**Police Brutality Against the Poor in India**

**Sajal Jain , Akriti Agrawal**

**Student , Indore Institute Of Law**

**Abstract**

Police Brutality is a serious matter. More often than not, people belonging to lower-income groups are at the receiving end of police brutality in India. In any society, socio-economically backward people are the punch bags of the justice system. Many times poor or socially backward people bear the brunt of police atrocities. That is because they are easy prey. Moreover, the poor have neither money, power nor influence to get out of the clutches of the police. They don’t even have easy access to the Judicial system. So the poor sometimes languish in Indian jails for years despite being innocent. There are many challenges faced by the lower rung of the society starting from their very basic needs to matters of justice. The preferential treatment of the elite class by the higher officials of the police department adds to the sufferings of the poor. This article reflects on the above issue and discusses how police brutality can be tackled in today’s India.

**Introduction**

Poverty is a denial of choices and opportunities; it is a violation of human dignity. It means lack of basic capacity to participate effectively in society. It means not having enough to feed and clothe a family, not having a school or a clinic to go to, not having the land on which to grow one's food or a job to earn one's living, nor having access to credit. It means insecurity, powerlessness and exclusion of individuals, households and communities. It means susceptibility to violence and it often implies living on marginal and fragile environments, not having access to clean water and sanitation.

One of the worst aspects of being poor is being the victims of crimes and being part of that criminal system itself. Poor people live their entire life in fear that they are more likely to be the victims of the crimes than the affluent. Since law punishes the one who has committed the crime it does not seek that the criminal was poor and certain factor would be there which forced him/her to be a criminal. In this way a lot of times the poor are not just victims but also criminals. This type of involvement of the poor in crime can be prevented by taking certain measures such as education and employment.

The government of India and world organisations at large are working to eradicate poverty at large. India as a welfare state is committed to the development of its people. Although there are provisions in the constitution of India for the betterment of the poor but just a law cannot suffice the purpose it has to be implemented with due respect and responsibility. There are certain laws made by legislation which are beneficial for the poor such as child labour prevention law, labour laws, laws against gender discrimination and many others.

**Police Brutality on The Poor**

India has been witnessing to police misconduct and misuse of power but few have raised their voice against it. The Police stand at the forefront of the Indian democratic system and play a key role in the functioning of society. However, in many instances, while discharging their functions of protecting the people and ensuring law and order, the police have often abused and misused their powers for their gains. The police have used false and illegal means to achieve their personal goals and in the end, it is the common man who suffers especially the poor and vulnerable sections of the society. It is the poor who bear the most scars and that is the sad state of affairs that we are living in. Misusing of powers can be termed as illegally taking action. Following are the types of illegal actions taken by the police.[[1]](#footnote-1)

1. **Illegal/ False Arrest**

The literal meaning of the term Arrest has not been defined in the Criminal Procedure Code 1973, however, Section 46 of the Code of Criminal Procedure 1973 defines how an Arrest is made. This section gives the Police the power to arrest with all the necessary means possible in case the person attempts to escape the arrest. Arrests can be made in both civil as well as criminal cases. The arrested person has a right to know why he/she is getting arrested. For instance, Article 21 and Article 22 of the Constitution of India give rights to the arrested person to get to know the reason for the arrest. In the case of Bhim Singh v State of Jammu and Kashmir (1984), the petitioner was suspended on the opening day of the Budget session from the Assembly. Later he was arrested and taken into custody. His wife filed a petition to declare his arrest as illegal. The Court held that the arrest was illegal. However, the police can misuse their powers and arrest the person on baseless grounds. Many times it has happened that the police have arrested the wrong person to solve the investigation beforehand.

2. **Gathering False Evidence**

The term evidence is mentioned in Section 3 of the Indian Evidence Act 1872. Evidence in a general sense means proof of an offense. To make money from the poor people, the police exploit them by filing fake F.I.Rs and provide false evidence.

3. **Bribe**

A bribe is an offense mentioned in Section 171B of the Indian Penal Code 1861. In a recent instance, three police constables were booked for taking bribes from vegetable sellers in Ahmedabad. They were asking for a bribe of Rs. 100 from the vegetable sellers. All the three policemen were booked under the Prevention of Corruption Act 1988.[[2]](#footnote-2)

4. **Police Brutality**

Police Brutality violates the civil rights of the common man. They take bribes from the poor and put them in their custody which often leads to custodial deaths. There is no record of how many custodial deaths have happened because of police brutality. In a recent instance, P Jeyaraj and his son J Bennicks, were arrested for keeping their shop open beyond the time mentioned for the restrictions imposed due to the COVID-19 pandemic. Both these men were taken to the police custody and hours later were declared dead. In the post mortem report, it was mentioned that the men were tortured. There were protests following this incident with people demanding justice and proper action against this brutality.

