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Child and police administration in India: A study

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Abstract

Juvenile Justice Act 2000 is the only beneficial legislation for the children in India, but there are various aspects of it in terms of its implementation; such as the machineries, the professionals involved in it, which play an important role in its implementation. The main objective is to provide a protective umbrella for all children in difficult circumstances. The Act covers all types of children below the age of 18 years, and further support to children till the age of 21 years. Through this Act, we consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto. Therefore the training of the police personnel becomes very important. This paper is an effort to bring about the role of police in protection of child and the hurdles faced by them and to draw out some recommendation to find a solution to the problems in the administration of child laws.

Keywords: Child, Police administration, India

1. Introduction

Children are recognized worldwide as supremely assets of the Nation. The government of India also through its National Policy for Children has expressed that their nurture and solicitude are our responsibilities. Equal opportunities for development to all children during the period of growth should be our aim, for this it would serve our larger purpose of reducing inequality and ensuring social justice. Children, because of their supremely importance, ought to have been the subject of prime focus of development planning, research, and welfare in India, but unfortunately, they still are a 'almost forgotten' lot and required attention has not been paid to this important issue so far. Despite the Constitutional vision of a healthy and happy child protected against abuse and exploitation, and a National Policy for Children, for the majority of children in India it is still a dream and 'the future of the country' continues to live without a cared, protected and meaningful childhood. The juvenile justice system as conceived by legislation aims at providing care, protection, treatment, development, and rehabilitation of delinquent and neglected juvenile. India is a signatory to UN Declaration on The Rights of the Child, 1959 which defined and recognized various Rights of the children namely: The right to health and care, the right to protection from abuse, the right to protection from exploitation, right to protection from neglect, right to information, right to expression and right to nutrition etc. have been defined as basic rights of children by the Convention on the Rights of the child. India adopted a National Policy on Children^[1] for achieving the same.

Police plays a vital role in implementations of laws led down by various agencies for the protections of children, whether they are neglected or delinquent (child in conflict of law). The very motive of reviewing of the working juvenile justice Act, 1986 and formulating juvenile justice (care and protection of children) Act, 2000 was to create special juvenile police units with a humane approach through sensitization and training of police personnel. But the very practical difficulties lies when the same police authorities are overburdened extra responsibilities of being sensitive towards the juveniles who commit crime.

2. Ideal police

To encourage the personnel's of police department and advocating the concept of 'SMART' policing, Prime Minister Narendra Modi has said, "A country which has an efficient intelligence network does not need any arms and ammunition to run the government".

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Focusing on the police force and intelligence agencies, the prime minister said he wanted a force which takes care of the country's law and order in an efficient manner.

"By 'SMART' policing, we mean:

- 'S' for strict but sensitive,
- 'M' for modern and mobile,
- 'A' for alert and accountable,
- 'R' for reliable and responsive and
- 'T' for techno-savvy and trained police." [2]

Today we need to understand that the idea of having a welfare state envisaged by our constitutional experts stands completely null and void, in the absence of a proper criminal justice system. And here, Police machinery plays one of the most important roles in order to set criminal law into motion by lodging FIR's and conducting unbiased and speedy investigation with respect to juveniles also. Moreover, in order to accomplish the solemn purpose of having a crime free society, more onerous duty is cast on the Police and learned Magistrates to protect the most vulnerable group of our society that is "Children".

Children are always considered as a "Pillar of any Society". So as to make this pillar secure, strong, healthy every factor of the administration of the society should realize this fact. In terms of this realization more responsibility is on the shoulder of police as they are supposed to be the most influential personalities from the point of view of children.

2.1. Present relationship between Police and Juvenile

Generally, our police are basically trained on the line of enforcement of Indian Penal Code, 1860 and along with it some special and local laws, in accordance with the Criminal procedure Code, 1973. Even though in these cases there are some provisions relating to children, but still their main area of concern is Adults. Hence only few police-officers have a concern about the modern concepts of juvenile justice System, rights of the child, child protection, welfare and development, National Policy on Children, juvenile detention, institutional services, non-institutional alternatives, juvenile aftercare, public participation in juvenile correction and the like. The role of police in juvenile justice is of utmost importance because most of the times, police are the first point of contact as a legal system with juveniles and many times the experience of this first point contact is unpleasant. The main reason of this is, they are not properly trained or sensitized to handle them.

The main important reason behind this scene is nothing but they are not much aware about "need to change their mindset". By keeping this view in mind, even before enacting Juvenile Justice Act 2000, some steps have been suggested by National Police Commission. We can consider its importance in terms of Juvenile Delinquency as follow:

- a. To bring about a change of attitude of police personnel towards juvenile so that they become people friendly.
- b. To about more transparency and openness in police working with respect to vulnerable children.
- c. To improve public image and public participation in police working with child in conflict with law.
- d. To make the police more efficient and effective with respect to Child Rights.

Police sensitization training has also been initiated to rid the police of their colonial attitudes and high handed behaviour.

2.2. Protection of Child / Juvenile (In Second Phase)

In general, the law provides certain protections to Juveniles which are mentioned below.

