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**POLICE ENCOUNTER BRUTALITIES- AN INDICATION OF A POLICE STATE****Abstract**

*To investigate unfavorable police contacts and police avoidance as mediators of prison history and depressive symptoms among males and females in India, as well as the function of unemployment as a moderator of these correlations.*

*Methods. The data came from the quantitative phase of Manhood, a Washington, DC-based study conducted in 2015–2016. Participants were 891 men between the ages of 18 and 44 who completed computer surveys. To put the study's conceptual paradigm to the test, we employed moderated mediation.*

*Results. The findings revealed that prison experience had a substantial indirect influence on depressed symptoms via unpleasant police contacts and police avoidance. The indirect effect of police avoidance was mitigated by unemployment. Unemployed participants with a history of imprisonment reported substantially higher police avoidance and, as a result, increased depressed symptoms. The indirect effect of unemployment on unfavorable police contacts was not substantial. It will also tell us what is the indication in a police state.*

**Introduction**

Human rights are those that are exercised by humans from the moment they are born. They're the ones. Any individual, regardless of gender, caste, color, nationality, religion, or ethnicity, has inherent rights. Human rights also encompass fundamental rights such as the right to life and liberty, the freedom to labor, and the right to education. Education, freedom from forced labor or slavery, freedom of speech and expression, and many other rights are all protected by the Constitution. All these rights are guaranteed to all people, regardless of their background. In 1948, the United Nations General Assembly passed the Universal Declaration of Human Rights (UDHR). The Covenant of Nations In 1976, the United Nations Covenant on Civil and Political Rights went into effect. India was also one of the countries that signed the Universal Declaration

of Human Rights and deposited the instrument in 1979, acceding to two covenants. The Vienna Declaration and Program of Action, which stated that "Human Rights and Fundamental Freedom are the birthright of all human beings," was adopted in 1993.

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India is the world's largest democracy, with a vibrant civil society, a powerful court, and a vibrant media. India's constitution includes several basic rights to support the human rights granted to all people, but its organs have failed to properly execute them, making India a significant human rights issue. Human rights in India are a complex problem due to the country's vast size and population, as well as widespread poverty, a varied culture, and a lack of many basic amenities such as education and healthcare. The present Indian police system is one of the primary reasons for making India a severe human rights issue. The Indian police force need reform in order to protect tens of thousands of civilians from human rights violations. The current police force serves the interests of strong politicians rather than ordinary individuals. Intentionally infringing on the human rights of innocent individuals is a common occurrence for police.

India's democracy is admired across the world, but its citizens are being harassed and their rights are being violated at home. India has severe human rights issues, according to the 2018 Country Report on Human Rights Practices. Those who criticize the government are harassed by civil society.

lawsuits have been brought against them. 2 The government has failed to abolish any statute that gives public officials, government employees, and security forces protection from prosecution. This demonstrates the frightening aspect of Indian democracy, which is paradoxically lauded in other nations by the constitutional head, i.e. our country's strong leaders.

### **What is police brutality and police killings?**

Since the late twentieth century, the term "encounter killing" has been used in India, Pakistan, and Sri Lanka to characterize extrajudicial murders by police or military forces, ostensibly in self-defense, when they encounter suspected criminals or terrorists. The Mumbai Police Department employed encounter killings to fight the city's underworld in the 1990s and early 2000s, and the practice spread to other big cities. In Pakistan, the Sindh Police, particularly in Karachi, are known for extrajudicial murders through staged encounters.

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Many of these claimed events have been met with skepticism by critics, who also claim that the widespread acceptance of the practice has led to incidences of police creating false confrontations to cover up the death of suspects who are either in custody or unarmed

### **Police brutality**

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<sup>1</sup> The New Jim Crow: Mass Incarceration in the Age of Colorblindness, by Alexander M. New Press, New York, NY, 2010. Scholar on Google

<sup>2</sup> "Rao Anwar and the killing fields of Karachi". DAWN. February 16, 2018. Archived from the original on April 6, 2020. Retrieved December 26, 2018.

