

LEGALFOXES LAW TIMES

The Alarming Issue of Police Atrocities: An Evaluation in the Indian Context

By Masuhav and Atul Maurya

INTRODUCTION:

Police are the civil force of a state, responsible for the prevention and detection of crime and the maintenance of public order¹.

The official force whose job is to maintain public order, deal with crime, and make people obey the law, or the members of this force².

This word was used for the first time in the late 15th century in French with the name 'Police' which in turn was from the Latin term 'Politia' which got its latinisation from the Greek word 'Polis'. Then finally, this **Police** word got its concrete name in 1530s³.

Police are the body of persons that are established by a State and are part of a Law enforcement Agency. As Police are the subject matter of the State list, so State government make rules and regulations for the same and had constituted separate Act with the name **Indian Police Act, 1861**. By this act, they have gained various powers with the effect from which they can exercise their jurisdiction without any questioning. Not only by this, are they empowered by other Laws also like Cr.P.C. IPC etc.

It was rightly said by **Edmund Burke** that "The Greater the power, the more dangerous the abuse". Absolute powers are not meant for the Humans, as whenever they get these powers they misuse it either in mildly or drastically. That's what situation is there of the Law enforcement

¹ 'Police' <<https://www.lexico.com/definition/police>> accessed 12 June 2020

² 'Police' <<https://dictionary.cambridge.org/dictionary/english/police>> accessed 12 June 2020

³ 'Police' <<https://www.etymonline.com/word/police>> accessed 12 June 2020

agency i.e. Police. They have got immense power with some sort of restrictions which finds its existence only theoretically not practically.

The famed and illustrious example of their abuse of powers is **POLICE BRUTALITY**. This article is all about the consequences of their abuse of powers on the lives of the people. Basically, in this article we will be discussing about the Chronicles, Need & Importance, their acts in current scenarios and various instances with the help of stats.

CHRONICLES:

The History of Police can be traced back from the ancient Greeks, Romans, Persians, India, and France etc. This is not that concept which has developed overnight. It was having its existence in other forms in the society with limited powers or negligible powers. Their need got emerged when crime, criminals, corruption and other things started evolving in the society with the rapid speed. Then after people living in the society found the need to develop this office in legally and broadly and endorse them with such powers by the help of which they can control these acts and also those persons who go beyond the moral and ethics of the society and violate the Laws made by them⁴.

When we look upon to the **ancient Greece**, there the police were acting as the slaves for the Magistrates. They were those slaves who were publicly owned. During the Greco-Persian war, many Scythian slaves were imposed with some powers to maintain peace and order and also public gatherings. These police were appointed from the lower classes as they have to do the work of slaves or freedmen.

Then looking upon to the **ancient Romans**, they were having army instead of police organization that work for the security purpose. Whenever they need extra security they call some persons from the cities and they look after it. The initial stage of establishing the police organization was initiated by **Augustus** during 7 B.C.E. He divided city of Rome into 14 regions (wards) consisting of 7 squads of 1000 men which were called **vigiles**. These vigiles maintain

4

The History of Policing in the West (Britannica) <<https://www.britannica.com/topic/police/The-history-of-policing-in-the-West>> accessed 13 June 2020

tranquility, prevent and apprehend thieves and robbers and more. These vigiles were there only for performing frivolous purpose. The serious offences were handled by the urban cohorts and vigiles assist them particularly. These vigiles was the initial form of Police.

In the **ancient Israel**, for especially urban areas some officials have the duty of guarding the king's person, supervise the public works & execute orders of the court. Besides the town's officials, tribes' officials were also there.

In **ancient Egypt**, the law enforcement agency finds its root from the time of the Old Kingdom Period. That time, this office was named as 'Judge Commandant of the police' during IV dynasty. At the Middle Kingdom Period, a professional police force was created to enforce the Law. This force was reformed on the New Kingdom Period. The Police officers must work as court bailiffs, interrogators, and also administer those punishments that are handed over by the Judge⁵. Moreover, they also perform the special function of guarding temples, tombs and peace during festivals.

In **ancient Persia**, the Persian Empires were having structured police forces. In the city of Persia, each ward was under the control of Superintendent of Police that were known by the name Kuipan. They were also assigned to carry on their duty as Prosecutors and execute punishments granted by the courts⁶.

The **French Policing System** has its root from the growth of the military Gendarmarie Nationale and the civilian police national. The development of the police organizations can be traced back from the Revolution, ancient Regime & Napoleonic era. The police system that was developed by the Napoleons' in their efforts to centralize the state is still the basic structure of police system in France. Major development took place in France in this system during 19th century⁷.

