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EXAMINING POLICE USE OF FORCE: EVALUATING PROCEDURAL STANDARDS AND DEMOGRAPHIC DISPARITIES IN LAW ENFORCEMENT PRACTICES

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ABSTRACT

The paper reviews the legal and institutional regime around police use of force in India, including procedural standards as well as demographic differentials in implementation. The analysis considers the constitutional underpinnings that both enable and limit police power and assesses the on-going gaps in implementing legal safeguards. By analyzing landmark judicial pronouncements like *D.K. Basu v. State of West Bengal* and *Prakash Singh v. Union of India*, the paper traces the evolution of legal standards governing the application of force. It points out worrisome patterns of demographic disparities that disproportionately impact marginalized communities, most notably religious minorities and lower castes, when it comes to encounters with police forces. The study contextualizes Indian practices against international human rights standards and comparative perspectives; and critically examines compensation jurisprudence for victims of excessive force. The paper exposes structural challenges to accountability such as procedural barricades, institutional resistance and political intermeddling that continue to breed impunity. We recommend multilevel responses to better understand the normative and implementation challenges to shaping police practices to conform with the constitutional aspirations of dignity, equality and justice.

KEYWORDS

Police use of force, Constitutional safeguards, Demographic disparities, Procedural accountability, Custodial justice

INTRODUCTION

Background of Research

The question of police use of force continues to be a controversial one in contemporary India. Authority to invoke physical force carries significant responsibility. This forces law enforcement agencies to balance public safety with individual rights. Cases involving excessive force have received considerable media coverage of late. The Constitution limits and empowers police action. The Indian Constitution under Article 21 provides for protection of life

and personal liberty.²⁴⁷ This protection is accorded to all persons in Indian territory whether citizens or not.

Many states still operate under the Police Act of 1861. This colonial law must be updated to reflect current standards. Some of them, like the one in Kerala, have added safeguards in their amendments. In *D.K. Basu vs. State of West Bengal*, the one, Supreme Court laid down important guidelines..²⁴⁸ These guidelines are meant to curtail custodial violence and

²⁴⁷ INDIA CONST. art. 21.

²⁴⁸ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (India).

guarantee transparency in arrests. Such demographics in relation to police of arresting authority of no apparent consequence in the broader culture, has become alarming notwithstanding of the rule of law.

Data reveals concerning patterns in the application of force across social groups. Lower castes and religious minorities face disproportionate police action. The National Crime Records Bureau reported 1,888 custodial deaths between 2010-2020.²⁴⁹ Only a small fraction of these cases resulted in convictions. The Supreme Court in *Nilabati Behera vs. State of Orissa* recognized compensation for rights violations.²⁵⁰ This judgment established important precedent for accountability. International standards further inform the Indian legal position on police conduct.

The UN Basic Principles on the Use of Force provide critical guidelines. India has ratified multiple international conventions relating to human rights protection. The Criminal Procedure Code sections 46 and 49 specifically limit force during arrests. These provisions mandate proportionality in all police interventions. The National Human Rights Commission has issued detailed advisories on police reforms. These advisories emphasize training, transparency and accountability mechanisms. The landmark *Prakash Singh vs. Union of India* judgment mandated structural reforms.²⁵¹ Many states have yet to fully implement these directives.

Research Questions

1. How have Indian courts evolved standards for evaluating police use of force, and to what extent have these judicial standards been effectively implemented in policing practices?
2. What patterns of demographic disparities exist in police use of force across different social groups in India,

and what legal and institutional factors contribute to these disparities?

3. How can existing administrative frameworks and oversight mechanisms be reformed to enhance accountability for excessive force while ensuring effective law enforcement?

Research Objectives

1. To analyze landmark judicial pronouncements on police use of force, identify key constitutional principles governing force application, and evaluate the implementation gaps between judicial standards and ground-level practices.
2. To examine doctrinal evidence of disparate force application across caste, religious, and socioeconomic groups, and to identify structural biases within legal frameworks and institutional cultures that perpetuate these disparities.
3. To develop comprehensive policy recommendations for administrative reforms, oversight mechanisms, and training protocols that address both procedural safeguards and demographic disparities in police use of force.

THEORETICAL FRAMEWORK AND CONSTITUTIONAL FOUNDATIONS

The theoretical underpinnings of police use of force rest on multiple legal paradigms. Police power exists as a necessary element of sovereign authority. The state monopolizes legitimate force to maintain social order and public safety. This monopoly comes with constitutional constraints and democratic accountability. Various theoretical frameworks help analyze the legitimacy of police powers. The social contract theory provides a foundational justification for state power.²⁵²

²⁴⁹ National Crime Records Bureau, Ministry of Home Affairs, Government of India, *Crime in India 2020*, 123-125 (2021).

²⁵⁰ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746 (India).

²⁵¹ *Prakash Singh v. Union of India*, (2006) 8 SCC 1 (India).

²⁵² THOMAS HOBBS, *LEVIATHAN* 89 (Richard Tuck ed., Cambridge Univ. Press 1996) (1651).

Citizens surrender certain freedoms in exchange for protection and security.

Article 21 of the Indian Constitution stands as the primary safeguard. It guarantees that "no person shall be deprived of life or liberty except according to procedure established by law."²⁵³ The Supreme Court has consistently expanded Article 21's protective scope. In *Maneka Gandhi v. Union of India*, the Court held that procedures must be fair, just and reasonable.²⁵⁴ This decision transformed Article 21 into a bulwark against arbitrary state action. Police powers cannot override these fundamental protections even during emergencies.

