



RISE OF POLICE BRUTALITY AND THE NEED OF BETTER CONTROL MEASURES IN RECENT TIMES

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ABSTRACT

The diabolic recurrence of police brutality has adversely enhanced in the first year of Modi 2.0 government, evidently from abrogation of article 370 in Kashmir to Anti – Citizenship Amendment Act protests in Jamia Millia Islamia, hovering over Northeast Delhi riots and even in the midst of a pandemic. A slight glitch in the law and order, the lives and liberty of the common citizens are in peril accompanied by the actions of police.

The use of arbitrary, excessive force harbours a domain nature of complacency and prejudice around religious minorities, students and substantially the Muslims of this country. Why is Police Brutality still prevalent? Do we heed to the political backing or racial discrimination? Or is it lack of conventional entailed police training? To answer this, we need to take a look at the history fraught police reforms, the legal accountability of police officers, International perspective to marshal police union contract, to enact and repeal law, prominently defund the law enforcement and improve the working condition and the police structures. All the above-mentioned issues would be unraveled in this article along the detrimental effects of Indian film industry tarnishing and glorifying police brutality which normalizes the gravity of the issue. In addition to the current happenings in India and other countries, the author also

emphasizes the factors contributing to this phenomenon, suggestions and measures to ensure transparency in situations where police officers are held accountable, new effective reforms to reduce extrajudicial killings, custodial torture, malicious prosecution, false imprisonment and level of impunity the law enforcement officials relish.

A. INTRODUCTION

Police brutality has secured its considerable amount of media exposure throughout the last few years; it's a heinous offence legally defined as the infringement of civil rights of a person. The severity of the act is established when an officer exercised his or her legally entitled force in a way which seemingly exceeds the minimum required amount towards a civilian or the general public. The use of weaponized tools like pepper spray, tasers, batons also beating and slamming to the ground and sexual abuses are all instances of police brutality. Verbal abuse, arbitrary arrest or racial profiling is also categorized under the domain of police brutality. It surpasses the standard scope of the discipline. Various countries have criminalized police brutality, considering it as a dehumanizing offence and concurrently we still witness cases where the accusation of victims doesn't reach the investigation stage. Extrajudicial killings are being normalized in the society and no one endorses this bitter truth.

It is a truism that police in India by and large need a legitimate authority and the trust of the general public. In India, various complaints are lodged against the police including grievances of unwarranted arrests, unlawful



searches, and custodial assaults.¹The social reality of the widespread debauchery of police does colour a perspective of their tarnished image and execution, yet these clarifications don't represent the way that police in India are structurally weakened by cultural-political and legal-institutional claims to various clashing types of power that challenge and often overpowers the authority of the police. To probe into such abuse of force, various countries have adopted safeguards, such as accountability, externally by the political executives and internally by senior police officers and independent police oversight authorities.²

Amidst the battle of COVID-19 endangering the public health in India, we are being encountered by the wave of police brutality as migrants, daily wage workers, and vendors are beaten and abused notwithstanding even the attempts to buy basic essential commodities by the citizens. There have been abundant reports of police brutality, propelling in from various parts of the nation. Recently, India actively combated against the Citizenship Amendment Act, the complete National Register of citizens and the uttermost form of police violence, mobilizing several protestors across the country. The duress in Delhi, police complicity towards the citizens and now the defilement which resulted due to implementation of the lockdown urges the necessity for the establishment of police reforms in India.

Reports of torture abound, and retaining human rights organizations have manifested this for prolonged number of years, the institutionalization of violence have been

brought sharply to the fore in ways how police have treated protesters in several states. By 'othering' them, similarly people of several vulnerabilities and from various marginalized gatherings have been valued, regular brutality on account of the police in India, and indeed other South Asian countries, is a sordid part of life for many others.

There are numerous reasons due to the prevailing police brutality and yet very little publicity or action was taken on the accountability aspect in India. Complaints against the police are occasionally indicted in open and in a nation like India this acts as a pivotal point to the disintegrated "rule of law" framework. Despite the fact that the post-independence India determined changes on numerous fronts, the police system, in its essential structure, techniques of work and absence of open responsibility stayed unaltered. The article additionally talks about a few advancements that must be invariably brought about to the reinforcement of executive command over the police and prompting the rise of abuses subjected by police forces and possible misuse of their powers.

B. THE EVOLUTION OF POLICE REFORMS IN INDIA

In pre-independence era, the of police administration set up by the 1861 Act made police forces unaccountable to anyone aside from their own hierarchy and the colonial, political and administrative executive. Collectively holding the police responsible to the society or other democratic institutions did not fit into the British provincial model of

¹ Model Police Manual, *Indian Police: An Introductory and Statistical Overview* (2nd Volume, Bureau of Police Research and Development, 2016)

²United Nation Office on Drugs and Crime, *Handbook on Police Accountability, Oversight and Integrity*, Cm57991, 2011)



control. For example, it did not necessitate the constabulary to think critically while performing their duties, furthermore, they in reality, were not required to have any thoughts concerning it.

