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Police Brutality over the Years in India 1861-2020

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ABSTRACT

As the world started getting more civilized, there was an imminent need for certain individuals to make sure there was a proper order in which everyone was living, this was the first time the world had ever need police. These were supposed to be trustworthy individuals, who would work for the betterment of society and help decrease the crime rate. For this purpose, these individuals were vested with powers. Some police officers became national and international heroes, saving lives, arresting evil men and women while others became evil for the members of the society, inflicting nothing but brutality and violence. This article seeks to understand the history of police brutality in India and attempts to provide some solutions for the same.

I. INTRODUCTION

Police have existed in India or anywhere around the world ever since there was a cultivated society that required certain individuals to ensure public order and the enforcement of laws. Society trusts the police for their safety. Whenever anyone is in trouble, calling '100' or '911' is their immediate response because they feel that the police would help them but unfortunately, this is not always true. Brutality means exerting unlawful force towards someone. Instances of the police exceeding their power and subjecting people to brutality are not new. Police are the people who are meant to keep us safe but sometimes the ones the society needs safety from are the police themselves. Police have been seen engaging in murder, assault, battery, and verbal abuse.

Police often misuse the power given to them by law and make laymen face dire consequences. Reports have suggested that there is something wrong with the way the police are trained in India. Their training is poor, which also explains their impatience while dealing with the public. Most of the police officers, even the ones who are award winners fail to clear the law and order papers. There is poor commination, along with a lack of resources and manpower, also there is

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an influence of politicians².

II. POLICE BRUTALITY IN THE COLONIAL ERA

The roots of police brutality in India can be traced back to The Police Act, 1861³ which came into existence just a few years after the uprising of 1857. The model of the Indian police adopted by the East India Company was based on the model already working in Ireland. The police in Ireland were paramilitary and not answerable to anyone except the government.

After the uprising of 1857, the East India Company had got an idea that the people in India were restless and violent and hence the Ireland model of police where the police were armed and could use force against the civilians was deemed suitable⁴, this was the beginning of unfortunate events of police brutality in India. One of the most gruesome instances of post-colonial police brutality in India was the Jallianwala Bagh Massacre that took place on April 13, 1919, where the policemen confined unarmed civilians in the Bagh and open fired on them ruthlessly killing more than 400 people and injuring almost 1500 on the orders given by General Reginald Dyer.

It was recommended by the Police Commission of 1902 that there was an urgent need of armed police to curb civil disobedience, communist and labor movements, and hence the Central Intelligence Department was established in Shimla⁵. Later, in 1930, when Babu Ghenu, a participant in the Indian independence movement, protested in the Bombay cotton mill was killed when a truck driven by the police ran over him⁶. Police have done unspeakable acts in the past and continue to do so, exceeding the power given to them by the 'khaki'.

POLICE BRUTALITY IN POST INDEPENDENT INDIA

There have been several cases of police brutality in the post-independent India and it knows no bounds. During the colonial era, the British vested the police with extraordinary powers so that anyone who opposed British rule could be detained. Interestingly, even after 73 years of independence, not a lot has changed. The Criminal Procedure Code⁷ has chapters regarding the

² Economist, *The Shortcomings of India's police are not entirely their fault*, THE ECONOMIST (June 8, 2020, 2:34 AM), <https://www.economist.com/asia/2018/08/18/the-shortcomings-of-indias-police-are-not-entirely-their-fault>.

³ The Police Act, 1861.

⁴ K. S. Subramanian, *The Sordid Story of Colonial Policing in Independent India*, THE WIRE (June 8, 2020, 2:42 AM), <https://thewire.in/government/sordid-story-colonial-policing-independent-india>.

⁵ K. S. Subramanian, *The Sordid Story of Colonial Policing in Independent India*, THE WIRE (June 8, 2020, 2:42 AM), <https://thewire.in/government/sordid-story-colonial-policing-independent-india>.

⁶ Youngisthan, *8 Cases of Police Brutality in India That Will Change Your Perception*, DAILY HUNT (June 8, 2020, 3:01 AM), <https://m.dailyhunt.in/news/india/english/youngisthan-epaper-youngeng/8+cases+of+police+brutality+in+india+that+will+change+your+perception-newsid-79765300>.