- The police should keep in mind the protection while handling the child / juvenile
- Handling by Special Juvenile Police / Juvenile / Child Welfare Officer
- Handcuffing of juvenile/child prohibited
- No detention in lock up or prison
- Crimes against children are cognizable offence
- No death penalty or life imprisonment
- Proceedings are informal, participatory and private
- Parent's involvement in Juvenile process
- Right to free legal aid
- Information about Juvenile cannot be released to the media
- No case can be filed against a child below the age of 7 (sec 82 IPC)
- No case can be filed against a child between the ages of 7-13 if the child does not know the consequences of committing the crime (Section 83 IPC)
- Child / juvenile cannot be tried in the normal court

2.3 Apathy of the police

Inefficiency and incapacity of the police in dealing with cases of juveniles has given a poor image to it as people are in fear of even approaching it. Of late, there has been growing realization that police personnel have been functioning with a variety of constraints and handicaps, reflecting in their performance, thus becoming a major concern for both central and state governments. Over working staff, lack of manpower, improper or no proper infrastructure to carry out their duties, no reward system, no proper growth system, major political and bureaucratic interference and strangle hold Causes are unending.

During the course of their duties, the police many times are compelled by law and circumstances to take unpleasant actions that affect the rights of the people and put them to inconvenience. India being a democratic country, the people jealously guard their liberties and resent any restraint on their rights. Therefore, many police actions, invite wrath of the people and lead to confrontations. This happens because the people are not aware of the functional compulsions of the police, and on the other hand the police unwittingly ignore the rights of the people. As a consequence, the people start criticizing the police for their highhandedness and the police blame the people for their non-cooperation.

This misunderstanding reflects adversely with respect to juvenile justice. We feel that if the police are well aware of their powers and limitations and scrupulously comply with the legal obligations imposed on them, the people and the Courts will stop suspecting the movements and motives of the police. In the same manner, if the people are awakened to their role and responsibilities in the war against crime, they will change their apathetic attitude towards the police. Once the people have faith in the police, they will come forward voluntarily and extend all possible cooperation to the police which it needs badly.

3. Shortcomings of law

The advent of Indian independence transformed the political system, but the police system retained its colonial underpinnings. The Police Act of 1861 was not replaced. Political control over the police remained intact. Implanting mechanisms to assure accountability of the police to the public it serves did not become a priority, as it should have. The managerial philosophy, value system, and ethos of the police remained militaristic in design, and suppressive in practice. To

this day, the police system in India can be characterized as a regime force, which places the needs of politicians or powerful individuals over the demands of the rule of law and the needs of citizens

Indian law contributes to the problem. Under the Indian Penal Code, anyone over the age of twelve is considered an adult, and ambiguities in the code concerning the ability of the child to be cognizant of a crime have made it possible for children as young as seven to be treated as adults under the law. There are no provisions in the code that prohibit the detention of juveniles in police stations or jails. The Juvenile Justice Act, which applies to all the states and Union Territories in India except Jammu and Kashmir, does prohibit the detention of "neglected" or "delinquent" juveniles in police lock-ups or jails, but these provisions are routinely ignored by police. Moreover, at the remand stage, the law makes no distinction between neglected and delinquent children, so that a six-year-old orphan on the street and a fifteen-year-old child who has committed murder are likely to be treated the same way under the law, an issue analyzed further below.

Finally, there is the de facto immunity of police from prosecution. The government of India has known about the extent of custodial abuse, including abuse of children, at least since 1979 when the National Police Commission issued a devastating indictment of police behavior. More than a decade and a half later, none of its recommendations have been adopted, and police can detain, torture and extort money from children without much fear of punishment.

4. Conclusion

Thus, the police which we see today has its roots in the very foundation of the State and passing through various phases of history it has evolved to its present status as a specialized agency without which even in a democracy the rulers cannot imagine to run the State. In order to bring about improvement in the police system many States appointed State Police Commissions, enacted State Police Acts and compiled Police Manuals. A National Police Commission was appointed in 1977^[3]. The Commission studied extensively various aspects and functions of the Indian police and brought out eight reports. The recommendations of the Commission have not yet been implemented. However, despite all these efforts, the police system in India continues to be based on the Police Act of 1861 and the recommendations of the Police Commission of 1902 without significant changes. There is a serious need to study the international scenario and try to rectify the laws in India in relation to child in India. The police personnel should be person selected from psychological background (i.e. who had studied child psychology) along with other necessary qualification required for the post of police official in dealing with cases of children.

Partnership Building and Community Empowerment can serve as a solution. With the change in circumstances in society, the concept of joint family is fading, as the children are either neglected or prone to illegal act or victimization, it is necessary that the human society should come ahead to protect are survivors by this concept of team work of police and community. Police should not only be responsible, but parents should also make efforts to train their wards to avoid victimization. Social groups should come further to spread awareness about rights of child and its implementation.

5. Recommendations

5.1. To provide information to enable trainers to design, implement, monitor and evaluate effective and practical police

training courses in relation to child rights and child protection with a view to:

- a. Develop the knowledge, understanding, attitudes and skills of police officers so that every child who comes into contact with them is treated as we would want our own child to be treated;
- b. Give police a better understanding of national and international laws that relate to children and how they should be applied;
- c. Bridge the gap between theory and practice relevant to policing and child rights / child protection so that police are able to act in the best interests of children;
- d. Enable police to distinguish between a child in need of care and protection and a child who is in conflict with the law;
- e. Motivate the police to take an active part in bringing about positive changes in the lives of children in difficult circumstances.

5.2. To gather and disseminate 'lessons learned' in relation to police training on child rights and child protection from around the world.

5.3. To promote policy recommendations for governments and police.

5.4. To compile a list of resources and contacts working internationally in the field of police training on child rights and child protection.

6. Reference

1. In 1974
2. Narendra Modi Addressing, The DGP's conference in Guwahati.
3. Under the Chairmanship of Mr. Dharam Vira