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AN ANALYSIS OF POLICE BRUTALITY IN INDIA DURING THE COVID-19 PANDEMIC

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ABSTRACT

SARS-CoV-2 has profoundly disrupted global dynamics from 2020 through 2021. The pandemic has permeated all nations, regardless of their economic conditions, healthcare capabilities, or military strength. India has also succumbed to the repercussions of this virus and is presently engaged in a concerted effort to combat it. As the struggle escalates against this formidable pandemic, India, alongside its extensive scientific and medical inquiries, has commenced a series of auxiliary measures, including the imposition of a Janta curfew, a nationwide lockdown, restrictions on travel, the lighting of diyas, and the banging of utensils, among other initiatives, to mitigate the proliferation of COVID-19 and enhance public morale. This paper rigorously investigates the phenomenon of police brutality in India amidst the COVID-19 pandemic, with a particular emphasis on how the implementation of lockdowns and public health directives intensified occurrences of violence perpetrated by law enforcement agencies. India instituted rigorous lockdown protocols to mitigate the virus's transmission as the pandemic progressed.

Nevertheless, the involvement of law enforcement in the execution of these protocols elicited apprehensions due to pervasive accounts of excessive use of force, especially against marginalized groups such as daily wage earners, migrant workers, and other disadvantaged communities. This examination utilizes various sources, including news articles, case studies, and data from human rights organizations, to investigate the trends in police conduct, the legal frameworks that facilitated such actions, and the broader societal ramifications. It underscores how pre-existing systemic challenges, including inadequate accountability, poorly equipped law enforcement agencies, and socioeconomic disparities, were exacerbated during the pandemic. The research further evaluates the reactions from civil society, the judiciary, and governmental entities, analysing the enduring effects of these events on public confidence in law enforcement. The results indicate an imperative for thorough police reform and the establishment of enhanced accountability mechanisms to avert future occurrences of power misuse, particularly in times of crisis.

Introduction

The previous significant pandemic that profoundly impacted the subcontinent was the Spanish influenza in 1918, which resulted in the mortality of approximately 15 million individuals in India. It has been documented that this virus entered India via the Bombay port; the initial patients admitted to medical facilities exhibiting symptoms of “the Bombay fever” were seven police sepoy's stationed at the Bombay dock. Presently, as India endeavors to disrupt the transmission of the COVID-19 pandemic, law

enforcement once again occupies a crucial position in the implementation of the lockdown measures.³⁰⁹ While the COVID-19 pandemic has presented a significant challenge globally, developing nations such as India are diligently striving to safeguard public health by mitigating the transmission of the virus. Citizens have observed protracted and stringent pandemic-related lockdowns. Theoretically, these lockdowns have served to prevent healthcare

³⁰⁹ Sanjana Jain, 'Police Discretion and Role of during COVID-19 Pandemic' (iPleaders, November 2, 2020) <<https://blog.iPLEaders.in/police-discretion-role-covid-19-pandemic/>> accessed September 18, 2024

facilities from becoming inundated. An initial strategy to curtail the dissemination of COVID-19 has been to impose restrictions on individual movements; however, not all individuals possess the privilege of remaining at home. Those impacted by the lockdown measures have suffered disproportionately due to the loss of employment and the deficiency of essential resources such as food, shelter, and healthcare. A substantial migration of the economically disadvantaged occurred during the lockdowns, as many relocated from urban centers back to their rural origins. As acts of torture and other forms of maltreatment frequently occur within prisons and detention centers, there is increasing visibility of such practices on the streets of India, particularly at checkpoints and during the enforcement of curfews by law enforcement agencies.³¹⁰

The expertise acquired by law enforcement in managing crowd dynamics, overseeing public order, conducting investigations of criminal activities, and deterring unlawful conduct was effectively leveraged during the pandemic to enforce lockdown measures. The responsibilities associated with ensuring compliance with regulations and tracing individuals infected with the virus represent specialized competencies that are predominantly possessed by police personnel. As the duration of the lockdown was prolonged, the function of the police during the pandemic evolved to include assistance for the economically disadvantaged and vulnerable populations requiring immediate support to access medical facilities, as well as the provision of essential supplies. In certain instances where no family members were present to claim deceased individuals, law enforcement authorities facilitated the transportation of corpses and the arrangement of final rites. Furthermore, throughout the lockdown period, police officers were observed utilizing megaphones to disseminate

information regarding the Coronavirus, a task that security personnel could have undertaken; currently, an array of functions executed by the police that private security guards could perform under oversight.³¹¹

