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Police Brutality is a Significant Issue in India?

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ABSTRACT

The police are a security agency whose role is, in principle, to ensure that the law is enforced. The police are the main law enforcement agency of society. It is empowered to maintain public order, enforce the law and prevent, detect and prosecute crime. Their job is to ensure the safety of the people and maintain the dignity of the country. The police are the first point of contact in the event of illegal activity. The police have a duty to protect the rights of every citizen. But today, the powers of law enforcement, prevention and detention are abused by state servants. The abuse of power and police brutality they preach is one of the country's most disturbing challenges. In recent years, India has seen constant instances of police involvement in various forms of corruption and misconduct. Now we must not confuse the concepts of corruption and misconduct. Corruption is defined as actions taken by the police out of greed. However, misconduct is defined as excessive use of force by police, which is fatal. These misconducts often include the brutal beating or even killing of innocent people without a warrant or court order from superior police authorities. These crimes are known as police brutality.

Keywords: *Police Brutality Unlawful Imprisonment Racial Discrimination Wrongful Search Detention.*

I. INTRODUCTION

Police brutality and abuse of power illustrate the failure of the system because police have a legal duty to protect people and uphold their rights. But this is where our rescuers become doomsday preparers; abusing the extra powers they've been given. Their powers are often used to avoid legal consequences or moral and legal responsibility for committing unlawful acts. There have been multiple reports of police violence from different parts of the country. Despite prohibitions under Indian penal law, inhumane methods are routinely used to torture people in police custody. Such cases do not seem to attract much attention because they are being suppressed by the police on their own behalf with false allegations and false claims. Police institutionalize crime in their profession while attempting to control crime or eradicate it from society.

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In addition, fewer cases of these horrific atrocities come to light because of the fear of speaking out against the police. Police use their force to suppress citizens who openly oppose them. In order to report a crime to the police, one must show the police the dilemmas and fears that ordinary people face when reporting a crime. This clearly shows how difficult it is for ordinary people to do justice to their "protectors".

(A) Few kinds of abuse of power held by police are:

- Unwarranted Arrest and Unlawful Imprisonment
- Wrongful search and harassment
- Sexual harassment
- Racial discrimination

II. WHAT IS POLICE CORRUPTION?

Police Corruption is the abuse of power for personal gain. Some form of corruption has always existed in society. It weakens the morality of society, and the police are no exception. Police corruption is the abuse of police power by law enforcement officers for their own financial, personal gain, or even professional advancement in exchange for failure to conduct targeted investigations or arrests.

A common form of police corruption is the acceptance of bribes in exchange for not reporting organized drug or other illegal activity. The police are even willing to engage in organized crime. India is plagued by widespread corruption. Despite widespread corruption around the world, India's Corruption Perceptions Index ranks 80th out of 198 countries, suggesting that India still has a lot to do to reduce corruption in all its forms. They are not unaware of the many forms and forms of corruption at nearly every level in the police force. At times, senior police officers have been exposed for engaging in corrupt practices, and lower-level police officers have been exposed for taking bribes. Indian police corruption is not caused by a single factor. One of the main reasons for police corruption is that police officers are given enormous power in their day-to-day work.

Police corruption is now rampant in any situation where the police have and can exercise discretion. One such example is the enforcement of prohibition laws. Power and discretion give the police enough latitude to commit corruption. They wield far-reaching powers while carrying out core police missions. Police discretion is a double-edged sword that vigilantes can use or

abuse in these circumstances. Indian government's recruitment policy is flawed.²

Pay structures, types and hours of work, housing issues, and certain administrative and organizational problems are other factors contributing to police corruption. According to a report, police power and quality have not kept up with the demands of a rapidly expanding economy and government. There are many restrictions on how effectively the police can enforce the law. The many ambiguities in these laws, combined with the police's "do or don't" discretion with respect to certain crimes, mean that officials have ample opportunity to resort to corrupt practices when carrying out such actions. Bribes for positions and promotions are a well-known phenomenon in the police force. As a result, cops who have paid will try to get their money back as soon as possible, and corruption becomes a tool to get a better return on their investment.

