

Human Right and Police Administration: A Review

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1. Introduction:

Till a few years back, the public rights had been raised as the rights of political, economic and social. The use of the word – human right started in developed countries after 1948 with the worldwide announcement of Human Rights however; its popularity and practical implementation in political sectors has began in the last two decades. And it has not been even a decade since Nepal practically commenced its implementation. That is why it feels normal to have less public interest regarding human rights in Nepal.

Many works have been done in the human rights sector after the restoration of democracy in 1990. But only urban areas are epicenter of human rights activity as the issue is recognized and popular only within the educated people. With the government not concerned regarding human rights education, people do not seem aware about its importance. On the other hand, government bodies and officials (majorly who are administration, police and army) has half-knowledge on human right which has left the organizations working in the sector with difficulties.

The constitution of Nepal has provisioned all human rights features, an achievement of democracy from the situation where there was no political and freedom of speech. But only a

few hand-counting non-government organizations have showed limited interest on the human rights education towards the public. By and large, for the massive human right education and its use to reach into the local level, national government structure needs to be used to speed for the achievement. Police administration is lower government level that takes concern regarding human rights. In this article, I have tried discussing on development of human rights, police roles and responsibility on its violation and perception of the general public to look towards these government bodies.

2. Perceptions about Human Rights:

The United States has prepared a fixed angle to look into human rights through the global manifesto which is perceived differently by the nations, groups and individual and implement accordingly. Capitalist or socialist, religious or developed, developing or least developed country, the human right is described on their own. Developed countries where they have raised above from basic needs and freedom of speech, security rights is major human rights. But in developing countries food and shelter rights, including freedom of speech fall under first priority. The uneducated people in poor countries do not have understood those rights as their rights. Their concern is just to get food in a normal way.

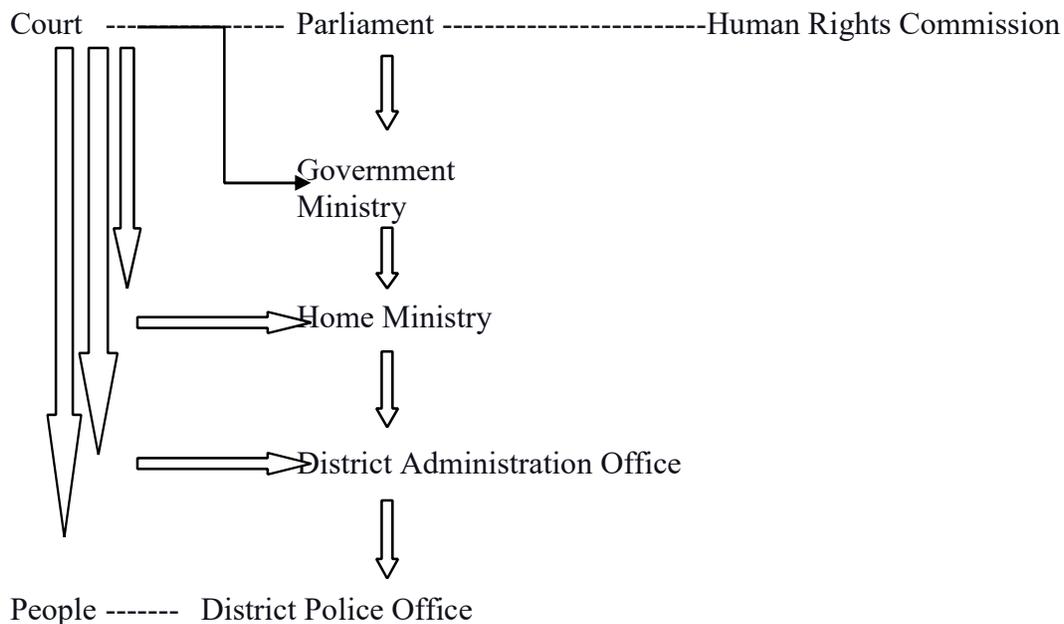
Though the importance of human rights education was felt by different intellectual people or groups in the panchayet period in Nepal, no work was carried out in that situation. After multi-party democracy, many works have been done to increase human rights education and awareness. Looking at the development of awareness of human rights within SAARC countries, Nepal is ahead of it all. Since people in urban areas have clearly felt the impact of it, no impact is

seen in rural areas. The general public in rural areas understands that police administration can only use all types of rights. I want to mention an incident regarding the same.

