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“POLICE ATROCITIES- A LEGAL PERSPECTIVE”

-Shoyinka H. N¹

ABSTRACT

In the light of police atrocities and custodial deaths increasing in the society day by day, there is a need to put a full stop to all these violent behaviors. Very recently, there was a viral news regarding an incident where a young Man died due to police excesses in the state of Tamil Nadu. Not just this, there are many unreported incidents where people have just been killed in the name of interrogations, and unbearable beatings. Even though there are many Supreme Court Judgements, guidelines and even social activists taking up this matter, still the chain of institutionalized violence continues. We also got to take into consideration the immense pressures which are there on the police department. Might be political, administrative or outside pressures. These pressures make some policemen lose patience, tolerance, hope. But that doesn't mean that they show all their frustration on the common people alone. This article focuses on the legal analysis, the statistics and the way forward, as well as the news coverage of the violence from the past to the present. One got to consider even the class consciousness which is there in police behaviors and the difficulties in getting appointed as policemen in the present-day political system.

INTRODUCTION

The moment an individual hears the word police, there is a fear in the mind of that person. Even though that person would not have committed a mistake at all in life or would not have violated any law, why this fear arises? What are the pressures on the policemen? How should a relation be between the policemen and citizens? Why are some common people suffering and at the same time some individual aristocratic businessmen evading taxes residing in other countries without the fear of policemen and law? Some individuals die in police custody over mere allegations and some influential people never get caught by the police? Do constables get harassed by their

¹ Year of study: 2018-2023

Institution of study: The University law college and Department of studies in Law, Bangalore university

Designation: presently working as a junior advocate at C S LAW Advocates and consultants, Bangalore.

superiors? Or the colonial hangover is causing some policemen to behave in that way? These things have to be analyzed.

STATISTICAL ANALYSIS

According to the **‘Status of policing in India report’**² a significant proportion of police force personnel justify the use of police torture and violence in the course of their duties. Common cause, in collaboration with **‘Lokniti programme’** of CSDS, Surveyed 8,276 police personnel of various ranks at 82 locations such as police stations, police lines and courts across 17 states and union territories. This survey covered the respondents over the ranks of constables, upper subordinates (from the ranks of assistant sub inspector to Deputy Superintendent of the police). To quote a few paragraphs of the report:

1. “Overall, 41 percent police personnel said that arrest procedures are always adhered to while 24 percent said that they are rarely or never adhered to.
2. Anyone arrested for a bailable offence has a legal right to be released on bail and not kept in custody. But only 62 percent respondents said that the arrested person is always released on bail immediately at the police station in bailable offences, while 19 percent said that they are sometimes immediately released.
3. Thirty percent of police personnel said that third degree methods are justified towards the accused in serious criminal cases. Nine percent said that they are justified in petty offences. IPS officers and those respondents who often conduct interrogation are the most likely to justify the use of third-degree methods.
4. A quarter of the respondents (25%) justify slapping “uncooperative” witnesses, while nine percent justify the use of third-degree methods against them.”

Looking at the intensity of these answers and mentality of some policemen, it really scares the common people to even approach a police station. Needless to say, the police circle needs a tough candidate to survive there. The police force needs a solid mindset to work, there will be a lot of political, administrative pressure on the police department especially on the Inspectors of a police station. The tremendous pressures on the police can turn into anger, frustration. But the frustration, violence will be inflicted on the poorest and marginalized groups always. It is never inflicted on the rich, Aristocratic categories. Though there are many guidelines relating to stopping of police atrocities, many regulations, still the atrocities continue. It is because of lack of empathy

² Common cause “Status of policing in India Report 2025: police torture and (Un) Accountability”
https://www.commoncause.in/wotadmin/upload/Executive_Summary_SPIR_2025.pdf&ved+2ahUKEwik5f351piOAxWAS2cHHfMtMTcQFnoECEQAQ&sqi+2&usg=AOvVaw3Qg85kn09_j145d9uoYRjU.

which is to be shown towards the accused, especially the poor accused, they are the undertrials who are still languishing in jails even today without any legal representation or any backbone to support.

THE LEGAL ANALYSIS

There is a need to look at some of the landmark judgements passed by the Supreme Court in relation to curbing down police atrocities. Some of the main cases which can be mentioned are:

- a) In the case of '**D K Basu vs state of west Bengal**'³, the petitioner, the executive chairman of legal aid services addresses a letter to then chief justice of India drawing his attention to certain news items published in the newspapers – '**The Telegraph**', '**The Statesman**' and '**New Indian Express**'- regarding the lockup deaths.

The main issue raised was the fundamental issues concerning the use and abuse of police powers. So, the Apex Court came up with certain vital directions regarding the flagrant violations in the matter of administration of justice. Some of the directions are as follows:

1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designation. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.
2. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by director, Health sciences of the concerned state or union territories, director, health services should prepare such a panel for all tehsils and districts as well.
3. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal aid organization in the district and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

These and other directions really helped in protecting the rights of the accused at least in the short run and paved the way for some reforms in jail administration.

³ '**D K Basu vs State of West Bengal**', Writ petition No. AIR (1997) SC 610, (India) decided on 18th Dec, 1996, (Per Justice Kuldeep Singh, Justice Dr. A S Anand) (India).

- (b) **The case of ‘Khatri and others vs state of Bihar and Others’,**⁴ to give a background about this case, in 1980, in an infamous incident of brutal custodial torture against undertrials, jail officials blinded several men lodged at Bhagalpur central jail by pouring acid into their eyes. This has been known as the **‘Bhagalpur Blinding incident’**.

