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POLICE BRUTALITY: AN OPEN SECRET

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ABSTRACT

'Please stop, I can't breathe man' were the last words of George Floyd, one of the countless police brutality victims. After the 2020 incident, the entire world came to pause, it was shocked to the core after the garb of protectors was lifted from the faces of inhumane perpetrators. It made all the nations evaluate the unhindered powers and authorities given to the police officials. Through this article, the authors try to shed some light on the de facto concept of police brutality. The authors have explained the meaning of police brutality and have highlighted different laws against police brutality in countries all over the world. Authors have also explained various cases of police brutality which are seen in most countries like Brazil, Nigeria, France, etc by giving prominent examples while giving special attention to India where the Constitution guarantees fundamental rights are guaranteed even to convicts of a crime.

Keywords: Police Brutality, inhumane perpetrators.

INTRODUCTION

Police brutality and cruelty has increasingly become prevalent worldwide. It is not uncommon to read or hear about the misconduct and violent acts perpetrated by those who are tasked to protect the citizens. Such gruesome acts of police can leave citizens feeling traumatized and helpless. Shockingly, those tasked with protecting human rights are themselves responsible for snatching these rights from public at large. Right from childhood, fear of wrongdoing is instilled in a child's mind in form of police. The same fear increases as the child grows old and makes a better citizen but more so often the fear of the police takes over the minds of individuals and the individuals forget that the police authorities play an active role in protecting the country from anti-social elements.

The Police force is one of the oldest concepts, with its origins dating back to the early Vedic period. The force was created to control crime and maintain peace among people. The term "Police" is derived from the Latin word "Politia," which refers to the condition of a state.[1] It describes a system and organization established to protect people and regulate laws. The history of the police force in British India can be traced back to the late 19th century when it was established as a solution to prevent various uprisings by Indians. In 1861, the police force was established in India to punish those who were against the British government. The police force has undergone many changes over the years but the basic structure and the violent nature of the force remain the same. The idea and the need for the police are deeply rooted in our history, and their role was solely to protect basic human rights and prevent injustice. However, current scenarios have shown that the force is far from achieving this goal as the police themselves are being seen misusing their power, contributing more to injustice than preventing it.

MEANING OF POLICE BRUTALITY

The misuse of force by law enforcement against a person or a group of persons is known as police brutality. It is a violation of civil rights if a law enforcer himself does not know the limit of his power and they end up exercising excessive force against an individual. Usage of excessive force includes unnecessary hitting, choking, and tackling down a non-combatant civilian, as well as the use of harmful weapons like batons, teasers, pepper sprays, etc. The use of excessive and unnecessary force makes up one of the major ingredients of police brutality. Common types of police brutality are as follows:

• False arrest and wrongful imprisonment

• Sexual Harassment

• Racial discrimination

• Wrongful search and seizure

POLICE BRUTALITY IN INDIA

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[1] *Police and policing in India - a historical perspective iPleaders*, https://blog.ipleaders.in/police-policing-india-historical-perspective/

Fundamentally, India is a peace-loving country. Indians are well known to be the kind of people who are timid as they have always gotten intimidated by the Britishers or by authorities without a hitch. The police force is one such authority that holds the power to dominate the public. The policeman's work often requires them to be intimidating to terrify guilty criminals and keep the citizens safe. Due to unwarranted fear in minds of the common public, police authorities often think of themselves as omnipotent. As the famous quote by Lord Acton goes' Power Corrupts and Absolute Power corrupts absolutely[2]' The arrogance of such unhindered power takes over the minds of police and they start engaging in activities where instead of protecting the public they start playing the role of perpetrator. Fear has always been considered to be one of the strongest weapons to control the human mind. Lack of education and knowledge about the laws have only added to the fear in people's minds. The arrogance of power is often reflected by the police authorities through activities like intimidation, custodial killings, encounters, etc.

India is no different when it comes to police brutality, like countries all over the world India too has its fair share of brutality cases. Stories of police asking for protection money from citizens, and bribe to clear their criminal records are often heard in the country. Reports of criminals being harassed and beaten up in the prison are not too rare. Many instances of police brutality are not even reported because of the fear of the authorities. Brutality innately means abuse of power or abuse of an authoritative position. Police forces in India are known to abuse their power by way of intimidation and falsifying important documents, and tampering with important evidence. Although laws in India are very strict in terms of custody and intimidation by police still the police authorities are seen dominating criminals and even innocents to extort exorbitant amounts from them. According to section 61 of the Criminal Procedure Code, 1973 arrested should be presented before the Magistrate within 24 hrs of the arrest[3], but more so often the police authorities alter the date on the documents and torment the accused for 2-3 days. After presenting before the magistrate, the magistrate must ask the accused if the police have harassed him/her during custody but, in most cases, even after being a victim of police brutality, the victim denies the same because of the fear that has been imbibed by the police authorities during his/her harassment. Police authorities are well versed in multiple techniques wherein even after torturing the accused and giving him a near-death experience still the same cannot be seen in medical

