ILE HUMAN RIGHTS LAW REVIEW

VOLUME 3 AND ISSUE 1 OF 2024

APIS - 3920-0010 | ISBN - 978-81-960677-2-4

Published by

Institute of Legal Education

https://iledu.in

POLICE ATROCITIES

AUTHOR - SAMPADA KAR, STUDENT AT KIIT SCHOOL OF LAW

BEST CITATION - SAMPADA KAR, POLICE ATROCITIES, ILE HUMAN RIGHTS LAW REVIEW, 3 (1) OF 2024, PG. 11-17, APIS - 3920-0010 | ISBN - 978-81-960677-2-4.

ABSTRACT

Police atrocities erode democracy and justice by seriously violating human rights and the rule of law. This research examines the institutional, social, and legal dimensions of police misbehaviour, including harassment, extrajudicial killings, arbitrary detentions, sexual violence, and violence in custody. The study is concerned with criminal liability, judicial oversight, and constitutional safeguards as it discusses the legal regime that regulates police conduct nationally and globally. Key judgments that fortified protection against police brutality are also brought out, such as D.K. Basu v. State of West Bengal (1997) and Nilabati Behera v. State of Orissa (1993). Due to its proposals for independent monitoring and police reforms, the Prakash Singh v. Union of India (2006) case is also analysed. Internal disciplinary processes, Independent Police Complaints Authorities (IPCA), and human rights commissions are some of the accountability mechanisms analysed in this article. It evaluates the role of the media, civil society, and NGOs towards bringing change and justice for victims. Best practices are determined through the comparative research of police accountability mechanisms of the USA, UK, and Canada. It brings into focus how technology such as body cams, digital surveillance, and forensic data is becoming more prevalent in promoting transparency. Finally, the study mentions socio-legal concerns like limited access to justice, political interference, and underreporting. It recommends institutional, legislative, and regulatory reforms to enhance police accountability, protect victims' rights, and restore public trust in the police.

Introduction

In democratic nations, the police are the chief law enforcement agencies entrusted with ensuring public order, crime prevention, and safeguarding the citizens. When law enforcement agents misuse their powers and use illegitimate acts of violence, however, they contradict the very foundation they are intended to defend. Police atrocities are acts of violence, misconduct, and abuse of authority by police officers against citizens, frequently leading to serious human rights violations. Police atrocities take many forms, such as custodial violence, extrajudicial executions, unlawful detentions, torture, and harassment. These acts not only violate the basic rights of citizens but also weaken the rule of law, which results in a decline in public confidence in law enforcement agencies. The world-wide spread of police brutality reflects the compelling need for broad-based reforms, tighter accountability structures, and adherence to legal and moral norms in policing. Police atrocities are of specific concern in the developing world where accountability structures are weak and there is large-scale impunity. Custodial deaths, fake encounters, and torture are common and widely reported in India, seriously calling into question the efficacy of legal protection in place[24]. In spite of constitutional protections like Article 21 (right to life and liberty) and Article 22 (protection from arbitrary arrest), cases of police brutality continue to occur owing to systemic weaknesses, political interference, and

[24] https://www.epw.in/engage/article/investigating-police-brutality-reading-list

ILE HUMAN RIGHTS LAW REVIEW
VOLUME 3 AND ISSUE 1 OF 2024
APIS - 3920-0010 | ISBN - 978-81-960677-2-4
Published by
Institute of Legal Education
https://iledu.in

the absence of independent accountability. The Supreme Court's rulings in path-breaking cases, including D.K. Basu v. State of West Bengal (1997)[25] and Nilabati Behera v. State of Orissa (1993)[26], have established guidelines to prevent custodial violence and promote accountability. The poor enforcement of these directives still facilitates police impunity. In addition, the repercussions of police atrocities are not only limited to individual victims. They undermine public faith in the judicial system, induce fear and mistrust among people, and adversely affect marginalized sections. Minorities, women, and economically vulnerable communities are frequently the direct victims of police abuses, suffering discrimination and prejudice in the application of the law. The absence of autonomous investigative bodies, combined with political cover and court delays, renders the state reluctant to hold law enforcement officials accountable for their actions. To counter this widespread phenomenon, there is an urgent need for legislative and policy changes, such as the creation of independent review bodies, open-ended investigation mechanisms, and technological measures such as body-worn cameras to make the police accountable. Additionally, developing community policing styles, human rights training for police officers, and empowering protection laws for victims are highly essential steps toward averting police atrocities and ensuring the principles of justice and human rights.

