

“Need for Police Reform in India – Police Accountability”

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ABSTRACT

In any democratic state where the concepts like rule of law, natural justice and responsible government is strictly followed, it is important to have police independence which need to be balanced with the accountability. This research paper deals with the strengthening and increase of police accountability in our system. The ambit of such accountability would increase by making police responsible for their actions. They might either be accountable to the public or the superior authority. Police have some special powers as compared to ordinary person thus they need to be accountable. Police officers should be thus prepared to justify their every action in training itself. In India the police culture is firmly ingrained in societal norms despite the fact that society itself is a victim of it. Therefore inclusive understanding of roots and universal police reforms are required to humanize the police. Police is the major law enforcement agency which is in charge of protecting the public at large and keeping order through investigation and preventing the crimes. The researcher also put the emphasis on the current scenario of their accountability and changes which are required in the police administration for the bright future of our nation.

Keywords: police accountability, implementation, judiciary, police constable, justification.

INTRODUCTION

Police accountability generally means some form of explanation or justification which they have to give to the general public in lieu of their actions. Police accountability lie at the heart of security sector development. Police accountability refers to the services that are rendered by police in such a manner that he personally upheld the law, respect human rights, and shall not engage in malfeasance, misconduct or corrupt behavior.

Police accountability began from the question that to whom police need to be committed? I think police instead of committing to people, politicians or any senior authority, shall committed to the law and order and to themselves. The national police commission suggested that police should be concerned to protect the interest of the public. It means that commitment with the society is the role commitment on the part of police which is not only necessary but also of utmost importance. In our country politics somewhere or the other control the police or can say the system which is the biggest loophole which is still being followed. We generally see the MLA’S’ MP’S or other political leader misusing their power by forcing the police to follow their orders which may be unjust. This has make police force a weapon to destabilize the process of law and shaken the

very foundations of democracy. Police should be committed to the role they are expected to perform. If they will be committed to the role then they will work in the interest of general public. Thus they will be accountable to themselves and the society.¹ To be a good police officer might be a difficult task but not the impossible. Thus this is the time when our country is actually in need for police reform in our country which could result in better future of our nation.

CONTEXT OF POLICE ACCOUNTABILITY-

Police accountability is necessary because of equity and justice that means that all the services of police department should be distributed fairly and equally and no person shall be denied from getting justice. Police are the first authority towards the step of justice of an individual. Police are responsible towards people, their decision and also the higher authority. Thus their accountability is above all the people as they are the one who solves every mystery through information which is available to them. Even sometimes the police resources are not available easily and in spite of that they solved the case and they also gave answer to the higher authorities.² Every governmental society generally based on the rule of law so it is necessary that police should be independent but their independence can only be balanced with the accountability. Under Indian Constitution police are the subject of state and so their organization and working are governed by the rules and regulation which are framed by the state governments.

TO WHOM POLICE ARE ACCOUNTABLE-

Accountability demands justification and some form of explanation generally to the public at large. Police officers should be responsible public servants who should work transparently for THE welfare of the nation which in turn will be beneficial for all. Chief constable of Police is basically responsible for controlling the day-day operation. His work should also be reasonable fair and just as he is also subjected to scrutiny and influence by the home office and the government.³ The ambit of accountability of police is very wide. They are not only accountable to law enforcement agencies but also to general public, senior authorities and government.

¹ Rohit Bura, Essay On Police Accountability and Commitment in India, Preserve Articles, (Jun. 19, 2018, 02.14 A.M), <http://www.preservearticles.com/2012050131679/essay-on-police-accountability-and-commitment-in-india.html>

² Unknown, police powers and accountability, What is police accountability and governance?(Jun. 29, 2018, 11.58 PM), http://compass.port.ac.uk/UoP/file/3516db1d-5985-4365-8cc4-13f8c6c9a83c/1/Police%20Powers%20and%20Accountability_IMSLRN.zip/page_02.htm.

³ Unknown, the lawyers and jurists, do the police accountability to whom?(Jul.10, 2018, 03:38 PM), <http://www.lawyersnjurists.com/article/do-the-police-accountability-to-whom/>

FIELDS OF ACCOUNTABILITY

In most of the police organizations there are three major areas where accountability is concerned and chief officer of police is majorly responsible for the same. Police accountability is part of an overall governance agenda. The three fields of accountability are:

- a) Financial
- b) Personal
- c) Operational

Financial

The services of the police have given the large capital of resources to direct. But their services these days are subjected to more harsh financial accountability as compared to the past. The goal of this accountability has also changed: however the police service is still accountable to the police authority. The chief officer of police prepares the budget, which later requires the police authority's agreement, but it is the home office only who determines the aggregate grant. Police has now become more financially accountable to home office, and less accountable to the local government.

Personal

Personal accountability generally concerns the way a police officer behaves and depicts him while carrying out his duty. The behavior of police officer is solely a matter of police accountability though that behavior may be the result of some common problem within the service itself. Individual officers without a structural hierarchy would be accountable for many of their activities to the senior officers.

