



BRUTALITY IN THE POLICE - MISUSE OF POWER

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ABSTRACT

The authors of this article have attempted to demonstrate the widespread use of police brutality throughout the world, as well as the complexities of this practise. Everyone is familiar with the subject of police brutality; nonetheless, the readers of this article will discover a full examination of recent police brutality instances and the implications of such actions. Furthermore, the writers discuss the reasons for such excessive use of police force as well as a possible way to prevent such an offence from occurring in the future.

KEYWORDS: Torture, Custodial death, Human Rights.

INTRODUCTION:

The police force is one of the most vital organisations in society. As a result, police officers are the most visible representatives of the government. When a citizen is in a state of need, danger, crisis, or trouble and is unsure what to do or whom to approach, the police station and a police officer are the most appropriate and approachable unit and person for him. The police should be the most approachable, engaging, and dynamic organisation in any community. Their roles, functions, and responsibilities in society are naturally diverse and intricate on the one hand. In broad terms, the police have two roles: to uphold the law and to maintain order. However, the repercussions of these two missions are extensive, necessitating the creation of a comprehensive inventory of the police organization's duties, functions, powers, positions, and responsibilities. While vesting police with a variety of powers is important for them to accomplish their jobs, it also opens the chance to abuse and hence to violations of human rights. This article will discuss police powers, instances of abuse of power, legislative oversight, and judicial oversight of police actions.

Police Brutality is an offence committed by a police officer who behaves with excessive force and authority in violation of an individual's civil rights. The term "excessive force" refers to police officers' needless acts that violate a person's rights. False arrests, unjust detention, sexual harassment, racial discrimination, wrongful search and seizure are all examples of police brutality, as is physical and verbal abuse. Police brutality occurs on a global scale. It is a common occurrence in Western countries, occurring as a result of racial prejudice, immigrants, minority communities, or any other excuse to justify the use of excessive force against the populace.

THE POLICE ACT, 1861:

In 1861, the Police Act was passed. And it's in the internal security department. The police act defines the police's rights, responsibilities, and obligations to the state. It regulates police. Every police officer must obey and perform all obligations and duties imposed by any competent authority or outlined in the police act. The 1861 Police Act places the state in charge of the police. The 1861 Police Act has 46 provisions.

Victims of police malpractice are punished under section 29 of the Indian Police Act, 1861.

Consequently, under section 29 of the Indian Police Act, 1861, penalties for neglect of duty, etc. —Every police officer who is guilty of any violation of duty, willful breach or neglect of any rule, regulation, or lawful order made by competent authority, or who withdraws from his duties of office without permission, or without prior notice of two months, or who fails, without reasonab

HUMAN RIGHTS VIOLATIONS BY THE POLICE:

Atrocities committed against people in police custody are the worst things that can happen to the police department's image. Rights granted to humans include: equality; freedom of expression; liberty; access to information; the right to life (Article 21); etc. There are several other rights accorded to people. These are inalienable rights that no one can take away from a person. Many rights and authorities are also granted to the police.

When it comes to police authority, those rights and powers that are not available to the general public are granted to them. A police officer, for example, has the authority to demand identification and other papers from anybody, but a regular citizen does not. They have the right to disobey traffic laws if necessary, but if a

regular citizen does so, he will be held responsible for the fine.

Police personnel, in particular, have a great deal of authority. However, they have begun abusing it by infringing on the civil liberties of regular citizens. the use of heeled boots to trample on an unclothed body, beating with a cane on the spine, shooting with a rifle while inserting a live electric wire into body crevices, and setting fire to the body with lighted cigarettes and a candle flame are all examples of corporal punishment. Other examples include: custodial death and custodial rape; asking for sexual favours in exchange for leniency; fabricating evidence; illegal detention; a phon

For example, according to UDHR Article 3, "everyone has the right to live free and be secure." UDHR Article 5 states that no one shall be tortured or subjected to cruel, inhuman, or degrading treatment. Under the Universal Declaration of Human Rights, no one shall be arbitrarily arrested or detained. However, the police force consistently flouts the law. And they are well-versed in the art of disguising their transgressions. This police atrocity was committed by the British before India gained its independence, and it continues now, 72 years later, despite the fact that the British have departed the country.

UTTAR PRADESH TOPS IN ATROCITIES BY POLICE:

Between 2014 and 2016, there were about 236 incidents of police officials committing atrocities in Uttar Pradesh. The state of Uttar Pradesh was followed by Delhi, where 63 cases of police brutality were filed over the same time period. Between 2014 and 2016, the National Crime Records Bureau (NCRB) recorded 236 incidents of police officers committing human rights abuses in Uttar Pradesh. During this time, 411 incidents of police brutality were reported across the country, with Uttar Pradesh accounting for 57.4% of all cases. Only three police officers were convicted of crimes committed by them between 2014 and 2016, indicating a poor conviction record.

