
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**BRUTALITY OVER HUMANITY: POLICE VIOLENCE, WEAK LAWS
AND ALLIED ISSUES**- Nosheen Ali¹**ABSTRACT**

Police Brutality has been a very pertinent and emergent issue of contemporary India and the world at large. We have been witnessing instances of this since so long with no stricter actions being taken. In the phase of the pandemic, during the lockdown, the toll of the cases had risen exponentially. Hundreds and thousands of people across the globe have lost their lives to police brutality. This article focuses on the reasons behind the violence and their solutions. It stresses on how the weak laws and a fragile administration is responsible for the rise of the instances. It further stresses on the fact that the brutality is not only a physical issue and how various sufferings accompany it. Lastly, it is explained how only a conjoint effort of both citizen and the government can help tackle the situation.

Keywords- *Brutality, Human Rights, Violence, Police Department, Mental Agony, Laws, Physical Abuse.*

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From JallianwalaBagh massacre (1919) in India to the killing of George Floyd (2020) in the USA, it's been more than 100 years of the world witnessing police brutality. "Police brutality or police violence is legally defined as a civil rights violation where officers exercise undue or excessive force against a subject."²The use of force by the police department on the other hand is described as "amount of effort required by police to compel compliance by an unwilling subject".³ This is something officers are legally entitled to. Police officers are expected to use reasonable force and weapon according to a particular situation. It is also said that while deciding the use of force on a suspect the most crucial factor to be considered by the officer should be the justification of that force. National Institute of Justice has also laid an important guideline for police when using force i.e. "force continuum"⁴ depending on the situation. It defines the levels of force as Officer's presence, Verbalization, Empty-hand controls, Less-Lethal force, and lethal force.

These types of forces are expected to be used in the continuum but are used as an option by the officials instead. Every year hundreds and thousands of people fall prey to police violence. It's hard to get reliable figures but it is estimated that around one thousand people are killed every year in a country due to police violence. "35% of the complaints to NHRC annually are against the police." The 2017 Police Violence Report depicts how only 1% of the officers are charged, where most of the cases have video evidence. The list of figures, violation of laws, deaths and brutality is never-ending. Despite these many written definitions, evident cases and a handful of laws, incidents of police brutality are transpiring. For instance, in countries like India and USA major incidents of police using excessive force occur during protests, riots and under the custody. In contrary, it's observed today that "people are more worried by the police than the protestors."⁵

²Emesowum Benedict, 'Identifying Cities or Countries at Risk for Police Violence' (2016) *Journal of African American Studies* 269, 281.

³ International Association of the Chiefs of Police, *Police Use of Force in America*, (Alexandria, 2001) Ch. 1, para 5.

⁴ David Brooks, 'The culture of policing is broken' *The Atlantic* (June 16, 2020) para 3.

⁵ 'Overview of Police Use of Force' (5th March, 2020) National Institute of Justice <<https://nij.ojp.gov/topics/articles/overview-police-use-force>>.

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This clearly shows that where the concern should be to mitigate the incident, officers exercise lethal or excessive force, resulting in brutality.

A. WEAK LAWS OR FRAGILE ADMINISTRATION?

One of the cardinal reasons for a large number of cases of police violence is the fragile administration and some police inclined laws. In India too, several laws give dominant powers to the police officials which results in its misuse. For instance, Section 46 of the Code of Criminal Procedure⁶ grants the official the power to use 'all means of force' when the suspect forcibly resists. Its further states that the accused can even be killed if the crime he is been arrested for is punishable by death. This section and the power it grants is as biased as it sounds and has been squandered several times in the past. One of the most infamous examples of this is the 1982 Mumbai firing case, where the accused was killed without giving him a proper chance to defend himself or surrender. Police fired five straight bullets into his chest and shoulder due to which he succumbed on the spot. The list of such atrocities goes on like the Rampur Tiraha firing case, 2012, The Manjola labour Massacre and so on.

Similarly, the Section 1983 of the civil rights Act⁷, made for the transparency of the people who break the law when "under the colour of the law" undermined the motive when it made virtually impossible for the government officers to be personally held liable for the wrongdoing. The section also fails to encompass the mental agony and the defamation caused to the victim. This is mainly because the laws do not provide an actual guide as to how things should be done, or maybe the police fail to interpret its true essence. It cannot be denied that list of the national laws and international commitments made for police violence is never-ending. But their transgression goes hand in hand.