The Police Act 1961 was introduced by the British and subsequent to that there have been only minor changes to this system. The core structure about the functioning and reporting remained the same since its implementation in 1861.³ The problem lies in the vital purpose of this system as it was designed to oppress and control the population rather than to protect and serve the society as it should be. This issue was first addressed in 1979, by the Janata government where they unanimously decided to bring reforms in the police system and “National Police Commission 1979” was introduced, however, no implementation was further done for the next 20 years.

Post independence the country witnessed evolving economic, political and social establishments, the need to circumvent to the police administration was a paramount requisite. The country changed predominantly but the situation for this department more or less remained unaltered as the 1861 Act continued to govern. After 73 years of independence, no government, central or state, willingly tried to adequately replace this Act with new reforms. Although some states have brought in new legislation since 1947 to govern police forces in a manner differently as initiated before, like Bombay Police Act of 1951, Kerala Police

Act of 1960, Delhi police Act of 1978. But these acts did not amount to significant improvements in the organizational structure or enhanced performance of the police. Still, the 1891 Act governs primary parts of our country, making no difference in the administration.⁴

This was succeeded by the Gore Committee set up to the police training in 1971 and accordingly the National Police Commission between 1977- 1981, submitted 8 reports recommending expansive changes in the current system and furthermore established a Model Police Act. None of the significant suggestions through it were adopted by any legislature. In 1999, the government introduced the Ribiero Commission 1999⁵ inspired by the earlier 1979 Commission with further rectification. The subsequent year, a new Committee was formed called “Padmanabhaiah Committee”⁶ and three years later another called “Malimath Committee”⁷ was established. However, none of these were implemented. In fact, the report directly pointed out to the negligence in the implementation of the same. As no constructive step was carried out after several reports, in 1996 DGP Prakash Singh, UP filed a PIL in Supreme Court to instigate an action towards the reforms. After a long wait of 10 years, the court finally gave a verdict on 22nd September 2006. It was a historic day. Seven directions to the government were given to reform the Police department. These are as follows:

³ Andrew H L Fraser, E T Candy, Harold A Stuart & India. National Police Commission, *Report of the Indian Police Commission* (Simla, 4 edn, Printed at the Govt. Central Print. Office, 1903)

⁴Model Police Manual, *Police Organisation in India*(1st Volume, Bureau of Police Research and Development, 1861)

⁵Subramanian, K. S. ‘Reforms for Indian Police.’ *Economic and Political Weekly*,(India, 1July 2006)

⁶Supra 4

⁷Supra 4



- I. Formation of a State Security Commission - to control the influence of the state government on the police department.
- II. Minimum tenure of 2 years for all ranks above SI- to prevent biasness and abuse of the process of transfer by politicians to tailor in their needs.
- III. Separate investigation and law & order wings.
- IV. Formation of Police Establishment Board - to overlook transfers and promotions and validate them.
- V. Formation of Police Complaint Authority - to take public complaints against the police department.
- VI. Formation of National Security Commission - to enforce internal policies and laws.

This was why police evidently resented the new verdict as it would eventually disassociate their power and dominant control in the system. No state fully implemented the directives in its originality but adapted them to suit their needs and further in numerous cases the narrative was entirely overlooked.

C. POLICE ACCOUNTABILITY AND KEY MECHANISMS

Police accountability in India entails both police officer and the law enforcement agencies being held responsible to the general public in lieu of their basic services of maintaining order and control crime.⁸The police are to uphold proficiency with regard to laws, in due action of search, seizure, arrests and equitably comply with the human rights and not indulge in impropriety,

⁸Samuel E. Walker, 'The New World of Police Accountability' (Thousand Oaks, 2005)
<www.worldcat.org/title/new-world-of-police-

misconduct or nefarious behavior. Police accountability can be studied under two broad headings, Internal Accountability Mechanisms and External Accountability Mechanisms.

1. Internal Accountability Mechanisms

Police are held responsible for their use of force under the Police Act of 1861. It authorizes senior officers of the rank Superintendent of Police and above to either dismisses, suspend or even to curtail down the rank of any accused subordinate officer.⁹ Some of the punishments mentioned in the Act include (a) confinement to quarters not exceeding 15 days, (b) fine not exceeding one month's pay (c) removal from any office of distinction or special emolument. It lists the following offences for which police officer can be disciplined (a) a willful breach or neglect of any rule or regulation or lawful order (b) withdrawal from duties of the office or being absent without permission or reasonable cause (c) engaging without authority in any employment other than his police duty (d) cowardice, and (e) causing any unwarrantable violence to any person in his custody.

Further, the procedural to punish the accused officers was found agonizing as to their elaborate and tedious process of departmental inquiry conducted by his superiors. Regardless of whether the charges are proved, the accused officer can and usually goes to the court against the evidence and punishment forced. Unfortunately, the authority of police administration in India has been dissolved by political obstruction, prompting an imbalance of order in the power

accountaility/oclc/56334321/viewport> accessed on 04 July 2020

⁹The Police Act, 1861, s7



and the promotion of an inclination at various levels inside the police to look for outside support for rewards and to be protected against punishments. This is one of the significant explanations behind the decrease in the adequacy of departmental mechanisms to guarantee police accountability. It is essential that any course of action for the inquiry into complaints against the police ought to be adequate both to the police and public as reasonable and just.