The use of excessive and unjustified force by law enforcement is known as police brutality. It is a civil rights violation and an extreme type of police misbehavior or brutality. It can also refer to a scenario in which cops use excessive or unreasonable force against a person. Bodily or verbal harassment, physical or mental injury, property damage, police inactivity, and, in extreme circumstances, death are all examples of police brutality.

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## INDIA'S POLICE BRUTALITY

India is made up of 28 states as well as eight union territories. 'Police' is listed in list II of the 7th schedule,<sup>3</sup> which is the state list, according to article 246 of the Indian constitution. It means that state governments may only create regulations to govern and regulate the police in their jurisdictions. Because India has a quasi-federal structure, the central government has a significant role in the selection of police officers through the UPSC. The federal government appoints a senior officer of the Indian Police Service (IPS). The central government regulates different paramilitary formations such as the Central Reserve Police Force and the Border Security Force. The police force is known across the world for its atrocities and brutalities towards suspects, undertrials, and prisoners who are either arrested or transported to police stations or lockups under their authority without a warrant. The police force in India is the subject of this article. India has one of the worst levels of police brutality in the world. The suspects are subjected to physical and psychological torture by the law enforcers. Police in India believe they are superior enough to execute the tasks of the judicial by declaring a suspect or undertrial in custody guilty. The police force is known across the world for its atrocities and brutalities towards suspects, undertrials, and prisoners who are either arrested or transported to police stations or lockups under their authority without a warrant. The police force in India is the subject of this article. India has one of the worst levels of police brutality in the world. The suspects are subjected to physical and psychological torture by the law enforcers. Police in India believe they are superior enough to execute the tasks of the judicial by declaring a suspect or undertrial in custody guilty.

The police's lack of accountability was one of the primary grounds for infringing on anyone's rights while on duty. The police have protection from prosecution under Section 197 of the CrPC<sup>4</sup>. According to Amnesty International's annual report, police continue to use different types of torture, including rape, severe bodily harm, ill treatment, wrongful detention, and many<sup>4</sup> other offenses included by the Indian Penal Code, 1860. <sup>5</sup> Suspects have been subjected to physical and psychological torture in India for many decades. Among the suspects or prisoners in police custody.

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<sup>3</sup> Benedict Emesowum (5 December 2016). "How to Identify Cities or Countries at Risk of Police Violence." The Journal of African American Studies is a publication dedicated to the study of African Americans.

<sup>4</sup> United States Department of State • Bureau of Democracy, Human Rights, and Labor • Country Reports on Human Rights Practices for 2018

## **Causes of police of brutality**

The causes and factors that contribute to police misbehavior are varied and complicated, and in many cases, they are likely not fully understood. Improper training and a lack of accountability are two issues we find that lead to a culture of police misconduct.

### **1.Institutionalized Training:**

Law enforcement must guarantee that training methods are constantly updated to ensure officials focus on safe detention and only use fairly required force. Many law enforcement officers will continue the same thinking process, which now leads to innumerable police brutality incidents, without adequate training and continuous reform.

### **2.Failing to respond and punish:**

Were you aware that about 99% of police killing cases go uncharged and punished without the officer? A 99 percent ratio of justification for killing a member of the public fatally raises real issues about whether officials are accountable.

It is important to make officers responsible for their acts, because they are guilty of misconduct. Police officials have the authority, as well as the deference to the law, to use force, but our constitutional rights are equally vital to be free of unjustified use of force. Only if officials who use disproportionate force in violation of the constitution maintain this essential balance.

### **3.Job Stress on the Whole:**

The stress of the work might lead to acts of police brutality in some circumstances. In a difficult circumstance, if a law enforcement officer or agency perceives members of the public as unsympathetic or even antagonistic to their position, they may act out of stress. As a general rule, police officers should have a confidant to whom they can confide about the hardships of their profession and should not grow isolated.