Police Brutality in India: An Overview

The deployment of disproportionate force by law enforcement agencies may be classified as police brutality or police ruthlessness. However, a precise and comprehensive definition of this egregious conduct remains elusive. The occurrence of police brutality has been a persistent issue since the inception of policing in India, and the emergence of the COVID-19 pandemic has precipitated a significant increase in instances of such police violence. Consequently, it becomes imperative to scrutinize the legislative frameworks and regulations governing police conduct and to understand the reasons behind the judiciary's apparent inability to mitigate this pervasive culture of unlawful policing.³¹²

In any sociocultural context, individuals from socio-economically disadvantaged backgrounds frequently become the victims of systemic injustices within the legal framework. Often, impoverished or marginalized individuals endure the repercussions of police misconduct, primarily due to their vulnerability as easy targets. Moreover, these individuals lack the financial resources, social capital, and influence necessary to extricate themselves from the oppressive grasp of law enforcement. Their access to the judicial system is also severely constrained. As a result, innocent individuals may languish in Indian prisons for extended periods, often without just cause.³¹³

Who shall hold the police accountable? The inquiry the Hon'ble Supreme Court posed four

³¹¹ Ibid

³¹² Sourav Suman, 'The Police Brutality in India: A Critical Analysis' (2020) 6(5) IJLDAI <<https://thelawbrigade.com/wp-content/uploads/2020/08/Sourav-Suman-IJLDAI.pdf>> Accessed September 22, 2024

³¹³ Ishan Arun Mudbidri, 'Socio-economic differences: police brutality towards poor people' (iPleaders, July 25, 2021) <<https://blog.iplayers.in/socio-economic-differences-how-police-treat-poor-people-differently/>> accessed September 23, 2024

³¹⁰ Sheikh Shoib, Soumitra Das, Sarya Swed & Aishatu Yusha'u Armiya'u, 'Police savagery during COVID-19 pandemic in India: psychological perspective – Correspondence' (2022) 106 IJS <https://www.researchgate.net/publication/363838973_Police_savagery_during_COVID-19_pandemic_in_India> accessed September 23, 2024

decades ago has resurfaced with renewed urgency, necessitating a thorough exploration of its implications now more than ever. On June 23, 2020, a father and son were tragically murdered while in police custody. This incident was neither an isolated nor an uncommon occurrence. The names of Jayraj, Benicks, and Faizan exemplify just a fraction of those who have perished either while under police custody or as a result of extrajudicial killings.

It is troubling that police brutality is not a phenomenon confined to contemporary society. Even during the colonial era, Indians faced punitive measures for over two centuries due to alleged 'non-payment of taxes'—the British employed appalling tactics to discipline those who defied their imposed regulations. After 72 years of independence, India continues to grapple with similar acts of violence and brutality perpetrated by its police forces.

As the global community endeavors to navigate the challenges posed by the pandemic, law enforcement becomes critically significant in regulating citizen behaviour and maintaining societal order. Nevertheless, the police have resorted to excessive measures, such as baton-charging citizens for violating established guidelines. Enforcing peace and uplifting citizen morale during these trying times through acts of extreme violence is a troubling approach that demands rigorous scrutiny and analysis.

Police brutality: a disturbing scenario

Police brutality has emerged as a pervasive issue within the Indian context. Disturbingly, data from the National Human Rights Commission reveals that approximately 17,146 fatalities were documented over the decade concluding in March 2020. The extensive statistical evidence underscores the severity of police brutality, signifying a gross infringement of human rights on a widespread scale. The power dynamics exercised by State agencies frequently result in fatal outcomes, rendering the pursuit of justice a harrowing experience for the victims who have perished. The paradigm of a civilized society, wherein law enforcement

agencies are expected to uphold law and order by neutralizing offenders, becomes fundamentally inverted when these agencies assume the role of the transgressor, resulting in the demise of individuals detained in judicial custody.³¹⁴