In Uttar Pradesh, a total of 46 incidents of police personnel violating human rights were reported in 2014, with 39 of them being found to be false following an inquiry. Seven police officers were charged, and three were found guilty.

In the year 2014, Uttar Pradesh accounted for 47 percent of the 108 incidents of police officers violating human rights.

In 2015, citizens of Uttar Pradesh filed a total of 34 accusations of police brutality; however, only one case was found to be false following inquiry, while the police personnel involved in the other 19 instances were charged. So yet, no police officer has been found guilty. In the same year, a total of 94 cases were brought against the police authority, with Uttar Pradesh accounting for 36.2 percent of the total.

With the sharp increase, 156 cases of police officers violating human rights were filed in Uttar Pradesh, of which 69 were deemed to be false following inquiry, and 39 police officials were charged in connection with these instances. None of them, however, has been found guilty.

In 2016, a total of 209 complaints of police personnel violating human rights were filed in India, with Uttar Pradesh accounting for 74.6 percent of the total cases.

Among the examples of police officers violating human rights include disappearances, unlawful detention or arrests, false encounter killings, extortion,

attack on women with the purpose to offend her modesty, crimes against scheduled castes and scheduled tribes, and torture, to name a few.

POLICE BRUTALITY IN INDIA:

It's worth noting that a democratic society like India lacks faith in one of its most powerful administrative institutions - the Police Department. In India, police officers often commit two types of violations: first, they commit corruption against people by extorting money from chauffeurs, street vendors, hawkers, and small-time businesses. On the other hand, the second category include police officers' illegal conduct involving physical assault of accused or witnesses, as well as coercion against criminal suspects.

There are several laws in the Indian Legal System that seek to safeguard police officers from being abusive to civilians. In comparison to other statutes, the Indian legal system's Criminal Procedure Code spends the majority of its time on the dos and don'ts of police officials. Section 46 of the Cr.P.C. regulates the arrest procedure, stating that physical contact with the arrested individual is banned, subject to specific conditions. Section 56 provides that no police officer shall keep an apprehended person indefinitely; instead, the detained individual must be brought before the Magistrate with authority. Without a warrant and in the absence of a specific order from a Magistrate, such people should not be held for longer than 24 hours from the moment of arrest at the police station. Section 25 of the Indian Evidence Act states that a confession made to a police officer is not acceptable and cannot be used as evidence.

The legislature enacted these rules primarily to prevent police officers from using excessive force against an apprehended individual in order to coerce him into confessing the statement. To evade police officers' third-degree treatment by assaulting and torturing the accused in order to get a confession. The harsh force used by police officers to coerce a person into confessing to a crime he or she may or may not have committed in order to conclude the case.

SCENARIO DURING LOCKDOWN SITUATION:

India's lockdown police violence is terrible. The Tuticorin custodial death problem is one example. According to a Commonwealth Human Rights report, five individuals die in police or court detention every day, with 74.4 percent being tortured and 19.2 percent committing suicide. According to the National Campaign Against Torture in New Delhi, 125 individuals died in police custody in 2019. In its 2017 annual report, the National Human Rights Commission noted that abuse in detention was so commonplace that many deaths went unreported or were reported late.

During this epidemic, police officials were harsh with tiny sellers, notably in Mumbai, where policemen knocked down vegetable vendor booths. Announcing a lockdown on March 23, 2020, Prime Minister Narendra Modi unprepared several delivery providers and sellers of critical supplies leading to many clashes between the police.

In *Firdause Irani v. State of Maharashtra*, a PIL was filed against the Mumbai cops who beat a deceased man during the lockdown. In this case, the court discovered evidence of police violence. That police brutality during lockdown is only "one side of the coin" because civilians clearly do not comply with the lockdown limitations is not disputed by the court. To add to that, Chief Justice Dipankar Datta stated that "Police brutality is simply one side of the coin, but the fact is that many of us do not follow the lockdown protocols and do not comply with the regulations." Thus, the police officer's principal duty was to protect the public's interests, which included using lathi. The bench had asked the petitioner in the case to give his ideas on how to manage the matter. In *Kozhikode*, police officials tried to evict roadside vendors and other local traders, citing lack of distance and other government protocols. The street sellers complained to the corporation about the police imposing cruel laws that hinder them from doing business.

