



Police Accountability: An Oversight Mechanism

Daljit Kaur

Abstract

This paper which is based on literature, explores police oversight mechanism in India. This paper reveals about the institutions which investigate the police misconduct. To keep a check on the abuse of their powers it is very important to have some internal and external mechanism accountability mechanism which ensures the accountability of Police. The Internal accountability ensured by the senior officials whereas, for external accountability different oversight bodies are there like National Human Rights Commission, State Human Rights Commission, Police Complaints Authority, Non-Governmental Organizations, which looks after the complaints against Police Personnel.

Keywords: NHRC, SHRC, PCA, NGO.

1. Introduction

As part of the criminal justice system, the police must play an important role in maintaining peace and enforcing law and order within its territorial jurisdiction.

The Police is the body of civil officers which maintains law and order, prevent and detect crime. The Police's primary responsibility is to safeguard or protect people's lives and property, as well as to protect them from violence, oppression, and disorder.

It has been marked by some kind of watch and ward organization since the beginning of organized community life, with the goal of bringing all evildoers to justice in some form or another. These structures have grown to be massive, complex, and sophisticated as a result of population growth and advancements in civilization and communication.

The Constitution establishes three lists in Article 246: Union, State, and Concurrent. According to the Constitution's Schedule VII, "Police" is a "State subject." As a result, it is the state's responsibility to maintain its own police force in order to maintain peace and security.

The current Indian police system is based on the 1861 Police Act. This Act subordinated the police to the executive government. Several changes were made to the structure and operation of the police system later on, but the basic structure and characteristics enshrined in the Police Act of 1861 continued to dominate the country's police system.

Following independence, India underwent a transformation into a welfare state, resulting in several changes in police activities.

2. Power of Police

The Police are one of the few authorities authorized to use force, though many rules and conditions apply. A Police Officer has the authority to act on his or her own, such as making an arrest or using a traffic siren. The exercise of police power must be subject to checks and balances.

The enormous power and discretion provide them with numerous opportunities to abuse their authority and power. The violation of human rights by the police is a concerning situation in India, with the most common instances being police brutality, illegal detention by the police, and power abuse. Police corruption is the abuse of police power by officers for personal gain, financial gain, or even career advancement in exchange for not selectively pursuing an investigation or arrest. Several steps were taken to put rules in place to prevent the police from abusing their power, but they were unsuccessful.

In this regard, Lord Acton's statement that "Power corrupts, and Absolute Power corrupts absolutely" is significant. When an individual, group, or organisation is given power, it is essential that there are checks and balances both within and outside the system.

The state government and the central government failed to implement the Supreme Court's directions in the case of Prakash Singh versus Union of India, resulting in this abuse of power by the police.

Abuse of power by Police authorities is a concerning situation in India that must be addressed immediately.

3.Accountability

"Accountability is defined as a relationship between an actor and a forum in which the actor is required to explain and justify his or her actions, the forum can ask questions and render judgment, and the actor can be sanctioned". Accountability is an obligation to reveal, explain and to justify one's action.

Accountability culture in law enforcement is especially important. Police departments must establish a system of internal checks and balances to ensure that officers carry out their duties correctly and with integrity. Accountability in law enforcement fosters trust between the police and the community.

"Accountability of police officers is essential for the efficient and effective delivery of police services. Accountability can hold police officers accountable for how they carried out their duties".

There are two perspectives on police accountability: performance and conduct.

4. Types of Accountability

There are two kinds of accountability mechanisms that compel organizations to keep working toward their goals. These are following as:-

1. Internal Accountability:-

Internal control is exercised either by superiors over subordinates within the chain of command or by other parallel agencies in the executive branch. It includes directing, controlling, supervising, advising, inspecting, and evaluating. It is maintained through monitoring, performance reviews, reporting, disciplinary measures, and the Annual Confidential Report. They are also accountable to seniors. It should be done continuously, without being felt. This accountability mechanism produces positive results as well.

2. External Accountability:-

External control is exercised outside of the administrative machinery and within the general constitutional framework of the system. It is exercised by external bodies such as the legislature the judiciary and oversight bodies.

5. Police Accountability: Oversight Mechanism

The National Police Commission (1978-81) emphasized the police's threefold accountability: accountability to the people, accountability to the law, and accountability to the organization. They are all inextricably linked. It's gotten worse over time. According to the people, "accountability has not been taken seriously but is at a premium, both by the police and political leadership".

There are endless list of the number of cases in India which represents the lapseson the part of police misconduct and excessive use of force.

Civilian oversight bodies have been established in democratic countries. These bodies have become one of the legal ways of preventing police power abuse. The public desire for a civilian investigation into police misconduct has grown as a result of widespread belief that the police's ability to manage its misconduct is inadequate. These oversight bodies includes National Human Rights Commission (NHRC), State Human Rights Commission (SHRC), Police Complaint Authorities (PCA), etc.

National Human Rights Commission

The National Human Rights Commission (NHRC), established in 1993, is an independent statutory body established in accordance with the provisions of the Protection of Human Rights Act of 1993, as amended in 2006.

According to Section 12 of the Protection of Human Rights Act of 1993, the National Human Rights Commission's (NHRC) functions include investigating complaints of human rights violations or negligence in the prevention of such violations by a public servant. The Commission also studies human rights treaties and international instruments and makes recommendations to the government on how to effectively implement them.

“The Commission, along with the various State Commissions, has the authority under Section 18(c) of the Act to grant compensation in cases of human rights violations by the police after an inquiry. The NHRC often provides remedy in the form of compensation in all cases of police misconduct. Custodial deaths, police abuses, fake encounters, cases involving women and children, crimes against Dalits and other minorities, bonded labor, armed/paramilitary forces, and other cases are among the categories into which the NHRC has divided its cases for the benefit of the general public”.