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[3] Criminal Procedure Code, 1973.

reports. Families of victims who are brave enough to report police brutality often receive death threats from the authorities. The common occurrence of police brutality cases in the country is the result of unhindered power granted to police authorities. The police have been known to use inhumane, degrading, and cruel acts as forms of torture, all of which are considered to be third-degree torture. Chief Justice of India made a statement regarding increasing barbaric cases of police brutality in the country,' The greatest threat to personal dignity and human rights is seen in police stations. These instances of police brutality are not rare occurrences; rather, they seem to be a part of the police administration machinery and have become shockingly frequent in society as a whole.[4]

Despite having several laws and organizations to combat the serious issue of police brutality, many cases still go unreported. Aspiring police officials should be trained to not only protect the public at large but also to understand them. Public through various programs should be educated about the rights and duties of police authorities. Rewiring the brains of police authorities and the common masses is the need of the hour.

LAWS RELATED TO POLICE BRUTALITY

Everywhere in the world human life is given utmost importance, therefore laws related to the protection of any person make up an essential part of any law. According to Art. 21 of the Indian constitution even the accused is not denied their life and liberty, except in accordance with the established legal procedure that is just, fair, and reasonable.[5] Police Brutality is a stigma that many countries are trying to overcome. The main obstacle to overcoming police brutality is that many times public conduct their trial in media popularly known as a media trial which encourages police to take matters into their own hands and declare the accused to be guilty without conducting a trial against him. National Human Rights Commission has already published guidelines for encounter deaths and custodial killings. In addition, the apex court issued a 16-point guideline for police officers to follow as standard procedure in cases of death during police encounters.[6] According to Police Act, 1861 if a person is convicted of misconduct

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[4] C Joshi, *Gruesome methods of torture employed by Indian police forces come to light*, www.Indiatoday. in (Apr 6 2023, 6:00 pm) https://www.indiatoday.in/magazine/cover-story/story/19770531-gruesome-methods-of-torture-employed-by-indian-police-forces-come-to-light-823741-2014-08-14.

[5] Constitution of India, 1950

[6] PUCL v. State of Maharashtra (2014) 10 SCC 635

as a result of a police officer's omission of duty, the officer may be sentenced to up to three months in prison and a three-month salary penalty.[7] In the USA, police brutality is a critical issue and therefore has a lot of laws like the Civil Rights Act, of 1864, and the United States Code which protect citizens from police brutality. Police Brutality is like an evil that slowly breaks the spirit of the citizens and makes them lose hope in police authorities. Proper laws drafted by the United Nations against police brutality are a pressing priority in today's date.

INTERNATIONAL APPROACH TO POLICE BRUTALITY

Police brutality is a global problem that has been brought to light by the widespread use of social media and citizen journalism. Police brutality is a problem that affects communities all over the world, despite the fact that depending on the country the problem can manifest itself in various ways and to varying degrees. In some nations, it is associated with a larger problem of power abuse and corruption among law enforcement organizations. Police officers are regularly charged with extrajudicial killings, torture, and other human rights violations in countries like Mexico, Brazil, and Nigeria. International law clearly states that police officers should only ever use lethal force as a last resort[8]. Force should only be used when it is necessary to defend oneself or others from the immediate danger of death or serious injury and also when other de-escalation techniques are ineffective. There is a long history of police abuse concerning black people in countries like the United States, and recent high-profile incidents have renewed interest in this problem. In the USA, George Floyd, Michael Brown, Breonna Taylor, Eric Garner, and too many other Black people were killed by police when they were unarmed.[9] In a similar vein, indigenous people are one of the most overrepresented in police detention facilities and are more likely to experience police violence in countries like Australia. Police brutality is also occasionally associated with political repression, as seen in China and Venezuela, among other places. Unlawful use of force by police, from the streets of Minneapolis to the favelas of Rio de

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[7] Police Act, 1861.

[8] *Police brutality is a global problem. Amnesty International*, https://www.amnesty.org/en/what-we-do/police-brutality/

[9] *Police brutality is a global problem. Amnesty International*, https://www.amnesty.org/en/what-we-do/police-brutality/

Janeiro, has only resulted in nothing but death, injury, and devastation[10]. An integrated strategy that incorporates legislative and policy changes, public awareness campaigns, and police training programs are needed to address police brutality. Some of the international organizations that support human rights and encourage accountability for police brutality include the United Nations and Amnesty International.

Worldwide, communities and individuals are impacted by this serious problem. It is a violation of human rights that results in distrust and the deterioration of ties between law enforcement and the communities. The lack of reliable data and reporting on instances of police brutality is a significant problem in countries all over the world. The institutional and cultural influences on police brutality prove to be a challenge in combating police brutality. Brutality often includes institutionalized racism, the militarization of police, and a dearth of oversight and accountability procedures for law enforcement personnel. Due to the complexity of this issue, police brutality catches the public eye. The importance of addressing police brutality has been acknowledged by United Nations, which has created frameworks and guidelines for improving policing practices. However, it's frequently up to individual nations to implement these frameworks and directives, and in most countries, progress in implementing such laws is extremely slow.

