

## BEHIND THE BADGES: UNMASKING THE POLICE BRUTALITY IN INDIA

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### ABSTRACT

*Police Brutality in India remains a pressing concern, with implications for human rights and bodily integrity. Despite democratic principles and legal safeguards, instances of misuse of power by the police persist. While there is no specific legal definition of police brutality, it encompasses excessive use of force, both physical and mental, often resulting in severe consequences, including death. Officers have been known to act under political pressure or for personal gain, compromising their duty to serve the police. The Indian Constitution, which upholds fundamental rights, assigns the responsibility of maintaining peace and enforcing law and order to the police. However, cases of human rights violations, fake encounters, and abuse are not uncommon. The judiciary plays a crucial role in curbing unlawful policing practices. India's diverse states and union territories each have their police forces, operating under the State List of the Constitution.*

**Keywords;** Police Brutality, Constitutional Rights Violation, Human Rights, Excessive Force.

### INTRODUCTION

Human rights are critical to a human's survival. It is the state's responsibility to guarantee that its citizens' basic rights are not infringed. However, some of these defenders turn out to be human rights abusers. The police in India are still under the control of the colonial British authority. The Indian police system is based on a model developed by British colonists.<sup>1</sup> The time has arrived to change our police system. According to India's Annual Report on Torture, custodial torture killed 1,731 people in 2019 and 1,966 in 2018.<sup>2</sup> The murder of Jayaraj and his son, Emmanuel Bennick, has sent shockwaves throughout the country.

The Indian Police Act and the Criminal Procedure Code both lack definitions for the 'Police' word. Article 246 of the Indian Constitution<sup>2</sup> places the police on the state list of the 7th

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<sup>1</sup> Anjitha Santhosh, *Police brutality; A Human Rights Disaster*, (Pro bono India, Socio legally yours)

<sup>2</sup> *The Constitution of India*, (Bare Act, 1950)

Schedule. Legislation governing the use of police force in each state is at the purview of the corresponding state government. Being a quasi-federal state, India's central government oversees the control of its police forces. Senior police officer appointments, for instance, are handled by All India Services. The Central government also controls the Central Reserve Police troops. The police force is under the Ministry of Home Affairs supervision. The Inside A number of significant police reform initiatives have been implemented in the last several years, although not much.

## **EVOLUTION OF POLICING; FROM ANCIENT TIMES TO THE 21<sup>ST</sup> CENTURY**

The police act of 1861 served as the impetus for the police violence in India. After the recent years of the revolution of 1857, a new law formulation came into existence. The East India Company adopted the model of the Indian police which was based on the model which already running /working /existed in Ireland.<sup>7</sup>

Evolution There is a long history of the evolution of the police force in India, references to policing can be found in ancient texts such as the Vedas. The modern police system in India began with the foundation /institution of the Indian police act of 1861.

On contemporary lines, the history of the Indian police begins with the turn of the 19<sup>th</sup> century before the British era, and even for a long while after the start of the rule, the concept of the distinct regular police force as it is known today was never entertained. Warren's Hastings introduced several proposals or measures for police reforms that would eventually company rule and later culminated in the police act 18 of 61<sup>3</sup>

## **HISTORICAL OVERVIEW**

Since the Rig Veda and Atharva Veda identified specific crimes that the Vedic people were aware of, the history of police can be traced back to the early Vedic Era. Indeed there is evidence that security personnel existed as early as The Harappan Period era. The Vedic era criminal justice system may not have a precise parallel, but the Mauryan era /period shows several significant similarities. This 310 B.C. treatise on the criminal justice system is found in Kautilya's Arthashastra.<sup>4</sup> It reads like a contemporary police Guidebook. there is a

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<sup>3</sup> Policing in Modern India notes.

<sup>4</sup> Policing in Modern India notes.

reference to; Dauvarika, Antevasi, Pradeshika, Mahamattas, Rajjukas, and so forth,

The three categories of police were<sup>5</sup>

(i)Durgapal.

(ii)Antpal.

(iii)Dandpal.

In the medieval period, there is no mention of any police organization. this could be the case since. Subjects to a different set of laws during the sultanate period. Muqaddams and Muhtasibs were administrative tiers of officials.