III. LEGAL ACCOUNTABILITY OF POLICE IN INDIA

A functional society is heavily reliant upon the pivotal role played by law enforcement. Policemen act as extendable arms of justice, tasked with identifying and thwarting crime and conflict in their respective country. It is the responsibility of the government to manage and oversee the police force. The Indian Constitution's 7th Schedule highlights the police within the State list, grant the State Government the authority to exercise control over them.

India's issue with police violating human rights is concerning and often involves incidents of police brutality, wrongful arrests, and abuse of authority. Although attempts have been made to enforce regulations to prevent police abuses, these efforts have proved unsuccessful. The failure to adhere to the directives provided by the Supreme Court in the *Parkash Singh v/s Union of India*³ case highlights a significant negligence on behalf of both state and central government, ultimately contributing to the continued violation of human rights by the police.

The tragic event of a custodial death in Tamil Nadu has brought attention to the arrest of a father and son who violated Covid-19 regulations. In this distressing occurrence, *P. Jay raj and J. Benicks* lost their lives while in custody, a mere two days after their release. Disturbingly, it has been reported by family members that the two individuals were taken to a medical facility in a severe state, with blood-soaked pants. In custody, they suffered a vicious beating that led to severe harm and, eventually, their demise. Recognizing the gravity and pressing nature of the situation, the Madras High Court ordered the Kovil Patti Judicial Magistrate to investigate and report their findings. Upon reviewing the reports, it was determined that the injuries detailed in the post-mortem report and corroborated by a fellow officer from the police station, who acted

² Ravikanth B. Lamani, G.S. Vvenumadhava. (2013). Police Corruptions in India, 2, 5-7

³ Prakash Singh v/s Union of India, (2006) 8 SCC 1.

as a witness, indicated murder. The arrest of five police officers accused of murder caused a stir in the country, particularly because the investigation revealed that the CCTV footage had been tampered with. This event served as a wake-up call to prioritize the protection of Human Rights, which are inalienable entitlements belonging to every human being, regardless of factors such as caste, class, race, sex, and color.⁴

In a democracy like India, the existence of human rights bestows the liberty for every individual to live without any loss or lack of these fundamental rights. Lawfulness is what a public servant is hired for, especially a police officer, expected to treat citizens accordingly. Nonetheless, despite various efforts to curb the abuse of power, maltreatment by public servants is still alive. Another way to hold the police accountable is by filing petitions in the courts through which the court can directly interfere in the complaints filed against the police with regards to abuse of power and accordingly punish them. The police here can be held accountable based on public law, criminal law, or through private tortuous laws. Firstly, when we talk about public laws it says that if there is any infringement caused by the police to fundamental rights of a person such as right to life and liberty, protection against illegal arrests, unequal treatments, etc. the police can be held liable through the courts and be punished, and a compensation is charged to the state as well for the act. Secondly, when we talk about the criminal liability, the Code of Criminal Procedure provides certain safeguards to police officers from litigation. Section 179 and more precisely section 132 gives this liberty to the police. Lastly, when we talk about the private law, a state can be held liable for compensation if any police officer infringes a person's fundamental rights.

IV. LAWS BROUGHT TO CURB THE CORRUPTION IN THE POLICE DEPARTMENT

(A) The Prevention of Corruption (Amendment) Act, 2018⁵

The Prevention of Corruption (Amendment) Act, 2018 was initially introduced in 1988 as an attempt of parliament to curb and combat corruption prevalent in government agencies and public sector businesses. Police department officials are the public servants, thus they come under the purview of this act. The provisions of this act are as follows:

- Giving and taking bribe is an offence.
- Those public servants who are convicted of taking bribes could be incarcerated for three to seven years besides being fined.

⁴ Vineet Narayana v/s Union of India, (1998) 1 SCC 226

⁵ The Prevention of Corruption (Amendment) Act, 2018

- For the first time not only the official taking bribe is to be imprisoned but under the amendment, the person giving a bribe could also be imprisoned for up to seven years or could be fined, or both.
- Any corruption case that involves a public servant, a factor of ‘undue advantage’ will have to be established.
- These are some of the provisions of the act that acts as a deterrent for police officials to indulge in corruption activities.

