

Human Rights and Policing in India with Focus on Constitutional Provisions Challenges and the Path to Accountability

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Abstract

Focusing on constitutional guarantees, difficulties, and the way to accountability, this article investigates the relationship between human rights and policing in India. In particular, it examines how judicial activism has broadened human rights interpretations and how Article 21 of the Indian Constitution protects basic rights like life and personal liberty. It focuses on Parts III and IV of the Constitution. Discussed are the need of ethical law enforcement, public trust, and human rights training in light of the fact that police officers may both safeguard citizens' rights and infringe against them. Critical obstacles that erode police confidence and human dignity include systemic issues, such as third-degree tactics, custody deaths, and misuse of power. The authors argue that reform cannot proceed without accountability mechanisms like public awareness campaigns, open government, and judicial scrutiny. In order to construct a police system in India that respects the rights of its citizens, the report stresses the critical need of immediate structural reforms, improved training, and compliance with legal protections.

Keywords

Policing, Law, Human Rights, Violation, Indian Constitution.

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Introduction

Human rights are fundamental to democracies since they are something everyone has just by virtue of being human. Parts III and IV of India's Constitution provide a strong foundation to protect individual dignity, liberty, and equality, and the rights guaranteed by these sections are deeply woven into the country's fabric. By protecting individuals from danger and enforcing the law, the police, as one of the most important branches of the state, play a crucial role in maintaining these fundamental objectives. But there are also major difficulties associated with their job, such as cases of power abuse, deaths in custody, and the use of third-degree interrogation techniques, which violate the rights they are supposed to safeguard.¹

Examining the constitutional provisions meant to protect rights, the difficulties encountered by police in following these principles, and the steps needed to guarantee openness and accountability, this study explores the relationship between human rights and policing in India. I aim to offer a complete study of the current condition of policing and human rights in India by exploring the major issues involving custodial violence, judicial monitoring, and the ethical responsibilities of law enforcement. Potential reforms and tactics to bring police practices in line with the constitutional obligation to protect and promote human rights are also examined. The study stresses the critical importance of a fair, egalitarian, and accountable system that combines the enforcement of laws with the protection of human dignity.²

Human Rights Under The Indian Constitution

Every person has inherent worth and dignity because of the rights, privileges, and prerogatives that society grants them. As a result, their lives are elevated to the status of holy and sacred. The general public generally refers to these advantages, privileges, and rights as human rights. People believe that human rights are eternal, sacred, and cannot be taken away. Dignified human existence, personal growth, and national development are all based on these principles, which have also been acknowledged as fundamental. When we talk about human rights, we're referring to the Indian Constitution's protections for things like life, liberty, equality, and dignity.

Human rights are an umbrella term for a body of ideas. It includes in its scope all the rights that an individual has simply because he or she is human. He has held these privileges from the beginning of time. Over time and in response to global events, human rights have been associated with and seen as identical to a variety of forms of individual independence and freedom. Because they are inherent to the human condition, human rights belong to all people, regardless of gender or age. Although these rights are admirable, they are frequently seen as a means to a goal. They are not just a state gift. Actually, their existence predates the establishment of

the State. Given that the state cannot create or destroy them, it is critical for the state to acknowledge, safeguard, maintain, and support them.

As a social being, every individual has inherent rights to basic necessities. People refer to these rights as human rights. In its interpretation of Article 21 of the Indian Constitution, the highest court stressed that every individual has the right to life and the inherent dignity that comes with it, and that everyone else has an obligation to uphold this right.³

The principle of “due process of law” underpins our criminal justice system. Every action taken by the executive, legislative, or judiciary branch must adhere to the letter of the law. This statute also includes the police as an authority in the field of law enforcement. The public is directly interacted with the police when they carry out their duty of maintaining law and order or during the detection, investigation, and prosecution of cases. The police should not abuse their authority for personal gain or to flaunt their position of power; rather, they should use their powers for the efficient performance of their tasks. Also, some people think that dealing with serious offenders and suspects within the bounds of the law is impossible and that only extreme measures can bring about the desired results. On the other hand, it’s incorrect. Human rights and stringent law enforcement, unrelenting pursuit of criminals, and punishment of offenders do not contradict one other. It is expected that the officer will not be overly eager to get outcomes through illegal means, and he should also know that he cannot take the law into his own hands.⁴