Body

Police atrocities refer to the unlawful actions carried out by law enforcement officers that violate human rights, personal liberties, and dignity. These actions may include physical violence, psychological abuse, torture, illegal detention, and abuse of power. Police atrocities go beyond mere misconduct, as they often involve systematic, state-sanctioned violence or disregard for the law. The scope of police atrocities encompasses a wide range of activities that disrupt justice, infringe on individual freedoms, and perpetuate a culture of impunity. Such activities often occur in the absence of accountability mechanisms, and their victims are typically vulnerable, including marginalized communities, political dissidents, or individuals caught up in the legal system. The role of policing has evolved over centuries, beginning with community-based forms of law enforcement and advancing to modern state-controlled agencies. Historically, policing was Centered around maintaining order and protecting property, often through forceful methods. The introduction of formal police forces in the 19th century marked a shift toward professionalized law enforcement, with police agencies tasked with enforcing state laws and protecting citizens. However, the use of force has always been a double-edged sword. Over time, police forces around the world have developed varying approaches to law enforcement, from proactive community policing to militarized responses to unrest. In many cases, especially in authoritarian regimes, the police became instruments of state repression, using violence to suppress dissent.

The power granted to law enforcement agencies is bound by both legal and ethical standards. Laws governing police conduct are designed to ensure that officers perform their duties while respecting human rights and civil liberties. Ethical principles like the **use of proportional force**, **accountability**, and **justice** serve as safeguards to prevent abuse. Legal frameworks, such as constitutional protections and international human rights standards, set clear boundaries on police power. However, the line between acceptable and excessive force is often blurred, especially when police are granted broad discretionary powers to maintain public order.

[25] https://digiscr.sci.gov.in/view_judgment?id=MjcyNzE=
[26] https://www.dhyeyalaw.in/custodial-death-in-india#:~:text=STATE%20OF%20ORISSA%2C%20AIR%201993%20SC%201960&text=This%20case%20is%20about%20the,was%20caused%20by%20police%20brutality.

ILE HUMAN RIGHTS LAW REVIEW

VOLUME 3 AND ISSUE 1 OF 2024

APIS - 3920-0010 | ISBN - 978-81-960677-2-4

Published by

Institute of Legal Education

https://iledu.in

Types and Forms of Police Atrocities

TYPES	DEFINATION
Custodial Violence and Torture	When someone is physically abused, tortured, or mistreated while in police custody, it is referred to as custodial violence. It is typically employed to punish criminal suspects or force confessions. Beats, electrocution, and other forms of physical and psychological abuse are examples of this type of violence. Torture causes long-term physical and psychological effects on victims and is a flagrant violation of human rights.
Extrajudicial Killings and Fake Encounters	Extrajudicial executions, sometimes known as "fake encounters," are unlawful killings of civilians carried out by law enforcement officials while they are committing crimes or acting in self-defence. Extrajudicial killings are often planned and carried out to purge society of alleged dangers outside the legal or due process framework.
Illegal Detention and Arbitrary Arrests	Common forms of police abuse include arbitrary arrests and unlawful detention. People are often detained in these situations without due process or legal basis, which is often against their fundamental rights. Arbitrary arrests, which carry a lengthy jail sentence without a trial or access to legal representation, can be made for political, personal, or discriminatory motives.
Sexual Violence by Police Officials	Because of the power dynamics between law enforcement and the public, police sexual assault is a serious kind of abuse that frequently goes unreported. The three primary forms of sexual violence rape, sexual assault, and harassment are typically committed against vulnerable populations, such as women, prisoners, and underprivileged communities.
Harassment, Intimidation, and Abuse of Power	Police personnel may use intimidation or harassment to exert control over individuals, particularly members of marginalised groups. This may entail humiliation in public, threats, and unauthorised searches. In addition to violating individual liberties, these actions contribute to the erosion of civil liberties.
Police Atrocities During Protests and Demonstrations	Force is frequently used against crowds to keep the peace during rallies and demonstrations, which can turn violent and nasty. Demonstrators have been known to be killed, unjustly detained, or subjected to planned attacks by police, all of which are grave abuses of the democratic

	rights to free speech and assembly.