Article 14 provides another crucial constitutional restraint on police authority. It guarantees equality before law and equal protection of laws to all persons. The Supreme Court in *E.P. Royappa v. State of Tamil Nadu* interpreted Article 14 broadly.²⁵⁵ It held that any arbitrary action violates equality before law. Police must therefore exercise force without discrimination or arbitrariness. The demographic disparities in use of force patterns raise serious Article 14 concerns.

The preamble's promise of justice and equality permeates constitutional jurisprudence. These values must guide police actions during all encounters with citizens. The right to dignity forms an integral aspect of constitutional identity in India. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, dignity was recognized as part of Article 21.²⁵⁶ Police tactics that humiliate or degrade individuals violate this constitutional principle. The doctrine of proportionality further limits police authority in significant ways.

The doctrine requires that restrictions on rights be proportionate to legitimate aims. The Supreme Court in *Modern Dental College v. State of Madhya Pradesh* formalized this

requirement.²⁵⁷ Police must employ only necessary and proportionate force in each unique situation. Excessive or disproportionate force contravenes constitutional guarantees. This balancing approach has become central to Indian constitutional reasoning.

Article 22 provides specific safeguards against arbitrary arrest and detention. These procedural protections serve as practical implementations of Article 21 values. The arrested person must be informed of grounds and allowed legal representation. These requirements aim to prevent abuse of police powers during critical encounters. Custodial violence represents a grave violation of multiple constitutional provisions simultaneously.

The federal structure influences police operations across different states. Law enforcement falls under the State List in the Seventh Schedule. However, constitutional protections transcend these divisions to create uniform standards. The Constitution's remedial provisions offer vital mechanisms for accountability. Article 32 empowers citizens to approach the Supreme Court for rights violations. Article 226 provides similar powers to High Courts within their jurisdictions.

Public interest litigation has expanded access to constitutional remedies substantially. In *Bandhua Mukti Morcha v. Union of India*, the Court relaxed procedural requirements.²⁵⁸ This judicial innovation has helped victims of police excesses seek redress. The writ jurisdiction offers prompt relief against ongoing rights violations. These remedial mechanisms supplement ordinary criminal and civil liability frameworks.

The reasonable restrictions framework guides the limitations on fundamental rights. Article 19 protections can be restricted on specific grounds like public order. However, restrictions must satisfy the test of reasonableness established in jurisprudence. In *Chintaman Rao*

²⁵³ INDIA CONST. art. 21.

²⁵⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

²⁵⁵ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).

²⁵⁶ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608 (India).

²⁵⁷ *Modern Dental College v. State of Madhya Pradesh*, (2016) 7 SCC 353 (India).

²⁵⁸ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

v. State of Madhya Pradesh, the Court outlined this standard.²⁵⁹ Police actions must conform to these constitutional limitations even during emergencies.

The basic structure doctrine places absolute limits on state power. Certain constitutional features remain immune from amendment or dilution. The rights to life, dignity and equality form part of this inviolable core. Police powers cannot override these fundamental aspects of constitutional identity. The transformative constitution envisages police as protectors rather than oppressors.

International human rights instruments inform the interpretation of constitutional provisions. The Supreme Court has incorporated these standards into domestic jurisprudence. In *Vishaka v. State of Rajasthan*, international norms were directly applied.²⁶⁰ This approach creates a human rights framework for evaluating police conduct. Constitutional morality demands adherence to constitutional values in spirit and letter.

In *Government of NCT of Delhi v. Union of India*, constitutional morality was emphasized.²⁶¹ Police forces must internalize these constitutional values in daily operations. Training programs should integrate constitutional principles with practical skills. The due process requirement places procedural and substantive constraints on police. These constraints protect vulnerable populations from arbitrary or discriminatory treatment.

LEGAL FRAMEWORK GOVERNING POLICE USE OF FORCE IN INDIA

The Indian legal framework on police use of force comprises multiple legislative provisions. These provisions are scattered across various statutes and regulations. Section 46 of the Criminal Procedure Code authorizes reasonable force during arrests. This authorization is limited to situations where the accused resists arrest.

None of the section stipulates causing death unless the accused is punishable by death. Section 46(3) lays down special provisions for the arrests of women.²⁶² These gendered provisions speak to concerns regarding vulnerable demographics in policing contexts.

The dispersal of unlawful assemblies is governed by Section 129 of the Criminal Procedure Code. It allows executive magistrates to order force to break up violent crowds. The provision stipulates that prior warning must be given before use of force, when feasible. Section 130 covers high-end public order and allows for military forces for serious public order situations. Since such provisions have procedural safeguards often not put in practice. The principle of proportionality is rather tacitly included in these provisions than explicitly stated.

The Indian Penal Code sanctions certain uses of force under specific circumstances. Section 96 recognizes the general right of private defense of person and property. This right extends to police officers acting in official capacity. Section 100 permits causing death while exercising private defense in designated situations. These include assault with deadly weapons or attempted kidnapping among others. The right ceases when adequate opportunity for recourse to public authorities exists.²⁶³ Section 97 extends this protection to defending others facing imminent harm.

Section 76 of the Indian Penal Code protects actions performed by persons bound by law. Police officers acting in good faith receive immunity for lawful actions. Section 79 similarly protects acts justified by mistake of fact under certain conditions. These provisions create defenses rather than authorizations for use of force. Police frequently invoke these sections in litigation challenging excessive force incidents. The judicial interpretation has gradually

²⁵⁹ *Chintaman Rao v. State of Madhya Pradesh*, AIR 1951 SC 118 (India).