5. **Illegal Search And Seizure Of Property**

The police misuse their powers and conduct illegal raids and seize property. Section 102 of the Code of Criminal Procedure 1973, deals with the search and seizure of property. The police take bribes from builders and other officials to help vacate properties of the poor people so that they can build huge residential complexes and other buildings.

**Current Scenario Of The Treatment Of Poor By The Police**

In the current scenario, the treatment of police towards the poor has totally changed. Poor people are given much more dignity and security from the police’s side now.[[3]](#footnote-3) There are various remedies provided to poor people in case of improper treatment by the police, which are as follows :

**Police Complaints Authority**

The Supreme Court of India has instructed the government to set up a Police Complaint Authority at the state level and also at the district level. The Supreme Court of India stated this in the case of Prakash Singh v. Union of India (2006 [8] SCC 1). The main aim of the Police Complaints Authority is to look into the complaints against the corrupt police officer. The government should provide free and hassle-free powers to this authority to take action against them.

**Human Rights Commission**

The government has set up the Human Rights Commission for the prevention of violations of civil rights and human rights. This commission also safeguards poor people from illegal courses of action by the police. This commission can also initiate an investigation against the corrupt police officer who tortures people.

**Involvement of NGOs and Media**

NGOs provide assistance and support to people who have been falsely framed in cases by the police. Media also work the same as NGOs but both of them often do sting operations against the corrupt police officers. NGOs provide financial support and livelihood to poor people in the wake of offence against them.

**Highlighting The Instances**

There have been so many incidents where the police have abused their powers and vetted out unfair treatment to poor people. Recent ones were the Mob lynching of three men which took place in Palghar. The police were mere spectators in this particular case where two sadhus and their driver were brutally lynched by the mob.[[4]](#footnote-4) Another important incident that happened was the excessive and unnecessary use of force by the police to drive away from the people for violating the restrictions during the Covid 19 Lockdown.

In **Nilabati Behra v. State of Orissa & Ors.1993**, the State was held liable to pay compensation in response to a custodial death caused due to police brutality. The Court in this case also held that this incident of custodial death is an act of violation of the Fundamental Rights of the person given in Article 21 of the Constitution of India.

In **Rudul Shah v State of Bihar in 1983**, the petitioner was unlawfully detained for 14 years even after his acquittal from prison. The Court, on finding his detention unjustified, passed an order for compensation in violation of Article 21 and Article 22 of the Indian Constitution.

In **Saheli v Union of India 1989**, the court awarded damages to the mother whose child died due to police brutality.

In the ongoing investigation of the Nithari Killings in 2006, it was found out that the poor parents of the victims did not dare to complain to the police station due to fear of police harassment.

**Call For A Strong Deterrent Against Inhuman Treatment**

Police misconduct brings the need to implement some genuine and stable reforms in the working of the police system. Some resistance against police misconduct and abuse came in the case of Prakash Singh v Union Of India(2006) wherein the petitioner filed a petition before the Supreme Court to free the police system from political involvement. The Supreme Court instructed the Government to set up a Central Complaints Authority at both the central as well as state levels.[[5]](#footnote-5) These complaint authorities would look into cases of complaints against the police officers. Indian states spend only 35% of their budgets on their police forces. The underfunding of the police force is a consequence of the non-availability of funds which leads to resource shortage hence leading to more brutality on the part of the Police. The ever so observant Indian Media should be more involved in these cases as it will bring awareness among the people and will expose the bad working of the police.

The Government has set up a Human Rights Commission in case of violation of civil rights. The recruitment of the police personnel can also be reviewed by the State. The direct recruitment of the police personnel is making the system partial and biased The Supreme Court in Shafi Mohammad v State of Himachal Pradesh(2018) ordered all the states and the Union territories to install CCTV cameras inside the police stations to bring a curb in custodial violence. So it is not that steps have not been taken but, it is a question of how good are these measures.

Apart from these, one of the most common and primary remedies are those mentioned in the Constitution of India. These include Article 19, Article 20, and Article 21 of the Constitution. All three Articles talk about personal liberty and freedom as a basic human right. Further, Article 32 and Article 226 of the Constitution, gives the power to the Supreme Court and the High Courts of all States respectively, to issue writs. One of these is the writ of “Habeas Corpus”. This writ can be used against illegal arrests and detention by the police officers. If the police have detained any person unlawfully, the Courts can issue the writ of Habeas Corpus against the officer and order the release of the arrested person.

***My Analysis***

Police Brutality has been going on unnoticed and there is some serious need for change. Only 21 police officers have been convicted between [2005 to 2020 i](https://www.nytimes.com/2020/08/20/world/asia/india-police-brutality.html)n response to around 600 deaths linked to police brutality. Such numerous crimes go unnoticed because of the fear of police harassment. These crimes also go unnoticed because of the lack of accountability, huge political involvement in the working of the police, lack of adequate investment, and the overburden of work for the officers due to low manpower. The issue of police reforms has been put up time and again but they get neglected under various Governments. Due to all this the common man and especially the poor fall prey to this sorry state of affairs.

