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UNCOVERING THE DARK REALITY: **EXPLORING CUSTODIAL DEATHS** **AND POLICE BRUTALITY**

AUTHORED BY - SOUMYA JENA

ABSTRACT:

Custodial fatalities and police violence are serious human rights breaches that raise serious questions about how law enforcement functions and is held accountable. A brief summary of the problem is given in this abstract, along with an examination of its sources, effects, and possible remedies. Police brutality is the term used when law enforcement personnel use excessive or arbitrary amounts of force on people who are in their custody, causing bodily pain, injury, or death. Custodial fatalities are when someone pass away while in the care of the law enforcement or in a prison, which raises concerns about the surroundings, care, and surveillance of detainees. These occurrences damage the public's confidence in the system of justice and have a broad impact on the victims, their relatives, and the community at large. It looks at systemic problems such institutional racism, poor training, and a shortage of mechanisms for accountability as well as the root causes of police violence and deaths in custody. It goes into detail on the effects, which include a loss of trust in the community, an uptick in turmoil in society, and the continuation of an upward trend of violence and terror. Additionally, it draws attention to the disproportionate effect that these problems have on marginalized populations, where people may experience greater vulnerability and prejudice.

Several options can be taken into consideration to alleviate police brutality and fatalities in custody. In order to decrease instances of excessive force, police training programme should be strengthened to place a stronger emphasis on de-escalation tactics, empathy for culture, and the preservation of human rights. Law enforcement personnel can be held accountable for their acts by establishing strong accountability procedures, such as independent monitoring organizations and open internal investigations. In addition, encouraging community involvement and communication between law

enforcement and people can help to restore confidence and develop collaboration. Significant human rights breaches like police brutality and fatalities in custody necessitate immediate attention and action. Societies may seek to create a judicial system that honour and safeguards the fundamental liberties and worth of all people by addressing the underlying causes, enacting thorough reforms, and fostering accountability and openness.

INTRODUCTION:

Every person has their doubts about democracy with the incidence of custodial killings in the biggest democracy in the world. The need for the upholding of fundamental liberties is growing on a global scale.

India's Constitution and legislation are permeated with a persistent concern for basic freedoms and human rights in general, as well as the rights of those indicted and even the convicted in particular. Human dignity and the welfare of all humanity have always been integral components of the cultural environment of our historical Indian culture. Cruel, primitive, and inhumane penalties were completely unheard of in our society. It is crucial to understand that human rights practise must grow and flourish from the cultural foundations of the land rather than being imposed. Police brutality and deaths in custody are two interrelated topics that have drawn a lot of attention and concern internationally. When someone passes away tragically and unexpectedly while in the care, control, or custody of judicial or correctional officials, it is referred to as a "custodial death." It includes fatalities that happen while people are being detained by the police, in jails, prisons, or other detention facilities, or while they are being arrested or detained.

Police brutality, on the other hand, alludes to the unwarranted or unjustifiable use of brutality, coercion, or abuse of people by law enforcement personnel. Widespread public uproar and calls for accountability, justice, and structural reform have been spurred by these problems. The bleak reality and structural problems in the criminal justice system have been made public through high-profile cases and incidences of fatalities in custody and police violence.

Beyond specific tragedies, the effects of incarceration mortality and police violence are widespread. They worsen social tensions, weaken community and law enforcement confidence, and raise major questions about fairness, equality before the law, and human rights breaches. Comprehensive investigations, legal actions, legislative changes, and lobbying for greater enforcement education, accountability, and openness are all part of efforts to address custodial fatalities and police brutality. These problems underline the necessity for a just and equitable framework that upholds law enforcement organizations' obligations to serve and safeguard the neighbourhood they serve while respecting and defending the rights and human decency of all people.

UNDERSTANDING CUSTODIAL DEATHS:

The term "custodial death" describes when an accused person passes away before a trial or after being found guilty due to a direct or indirect police action while they were in custody. According to the Law Commission of India, the act of violence committed by a public official against an individual who has been arrested or detained and is in custody qualifies as custodial violence. It may be caused by a number of factors, including the overuse of force, carelessness, or abuse by the authorities. Custodial fatalities are a cause for grave worry and provide significant legal, moral, and human rights concerns. When someone passes away while being held in prison, it calls into question how they were handled and what kind of care they were given. In order to determine the reason for and circumstances surrounding a death that occurred while in custody, extensive investigation is frequently necessary. The idea of "custodial death" highlights the need of maintaining human rights, guaranteeing the security and well being of those who are detained, and making government officials responsible for their actions. It underscores the significance of providing those in the state's custody with just and equitable treatment, appropriate care, and to avoid any type of harm. Promoting for police reforms, upgrading detention conditions, increasing openness and monitoring, and encouraging discipline in law enforcement and penal institutions are all part of efforts to combat custodial fatalities.¹