Human Rights and Policing

To be a good leader, one must respect human rights. Human rights must be safeguarded and advanced by the state in every democratic society. Respect for human rights, prevention of human rights violations, and active promotion of human rights are the duties of all State institutions, including the police, the army, the judiciary, and civil administration. In this regard, the police play a very important role. Keeping the peace and executing the law are two of the primary functions of the police. Thus, it is the responsibility of the police to bring lawbreakers, including those who violate laws meant to safeguard human rights, to justice. Tragically, police activities frequently violate human rights while carrying out this responsibility. Officers in the police force are under constant time pressure, and they are often given the unofficial green light to resort to whatever measures necessary to complete their assignments. But as guardians of the law, the police have an ethical and a legal responsibility to respect human rights and always follow the letter and the spirit of the Constitution. Every person residing in India has the right to have their human rights protected by the Constitution, which is our country’s highest law. Everyone is

guaranteed essential human rights in Part III, the Fundamental Rights chapter, sometimes called the Constitution's heart. In it, the state promises to prevent violations of citizens' rights to freedom, security, and privacy and to defend human rights in general. Many times, during its history, the Supreme Court has defined and expanded upon the extent of fundamental rights. Because they believe that everyone's rights and dignity must be protected at all times, they have fought back violently against state agents' incursions into their lives. The Court has issued specific orders to the police. These orders cover a wide range of topics related to station house or frontline police work, including case registration, investigations, arrests, treatment of suspects, bail, questioning of suspects, and protection of women's, poor people's, and disadvantaged rights. They are legally binding as well.¹ The Contempt of Courts Act, 1971 and applicable sections of the Indian Penal Code allow for judicial prosecution of an official who willfully or unintentionally disregards orders from the Supreme Court.⁵

In addition, the National Human Rights Commission (NHRC) has provided police with recommendations. A unique Act of Parliament in India created the Commission to safeguard and advance the human rights of all Indian citizens. When human rights are violated, the National Human Rights Commission suggests that those responsible be punished, that corrupt officials be penalized, and that victims be compensated. The National Human Rights Commission has mandated the reporting of all cases of custodial death or rape within 24 hours and the provision of a video-film of the post-mortem examination due to the fact that the vast majority of complaints pertain to the police. Additionally, the Commission has provided police with recommendations about encounter fatalities, arrests, lie detector tests, and police-public relations. More and more, the courts are giving the National Human Rights Commission's guidelines a favorable reading. Cops facing charges of human rights abuses may now be required to justify their actions by citing specific instances where these protocols were disregarded.⁶

Human Rights and Law Enforcement of Police in India: Challenges and Perspectives

People generally agree that human rights are inalienable and fundamental to our humanity. One may argue that India has always held human rights in the highest esteem, given its position on the matter. The reason being, human rights were an integral part of Parts III and IV of the Indian Constitution when it was being drafted.

The police force is a vital component of any state's security apparatus. Recently, the public has begun to view the police less as a force and more as a provider of services. The broader concept of a democratic state founded on law and driven by human rights concerns is the bedrock of this perspective.⁷

The police, as the principal institution responsible for maintaining order, have the special responsibility to prevent the state, any private enterprise, or any individual from violating the human rights of any citizen. It can employ force or go to court to make sure no one breaks them. Minorities, Dalits, individuals from disadvantaged backgrounds, and those who are socially and economically disadvantaged also require police protection, as do the most vulnerable members of society, including women, children, the elderly, the sick, and those with physical disabilities. In 1998, Marwah. There is no doubt that the police have a special responsibility to protect human rights since they are the biggest and most influential law enforcement agency. Nevertheless, when those responsible for protecting human rights are implicated, their credibility as advocates for these rights diminishes. Every group has its share of dishonest members, thus it's fair to accuse certain police personnel. It would be easy for the police to deal with isolated incidents if that were all there was to it. The reality, though, is that these claims are not unique to any one police officer. On rare occasions, the entire police department gets unfairly accused. If we want to know why the police are so bad, we have to face this harsh reality.⁸