Local development officials and engineers, while walking on to remote village for inspection, ordered chief district officer's guard to manage accommodation as it was getting dark. Later the group of chief district officers reached at the place first and requested a few homes for accommodation. The house owners replied, "I did not become able to provide accommodation for police a few time ago who came asking for it, how can I provide accommodation for chief district officials?" The officers were surprised by the response they got. But this reality exists in every rural area where it still felt that police's power is the strongest administrative power in the society. But unless public feel that police and administration have deployed for the service of the public with the salary being paid by the taxes from people and the police administration feel the same, the change cannot be felt in the awareness level of people. The job of the police is taken as a job of pride and power in Nepal including SAARC countries rather than police is for public and it is a hard job by staying under the public. In the Western countries, if the public does a mistake, the police at first salute the public and take them in court for action for violating the law. It may sound strange but the reality should be like this. But in Nepal, it is understood that the police profession is a profession to govern people. While talking about the perspective of looking into the human rights it depends on how the general public takes it and feels it and where they want to establish when it comes to human right. Therefore, Human rights can be explained for: "every individual's freedom to express their view, present thoughts, organized their thought, participate in the development and get fruits of it, participate in every type of opportunities provided by the nation to survive, rights of clean and healthy air, water, environment, etc". It is

described as essential for human rights. But this perspective is neither being understood by government personal and nor the public has recognized it.

3. Major Government that linked to the Human rights



(Flow Chart of Government Institution linked to Human Rights)

The major role for the development or violence of human rights is parliament as an organization or His Majesty government. But while keeping in concern from the general public practically it is felt that many of the incidents on human right violation there is the involvement of the police. That can be arrested without any warrant or torturing in police in custody or trapping in the fake case or abnormal accident in custody. Although most of the human rights violation works are done on the direct order from the higher officials, in the perspective of local people police are only the sole responsible. Honestly speaking, the government and police should take an equal responsibility all those human rights violation works that has been happening in the sector.

In the above mentioned chart, organizations working on human right sector indirectly pressurize the government on human rights violation. That's why the relationship has been put on a dotted line. It depends on moral value and principle to agree or not agree on these pressures. There are many such countries where cases raised by the human rights organizations are looked seriously. Although the perspective of looking at the human rights organizations and people is positive by the Nepal Police compared to other SAARC countries, there is no habit of reading the comment, reports prepared by the human rights organization and no work has been done to analyze the weakness and improvement based on the reports. Not only this, human right commission report is ignored which is prepared regarding the incident of human rights violation by the government or from the local level.

Analyzing all this blames, the independent court should play an important role to make a decision under the articles of the constitution. On the writ application by the public, the court can order to parliament and to the district police office depending on the need. But not being able to collect needed proof in human right violation incident the court extends the issue for a long time. In addition, unfairness of attorney has caused hard to prove that the human rights violation has been done by the government side. However, one can feel the violation of a human right in that place. Similarly, it becomes difficult in the situation where required rules and regulations, and the concerned laws have not been made yet. Like if compensation law is made as "The person should compensate if s/he did mistake." and if implemented, people would fear to violate the human rights and criminal activities.

4. Major community under human rights violation

Though there are different examples of human right violation of individual, the exploitation of human rights is being done in these major communities.

1. Marginalized people like Kami, Damai, Musahar, Batar, Sarki, Metar, Padey, etc.
2. Kamaiya, haruwa (hali)
3. Labour of agriculture, carpet, industry, etc.
4. Simple farmer

Besides this, students, lower-level staff, unemployed, women fall victim of human rights violation. Normally, there are two thoughts on human rights in Nepal. If any person exploits the other person (beats, make work without paying) a set of intellectual say that it is the basic violation of human right but if the person has committed the crime against the constitution and not take action against according to the law from related bodies (police, administration) then it should be considered as a violation against human right. So any creditor, landowner, industrialist can commit a crime but not violate the human rights. The violation of human rights, its protection is done only by police administration. There are people who consider it a human rights violation of police when they get wounds while maintaining peace in protest but human rights and duty are two different things. If any engineer or labor in the factory due to an accident in working site faces physical losses then it is not human rights violation it is an accident while working. But if any person bears physical loss and the company does not provide needed compensation then it will be considered as a violation of human rights. I would like to explain an incident while going for the investigation of Krishna Joshi's death or murder. After the incident, police caught 30-35 people while controlling the protest that took place in different areas. While talking to the people caught by the police, they said that they were tortured by the police and the

wounds were still remaining in their bodies. But the police did not accept that they beat the people. While we asked some police chiefs regarding the torture given to the people, they show their wounds they got while trying to keep peace and asked, “Who will speak about the human rights for us?” This question clearly shows weaknesses while understanding human rights. What we should understand from this incident is that it is taken as a violation against human rights if any public gets torture in police custody no matter whatever crime he/she has done. Similarly, if police personnel get wounded while on duty it should be considered as an accident while fulfilling the duty. But if the wounded police personnel does not provide with health care, medicine, holiday and compensation from the government when needed then it will be considered as a violation of human right. Many human rights-violating activities have been done for not being able to understand it properly.