⁷ Code of Criminal Procedure, 1973.

security and peacekeeping of public order, the act also provides for the policing of the local population, in case of a ‘disturbance’ and the appointment of ‘special police officers’ who are, in fact, private persons. Enormous powers have been given to the police officers by the Code, wherein, the lowest officer of the police can arrest and confine anyone for 24 hours. The Indian Penal Code, 1860⁸ too, did not remove the ghastly regulations that were used to deport the leaders of the Indian freedom struggle such as the Bengal Regulation III 1818. Similarly, even after independence, there still is, the often debated offence of Sedition⁹. Independent India has also seen the horror of police brutality. Some of the newest instances of public brutality suffered by the country are:

1. Ram Leela Maidan, 2011.

The Ram Leela Maidan was booked for a yoga camp by Baba Ram Dev for 20 days but later it became the place for *Satyagraha*. At midnight, when the people were sleeping, police swooped down in the ground and used tear gas, water cannons and laathis on the people who were sleeping¹⁰. This incident gathered a lot of media coverage and when the pictures of the policemen laathicharging the people who were sleeping were made public, this act was greatly criticized by both the public and the Supreme Court. Strict action was taken by the court regarding the policemen involved in the unchecked violence against property and persons.

2. Lathicharge on the Patidar Community in Ahmedabad, 2015.

The Patidar community in Gujarat was demanding the OBC (other backward caste) status in 2015. A rally took place in the GDMC ground of Ahmedabad, which had over 500,000 participants. The time allotted to the community members to rally at the GDMC ground was till 6 pm, but when the people did not leave the ground till the prescribed time, the policemen resorted to lathicharge, injuring people, including the media persons¹¹.

3. Desecration of ‘Guru Granth Sahib’, 2015.

Following the desecration of the ‘Guru Granth Sahib Bir’, protests began. For the purpose of protesting, there was an assembly of almost 3000 people and the police were not successful in containing them. The police took the assistance of canecharge and used water cannons to

⁸ Indian Penal Code, 1860.

⁹ ANANDSWARUP GUPTA, THE POLICE IN BRITISH INDIA 1861-1947 78 (Concept 1979).

¹⁰ Legal Correspondent, *Supreme Court asks Delhi Police to explain Ramlila Action*, THE HINDU (June 9, 2020, 5:43 PM), <https://www.thehindu.com/news/national/supreme-court-asks-delhi-police-to-explain-ramlila-maidan-action/article2218537.ece>.

¹¹ BS Reporter, *Patidar rally youth leader Hardik Patel Arrested in Ahmedabad*, BUSINESS STANDARD (June 9, 2020, 7:05 PM), https://www.business-standard.com/article/current-affairs/patidar-rally-youth-leader-hardik-patel-arrested-in-ahmedabad-115082501394_1.html.

disperse the people. At the Kotkapura-Bhatinda road, protestors were allegedly hurling stones at the policemen. The policemen open fired on the protestors, killing them instantly¹².

4. Toothukudi, Tamil Nadu Anti-Sterile Protests, 2018.

The Tamil Nadu Pollution Control Board had ordered the closure of the Sterile Copper Smelter Plant, which was met with protests that resulted in a police firing, injuring as many as 13 people¹³.

5. Jamia Milia Islamia Protests, 2019.

Students were protesting against the Citizenship Amendment Act, 2019¹⁴ (CAA), where they were subjected to police brutality. The police entered their campus, beat them with laathis and barged inside the hostels and created havoc and violence. This act of the Indian police was condemned by the entire country and also from students all around the globe, stating that students have the right to peacefully protest¹⁵.

III. POLICE BRUTALITY DURING THE LOCKDOWN DUE TO COVID-19

The world started experiencing the lethal Corona Virus or Covid-19 in December 2019. Initially, the virus affected the Chinese population. The virus being highly contagious, started spreading throughout the world through tourists. Seeing the contagious character of the virus, the World Health Organization advised everyone to practice social distancing, that is, not coming in contact with anyone unnecessarily and confining oneself to their house so that the spread of the virus can be stopped. To improvise what the WHO had said, governments everywhere began imposing lockdowns to make people stay inside their homes.

On March 24, 2020, Prime Minister Narendra Modi imposed a 21-day lockdown to bring a halt to the spread of the virus. When the guidelines of the lockdown were made available to the public, they appeared to be vague. Paragraph 15 of the guidelines¹⁶ stated that the movement of essential goods was allowed but not the movement of people, as contradictory as it sounds, paragraph 4 of the guidelines told the general public that grocery shops would remain open.¹⁷

¹² Balwant Garg, *2 dead in Kotkapura police firing*, THE TRIBUNE (June 10, 2020, 1:38 AM), <https://www.tribuneindia.com/news/archive/features/2-dead-in-kotkapura-police-firing-146172>.

¹³ The Hindu Net Desk, *Thoothukudi anti-Sterile protests: Death toll goes up to 13*, THE HINDU (June 10, 2020, 1:57 AM), <https://www.thehindu.com/news/national/tamil-nadu/thoothukudi-anti-sterlite-protests-death-toll-goes-up-to-13/article23975664.ece>.

¹⁴ Citizenship (Amendment) Act, 2019.

¹⁵ Correspondent, *US to France to Oxford: Cry against police brutality*, THE TELEGRAPH (June 10, 2020, 2:27 AM), <https://www.telegraphindia.com/india/us-to-france-to-oxford-cry-against-police-brutality/cid/1727989>.