⁵ Joshua J. Mark, Police in Ancient Egypt (Ancient, 21 July 2017) <<https://www.ancient.eu/article/1104/police-in-ancient-egypt/>> accessed 13 June 2020

⁶ The Laws of Ancient Persians, <http://www.parstimes.com/law/ancient_persia_laws.html> accessed 14 June 2020

⁷ P J Stead, 'Police of France' (1983) 94633 <<https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=94633>> accessed 13 June 2020

Earlier in **USA**, the two forms were there, based on which policing system was relied. One was communal and other informal. The person assigned through communal get petty works to do. They do not have connection with controlling serious offences. Then the first Police force established in North America was Night Watchmen in the year 1631 in Boston and New Amsterdam in 1647⁸. These Night Watchmen were supervised by the constables. As Urbanization was increasing at the rapid pace so this concept of Night watchmen rendered useless⁹. So, finally in the year 1838, the first publicly funded organized police force was established in Boston.

Coming on to the **History of policing in England**, at the beginning there were rule of Anglo-Saxon Kings who directed the people living in towns to keep Peace and must see that no one breaks the Law .If someone does it then they catch that felon and punishes him by imposing fines. As society grew, population also got increased which on a quick pace increased crime and other criminal activities¹⁰. The Superior authority made the body of person viz. Constables who were not on the paid basis. They hold the office only for one year. Then, suddenly the regime of unemployment hit the groups of London, which consequently increased the crime rate. Finally, the well- organized police system was introduced in England as all previous concepts of Constables and Night-Watchmen have become obsolete. In the year 1829, the first modern police force was formed in England by **Sir Robert Peel**¹¹.

8

[James A. Conser](#), [Gregory D. Russell](#), [Terry E. Gingerich](#), [Rebecca Paynich](#): *Law Enforcement in the United*

States (2nd edition, Jones and Bartlett 2005)

⁹ [OLIVIA B. WAXMAN](#), 'how the US got its Police' (TIME, 18 May 2017) <<https://time.com/4779112/police-history-origins/>> accessed 15 June 2020

¹⁰ Tim Lambert 'A brief history of the Police in

Britain' <<http://www.localhistories.org/police.html#:~:text=The%20first%20modern%20police%20force,Bobbies%20or%20Peelers%20after%20him.&text=Constable%20Joseph%20Grantham%20was%20the,killed%20on%20duty%20in%201830.>>

¹¹ 'Police, prison and penal reform' <<https://www.parliament.uk/about/living-heritage/transformingsociety/laworder/policeprisons/overview/watchmenconstables/>> accessed on 15 June 2020

In **ancient India**, the existence of crimes and police functions was there from the way back when Vedas were not recognized. Manu classified the crimes and also mentions that for the prevention of crimes, the police functions were prevalent. In various Empires & Kingdoms the Law enforcement agencies were there. In Hinduism, the oldest Dharma- related Text **ApastambhaDharmasutra** recommends that Kings must appoint officers or subordinate officers to protect the towns or villages from Crimes. Not only on this Dharma sutra , there were many Inscriptions & Literature from ancient India which indicates clearly that many law enforcement agency were existed during that time like of Constables, Detectives, Night-Watchmen etc.¹².

During the reign of Britishers, **Lord Cornwallis** created the Police system in India. This policing was done by the Zamindars in that time under the system of Thanas.

The main purpose for developing this police system in India by the Britishers and passing the Police Act in the year 1861 was that they were astonished by the reaction of the Indian groups during 1857 Sepoy Mutiny, which led him to think over on this matter twice and resulted in the establishment of police force to prevent any future revolts against them. The police force executes the orders of the Britishers in whatever way they think to be. Mostly they use deterrent & excessive force for the execution of the order.

Permanently, when Britishers left India, then the National Police Commission took the initiative to reform the system in Modern way. But unfortunately, in the police system the political control already taken its concrete form which we can see in Anti-Sikh Riots, Babri Masjid demolition etc. where politicians by Bribe and other things used Police for their benefits. These things consequently increased Corruption midst the police force which ultimately led to structure many other abusive acts.

The numerous acts of Police in excessive exercise of their powers are mentioned further in this article¹³.