When those undertrials were produced before judicial magistrates for remand proceedings for the first time after their blinding, most were not represented by any lawyer. Even the magistrates did not offer them any legal representation at state cost.

Taking this background into importance, some observations made in this case can be taken into consideration:

1. In furtherance, the state has a constitutional mandate to provide a lawyer to an accused who was unable to afford one of their own. The arguments of ‘financial constraints’ raised by the state as a reason to deny free legal representation was also rejected.
2. It also held that judges were under an obligation to inform the accused about their rights to obtain free legal service at state cost, if they could not afford it on their own.

So, the Supreme Court of India had impleaded all states and Union territories in the matter of custodial violence in September 2020 to determine the exact position of CCTV Cameras in each police station as well as the formation of oversight committees in compliance with its own order dated 03-04-2018. (The Honorable Supreme Court in the case of **‘Shafi Mohammad vs state of Himachal Pradesh’ (2018) 5 SCC 311 dated 03-04-2018**, ordered the installation of CCTV Cameras in police stations to monitor human rights violations).

ONLINE COVERAGE

With consideration of these judgements, it is very much important to look at some of the incidents relating to police atrocities in our society. Especially during the time of lockdown of 2020, one cannot forget the custodial deaths of Jayaraj and Benix in Tamil Nadu. Allegation was that they violated covid lockdown norms. For that simple reason, they were brutally tortured and killed in police custody.

⁴ ‘Khatri and Ors vs state of Bihar and Ors’ AIR (1981) 1 SCC 627, (India) decided on 19th Dec, 1980, (Per Justice P N Bhagwathi, Justice P N Sen) (India).

According to BBC News,⁵ the numbers are startling. A report by a consortium of NGO'S against custodial torture have released a report in which they say 1,731 people died in custody in India during 2019. This works out of around five custodial deaths a day.

The rate of civilians being killed worldwide ⁶ also gives a shock wave to us. The rate of civilians killed by police in the country of Venezuela is far higher than other developed democratic countries, with 1,830 people killed by police per 10 million residents in 2025. This compared to 69 deaths per 10 million residents in Canada, and seven in Australia.

El Salvador is the country with the largest number of prisoners per capita, this suggests that the police make more arrests and judges hand down jail as a more frequent punishment.

COGNIZANCE TAKEN BY NHRC

The **National Human Rights Commission** ⁷ came up with the following guidelines to curb down custodial deaths in India, some of them are as follows:

- (a) Magisterial enquiry be conducted at the earliest without undue delay
- (b) The enquiry magistrate should visit the place of occurrence to the acquaintance with the facts on ground. During the visit to the scene of crime, the enquiry officer should make an attempt to identify natural witnesses who are likely to have been present at the scene of crime
- (c) The magisterial enquiry should cover the following aspects:
 - (1) The circumstances of death
 - (2) The manner and sequences of incidents to death
 - (3) The cause of death
 - (4) Adequacy of medical treatment provided to the deceased
- (d) The enquiry magistrate should examine and verify the following records
 - (1) Inquest report
 - (2) Viscera analysis report
 - (3) Medical treatment record

⁵ by Ayesha Perera, BBC India Online 'THE ISSUE OF POLICE BRUTALITY IN INDIA' "BBC News" (27th Jun. 2020), https://www.bbc.com/news/world-asia-india-53202707&ved+2ahUKEwj-qcCkoqCOAxU7nmMGHXyfAyMQFnoECDoQAQ&sqi+2&usg+AOvVaw2G_gDeohMkE1pAxxhMTWatK.

⁶ Published by Statista research department "Statista" (Jun 12th 2025)
"https://www.statista.com/statistics/1124039/police-killings-rate-selected-countries/&ved=2ahUKEwi5p8_dr6iOAxWM1jgGHc-ffWEQFnoECDgQAQ&usg+AOvVaw1bCdqNpz5gXRgfE-6bmF85."

⁷ 'The National Human Rights commission guidelines regarding the conducting of Magisterial enquiry of death in custody or in the course of police action' (Jan 5th, 2021).

- (4) FIR, General Diary entries any other relevant police records
- (5) Forensic examination reports of hand wash of the deceased.

CONCLUSION

A P S Kumar, a famous writer, in his book ⁸ has written about the police atrocities with the help of factual information collected from reliable sources as well as quoted the words of the then justice of Allahabad High Court, Honorable Justice J Mulla regarding the police system, to pick a few lines from the book:

“The police resort to third degree methods to extract confessions and pin the guilt on the accused based on the former’s subjective assessment. The salutary legal maxim that ‘every man is innocent until proven guilty’ stands on its head- a ‘poor man is guilty unless proved innocent’

Between 1994 and 2008, there were 16,836 custodial deaths in India. An average of 1,203 a year”

Continuing, the author of the same book quotes the words of Honorable Justice J Mulla, the then justice of Allahabad High Court:

“If I felt that my lone effort, I could have cleaned up the ‘Augean STABLE’ Which is the police force, I would not have hesitated to wage a war single handed; there is not a single lawless group in the whole country whose record of crime comes anywhere near the record of that single organized unit which is known as the police force”

So, there needs to be a separate discourse on the ongoing police atrocities taking place also considering the immense pressures upon the police as well, hoping one day there will be a separate legislation against all kinds of police atrocities in India and atrocities on the poor people by the police force ends.

⁸ A P S Kumar, “India, whose country is it anyway” 177 (1st ed. 2018).