²⁶⁰ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

²⁶¹ *Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501 (India).

²⁶² Code of Criminal Procedure, 1973, § 46(3), No. 2, Acts of Parliament, 1974 (India).

²⁶³ Indian Penal Code, 1860, § 100, No. 45, Acts of Parliament, 1860 (India).

narrowed these protections for accountability purposes.

The Police Act of 1861 continues to govern police administration in many states. Section 23 delineates police officer duties to maintain public order. Despite numerous commission recommendations, this colonial legislation persists largely intact. Several states have enacted modern police acts incorporating contemporary standards. The Model Police Act of 2006 provides more detailed guidance on use of force.²⁶⁴ It emphasizes necessity proportionality and minimum force principles explicitly. Only a few states have adopted these modernized frameworks comprehensively.

State Police Manuals contain detailed protocols for various use of force scenarios. These administrative rules lack statutory force but guide departmental practices. The manuals typically establish escalating force continuums for different situations. Deadly force appears as the last resort after exhausting less lethal options. Most manuals mandate documentation and review procedures after force incidents. These administrative safeguards suffer from inconsistent implementation and monitoring deficiencies.

The Arms Act of 1959 regulates police use of firearms and other weapons. It establishes licensing procedures and conditions for weapons possession and use. The Police Rules in various states supplement these provisions with specific guidelines. Rule 237 of the Punjab Police Rules illustrates typical firing protocols. It requires firing for effect rather than intimidation when shooting becomes necessary. These technical protocols aim to minimize casualties during unavoidable force deployment.

Domestic legal standards are informed by the International Covenant on Civil and Political Rights. First, Article 6 protects the right to life as a fundamental non-derogable right. Torture and cruel or inhuman or degrading treatment are prohibited absolutely by Article 7. India

ratified this covenant, because in 1979 it created international legal obligations. These international standards are incorporated domestically into the Protection of Human Rights Act 1993.²⁶⁵ Legislative incorporation allows the courts to reference international normativity in domestic cases.

The UN Basic Principles on Use of Force provide compelling guidance for courts. Principle 4 That non-violent action be pursued before force is applied. Principle 5 adds that when people have no choice but to use force, they must do so proportionately. Indian courts rely more on these principles to gauge police conduct. National Police Commission recommendations give more details on what the appropriate force standards would be. They do so in a rather wholesale manner, calling for both training transparency and accountability mechanisms.

Section 197 of the Criminal Procedure Code stipulates that public servants cannot be prosecuted without prior sanction. This provision has at times stymied accountability in excessive-force cases. Courts have slowly limited its applicability to extreme rights violation cases. In *P.P. Unnikrishnan v. Puttiyottil Alikuttythe*, the Supreme Court narrowed the range of immunity.²⁶⁶ One is that conduct outside the course of official duty gets no protection. This judicial construction tries to balance functional immunity against accountability demands.

New legislation targets certain forms of police misconduct and excessive force. The Prevention of Torture Bill was aimed at criminalizing custodial torture in particular. Despite not becoming law, it reflects a changing legal perspective on the regulation of force. It is the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act that deals with caste violence. Section 4 provides for punishment of a public servant for neglect of duties related to

²⁶⁴ MODEL POLICE ACT, 2006, §§ 29-32 (India).

²⁶⁵ Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1994 (India).

²⁶⁶ *P.P. Unnikrishnan v. Puttiyottil Alikutty*, (2000) 8 SCC 710 (India).

atrocities.²⁶⁷ This provision recognizes past patterns of discriminatory use of force toward marginalized communities.

Transfers are overseen by Local Police Establishment Boards set up under Prakash Singh directives. These administrative bodies are meant to limit the politicisation of the day-to-day work in the police force. Serious misconduct allegations including misuse of force are investigated by Independent Police Complaints Authorities. Such powers vary also in effectiveness from state to state and jurisdiction to jurisdiction. There is no uniform framework or implementation across the country.

The Unlawful Activities Prevention Act grants special powers in contexts of terrorism. These sweeping powers open the door to possible rights violations in investigations. Section 43A is a non-bailable provision and allows an arrest on the basis of reasonable suspicion without a warrant. These unique provisions build an elevated risk for the potential misuse of force against specific communities. Exceptional legislation targets Muslims and political dissenters disproportionately.²⁶⁸ These patterns highlight structural biases inscribed in legal implementation frameworks.

The Right to Information Act 2005 is in place to make police operations more transparent. It allows citizens to request information on incidents in which force has been used and the subsequent treatment of these incidents. This system opens up data around demographic trends in policing. Public scrutiny serves as a likely deterrent against unnecessary or discriminatory force use. The whistleblower protections framework is not working well for internal reporting of misconduct.

²⁶⁷ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, § 4, No. 33, Acts of Parliament, 1989 (India).

²⁶⁸ PEOPLES UNION FOR DEMOCRATIC RIGHTS, FRAMED, DAMNED, ACQUITTED: DOSSIERS OF A VERY SPECIAL CELL 15-18 (2012).

JUDICIAL EVOLUTION OF STANDARDS ON POLICE USE OF FORCE

The law has shifted over decades toward greater deference to police use of force. Indian courts were deferential to executive authority in the early years. After independence, the age of jurisprudence focused increasingly on scrutiny based on rights. This evolution is indicative of larger changes in the nature of constitutional interpretation and what parts are emphasized. The Supreme Court has incrementally articulated ever more exacting standards for assessing police conduct. They now also draw on international human rights standards and comparative jurisprudence.

