

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 2 | Issue 1

2020

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Decrypting Police Identity: A Staunch Legal Endeavour

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ABSTRACT

Laymen have wide connotations and conceptions about the police, vis-à-vis, “There’s only two people in your life you should lie to – your wife & the police”, “Yes officer, I did see the speed limit sign, I just didn’t see you”, “The police are not here to create disorder, they are here to preserve disorder”, “Put yourself in the shoes of a cop and the chances are you won’t even like what you see in your face.” These kind of sayings are omnipresent today, but was the police formed to be criticized? What exactly is the role of police? Police typically are responsible for maintaining public order and safety, enforcing the law, and preventing, detecting, and investigating criminal activities. These functions are known as policing. Police are often also entrusted with various licensing and regulatory activities. In this paper the author makes a stalwart effort in understanding the administrative loopholes that led the police from becoming the “embodiment of bravery” to “corrupt guinea pigs” & see how is this scenario being taken care of, and can be taken care of in India.

Keywords: *Police, Bureaucracy, Public Administration, Law and Order, Indian Police Services.*

I. PROLEGOMENON

The term police has been derived from the latin word *politia* which means the condition of a Polis or State. According to Oxford dictionary, the term police means a system of regulation for the preservation of order and enforcement of law; the internal government of State. The term broadly refers to purposeful maintenance of public order and protection of persons and property, from the hazards of public accidents and the commission of unlawful acts. It refers to civil functionaries charged with maintaining public order and safety and enforcing the law including the prevention and detection of crime. India is multi-cultural, multi-ethnic and vast country. It is the second most populated country of the world. Maintaining law and order in world’s largest democratic country is an arduous task. The police personnel provide for the

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security of people and enforcement of laws of the country. It determines the manner in which democratic decisions are implemented in the country. In view of the growing violence, social conflicts and serious threats of terrorist activities, the role of police is becoming even more important.

The assurance of equality and dignity to the weaker sections of the society is also dependent upon the performance of the police. Clearly, police has a crucial role in the existence and development of India.²

II. THE PRIMORDIAL OF POLICE IN INDIA

Modern Indian police system is a creation of British rule. But the origin of police can be traced to the earliest vedic period of the Indian history. Rig Veda and Atharva Veda mention certain kinds of crimes known to Vedic India. Evidence indicates existence of security forces in Harappan Civilisation as well. Let us take a stock of policing system in ancient, medieval and modern India. During Vedic period, exact references of criminal justice organization are not available. However, Mauryan period showed important features of criminal justice system. Arthashastra of Kautilya, written around 310 BC throws light on the state of the society and the administration, system of administering justice and also the state of crime during that period. The Arthashastra is a treatise on the criminal justice system. It reads like a manual for the police in modern times. According to Arthashastra, the smallest administrative police unit was the village. The village councils were responsible to detect and prevent crime under the supervision of the headman. Danvarika, the warden of police, was responsible for keeping strict vigilance on the management of the royal palace. Antervansika, a lady officer, was responsible to maintain vigilance on the ladies of the royal household. There were three types of police officers, namely, Dandapala, Durgapala and Antpala. Atavikas were the police soldiers particularly for operation in the forest areas. Overall, the Mauryan system of criminal justice was rigorous and espionage based.³

During the medieval period Sultan was the center of power and political activity. Faujdar was the head of criminal justice administration at the provincial level. As a chief executive, he was entrusted with the duty of ensuring peace and security to the whole province. Kotwal was the administrative owner of criminal justice system of the district. He was the magistrate, head of the police and Municipal office, rolled into one. At the village level, Choukidar was responsible for the prevention and detection of crimes. The government under the Mughals

² Bushra, *Police in India, SHODHGANGA*, https://shodhganga.inflibnet.ac.in/bitstream/10603/21078/10/11_chapter%202.pdf (11th March, 2020)

³ *Id.*

was autocratic and military in nature. It did not take responsibility or devote itself to manifold functions, as a modern government generally does. Justice and police were two weak points of the Mughal period.⁴

The law and order situation at the close of Mughal Empire was characterized by anarchy and confusion. The British came to India as traders in 1612. The leading organization was the East India Company. Initially, the British presence was maritime and commercial in character. The company officials functioned with the cooperation of local rulers. By the early nineteenth century, Mughal Empire started disintegrating. The native rulers emerged at various nooks and corners of the country. Infighting among the native rulers and prevalence of greed & corruption among the ruling class and several other factors paved the way for conversion of the Company administration into a full-fledged colonial state. Till the middle of nineteenth century, there was no satisfactory police system.

