutions, but according to the Malimath Committee these institutions seem to be unable to facilitate the required courses. The small number of qualified training schools complicates the possibility to send police personnel on continuous training.

III. MANUALS OF THE POLICE:

Police Manuals are antiquated and have not been updated ever since the commencement of the police system in India. The present era relates to the digital facilities and most of the functions such as ticket generations, payments and the bank activities, along with shopping have been made available online. Even in the police system, the registration of FIRs, and complaints regarding the harassment can be done through online portals such as the online complaints portal of the Ministry of Human Resource Development and the women's helpline of 1090. But many basic functions that can be easily done online, such as sending summons, is still done personally by the policemen. Such lags result in the inefficiency of the system and they can easily be done away with the updates of the police manuals that the states have failed to provide, and the police manuals designed by the British continue to be in force, that require huge manpower for small works that may easily be done by modern technologies.

⁵ Committee on Reforms of Criminal Justice System Report Volume I” (India March 2003) Government of India, Ministry of Home Affairs p. 101



IV. POLICE AND THE GENDER SENSITIZATION:

The statistics show that⁶:

- One case of violence against women took place every 4 minutes in 1998.
- One woman/girl was raped every 35 minutes in the same year. In 1995 there was one rape every 38 minutes.
- Some unfortunate woman got molested every 17 minutes.
- One dowry death took place every 75 minutes. In 1997 there was one dowry death every 87 minutes.
- There was one instance of torture every 133 minutes.

The gender insensitivity in the police occurs due to inadequate training at the grass root level and the masculinity that pervades through the structure of police organization. In spite of the shocking and frightening picture, the police response to violence against women continues to be grossly inadequate and inappropriate. Besides the reasons for the generally poor response to instances of crime such as increasing workload, lack of resources, pressure of political bosses to maintain crime figures at a low level, mal-practices in the organization, there are certain specific reasons for the lack of appropriate response to offences against women. The cult of masculinity prevalent in the department makes the police officers hold some stereotypes about violence against women. The stereotypes lead to certain standard patterns of police response. The basic training of the police must incorporate the training to shun these stereotypes and

train a gender sensitive staff in the police system. For the gender insensitivity of the police instils a fear of harassment and humiliation in the mind of the women folk who dread to approach the police station.

Because of the several social factors, women are more afraid of crimes than men and fear of crime extends well beyond the women who have themselves been victims. Further, because of several socioeconomic factors, women victims are differently placed than their male counterparts. In view of the above, there is need for police to act in a gender sensitive manner in all cases relating to violence against women. The increase in violence against women calls for a prompt and proper response from the police on all such complaints. As gatekeepers of the criminal justice system, police enjoy wide discretion in enforcement of law. Differential law enforcement, indifferent police response and fear of police deny women the access to justice.

POLICE REFORMS VIS-À-VIS CYBER CRIME:

Cyber crimes provide a different dimension as they are committed incognito, with no boundary of jurisdiction. The Indian police remains largely untrained to the cyber crimes. Though many states have cyber crime cells but the conviction rates in such crimes remains by and large inadequate. Most states have not recruited competent professionals for properly understanding, appreciating and combating the nature and dimension of cyber crimes, the rates of which is on a voluminous increase.

⁶ Crimes against Women/Atray, J.P.: Vikas Pub. House, 1988



A comment on any social media, or the harassment of victims by way of prying or blackmails, however traumatic it may be for the victim, the police system remains indifferent to these crimes that operate with no regional, state or national boundaries. Success in this field can be achieved by implementing the Hon'ble apex court's directive, as propounded in *Prakash Singh and Others V. The Union of India*⁷, which instructed the state governments to set up Police Establishment Boards, that would ensure the proper cooperation and coordination between the police of different states.

VI. COMBATING POLITICAL STRONGHOLD OVER THE POLICE:

On 22 September, 2006, the Hon'ble apex court delivered a historic judgement in the case of *Prakash Singh and others V. Union of India and others*, instructing the central and the state governments to comply with seven directives for police reforms. Policing is an essential public function and the state is responsible to provide the citizens with the best police services possible. The Hon'ble Supreme Court recommended the following reforms for the police:

- 1) **State Security Commission:** The court directed the state governments to establish a State Security Commission in every state to ensure that the government does not exercise unwarranted control over the police. As per the court directive, the commission must be headed by the Chief Minister of the State or the Home Minister

as the Chairman and the DGP as the Ex-officio Secretary.

- 2) **Appointment of the DGP:** The Hon'ble apex court held that " The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties."

The directive provided that the DGP must be selected from the three top most senior officers empanelled by the Union Public Service Commission, on the basis of tenure of service, very good record and the range of experience.

- 3) **Minimum tenure for other officers:** The court directed for the stability of tenure to other officers in the field. The directive included two year term security to the following officers:
Inspector General of Police

⁷ Supra note 2.



Deputy Inspector General
Superintendent of Police
Station House Officer

- 4) **Police Establishment Board:** To counter the prevailing practices of subjective appointments, the court directed all the states to establish a Police Establishment Boards that will deal with matters of all appointments, transfers, postings etc. The Boards was to comprise of the DGP and four other senior most officers of the department, to ensure that the decision making doesn't rest in the hands of only one officer.
- 5) **National Security Commission:** The court directed the formation of a National Security Commission which was to consist of the Union Home Minister, Union Home Secretary and the other senior members of the Central Police Organisations. The objective to set up such a commission was to ensure proper and effective cooperation between the various police forces and improve the conditions of the Central Police Force and the Central Para Military Force.
- 6) **Police complaints authority:** The court directed the setting up of a police complaints authority that would look into the complaints against the police officers. The court provided for a two-fold complaint system at the district and the state level. The district complaint authority would be headed by a retired district judge and the state authority would be headed by the retired judge of the High Court or the Supreme Court as appointed by the state government.
- 7) **Divisions of the police system:** The court directed for the division of the police into

two branches. One for the purpose of investigation and other for the purpose of the maintenance of law and order in the society.

So far the directives of the Hon'ble apex court have not substantially been complied with by the states.

CONCLUSION:

In the words of August "Gus" Vollmer, "*The policeman is denounced by the public, criticized by the preachers, ridiculed in the movies, berated by the newspapers and unsupported by the prosecuting officers and judges. He is shunned by the respectable, condemned while he enforces the law, and dismissed when he doesn't. He is supposed to have qualifications of a soldier, doctor, lawyer, diplomat and an educator, with remuneration, less than that of a daily labourer.*"

This quote pictures the true scenario of the policing in India. Such a system, with high threshold limit of expectations in pity remuneration, is bound to crash. The result is apparent, of which we are the witness. It is imperative that more needs to be done than mere structural changes.