Police brutality has escalated significantly across India. The police's use of force seemed to have no limit, ranging from custody fatalities to rape and torture. Although there is a solid legal structure in place to safeguard the rights of an accused person in prison, there are sure to be some grey areas that allow such brutal actions to occur. Articles 21 and 22 of the Constitution, Section 56 of the BNSS,³¹⁵ and some historic judgements all address the rights of an accused in custody. Still, a gap occurs. What are the many ways in which police officers abuse citizens? The following are the two most common kinds of police torture. Custodial deaths are not only unpunished, but they appear to have become the new normal. According to data from the National Crime Record Bureau, 1727 custody fatalities were registered in India between 2001 and 2018, with just 26 police officers booked. One of the primary reasons why custody fatalities have grown so regular is the lack of robust anti-torture legislation.³¹⁶

In August 2021, Nityanand Rai, the Union Minister of State for Home, while addressing a query in the Lok Sabha, disclosed that within the preceding three years, 348 individuals perished in police custody across India, with an additional 5,221 fatalities occurring in judicial custody. In the state of Uttar Pradesh, the recorded figures indicate 23 deaths in police custody and 1,295 fatalities in judicial custody during the same timeframe. Reports from the National Crime Records Bureau (NCRB) suggest that over the past decade, 1,004 individuals died

³¹⁴ Gaurav Kumar, 'Custodial death: a cold-hearted play of power' (iPleaders, March 20, 2021) <<https://blog.iplayers.in/custodial-death-cold-hearted-play-power/>> accessed September 24, 2024

³¹⁵ The Bharatiya Nagarik Suraksha Sanhita, 2023, § 56

³¹⁶ Anam Khan, 'Anathema to democracy: police brutality' (iPleaders, July 20, 2020) <https://blog.iplayers.in/anathema-to-democracy-police-brutality/#Nature_of_police_brutality> accessed September 24, 2024

in police custody, of which 40 percent succumbed to natural causes or ailments, while 29 percent reportedly took their own lives. However, these reports fail to elucidate whether the illnesses were chronic or resulted from police-inflicted torture. Moreover, there exists a significant discrepancy between the figures reported by the National Human Rights Commission (NHRC) and those provided by the NCRB concerning custody-related fatalities.³¹⁷

A human rights advocate posited that establishing accountability for police officers is often unfeasible, as under current legislative frameworks, a case against implicated officers can only be initiated following governmental approval, which is frequently not forthcoming. *"This is profoundly shameful in any democratic society. Individuals taken into police custody are merely suspected of criminal activity; however, no legal statute grants the police the authority to subject them to brutality during detention. The police and administrative apparatus of this nation must be rendered more sensitive to this critical issue,"* articulated the activist.

With an abundance of cases currently under scrutiny, it is imperative to evaluate that a persistent increase in instances of police brutality may culminate in a state of police authoritarianism, thereby exacerbating lawlessness. It is not solely the law enforcement agencies that warrant examination regarding such occurrences. The judiciary and legislative branches are equally accountable for failing to regulate and constrain the powers vested in the executive branch, specifically the police. Why employ the term police authoritarianism? This is due to empirical evidence and statistical data indicating a transference of power into the hands of law enforcement. In other words, if the police are granted the latitude to engage in arbitrary, extensive, and unwarranted applications of force against both the accused

and civilians without justification, and if there is a lack of oversight regarding the operational conduct of the police, it is highly probable that India, transitioning from a democratic framework, will swiftly devolve into a state of police authoritarianism. The absence of substantial remedial measures is readily apparent through the annual escalation of such incidents. Should this issue not be addressed at its inception, it will likely engender rampant conflagration within the landscape of a faltering democracy.