State Human Rights Commission

The State Human Rights Commission (SHRC) was established to promote and protect human rights in the country. It is, as the name implies, a state-specific body established by an Act of Parliament. The State Human Rights Commission was established as a result of the 1993 Protection of Human Rights Act.

The State Human Rights Commission is intended for a specific state and thus looks after the human rights protection of its citizens as well as certain violations committed in the same direction. At present, 26 states have constituted State Human Rights Commission. These Commissions to have been making efforts at making Police Accountable.

Police Complaint Authority (PCA)

The establishment of a Police Complaint Authority for citizens to file complaints if they encounter any problems with the police.

“The Supreme Court gave detailed directions which are to be followed by the Centre and State Governments until legislations in this regard are enacted. The directions include seven aspects out of which one related to Setting up a Police Complaints Authority”.

The Court has directed all state and union territory governments to establish Police Complaints Authorities (PCAs) at the state and district levels as soon as possible.

“The Police Complain Authority is authorized to investigate any kind of misconduct by police officers, above or below the rank of Superintendent of Police, alleging rape or attempted rape against a woman in police custody, illegal transfer of land or house or areas where there has been a serious abuse of

authority, any kind of grievous harm, death, or abuse of powers assigned to a police person and so on”.

Until 2020, not a single state complied entirely with the Supreme Court's orders. During this time, 18 states have passed or revised their police acts, although none of them perfectly matched legislative models.

Non-Governmental Organizations (NGO)

A non-governmental organization (NGO) or non-governmental organization is a group that is formed independently of the government. They are typically non-profit organizations, with many of them involved in humanitarianism or the social sciences.

In this context, two types of non-governmental organizations are important: one that collaborates with police organizations and another that is concerned about human rights violations committed by police personnel. They have also played an important role in bringing police accountability to light.

Governmental Accountability

In India, Constitution is Supreme and all branches of Government drew power from it. Legislature, Executive and Judiciary play pivot al role in safeguarding the rights of public. As far as police accountability is concerned, these three have been at the forefront Judiciary has been holding police accountable for its lapses.

Conclusion

- **Practical problems:** Police officers lack the necessary training and expertise to conduct professional investigations. They also lack legal knowledge. Training, gender sensitization programmes should be conducted on regular basis.
- **Structural problems:** Police reform necessitates structural changes that increase the establishment's independence and resistance to external influences.
- **Internal Mechanism:** Internal mechanism for police should be strong so that they can work effectively. Pressure from seniors officers should be reduced.
- **External Mechanism:** External mechanism need to be stronger so that there would be no more police corrupt practices, brutality and misconducts.
- **Lack of Institutional Powers:** More powers should be given to the oversight bodies so that they can take decision (after inquiry) at their own.
- **Separate Police from Politics:** There is need to separate police from Political influence which creates hurdles in working of police.

References

- [1] Chaturved, T.N., and Rao, S.V. (1982), *Police Administration*, Indian Institute of Public Administration, New Delhi.
- [2] Srivastva, A. (1999), *Role of Police in a Changing Society*, A.P.H Publishing Corporation, New Delhi.
- [3] Godbole, M. (2003), *Public Accountability and Transparency*, Orient Longman Private Limited, New Delhi.
- [4] Dempsey, J.S., and Forst, L.S. (2005), *An Introduction To Policing*, United State of America.
- [5] Paranjpe, N.V. (2012), *Criminology and Penology with Victimology*, Central Law Publications, Allahabad.
- [6] Sharma, P.D. (1977), *Indian Police A Developmental Approach*, Research Publications, New Delhi.
- [7] Bowman, J. S., & West, J. P. (2007). Lord Acton and Employment Doctrines: Absolute Power and the Spread of At-Will Employment. *Journal of Business Ethics*, 74(2), 119–130. <http://www.jstor.org/stable/25075451> <https://indiankanoon.org/doc/125366534/> last accessed on 14 July 2023, 1900 hours.
- [8] <https://theprint.in/india/24-states-7-uts-constitute-police-complaints-authorities-to-inquire-about-complaints-of-police-misconduct/1045471/> last accessed on 13 July 2023, 1500 hours.
- [9] <https://www.government.nl/topics/police/police-powers> last accessed on 13 July 2023, 1800 hours.
- [10] <https://www.ojp.gov/ncjrs/virtual-library/abstracts/concept-power-and-police> last accessed on 12 July 2023, 1700 hours.
- [11] <https://www.legalserviceindia.com/legal/article-10356-power-abuse-among-indian-police-officers.html> last accessed on 11 June 2023, 1400 hours
- [12] www.qub.ac.uk/PoliProj/...meaning/Bovens_Public%20Accountability.connex2.doc, last accessed on May 17 2019, 1300 hours.
- [13] <https://www.powerdms.com/why-powerdms/law-enforcement/importance-of-accountability-in-law-enforcement> last accessed on 10 May 2023, 1900 hours.
- [14] <https://www.hrcnet.nic.in/nhrc/> last accessed on 28 June 2023, 1900 hours.
- [15] http://www.zeepedia.com/read.php?administrative_control_types_of_accountability_internal_control_external_control_introduction_to_public_administration&b=47&c=30 last accessed on 08 December 2019 at 1600 hours.
- [16] <https://nhrc.nic.in/> last accessed on 18 June 2023, 1400 hours.
- [17] <https://jlrs.com/police-complaint-authority/> last accessed at 30 June 2023 at 1300 hours.