Whatever law enforcement system was in place at the time became even more corrupted in the region. following the British Victory at Plassey in 1757 and the fall of the Mughal empire. In that era, the Mughal Empire was divided into Subas' and each and everyone was subdivided into Sarkar (District), Parganas, and Villages. Every city had a police officer named Kotwal. He was in charge of the local administration.

Both the Criminal Procedure Code and Indian Penal Code came into effect in the year 1862, and in the year 1872 The Evidence Act came into force, Islamic and Hindu Laws as well as the opinions of Qazi Muftis and Pandits were substituted. The Mughal foundation for law enforcement was maintained even after the British made modifications to the administrative system continuing ranks like Kotwalis, Thanedar, pargana, and Darogah. But in contemporary times, the duty of Police personnel is to enforce Rules and Regulations made by the Legislature and to impart Justice to the Citizens. In today's time, The Indian Police is working as per the Police Regulation Act and other Legislative Statutes.

### **HIGH-PROFILE CASES OF POLICE ATROCITIES IN INDIA; A CLOSER LOOK**

The police atrocities can be understood as Infringement of Civic Entitlement which is often violated by unnecessary police force than what is actually required<sup>6</sup>. Despite the fact that police have tremendous power they have started misusing it. The Police Act, of 1861 mentions the authority of the police to serve the public, and defending them against

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<sup>5</sup> Policing in Modern India notes.

<sup>6</sup> Kavya Vijay and Muskan Tulsian from ICFAI law School, Hyderabad, *Rise of police brutality and the need for better control measure in recent times*, (24 August,2020)

wrongdoers is the fundamental duty of the police.

The use of excessive or unnecessary force is not new to India, as there are numerous cases of police atrocities. The practice of police brutality was seen before the independence and the same is going on after independence too. Now the time its reputation has faded, yet it was Once a strong and courteous idea.

The police's primary responsibility is to protect the public from wrongdoers but there have been many such incidents in India where the police have done brutality against the public. there are many such records where people have lost their lives due to police brutality and negligence.

The Ministry of Home Affairs submitted the record in Rajya Sabha in the last five years between 2017 to 31<sup>st</sup> March 2022 a total number of 669 cases were registered where people died in police custody were registered across the country.<sup>7</sup>

Hashim Pura Massacre; the Hashim Pura massacre happened on May 22, 1987, 350 people died in the 1987 Meerut communal Riots, which took place in the Indian state of Uttar Pradesh.<sup>8</sup> It had been reported that around 19 police officials arrested 42 people of the Muslim community from the Hashim PURA locality, then took them to the outskirts shot them dead, and dumped their body in the nearby irrigation canal. After a few days, their bodies were discovered as it was floating in the canal. 19 men were accused but later they were released on bail.

According to the Indian express<sup>16</sup> a 25year- old Dalit Lady was raped and strangled allegedly by a 27year old- Police officer named Raghvendra Singh in Agra. The victim's body was discovered in the room that the constable had hired. On December 29, it was Hanging from the ceiling in Singh's room.

A Dalit adolescent from Uttar Pradesh was allegedly gang-raped twice in 44 days by the same man, and a year later, the rapists set fire to her house in Laal Kheda village, injuring

<sup>7</sup> *Custodial Death* (16 february, 2023)) <https://www.nextias.com/ca/current-affairs/16-02-2023/custodial-deaths>, (Last Visited 24 july,2024).

<sup>8</sup> *List of Cases of Police Brutality in India* [https://en.m.wikipedia.org/wiki/List\\_of\\_cases\\_of\\_police\\_brutality\\_in\\_India#:~:text=31%20August%201995%20-%20The%201995,Mumbai%20on%2011%20July%201997](https://en.m.wikipedia.org/wiki/List_of_cases_of_police_brutality_in_India#:~:text=31%20August%201995%20-%20The%201995,Mumbai%20on%2011%20July%201997).

<sup>9</sup> Manish Sahu, Uttar Pradesh; *Cop booked for rape-murder of Dalit woman, absconding*, (30,December,2023)

her infant son who was born after the rape.<sup>10</sup> An investigation of the case revealed the UP police ignored critical evidence and filed a FIR for the first rape more than a year later, only after the youngster went to the POCSO court in Unnao.

