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Police Brutality and Human Rights Violations by Police Authorities

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Human rights stem from the human person's intrinsic dignity. At all times, law enforcement officers must respect and follow the law. Law enforcement officers must always uphold the legal obligations placed on them by serving the community and safeguarding all people from unlawful actions, in accordance with the high level of responsibility demanded by their profession. Officials in law enforcement must not conduct any act of corruption. They will take a strong stance against and fight any such actions. All police actions must adhere to the legality, necessity, non-discrimination, proportionality, and humanity standards. This paper talks about the growing cases of police brutality and its excessive use of force while dealing with civilians. The blatant abuse of power exercised by the police forces has gone unchecked and unaccounted for far too long which has resulted in them committing many atrocious acts against civilians as well as suspects or accused in custody. The paper examines the human rights violations committed by police personnel while dealing with people during their duty, mainly: custodial death and torture. It also talks about the statutes available for safeguarding people from this physical and mental abuse by police and the requirement for stricter rules for police to conform to and be held accountable for their deeds.

Keywords: *income tax, exemption, section 54.*

INTRODUCTION

Although the problem of police brutality is largely ignored by the media as well as the people, it is well known that it occurs frequently and openly in India. Police brutality is a term used to refer to unnecessary, excessive, and maybe even illegal use of force by the police against the citizens or civilians. Unlawful or unwarranted use of force can be attributed to many activities by the police such as assault and battery on civilians, torture against suspects in custody, and even murder. Broadly speaking, activities like harassment, false arrests, intimidation, and verbal misconduct are also considered to be an aspect of police brutality. These activities are violative of one's civil rights, right to life and liberty, and the right to equal protection under the law.

The death of George Floyd, an African American man in Minneapolis, Minnesota, United States, at the hands of a police officer named Derek Chauvin has captured the attention of people all around the globe and brought the subject of police brutality into the limelight. Tens of thousands of Americans In the middle of a pandemic and lockdown, tens of thousands of Americans of all races and ethnicities, marched down the streets of cities in solidarity to protest the killing of George Floyd by the police in Minnesota. The death of this one man gave rise to conversations regarding systematic violent oppression by police forces against African Americans in different parts of the US. Officer Chauvin was tried and convicted by the district court of Minnesota, for the murder of George Floyd which gave the people of the United States of America a sense of relief that the upholders of the law were held accountable for their misuse of power.

While the United States of America and the rest of the world raised a lot of concerns regarding police brutality and engaged in conversations regarding police accountability, India has had very little debate regarding this matter. Unfortunately, even this massive movement and worldwide coverage of it has failed to shine a light on the cases of physical abuse and brutality, as well as selective persecution of particular communities in India by the police authorities which has been prevalent for ages.

CUSTODIAL DEATHS

Custodial death refers to the death of persons detained by the police during the investigation, interrogation, pretrial, or after conviction. The death can be due to natural causes like illness or may also happen due to suicide, fighting among prisoners but in many instances, the deaths are caused because of police brutality and torture. Oftentimes, the accused are beaten and tortured before the arrest is made, so the police can come up with the excuse that the injuries were sustained even before the arrest was made, thus, absolving themselves of any accountability. Another form of custodial death is when the accused are killed by fake encounters while an ongoing trial or investigation. These fake encounters are very hard to prove as more often than not, the police stage a fake incident to carry out these killings, and all the records, as well as evidence, lay in the hands of the police only. These factors make it very difficult to identify custodial deaths and make the police accountable for their deeds.

According to the Annual Report on Torture 2020 released by the National Campaign Against Torture (NCAT), 1,569 deaths were recorded in judicial custody while 111 deaths took place in police custody. The main reason for about 74.4% of the deaths that took place in police custody was due to alleged physical and mental torture by the police authorities. In 2020, 55 deaths were recorded by suicide as a result of police torture. The maximum number of suicides being reported from Uttar Pradesh (nine cases). More deaths by suicide in police custody have been reported over the past decade.

India has a long history of police brutality and custodial torture which in most cases lead to the death of the victims. The police take part in violent interrogative measures in an attempt to acquire evidence and confessions from the suspects, by indulging in physical and mental torture of the victims. The torture of victims in police custody is universally seen as one of the most heinous forms of human rights violations. Institutions like The Constitution of India, the National Human Rights Commission (NHRC), the Supreme Court strictly forbids the use of these measures in the interrogation and investigation process. The United Nations has even adopted the Universal Declaration of Human Rights on December 10th, 1948, which expressly states that no one shall be subjected to torture or cruel, inhuman, or degrading treatment or

punishment.¹ Even India is a signatory to this statute, but the police authorities do not seem to care for these institutions and their guidelines. By reading article 1 of the UDHC, it can be concluded that all human beings have equal rights and should be treated equally before the law regardless of whether they have committed a crime or not.

The fundamental rights provided to the citizens of this country by the constitution do not get automatically taken away as soon as someone is arrested. Article 21 of the Constitution of India gives the people the Right to Life and Personal Liberty. Even though it does not expressly state anything against custodial torture, its ambit is quite wide. Article 21 states that no person shall be deprived of life or personal liberty except according to the procedure established by law. The scope of this right is said to also include constitutional protections against torture, assault, or injury and thus subsequently, acts as a protection against custodial torture and violence. The Supreme Court of India included various rights for the protection of prisoners while they were in custody under 'Article 21' of the constitution by expanding its scope. Rights granted to prisoners under the purview of Article 21 are: Right against custodial torture and death in police lockups, Right to cruel and unusual punishment, Right to free legal Aid, Right to a fair trial, Right to Speedy Trial, and Rights of Inmates of protective homes. Individuals accused of or convicted of crimes are entitled to a fair trial, safety, and security in police and judicial lock-ups. In the case of *Inderjeet v. State of Uttar Pradesh* (2014)², the Supreme Court held that any punishment which involves an element of torture is unconstitutional. These citizens ought to be treated humanely and in the way prescribed by the statute. In *Maneka Gandhi v. Union of India* (1978)³, the Supreme Court stated that the law and procedure which has been adopted by the State to bring in the offenders to justice must conform with civilized norms and procedure. The method implemented by the state and the police must be lawful, fair, and adequate.