Laws on Police Brutality in India and Precedent Related to It

The Constitution designates the police organization as a quasi-federal entity, as articulated in Article 246³¹⁸ and codified within the State List of the 7th Schedule. In the Indian context, the Indian Police Act 1861 serves as the principal statute governing law enforcement agencies nationwide. All other states and Union Territories have adopted this Act or developed their legislative frameworks inspired by its provisions. Nonetheless, significant inconsistencies persisted in the operational effectiveness of the Indian police despite the statute undergoing numerous amendments before and after India's independence. To address these inconsistencies, eight reports containing recommendations were submitted by the National Commission of Police between 1978 and 1981; however, none were enacted. In the landmark case of Vineet Narain v. Union of India,³¹⁹ the Supreme Court, for the first time, acknowledged the pressing need to implement the prior reports presented by the National Commission of Police during the period above. In response to this urgency, various committees were established to evaluate the accountability and operational efficiency of police forces. Following comprehensive research and analysis, the Ribeiro Committee submitted its findings in 1998 and 1999, while the Padmanabhaiah Committee presented its

³¹⁷ Siraj Qureshi, '5221 people died in judicial custody in last 3 years, 348 died in police custody' (Agra, August 13, 2021) <<https://www.indiatoday.in/india/story/5221-people-died-in-judicial-custody-in-last-3-years-348-died-in-police-custody-1840263-2021-08-12>> accessed September 24, 2024

³¹⁸ The Constitution of India, 1949, Art.246
³¹⁹ (1998) 1 SCC 226

report in 2000, and the Malimath Committee delivered its report in 2002. The Supreme Court meticulously examined all of these reports in the case of *Prakash Singh v. Union of India*.³²⁰ In this pivotal ruling, the Apex Court extensively deliberated on the efficiency and accountability of police organizations. Based on their comprehensive study, the Supreme Court issued explicit directives to the Central and State Legislatures for implementing legislative measures until such laws are formally enacted; however, no substantive changes have been observed.

Public law responsibility for police officers may be traced back to the Indian Constitution. Courts have held police accountable under public law for violating fundamental rights outlined in Part III of the Constitution, requiring the State to compensate for the harm done. The most significant problem in this case is that the state is held accountable rather than the Police officer. The precedents listed below demonstrate the same.

Rudul Sah v. the State of Bihar

In this particular case, the petitioner, despite being acquitted, was unlawfully incarcerated for fourteen years.³²¹ The Supreme Court issued a directive mandating that the state disburse a compensatory sum of thirty thousand rupees under its writ jurisdiction for infringing upon the fundamental rights enshrined in Articles 21³²² and 22³²³ of the Constitution.

Sebastian Hongray v. Union of India

In this instance, the Supreme Court granted compensation for the torture, suffering, and harassment endured by two women whose spouses were apprehended by military officials in Manipur and subsequently went missing. This ruling was predicated on the principles established in the *Rudul Shah* decision. Notably,

the courts did not decide to articulate the ratio.³²⁴

Saheli vs. Commissioner of Police

In this case, the grievous assault by police resulted in the untimely death of a nine-year-old child. However, the division bench determined that the Delhi Administration bore liability to dispense a compensation of seventy-five thousand rupees to the mother of the deceased child rather than the individual police officer.³²⁵

PUDR v. Delhi Police Headquarters and Anr

In this case, a labourer was subjected to extreme violence, culminating in his death. The court mandated the Delhi Administration to allocate a compensatory amount of fifty thousand rupees in this matter.³²⁶

State of Maharashtra v. Ravi Kant Patil

In this instance, law enforcement officers handcuffed an under-trial prisoner, bound his arms, and compelled him to march in public. The Supreme Court instructed the State Government to compensate the victim for ten thousand rupees. The court deliberated on liability, specifically whether the individual police officer or the State should bear the compensation. Ultimately, the court, considering the doctrine of vicarious liability, conveyed that the police officer acted in an official capacity and, even assuming he had overstepped his bounds, it would be inappropriate to hold him personally accountable.³²⁷

Nilabati Behara v. the State of Orissa

In this case, a custodial death was reported by a mother whose son had succumbed to injuries inflicted upon him while in police custody.³²⁸ The Supreme Court concluded that the death resulted from police brutality, constituting a violation of fundamental rights, and

³²⁰ (2006) 8 SCC 1

³²¹ 1983 (4) SCC 141

³²² The Constitution of India, 1949, Art. 21

³²³ The Constitution of India, 1949, Art. 22

³²⁴ 1984 (3) SCC 82

³²⁵ AIR 1990 SUPREME COURT 513

³²⁶ (1989) 4 SCC 730

³²⁷ (1991) 2 SCC 373

³²⁸ 1993 (2) SCC 746

consequently awarded compensation under Article 32 of the Constitution.³²⁹

AV Janaki Amma v. Union of India

In this seminal case, the judiciary has articulated that Public Authorities, Government Officials, and the State are responsible for remunerating damages exclusively in instances where there is an infringement of Article 21.³³⁰

Concerning criminal liability, the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS) delineates procedural safeguards and grants sovereign immunity to government officials, as specified in Section 177³³¹ and more explicitly in Section 113,³³² to shield them from unwarranted accusations. The requisite condition for sovereign immunity stipulates that the police officer must have executed the act under the directive of the Central or State authority for which they are held criminally accountable.