Police in India are known to engage in questionable behavior on a regular basis. The question of whether or not police officers infringe on human rights is irrelevant. It is widely recognized that the police frequently break the law. We need to figure out why they show up where they do on the scale. The main factor that contributes to the police abusing human rights in India is the way they function inside the criminal justice system. The police are not oblivious to the importance of human rights. The ideals of a civil society center on the protection of human rights. The ancestors of the current Indian Republic placed a premium on ensuring their safety in a sovereign India. Human rights are not some abstract concepts; they are deeply ingrained in Indian thought. Even before they gained widespread recognition in the West, they were enshrined as fundamental rights in India's constitution.⁹

Worldwide, people are questioning the effectiveness of law enforcement, which is often seen as a link between society and the legal system, because it has not fulfilled its responsibility to keep the public safe. When talking about human rights in the country, it's hard to ignore the role of the judiciary in bringing these rights into the modern era. A developing society's judicial viewpoint undergoes a dynamic process known as judicial activism. A judicial philosophy that advocates for judges to depart from established precedents in support of progress and new social policies is referred to as judicial activism in Black's Law Dictionary. Judicial activism has broadened the scope of human rights in multiple cases. Regarding this matter, the judiciary primarily prioritizes the Right to Life.¹⁰

Numerous statutes exist to safeguard individuals against exploitation. The Constitution guarantees a variety of basic rights, including the right to exist and be free (Article 21). Sections 29 of the Indian Police Act, as well as sections 330 and 331 of the Indian Penal Code (IPC), expressly prohibit torture, and the courts have ruled that Article 21 implies protection against torture. However, the explicit prohibition of torture does not have constitutional authority. Rape by members of the police force or the military is punishable by death under Section 376 of the Indian Penal Code. At first, the right to life guaranteed by Article 21 of the Indian Constitution only applied to the prevention of arbitrary detention or the preservation of physical integrity. However, with the addition of judicial activism as a new dimension, the right to life now encompasses a wide range of rights that are crucial to living a dignified life. Included in the right to life are the following: Among the fundamental human rights recognized by the Supreme Court is the right to sufficient food, clothing, and housing. Equal access to a fair trial and a safe environment, though. Article 21, which guarantees the right to a prompt trial, is where the right is really stated. People behind bars without a trial cannot be considered in line with the criteria of Article 21, according to the Supreme v. Home Secretary, Bihar case. The Right to Life encompasses a great many other rights as well. Judicial activism is thus instrumental in expanding the reach of Article 21 of the Indian Constitution. Human rights in the nation are further helped by this.¹¹

The judiciary and the National Human Rights Commission are doing a great job of putting human rights into practice. Unfortunately, violations of these rights are becoming more commonplace in people's day-to-day lives across the nation, which is a cause for concern. Based on the NHRC Report, out of a total of 20514 complaints, 8497 were received by the state of Uttar Pradesh, while 2320 were received by Bihar. This demonstrates how the rising tide of human rights abuses in India has tarnished the reputation of Indian democracy and threatened our civilized society.

Ensuring Accountability and Upholding Human Rights: The Role and Responsibilities of Police in Law Enforcement

As the sole intermediary between the public and the legal system, the police play a pivotal role in the execution process. Their mission is to uphold the law and safeguard it to the best of their abilities. Police officers have a responsibility to preserve and defend the rights of all people while also respecting and protecting the dignity of each individual. However, on occasion, while servicing, police resort to third-degree tactics. This may occur in the course of an investigation, an interrogation, a strike, etc. Because of this, the state is in danger, and the police system's principles and purposes are violated. As a result, fewer people trust the police and the administration.¹²