2. External Accountability Mechanisms

External accountability mechanisms have contributing factors of the National Human Rights Commission, Non-profit organization and the media playing a prominent role from a reactive and preventive perspective.

- National Human Rights Commission

The NHRC is sole and heart rendering few accomplishments to the police enforcements and is responsible for their activities. Considerably, the Commission's work has been endured because of the flawed system and insufficiencies regarding the law supervising its functionality. The Commission should be encumbered in its working, yet there are some provisions in the Protection of Human Rights Act, 1993, which underscores the reliance of the Commission on the Government. The Act makes it subject to the government for some of its necessities, similar to manpower and money.

All the more significantly, the Act doesn't endorse the Commission to take any action into the complaints of infringement of human rights submitted by the individuals from the armed forces. They, as characterized in the

Act, imply not just the maritime, military and air forces but also some central armed forces, similar to the Border Security Force.¹⁰ The Act clearly debilitates the NHRC's viability in giving justice to people in general in situations where infringement has been by the officers of this system, which are frequently conveyed on law and order duties in most sensitive zones. Such the Commission, under the Act, can do is establish a call for reports from the Central Government in similar cases and subsequently make suggestions to the Government or not continue with the case by any stretch of the imagination.¹¹ There have been times where the government has recklessly denied it even on the records. In its recent report, the Commission repented "the lack of cooperation extended to it through the denial of access to records requested by it in respect of trials conducted against members of the para-military forces accused of human rights violations."¹²

• Non-Government Organizations

NGO conforms to the police in two efficient ways: (1) infringement of human rights committed by the police officers and (2) the changes in the working of the police department. Police or government response to NGO allegations is normally witnessed as a form of forswearing. The government is incessantly dubious to uncover police records as it could be defied against them by the dissenting party. Even though the reports of human rights violation are bona fide and supported by undeniable proof, they are compelled to act with. Fabricating of such reports was an element of obstruct with the

¹⁰The Protection of Human Rights Act, 1993, s 2(1)a

¹¹The Protection of Human Rights Act, 1993, s 19

¹² National Human Rights Commission, *Annual Report 2000-2001*, (Nepal Conflict Report, No 213, 2001)



current structure and the comparatively lacked competence from the NGO.

Another issue is the non-accessibility of data about the government's plans and projects concerning the police. The police are hesitant to impart data to outcasts, especially the NGOs. This hinders the work of the NGOs, particularly with respect to the police reforms.

- **Media**

One of the most careful guard dogs over the police brutality in this nation is the presence of media. The media in India enjoys a wide aspect in the universal realm and in today's era it has paved a path of huge reach and force. Innovative developments seen during the most recent couple of decades have revolutionized the world of communications and opened frontiers, which were up to this point obscure to the media or past its reach. Any infringement of human rights happening anywhere in the nation can be known to others in a matter of moments. The media has demonstrated incredible enthusiasm for writing about these human rights violations. Social media, with its various challenges, is providing more information even to general people where it is hard to reach by the traditional modes of media. Through it, they have now unlimited access to the misconduct of police, how their ill actions in tackling issues that matter more to them all over the country, any issues that may influence them or that they can help with. In this sense, at this point, the police are more responsible through social networking that they are through the conventional media.

D. JUDICIAL INTERVENTION (Prakesh Singh v. Union of India)

Eight reports were submitted between the periods of 1978 and 1981 by the National Police Commission, which derived nothing but little intricate actions. Further on, in the case of *Vinnet Narian v. Union of India*¹³, the Supreme Court considered the urgency of implementing the police reforms, the reports from the Riberio Committee in 1999, Padmanabhaiah Committee 2000 and Malimath Committee in 2002 were made conclusive in the landmark case of *Prakash Singh v. Union of India & Ors*¹⁴ the issue of impunity and police brutality were emphasized and issued binding directives to the State government and its association of Police Complaint Authorities (PCA).

The Supreme Court directed to set three significant institutions,

1. State Security Commission, which was primarily formed to tackle the grassroots level performance of preventive tasks and service-oriented functions by the police and laid down vast policies and directions adhering to it. Additionally, ensured the police to be free from any unwarranted pressure or influence from the State Government
2. Police Establishment Board, predominantly dealt with promotions, postings, transfer and other service correlated to the police officials and men. This board mainly comprised of the Director General of Police and other four senior officers of the department.
3. Police Complaints Authority established at the state and district levels with a crucial endeavor to scrutinize the allegation of misconduct, grievous hurt or rape, custodial

¹³Vinnet Narian v. Union of India, [1998] 41 SCC 226 [1998]

¹⁴Prakash Singh v. Union of India, [2006] 8 SCC 1 [2006]



death in the police personnel of and up to the rank of Deputy Superintendent of Police in the district level. Consequently, at the state level a police complaint authority must be established to scrutinize the matter against officers of the rank Superintendent of police and above. The recommendation of the both State and district level authority shall be binding against the actions of the delinquent officer.