### **4.Protect Your Civil Rights with a Caring Legal Team:**

Our Cleveland civil rights lawyers at Spangenberg Shibley & Liber LLP are prepared to assist you in navigating a tough circumstance. Every step along the way, we'll be at your side, fighting for the compensation and justice you deserve.

### **5.Brutality is defined in many ways:**

The unfortunate reality discovered by our police brutality attorneys is that the concept of excessive force is in the eye of the beholder. According to one officer, using reasonable force includes using gentle hands if a license is not produced when requested. The same degree of resistance to another police implies the officer can drag the group through a window.

### **6. Law Enforcement is Becoming Even More Militarized:**

Local law enforcement officials are armed with weapons capable of overthrowing a tiny country. The use of highly armed SWAT team involvement has increased to between 50,000 and 80,000 instances each year, and many local and state authorities have developed a "we vs. them" mentality toward the people they are intended to help.

### **7. Settlements are Paid by Taxpayers:**

If an officer is determined to be responsible for brutality, the settlement is usually paid out by municipal money. The ultimate outcome may be that the public pays the officer's salary, the settlement, and a third charge to the police defense funds. Residents of larger towns frequently have to pay tens of millions of dollars a year to cover police wrongdoing.

### **National Human Rights Commission (NHRC)**

The National Commission for Human Rights and the State Commissions of Human Rights are authorized to adopt Suo moto cognition or on the basis of petitions on issues of human rights violations. It has the authority to intervene in all areas relating to human rights violations such as court procedures, summons of witnesses, procurement of documents and evidence, detention facilities, jails and lockups. Any death in police custody has been made obligatory for the Commission to be submitted for inspection regardless of natural or other cause of death. In all situations of police cases, the Commission pays compensation as a standard for the victim. The NHRC was a weak mechanism, as it was merely recommended. The legislation does not provide the committee the ability to investigate allegations against members of the armed forces of human rights abuses. The army, navy, air force, central armed police, border security forces are part of the armed forces. 8 After the 2010 report, no NHRC reports are available. In the 2009 NHRC report, 67,354 human rights violations instances, 1330 deaths in custody, 2 custodial rape and 83 false police encounters were reported out of a total of 68,779 recorded cases.<sup>5</sup>

The Commission has no binding power and no mechanism for implementing the decisions of the Commission. It might advise the Government simply to take action against the culprit or to offer the victim with relief. The government has the power to accept or reject the application. The committee must not force the government to adhere to its recommendations. It can contact the higher courts exclusively and seek guidance.<sup>6</sup> In a large country such as India, the institution such as the National Human Rights Commission is distant from being on the scene in many situations. In remote regions where people are less educated and knowledgeable there are a lot of police brutality. No reaction was made to the NCP findings because the state was not ready to accept and the politicians were able to influence the police more under the present system.

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<sup>5</sup> <https://data.gov.in/resources/stateut-wise-cases-registered-against-police-personnel-human-rights-violation-during-2016>

<sup>6</sup> Pranjape, N.V. (2008). Criminology and Penology. Allahabad: Central Law Publications.

## **THE NATIONAL POLICE COMMISSION (NCP)**

Prior to the declaration of an emergency, no significant steps were taken to rein in police misbehavior. The NPC was founded by the next Government following the Indian National Congress, which experienced police brutality during the emergency. The major task of this committee was to carry out a complete police review in order to create a new police system, both in its capacity as a law enforcement agency and as a public rights organization. The most essential objective was to suggest methods and structures to avoid police abuse of authority and police abuse of prominent individuals and politicians. From 1979 to 1981, the committee issued eight findings, however these suggestions were ignored owing to a lack of effort on the part of the ruling party and the political atmosphere at the time. The NCP recommended in its first report that there be a separate mechanism for investigating complaints against police officers, either by an independent agency or by any superior officer of the department, and that cases of custodial rape, custodial death, or fake encounters be investigated by judicial authority.<sup>7</sup>

The NCP's second report proposed the formation of a "Criminal Justice Commission" to oversee the performance of various branches of the police department and to take remedial action where required. The police statute must be changed to prevent political parties from exerting undue and illegitimate influence over the police. The police's job is to be impartial and lawful in order to enforce the law. The third report advocated establishing distinct investigative wings for backward societies such as scheduled castes and scheduled tribes.<sup>8</sup> The most critical suggestion in the previous report was to remove the protection afforded to police officers under sections 132 and 197 of the CrPC. politicians could wield greater power over the police under the present system, and no one wanted to give up that power.