The early judicial approach focused on statutory compliance rather than constitutional examination. In *State of Uttar Pradesh v. Mohammad Naim*, the Court was loath to interfere. It deferred significantly to police discretion in maintaining public order. Much of the early post-independence jurisprudence was thus deferential. The 1990s, and early 2000s, were defined, politically, by the desire for administrative efficiency over constitutional values.

Kharak Singh v. State of Uttar Pradesh marked early recognition of privacy concerns. The Court examined police surveillance practices against constitutional guarantees. Justice Subba Rao's dissent laid foundations for later privacy jurisprudence. His opinion influenced subsequent developments regarding police powers limitations.²⁶⁹ The majority still upheld most surveillance practices as administratively necessary. This case represented an incremental step toward rights-based review standards.

The emergency period (1975–77) highlighted dangers of unchecked police powers. Post-emergency jurisprudence reflected greater judicial vigilance against executive excesses. The Supreme Court became increasingly assertive in rights protection. *ADM Jabalpur v.*

²⁶⁹ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295 (India).

Shivakant Shukla represented the nadir of rights protections. The majority suspended habeas corpus protections during national emergency periods.²⁷⁰ This decision later became symbolic of judicial capitulation to executive authority.

Maneka Gandhi v. Union of India transformed Article 21 interpretation fundamentally. The Court held that procedure must be fair, just, and reasonable. This interpretation introduced substantive due process principles into Indian jurisprudence. Police procedures became subject to reasonableness and fairness requirements. The Court established that rights must be read together harmoniously. This integrated approach strengthened constraints on arbitrary police actions significantly.

Sunil Batra v. Delhi Administration addressed custodial violence directly. The Court recognized prison authorities as state agents subject to constitutional limitations. Justice Krishna Iyer emphasized humanity in treating persons in custody. This decision extended constitutional protections into places of detention. The judgment mandated humane treatment regardless of conviction or charges.²⁷¹ Custodial violence was explicitly recognized as constitutional violations.

Nilabati Behera v. State of Orissa established compensation for custodial deaths. The Court awarded damages under public law remedies for rights violations. This landmark judgment recognized strict liability in custodial violence cases. The burden shifted to the state to explain injuries in custody. The Court rejected sovereign immunity defenses for constitutional violations. This constitutionalized tort remedy strengthened accountability mechanisms substantially.²⁷²

D.K. Basu v. State of West Bengal provided comprehensive guidelines for arrests. The Court established eleven procedural safeguards for persons in custody. These requirements included documentation, medical examination,

and notification. The judgment made these guidelines binding until legislative enactment. The Court clarified that non-compliance would trigger both departmental and contempt actions. These guidelines sought to prevent torture and extrajudicial methods.²⁷³

Prakash Singh v. Union of India addressed systemic police reforms comprehensively. The Court issued seven binding directives for restructuring police organizations. These included establishing accountability mechanisms and security of tenure. The judgment aimed to reduce political interference in police functioning. State security commissions would ensure policy oversight and grievance resolution. The Court mandated separate investigation and law-and-order functions. It established Police Complaints Authorities at district and state levels.²⁷⁴

Extra-judicial Execution Victim Families Association v. Union of India examined encounter killings. The Court rejected blanket immunity for deaths during counter-insurgency operations. It mandated registration of FIRs and independent investigations in all cases. The judgment explicitly prohibited medals or promotions for officers involved. This decisively rejected "encounter" culture in law enforcement practices. The Court emphasized that constitutional rights extend even to terrorists.²⁷⁵

People's Union for Civil Liberties v. State of Maharashtra established protocols for encounters. The Court outlined fifteen guidelines for investigation of police encounters. It required immediate FIR registration and independent investigation. Magisterial inquiry became mandatory regardless of other investigations. The judgment mandated prompt medical aid for injured suspects. These requirements aimed to ensure transparency and accountability.²⁷⁶

²⁷⁰ *ADM Jabalpur v. Shivakant Shukla*, (1976) 2 SCC 521 (India).

²⁷¹ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494 (India).

²⁷² *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746 (India).

²⁷³ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (India).

²⁷⁴ *Prakash Singh v. Union of India*, (2006) 8 SCC 1 (India).

²⁷⁵ *Extra-judicial Execution Victim Families Association v. Union of India*, (2016) 14 SCC 536 (India).

²⁷⁶ *People's Union for Civil Liberties v. State of Maharashtra*, (2014) 10 SCC 635 (India).

The Supreme Court has incrementally raised standards for evaluating encounter narratives. In *Rohtash Kumar v. State of Haryana*, suspicious circumstances triggered enhanced scrutiny. The Court rejected police narratives that appeared constructed or implausible. Forensic inconsistencies received greater judicial attention in these evaluations. This represents heightened skepticism toward self-defense claims by police. The Court increasingly demanded objective corroboration beyond officer testimonies.

Custodial torture jurisprudence has progressively strengthened protections for detainees. In *Sheela Barse v. State of Maharashtra*, the Court recognized special vulnerabilities. It established additional safeguards for women and children in police custody. The judgment required female officers' presence during women's interrogation. Legal aid access was emphasized as critical for custody protection.²⁷⁷ Regular judicial magistrate visits to police stations were mandated.