Theories of Police Brutality and Misconduct

The existence of police brutality[27] is explained by a variety of hypotheses, including institutional, social, and psychological ones. Institutional theories focus on structural issues with police forces, such as a lack of supervision, accountability, and training, which might encourage violence. Sociological theories examine how police conduct might be influenced by social hierarchy, prejudice, and discrimination. Psychological theories take into account the actions of specific officers, focussing on character attributes or traumatic experiences that may contribute to abusive behaviour. Developing successful changes requires an awareness of the underlying causes of police violence. The proportionality principle serves as the foundation for distinguishing between appropriate and excessive use of force.

When an officer responds in a way that is appropriate, necessary, and reasonable to protect themselves or others, it is considered a legitimate use of force. When an officer uses more force than is required to achieve a legitimate law enforcement objective, it is considered excessive force. Excessive force is typically the consequence of poor training, bias, or a lack of oversight and is typically followed by severe penalties for victims.

Legal Framework Governing Police Conduct

The behaviour of law enforcement personnel is determined and regulated in large part by international law. Guidelines for the use of force are provided by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which emphasise that actions must be done to protect the public and uphold human dignity. Law enforcement is required by these standards to uphold the rule of law and refrain from using excessive force, particularly when dealing with vulnerable groups. People who are vulnerable to abuse by law enforcement officials might get additional protection under other international documents, such as the International Covenant on Civil and Political Rights (ICCPR[28]).

Most countries' constitution's guarantee protection from police brutality. For example, in India, Article 22 provides protection against arbitrary arrest and detention, whereas Article 21 guarantees the right to life and liberty. These clauses are meant to shield citizens against governmental actions that violate the constitution, such police violence. Despite this legal safeguard, the success of constitutional protection is mostly dependent on how well judges implement the law and how eager law enforcement is to preserve the rights. When police personnel engage in violent behaviour, they may face criminal and civil penalties.

Officers who violate criminal legislation, such as those that forbid assault, torture, or murder, are subject to criminal punishment. Victims of police brutality can get compensation for their injuries through civil liability. In some cases, if police agencies or governments fail to properly educate, oversee, or punish their officers, they may be held financially responsible for the activities of their officers. Most nations have specific laws that address unauthorised detention, torture, and custodial deaths. The Indian Penal Code (IPC), for example, makes torture, unauthorised imprisonment, and custodial execution crimes and punishes the officials who commit them. Despite these rules, enforcement is frequently lax, and police officers are seldom held responsible for these offences, especially when there are no free

[27] https://en.wikipedia.org/wiki/Police_brutality

[28] https://police.py.gov.in/MHA%20-%20Model%20Code%20of%20Conduct%20-%20Indian%20Police.pdf

investigations. In order to ensure police accountability, judicial control is crucial. Courts in several countries have mandated the establishment of oversight organisations, such as the Independent Police Complaints Commission (IPCC) [29]or the National Human Rights Commission (NHRC), which investigate allegations of police misconduct. However, these organisations typically face challenges including limited authority, inadequate funding, and political meddling, which compromises their capacity to hold police officers responsible for crimes.

Judicial Response and Landmark Judgments

In order to hold the police accountable for human rights abuses, judicial oversight is crucial. The Indian court, particularly the Supreme Court and other High Courts, has occasionally issued directions to prevent police brutality and guarantee accountability. The need for police personnel to respect human rights and refrain from abusing their authority has always been emphasised by the judiciary. Through historic rulings and directives, the Indian Supreme Court has demonstrated responsiveness in creating police accountability. The Court has developed procedures to guarantee officer responsibility in incidents of police abuse and issued rulings requiring specific actions from the police, such as compensating victims.