In order to ensure that police officers uphold citizens' fundamental rights while on duty, the constitution lays out a number of regulations. A part of this is the Indian Constitution, specifically Article 20(1), which states that no punishment may be imposed that is heavier than the maximum penalty allowed under the law in effect when the crime was committed. The right to remain silent in the face of self-incrimination is guaranteed in Article 20(3). The police's use of force in the third degree constitutes a flagrant disregard for this article. Code of Criminal Procedure, 1973, Section 49 protects against custodial death, Section 163 forbids police officers from inducing, threatening, or promising anything under Section 24 of the Indian Evidence Act, 1872, and Section 55A requires the person detaining the accused to ensure the accused's health and safety. Even though the force used by a public worker does not constitute murder, they can nevertheless be held for culpable homicide under Section 300 of the Indian Penal Code, 1860. A public official can face up to seven years in prison for injuring a citizen, according to Section 330 of the Indian Penal Code. The Criminal Law (Amendment) Act, 1983 added subsection 376(2) to Section 376 of the Indian Penal Code, making it a crime to commit rape while in jail. The Supreme Court's 2016 ruling in *Youth Bar Association of India v. Union of India*, which upheld the right to liberty for all citizens, further strengthened the recognition of Article 21 (2016).¹³

These laws are based on the principle that every person has inherent worth and dignity, regardless of their gender, socioeconomic status, religious affiliation, or any other factor. These do assist in addressing the situations with minimal harm, but to take it a step further, the police and policemen should have training on how to manage these situations without breaching human rights.

Offenders must not to be exposed to such torture and punishment unless their innocence is proven. Because the individual in custody may be experiencing significant emotional distress, it is imperative that the police be forthright and understand their situation throughout the inquiry. To keep their minds healthy while behind bars, prisoners should also have access to mental health services. Fewer inmate disputes and suicide attempts will follow. Consequently, it will maintain a trustworthy police force.¹⁴

Every step must be approached with the utmost caution. The whole process, beginning with the arrest and ending with the presentation to the magistrate, in handcuffs. Unless it's a cognizable offense, the police should have an arrest warrant on hand so the assumed accused can know for sure why he is being kept during the arrest process. Also, the detainee needs to appear before the magistrate no later than the next business day.

The cops are just doing their jobs to keep us safe, so we can't hold them solely responsible. Furthermore, being human beings in their own right, police officers also enjoy a certain set of rights. Every officer has to deal with situations where they have to physically restrain a suspect. Nothing is immoral or illegal unless it has a reasonable and justifiable basis. The use of excessive force by law enforcement officers can be seen as a violation of individual rights.

To make the system fairer and more transparent, the court in *Sakiri Vasu v. State of Uttar Pradesh and others*, 2007 decided that the magistrate can review police investigations. Keeping an update or record of the police's duties is another precautionary action that higher authorities can take.¹⁵

Babubhai v. State of Gujarat is a case that involves the role of a criminal case investigator, according to the Supreme Court, is to find and present "the true and unvarnished truth" to the Court, not to bolster the prosecution's case using evidence for the sole aim of obtaining a conviction.

Raising public awareness is another preventative measure in this area. Being knowledgeable of the regulations and one's own rights in relation to one's treatment by the police allows the public to pursue legal action against any individual or entity that violates the system and ultimately leads to system improvement. Additionally, police stress management programs might be an additional preventative step, and they should receive specialized training for emergency situations.

Therefore, police officers need specialized training on how to deal with crisis circumstances. They must exercise extreme caution and patience to ensure that they do not infringe upon the human rights of anyone in any way. The human rights and the measures indicated can be used to avoid violations of the regulations. Without infringing on anyone's rights, this will lead to a healthier system.¹⁶