The State Government must choose the Head of the State Complaints Authority with the succor by the Chief Justice or the Judge of High Court. Depending upon the volume of complaint, these authorities maybe assisted with three to five members and further on must be selected by the State Human Rights Commission/ State Public Service Commission/ Lok Ayukta panel. The panel must consist of police officers, civil servants or other departmental officer or from civil society. They would solemnly work for the Authority and remunerated for the appropriate services.

Furthermore, the court also directed that the state government to designate the Director General of Police from the category of the three senior most officers of respective department and empanelled for promotion by UPSC to that rank, and granted with a minimum tenure of two years. The police officers on the IG Zone, SP i/c District, DIG Range and SHO i/c with operational duties would have a minimum tenure of two years.

To ensure speedy investigation, better proficiency and rapport with the common citizens, the court additionally ordered to bring about disparity in the investigation function and the “law and order” function. It must, notwithstanding, be guaranteed with coordination between two wings and having full swing effect in urban regions with

population of ten lakh or more and gradually reaching out to smaller towns/ urban territories too.

The Union Government was administered to set up a National Security Commission for determining the placement and selection of the Central Police Organization heads, redesigning the viability of the forces and upgrading the administrative conditions of the personnel with a minimum tenure of two years. Undeniably, the judgment broadly dealt with autonomy, efficiency and accountability of the police organization.

E. ANALYSIS

Before travelling why police brutality is still persisting in India, let's primarily acknowledge the premise of the topic and trace back to the history accentuating how the state of police affairs in our country portrays a complete collapse in “rule of law”. In fact, the very administration charged with protecting the rule of law is perpetrating violence upon its own people. The Police have often misused the power granted by the law to curb riots. In most of the communal violence in India, the police have shown marked prejudice against the minority communities. This was depicted at its worst in the communal violence of Mumbai (1992-93), in Gujarat (2002), Delhi (1984), Uttar Pradesh, etc. and the wave of police brutality has only gotten progressively worse and violent in the ensuing days.

The 1992 Mumbai riots, a counter back reaction to the demolition of Babri Masjid by Hindu Karsevaks widely demonstrated that a considerable section of the police force was communalized as they failed to engage with the usage of use water cannons, tear gas, rubber bullets, or pellet guns; they



relentlessly shot down 192 people and losing their lives in police firing solely.¹⁵ Moreover the hospital single-handedly failed to record the cause of death that being the open firing and oblivion to the brutality, neither mentioned in the police records nor the judicial commission chaired by B.N. Srikrishna.¹⁶

After the 1984 anti-Sikh riots, an enquiry headed by Justice Rangnath Mishra Commission¹⁷ observed that riots occurred broadly on account of the total passivity, callousness and indifference of the police in controlling the situation and protecting the Sikh community. Several instances showcase where police personnel in uniform were found marching behind or with the mobs. Since they were seen with the mob without trying to control them in any way, while the mob was indulging in criminal acts, an inference has been drawn that they were part of the mob and had equitably shared akin intentions and objective.

According to Justice Nanavati who addressed the 1984 anti-Sikh riot, stated there was no given disparity between the incidents in Gujarat and Delhi¹⁸. In the former Muslims were victimized, in the latter, Sikhs. In both, he found enough evidence to suffice the conclusion that politicians and the police discounted the crimes perpetrated. All Commissions have established that the police either actively participated or were silence to the complicity of violence that carried on.

We have evidently established that these instances allude the role of police during communal riots was transitory and far from sheer satisfactory; this was a thematically pattern in every communal riot. The allegation of prejudice behavior of the police against the minorities during the periods of communal violence wasn't a new phenomenon. Despite the findings by numerous commissions, no ruling party till date spewed an ounce of courage to securitize cases against police misconduct. In 2002 a large section of the Gujarat police was part of the mobs engaged in killing, burning and lynching of the religious minorities such as Muslim. A number of reports substantially stated that aided, abetted and countered the rioters against the minority community.¹⁹ All vital and sensitive postings in the Gujarat police were systematically politicized and saffronised by the BJP immediately subsequent to coming of power. As protests against citizenship law and NRC emitted the country over, the police in some Bharatiya Janata Party-ruled states began imposing Section 144 of the Indian Penal Code in explicit parts of some cities to prohibit people from gathering in groups. The Uttar Pradesh police, however, imposed Section 144 in the entire state on December 19, making it viably illegal for people to even protest peacefully.

