THE ROLE OF POLICE IN HUMANIZATION OF CRIMINAL PROCEDURE

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Abstract - The purpose of this paper is study of the role of police in humanization of criminal procedure. Humanization of criminal procedure is aimed to support human right both in rules of criminal procedure and in behavior of its authorities. Police as an important part ofcriminal justice system should protect and respect human rights. for this purposeit's not enough that s/he enforces the law which support human rights but also s/he should have an high standard personality that ensure that s/he will never want to beach the rules and s/he will fulfill society trust.

Keywords - Criminal Procedure, Humanization, Police, Criminal Justice

I. INTRODUCTION

In a democratic society, criminal justice carefully balances different interests: the interest of society to be protected against crime and criminal, the interest of the victims of crime and the rights of the accused or the convicted and sentenced offender.[7] "The link between individual human rights, which are most susceptible to abuse during the criminal process,and democracy is beyond question. Neither democracy nor humanrights can exist without one another-nor can neither exist without the individual protection of persons brought into the criminal process ,because it is in that arena where most human rights violations occur."[2] After world war two, the concepts of human rights appeared in different area of sciences. The annihilation by Nazi Germany of over six million Jews, Roma people, homosexuals and persons with disabilities frightened people all over the world. For preventing this kind of disaster and also for creating international peace and protecting citizens from abuses by government human rights issue were emphasized. It's said that human rights concepts are common to all world religions: Buddhism, Christianity, Confucianism and Islam. However, they are different from common principles. Before the eighteenth century, there was no a widely endorsed practice or vision of inalienable human rights in any society or culture. A person does not have human rights because s/he is a citizen of any country but because s/he is a member of the human family.[8]
Human rights are universal, inalienable, indivisible and interdependent.[8] Universal Declaration of Human Rights (UDHR) is articulated in United Nation Rights to protect rights of all members of the human family. Also, an important regional convention in human rights is European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in 1950 by the Council of Europe.

Criminal justice like other area of human science has been affected by human law. Criminal procedure as an important stage of criminal justice system has been changed and a lot of human rights are supported in criminal procedure. Such as: right of silence, right of privacy, right of legal consul, right of being informed about the crime and evidence and so on.

Criminal justice should provide condition that accused and victim persons would be treated as a human. Criminal procedure as an important part of criminal justice should consider human rights. Police has an important role in criminal procedure. It can be said that police is the representation of criminal justice in society. Police not only must respect human rights but also it must protect them. In general, police has two important roles in criminal justice system. One is as law enforcer and second is as service provider. In the first role, police has a power of force to prevent and detect crimes. Moreover, for police as law enforcers, no law stands higher in authority than that of human rights. In the second role as a service provider, police also trying to prevent the crimes and violation of human rights.[10]

Humanization of criminal procedure refers to principle of humanism," as a universal human benevolent idea, which is based on the recognition of the individual as the highest social value of the society with a profound respect for his/her dignity and the utmost desire of the state to protect its rights, freedom and interests, creating conditions for human security and safe citizenship"[1]

Humanization of criminal procedure is a theory to bring human rights not only in rules of criminal procedure but also in authorities' personalities and characters. in other words, humanization of criminal procedure have two special aspects: one is the minimum criteria of humanization and the second is the maximum criteria of humanization. The first one emphasizes on rules of criminal procedure that should consider human rights in all stage of criminal process and the second one emphasize on authorities personality who dealing with criminal procedure. All of criminal justice ensures the minimum criteria in

their rules but only a progressive criminal justice system consider its authorities character for protecting human rights. Bringing human rights in criminal rules without understanding and believing on them by authorities is not enough to protect human rights. A police who doesn't care about human right personally, can't administrate criminal rules which support human rights and s/he will find a way to violate them.