Francis Coralie Mullin v. Administrator, Union Territory of Delhi expanded Article 21. The Court recognized right to dignity as inherent in life and liberty. This interpretation prohibited degrading treatment even during lawful detention. Police tactics violating dignity became constitutionally impermissible regardless of statutes. The judgment established that constitutional standards exceed criminal procedure requirements. This expanded conception influenced subsequent custodial treatment standards.

Raghbir Singh v. State of Haryana addressed third-degree methods specifically. The Court condemned torture as wholly impermissible regardless of circumstances. It rejected crime control justifications for coercive interrogation techniques. The judgment emphasized scientific investigation methods over coercion. The Court noted that torture represents medieval mentality inconsistent with democracy. This

firmly established torture prohibition as non-derogable in Indian jurisprudence.²⁷⁸

The "test of reasonableness" for evaluating police actions continues evolving. In *Om Kumar v. Union of India*, the Court explicitly adopted proportionality standards. This approach requires balancing rights restrictions against legitimate public interests. It demands minimal impairment of rights through least restrictive alternatives. Police must demonstrate necessity, suitability, and proportionality of interventions. This structured analysis restricts discretionary force application significantly.²⁷⁹

Disparate policing across demographic groups has received increasing judicial attention. In *National Human Rights Commission v. State of Arunachal Pradesh*, forced evictions were scrutinized. The Court recognized vulnerable communities' heightened protection needs. It mandated non-discriminatory treatment regardless of citizenship status. This judgment established state responsibility to protect all persons equally. Constitutional protections extend across demographic characteristics without discrimination.

Encounter killings received intensified scrutiny in *Rubabuddin Sheikh v. State of Gujarat*. The Court ordered CBI investigation given serious allegations of extrajudicial execution. It emphasized that rule of law applies regardless of criminal allegations. The judgment rejected national security justifications for procedural shortcuts. Strict adherence to legal procedures was mandated even for terrorism suspects. This reinforced procedural rights as non-negotiable constitutional requirements.²⁸⁰

State of Madhya Pradesh v. Shyamsunder Trivedi addressed evidentiary challenges. The Court acknowledged inherent difficulties in prosecuting police misconduct. It suggested evidentiary accommodations to overcome departmental loyalty barriers. The judgment recommended burden shifting in custodial

²⁷⁸ *Raghbir Singh v. State of Haryana*, (1980) 3 SCC 70 (India).

²⁷⁹ *Om Kumar v. Union of India*, (2001) 2 SCC 386 (India).

²⁸⁰ *Rubabuddin Sheikh v. State of Gujarat*, (2010) 2 SCC 200 (India).

²⁷⁷ *Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96 (India).

violence cases. This approach recognized structural barriers to accountability in force misuse cases. The Court emphasized fighting "crime by law, not crime with crime."²⁸¹

Recent jurisprudence has emphasized prompt registration of complaints against police. In *Lalita Kumari v. Government of Uttar Pradesh*, mandatory FIR registration was established. This requirement applies equally to allegations against police officers. The judgment reduced discretion that previously filtered complaints against law enforcement. This procedural safeguard enhances access to justice for police misconduct victims. It prevents preliminary executive determination of complaint credibility.

The doctrine of command responsibility gained judicial recognition gradually. In *Extra-judicial Execution Victim Families Association*, superior officer accountability was emphasized. The Court recognized responsibility of commanding officers for subordinates' actions. This doctrine prevents responsibility diffusion through hierarchical structures. Supervisory officers must ensure compliance with constitutional standards. This approach targets systemic failures beyond individual perpetrators.

Compensation jurisprudence has evolved toward international human rights standards. In *Rudul Sah v. State of Bihar*, interim compensation without prejudice was established. Subsequent cases have calculated damages based on rights violation gravity. The Court recognized both pecuniary and non-pecuniary aspects of rights violations. The objective remains restoration of dignity rather than mere monetary payment. This remedial approach supplements criminal prosecutions for deterrence purposes.²⁸²

In cases involving vulnerable populations, enhanced scrutiny standards emerge. Scheduled Caste and Scheduled Tribe victims receive particular judicial attention. The Court has acknowledged historical patterns of

discriminatory police practices. It has mandated special investigative procedures in atrocity cases. The judiciary increasingly examines demographic patterns in police use of force. This approach addresses structural biases rather than isolated incidents alone.

The Supreme Court increasingly references international standards in domestic cases. In *Prem Shankar Shukla v. Delhi Administration*, handcuffing standards incorporated human dignity. The Court prohibited routine handcuffing as rights violation without justification. This judgment referenced UN standards on treatment of prisoners. The Court emphasized that constitutional rights supersede administrative convenience. International norms increasingly inform constitutional interpretation in police cases.²⁸³

INTERNATIONAL HUMAN RIGHTS STANDARDS AND COMPARATIVE PERSPECTIVE

International human rights law provides comprehensive frameworks governing police use of force. The Universal Declaration of Human Rights establishes foundational protections applicable to law enforcement contexts. Article 3 guarantees everyone's right to life, liberty and security of person. Article 5 prohibits torture and cruel, inhuman or degrading treatment absolutely. These provisions create non-derogable standards transcending national boundaries and emergencies. Police powers everywhere must conform to these universal limitations irrespective of local laws.²⁸⁴

The International Covenant on Civil and Political Rights elaborates these protections in binding form. Article 6 protects the right to life as inherent and non-arbitrarily deprivable. Article 7 prohibits torture without exception, even during public emergencies. Article 9 guarantees liberty and security while prohibiting arbitrary arrest and detention. India ratified this treaty in 1979, legally committing to these standards. The

²⁸¹ *State of Madhya Pradesh v. Shyamsunder Trivedi*, (1995) 4 SCC 262 (India).