¹ Universal Declaration of Human Rights, GA res 217A (III), UN Doc A/810 at 71 (1948)

² *Inderjeet Singh & Ors v State of Uttar Pradesh* Criminal Appeal No 336/2015

³ *Maneka Gandhi v Union Of India* AIR 1978 SC 597

The status of Policing in India Report 2019 by a common cause and the center of developing societies reveal that about 2 out of 5 police personnel surveyed in Bihar, and 1 out of 5 in 6 other states, never had any human rights training.

POLICE BRUTALITY DURING THE PANDEMIC

On June 19, 2020, P. Jayaraj and J. Bennicks were taken into custody by the Tamil Nadu police for allegedly opening their shop during the lockdown, violating the Covid-19 guidelines enforced by the government. The two men were sexually assaulted and tortured in police custody and in the following days, they both succumbed to their injuries which resulted in their eventual demise. There have been several such incidents of police authorities abusing their power and almost boasting about it by physically torturing common people in the pretense of implementing the covid guidelines. Several shopkeepers and vegetable vendors were harassed and tortured even though they followed the timings of carrying out their business given in the guidelines. Even people going out to buy necessities and medicines faced constant harassment and fear of the police. There have been several reports of police beating people with lathis and resorting to humiliating them in public to enforce the guidelines and not only against common people but also people carrying out essential service work. These incidents were not limited to a certain region or place but have been reported throughout the country which reflects a deep-rooted habitual practice of the police authorities of turning to physical violence in an attempt to carry out their work. One would assume that the police would be at least hesitant if not afraid of misbehaving or abusing power against journalists, but it seems like they have been given a free hand by their respective states to use their absolute power against any inconvenience that may arise. The Committee to Protect Journalists⁴ has mentioned many incidents from different parts of India of journalists being assaulted and not allowing them to work freely even though journalists were exempted from the lockdown guidelines as reiterated by the ministry of information and broadcasting. This

⁴ Committee to Protect Journalists, 'Journalists assaulted by police amid coronavirus lockdown in India' (*Committee to Protect Journalists*, 24 March 2020) <<https://cpj.org/2020/03/journalists-assaulted-by-police-amid-coronavirus-1/>> 15 June 2021

blatant abuse of power was backed by state officials like the Chief Minister of Telangana, K.C. Rao who threatened to issue a shoot on sight order on lockdown offenders.

This blatant abuse of power and brutality seems to be normalised to the point that people seem to no longer even care to outrage against these atrocities. Several videos of police officials can be seen shared everywhere on the internet, not in an attempt to raise awareness about the abuse of power but making a mockery of the situation and laughing at the misery of people being mistreated by the police. It is mainly the people from socio-economic classes that have to face these atrocities, hence, the middle class doesn't seem to be bothered much to come out and protest against such a system because they don't usually have to face the end of the lathi. We claim to have unity in diversity but don't bother to actually live up to those words anymore. Our refusal to speak and fight for the oppressed unless we start getting affected by the said oppressive acts has allowed these institutions to abuse and torture our people without being held accountable for it. This is one instance where we, Indians should look at the United States and take inspiration from their solidarity against systematic racism in the police.

ACCOUNTABILITY OF POLICE

In the present scenario, police authorities seem to be more accountable to the political parties in power than to the civilians or the court of law. Tiresome and lengthy procedure in taking legal course against police officers has made people disregard the idea of taking any legal recourse against these atrocities. People are often reluctant to even speak up against the police due to the fear of being constantly harassed and tortured even more by them. Even after one initiates legal action against police personnel, the police themselves act very disinterestedly and lackluster in their attempt to investigate the said matter against their own peers. All these factors leave all the atrocities committed by the police unaccounted for and it feeds their false security and false image of power that they have bestowed upon themselves. According to the 2016 NCRB statistics, from the 206 cases that were filed against police officers for human rights violations, only 50 of those police officers were charge-sheeted and not a single one of them was convicted. Data from India's National Crime Records Bureau (NCRB) shows that from 860 recorded cases of custodial deaths, not a single police personnel has been convicted since 2011.

And from almost 500 cases of other human rights violations, only 3 officers have been convicted. To tackle the absence of an independent body to address complaints against the police, the supreme court directed the state governments to establish the police complaint authority (PCA)⁵ in 2006. Even after such directions from the supreme court, many states failed to comply with them.

Some serious steps are needed to be taken to ensure the accountability of police towards civilians and norms should be established to curb their brutal and inhumane methodology of working. Police Complaint Authorities must be established in every district and state which should hold the power to investigate and penalise police personnel for their illegal and activities and human rights violations. Special focus should be given to the training methods that the police personnel goes through and changes should be made in order to accommodate their handling of civilians and suspects alike. A properly trained and accountable police system is extremely important to uphold and implement the law in any country. And if India is to achieve this euphoria, and restore the faith of the common public in the police authorities, immediate reforms are needed.

⁵ *Prakash Singh & Ors v Union Of India & Ors* Writ Petition (civil) 310 of 1996