Apart from the weakened laws, less emphasis is also given on the training of the police officials. The officers in the present time, are more trained in using weapons and fighting rather than the de-escalation of the crime. Officers of the countries where the brutality is more are hardly trained in using an alternative to the deadly force during contingencies, which leads to increasing cases of violence. Further, most of the officers do not receive human rights training and some are not even aware of the human rights laws. This is because the recruitment system of the police in most of the countries emphasize more on brawn than

⁶ The Code of Criminal Procedure, 1973, Act No. 2 of 1974, Section 46.

⁷ The Civil Rights Act, 1871, 42 U.S.C. §, Section 1983.

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on the brain. But this is not the case in all the countries. Countries like Iceland and Germany ought to strive for peace by controlling police violence. In Germany, officers are required to be put through a rigorous police training, which lasts about one hundred thirty weeks (compared to 19 weeks in the U.S.). “During training, officers go through extreme pressure situations where they are taught that reaching for a gun may not be the best move, and are taught many alternatives to gun violence, like pepper spray and batons.”⁸ In Iceland, although the population is relatively small the nation has only encountered one reported fatal police shooting.⁹ The country on the other hand was ranked 15th in the world in terms of per-capita gun ownership but does not want its officers to carry guns because it’s threatening. So how do these countries manage to administer so well? The answer is the mentality and the want of peace.

B. POLICE VIOLENCE, NOT ONLY A PHYSICAL ISSUE-

Police brutality is a cause of death and a physical injury to the person who faced it, but it is also indirectly affecting the mental health of the people hearing and living with it. There is growing evidence of mental health issues in the entire community, whenever a high-profile incident happens. Experts also stress on the fact that police violence is a public health issue too as it decreases the life expectancy of the country, injures people, sexually assault them and whatnot. We also know that today, a particular group of people or a community is targeted in police violence cases. This is a clear indication that police brutality as of now is more than a physical issue. It has now become a mental health issue, racism issue, sexism issue and a threat to every one of us.

1. Racism Issue- Racism as of today is undoubtedly lesser than the previous times but has not been vanished. We see today that officers engage in racial bias when targeting their suspects. By one estimate, Black men are 2.5 times more likely than white men to be killed by police during their lifetime.¹⁰ “And in another study, Black people who were fatally shot by police seemed to be twice as likely as white people to be unarmed.”¹¹The barbarous killing

⁸Amanda Pedersen-Henry, ‘Police Brutality: A global phenomena’ (24 March 2017) para 4.

⁹ Id.

¹⁰ Frank Edwards, ‘Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity and Sex’ (5 Aug, 2019) National library of medicine, para 5.

¹¹Bradley A. Campbell, ‘Birds eye view of civilian killed’ (2017) Criminology & Policy, 309–340.

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of George Floyd on May 25, 2020, and the origination of movements like I can't breathe, Black lives Matter and Blue lives Matter due to police violence is an alarm for immediate actions to be taken.

2. Minority Issue- The correlation between the religious minorities and police highlights some of the complex problems of the policing system in a country. The problem exacerbates when there is a direct conflict between the minorities and the police. One such incident is the 2019 JamiaMiliaIslamia Attack, in India. The students were protesting against the newly proposed Citizenship Amendment Act, 2019 (CAA) when Delhi police forcefully entered the campus and detained the students. Video evidence of the officers assaulting the students were circulated. Officers also infringed privacy while they forcefully entered the library and the washrooms during the violence. Not only during the Anti-CAA protest but also during many ethnic-religious minorities protest, protestors were thrashed out by the police.

3. Sexism issue-When we talk about police brutality concerning sexism, we talk about the harassment on the grounds of the sex of a person which is troubling the LGBTQ community of a country the most. Since, the Stonewall riots, 1969 to even today, LGBTQ people are fighting for equal rights. Police Violence is no less even here too. Many genderqueer individuals shared their story as to how police treated them knowing they belonged to a particular community. They were sexually assaulted, denied complaints, beaten when in custody and what not.

C. CONCLUSION

This is saddening how incidents of police violence are vigorously increasing all over the world, how during this time of pandemic too, where the whole of the world is relying on the law, government and the police for their survival, incidents of police brutality are coming forward. From the custodial death of Jaya and Fenix in Tuticorin to the beating of northeastern boys in Bengaluru, police atrocity has found its way everywhere, which needs immediate attention. The least we can do is to learn from countries like Germany and Iceland. Countries like India should stress on building more regional human rights courts for reviewing the police use of force rather than depending on the political executives. Scope of ministers should also be limited under the law and timely reports should be submitted. Officers must be trained and made aware regarding the human rights laws. Police awareness

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and public awareness should be intertwined to solve this problem, along with all the mentioned solutions. Because ignorance is not bliss anymore.



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