¹⁶ GOI, Guidelines of Measures under Covid-19, GOVERNMENT OF INDIA (June 10, 2020, 3:20 AM), https://www.mohfw.gov.in/pdf/Annexure_MHA.pdf.

¹⁷ N. C. Asthana, *Amidst A Lockdown, Why Must Cops Wield The Lathi With Such Impunity And Callousness?*, THE WIRE (June 10, 2020, 2:03 PM), <https://thewire.in/government/lathi-police-brutality-coronavirus>.

Given the ambiguity of the guidelines, people did not know what to do and how to sustain for three weeks. The Prime Minister had failed to address the way by which people could access groceries. Though state governments were asked to come up with a home delivery system, no government did come up with it. It was impossible to assume that all the people in the country have enough groceries in their houses to sustain them for so long. When people left their homes, they were met with violence by the police officers who had laathis in their hands. The only explanation the police officers had was how would they know that the particular person was going to buy an essential item and not just roaming around the city.

The main aim of the police was to contain the virus, to not let a lot of people mingle up, but as it is said, to a man with a hammer, every problem is a nail, people experienced gruesome police brutality. There were instances, where the police brutality was so horrific that people even lost their lives to the beatings.

In Madhya Pradesh, a farmer who was returning home after watering his field was subjected to beating by 6 police officers, the farmer was rushed to the hospital, who later died due to the wounds and excessive bleeding¹⁸. Though, as per the government guidelines, the movement of essential service providers was allowed, police were seen asking them for a bribe and if someone refused to pay it, they were severely beaten¹⁹. Migrants who were walking thousands of kilometers to return to their homes also faced the worst of police brutality. Cases came up where even the doctors and the people who work at banks were assaulted by the police.

Not just in India, the lockdown has brought police brutality to new heights in most parts of the world. For example, in Kenya, the police used baton charges, tear gas, and even fired live rounds to improvise the curfew due to Covid-19²⁰.

IV. MEASURES AVAILABLE WITH THE PUBLIC REGARDING POLICE BRUTALITY

Even though the police brutality in the unprecedented times of Covid-19 seems to have no end, there are some ways the citizens can use get justice and approach the court.

1. People can approach the National Legal Service Authority (NALSA) and State Legal Service Authority (SALSA) and can get free legal aid.

¹⁸ Anuraag Singh, *Farmer Beaten By Cops Amid Lockdown Dies In Madhya Pradesh, Six Officers Suspended, SP Transferred*, THE NEW INDIAN EXPRESS (June 10, 2020, 4:55 PM), <https://www.newindianexpress.com/nation/2020/apr/20/farmer-beaten-by-cops-amid-lockdown-dies-in-madhya-pradesh-six-officers-suspended-sp-transferred-2132889.html>.

¹⁹ Anisha Sircar, *India's Corona Virus Lockdown is Bringing Out the Worst in its Police Force*, QUARTZ INDIA (June 11, 2020, 3:32 PM), <https://qz.com/india/1826387/indias-coronavirus-lockdown-brings-police-brutality-to-the-fore/>.

²⁰ <https://www.aljazeera.com/news/2020/04/kenyan-president-apologises-police-violence-curfew-200401140202740.html>

2. Section 302 of the Indian Penal Code, 1860²¹. Section 302 of the Code deals with the punishment for murder. The people can approach the court if someone has been killed by police brutality.
3. Section 304 Part II. It happens when an act is done with the knowledge that it is likely to cause death, or any bodily injury takes place, which is likely to cause death. If the police have done such an act, they recourse for the same is available
4. Section 323. It provides the punishment of causing hurt and hence, the recourse for the same is available with the court.
5. Section 325. It provides with the punishment of causing grievous hurt. If anyone has suffered grievous hurt, due to police brutality, they can make the police liable under this section.
6. Section 341. It provides the punishment for wrongful restraint. If someone has been wrongfully restrained by the police, they can make the police liable under this section.

V. CONCLUSION

India has witnessed police brutality and its various forms. Be it in the colonial era or after independence. People have suffered because of police, the people who are expected to maintain peace and tranquility in the society. In earlier times, the British government used various laws to detain Indians who were causing problems in their rule and were raising voice against the way they functioned. It is saddening how the obnoxious provisions that were brought in the country by the East India Company that wanted to oppress the Indians are still functioning. It is heartbreaking to see the instances where poor migrants are killed by the police and a lot of times their actions go unchecked. A lot of police brutality is caused during the time of protests. The police must realize that their job is not to hurt people unnecessarily but to maintain law and order. Serious reforms are needed in police training so that the horrific acts can be stopped. The courts should take proper cognizance of police brutality and no act should go unchecked.

²¹ Indian Penal Code, 1860.