Regardless to this restraintment, citizens from various parts of the respective state organized protests that were met with the grimace of

¹⁵Justice B. N Srikrishna, 'Full Srikrishna Report: Sabrang Communication', (16 February 1998) <www.sabrang.com/srikrish/vol1.htm> accessed 1 July 2020

¹⁶ Ibid

¹⁷Inderjit Badhwar, 'Justice Mishra Commission Report on 1984 Anti-Sikhs Riots may find few takers', *India Today*(India, 27 January 2014) 2

¹⁸Deeksha Bhardwaj, '4 Commissions, 9 Communities & 2 SITS – the long road to justice for the 1984 Sikh killing' *The Print* (India, 16 November 2018)5

¹⁹ Puja Changoiwala, 'Gujarat riots: They raped me, butchered my child because we were Muslims. 17 years on, I have justice – and faith in Indian law' *This Week*(Asia, 19th May 2019)



horrendous police brutality. In spite of the fact that the police seemingly claimed that it was initiated by the protesters, numerous reports and videos indicate that in many places, the police not only attacked peaceful crowds with excessive force but also broke into people's homes, vandalized private property and looted their money.²⁰

Currently, in the midst of a global pandemic, ten thousands of Americans paraded the streets against the killing of George Floyd by the police officials kneeled on his neck for as long as 9 minutes which was eventually imitated by a Jodhpur police.²¹ Disregarding the rules of social distancing and quarantine, all the Black, Asian, Whites and others have taken the streets in solidarity against police brutality and racism.

Multiple Bollywood celebrities and Indian resorted back to social media to condemn the killing, hash tags such as #BlackLivesMatter and little black square posts were brought into the limelight. The Indian mainstream selective activism overflowed the social media, and we failed to notice that we too benefit from a power structure similar to the one in the United States and remain an oppressor in our motherland and conveniently close our eyes to the horrendous activities in India.

Recently, the death of the father-son duo Jayaraj and Fenix entangled everybody's emotions because nobody could conceptualize the kind of brutality stemming from the police who left was pondering the superior complexity internalized position by them. All the eyes of the nation shifted their focus from pandemic to the atrocious case of

police brutality that's emerged out of Tuitcorin in Tamil Nadu. Knees mercilessly smashed with lathis, face ruthlessly plunged against the wall and blows were rained on their backs aggressively and steel-tipped wooden lathis were shoved up their buttoholes several times and there was also a great deal of torture and damage inflicted on their genitalia because eyewitnesses of the body have stated that the bottom parts of their body were completely ripped and mangled due to which resulted in changing their clothes three times throughout the torture.²²

The sense of justice for the victim's family has gained some value because of the intervention of the court through suo moto public interest litigation and a large movement of people across the state and the media coverage it got. This is a classic example of police brutality and misuse of power depicts similarity to that Minneapolis incident. The chief reasons among the many for the prevalent acts of brutality are racial discrimination and political backing, which will be elaborated below.

I. Racial Discrimination

The persistent racial discrimination faced by the religious minorities' tailors in the fact of police aggressive behavior and the ostensible brutality. The rampant protest which upraised due to the abrogation of article 370 was curbed down only by the means of open firing at women, children and the protesters with pellet guns. 2,653 cases were reported and resulted in the killing of Burhan Wani.

²⁰Aarefa Johari & Nithya Subramanian, 'In Uttar Pradesh, mapping reports of violence and police brutality from 15 districts' *Scroll*(India, 9 July 2020)

²¹Ayush Singh' Video of Cop Kneeling on Man's Neck in Jodhpur Reminds Internet of George Floyd's Death, *News 18 Buzz*, (India, June 5 2020)

²² Editorial, 'Thoothukodi custodial deaths: All you need to know' *The Times of India*, (India, 30 June 2020)



²³Violence, arson and firing are invariably paved down the streets of Srinagar. Several International media released the footage arbitrary, excessive force by the police personnel, whilst the Indian government denied the atrocious killing.

“The policewoman pulled my legs up, she twisted my neck, and my head was down. My dress came off, forget my burqa, even my shirt came down”²⁴ words of Rafia Fatima, one of the protestors who engaged against the Citizenship Amendment Act. Another particular appalling video which sparked a nationwide wave of outrage was 5 ghastly injured men coerced to sing the national anthem and eventually resulted in one of them being death. During India’s worst communal clashes and the protests against CAA and NRC proved to display the barbaric acts of law enforcement.

The current global pandemic has explicitly bought out the Indian police behavior of abusing their superior power. Many videos have been taken where the police have needlessly toppling vegetable carts, vandalized shops and parked vehicles, particularly the Muslim ones. Cases were reported against the police where they have been aggressively beaten up workers delivery essential goods.

II. Political backing

The law enforcement is simply the vehicle of the oppressive state’s desire and not precisely the deliverers of justice. The Indian police incessantly commit extra judicial killing, fake encounter, paved the way to custodial

torture, ill treatment and arbitrary detention is due the working conditions under the state machinery. The CM Yogi Adityanth mentioned of “taking revenge” on the anti-CAA protest. Subsequently, the UP police were seen with hoardings pictures and images of protestors.²⁵

The mega political blame game has erupted between the Centre and Delhi government over the JNU campus violence. The brutal mobilization of the JNU students was clearly a state sanctioned violence and subsequently tuned into spinning the blame on each other. Instances of the Politician Kapil Mishra hate speech, Modi’s silence on the allegation of brutalities and the transfer of the Delhi High Court Judge Justice S Muralidhar when directed to take strict actions against the politicians, criticizing the Delhi police justifies the fact of that the law enforcement to merely reduced to government agents and as servants of the ruling party. Lastly, the police personnel of India must be free from the direct control of the politicians in order to curb the baffling acts of them.

