

Justice of the Peace – origin and role

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A Justice of the Peace (JP) is essentially an officer appointed by the government (federal or state) to carry out a range of functions of semi-judicial nature as defined by law. The functions of the JP depend on the jurisdiction in which the JP serves and may vary from country to country or state to state. These include dispensing summary justice, including the issue of search warrants, arrest warrants and exercising power to remand defendants in custody. In some jurisdictions, a JP may also administer oaths and perform marriages.

In the Australian Capital Territory, the role and functions of the JP are governed by the Justice of the Peace Act 1989. The legislation provides for guidelines to be made by the concerned Minister to specify the role of the JP. A guideline is a disallowable instrument which needs to be notified and presented to the Legislative Assembly under the Act.

A JP is required to take an oath of office or make an affirmation of office before he or she starts performing the duties of the office. The register of the Supreme Court keeps the Register of Justices of the Peace of the Australian Capital Territory.

The history of the JP is very interesting. The office of the JP originated in England in the 12th century during the reign of King Richard, the Lionheart. In 1195, the King appointed a number of knights in order to maintain peace in certain lawless and unruly areas of England. These knights came to be known as “keepers of the peace”. The qualification required for appointing keepers of the peace was that they must be law-abiding and of good character.

The term “Justice of the Peace” was first used in 1361 during the reign of King Edward III that basically fell within the royal prerogative to deal with unruly persons in the kingdom. The traditional semi-coercive power of the JP appointed by the King was gradually diminished with the aspirations for citizen’s liberty becoming prominent with the passage of time.

It is pertinent to note that until 1919 women were not allowed to become JPs in the United Kingdom (UK). At present, in England and Wales the Lord Chancellor appoints magistrates to preserve the peace within a particular district jurisdiction. In short, the JP continues to deal mostly with issues of minor criminal nature and refers more serious matters to higher courts for resolution. Now in the UK one-third of the JPs are women.

In general, the Justice of the Peace in Australia is empowered to witness and sign statutory declarations and affidavits and to certify copies of original documents required for a variety of purposes – both judicial and non-judicial. The qualifications for appointment of the JP vary from state to state. For example, in Queensland a person must complete an examination to qualify for performing the duties of the JP while in Victoria, on the basis of

good character reference a person may be appointed as a JP. In the ACT, a JP must complete a legal training course before beginning to carry out the duties of the office.

In any case, the Justice of the Peace plays an important role in the overall justice system of a country which helps maintain the peace in the society in the broader sense of the term.

Finally I have a wishful thinking on the application of the underlying philosophy of the office of the JP – if we could bring “peace through establishing justice” in Bangladesh where everybody will be equally treated before the law. Is it too simplistic?

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