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With this thought, we hereby present to you

LawPublicus The Legal Portal

Police and Its
Working: Analysis
Based on Tripura

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Police and Its Working: Analysis Based on Tripura

By: Yukta Kesarwani

ABSTRACT

In The police act, 1861, everything a person needs to know about working of police like duties, responsibilities, obligations, rights, penalty, etc., is mentioned in the act. It not only talks about their several duties and functions but their hierarchy is also given under the act. In this particular piece of article, I have given brief information on police working especially in the context of Tripura with an objective to highlight various issues related to corruption, mental frustration, job satisfaction, gender pay gap, etc. The status of Tripura is almost equal to that of the entire nation. The above problems don't exist only in Tripura but in every corner of the country. The major problem is "Corruption" which needs to be dealt with immediately as people are being exploited and losing their faith in the justice system. Henceforth, I have not only suggested remedies on the upper hand but I've also communicated the steps which the current government is taking in order to catch hold of the revolving issues on the ground. People who hold bad experiences with police have been taking down the entire system as it is not easy to contain public communications as it flows rapidly all around. But good experience is never highlighted by people and therefore, it becomes difficult to encourage a public move to police for redressal. Not every policeman is bad, some are good and follow their duties with utmost respect. This thought can be communicated with the remedies listed below so that people see the bright side of the system and ignore the pietism around them.

INTRODUCTION

“The worst disease in the world today is corruption. And there is a cure: Transparency”

-Bono

From childhood, we are taught that police officers protect people and prevent crimes from happening in society. But what we all were taught earlier in primary school we, later on, realize that it is more than just catching criminals and punishing them. The police don't have a very good image in India. The complex relationship between political executives and police agencies is a big deal. Not only political mafias but common people are also engaged in bribing police in case they have any crime registered on their name or they want to cover up any dispute, some cash will surely satisfy their thrust. This corruption cycle and under-the-table work have destroyed the legal framework of police working. People feel that policemen are politically affiliated and work accordingly under political hooligans and therefore praying for justice before them will result in loss of security and hence they go, mum, instead of going to the police station. A person comes in contact with police when he has been a victim of a crime, witness of crime, as complainant, have been taken into police custody for being a suspect or being a known person to the arrested person for his bail purpose or as an advocate. In many ways, a person could come in contact with a police officer. Here in India the majority of police are corrupt and are not disposing of their duties responsibly. Political interference has been a major drawback. Even after the 2006 judgment in the Prakash Singh Vs Union of India¹, wherein the court held that the principle of separation of powers is envisioned in the constitution and also stated that all decisions on transfer of officers and personnel should be devoid of political interference. It suggested states set up special boards of senior officers that will take collective decisions on transfers of officers. Even after the establishment of the board, it is not independent and still functions on the recommendations of local MLAs and other politicians which results in intense public dissatisfaction which needs to be changed.

Police have various powers like to make an arrest in case of cognizable arrest, investigate crime, enforce laws and maintain law and order in the state. In India, political executives are accountable for police forces. It is administered that police are more prone to abuse the powers

¹ Writ Petition (civil) 310 of 1996

vested in them like in the case of Jayaraj and Fenix² where both father and son were beaten to death in police custody in violation of keeping their store open beyond the permitted time during the coronavirus lockdown which was not at all justified, such a barbaric act shows police brutality and misuse of power.

Courts are functioning slowly as it is overburdened with cases and because the Indian judiciary has minimum judicial officers, judges in the courts. Police are ignorant of judicial proceedings and often consider extrajudicial killings more appropriate. People in various states are supporting extra judicial killing which is not legally right because people lack's awareness about the legal system of the country for example Priyanka Reddy rape case³ in which four accused were arrested and killed in police custody on various social media platforms people were celebrating this act and considering the cop as a hero. Our constitution provides rights to arrested persons as well, also the Universal Declaration of Human Rights, Article 11 states that "Everyone charged with a penal offense has the right to be presumed innocent until proven guilty". Not only this but extrajudicial killings will eventually make people lose their trust in the country's judicial system and law which is alarming.