There have been many incidents of police brutality around the world, and here are a few recent examples:

1. United States:

On May 25, 2020, in Minneapolis, Minnesota, United States, George Floyd, an African American man, died while he was being held by the police. He was detained for allegedly using a fake $20 bill at a nearby convenience store. Floyd was handcuffed and lying face down on the ground during the arrest, and one of the officers, Derek Chauvin, knelt on Floyd's neck for more than nine minutes. Floyd repeatedly told the officers that he couldn't breathe and pleaded for them to stop, but they did not relent until he lost consciousness. After a few moments, George Floyd was announced dead. In his final moments, Floyd said, "I can't breathe," which has shaped campaigns aimed at tearing down the well-established relationship between white supremacy and

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[10] *Police brutality is a global problem. Amnesty International*, https://www.amnesty.org/en/what-we-do/police-brutality/

police brutality, which has cost the lives of Black Americans in particular.[11] The incident sparked protracted demonstrations against systemic racism and police brutality both in the US and abroad.

2. Nigeria:

On October 8, 2020, nationwide protests began in Nigeria, calling on authorities to abolish the Special Anti-Robbery Squad (SARS), an abusive police unit[12]. SARS was disbanded as a result of the protests, but there were reports of police brutality against demonstrators, including the shooting of nonviolent demonstrators at the Lekki toll gate in Lagos.

3. France:

The CCTV footage shown by various news websites reveals the inhumane behavior of police where a person is seen being kicked and punched for several minutes by three officers at his Paris studio[13]. The victim was repeatedly punched, kicked, and gassed by police in the video. In France, calls for police reform arose as a result of the incident.

4. Brazil:

The court decided to cancel any further police raids in Brazilian favelas, because of the public protests because of the death of 14-year-old João Pedro Matos Pinto, who was shot in the back during a police incursion.[14] The incident was only one of the numerous instances of police brutality in Brazil, where police killings are frequent and frequently go unpunished. These incidents demonstrate the critical need for police reform and accountability on a global scale.

5. South Africa:

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[11] *Police brutality and use of force: An international human rights law perspective BJIL*, https://www.berkeleyjournalofinternationallaw.com/post/police-brutality-and-use-of-force-an-international-human-rights-law-perspective#:~:text=Article%206%20of%20the%20ICCPR,in%20violation%20of%20Article%206.
[12] Nigeria: *Crackdown on police brutality protests Human Rights Watch*, (Oct 16, 2020) https://www.hrw.org/news/2020/10/16/nigeria-crackdown-police-brutality-protests
[13] *Michel Zecler beating: Four French policemen charged over assault BBC News,* https://www.bbc.com/news/world-europe-55127815
[14] *Police killing hundreds in Rio de Janeiro despite court ban on favela raids The Guardian*, (Apr 18, 2021) https://www.theguardian.com/global-development/2021/apr/18/police-kill-hundreds-rio-de-janeiro-favela-raids-court-ban

South African Police (SAPS) opened fire on a crowd of striking mineworkers in North Western Province in 2012 killing almost 34 people.[15] The police officers in South Africa shot and killed 34 striking miners at the Marikana mine. The incident was one of the deadliest cases of police violence in South Africa since the end of apartheid and sparked widespread outrage and calls for police reform.

These incidents are just a few examples of police brutality that have occurred internationally. They highlight the importance of holding police officers accountable for their actions and promoting police reform to prevent future incidents of violence and abuse of power.

CONCLUSION

The rise in police brutality cases has become a grave concern in today's world, it not only erodes the public confidence in law enforcement but can also have negative effects on people and communities. Even though many factors contribute to police brutality but, many initiatives are taken to address the issue. These initiatives include improving accountability and transparency, changing use-of-force regulations, and also advancing community-based policing techniques. Ensuring that police practices prioritize public safety while respecting the rights and dignity of the accused person proves to be of utmost importance to prevent police brutality. The police authority should be reminded of the famous quote of Dr. Thomas Fuller 'Be you ever so high, the law is above you' which means that no matter how powerful or influential a person may be, they are still subject to the laws of the land. This phrase is often used in jurisprudence to emphasize the principle of the rule of law, which is the idea that everyone, regardless of their social status, is equal under the law. The principle of the rule of law is a fundamental aspect of a democratic society and ensures that everyone is held accountable for their actions. It is a reminder that even the most powerful individuals and institutions must operate within the boundaries of the law, and that no one is exempted from its provisions. Hence, it is crucial that all stakeholders, including law enforcement agencies, community members, and policymakers, collaborate to prevent police brutality. Without police brutality and injustice, the world would be a better place for everyone to live in.

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[15] *Marikana massacre 16 August 2012 South African History Online*, (Aug 16, 2012) https://www.sahistory.org.za/article/marikana-massacre-16-august-2012