Custodial fatalities can take a variety of forms in the surroundings of law enforcement and custody facilities which includes:

Excessive use of force in which fatalities brought on by the excessive or inappropriate application of

¹ Ipleaders, <https://blog.ipleaders.in/custodial-deaths/> (last visited June 18, 2023).

power by law enforcement personnel during an arrest, a detention, or a confrontation. It could entail the use of weapons, restraints of any kind, tasers, or other forceful techniques.

Deaths resulting from excessive or incorrect use of restraints, such as cuffs and choke holds, or other techniques that impede respiration or circulation, can happen to people who are in custody. One particular type of restraint-related fatality is positional asphyxia, which occurs when the person's posture impairs their capacity to breathe.

When there is ignorance or medical neglect When people are not given the required medical treatment or care while they are in prison, custodial fatalities may occur. This might involve not giving patients the essential medicine, delaying medical treatment, or failing to react appropriately to health emergencies.

Suicidal deaths can occur when a person is in detention. This could be brought on by a number of things, including mental health problems, hopelessness, a lack of mental health care, or a lack of suicide avoidance measures in detention institutions.

Accidental fatalities can occur while being transported, in cells, or inside the detention centre. Accidents involving the usage of machinery or vehicles, self-inflicted injuries, or slip-and-fall incidents are a few examples.

Some people may have previous medical conditions that, while they are in custody, become worse or go untreated, which might cause them to pass away. This may include illnesses like diabetes, asthma, or heart disease.

Custodial fatalities may, in rare instances, be the consequence of law enforcement personnel's intentional misbehavior, such as physical violence, torture, or other intentional injury.

POLICE BRUTALITY: AN UNSETTLING REALITY

Police brutality is the term for when law enforcement personnel use excessive or unjustifiable force on somebody, frequently leading to bodily hurt, psychological trauma, or even death. It is a type of wrongdoing that tramples on the fundamentals of human rights and erodes the relationship of trust among law enforcement and the communities that they protect. The reasons and problems that contribute to the prevalence of police misbehavior are diverse, complicated, and frequently probably not fully understood. Insufficient education and a dearth of transparency are two issues we observe that support the norm of police misbehavior. To guarantee that police concentrate only on the safe detention and applying only minimally necessary force, law enforcement must make sure that training procedures are regularly updated. Many police officers will continue to think in the same way that leads to the numerous examples of police brutality that occur today if adequate training and constant improvement are not provided. Acts of police violence can occasionally be brought on by job stress. In a tight circumstance, a law enforcement person or agency as a whole may act erratically if they believe that the public is hostile to their work or unsympathetic at best. Police officers should generally avoid isolating themselves and should have someone they can confide in about the difficulties of their work. The root causes of police brutality must be understood in order to address the issue and prevent it from occurring in the future.

The idea of police brutality has received a lot of attention lately, thanks in large part to mass demonstrations, media attention, and the usage of social media to record and expose events.² It has spurred crucial conversations regarding the necessity of accountability measures, policing practise reforms, and police reform to guarantee the fair and equal treatment of all people. Comprehensive changes that emphasize enhancing training, fostering accountability and openness, enhancing community participation, and addressing structural concerns within law enforcement institutions are necessary to reduce police brutality. It is feasible to move towards a system of law enforcement that promotes the rights and worth of all people by addressing these issues. Laws are enforced, public order is maintained, and citizens are protected by police personnel. But when this authority is misused, it can result in fundamental rights being violated and excessive force being used against people. When

² Sourav Suman, The Police Brutality In India: A Critical Analysis, 6, International Journal of Legal Developments and Allied Issues, 34 (2020)

police deal with the public, they frequently employ excessive or needless force. This is known as police brutality. This can go beyond what is deemed acceptable or required to address a situation and cause bodily pain, injury, or even death. The fundamental human rights of people, such as having the right to life, liberty, and the safety of person, liberation from torture or any other form of cruel, inhumane, or degrading treatment and the freedom to a fair trial, are violated when law enforcement officials commit acts of brutality. The perception of a lack of consequences for officers who engage in wrongdoing is one of the most alarming aspects of police brutality. This might undermine public confidence in law enforcement organizations and obstruct attempts to address and stop current instances.