The link between poverty and crime traces its existence way back in the times of Aristotle when he stated that Poverty is the parent of crime. This statement aptly summarizes how the two concepts are intrinsically linked. The link can be studied in two ways:

*The poor are likely to be criminals*

*The poor are the victim of crimes*

There is a vicious cycle between poverty, unemployment and crime. Due to poverty a person is mostly deprived of good education, poor education lead someone to unemployment and further the individual enters into crime. The inverse can also be true such as a person with criminal record may not get job which would lead him to remain poor. Hence this cycle does not allow poor to get out of this chain and their whole life is doomed. So let's first discuss about the former concept of poverty and crime;

Poor children hardly have any access to good education and due to this adults of the same section are deprived to fixed and proper jobs. Even if children go to schools in their early ages the situations drag them out of the school and make them work for the livelihood of their family which led them to remain in the same stratum as their parents were.

Due to poverty people are mostly deprived of many things which others are utilizing. This becomes one of the reasons why poor indulge into such criminal practices as they want to acquire those opportunities and materials which they were deprived since a long time. So they take help from unlawful means to fulfil their desires which led them to commit crimes like burglary, theft, robbery, assault, rape and attempt to rape, and many more.

The legal system looks at them from the criminal perspective as they had committed the crime and satisfied every condition for being a criminal and do not see them as victims of poverty.

The poor are more likely to be the victims of the crimes than other economically sound individuals. They become victims of the crimes sometimes because of the greed of other people; they are used as a means. For example if a drug peddler wants to supply the drug he/she might need someone who could take the risk to face legal proceedings if caught, so he might offer a certain amount of money to a poor individual and the poor would agree to perform the crime.

When they are caught they don't have money to represent them in the court and hence has to face conviction. Sometimes they do the crime when they know the objective of the person asking and sometimes they don't even know that they are going to be the part of the crime scene.

Even one of the honourable SC judge once said:

The main cause of crime is poverty. As long as you have poverty, you'll have crime. Most of the people you will find in jail in India, in America or in any other country are poor. Unless you create a social and political order in which everybody gets decent life, which means proper employment, proper income, healthcare, education and nutritious food for the children, you cannot abolish crime. Our aim is to create a more politically and economically favourable situation for all in the country.

The poor can be of different income levels, different caste, class, or anything which distinguishes them but they all suffer from one thing that is poverty itself. People are very clear about what they want it is the policymakers or the law makers to make them legally empowered. Protecting poor from crime is not only sending habitual offenders to the prison but also to lower the term of punishment for them.

**Conclusion**

The issue regarding police brutality has improved much better than it was before. As per today’s situation, anyone can take action against the abuse of power by the police due to the rise of technology, media, social media, and proper grievance redressal systems. However, the police system from the inside needs to be improved. There is a shortage of policemen which leads to an overburden of work, and there is heavy political influence on the police system. It is because of this that there is a huge amount of police corruption. The police must be free from all such influences which may help the inefficient working of the police. Moreover, the Government must create a better working environment for the police personnel so that they feel lively and much more motivated to work.

Poverty and law are closely linked together. Poor people being the most deprived of their needs and education are mostly the part of a vicious cycle of crime and legal proceedings. Many a times it is seen that people just for their own greed makes the poor a pawn. Since the poor don't have enough resources and money they agree or sometimes they unintentionally do something which makes them fall into a legal trouble.

Since they have committed a crime they are convicted and sent to jail. To protect the interest of the poor section of the society the state decided to make provisions for them with respect to free legal aid. But mostly lawyers or adjudicators don't want to serve people freely. So one of the requirements for the empowerment of the poor is a stringent legal system which does not only enacts law but also makes them implemented. Since poverty like pandemic has no boundary is a universal issue so the international organizations are also contributing for the upliftment of the poor and making provisions such as human rights for the whole world. Likewise government of India should also make certain provisions which can help for the betterment of the poor people.

1. https://www.livemint.com/ [↑](#footnote-ref-1)
2. https://edition.cnn.com/2020/12/02/india/police-brutality-india-dst-intl-hnk/index.html [↑](#footnote-ref-2)
3. https://www.legalbites.in/police-brutality-against-the-poor-in-india/ [↑](#footnote-ref-3)
4. https://qz.com/india/1878688/india-needs-more-than-money-to-prevent-cases-of-police-brutality/ [↑](#footnote-ref-4)
5. https://scroll.in/article/964820/what-can-india-do-to-combat-police-brutality-and-bias [↑](#footnote-ref-5)