¹²Anupam Sharma 'POLICE IN ANCIENT INDIA' (2004) pp. 101-110The Indian Journal of Political Science<<https://www.jstor.org/stable/41855800>>accessed on 15 June 2020

¹³ Hariharan Kumar, 'Indian police act and police reform in India' (iPleader, 6 January 2014) <<https://blog.iplayers.in/the-indian-police-act-and-police-reform-in->

NEED AND IMPORTANCE

As we know in our Indian Constitution, the Police are a subject of State list and according to **Article 246(2)**;the State is empowered to make laws on those subject matters enumerated in List-III of the seventh schedule. There is various significance of the police force. Some are as follows:

- The important machinery that preserve and enforce the law.
- Authority that are specially designed to maintain Law and order.
- Protects the state from internal and external disturbance.
- Body that are trained for preventing Crimes and other wrong activities.
- Body of persons that not only have administrative functions to exercise but also have judicial functions.
- Protect the people and property from the person having bad disposition and intent.
- The lawful authority that create deterrence over the felons or criminals so that they don't commit any such type of criminal acts or any wrongs in the Future.
- The authority that are not only empowered but are also established by the Law to execute the orders either made by the state or by the Courts or Magistrates.
- They have right to do those acts that are meant to maintain peace or tranquility in the society, subject to some reasonable grounds.

- Police officers testify in Court and present the evidence in concise form.
- They arrest of those persons who in anyway breaks the law and for the same they are empowered either under Local Law, Special Law or General Law.
- Protect and preserve the Human Rights and interest of all the sections of the society.

Hence, Police not only have Administrative responsibility in addition to that they have Social responsibility too¹⁴. They are endowed with the powers prescribed by the law and the same law imposes restrictions in their area of work. For E.g. - According to **section 46 of Cr.P.C**, the police officers are responsible to make the Arrest in the ways given in the section. At the same time, **section 60A of Cr.P.C**.clearly states this fact that any Arrest that are made must be strictly executed in the ways prescribed in this code. So, here we can easily observe this fact that powers are given but restrictions are also there¹⁵.

INSTANCES THAT SHOOK PILLARS OF ENFORCEMENT BODY

Above we discussed about the Duties, Functions and Importance of Police Officers. Let us discuss about the ground reality of this office. Although various powers are given and limitations are also prescribed but these limitations are sometimes prove to be just for the name sake. No practical approach is there of these restrictions. Police Atrocity is one of the ground realities of this. Police Atrocity is a societal issue which has its many kinds like making False Arrest and Wrong imprisonment, Sexual Harassment, Racial Discrimination, Wrongful Search and Seizure etc. And this we can see in many cases.

PRE-INDEPENDENCE ERA:

When India was under the control of Britishers. Britishers with the help of Police force used brutish acts on Indians. The events of such acts were

¹⁴ Phani Mohan K, 'functions, roles and duties of Police' (Slideshare, 15 october, 2013)<<https://www.slideshare.net/phanis9/functions-roles-and-duties-of-police-in-general>> accessed 15 June 2020

¹⁵ 'Role of Police' (law lessons) <<https://www.lawlessons.ca/lesson-plans/4.1.role-of-the-police>> accessed 15 June 2020

(1)JALLIANWALA BAGH MASSACRE, 1919 -

The Police on the orders of military officer killed around 400 civilians and injured 1200 other people that are left unattended without medical support.

(2)INDIAN INDEPENDENCE MOVEMENT, 1928 –

In Lahore, when LalaLajpatRai was leading the movement, he was savagely injured by the Police Personnel by Lathi charge which succumbed to death. No cognizance was taken on that behalf¹⁶.

(3)BABU GENU DEATH, 1930 –

A Bombay Mill worker, Babu Genu was the active participant in the protest against the foreign made clothes. One day when George Frazier, cloth merchant tries to move the truck loaded with foreign made clothes, then many persons forbidden him to do the same and on that group one of the person was Babu Genu. After much fight when police managed to move the truck safely, then Babu Genu came in front of that truck to stop them but Police crushed him by a truck.

POST-INDEPENDENCE ERA:

(1) Anil Yadav&Ors. v. State of Bihar (1982)2SCC195.

This case is known by the name of Bhagalpur Blind Prisoners Case. In this case, prisoner's eye was pierced by the needle and acid was poured in them by the Police which damaged their eye sight permanently. When case came before the Supreme Court then Court held the Police Authority guilty and directed State of Bihar to pay the fine on their behalf.

(2) D.K. Basu v. State of West Bengal (1997)1SCC416.

¹⁶'Last nails in the coffin of British rule': Remembering Lala Lajpat Rai on his death anniversary' (Indian Express, 17 November, 2019) <<https://indianexpress.com/article/explained/british-rule-remembering-lala-lajpat-rai-on-his-death-anniversary-6124363/>> accessed on 18 June 2020

D.K. Basu ,Executive Chairman of Legal Aid Services, West Bengal, an NGO wrote one letter addressing to the Chief Justice of India to grab his attention towards the increasing Custodial Violence and deaths around India. In that Letter he mentioned that this Letter must be treated as the PIL and accordingly case must be decided. Seeing the seriousness of this PIL, the Judgement of this case wrote new History. As in this, Court issued 11 guidelines and evolved Custodial Jurisprudence in cases of arrest and detention.