### **POLICE ATROCITIES; A THREAT FOR HUMAN RIGHTS**

The increase in the number of Barbarity committed by the police force has questioned the entire police community. The mere fact that individuals have been granted certain rights in India which include the Right to Speech and expression, the Right to Equality, and other crucial Rights provided under the Constitution of India. Therefore, individuals shall not be denied any of the rights stipulated under the law and therefore, the rights of the police shall not be authoritative.

The police authority is authorized to those powers and rights to which common people don't access. An example a Police officer can ask anyone to provide their identification and other documents, but an ordinary citizen cannot. they have the authority to break Traffic Rules as well, but any common person who does so will be liable to pay costs.

Police personnel have enormous capability. However, they have begun to misuse it by abusing ordinary people's rights. There are tons of methods that are used by the police to violate the rights of individuals. This includes pounding upon exposed boots, assaulting with a stick on the vertebral column, assaulting with guns but inserting live electric wire in the body crevices, Custodial Death, Custodial Rape, Asking for Sexual favor, in exchanging for leniency, fake evidence, Illegal Detention, fake encounter, false imprisonment, false confession, Persuasion, witness tampering, police perjury, unjustified searches, unlawful surveillance, police corruption, racial stereotyping, unlawful seizures of property, and so on are only a few examples of how the police abuse their powers and violate others rights.

Common people have to face mental trauma, stress, and anxiety due to arrest by the police without any valid reason, because in society even once the name of the person gets spoiled by being jailed whether he has committed any crime or not, it is an infringement of fundamental rights of the Indian constitution.

The Apex Court which dealt with this issue pronounced a landmark judgment and issued

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<sup>10</sup> Rohit Ghosh, *A Dalit Minor was Gang Raped Twice, UP Ignored The first time*, (5 June, 2023).

Guidelines in some Landmark cases. In the case, *Joginder Kumar v. State of up*<sup>11</sup> Court held that a police officer cannot arrest an individual just because it seems necessary for him to do so. The existence of the power to arrest is one thing. The justification for its existence of its quite another. The police officer is liable to justify the arrest apart from his power to do so.

Deaths in police custody reported in India: According to the data provided by the National Human Rights Commission, Rai said a total of 164 deaths in police custody were reported in 2022-2023, 175 in 2021-22, 100 in 2020-21, 112 in 2019-20 and 136 in 2018-2019<sup>12</sup>

#### DATA REPORT OF CUSTODIAL DEATH OF LAST FIVE YEARS

STATE/ UNION TERRITORIES	HIGHEST NO. OF DEATH	LAST FIVE YEARS
GUJARAT	86	2017-2022
MAHARASTRA	76	2017-2022
UTTAR PRADESH	41	2017-2022
TAMIL NADU	40	2017-2022
BIHAR	38	2017-2022
DELHI	29	2017-2022
SIKKIM & GOA	1	2017-2022

The total number of cases of custodial death in the past five years was approximately 9,112, disciplinary actions were taken in only 21 cases, accounting for just 0.23% of the total

<sup>11</sup> *Landmark Judgments on Human Rights and Policing in India.*

<sup>12</sup> *Custodial Death*, (16 february,2023) <https://www.nextias.com/ca/current-affairs/16-02-2023/custodial-deaths>.(Last visited 24,2024).

cases.<sup>13</sup>

The National Human Rights Commission [NHRC] was formed to prevent violations of human rights at any level of the inquiry .it may recommend monetary compensation to victims as interim redress. It may also recommend steps to protect the rights guaranteed by our constitution or in any already in force.

## **VOICES OF THE VICTIMS; STORIES OF POLICE BRUTALITY IN INDIA**

Police Brutality is a serious issue that has been reported in various parts of India. Here are some notable instances. These instances underscore the need for accountability and reform in law enforcement practices in India.

### **Uncovering The Truth Behind The Case Of Jayaraj And Bennick**

The Custodial Death of P. Jeyaraj along with his son J. Bennick occurred in Sathankulam, Thoothukudi district Tamil Nadu, India. On June 19, 2020, the Tamil Nadu Police picked up Jeyaraj and Bennick for allegedly infringing the Guidelines of COVID-19 stipulated by the Central Government. lockdown rules. They were accused of keeping their shop open in spite of Lockdown. In Custody, they were brutally assaulted and tortured by the police, which tragically led to their deaths.