PP Unnikrishnan v. Puttiyottil Alikutty

In the present case, the Sub-Inspector of Police and the Police Constable stationed at Perambra Police Station unlawfully detained the respondent at the facility above, subjected him to egregious forms of torture for four days, all while failing to register any formal charges against him or to present him before the appropriate judicial authority.³³³ Upon review, the Supreme Court examined the implications of Section 197(1) of the Criminal Procedure Code 1973,³³⁴ noting that *“There must exist a reasonable nexus between the conduct in question and the execution of official duties; the act must possess such a connection to the responsibilities that the accused could assert a legitimate, albeit not an illusory or extravagant claim, that he acted in the course of fulfilling his official duties.”*

Uttarakhand Sangharsh Samiti v. the State of Uttar Pradesh

In the present case, it was alleged that law enforcement personnel unlawfully caused the deaths of 24 individuals and perpetrated acts of molestation and rape against women. However, in this specific instance, the judiciary refrained from instituting any formal charges against the guilty officials and merely mandated the payment of financial restitution. In this context, monetary compensation amounting to 10 lakhs was allocated to the families of the deceased, ten lakhs to the victims of rape, and five lakhs to all women who experienced molestation.³³⁵

The division bench adjudicating this matter articulated, *“Not every action undertaken by a police officer during duty is encompassed within the purview of Section 197,³³⁶ but rather those actions that possess a direct connection to the fulfilment of official responsibilities.”* It was articulated that actions such as wrongful confinement, the fabrication of evidence through the planting of weapons to engineer false recoveries, the targeting of unarmed individuals, the alteration or manipulation of evidence, and acts of sexual misconduct, including rape, are neither sanctioned by the state nor are they requisite to the execution of official duties. Consequently, no governmental directive is necessary to prosecute such transgressing officials. Nevertheless, within the framework of criminal law, law enforcement is solely accountable for the payment of compensation, and no criminal charges can be levied against them due to the principle of sovereign immunity, even in instances where there is an abuse of power. This immunity has resulted in numerous documented instances of police brutality in India amidst a vast number of cases that remain unreported.

Police brutality on the poor

Law enforcement agencies serve as a pivotal element within the framework of the Indian democratic system and are integral to the

³²⁹ The Constitution of India, 1949, Art.32

³³⁰ 2004 (1) ALD 19

³³¹ The Bharatiya Nagarik Suraksha Sanhita, 2023, § 177

³³² The Bharatiya Nagarik Suraksha Sanhita, 2023, § 113

³³³ 2000 (8) SCC 131

³³⁴ The Code of Criminal Procedure, 1973, § 197(1) [Repealed]

³³⁵ (1996) 1 UPLBEC 461

³³⁶ The Code of Criminal Procedure, 1973, § 197 [Repealed]

operational dynamics of society. Nevertheless, in numerous cases, while fulfilling their responsibilities of safeguarding the citizenry and maintaining public order, law enforcement officials have frequently abused and exploited their authoritative powers for personal benefit. The police have resorted to employing deceptive and unlawful methods to attain their objectives, resulting in significant detriment to the general populace, particularly among the economically disadvantaged and vulnerable demographics within society. It is predominantly the impoverished who endure the gravest consequences, underscoring the unfortunate reality we exist. The jurisdictional powers conferred upon the police in India are articulated in various legislative statutes, including the Code of Criminal Procedure 1973 (replaced with the Bharatiya Nagarik Suraksha Sanhita 2023), The Police Act 1861, The Delhi Special Police Administration Act 1946, and The Model Police Act 2006, among others. These statutes delineate the roles and responsibilities of the police, which encompass:

- I. The lodging of the First Information Report (FIR)
- II. Conducting patrols and surveillance operations
- III. Executing arrests
- IV. Implementing preventive measures against offenders
- V. Conducting investigations and executing search and seizure operations
- VI. Interrogating suspected offenders, among other duties.