F. INTERNATIONAL PERSPECTIVE

In the previous years, the American media has been immersed with incidents on abominations committed by police officials, particularly in regards to the deadly use of power—to such an extent that the world is compelled to think about how their most renounced democratic State has turned its law enforcement organizations against its own people, a thing prevalent in the dictatorial era. But these irresistible

²³Editorial, ‘1,99 stone-pelting incidents in 2019 in Jammu & Kashmir, 1,193 post abrogation of Article 370’ *Indian Express* (India, 7 January 2020)

²⁴Betwa Sharma, ‘Two Months On, CAA Protestors Fight Public Apathy As Police Brutality Continues,’ *The Huffington Post*, (India, February 2020)

²⁵Asmita Nandy, ‘Jamia to Kashmir: Rise in Police Brutality in 1st Year of Modi 2.0,’ *The Quint* (India, June 2020)



comparisons with other democratic countries have cleared the picture that torture is nothing to compare with a country's developed state. Police officers in the US kill more people in a few weeks than their counterparts in Europe do in years.²⁶

In the American socio-political setting, the issue is settled inside the bigger—and rather contentious—subject of the right to carry weapons. Officials usually condone the excessive use of arms, power with the method of reasoning that the victim was armed and had posed a danger to his life. Without a doubt, most European countries place broad limitations on the ownership of arms by citizens (a striking special case is Switzerland, which appreciates a high firearm homicide rate by European measures). Considering this, it might seem, by all accounts, to be the situation that liberal weapon laws are decidedly associated with illegal police killings.

In the capacity of population, European countries have smaller ratios than the United States and the elements of an enormous and diverse country would influence the crime percentage and occurrence of police brutality regardless of whether we think about the information in per capita terms. In this manner, a correlation with India would become hard to give accurate results.

India is a huge, overpopulated and diverse country simply like the United States, yet it is unquestionably not considered developed by most. It has exceptionally prohibitive weapon laws, however is famous for fake encounters,

a term utilized by the Indian media to depict extra-judicial killings by the police which are made to seem like reasonable murders.

Note that the official American sites just incorporate information from those law enforcement organizations which they allow to show the killings to the FBI. Further, the information just incorporates killings managed as legitimate by those organizations. All things considered, US officers kill 5 times in excess of the rate at which their Indian counterparts do.²⁷

Although the data collected by the official sites of both countries seems unreliable, a major difference is the intense media scrutiny over the police shooting occurrences in the United States, various independent media houses have started to gather and sort out the information. The Guardian, for instance, has carefully followed and reported the police killings which have happened in the US since 2015.²⁸ As anyone might expect, the figures in their report are far more prominent than the ones in legitimate sites.

G. NEED OF BETTER CONTROL

“The law cannot make a man love me, but it can restrain him from lynching me, and I think that's pretty important also”²⁹ famously quoted by Martin Luther King Jr, serves prominent purpose to impede the violent, oppressive and prejudiced acts of the law enforcements at this paramount time.

The history of police reforms in India conciliated with the modern-day notion of police professionalization. In the history of

²⁶Jamiles Lartey, By the numbers: us police kill more in days than other countries do in years, *The Guardian*, (India, June 9 2015)

²⁷Yahaswi Mohanty, 'Where are Cops Deadlier- In India or the United States?' *Huffpost* (India, 9 January 2017)

²⁸ Sean E. Goodison, Robert C. Davis & Brain A, 'Digital Evidence and the U.S Criminal Justice System' [2015] RR-890-NIJ

²⁹UCLA Alumni, 'UCLA History, Segregation Must Die', (UCLA Alumni Association, 27 April 1964) <<https://alumni.ucla.edu/ucla-history/ucla-history-2/>> accessed 8 July 2020



time, there have been perpetually successive waves of reforms, objectives and various programs³⁰ but nothing proved to be quite competent to curb the violence subjected on the common citizens. The recent mayhem of police-inflicted violence amidst the COVID lockdown has left us pondering upon the need for India to embrace a shrewder approach to the criminal justice and new innovations in policing that creates a safer environment, enhance police-citizen relations, police accountability and lessens the notion of racial profiling.

The passage below offers suggestions and ideas to fabricate to reform policing and the criminal justice system in India, this is more a less of a certainly, and aids in the way to the ongoing conversation concerning crime and justice in India.