Police brutality has wider societal repercussions, such as the decrease in public confidence, strained community-police relations, greater polarization, and a feeling of fear or insecurity among those who could be subjected to unfair treatment.

CONTROVERSIAL CASES: UNVEILING THE TRUTH

Jeyaraj and Bennix (2020, Tamil Nadu): In Tamil Nadu, Jeyaraj and his son Bennix were detained on suspicion of breaking COVID-19 lockdown regulations. They endured brutal physical abuse while being held by the authorities, which led to their demise. Justice demands and public indignation were generated by the occurrence.

Aniket Khicchi (2019, Rajasthan): During an anti-drug drive, police in Jaipur, Rajasthan, severely beat Aniket Khicchi, a student. The police were shown brutally beating the defenceless student in the event, which was recorded on video. Public uproar followed, and it highlighted concerns about police abuses.

Manhandling of Students at JNU (2020, Delhi): Several students and teachers claim that police personnel battered and manhandled them during demonstrations at Jawaharlal Nehru University (JNU) in Delhi. Due to the inappropriate use of force against nonviolent demonstrators, the event received widespread attention and condemnation.

A 16-year-old girl was raped and killed in Shimla, Himachal Pradesh, in the Gudiya rape case, which occurred in 2017. For mishandled the investigation and reportedly interrogating a suspect to coerce a false confession, the police came under fire. Concerns were raised by the occurrence regarding suspect handling and police wrongdoing.

In 2018, the Jammu and Kashmir police detained a schoolteacher named Rizwan Asad Pandit, who later passed away in detention. His death was allegedly caused by torture, according to the family. Concerns regarding abuses of human rights and disproportionate use of force by security personnel were brought up after the occurrence.

Shopkeeper N. Murugan was detained by the police in Coimbatore, Tamil Nadu, in connection with a theft case in 2019. He passed away while being held by the authorities, and his family claims he was tortured. Public outcry and demands for a thorough inquiry into police wrongdoing followed the incident.

Manorama Devi (2004, Manipur): The Assam Rifles detained 32-year-old Manorama Devi in Manipur on the grounds that she could have connections to rebels. Later, her deceased corpse was discovered with evidence of torture and sexual abuse. Widespread protests against security forces' violations of human rights were prompted after the tragedy.

Uttarakhand resident Prakash Singh Thakuri (2019): In Uttarakhand, a 24-year-old man named Prakash Singh Thakuri passed away while in police custody. His relatives claimed that the reason of his death was mistreatment in custody. Concerns about police violence and the demand for accountability were sparked by the occurrence.

SYSTEMIC ISSUES AND ACCOUNTABILITY:

To stop abuse, secure justice, and safeguard people's rights, it is essential to address systemic problems and accountability in relation to police detention. The absence of adequate methods for making law enforcement officials responsible for their acts while in detention is one of the major problems. This includes a lack of independent monitoring agencies that can adequately look into misbehavior claims, weak internal affairs offices, and insufficient supervision.

In some places, torture and abuse in detention facilities are widespread issues. Despite being forbidden, unlawful interrogation techniques including physical abuse, psychological torment, or forced confessions are nonetheless practised. This is frequently a result of an environment where law enforcement feels free to act without fear of repercussions. Abuses while in police custody may be caused by a lack of human rights education, adequate arrest and detention processes, and non-coercive questioning methods. To make sure they are aware of and protect the rights of those in detention, law enforcement officials must undergo stronger training programme.

Cases involving abuse or death while in custody frequently experience delays in the legal system, which can leave victim and their families without justice. Furthermore, the culture of with impunity, in which police are rarely held responsibility for their deeds, erodes public confidence and feeds the abuse cycle. To protect people in detention and stop abuses, it is crucial to strengthen legal protections such rigorous respect to the habeas corpus principle, prompt detainee appearances in court, and their access to obtain representation.³

It is essential to create impartial, independent investigative organizations and special prosecution teams. These organizations ought to have the power to fully look into claims of police wrongdoing and bring charges against individuals guilty.

It is crucial to support and safeguard police officers who reveal wrongdoing or abuse as whistle blowers. This may foster an atmosphere of openness and responsibility that makes it possible to recognize and address systemic problems. An outer check on police behaviour can be achieved by including civil society organizations, human rights organizations, and members of the community in oversight procedures. This engagement contributes to ensuring that detention policies and practise comply with human rights norms. A comprehensive strategy comprising legislation changes, extensive training programme, efficient supervision systems, and a dedication to responsibility from law enforcement organizations, lawmakers, and society at large are needed to address these systemic concerns. A culture where acceptance of human rights is embedded in police procedures and where infractions are carefully investigated and penalized is vital.