### **Jamia Protest Escalate; Police Clash With Students**

During anti-CAA rallies at Jamia-milia Islamia University in December 2019, police entered the campus with force<sup>23</sup>. Police arrived on campus and detained a large number of students, police also used tear gas inside the library. The police used undue force on the students, the police even denied that they had not entered the library. However, the CCTV footage released by the Jamia coordination committee indicated otherwise. The clip also shows police lathi charging on students who were attempting to hide. Many universities such as IIM Ahmedabad, Banaras Hindu University, and other institutions expressed support for Jamia Millia Islamia Mass protests erupted in several sections of the country. This Police violence received international condemnation.

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<sup>13</sup> *Custodial Death*, (16 February,2023)<https://www.nextias.com/ca/current-affairs/16-02-2023/custodial-deaths> (Last visited,24july, 2024)



## Justice Denied: The Mysterious Death Of An SSLC Student

Sagar Chalavadi, a 19-year-old boy from Bijapur, Karnataka, was allegedly lathi-charged by police officers who came to administer his SSLC exams.<sup>14</sup> According to original accounts, he died of a heart attack after being beaten up by cops.

## Nupur Sharma Protest

A video showing Indian police abusing a group of Muslim men in prison has gone viral, causing anger.<sup>15</sup> The men were detained after rallies against incendiary remarks made by Nupur Sharma, the spokeswoman of the ruling party BJP.

## CONCLUSION

Police Brutality in India remains a major issue, undermining human rights and eroding public trust in law enforcement, we may work towards a more accounted and rights-respecting police force by critically examining the causes and human rights implications. In India, a police act was brought in with the view that Police Officers will secure law and order in the Nation. However, the statistics show a different story altogether where Physical Abuse by Police personnel has become a trend.

On a daily basis, we see so many cases where the Police have violated the rights of ordinary people, and as above mentioned the data record of the last five years of custodial death in the police has violated the fundamental rights of common people.

In present times, police atrocities are a heinous crime that needs the attention of the government. just as the police have immense power, they misuse that power. we have come across many such cases where the Police have tempered the evidence, made false charges, and wrongfully detention and put them falsely charged. In relation to such wrongful detention, the court has addressed the issues and provided some guidelines to the police officer and these guidelines are as follows: Using clear identification while arresting the accused, Preparing of memorandum of arrest, etc.

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<sup>14</sup> Anjitha Santosh, *Police Brutality; A Human Rights Disaster* (Pro bono India, Socio legally Yours),(Last visited 24 July,2024)

<sup>15</sup> 2022 Muhammad remarks Controversy,

[https://en.wikipedia.org/wiki/2022\\_Muhammad\\_remarks\\_controversy#:~:text=The%202022%20Muhammad%20remarks%20row,Mosque%20dispute%2C%20which%20sparked%20controversy](https://en.wikipedia.org/wiki/2022_Muhammad_remarks_controversy#:~:text=The%202022%20Muhammad%20remarks%20row,Mosque%20dispute%2C%20which%20sparked%20controversy) (Last visited 24 July,2024).



India does not have any specific Anti-torture law, but several provisions in existing laws that address torture such as under the Indian penal code of sections 330 and 331 deal with causing hurt to extract confession or to compel restoration of property. Our Indian constitution has provided many fundamental rights and the Protection of Human Rights Act, of 1993 has provided many rights for ordinary people.

The current need in the Justice System is to ensure that the power provided to the police does not lead to abuse of the Criminal Justice System as it is rightly said that “Power Corrupts but absolute power Corrupts Absolutely” Therefore, constant need for check is required to make sure that the power is utilized for providing Justice rather than for meeting unethical actions, and the right of the offender does not get rejected in totality as they are humans too and also are citizens of a nation therefore, they should also have the right to lead a dignity life as provided under the Indian Constitution. In contemporary times a significant rise in the number of Cases of police brutality can be seen which raises questions about the criminal justice system the unmerciful tendencies behind the badges often tend to sacrifice the rights of victims which needs to be addressed by the present criminal justice system.