In order to stop the rise in brutality, torture, and violence, the Court has also stressed the importance of reforming police departments and providing proper training for officers. It has also instructed states to closely adhere to judicial monitoring and called for the establishment of Independent Police accusations Authorities (IPCA)[30] to handle accusations of police violence on their own.

Landmark Judgments on Custodial Violence and Torture[31]

(D.K. Basu v. State of West Bengal (1997):)) The Supreme Court's landmark decision established strict guidelines to prevent torture and deaths in custody, including protecting people in police custody, requiring the keeping of a custody register, and requiring the videotaping of interrogations and post-mortem examinations in cases of death in custody. The ruling was a significant step in criminalising torture in custody and holding police officers more accountable for their roles in custodial violence.

(Nilabati Behera v. State of Orissa (1993):) The case included the unlawful killing of Nilabati Behera's son while he was in police custody. According to Article 21 of the Indian Constitution, the state administration was held accountable by the Supreme Court for violating the right to life and liberty. In a significant ruling for the application of the right to compensation in circumstances of custodial assault, the court ordered compensation for the victim's family. The idea that the government is in charge of police behaviour and that victims of police violence ought to be compensated was reaffirmed by this case. The Supreme Court has also actively investigated police interactions, particularly extrajudicial executions and pseudo consequences.

The Court has called for thorough investigations and procedural transparency in police confrontations where officers claim to have acted in self-defence. In order to combat crime, the Court has set stringent guidelines for interactions between police and the public, requiring independent investigations and guaranteeing human rights are upheld. The goal of the Supreme Court's oversight of police interactions is to reduce the impunity that typically accompanies police murders that are not authorised. The Indian judiciary has ordered certain reforms to make law enforcement

[29] https://en.wikipedia.org/wiki/Independent_Police_Complaints_Commission
[30] https://en.wikipedia.org/wiki/Independent_Police_Conduct_Authority#:~:text=The%20Independent%20Police%20Conduct%20Authority,Independent%20Police%20Conduct%20Authority%20Act.
[31] https://indiankanoon.org/search/?formInput=custodial%20torture+doctypes:supremecourt

agencies human rights concerned and responsible.

Another notable judicial intervention was in the Prakash Singh v. Union of India (2006) case, wherein the Supreme Court issued a series of directives aimed at reforming police institutions across the country, including the establishment of Police Establishment Boards and state and national Police Complaint Authorities to oversee officer transfers and promotions and protect them from political influence. The Court also emphasised the need for an independent and professional police force free from undue influence and called for reforms in the hiring, training, and welfare of police officers.

Mechanisms of Accountability and Redress

- **Role of Human Rights Commissions and Ombudsman**

In order to guarantee police responsibility for acts of police aggression, human rights commissions are essential. The Indian National and State Human Rights Commissions (NHRC and SHRC) [32]are prepared to look into allegations of police brutality, make recommendations, and try their best to bring the victims justice. They have aided in launching enquiries into claims of extrajudicial executions, torture in detention, and police abuse. They have also brought attention to the structural issues in police departments that allow for this kind of abuse. Another efficient system that promotes accountability is an Ombudsman, or impartial body that handles complaints.

The ombudsman works as a go-between, enabling impartial investigation of complaints against police abuse and the accountability of law enforcement officials who violate the law. Where they are present, Independent Police Complaints Authorities (IPCA) accomplish the same goal by providing a transparent process for addressing police-related complaints.

- **Role of Civil Society and NGOs in Ensuring Accountability**

Civil society and non-governmental organisations (NGOs) have equal responsibility for police accountability. In India, organisations like Human Rights Watch, Amnesty International, and the People's Union for Civil Liberties (PUCL) routinely document police brutality, document examples of human rights violations[33], and push for legislative reform. The NGOs mentioned above also help victims by providing legal aid, raising awareness, and advocating for legislation that has harsher penalties.