²⁸² *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141 (India).

²⁸³ *Prem Shankar Shukla v. Delhi Administration*, (1980) 3 SCC 526 (India).

²⁸⁴ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

Human Rights Committee's General Comment No. 36 further clarifies use of force parameters.²⁸⁵

The UN Basic Principles on the Use of Force and Firearms provide specific guidance. Principle 4 requires law enforcement to use non-violent means before resorting to force. Principle 5 mandates proportionality when force becomes unavoidable for legitimate objectives. Principle 9 prohibits firearms except for self-defense or defending others. These principles operationalize broader human rights obligations in policing contexts. They establish minimum standards for evaluating police tactics and training.²⁸⁶

The UN Code of Conduct for Law Enforcement Officials creates ethical frameworks. Article 3 limits force to situations of strict necessity and proportionate degree. Article 5 absolutely prohibits torture and cruel treatment under any circumstances. Article 2 requires respect for human dignity and rights maintenance. These standards provide benchmarks for police conduct across jurisdictional boundaries. Compliance requires institutional reforms beyond individual officer training.

The Convention Against Torture imposes specific obligations regarding custodial treatment. Article 2 requires effective legislative, administrative and judicial measures against torture. India has signed but not ratified this convention, limiting its direct applicability. However, prohibition against torture has attained *jus cogens* status in international law. These norms bind all states regardless of explicit treaty commitments or reservations.²⁸⁷

The European Court of Human Rights has developed sophisticated standards worth considering. In *McCann v. United Kingdom*, the Court examined planning and control of

operations. It held that operations must minimize recourse to lethal force whenever possible. The Court scrutinized not only the moment of force application but preceding decisions. This holistic approach addresses systemic factors beyond individual officer discretion. Indian jurisprudence increasingly references these comparative standards for guidance.²⁸⁸

The Inter-American Court of Human Rights addresses demographic disparities explicitly. In *Nadege Dorzema v. Dominican Republic*, racial profiling was specifically condemned. The Court examined disparate treatment of Haitian migrants by Dominican authorities. It established that non-discrimination principles apply in law enforcement contexts absolutely. This approach offers valuable insights for addressing caste and religious disparities. Discriminatory use of force violates multiple human rights simultaneously.²⁸⁹

South Africa's post-apartheid police reforms provide instructive comparative lessons. The South African Police Service Act incorporates international human rights norms explicitly. Section 13(3) limits force to strictly necessary and proportionate measures. South Africa established independent oversight through civilian secretariats and complaints authorities. These institutional mechanisms address apartheid-era patterns of discriminatory enforcement. Similar strategies could address demographic disparities in Indian policing practices.

The United Kingdom's Police and Criminal Evidence Act establishes detailed procedural safeguards. Code C governs detention conditions and interrogation methods comprehensively. These regulations include vulnerable detainee protections and evidence documentation requirements. The Independent Office for Police Conduct investigates serious complaints and incidents. This institutional

²⁸⁵ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

²⁸⁶ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, U.N. Doc. A/CONF.144/28/Rev.1, at 112 (Aug. 27 – Sept. 7, 1990).

²⁸⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

²⁸⁸ *McCann v. United Kingdom*, App. No. 18984/91, 21 Eur. Ct. H.R. 97 (1995).

²⁸⁹ *Nadege Dorzema v. Dominican Republic*, Inter-Am. Ct. H.R. (ser. C) No. 251 (Oct. 24, 2012).

separation enhances accountability and public confidence. Indian police complaints authorities could adopt similar structural independence.²⁹⁰

The United Nations Special Rapporteur on extrajudicial executions provides valuable guidance. The Minnesota Protocol establishes international standards for investigating potentially unlawful deaths. These guidelines mandate independence, thoroughness, promptness and transparency in investigations. The Protocol addresses unique challenges in investigating deaths caused by state agents. Implementation requires institutional capacity building and political commitment. These standards should inform National Human Rights Commission investigation protocols.²⁹¹

TORT LAW AND COMPENSATION JURISPRUDENCE

The compensation jurisprudence for police excesses has evolved through distinctive trajectories. Traditional tort law remedies proved inadequate for addressing state violence. The sovereign immunity doctrine historically impeded accountability for official misconduct. This doctrine stemmed from the maxim "the king can do no wrong." Indian courts gradually dismantled this anachronistic conception in post-independence jurisprudence. Constitutional tort remedies emerged as powerful mechanisms for addressing police brutality.

Rudul Sah v. State of Bihar is thus the watershed moment in compensation jurisprudence. The Supreme Court itself directly granted compensation for wrongful detention. This verdict acknowledged such a power to provide that sort of monetary reparation under Article 32 jurisdiction. Decrees were inadequate to redress violations of constitutional rights. The court noted that public law remedies are distinct from private law damages. This

distinction created space for ameliorative principles for rights violations to develop.²⁹²

The same method was adopted in custodial death cases in Nilabati Behera v. State of Orissa. The Court awarded compensation to a mother as her son died in custody. It definitively rejected the sovereign immunity defense to fundamental rights violations. Justice J.S. Verma recognised the principle of strict liability, specifically in custodial violence cases. The state bears direct responsibility in accounting for injuries sustained in custody. The onus is on authorities to prove no torture or mistreatment.²⁹³

Sebastian M. Hongray v. Union of India applied these principles to disappearance cases. The Court awarded exemplary damages when army failed to produce missing persons. This judgment recognized psychological trauma suffered by victims' families. It established that compensation extends beyond physical injury to dignitary harms. The quantification considered both pecuniary and non-pecuniary dimensions comprehensively. This holistic approach enhanced remedial effectiveness for rights violations.