## **SUPREME COURT DIRECTIVES**

In the case of Prakash Singh versus Union of India<sup>9</sup>, the Supreme Court of India issued a historic decision that handed the federal and state governments seven directions to reform the police.

1. Establishment of a State Security Commission.
2. Appointment of a DGP based on merit and in a transparent manner.

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<sup>7</sup> 168, 169 National Human Rights Commission Report (2002-2003) (New Delhi, 2003).

<sup>8</sup> Custodial Deaths in India, A.K. Saxena, P.S.V. Prasad, and Sankar Sen, 1994. (A Research Study),

<sup>9</sup>The Law Commission of India's One Hundred Thirteenth Report On Injuries in Police Custody, Report Number 113th (1985)

3. A two-year minimum tenure for police officers performing operational tasks.
4. Separation of the functions of inquiry and law and order.
5. Establishment of a Police Establishment Board to make decisions on transfers, promotions, and other relevant services.
6. Establishment of a Police Complaints Authority at the state level.
7. Establishment of a National Security Commission at the union level

Only Directives 4 and 6 are important to this study since they provide responsibility for police officers while also assisting in the prevention of violations of civilian human rights. Directive 4 addresses the separation of the functions of inquiry and law and order. Directive 6 addresses the establishment of Police Complaint Authorities at the state and district levels. The aim of this authority is to investigate citizen complaints against police officers for any wrongdoing during their duty, including police atrocities. It then examines the problem using state machinery and recommends the proper authorities for any penalty that may be imposed. It can even request that a FIR be registered against the offending police officer. The PCA recommendations are legally binding on the state. The jurisdiction of the district PCA is limited to the investigation of police officers up to and including the rank of Deputy Superintendent of Police, whereas the jurisdiction of the state PCA includes all matters involving any police officer up to and including the rank of Superintendent of Police. According to the 2016th edition of the Commonwealth Human Rights Initiative (CHRI)<sup>16</sup>, 23 states have already formed PCA at both the state and district levels, but only six states have members appointed in a transparent way. The PCA's recommendations are only binding in nine states.<sup>10</sup>

## CONCLUSION

Suspects, prisoners, and undertrials are frequently treated as animals by police. They are unconcerned about these people's human rights, and their misbehavior results in custodial murder, custodial rape, serious bodily harm, unlawful detention, false incarceration, and other forms of police misconduct. Legislators have granted immunity to police officers in order to protect them from prosecution. To hold the police accountable for their serious wrongdoing, strict legislation must be enacted. With the police system being changed on a regular basis, there is still hope that one day the police system will be fully reformed, with no cases of police personnel violating human rights. The biggest perpetrators of police brutality are power-hungry politicians who utilize these cops as their lap dogs. Despite the Supreme Court of India's directives, it takes decades to fully execute any rule that regulates police conduct. Politicians do not want the police to be reformed because a reformed police system will take away their power over the police. People should be informed about the rights that they have under various legislation. They should be allowed to exercise their rights in order to prevent infringing on their human rights by anybody, including

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<sup>10</sup>Compliance with Supreme Court Directives on Police Reform, Commonwealth Human Rights Initiative (CHRI), November 30th, 2016.

police personnel. With the recent implementation of several legislations, the police can now be held liable for any misbehavior. If any of the people' rights are violated by police officers, they must file a complaint with the proper authority. Human rights are inherent in everyone, and no one can take them away or infringe on them.<sup>11</sup>



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<sup>11</sup> (2006) 8 SCC 1