³ Legal Services, <https://www.legalserviceindia.com/legal/article-5689-police-brutality-and-police-accountability-in-india.html> (Last Visited June 18, 2023).

HUMAN RIGHTS AND SOCIAL JUSTICE

To guarantee fair and equal treatment of people when they are in the custody of the police, the principles of equality and social equality should be preserved and protected. Until a person is found guilty, they should all be considered innocent while in police custody. Throughout the custody procedure, this concept guarantees that people are regarded with respect and dignity and that their rights are upheld.

People who are being held by the police have a legal right to counsel. This includes the right to have a lawyer present during interrogation or any legal processes, the right to be reminded of this liberty, as well as the right to obtain legal counsel and aid. A basic human right is the abolition of torture and other cruel, inhumane, or humiliating treatment or punishment. People held by the police must be shielded from any kind of torture, coercion, or bodily or mental abuse. People in custody have a right to information about their charges, the circumstances behind their arrest, and their legal rights in a language they can comprehend. This promotes accountability and stops arbitrary detention.⁴

A fair and prompt trial should be a right that is guaranteed to those who are in jail. This includes the right to question the legality of their custody, the option to be heard in court, and the right to be brought immediately before a judicial authority. Only legal justifications, such as a valid warrant or a reasonable suspicion, should be used to arrest or detain a person. Arbitrary detention or arrest undermines social justice norms and human rights. During police custody, everyone should be dealt equally and without prejudice, regardless of their colour, ethnicity, gender, religion, socioeconomic standing, or any other trait. Discrimination undermines social fairness and goes against the fundamentals of human rights. Access to critical medical care, particularly urgent care and medicines, should be available to those who are being held in jail. Their health—both physical and mental—should be protected.

Police holding practices should be open and accountable behaviour should be expected. This entails impartial monitoring, complaint processes, and disciplinary actions to deal with any human rights

⁴ Legal Services, <https://legalserviceindia.com/legal/article-9239-custodial-deaths-and-human-rights-an-insight.html> (Last Visited June 18, 2023).

abuses while in prison. Respect for international human rights norms, adequate education of law enforcement professionals, strong legislative protections, and efficient supervision systems are all necessary for maintaining human rights and ensuring equitable treatment when a person is in police custody. It is critical to have a system that upholds the dignity and rights of people held in detention while also making sure that justice is done.

CALLS FOR REFORM AND JUSTICE:

To address institutional concerns, hold offenders accountable, and stop future abuses, the need for justice to be served in cases involving police brutality and incarcerated fatalities is crucial. Holding law enforcement officials responsible for their conduct must be a priority. Investigations should be thorough and objective, and if there is evidence to support it, officers who have engaged in wrongdoing should be held accountable to the maximum extent of the law. To guarantee objectivity and openness in the examination of incidents involving police violence and incarceration fatalities, independent investigating bodies or special units must be established. These organizations ought to be empowered, equipped, and qualified to carry out exhaustive and impartial investigations. For situations involving police violence, judicial reforms can assist ensure swift and impartial trials.

For situations involving police violence and fatalities in custody, judicial reforms can assist ensure swift and fair trials. This entails hastening the legal process, avoiding unnecessary delays, and making sure that justice is administered promptly.

The ability to monitor and examine police behaviour, including instances of abuse, should be granted to independent monitoring authorities on the local as well as national scales. They ought to have the power to look into complaints, carry out audits, and suggest required changes. Law enforcement personnel should undergo thorough training on rights of individuals, de-escalation tactics, non-violent strategies, and correct arrest and detention processes. The emphasis of these programme should be on fostering cultural change among police forces and stressing the significance of upholding people's rights and dignity.⁵

⁵ Harikumar Pallathadka, Custodial Deaths: Legal Perspective, 07, European Journal of Molecular & Clinical Medicine, 3189 (2020).

Encourage communication and cooperation between law enforcement organizations and the communities that they serve. Building trust and ensuring that policing practices are in accordance to community needs and values may be achieved through promoting broad avenues for interactions, community policing programme, and venues for feedback and input. The families of victims of police violence should receive adequate support. This covers services including counselling, legal aid, and guidance via the court system. Victims and their relatives should be treated sensitively, with understanding, and with respect. Review and update current legislation to make sure they offer sufficient protections against police violence and fatalities in custody. The use of force, supervision procedures, and the rights of those in detention may all require stronger law.