Operational

Operational accountability covers a multitude of decisions regarding concerning policy and strategic planning at different organizational level, and operations carried out at local or station level. For the operational implementation of policing priorities, the chief officer of the police is directly liable for the same priorities. There is clearly a possible problem for the development of policing plans, if the priorities are recognized by the Home Office, Police Authority and local community consultative committees are different, or are in actual conflict, or if there are insufficient funds available to address them all acceptably, which is quite feasible.⁴

POLICE ACCOUNTABILITY TO THE LAW:

The police act of 1861 requires the police officers committed to the police executive. Senior and learned police officers expect police officers committed to the law. In England, a police officer is

⁴ Unknown, context of police accountability, law teacher, (Jul. 14, 2018, 07:17 P.M), <https://www.lawteacher.net/free-law-essays/constitutional-law/context-of-police-accountability-constitutional-law-essay.php>

considered an officer of the law. In India too, the judiciary expects our police to follow the rule of law and to be responsible towards the law. But the problem in our country is that the political rulers use and misuse the police for their vested interests. The situation of India can be better understood by the Hawala case where the Supreme Court had to direct the police to consider all people equal, irrespective of the position and status of the person.⁵ The mechanism for holding the individual police officers accountable for their actions are given in the Police Act of 1861. The Police Act of 1861 authorizes senior police officers of the rank of Superintendent of Police and above to dismiss, suspend or reduce the rank of any police officer of subordinate ranks whom they think remiss or negligent in the discharge of his or her duties or unfit for the same. They are also authorized to impose one or more of the other punishments, including (a) fine not exceeding one month's pay, (b) confinement to quarters not exceeding 15 days, (c) deprivation of good conduct pay, and (d) removal from any office of distinction or special emolument. Therefore, it is not wrong to say that police are in charge only to the law in gratifying their legal duty to advocate the law. This duty requires for the individual constable is to settle on in particular instances whether there has been a legal infraction and to take steps accordingly.

EXTENT UPTO WHICH POLICE ARE ACCOUNTABLE TO COMMUNITY

The accountability of police begins with the community as they are responsible for the implementation of policies which are made for the people they serve. They provide a sense of security to the public they serve. Though there is the urgent need of police reform in India. The major aspect of building community trust and keeping police accountable to them is transparency. The creation of clear procedures by which police officer provides information to the people and are transparent about their practices with the community which will definitely create a basis for the mutual respect.⁶ Our media is one of the vigilant watchdogs over the police functioning in our country as media enjoys a wide measure of freedom. The reach of media is very wide. So the police are bound to be accountable to the community.

DEMANDING ACCOUNTABILITY

The community has the right to demand police to be accountable to what they do. Police are the members of community and thus it made them accountable to the people of the community. If we talk about the ideal world, it is necessary for the police to provide the services expected of them. They not only work for investigating and control but also holds the accountability towards the people. The public is demanding accountability from the law enforcement community and in

⁵ Rohit Bura, Essay on police accountability and community in India, Preserve Articles, (Jul. 16, 2018, 10:48 P.M), <http://www.preservearticles.com/2012050131679/essay-on-police-accountability-and-commitment-in-india.html>

⁶ Unknown, promoting accountability, transforming the system, (Jul. 18, 2018, 09:52 P.M), <https://transformingthesystem.org/criminal-justice-policy-solutions/create-fair-and-effective-policing-practices/promoting-accountability/>

an effort to meet this demand police departments nationwide are embracing the use of community policing. Community policing is a value system which spreads throughout a police department, in which the primary organizational goal is working cooperatively with individual citizens, groups of citizens, and both public and private organizations to identify and resolve issues which potentially effect the livability of specific neighborhoods, areas, or the city as a whole. Community-based police departments recognize the fact that the police cannot effectively deal with such issues alone, and must partner with others who share a mutual responsibility for resolving problems.⁷ These partners can be the person from the community, society etc.

CONCLUSION

This report is the first extensive attempt to analyze the empirical evidence of ‘what works’ and what is reliably known about police accountability development. While the empirical evidence is limited, sufficient indications exist to suggest that effective police accountability programming is not only possible but also feasible. Providing a sense of security to the ordinary citizens and attending to their grievances is dependent on the establishment of a police force, which is efficient, honest and professional to the core. The fact that such a police force does not exist in India is attested to by the findings of the various commissions and committees, the complaints received by the human rights commissions, the stories reported by the press and the experiences of the common people on the streets. The need for police reforms is self evident and urgent. The reforms package must include the establishment of statutory institutional arrangements, which would ensure that the power of superintendence of the state government over the police force is limited to guarantee that police performance is in strict accordance with law. In other words, the police function to establish rule of law and not the rule of politics. This would require insulating them from outside illegitimate control and giving them functional autonomy. Once the police are given functional independence, they must be held accountable for the wrongs they do. The existing mechanisms of accountability must be strengthened and improved. In addition, new mechanisms, working independently to monitor the functioning of the police and to inquire into public complaints against the police, must be established. This analysis has examined one traditional liberal appeal that police would only be accountable to ‘the rule of law’, and to the police officer’s role as an officer of the law. So, in the nutshell, summing up here by a single thought that YES, there is a need of police reforms in India so that India can become a peaceful place to live and better country to work for.

⁷ Unknown, public is demanding accountability from the law, course hero (Jul. 20, 2018, 05.10 P.M), <https://www.coursehero.com/file/p32fh5d/The-public-is-demanding-accountability-from-the-law-enforcement-community-and/>