(3) ZulfikarNasir&Ors. v. State of U.P. and Ors. 2018SCC OnLine Del 12153.

One day, during Hindu-Muslim Riots around 42-45 Muslim youth were rounded by the Provincial Armed Constabulary (PAC) packed into a truck and taken away. Few days later, their bodies were found either in Canal or in river with Gun shots. Many cases were filed by the family of deceased person residing in Hashimpura; one Mohalla in Meerut, U.P. Decision is yet to come.

EVALUATION REPORT:

‘The Police feel that most of the public are against them & that there is a lot of Bad Feeling’- **PETER JAMES**. This mindset causes numerous problems and not only has this there is other reasoned too that have perpetually increased the Police violence which we can see in many reports.

There are various reports or index that are released which states about the increasing cases of violence by the Police over people. They are as follows:

➡ **Status of Policing in India Report, 2019-**(CSDS)

State	Police punishes criminal	Legal Trial
Bihar	60	39
Gujarat	42	58
Haryana	54	46
Kerala	49	51
Delhi	36	64

Jharkhand	57	43
Uttar Pradesh	54	46
Madhya Pradesh	36	64

All the figures are in Percentage.

➔ NHRC REPORT, MAY 2020 –

NATURE OF INCIDENT.	NUMBER OF CASES REGISTERED	NUMBER OF CASES DISPOSED	PENDENCY AS ON DATE
Custodial Death(Police)	3	1	347
Custodial Death(Judicial)	146	47	3046
Death in Police Encounter(Police)	4	14	648

Not only this, when we look upon to the Monetary Compensation that is granted by the NHRC, then we will find that:

In CUSTODIAL DEATH (POLICE) in 1 case Rs.3, 00,000 was granted to the Victim. While in case of CUSTODIAL TORTURE, again in 1 case Rs.2, 00,000 was granted.

➔ Of All States, there is **POLICE COMPLAINTS AUTHORITY (PCA)** that is made to see the Complaint against the Police done by any other Person.

Concerning this:

- Maharashtra PCA received 1490 complaints against the Police till Feb.2020.
- Haryana PCA received 681 complaints against Police in 2019.
- Assam PCA received 288 complaints against Police in 2018.

And many more.

Major serious steps to be taken against the Police officers to Combat this Brutality because if our savior will become savage then no one will protect us in any manner.

Recent events of police brutality

As we have earlier discussed, this problem of brutal actions of police have an issue of many decades, hence we are discussing some very recent events and it shows that even in this era when we think that we are much more civilized and educated such acts are still happening. Police as a law enforcement agency they must protect the citizens and thereby preventing any unlawful activity but these events make us think again about the very purpose of Police. Not only in India but also in many other nations the police sometimes act arbitrarily. Other events were discussed earlier but now the most recent acts of it are like killing of George Floyd, police actions to enforce the lockdown, attack on property and on students of Jamia Millia Islamia University, at Jawaharlal Nehru University.

- 1) **Killing of George Floyd:** there was a tip to the police that someone has purchased a pack of cigarette by using a counterfeit currency; the next day George Floyd, aged 46 years, residing in Minneapolis was stopped for questioning. Police officer Derek Chauvin, a white police officer detained him, put him on the ground and then choked his neck with his knee. He continued to struggle for a least of nine minutes and kept yelling in agony “I just can’t breathe”. But the officer didn’t listen to him and kept on pressing him; eventually he surrendered his life and died. Floyd's death follows the high-profile cases of Michael Brown in Ferguson, Missouri; Eric Garner in New York; and others that have driven the Black Lives Matter movement in recent years¹⁷.

For many, the outrage over Floyd's death also reflects years of frustration over socio-economic inequality and discrimination. This incident started nationwide protest in many cities all over United States of America around 140 cities. Even after the lockdown curfew there were many protesters on the streets of Minneapolis. On 25th may he was killed and on 26th the protests

17

‘George Floyd: Videos of police brutality during protests shock US’ (BBC NEWS, 05 June 2020)
<<https://www.bbc.com/news/world-us-canada-52932611>> accessed on 15 June 2020

started. Police officer Derek Chauvin was charged with murder and he is under trial. After 8 long days of protest George was given a final goodbye.

His death was recorded on a video which went viral, and there was a protest outside the White House. The protesters were beaten and police fired pepper balls at them to make way for President Donald Trump. In response to this, civil rights group the America Civil Liberties Union filed a lawsuit, accusing the president, the attorney general and others of violating the constitutional rights of protesters.