Educate the public about the problem of brutality by law enforcement and fatalities in custody through public dialogue, media campaigns, and education. Encourage awareness of social justice, human rights, and the significance of law enforcement accountability in a society with democracy.

A multifaceted strategy encompassing legal, institutional in nature, cultural in nature and societal changes is needed to address the desire for justice and reform in situations involving police brutality and fatalities in custody. To guarantee that human rights are upheld, justice is carried out, and systemic reforms are implemented, it is necessary for consumers, including law enforcement organizations, governmental entities, civil society organizations, and the general public, to work together.

BUILDING TRUST AND RESTORING CONFIDENCE:

Fostering productive interactions amongst law enforcement authorities and the communities that they serve requires establishing trust and regaining confidence following episodes of police misconduct and fatalities in custody. Investigate cases of police violence and fatalities in custody thoroughly and transparently. Make sure the investigations are quick, objective, and independent. In order to uphold accountability, promptly inform the public of the investigations' developments and conclusions.

Take the proper administrative or criminal proceedings against law enforcement personnel found to have acted improperly. This involves making sure that police receive penalties appropriate to their

conduct, which can aid in reestablishing public confidence in the legal system.⁶

Implement thorough training programme that emphasize de-escalation tactics, cultural awareness, reverence for human rights, and these. Regularly review and update policies and processes to make sure they comply with global norms and best practise for human rights. Participate actively in community gatherings, outreach initiatives, and conversation sessions. Encourage open communication, pay attention to complaints, and take care of local needs and priorities to cultivate healthy connections. Building trust amongst the police and members of the public can be facilitated by this involvement. Construct independent civilian oversight committees that can look into grievances against governmental agencies and strengthen the current accountability systems. These groups should have the power to monitor police behaviour, suggest improvements, and uphold openness. They should also include members from the community. Encourage a culture of honesty, professionalism, and respect among law enforcement organizations. Encourage police to defend human rights, treat people with respect, and behave in a fair and unbiased manner at all times. Encourage an atmosphere that emphasizes moral behaviour and forbids tolerating abuse or wrongdoing. Discuss issues, exchange information, and work on projects to advance reliability, rights for individuals, and community well-being with civil society organizations, human rights organizations, and community leaders. The opinions and perspectives of impacted communities may be heard and included in reform efforts thanks to these relationships. By frequently informing the public on rules, procedures, and use-of-force standards, police operations will become more transparent.

To shed light on how the police operate and promote public accountability, publish information on police activity, such as detentions, complaints, and disciplinary proceedings. Establish efficient internal reporting processes that safeguard informants and motivate officers to report wrongdoing or abuse they observe inside the police. Police will be more willing to come ahead with information if secrecy and lack of reprisal are guaranteed, allowing for the detection and stoppage of abusive behaviour. Resources should be allocated, progress should be tracked, and the results of implemented initiatives should be routinely evaluated in order to show an unrelenting dedication to reform and

⁶ Lexforti, <https://lexforti.com/legal-news/custodial-death-in-india/> (Last Visited June 18, 2023).

development. Create procedures for gauging the success of reforms and making necessary modifications.

It takes a concerted effort by the community, civil society organizations, government institutions, and law enforcement to establish trust and restore confidence. It demands openness, responsibility, and a sincere dedication to defending justice and human rights inside the police force.

CONCLUSION:

Last but not least, grave human rights breaches such as police violence and fatalities in custody must get immediate attention. These acts damage the public's confidence in law enforcement, call into question their authority, and feed the vicious cycle of injustice, fear, and systemic abuse. These problems must be resolved immediately by thorough reforms, more accountability, and a dedication to social fairness. With an approach to holding offenders responsible, efforts should be concentrated on ensuring comprehensive and fair investigations into instances of police violence and fatalities in custody, putting in place reliable supervision procedures that are not controlled by law enforcement organizations in order to keep an eye on police behaviour, look into complaints, and encourage openness. The promotion of cultural change within the police force through extensive training programme that emphasis respect for rights of individuals, nonviolent resolution of conflicts, and community engagement, as well as strengthening legal barriers and procedural adjustments to protect the rights of people in custody, as well as including an assumption of innocence, and access to legal counsel, as well as safeguards against torture and abuse. By putting these safeguards in place, society may work towards a system of enforcement that is fair, just, and responsible, where citizen rights are observed and instances of brutality by police and fatalities in custody are successfully avoided. Demanding change, advancing justice, and preserving each person's dignity and rights are communal duties.