The Common Cause v. Union of India addressed fake encounter killings specifically. The Court awarded interim compensation to victim families pending investigation. This approach recognized immediate needs without awaiting final determinations. The judgment emphasized restorative rather than merely compensatory objectives. Monetary payment symbolized "palliative accountability" for systemic failures. This approach supplements but does not replace criminal accountability mechanisms.²⁹⁴

The identification of cases as quantum determined is case by case and does not follow a consistent methodology. The amounts of compensation vary widely with little to no clear rationale for the calculations they are based on. Some of these judgments refer to international

²⁹⁰ Police and Criminal Evidence Act, 1984, c. 60 (U.K.).

²⁹¹ U.N. OFFICE OF THE HIGH COMM'R FOR HUM. RTS., MINNESOTA PROTOCOL ON THE INVESTIGATION OF POTENTIALLY UNLAWFUL DEATH (2016).

²⁹² Rudul Sah v. State of Bihar, (1983) 4 SCC 141 (India).

²⁹³ Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 (India).

²⁹⁴ Common Cause v. Union of India, (2016) 15 SCC 568 (India).

standards, while others are solely discretionary. *D.K. Basu v. State of West Bengal* focused on deterrence and compensation. The court tied quantum to the severity of the violation and the culpability of the perpetrator. These factors create quasi-affinal features in remuneration establishment.

The Principles of Proportionality with respect to the compensation assessment were read into the statute in *Sube Singh v. State of Haryana*. The Court weighted considerations such as severity of the violation and the degree of state culpability. It acknowledged direct and vicarious liability depending on the circumstances. The quantum judgement converges more and more to structured analysis, as opposed to gut feeling. This evolution of methods improves predictability and consistency in remedial jurisprudence.²⁹⁵

Constitutional tort remedies provide a supplement to, but not a replacement for, criminal prosecution. In the case of *Ram Pyari v. Union of India*, the Court has focused on two tracks of accountability. Criminal charges go directly to the culpability of individual perpetrators. Constitutional responses to such failures are aimed both at systemic dysfunction and institutional accountability. This dual approach tackles both individual and structural dimensions. Financial restitution reflects the severity of rights violations irrespective of criminal convictions.

The vicarious liability principle facilitates accountability despite individual perpetrator identification challenges. The State bears responsibility for actions performed under apparent authority. *Bhim Singh v. State of Jammu and Kashmir* exemplifies this approach effectively. The Court awarded damages despite difficulty identifying specific officers responsible. This principle addresses the evidentiary challenges in police misconduct cases. Departmental loyalty creates barriers to individual officer identification.²⁹⁶

²⁹⁵ *Sube Singh v. State of Haryana*, (2006) 3 SCC 178 (India).

²⁹⁶ *Bhim Singh v. State of Jammu and Kashmir*, (1985) 4 SCC 677 (India).

ADMINISTRATIVE REFORMS AND POLICY RECOMMENDATIONS

Administrative reforms require structural changes beyond legal frameworks. The National Police Commission recommendations remain largely unimplemented despite their comprehensiveness. These recommendations include establishing security of tenure for police leadership. Political interference creates perverse incentives regarding demographic targeting and force usage. Implementation of *Prakash Singh* directives would enhance professional autonomy significantly. The Supreme Court established seven directives for nationwide police reforms. Most states have implemented these directives partially or symbolically.²⁹⁷

Police training curricula require substantial revision regarding human rights components. Current training emphasizes technical skills over constitutional values integration. The Bureau of Police Research and Development developed model curricula. These curricula incorporate international best practices regarding less-lethal responses. Scenario-based training helps officers develop appropriate force calibration skills. De-escalation techniques deserve greater emphasis in existing training modules. Regular refresher courses should address emerging human rights standards periodically.²⁹⁸

Early intervention systems can identify officers with problematic force patterns. These systems track complaints, use of force incidents, and other risk indicators. Supervisory intervention becomes possible before serious violations occur. Such systems operate effectively in several international jurisdictions. The Oakland Police Department reduced excessive force complaints by 66% after implementation. Similar systems could address demographic disparities in Indian policing practices. Data-driven approaches enable targeted interventions beyond anecdotal evidence.

²⁹⁷ Commonwealth Human Rights Initiative, Seven steps to police reform 12-15 (2010).

²⁹⁸ Bureau of Police Research and Development, Training manual on human rights for police officers 45-48 (2018).

Independent oversight mechanisms require genuine decisional autonomy. Police Complaints Authorities need investigative resources and enforcement powers. Current authorities function largely as advisory bodies without substantive authority. The Model Police Act provides detailed framework for effective oversight. Selection committees should include judicial members to ensure independence. Appointment criteria should prioritize human rights expertise over administrative experience. These structural changes would enhance accountability and transparency significantly.²⁹⁹

Body-worn cameras offer technological solutions for monitoring police-citizen interactions. These devices create objective records of encounters and force incidents. Pilot programs in Maharashtra and Telangana show promising initial results. Implementation guidelines must address activation protocols and data retention policies. Privacy concerns require balancing against transparency benefits carefully. The international experience demonstrates both benefits and implementation challenges. Clear policies regarding footage release enhance public trust and accountability.