5. Where is the weakness?

Although the police administration is directly considered for the most of the human rights violation activities but weakness in policy making body is the major cause. The weakness has been classified as follow:

- Clear regulation, law and bylaw should be prepared for the human rights, women right, (property and other) compensation right, employment and right to live in a healthy environment are still not complete.
- Not being able to implement the human rights education in different bodies.
- No works are done to strengthen the values and principle of fixed bureaucracy, meaning being dependent on politician and minister for small works.

- No clear operational policy for police and administration.
- Lack of public awareness on human rights.
- Not being able to leave the wrong practices and thoughts in our religion.

6. Works needed to be done for the protection of the human right

There is a strange culture of police in Nepal one of them is before appointing officials in government bodies like administration and police; the government does not feel a simple thing that before appointing them knowledge regarding the law should provide compulsory. As a result of this, the officials and public both face mental and physical trouble. To overcome with above weakness, the following actions needs to be taken to move in the right direction for the protection of human rights in the country.

1. The government bodies by making policy, regulation, law related to human rights with discussion from stakeholders need to be pass from parliament as quickly as possible and move ahead to implement it.
2. Human right education needs to be made compulsory in school and college education. Similarly, the bodies that appoint officials related to human right like Chief District Officers, police chief should appear for the exam relating it and should be appointed if they pass the exam. The officials sent for police trainings after passing the exam also should get classes on human right regulation, law, etc. Similarly, regular training to chief level needs to be provided if any bill pass or amendment of related law in parliament through workshop, meeting, and seminar. After attending the occasional workshops, the officials should compulsory brief about it in their office and ask the staff to implement it.

3. Administrative and police service needs to let them work independently. The massive political interference needs to be stopped. The policymakers and political leaderships should work on the policy and stop unnecessary interference. One incident that took place in mid-March, 1990, where the chairman of Kaski District Development beat the chief district officer in his office should not be understood as a normal incident. This is the heinous interference in all administrative mechanism by the politician. In the same type of incident in India, an IAS officer (similar to chief district officer level in Nepal) in 1994, working on the chief minister office at Bihar was fired after not getting satisfied works and reported to the central government against the IAS officer. But it took the minister 9-10 months to transfer him. That is why the administrative mechanism in India is considered strong. In the context of Nepal as well, though the orders come from the high official it can be done in a neutralized way based on the rules and regulations of the country. If the same thing is to be made understandable to officials in government level then most types of human rights violations incidents can be minimized.
4. It is essential to make clear policy on operational level on the relationship between police and administration. Many examples can be counted where police chief beating the chief district officers, denying the order. Though the general administration is considered as upper level from police administration lawfully, practically to make clear to establish the administrative power flow chart essential changes should be made on police regulations, and bylaw. The police might not like this concept because police are being centered to power exercising body since long before. However, in the international practice of operation of the general administration, it is not the police force but the civil

administrator should get the responsibility to control over police. Nepal also needs to think in that way.

5. Awareness program needs to be run through radio, TV, newspapers from the government to increase the level of understanding about human rights while non-government organization should encourage moving forward such work. It is essential to felicitate people and organizations working on the human right sector. The awareness program needs to reach to the police and administration as well as the normal public level. If the source is insufficient then support from NGO can be utilized.
6. The government and non-government sector need to take essential steps to build clear laws and need to implement for the religious malpractices. However, building laws are one step progressive but the challenge of implementation is more difficult. Every people need to make aware of it.
7. The police need to rise above from the rigid thought whatever they speak or think is right that is found in organizational or personal feeling. I want to recall another incident related to the murder of Krishna Joshi. As police said that they have not given physical torture to the people who were caught while organizing peaceful protest as the protesters were badly wounded after they were taken by the police. Similarly, it was found that a staff of municipality has beaten by the police in front of the public on the eastern gate of the municipality. After asking nearby public and staff who pointed the police, the assistant police supervisor said that police has not beaten anyone and the people around him started laughing. What we can feel from this kind of incident is that the culture of criticism or self-criticism and tolerance has not been developed yet. Not accepting the mistake is equal to repeating the mistake and accepting it is trying to not repeat the

mistake in future. So it is important to make habit of criticizing and self-criticize among police officers.

8. A special concern needs to be given for physical risk allowances, overtime allowance (analyzing the nature of work), economic security provision, and fulfill essential daily needs in service to the police. In the lack of these things, the police on duty being frustrated and because of this, they can unknowingly involve in an abnormal incident which has led to a big incident relating to violation of human rights.

7. Conclusion

It is not easy to explain the roles of police administration and its situation in the human rights sector on 4-5 pages. For this, a deep investigative study is necessary. In this article, I have tried raising problems and questions in basic level. But this does not mean that the given suggestions are not sufficient. As a part of being in a human right organization, I have tried to give a certain suggestions on the basis of my experiences. There might be separate thinking of police/administration regarding the development of human rights and if there is anything that needs to be concluded with different views in different forums then the integrated conclusions needs to be implemented by the related bodies.