INTERNATIONAL PERSPECTIVE:

Police brutality continues to be a major concern in a number of the world's leading democratic countries. The United States outperforms the majority of democratic countries in terms of police killings. Not just the United States, but also France, Nigeria, Kenya, and Canada have been victims of police violence. When police officers use excessive force, they violate people's right to life. If it is excessive and unwarranted, it is torture or other forms of ill treatment against fundamental human rights. The police and other state agencies exist to protect and secure the populace. Using unlawful force to provide security is a breach of the right to liberty and security, as well as the right to equal protection under the law. International law contains stringent restrictions governing the use of police force. The United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF) is one of the most significant instruments governing police force use. International law requires that police personnel use fatal force only as a last option. This implies that they will use force only when absolutely required to protect themselves or others from imminent danger of death or serious harm, and only when other de-escalation alternatives are insufficient.

INTERNATIONAL CONVENTIONS PROHIBITING POLICE BRUTALITY:

The majority of international law agreements and treaties support the preservation of human rights. In the current setting, treatment of a nation's subject is assessed in the perspective of international human rights rules. The state is accountable for the actions of its law enforcement officers, and if they breach their international law responsibilities, the state is liable, and the matter must be addressed at the international level. The citizens of a country commit crucial obligations to law enforcement authorities. According to international human rights law, these authorities must carry out their responsibilities within a restricted scope and subject to specific limits. However, police violence has a significant detrimental impact on the connection between the people's community and the police authorities. As a result, the state has a duty to protect its citizens against abusive treatment, such as police violence. Human rights are recognised in the 1948 Universal Declaration of Human Rights (UDHR). The UDHR has many articles that restrict police violence. Torture, cruelty, inhuman or humiliating treatment, or punishment are all prohibited under Article 5. Article 7 states that everyone is equal before the law and has the right to equal legal protection without discrimination. Article 9 forbids arbitrary arrest and imprisonment.

The 1966 International Covenant on Civil and Political Rights (ICCPR) affirms the fundamental right to a dignified existence. Article 3 states that the state must provide equal rights for men and women to exercise civil and political rights. According to Article 6, every human being has an intrinsic right to life, which should be safeguarded by law, and no one shall be arbitrarily deprived of their life. Torture, cruelty, inhuman or humiliating treatment, or punishment are all prohibited under Article 7. Article 9 forbids arbitrary arrest or imprisonment. A person's liberty shall not be removed unless on the grounds and in the manner prescribed by law. A person may be arrested only after he has been notified of the reasons for his arrest and the allegations levelled against him. A victim of wrongful arrest is entitled to compensation. Article 10 states that anybody who is deprived of his or her personal liberty shall be treated with kindness and with regard for his or her natural dignity.

Torture, whether physical or mental, is prohibited by the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Torture, it adds, cannot be justified even in times of emergency, war, or political unrest. Torture must be held accountable and punished by the state.

The United Nations Code of Conduct for Law Enforcement Personnel According to Article 2, law enforcement authorities shall respect and defend human dignity, as well as uphold the human rights of all people. According to Article 3, authorities may use force only when it is absolutely necessary in the performance of their responsibilities. Article 5 states that law enforcement authorities must not inflict or allow torture or other cruel, inhuman, or humiliating treatment or punishment, and that torture should not be justified even in circumstances of war, political instability, public emergency, or threat to national security.

CONCLUSION:

The exercise of power by any authority endowed with it must be to regulate and control an illegal conduct and not to restrict an individual's essential right unless there is a breach. However, police officers in different places of the world appear to do arbitrary and cruel crimes against people. These atrocities are perpetrated not just while in detention, but also prior to any investigation or inquiry into the situation. Police brutality has always been and will always be a major human rights concern. It is a basic legal concept that a person shall be presumed innocent unless proven guilty beyond a reasonable doubt, and if proven, the accused will be punished according to the law. It is also a regulation that police officers should not use fatal force or third-degree treatment on anyone since the law does not allow it. However, authorities utilise inhumane treatment in order to elicit confessions and other information from the accused, as well as from innocent people who do not deserve to be abused in this manner. The stories described above are merely a few examples of in-custody torture and death. To prevent this, individuals must first be informed of their basic human rights so that they can refrain from submitting to the police without previous knowledge and processes. Second, police officers who do inhumane and cruel crimes must be severely punished so that others do not follow in their footsteps. In the end, innocent people who are sentenced to death in prison are paid. However, no monetary recompense could ever adequately compensate them for the pain they have endured. Finally, the authors believe that poor institutionalised training and general job stress may be contributing factors to police brutality across the world.

REFERENCES:

- I. 2020 SCC Bom 6062
- II. <https://mappingpoliceviolence.org/>
- III. <https://www.amnesty.org/en/>