The minimum criteria of humanization of criminal procedure and the role of police:

Human rights protections at the different stages of the criminal procedure have been noticed:

Pre-trial Procedure & Detention:

In this stage there are many rights for accused such as: the rights of access to and communication with his or her lawyer, the right of medical doctor and family, the right to remain silent, and the right to complain about the treatment in custody. Also presumption of innocence as a fundamental principle guides criminal justice during the pre-trial phase.

Police as a authority of law enforcement has responsibilities such as: prevention and detection of crime, maintenance of public order, and aid and assistance for people and communities in need. In some countries police has duty of prosecuting of a crime. For fulfilling these duties it has some special powers: power of detection, arrest, and also power of use force in some necessary cases. The use of these powers should be legality, necessity, proportionality and accountability.these restrictions made to ensure that police respects human rights and tries to use the least intrusive means for achieving her/his goals.[10]

The role of police in this stage is important. Because the risk of torture and ill-treatment is obviously increase. For preventing this risk and a conflict of interest between the prosecution's interest and the rights of the accused, police custody, detention on remand and imprisonment of convicts should be strictly separated both in terms of location and chain of command. Furthermore, the maximum period for police custody and detention on remand is fixed by law. Also victims of arbitrary pre-trial detention should be provided with a legal remedy and compensation. Moreover, for preventing police abuse, it should be a system of regular visits to places of detention.[7]

Fair trail:

All courts, regardless of their designation as ordinary, military or special, are obliged to guarantee the right to a fair trial. An independent, impartial and corruption free judiciary can secure the right to a fair trial. Even though, the right to a fair trial is seriously threatened, particularly in politically sensitive cases.

Also in this stage the courts determine the punishments. Modern criminology and penology suggest that criminal justice policy should regard the reformation, rehabilitation and social integration of the offender. Police, judges and court employees should respect human rights of accused and victim. For achieving this goal, authorities should have special characters.

The maximum criteria of humanization of criminal procedure and the role of police:

Although there are many special rules and regulations for law enforcement, it doesn't seem to be solved by a formula like in mathematical and physics issues. When law enforcers face a complicated, stressful and dangerous situation, no one can guarantee correct implementation of law without ethical eminent value[9] It has been stated that a progressive criminal justice not only ensure the human rights in criminal rules but also consider the personality of its authorities which play more role in protecting human rights all area of criminal justice.

"Law enforcement is not a profession that consists of applying standard solutions to standard problems occurring at regular intervals in time. Rather, it is the art of understanding both the letter and the spirit of the law as well as the unique circumstances of a particular problem at hand...law enforcement officials are expected to be able to distinguish between innumerable shades of grey, rather than to make a simple distinction between black and white. Law enforcement officials must develop ethical attitudes and behavior to a level that will enable them to perform their tasks correctly. Not only must law enforcement officials possess law-abiding characteristics as individuals, they must also work collectively to cultivate and to preserve an image of the law enforcement organization that instills trust and confidence in the society that they are serving and protecting …"[9]

Police officers should have a good character. Some of standards of professional behavior that mentioned in Code of Ethic 2014 are: Honesty and integrity, self-control and tolerance, treating members of the public and colleagues with respect and courtesy, fairness and impartiality, use force when its necessary, proportionate and reasonable in all the circumstances give and carry out lawful orders and so on. [7]

Policemen must have the highest standard of integrity. Because the society invests a highlevel of trust on its police. Every police department should notice that s/he has is held toa higher standard than privilege citizen. "Their conduct, both on and off duty, must be beyond reproach. There mustnot be even a perception in the public's mind that the department's ethics are open to question."[11]

Also two important factors that should be considered in police personality are: educational and psychological screening. There is needed for police officers to have education degree and its preferred to

have studied criminal justice to diminish the difference thought between police officers. Also psychological fitness of police is too important. “Law enforcement work is highly stressful and places officers inpositions and situations of heavy responsibility. Psychiatric and psychological assessments are needed to screen out candidates who might not be able to carry out their responsibilities or endure the stress of the working conditions”[11]

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