Addressing the structural biases in force application through diversity. Demographics should reflect those of policed communities. Special recruitment drives targeting underrepresented groups should be a priority. The Sachar Committee had pointed out the underrepresentation of Muslims in police forces. Similar trends hold true for Scheduled Castes in high-ranking positions. Diversity of context leads to less force disparity globally. When police demographics reflect characteristics of the population, community trust increases.

The use of force continuums provide a structured decision-making framework for officers. Each of these continuums align with appropriate reactions to the level of resistance faced. They also have an exemplary force

continuum in the Kerala Police Manual. These rules, though, deserve statutory backing beyond departmental manuals. Each force level application must be supported by accompanying documentation requirements. This requires systematic scrutiny of necessity and proportionality in review procedures. These very same administrative mechanisms augment legal standards in an effective way.

Mandatory demographics reporting for police interaction keeps us transparent. It is only when data collection is structured, that pattern analysis is achievable. The UK needs comprehensive ethnicity information in policing records. Such requirements would throw some light on aberrations in Indian policing practices. While anecdotes can be useful, statistical evidence allows for targeted reform efforts. 1. Data-driven policy reforms: These reforms target systemic issues instead of individual, isolated frictions.³⁰⁰

CONCLUSION AND WAY FORWARD

Use of force by police is a controversial field that requires multiple changes to the way we do things. The constitutional values of democracy must translate into everyday police behavior and practice and not remain only on paper. The gap between the normative frameworks and their implementation needs urgent attention. The demographic bias in force application reflects more profound structural biases in policing that must themselves be acknowledged. Judicial developments have incrementally bolstered protections against the use of excessive force. These changes need to be reflected in institutional culture and day-to-day practices.

Institutional commitment to implementation is the only way procedural safeguards can succeed. The D.K. Basu guidelines have constitutional status but continue to face strong resistance. Technological solutions, such as body cameras, need clear operational protocols. Oversight mechanisms must be

²⁹⁹ Second Administrative Reforms Commission, Fifth report: Public order 120-125 (2007).

³⁰⁰ United Nations Office on Drugs and Crime, Handbook on police accountability, oversight and integrity 78-82 (2011).

genuinely independent rather than merely nominal. Accountability demands turning from the rare exception to the constant norm. What reformers should focus on What reformers should focus on Collaborative action: Reformers need to move away from siloed approaches to implementation³⁰¹

The transformative constitution envisions police as protectors of rights not mere order enforcers. To be realized, this vision requires a reorientation of training, incentives, and organizational cultures. The best path to domestic reform is informed by international human rights standards. Marginalized communities that are subjected to violations have to have constitutional remedies available for them. Post-violation accountability needs to be complemented by timely redressal mechanisms. Collecting and analyzing disaggregated data is necessary in order to uphold the principle of non-discrimination.

Another area which legislation can target effectively is to plug the holes in other existing legal frameworks. The Model Police Act is a blueprint for modern police legislation. The key challenge today is political willpower for implementation. The Prevention of Torture Bill merits re-examination with due safeguards in place. Such legislative frames would facilitate operationalization of constitutional principles. Statutory recognition would strengthen enforceability beyond just judicial pronouncements.³⁰²

Custodial safeguards require particular attention given vulnerability of detainees. The National Human Rights Commission guidelines need statutory recognition. Mandatory videography of interrogations would create objective records. Prompt medical examination by independent doctors prevents torture concealment. Legal aid access during initial detention prevents rights violations

substantively. These measures protect vulnerable detainees when most at risk.

Police oversight needs more than representation; it needs structural independence. Adequate investigation resources must be supplied to the Police Complaints Authorities. Selection committees must consist of representatives from various sectors, not limited to government appointees. It may also empower members through life tenure, ensuring decision-making independence from political interference. Regular public reporting creates transparency on trends and achievements. These features distinguish effective oversight from cosmetic entities.³⁰³

Accountability frameworks should give more prominence to the doctrine of command responsibility. Superiors must be held accountable for the predictable misconduct of subordinates. It also creates incentive to prevent issues before they arise, rather than punishing after the fact when violations occur, as traditional forms of regulation do. Rights Compliance must be part of an evaluation of performance – in addition to traditional measures. These measures of accountability rectify systemic breakdowns, not just individual actions. Individual officers behave more as a product of the organizational culture.³⁰⁴

Compensation mechanisms must be systematized rather than determined on a case-by-case basis. Such judicial remedies can be supplemented with prompt relief in administrative schemes. These fixed schedules ensure horizontal equity between similar offences. The non-monetary elements, including rehabilitation, need more attention. Approaches that are victim-centered involves much more than financial compensation. Such systemic remedies recognize the multifaceted harms of rights violations.

³⁰¹ D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 (India).

³⁰² Bureau of Police Research and Development, Model Police Act 2006: A toolkit for implementation 25-28 (2007).

³⁰³ Commonwealth Human Rights Initiative, Police oversight in India: Time for change 45-49 (2018).

³⁰⁴ National Human Rights Commission, Guidelines on police reforms 15-17 (2010).

Community engagement can increase the effectiveness and legitimacy of police reform efforts. Community input can be valuable resources for civilian review boards. Regular consultation mechanisms help to build trust and communication channels. Whether community policing approaches that build relationships to minimize needless confrontations. These approaches turn communities from objects of policing to partners in it. The aim still is public safety with dignity, not order without rights.³⁰⁵

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³⁰⁵ Supreme Court Committee on Police Reforms, *Monitoring the implementation of Prakash Singh judgment* 32-35 (2018).

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