Police Reforms and Recommendations

- **Recommendations of the National Police Commission (1977-81)** : The National Police Commission (NPC) was established to examine the working of police forces in India and suggest reforms. Its most important suggestion was the depoliticization of the police force and the maintenance of professional autonomy[34]. The NPC recommended that a Police Complaints Authority be established, investigation and law and order duties be separated, and police personnel be improved in terms of recruitment and training.
- **Supreme Court's Directives in Prakash Singh v. Union of India (2006) on Police Reforms**: The Supreme Court's orders in Prakash Singh v. Union of India [35]were revolutionary as far as police reforms are concerned. The Court gave guidelines to enhance police functioning, such as establishing State Security Commissions to ensure that the law and order machinery is kept away from political

[32] https://nhrc.nic.in/sites/default/files/Unit_2.pdf

[33] https://www.researchgate.net/publication/47641516_NGOs_Civil_Society_and_Accountability_Making_the_People_Accountable_to_Capital

[34] https://unacademy.com/content/upsc/study-material/public-administration/national-police-commission/#:~:text=November%2026%2C%201977.-,Answer%3A%20The%20Commission%20suggested%20that%20judicial%20inquiries%20be%20made%20compulsory,while%20being%20in%20police%20detention

[35] https://www.shankariasparliament.com/current-affairs/police-reforms-prakash-singh-judgement#:~:text=The%20main%20directive%20in%20the,the%20Inspector%20General%20of%20Police.

interference. The Court also directed the setting up of Police Complaint Authorities to deal with complaints of police misconduct, among other reforms to enhance transparency, accountability, and professionalism in the police.

- **Community Policing Models for Transparency and Accountability**: The adoption of community policing models has been viewed as an important reform to enhance community-police relations. Community policing promotes cooperation and building of trust between the police and the public, promoting a proactive problem-solving and crime prevention approach. The adoption of such models enables police to respond to local issues more effectively, minimize the use of force, and be more accountable to the people.
- **Legal and Policy Reforms to Prevent Custodial Torture:** The government should respond to custodial torture with a combination of both policy reforms and legal changes. The Torture Convention in India, supplemented with stronger laws punishing custodial torture, would beef up legal protections. The police departments should be given comprehensive training to appreciate principles of human rights and legal limitations on police action

Conclusion

Atrocities committed by police officers are among the most urgent and enduring dangers to human dignity, democratic governance, and the rule of law. This work's study has demonstrated that police brutality, including extrajudicial murders and torture in detention, is not an isolated incident but rather a symptom of larger problems with the law, institutions, and society. The criminal justice system in India still has a strong foundation of police impunity, despite the existence of constitutional provisions like Articles 21 and 22, landmark rulings like D.K. Basu and Nilabati Behera, and several supervision systems. Numerous factors contribute to police misbehaviour. Legally speaking, the laws are poorly draughter and poorly enforced, which reduces the efficacy of the protections that are in place.

Institutionally, abuse is normalised and shielded by political intervention, impunity, and hierarchical concealment. Socially, ingrained biases based on gender, caste, and class make marginalised populations even more vulnerable, since they are silenced and targeted in disproportionate numbers. A lack of consistent enforcement has diluted the concrete impact of judicial measures, which have been important sources of moral and legal standards. Too frequently, limited autonomy and authority hinder independent accountability systems, which are meant to act as checks on abuse. Legislative reforms have to transcend case-by-case, reactive interventions to ensure accountability through all-encompassing legislation. Independent complaint and investigative bodies need to be authorized, shielded from political interference, and granted enforcement powers. Systematic application of technological solutions must be deployed to instil a culture of transparency. A parallel imperative is the implementation of a victim-focused approach guaranteeing access to justice, protection, compensation, and counselling for victims of police misconduct. Lastly, reimagining India's police force necessitates a shift from a force-based to a service-based approach based on human rights, constitutional values, and public trust. Reform is a moral need, not a process of institutional re-engineering. Addressing and eliminating police atrocities is essential to the integrity of democratic institutions, public confidence in the legal system, and the foundation of a just and compassionate society. To ensure that the law's defenders do not become its violators, we must implement ongoing legal, institutional, and social reform.