This was because of Britishers inexperience and lack of knowledge about the country. Policing was not taken away from the zamindars till 1792. East India Company sent Cornwallis to India as Governor General. He abolished zamindari system of maintaining law and appointed thanedars who were now made responsible for the maintenance of law and order. He introduced a number of reform measures. However, his reforms displayed a lack of faith in the natives of the land and their institutions.⁵

Subsequently, the time came of annexation of Sind (a part of today's Pakistan) to the British Empire and further establishments led to the enactment of Indian Police Act of 1861. We are very much familiar to the present structure of Police in India. The author's contention is not only deciphering and establishing inception of Policing in India, but analyzing the public perception of Police also.

III. UNIVERSAL SLANGS PERTAINING TO POLICE

- **ANDA** - An Urdu language word meaning egg, since the uniform of traffic police in urban Pakistani areas like Karachi and Hyderabad is pure white.
- **BULLE** - German for 'bull'. Slang for police officer, often derogatory. *Bullerei* and the plural *bullen* refer to the police as a whole
- **CHIEN** - Québec, (“dog”). Very derogatory. In French, Dog is referred to as Chien.
- **CHOTA** - Hispanic American slang term

⁴ *Id.*

⁵ *Id.*

- **MATA** - A common slang in both Singapore and Malaysia. "Mata" means "eye" in Malay and connotes surveillance, thus becoming a metonym for the police.
- **MAMAA** - Commonly used in Hindi to describe a male police person, typically referring to traffic police.
- **PANDU** - Marathi, derogatory, used chiefly in Mumbai, India
- **PUERCO** - Hispanic derogatory slang for police (literally "pig")
- **RATI** - Argentinean slang term for police officers derived from "rata" (rat)
- **THULLA** - A North Indian slang for policemen. One theory is that it is derived from "thulla", a name used in Eastern India for the jute gunny sack, which resembles the khaki uniforms worn by many police forces in the country.

IV. PUBLIC PERCEPTION OF POLICING

Police is a formal organization. Theoretically speaking formal organizations have evolved out of growing human needs and rapid changes in the overall structure in the society over period of time. Policing is not static in nature. It is dynamic and keeps changing in size, shape and priorities as per the needs of the society. Policing is very closely linked with the system of governance. After Independence, policing in India underwent fundamental changes. It evolved from a ruler-oriented force to a community-oriented police. Gradually, it emerged as an important service delivery institution. Behavioural response is a central aspect in any service delivery paradigm. Prevention of crime and maintenance of law and order in the society emerged as two core responsibilities and critical services for police. Community remains at the Centre of all policing activity. Society consists of two types of people. Majority of the people are peace loving and respect the law. We also have people in society who violate law, commit crime and hurt collective conscience of the society through their actions. A police officer has to deal with these two diametrically opposite group, existing in the society on regular basis. Theoretically speaking police will have to adopt two different operational behavioral strategies to deal with them in every day policing. This is not a very easy task. In a command structure and disciplined organization, the initial response and behavior of the first responder is very important. The overall credibility and image of police always depends on how the bronze segments respond to the growing concerns of citizens in the society. There is emergent need to change with what public perceives and hold notions regarding police accountability and public's willingness to cooperate. Due to continuation of colonial policing structure, the image of policing has deteriorated and also has elevated the

fear of crime.

One needs to understand that the behavioural and response pattern of police is not abstract and is influenced by various factors in the society. These factors could be political, social, economic, environmental, technological, legal and organizational (PESTELO). For a meaningful understanding of the police behaviour, we need to understand the changes taking place in *PESTELO* factors from time to time. The public image of police is based on overall behavioural response to two sets of issues very beautifully summarized by the International Association of Chief of Police Report (IACP) on the image of police. The first area covers the dimension of community policing and areas where the security and safety of the community is involved. It includes reducing crime and disorder, reducing fear of crime, solving neighborhood crime, solving neighborhood disputes and establishing greater cohesion and contact with community in day-to-day policing. Second area is essentially related to adherence or conformity to wide variety of process oriented norms and standards while responding to various needs of the society. These include integrity, fairness, civility, responsiveness, police response, appropriate use of force and competence.

V. FACTORS AFFECTING PUBLIC PERCEPTION OF POLICE

- ***Accessibility of Police Officers for Community –***

Accessibility of police officers is a major issue. As per data released by Bureau of Police Research and Development, in the metropolitan cities the accessibility graph of police is very high, in small towns the degree of accessibility of police is less as compared to metropolitan cities and is in the rural areas the accessibility graph is very low.