Law enforcement officials are mandated to execute their obligations legally; however, there have been numerous instances where law enforcement has misappropriated their powers for personal gain, thus coining the phrase police brutality. The inappropriate exercise of authority can be characterized as the unlawful enactment of measures. The subsequent enumeration delineates the categories of illegal

conduct perpetrated by law enforcement officials:

Illegal/ False arrest

The precise definition of the term 'Arrest' remains unarticulated within the Criminal Procedure Code of 1973; however, Section 46 of the Code delineates the procedures governing the execution of an Arrest.³³⁷ This section empowers law enforcement authorities to effectuate an arrest utilizing all requisite means should the individual endeavour to evade capture. Arrests are permissible in both civil and criminal jurisprudence. Later this section was later replaced by Section 49 of the Bharatiya Nagarik Suraksha Sanhita 2023.³³⁸ The apprehended individual is entitled to be informed regarding the rationale behind their arrest. For example, Articles 21 and 22 of the Constitution of India confer upon the arrested individual the right to be apprised of the reasons for their detention. In the landmark case of *Bhim Singh v. State of Jammu and Kashmir*,³³⁹ the petitioner was suspended from the Assembly on the inaugural day of the Budget session and subsequently apprehended and detained. His spouse subsequently filed a petition seeking a declaration of the illegality of his arrest.

The Court adjudicated that the arrest was indeed unlawful. Nevertheless, law enforcement officials may exploit their authority and apprehend individuals on unfounded allegations. Instances have been recorded where the police have detained the wrong individual to expedite investigations. In the case of *Madhubala Mondal*, a 59-year-old individual was erroneously incarcerated for three years in Assam due to a case of 'mistaken' identity perpetrated by the police. Numerous innocent individuals have met their demise in fabricated encounters orchestrated by law enforcement.

Furthermore, police officers frequently solicit monetary compensation from the families and

³³⁷ The Code of Criminal Procedure, 1973, § 46

³³⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023, § 49

³³⁹ AIR 1986 SC 494

relatives of those who have been unlawfully detained as a condition for their release. This phenomenon is designated as an illegal or false arrest. The Code of Criminal Procedure stipulates that any arrest conducted in contravention of the prescribed protocols outlined in the Code constitutes an unlawful infringement upon the individual's liberty and freedom.

Gathering false evidence

The term evidence appears in Section 3 of the Indian Evidence Act 1872.³⁴⁰ This law has now been succeeded by Section 2(1)(e) of the Bharatiya Saksha Adhiniyam 2023.³⁴¹ Evidence, in general, refers to proof of an offence. The cops take advantage of the impoverished by filing fraudulent FIRs and providing misleading proof. Poor people are defenceless and have no choice but to listen to the police.

Bribe

Bribery is one of the most widespread kinds of corruption, not just among police officials but across society. A bribe is an illegal course of action in which police officers jeopardise the security of the general public by accepting bribes. Bribery is an offence under Section 171B of the Indian Penal Code 1861.³⁴² (replaced by Section 170³⁴³ of the Bharatiya Nyaya Sanhita 2023). In a recent case, three police constables were charged with accepting bribes from vegetable merchants in Ahmedabad. They demanded a bribe of Rs. 100 from the vegetable merchants. All three police officers were charged under the Prevention of Corruption Act 1988.

Police brutality

Police brutality constitutes a severe infringement upon the civil liberties of the average individual. Law enforcement agencies frequently abuse their authority, disproportionately targeting the vulnerable demographics within society. These officers

often solicit bribes from impoverished individuals and subsequently detain them, which can tragically result in deaths during custody. There exists a conspicuous absence of documentation regarding the frequency of custodial fatalities attributable to police brutality. In a recent case, P. Jeyaraj and his son J Bennicks were apprehended for allegedly operating their establishment beyond the time frame stipulated by the restrictions enacted in response to the COVID-19 pandemic. Both individuals were placed in police custody and were pronounced dead mere hours later. The autopsy report indicated that the deceased had endured torture. This incident sparked widespread protests, with citizens advocating for justice and implementing appropriate measures against such brutality.