(B) The Foreign Contribution Regulations Act, 2010⁶

The Foreign Contribution Regulations Act, 2010 (FCRA) was enacted by the parliament in the year 1976 but the major modifications in the act took place in the year 2010. This act was brought in order to regulate foreign contributions (especially monetary donation) especially to key government officials and public servants including judges, legislators, political parties, NGOs, and police officials. In order to curb bribes being routed in the form of foreign donations to the officials, this act was enacted. A breach of FCRA could invite imprisonment up to five years or a fine, or both.

(C) The Central Vigilance Commission Act, 2003⁷

Under The Central Vigilance Commission Act, 2003 the central government has constituted the Central Vigilance Commission (CVC). CVC acts as the watchdog that is assigned the task of inquiring into the offences alleged to have been committed under the Prevention of Corruption Act. The Central Vigilance Commission is required to work impartially and free of executive control in order to make their investigation unbiased and neutral. The Central Vigilance Commission has the power to initiate investigation against police officials who are alleged to have been indulging in corruption activities; it can also refer the investigation to CBI.

(D) The Lokpal and Lokayuktas Act, 2013⁸

The Lokpal and Lokayuktas Act, 2013 came into existence after protests led by Anna Hazare and upheaval of the general public and. This bill was introduced in the parliament for the establishment of Lokpal for the union and Lokayuktas for the state. This bill basically seeks to perform the function of an ombudsman and enquire into the allegation of corruption against public servants that include even the Prime Minister in its purview.

⁶ The Foreign Contribution Regulations Act, 2010

⁷ The Central Vigilance Commission Act, 2003

⁸ The Lokpal and Lokayuktas Act, 2013

These are some of the laws introduced by the government to check the ever-increasing disease of corruption in the police department and to stop it from growing any further and affect the public in general.

V. SUGGESTIONS FOR REDUCING CORRUPTION

Several analysts pointed out that it is impossible for the police department to have a unified anti-corruption strategy to combat corruption. Solving such a complex problem requires a multi-pronged approach. Second, while it is entirely possible to reduce corruption to a large extent, an absolute formula for curbing sectoral corruption is unlikely.

Governments can address corruption in the police department by making the transfer and promotion process more transparent. In an era of technological advancement, the government should focus on technology to develop devices that reduce corruption. Using this technology, the government should develop software that automatically generates police dispatches at specific times when diversion is required. It will greatly reduce the corruption that is prevalent when requesting the transfer of funds. Second, the government should formulate clear and objective promotion standards as the standards that civil servants should follow when they are promoted, so as to limit the personal judgment of civil servants when they are promoted, thereby greatly reducing the risk of corruption. Another step the government could take is to set up a committee to vet the eligibility of prompted officials to curb the practice of bribing promotions. Not only does this help curb corruption, but it also helps encourage healthy competition and highlight the most deserving candidates for promotion. Civil society can also play an important role in curbing police corruption. Civil society organizations, including the media, can play an important role in police reform.

The government should expand the scope of the technology. Failure to register flight information reports with the police is one of the biggest sources of corruption in police departments. There are still some states in India that do not have FIR online registration services. Since FIR registration is the first step in the judicial process, it is also a major source of public bribery. Using technology to register FIRs can change that. In addition to reforming the police by the government and the public, an environment and training should be provided from the beginning of the police career to let them know that corruption is like a termite in the system and they should try to save it and eliminate this termite.

VI. CONCLUSION

Of all government executive agencies, the police department and the police have the highest

visibility and are in constant contact with the public. They should behave to the highest standards in order to send a good message to the public and earn their trust. Police officers can only carry out their duties effectively if the public trusts them. The first task of the modern police and police force remains to change the most corrupt image of the police force before. It is crucial to develop a national anti-corruption resolve and strategy to combat the disease of corruption that negatively affects the public and damages the country's future. How successful India can be in fighting the disease of corruption remains to be seen.