- ***Police Station Interaction –***

The next problem comes when a citizen approaches the first responders in the police station. Normally citizens come to police station under distress. The first response of the responding officer to the complaint or problem is very important. Any peace loving and law abiding citizen will expect a patient hearing from the Officer who listens to his grievances. The first positive impression building of the organization begins here. Unfortunately our response to the complainants in the police station is not very cordial. In several cases the solution to a problem reported upon by an aggrieved person could be beyond the domain of police. He needs to be told and explained immediately with a proper direction to approach the concerned authority for solution of the problem with due courtesy. Similarly, prompt action on typical police problem is also very important. This normally does not happen due to the inability of

the responding officer's listening skill. Since you do not listen properly, you do not communicate properly.

- ***Handling of Law & Order*** –

In democratic societies protest by aggrieved groups is a legitimate means to express their anger and frustration towards ruling establishments guaranteed under constitution. Sometimes such protests also become violent. While maintaining public order, protecting the constitutional rights of citizens is equally important for police. Public order management requires effective leadership and matured professional handling within set rules. The local police are not able to project a professional outlook in handling various law and order arrangements. Crowd should be treated as an opportunity for healthy public relations management rather than a problem. An effective and professional handling of the crowd and public-order management should take into account four principles outlined by Prof. Cliff Scott of Leeds University in his lecture on Public order management. These are educating the members of the organization regarding handling of public order by facilitating legitimate crowd behaviour with peaceful means through proper Communication with the crowd by adopting different standards of action in the crowd rather than adopting indiscriminate approach.

- ***Lack of Communication with Target Communities*** –

Most of the time police officers at the middle and cutting edge level fail to communicate with the target communities. Policing is for the community. We have to take into confidence the community we serve in day-to-day activities. For example, crime prevention is one area where community needs to be taken into confidence. This is possible only if we communicate regularly with the community. There is lot of reluctance in communicating with communities, particularly in rural areas. This happens because we do not listen to their problems. There are several areas in which an officer may have done everything related to the case of a complainant as per law, but since he has not communicated with him, the complainant feels that nothing has been done regarding his case. Communication and dialogue with the community has to be a continuous process.

VI. HUMAN RIGHTS STANDARDS OF POLICE COMMAND AND MANAGEMENT

Law enforcement officials shall at all times fulfil the duty imposed on them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession Law enforcement officials shall not commit any act of corruption. They shall rigorously oppose and combat all such acts Law

enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons Every law enforcement agency shall be representative of and responsive and accountable to the community as a whole The recruitment, hiring, assignment and promotion policies of police agencies shall be free from any form of unlawful discrimination Clear, complete and accurate records shall be maintained on matters of investigations, arrests, detention, the use of force and firearms, victim assistance, and all other matters of police activity Training and clear guidelines shall be made available on all matters of police activity affecting human rights.

Police agencies shall make available a range of means for the differentiated use of force, and shall train officers in their use. All incidents of the use of force or firearms shall be reported to and reviewed by superior officials. Superior officials shall be held responsible for the actions of police under their command if the superior official knew or should have known of abuses but failed to take concrete action Officials who refuse unlawful superior orders shall be given immunity Confidential information is to be handled securely All police candidates shall be of appropriate mental and physical character All police are to be subject to continuous and effective reporting and review procedures Police shall develop strategies for law enforcement which are effective, lawful and respectful of human rights.

Law enforcement officials shall respect and protect human dignity, and shall maintain and uphold the human rights of all persons Law enforcement agencies shall be accountable to the community as a whole. Effective mechanisms shall be established to ensure internal discipline and external control as well as the effective supervision of law enforcement officials Law enforcement officials who have reason to believe that a violation has occurred, or is about to occur, shall report the matter. Provisions shall be made for the receipt and processing of complaints against law enforcement officials made by members of the public, and the existence of those provisions shall be publicized Investigations of violations shall be prompt, competent, thorough and impartial Investigations shall seek to identify victims; recover and preserve evidence; discover witnesses; discover cause, manner, location and time of the violation; and identify and apprehend perpetrators Crime scenes shall be carefully processed Superior officers shall be held responsible for abuses if they knew, or should have known, of their occurrence, and did not take action. Police are to receive immunity from prosecution or discipline for refusing unlawful superior orders Obedience to superior orders shall not be a defence for violations committed by police.

VII. THE DENOUEMENT

Despite clear legal standards, law enforcement work and Policing is, however, not a mathematical science that leads to clear-cut answers. Because law enforcement officials have to deal with a wide range of situations with many conflicting interests, they are accorded a degree of discretion, which places considerable responsibility on them to make appropriate choices. The fact that law enforcement officials frequently find themselves in stressful or dangerous situations and have to deal on a regular basis with people who have broken the law or are suspected of having done so means that high moral and ethical standards have to be met to ensure that law enforcement officials act in accordance with the law at all times.