Police Savagery during COVID-19 pandemic

The advent of the COVID-19 pandemic and the implementation of nationwide lockdown measures introduced a formidable challenge for law enforcement personnel tasked with enforcing social distancing protocols throughout India. While the populace is mandated to remain indoors, these officers ensure that a population exceeding one billion individuals congregate on the streets with essential justification, all while prioritizing public safety. This undertaking is undeniably formidable, particularly given India's vast and exceedingly heterogeneous demographic landscape.³⁴⁴

Police officials, endowed with authorities conferred upon them through statutes such as The Epidemic Diseases Act 1897, the Disaster Management Act 2005, and the Indian Penal Code 1860, commenced patrolling activities to uphold social distancing measures and mitigate the spread of the virus. These legislative frameworks imposed an obligation to enforce social distancing through criminal sanctions; the Disaster Management Act 2005

³⁴⁰ The Indian Evidence Act, 1872, § 3

³⁴¹ The Bharatiya Saksha Adhiniyam, 2023, § 2(1)(e)

³⁴² The Indian Penal Code, 1861, § 171B

³⁴³ The Bharatiya Nyaya Sanhita, 2023, § 170

³⁴⁴ Souvik Mukherjee, Abhra Jena and Vikramjit Mullick, 'Questionable Information, Discrimination, and Police Brutality during COVID-19 Pandemic' (2020) NUJSJRS Special Issue <<https://www.nujs.edu/wp-content/uploads/2022/12/File-91.pdf>> accessed September 26, 2024

stipulates that an individual who exits their residence for non-essential purposes without justifiable cause, impedes the duties of an officer, and fails to adhere to directives may face penalties including fines and/or imprisonment for a duration of up to one year. In addition, the offender may be prosecuted under Section 188 of the Indian Penal Code 1860³⁴⁵ for noncompliance with orders issued by a public servant. How and why law enforcement personnel deemed it legally permissible to employ physical force, including lathis or batons, against citizens who ventured outdoors in contravention of the lockdown regulations remains ambiguous. Numerous instances have been documented and disseminated across social media platforms in various formats—photographs, videos, audio recordings, and written text—depicting the application of corporal punishment, such as lathis and batons, to enforce compliance with the law.

Legality of action of police to beat up anyone who ventures out for any reason during a lockdown

The inquiry emerges regarding the legality of whether the actions undertaken by the police conform to the established legal framework. The government is neither overstepping its bounds nor engaging in actions that surpass the authority conferred upon it. Upon examining the relevant legal provisions and the delineated charges and penalties associated with noncompliance during the lockdown without sufficient justification, one identifies several statutory provisions that may implicate individuals:

- Section 269 IPC addresses the negligent conduct that may facilitate the transmission of disease within the community.³⁴⁶
- Section 270 IPC concerns the intentional execution of acts with the awareness

that such actions are likely to propagate the infection of any disease.³⁴⁷

- Section 271 IPC addresses the wilful disobedience of established quarantine regulations and lockdown orders, which may also result in the prosecution of individuals under this statute.³⁴⁸

Furthermore, the police are merely exercising their authority following the provisions above, acting under the directives of the legislative and judicial branches. Conversely, there are instances where certain police officers may be exerting excessive authority under the pretext of sovereign functions. The powers vested in the police were not intended to oppress individuals during the quarantine and lockdown periods but rather to extend assistance and maximum support to the populace, facilitating a more manageable lockdown experience without incurring harm. For instance, in the notable case from Kolkata during the coronavirus lockdown, the police resorted to physical violence against an individual who was solely attempting to procure milk without engaging in any wrongful conduct on the streets; this incident occurred under the guise of sovereign responsibility and resulted in such severe actions that it culminated in the individual's death, a fact that reflects poorly on the police department.³⁴⁹

During a lockdown, if any person is out of the house for any reason, some police show their cruelty and anger on that person without knowing the specific reason for his breaking quarantine, and their brutality sometimes results in the death of that person, as in the case of the Kolkata milkman. As for the clear image, a Zomato delivery kid was brutally assaulted for delivering an order during the lockdown, which is a blatant abuse of sovereign authority, and their actions are utterly contrary