1. Upgrade basic training system

A training module must be incorporated with regard to how the police personnel should adapt to adverse situations and in a highly charged atmosphere. The Supreme Court explicitly stated, in case of *Anita Thakur and Ors. vs. Govt. of J&K & Ors*³¹ that the use of excessive force by the law enforcement officials is in clear-cut violation of human rights and dignity, nonetheless has accentuated the insignificance in the past few years in this country. The aspects of the use of excessive force module must include:

- Conditioning polices officers to cultural sensitivity and diversity programs

- Enhance decision making skills, high perception and threat level assessment under high charged conditions
- To refrain the use of excessive force, it must be accomplished with class lectures which implicates on the subject of what use of force is, the theory and philosophy backing it, learning suitable techniques and the range of use of force. Inculcate a weapon training program to master the forms of force, as in verbal, lethal devices, non-lethal devices and hand to hand mechanisms. De-escalation training to develop negotiation skills, understanding and evaluating the circumstance and lastly the real world exercises that officers might encounter in real world situations, which has widely shown potential benefits.³²
- Anger Management programs must be made obligatory to all police departments and in addition to conflict resolution and verbal control training
- Patrol de-escalation to grasp the knowledge of fear stimulation by means of confrontation as well as defusing and tactical methods.

2. Enact and Repeal Law

The Indian parliament should enact stringent laws to prohibit violent, disruptive acts in order to maintain & imbibe discipline of the society. Further, statues for instance like the Indian Evidence Act must be amended to make evidences concerning torture, cruel, inhuman degrading treatment against the police officials permissible, ought to ratify the Convention against Torture and repeal

³⁰ Samuel Walker, 'Institutionalizing Police Accountability Reforms: The Problem of Making Police Reforms Endure', (Saint Louis University Public Law Review 2012), <<https://scholarship.law.slu.edu/cgi/viewcontent.cgi?article=1106&context=plr>> accessed 8 July 2020

³¹ Anita Thakur and Ors. Vs. Govt of J&K & Ors [2016] 0915 SCC [2016]

³² Evin Carmack, 'Police Use of Force Policy and Excessive Force', (EBP Society Evidence Based Community, 11 September 2017) <<https://www.ebpsociety.org/blog/education/270-police-use-force-policy-excessive-force>> accessed 9 July 2020



section 197 of the Criminal Procedure Code³³ that foreshadows arbitrary detention, ill-treatment, custodial torture and extrajudicial killing under the shield of “official duty”. The recent case of the 2019 Hyderabad gang rape glorifies acts extra-judicial killing.

3. Demilitarize

In the uprising of the Jamia protest, the highly militarized response by the police resulted in almost 27 deaths, 50 detainees and injuring up to 80 non-violent protestors.³⁴

From firing of 450 tear shells to brutal lathi charges over the span of 5 days, doesn't merely exude the nature of protect and serve the citizens. The surplus amount of weaponry and equipment such as non-lethal explosives, tear gas, armored vehicles that has been largely accessible to the local police departments must be minimized.

4. Establishing a civilian review board

The fundamental of maintaining accountability and transparency runs parallel to setting up a community oversight board. A citizen review board restores the police-citizen relation, public faith and reassures trust in the law enforcement as a result of a time immemorial misconduct subjected on common citizens.³⁵ This also seemingly creates a more transparent process by paving way for the citizens to claim their own evidence when concerning a case of police brutality.

5. Defunding the Law enforcement

The killing of George Floyd on May 25th 2020 which sparked violent protest all across

United States with also an alternative, diverting away from policing and innovative reforms. Defunding of the police reforms and shifting the focus to other programs would systematically curb down brutality and address the structural racism.

The money should be invested in employment, housing and healthcare primarily drawing attention to the problems of underprivileged community and largely in the interest of public safety. Community based anti-violence programs, providing more counselors, after school community based programs on the whole uplifting the schooling and education system, trauma services, and restorative justice programs, collaborative job sectors for young adults instead of criminalizing homelessness and gang units.³⁶ This helps us in preventing rehabilitation by simultaneously decrease the number of victims falling prey to police violence.

6. Inculcate racial bias training

In a country like India which compasses the largest democracy with compelling secularist principles, often succumb to the atrocities of racial discrimination. The recent palpable attacks on the religious minorities glorifies the bias nature of the police officials, which largely affects the marginalized, vulnerable communities of the society. Disturbing account of Adivasi women (indigenous tribal) being brutally assaulted, while carrying back home bare essentials, a group of teenage Dalit boys tracked down by 40 policemen and beaten up for infringing the

³³Naureen Shah, Leonard H. Sandler Fellow, ‘Dysfunction, Abuse and Impunity in the Indian Police’, (Human Rights Watch, August 4, 2009)

<www.hrw.org/report/2009/0804/broken-system/dysfunction-abuse-and-impunity-in-indian-police> accessed 9 July 2020

³⁴Editorial, ‘Citizenship Act: Delhi police storm Jamia campus, fire tear gas inside, students injured’ *Stroll.in*, (India 15 December 2019) 8

³⁵Spencer Bokart-Liindell, ‘Why is Police Brutality Still Happening?’ *The New York Times*, (US, May 28, 2020) 9

³⁶Christopher Slobogin, ‘Policing, Databases and Surveillance’ (Law Asu, 6 November 2001)<www.law.asu.edu/sites/default/files/pdf/academy_for_justice/8_Reforming-Criminal-Justice_Vol_2_Policing-Databases-and-Surveillance.pdf> accessed 9 July 2020



lockdown regulation³⁷ and Muslim vendors being harassed a daily basis, portrays the glaring reality of stereotypes, unconscious prejudices, biases in India.