Custodial Deaths: A Grave Violation of Human Rights In India

Police "torture" that results in a person's death while in custody is one of the most heinous offenses in a law-abiding society that guarantees justice, liberty, and equality for all its citizens. Such events pose a serious danger to our civilized society and are an affront to human decency. The word "custody" means "protective care" in English. Not even when used as a rationale for an arrest or detention does it portend mistreatment while in jail. As a terrible character flaw that develops from a true desire to hurt others when resistance is nonexistent, from a feeling of superiority and physical supremacy over the oppressed, or from a collective eruption of hypocritical thinking, no civilized law permits custodial cruelty. This is among the gravest crimes perpetrated by our civilization. Torture in detention is an outrageous violation of human dignity and a violation of the basic rights of citizens. Arrestees

are subjected to brutal treatment, including torture, which can result in fatalities. That the common good must take precedence over personal interests is rooted in the coexisting Latin proverbs “*Salus populi Est suprema lex*” (the safety of the people is the supreme law) and “*Salus reipublicae Est suprema lex*” (the safety of the state is the supreme law). There can be no compromise on what the state considers “right, reasonable, and fair.” The use of torture in any form to gather information is a clear breach of Article 21 because it is not “just nor just nor fair” and is thus forbidden. Torture in captivity is among the harshest forms of human rights abuse. All four branches of India’s highest court—the Constitution, the NHRC, and the UN—prohibit it. But law enforcement officials from every corner of the country are taking on these groups. Thus, according to *Joginder Kumar v. State of Uttar Pradesh* (1994) 4 SCC 260, a practical approach to crime prevention must aim to strike a balance between individual rights and communal goals. Police authorities in Sathankulam town, Tuticorin district, apprehended P Jeyaraj, 58, and his son Fenix, 38, who run a mobile accessories store, on suspicion that they were open past the store’s official closing hour. Tamil Nadu has instituted a full-scale shutdown in an effort to halt the spread of COVID-19.¹⁷

The couple was allegedly brought to the police station, where they were brutally attacked, according to the relatives. A few days later, they were pronounced dead in prison. Consequently, a procedure was set up to investigate deaths that happened while in custody, and section 176 of the Criminal Procedure Code was changed.

Every year, there are an average of 96 deaths among inmates and prisoners. In 2019, 1,731 people in India lost their lives as a result of being held captive, as reported in the India Annual Report on Torture. The court’s custody resulted in the deaths of 1,606 individuals, while the police’s custody claimed the lives of 125. This amounts to approximately five such deaths every day. According to a survey issued by the National Campaign against Torture (NCAT), out of the 125 deaths that occurred while in police custody, 14 were in the state of Uttar Pradesh, 11 in Punjab and Tamil Nadu, and 10 in Bihar.¹⁸

Of the 914 deaths recorded by the National Human Rights Commission of India (NHRC) in the seven months preceding July 2020, 53 happened while the individual was in police custody. Their records show that between 2013–14 and 2017–18, there were 714 reported cases of deaths while in police custody. The bulk of the 1,004 deaths that have occurred while in police custody over the past decade (69%), as reported by the National Crime Records Bureau, have been attributed to either disease or natural causes (40%), or suspected suicide (29%). The annual Crime in India reports, which are the principal central government database, do not include

information on whether hospitalization is associated with conditions or situations in detention, if causes of death by sickness are sudden or prolonged, or whether assault occurs while in custody. More people have committed suicide while in police custody in the past decade, with 36 percent of those deaths happening between 2015 and 2019. But if you look at the news headlines, you'll see that some families have accused the prison of foul play or said that the mistreatment was the cause of the suicide.

Conclusion

Ultimately, the interplay between police brutality and human rights in India highlights the paramount importance of maintaining a balance between the two in accordance with the constitutionally guaranteed values of respect, equity, and responsibility. Although the judiciary and the Constitution have established strong safeguards for basic rights, the legitimacy of law enforcement is nonetheless harmed by systemic issues like custodial fatalities, abuse of authority, and unethical policing methods. Comprehensive police officer training, judicial oversight, public knowledge, and rigid respect for constitutional principles are all necessary to bridge this gap. The police may promote a fairer and more equitable society by taking on these issues and holding themselves accountable, therefore acting as a reliable protector of human rights. In order to preserve the democratic principles and human dignity that are fundamental to India's constitutional philosophy, it is imperative that the country's law enforcement agencies undergo reforms that prioritize respect for individual rights.

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