"When the nation's top law enforcement officer becomes complicit in the tactics of an autocrat, it chills protected speech for all of us," said ACLU official Scott Michelman, quoted by Reuters¹⁸. Floyd brother has called for police reforms and making the process the arrest much better. This incident has shook the world from within, people who are blacks now are under a threat again as even when a policeman does this to a black man what about others?¹⁹

2) Ryan Twyman shot by Los Angeles officers: Ryan Twyman was unarmed and was sitting in a parked car when two sheriffs' deputies approached him and fired 34 rounds and neutralized him. He was father to three, this incident happened in a time of 50 second this incident shook the pillars of law enforcement bodies and ignited outrage in people. On that very same day, police shot around 5 people in Los Angeles the only one those 5 survived and lived. "Nobody deserves to be treated like that," Tommy Twyman, Ryan's mother, said on a recent afternoon, recounting how her son liked to talk to her on the phone once a day, always a true "mama's boy". He loved sheltering dogs and dreamed of becoming a veterinarian, she said. "You took something that I'm not gonna ever get back. You robbed me."²⁰

¹⁸ ibid

¹⁹ 'A timeline of the George Floyd and anti-police brutality protests' (Aljazeera, 12 June 2020) <<https://www.aljazeera.com/news/2020/06/timeline-george-floyd-protests-200610194807385.html>> accessed on 15 June 2020

20

Sam Levin, 'Los Angeles officers shot at Ryan Twyman 34 times. He was one of four they killed that day' (The Guardian, 15 August 2019) <<https://www.theguardian.com/us-news/2019/aug/15/police-shootings-los-angeles-sheriffs-department-ryan-twyman>> accessed on 16 June 2020

He was among 500 people, who were killed in police action since 2013 in Los Angeles. This county is seen to be a place of police violence now the person who shot Ryan was previously fired for his misconduct and he was also charged previously for domestic violence, he was also a part of many conspiracies. Federal Bureau of Investigation (FBI) is now investigating the matter. Police in the county were bothering Ryan for a very long time, they detained him many times and this time they were not interested in a chit chat but in some great action to shoot him dead and they succeeded in this.

3) Brutality against students protesting against CAA/NRC at Jamia Millia University:

On a fateful day on 15th December when the students of JMI were protesting against the Citizenship Amendment Act, 2019 they were lathi-charged by the police. They intruded into the campus and beaten the students in a very harsh manner and this went too badly when many students succumbed to deathly wounds due to such action of the police. The police didn't stop till now they went into the library of the university and vandalized it and beat the student studying there it was all recorded in the camera.

No one from the government came to help the students to protect them from such actions, the whole university campus looked like a war ground, police when asked that why did they went into the university premises said the student lit up the busses on roads and went into hostels and were hiding inside. Male policemen went into the girl's hostel too. In a country where the students who are said the future of a nation are not safe what about others?

4) Arbitrariness in JNU campus by Delhi Police: JNU is a central university and it has a very nominal tuition and hostel fee, in 2019 the fees were hiked and it became a problem to many students as there were many students are from the poorer section of the society and due to that they were not accepting the new fee hike. Many students would have lost their opportunity to study their due to this hike so the student union went on a mass but peaceful protest against the government and the JNU administration. The government kept their mouth mum and did not stop Police from beating vehemently the student in the protest.

Another event of such brutality was seen when a mass of goons entered the JNU campus under the noses of the police and attacked the student protesting against CAA/NRC. The police did nothing to save them and kept maintaining silence.

5) Unacceptable means to enforce nationwide Lockdown: the world is facing a global pandemic of COVID-19 and many countries went for a lockdown to curb the problem of the pandemic. Since the lockdown started many incidents were recorded for this brutality and the main victim was the poorer section of society the local vendors, daily wagers, people who went to banks and ration shops,etc.

In GandhiNagar, Gujarat police vandalized the thelas if vegetable sellers and beaten them. In Delhi even the women were beaten by the male police constables.

Limit the powers of law enforcement agencies

In this very article, we have discussed the true meaning of law enforcement, police. And later discussed the brief history and then told about the need and lastly about the incidents. With all this, we concluded that these bodies have a lot of powers that are using it arbitrarily the governments of the states/ nations shall amend the laws and restrict the powers to curb this problem of the brutality of such agencies.

At last, we just want to say that these incidents are very heart-wrenching and due to this the good police officers also suffer a great loss. The enforcement bodies are for our protection but in the current scenario this is changing and the government now must take hard steps to solve this issue.