Police of states don't get enough training sessions and hence they are unaware of laws and latest technology, and lack basic knowledge in cybercrime and forensic technology. Police often discriminate and are biased towards lower caste and tribal people. This predisposed attitude won't benefit society in the long run and hence overall training sessions on a regular basis must take place to make them aware of laws and social sensitization. Moreover, they lack physical fitness, weapon training which makes them unprofessional. Not only professional etiquettes but they also don't have access to proper basic facilities like clean washrooms, daily refreshments, water facility, etc. sometimes they have to buy stationery from their own pocket for official purposes which is why they abuse government facilities which have no quality and therefore, don't motivate them to work passionately. The state government has been spending very less amount⁴ On fulfilling police needs and resources also the salaries and allowances are less in this field and hence job satisfaction among most of them is a serious issue. There's a

² Editorial, "Senseless deaths: On Tamil Nadu custodial deaths", *The Hindu*, 26 June 2020

³ Writer- Abhinay Deshpande, "All four accused in Hyderabad vet rape and murder case shot dead". *The Hindu*, November 6, 2020.

⁴ Police Reforms in India, available at: <https://www.prsindia.org/policy/discussion-papers/police-reforms-india> (Last visited on 06 November 2020)

low rate of staff due to which the burden of work increases among them resulting in immense stress and frustration which leads to impulsive behavior and inability to concentrate.

According to a study conducted in Tripura related to mental state among police officers and constable groups which analyze domains like life quality, psychological health, physical health, social relationship and environmental aspects of policing in Tripura. The constable group percentile of stress index score, quality of life diminished by 31%, and among police officers the percentile is 11% both are diminishing.⁵

According to Common cause and Lokniti center for study developing societies, police work overtime that is more than eight hours a day and are not even paid extra for overtime which makes them helpless and hence they are corrupt and accept bribery.⁶ The duty of police personnel says that they are never off duty that doesn't mean he/she won't get rest hours but there is always an obligation upon a police officer even when he is not in his official uniform if a witness of any crime has to adhere towards his/her duty at that time also. The salary distribution is 25% of Police Officer(s) earning less than 13,200 INR while 75% of them are earning more than 13,200 INR. And 75% of Police Officer(s) are earning less than 27,400 INR while 25% are earning more than 27,400 INR. Here the salary is based on experience and years of service. The educational factors determine the amount of salary like when the education level is High School, the average salary of a Police Officer is 11,300 INR per month. While someone with a Certificate or Diploma gets a salary of 17,800 INR per month, 57% more than someone having a High School degree.

A Bachelor's Degree gets its holder an average salary of 29,800 INR per month, 68% more than someone with a Certificate or Diploma. To get a hold of a good lifestyle, the police community is still underrated. In Tripura, the average salary is 18,800 INR. In today's time quality education is so expensive that not even the salary of a bachelor holder police personnel can afford it and not only education but mundane expenses and basic facilities like hospital expenses, tutor expenses, travel expenses, rent, electricity everything is so expensive these days

⁵ Author: Santanu Gosh, Ganajit Debarma, Epsita Gosh, Anjana Banerjee, "Study of Quality of Life Among Police Personnel In Tripura". Volume 5, Issue 3, No. of Journal: ISSN - 2250-1991 |IF : 5.215|IC Value : 77.65, Name of Journal: *Indian journal of Research*, P.no. 425 (2016)

⁶ Author: Rinchen Norbu Wangchuk, India, available at: <https://www.thebetterindia.com/195917/supreme-court-child-custody-law-mother-father-divorce-case-legal-india/> (Last visited on 27 September 2019)

that pay which they are getting is not sufficient. Policing is a risky job plus the gender pay gap is another problem in India men are earning 20% more than women in police.⁷

Media plays a major role in forming an image of police in front of common people. There are numerous news reports portraying police personnel as insensitive and lawless. And on the other hand, police blame's media for fueling and exaggerating matters for TRP. In Bollywood movies, if a protagonist plays the role of police, then the image created in front of people is that of an honest officer with a great physique and who is a super cop and can do anything. This image portrayal which is shown on screen and the image which is off-screen both are poles apart. And hence, people's expectation towards policing is high. There are a number of cases when police are thrashed by the media for misusing their power upon common people. PM Narendra Modi mentioned that the media has played a vital role in creating a bad image of police in India by highlighting negative news though there is a thousand good works done by them which is never appreciated.⁸ He also mentioned that there should be a website in every state where common people can share their stories and feedback when they come in contact with any police personnel. This way police can work on their setbacks and also good stories will encourage people to take help from police in need. Also, this way it will help monitor public grievances and build strong relationships between people and police.