A promising legislation and grass root level of training should transpire in the local and state department to mitigate the ongoing implicit racial bias. Identifying the key decision-making power and scenarios anticipating ability would also aid in combating the discrimination. Furthermore, it would help in raising awareness and bringing about a rational means to contest frisking, consent searches, traffic stops, etc.

7. Improve the working conditions and police structures

Amplifying and improving infrastructure, housing facilities and capacity, increasing the number of police personnel as the lack of trained officials would entail the likelihood of violent behavior. Mending the working hours, recruitment policy of the law enforcement, lessening the political interface would have an adverse effect on appointment, promotion and enhance the ability to discipline without being patronized.

³⁸

One must also the strengthen the Central Bureau of Investigation, segregate investigation of law and order, bolstering state machinery, police Commissionerate in urban regions, constabulary in rural area would somber the travesty of justice system, over aggressive practices and strive towards a fair, more inclusive, safer environment.

³⁷Urmila Pullat & Roohi Huma, Over-policing in India is not the answer to CONVID -19, (Open Global Rights 20, May 2020) <<https://www.openglobalrights.org/addressing-police-brutality-in-india-during-CONVID-19/>> accessed 9 July 2020

H. CONCLUSION

While there are several law-abiding authorities in India, there are likewise powerful, politically-associated careerist police officers who enjoy willful misconduct during their course of duty. These failing officials and their chiefs in the IPS antagonistically impact the validity of the criminal justice system and external factors like Bollywood widely contribute debilitating complexity.

Police personnel and chief can actually obliterate the lives of innocent people who are wrongfully framed and even convicted of crimes they don't have anything to do with. From officials who don't testify honestly, to officers who destroy evidence, there have been many cases where police misconduct has brought about improper convictions and under the preface of Bollywood police violence is glorified and maneuver into acceptance by the society at large. Movies like Singham, Rowdy Rathore, Dabang, Satyamev Jayate, Sacred games romanticize the notion of subtle torture. For instance, in Salman Khan's movie Wanted (2009), Chulbul Pandey in the Dabangg trilogy, Ajay Devgn in the Singham series, or even Akshay Kumar in Rowdy Rathore (2012) which depicts Extra Judicial Killing and these all these characters have cemented this distorted depiction of violent cops in Hindi cinema. For an average Bollywood viewer, the perspective evidently created is the police officer avenging down the villains and not just responsible for maintaining law and order.

³⁸Suparna Jain & Aparajita Gupta, 'Building Smart Police in India: Background into The Needed Police Force Reform' (Niti, 3 August 2015), <https://niti.gov.in/writeraddata/files/document_publication/Strengthening-Police-Forces> accessed 9 July 2020



Mainstream cop films in Bollywood seldom have women playing the heroic police officer. Mardaani, starring Rani Mukerji, but in the movie Mardaani the characterization is similar, likely machismo-fuelled, hyper-aggressive passion for her job. She beats up criminals, takes the law in her own hands, and delivers justice regardless of the cost it comes at. In the climax of Mardaani 2 (2019), Mukerji's character can be seen beating the criminal black and blue; she whips him repeatedly in public.

Being only an entertaining field, it doesn't imply completely that it is only because of such films, police brutality exists. However, they must be held responsible for legitimizing it by praising violence of that sort also accountable for glorifying a system where men in uniform means they have the autonomy over our lives, innocent or otherwise.

We've been so accustomed to police violence that we naturally internalize it. We see someone being beaten up by cops and our first instinct is to blame the victims. We saw videos of cops rushing inside Jamia and beat up students in their library and our first instinct were that the students must have done something wrong. According to The Hindu, at least 5 people died in police custody every day in 2019.³⁹

Recent incident of Hyderabad 'encounter' has indicated that we, as a society, have a really distorted sense of justice, are dismissive of the rule of law and feel satisfaction when our desire for blood is fulfilled, regardless of just on screen.

Bollywood clearly figured this out early on. Additionally, the bridge between a real-life police officer and one on the big screen is massive nevertheless realistic approach has been incorporated in movies like Article 15 Ayushmann's character is still showcased as heroic but he doesn't endorse violence in the same flippant manner. On the other hand, films like Seher (2005) starring Arshad Warsi, have tried to exhibit the not-so-glamorous side of being a police officer but the box office hasn't been all that kind.

The fact that such police doesn't exist in India, as authenticated by the different commissions and boards of trustees, the reports of violations got by the human rights commissions, the cases narrated by the press and the encounters by people, is hard to believe. The requirement for police change is self-evident and plainly urgent. For that we should do everything conceivable to reinforce and improve policing under the current framework and structure. In addition to it, upgraded administration, preparing and other measures, the working and day to day environments of lower police staff need huge improvement-an exercise that should begin with raising the status of the constabulary.

³⁹Editorial, 'Five Custodial Deaths in India daily, says report' *The Hindu* (India, 27 June 2020) 6