It is all too easy for “the end justifies the means” attitudes to be adopted in an environment in which serious crimes have been committed and where the difficulties of working in such an environment contribute to the development of group ethics and individual sets of standards. The leadership of law enforcement agencies therefore needs to be aware of the inherent risk of such group ethics fostering “grey policing” that may not always comply fully with the law. In the difficult and dangerous working environment of law enforcement, it is not enough merely to set high ethical standards. Orders and procedures that clearly establish what is expected of the individual law enforcement official and their effective enforcement are indispensable to ensure that law enforcement work is always carried out in full compliance with the law. The commanding leadership of the law enforcement agency has the utmost responsibility for conveying a clear message to the contrary. Only lawful policing is good policing; bending or violating laws, rules or regulations will, in the end, affect not only the judicial process but also the law enforcement institution as a whole, including its acceptance and support among the people. To foster a culture of respect for the rule of law requires a set of measures to be taken at all levels – policies and procedures, education, training and equipment – as well as an effective system of sanctions to enforce respect for the rules and regulations.

The maintenance of public order is a core responsibility of law enforcement officials that calls for constant careful balancing of the rights and interests of all sections of the population. Strict compliance with the applicable legal framework is indispensable to ensure the success of this balancing act. The prevention of violence and avoidance of the need to resort to force should be guiding principles in the management of any public order situation. Law enforcement officials are often the first point of contact for victims of crime and/or abuse of power. The Victims Declaration provides comprehensive guidance on the approach to be

adopted by law enforcement officials when dealing with such people, who often suffer long-term physical and/or psychological harm, material damage, stigmatization, etc. People, who have suffered any form of harm (physical, mental, emotional or material) in violation of criminal law, deserve to be treated with particular compassion and sensitivity and should be given immediate assistance.

Law enforcement agencies are expected to ensure that the treatment of women in the administration of justice does not result in degrading treatment, to respond promptly to incidents of violence and to investigate them thoroughly. The fact that people have to leave their place of residence for various reasons is a growing international phenomenon with serious humanitarian and human rights consequences. Regardless of the reasons why they leave their habitual place of residence, internally displaced people, refugees and migrants often find themselves in very precarious and vulnerable situations. It may be difficult for them to access the most basic means of survival and they may be exposed to hostility, discrimination and exploitation in their new environment. A law enforcement agency should also be held accountable to the government, the legislator and the public with regard to its overall performance, i.e. how far it meets the needs of the community that it is serving. Performance appraisal needs to go much further than merely looking at crime rates and arrest figures. It should seek to determine the level of trust existing between the law enforcement agency and the community and the extent to which the law enforcement agency is responsive to the needs of the community.

Einstein stated, "Time is relative" and I accept that the scorn or lost conviction of people in general on the police power is likewise relative. Indeed, there have been occasions of gross carelessness and takeoff of moral set of accepted rules from the side of the police, yet among all the antagonism the center of the police have never floundered, and that is to remain next to the citizens in their most extreme critical circumstances. Be it risking down their lives on the unholy night of 26/11 or be it the Pulwama assault as the main line of guard, first line of data, the principal line of defence to the guiltless regular folks that they promised to ensure with their life; they have never vacillated, since days of yore our police force have demonstrated valor conduct with regards to serving its country and we should be glad.

VIII. REFERENCES / BIBLIOGRAPHY

- S. Norton, Lost in translation: The inappropriateness of occidental new public management to reform of the public sector bureaucracy in Japan, *International Journal of Public Sector Management*, 20(7), 2007, 674 – 693
- N. Islam, and M. Ali, A study on service quality of the Bangladesh police, *Global Journal of Business Excellence*, 1(1), 2008, 1-8.
- M.S. Islam, and R. Mahmud, Trust in Governance in Bangladesh: Ideas, Issues and Solutions, *Millennial Asia*, 6(2), 2015, 128-146.
- M.J. Uddin, Security Sector Reform in Bangladesh, *South Asian Survey*, 16(2), 2009, 209-230
- M.I. Khondaker, E.G. Lambert and Y. Wu, Perceptions of the Police in Two Nations: An Exploratory Study of Policing Views among Bangladeshi and U.S. College Students, *Asian Journal of Humanities and Social Sciences*, 1(2), 2013, 33-58.
- J. Nix, S.E. Wolfe, J. Rojke, and R.J. Kaminski, Trust in the Police: The Influence of Procedural Justice and Perceived Collective Efficacy. *Crime & Delinquency*, 61(4), 2015, 610-640.
- E.R. Maguire, and D. Johnson, Measuring public perceptions of the police, *Policing: An International Journal of Police Strategies & Management*, 33(4), 2010, 703 – 730.
- B.C. Renauer, and E. Covelli, Examining the relationship between police experiences and perceptions of police bias, *Policing: An International Journal of Police Strategies & Management*, 34(3), 2011, 497 –514.