³⁴⁵ The Indian Penal Code, 1861, § 188 [Repealed], also read The Bharatiya Nyaya Sanhita, 2023, § 245

³⁴⁶ The Indian Penal Code, 1861, § 269 [Repealed], also read The Bharatiya Nyaya Sanhita, 2023, § 229A

³⁴⁷ The Indian Penal Code, 1861, § 270 [Repealed], also read The Bharatiya Nyaya Sanhita, 2023, § 268

³⁴⁸ The Indian Penal Code, 1861, § 271 [Repealed], also read The Bharatiya Nyaya Sanhita, 2023, § 269

³⁴⁹ Rohit Raj, 'Powers of Police in a Lockdown' (iPleaders, April 28, 2020) <https://blog.iplayers.in/powers-police-lockdown/#Legality_of_action_of_police_to_beat_up_anyone_who_ventures_out_for_any_reason_during_a_lockdown> accessed on September 27, 2024

to the sovereign function. During the lockdown period, all commercial establishments were mandated to close, and individuals were prohibited from exiting their residences; any such actions would violate legal statutes, potentially resulting in punitive measures under various legal provisions. The procurement of essential goods is imperative for all individuals, particularly during this time frame, as these commodities are crucial for survival; however, law enforcement exhibited excessive force, physically assaulting individuals who ventured out solely to acquire essential provisions for their families, thereby ensuring their sustenance during this quarantine period. Consequently, the populace is instilled with a sense of fear regarding police actions, leading to situations where individuals may be deprived of nourishment, ultimately culminating in fatal outcomes—this scenario is unequivocally unethical and legally indefensible. It is incumbent upon law enforcement to permit individuals to access essential goods, thereby fulfilling their fundamental needs, which is of utmost significance. Law enforcement agencies could implement a system whereby they verify the receipts of purchased items upon individuals' return, thereby effectively regulating the movement of persons during this quarantine phase to deter unnecessary outings.³⁵⁰

The police and their functions are recognized as sovereign duties, and any actions undertaken in the execution of such sovereign functions are typically deemed lawful, thus exempting the police from liability; however, it is imperative that these functions are conducted fairly and within the boundaries established for the performance of sovereign duties. The police constitute an integral segment of society, bearing the responsibility and obligation to safeguard and serve the citizenry rather than to oppress the populace, misuse their authority, or engage in acts of violence that could alienate individuals from them. Furthermore, law

enforcement personnel have been endowed with specific powers through various legal provisions to assist the populace, ensuring that every individual is attended to in all circumstances, and under no circumstance should the police exhibit partiality towards any individual, as stipulated in foundational legal frameworks such as Article 14³⁵¹ (Right to Equality), which mandates that all individuals are to be treated equitably, irrespective of factors such as gender, caste, ethnicity, or social status.

Conclusion

The examination of police brutality in India amid the COVID-19 pandemic elucidates a concerning convergence between law enforcement methodologies and public health crises. The disproportionate application of force by the police, particularly in the context of enforcing lockdown regulations, unveiled profound systemic deficiencies within the policing framework, encompassing a deficit of accountability, insufficient training, and socio-economic prejudices. Marginalized populations, including migrant labourers, economically disadvantaged individuals, and other vulnerable communities, disproportionately suffered from these actions, thereby intensifying their adversities during an already challenging period. Although the imperative for stringent enforcement to mitigate the pandemic was justifiable, the recourse to violence eroded public confidence in law enforcement and underscored the pressing necessity for police reform. The existing legal structure and oversight mechanisms necessitate fortification to guarantee that law enforcement operates within the parameters of human rights, even under challenging circumstances. Furthermore, there is a difficulty in a more empathetic and community-oriented paradigm of policing, one that harmonizes law enforcement with the preservation of the dignity and rights of all individuals. In summary, the COVID-19 pandemic challenged the robustness of public

³⁵⁰ Ibid

³⁵¹ The Constitution of India, Art.14



health infrastructures and unveiled the deficiencies within India's policing apparatus. Rectifying police brutality necessitates comprehensive reforms, including enhanced accountability, advanced training, and a concentrated emphasis on safeguarding the most vulnerable to cultivate a more equitable and humane law enforcement system in the future.