When it comes to reporting crime or complaining issues, many people are hesitant to do so because they are not sure who to approach and some are unable to communicate their problems. Under The criminal procedural code, 1973 section 154 gives the right to every person for registration of FIR. Crimes are categorized into two parts: first is cognizable and the second is a non- cognizable offense. And if any police officer in charge of the police station receives FIR on commission of cognizable-offense then he has no other option but to register First Information Report. In the case of Lalita Kumar Vs State of Uttar Pradesh⁹, the court prescribed guidelines affirming the mandatory registration of FIR. No preliminary inquiry is required if

⁷ Police officer average salary in India 2020, India available at: <http://www.salaryexplorer.com/salary-survey.php?loc=100&loctype=1&job=504&jobtype=3> (Last visited on: 7 November 2020);

⁸ PTI, “ PM Modi blames film Industry for creating a bad image of police force”. , *The Times of India*, 30 November 2014;

⁹ Author:Juhi Senguttuvan Interpretation of Statutes- Case Study: Lalita Kumari v. State of Uttar Pradesh, Last visited: 13 June 2020

the information of the complainant as a victim or has witnessed discloses any cognizable offense.

It has been held by the Supreme Court in *Lallan Chaudhary v. State of Bihar*¹⁰ The mandate of Section 154 is manifestly clear that if any information disclosing a cognizable offence is laid before an officer in charge of a police station, such police officer has no other option but to register the case on the basis of such information. The genuineness or credibility of the information is not considered to be a condition precedent for the registration of a case. A police officer can refuse to file your complaint if he believes the case is of petty issue or also if they don't have the territorial jurisdiction in such cases. Crimes are generally segregated into cognizable and non-cognizable offences. FIRs are lodged only for cognizable crimes, for non-cognizable crimes a complaint is submitted to the magistrate who in return directs the police for action mentioned under section 156(3) of Criminal Procedural code, 1973. Sometimes police don't register matters even if it is related to the cognizable offence when the offence is conducted by a member of a political party or any person who has strong connections with political mafias police hesitate in registering such matter because police fear getting fired as higher authorities are often engaged in bribery and protect such mafias from shortcomings. There are various remedies available in case any police officer refuses to register FIR in such case the informant can approach the superintendent of police or the commissioner of police with a written complaint and even if submitting a complaint to Senior Police officials no FIR is lodged then the informant is legally entitled to file a complaint to the Judicial Magistrate/ Metropolitan Magistrate u/s 156(3) read with Section 190 of the criminal procedure thereby requesting the FIR to be registered by the police and commencing investigation into the matter. Also, the informants can file a writ Petition in the respective High Court for the issuance of a writ of mandamus against the defaulting police officers, inter alia, to register the FIR and directing him to showcase the reasons for him not lodging an FIR. In a civil matter, a contempt petition can be filed before the High Court against the officer who refused to lodge an FIR Hon'ble Supreme Court in the *Lalita Kumari* case¹¹, which has held that the Police must register FIR where the complaint discloses a cognizable offense.

¹⁰ AIR 2006 SC 3376

¹¹ *Supra* note 9

Such political influences must be eradicated by a potent system so that officers fear taking bribes or the government must look for giving better pay and facilities to police around India. This will help in the smooth functioning of policing and henceforth, reforms in police working and separation of powers must be monitored by higher central authorities for minimizing such unfair practices. Now not only manual registration is considered but various states have taken their work on online platforms and have introduced portals for E- complaints that mean FIR and complaints can now be registered online without direct contact with any official. Tripura government has launched a speedy online corruption redressal on whatsapp to take action within 24 hours on complaints without revealing the complainant identity which will protect the complainant. The CM of Tripura mentioned that the aim is a zero-tolerance policy against corruption through which many problems on the ground level related to police will eventually occur.¹²

This case study is for information purpose only. Nothing contained herein shall be deemed or interpreted as providing legal or investment advice.

¹² Writer: Priyanka Deb Barman, “ Tripura launches What’s app number to register corruption complaints”, *Hindustan Times*, (05 May 2020)