

DE JURE NEXUS LAW JOURNAL

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2nd Year, BA LL.B.**BRUTALITY OF LAW ENFORCING AGENCIES LEADING TO
INCREASE IN CRIME RATES IN INDIA**

“Unfortunately corruption is widespread in government agencies and public enterprises. Our political system promotes nepotism and wasting money. This has undermined our legal system and confidence in the functioning of the state.”

De Jure Nexus
George Popandreu

According to the social contract theory the people in the society experiencing intensive violence and instability on the desire to establish peace and harmony, unanimously decided to give up certain powers to make someone, hold the accountability to regulate the citizens at large. Well, all of this may have started as a sacred practice of providing someone the authority to govern over the others, with time it has evolved to a humongous extent. At some instances the failure of the government has led to the large scale devastation of the public at large. This often got followed by dysfunction of the various agencies of the government who unlike in a peaceful and stabilized atmosphere rather suffices the government as well as its top brass to function in a way which will be for the benefit of its citizens.

In Leviathan, by Thomas Hobbes again, where he has considered state as a mighty creature called Leviathan who is expected to subsume human behavior and everybody in whatever circumstances may be has to abide by the orders of the state or the king and the same should be considered a sovereign, people even if wished couldn't revolt against it. Leviathan which was bestowed with all authority and power to make the citizens aware of their duties more than rights now along the past century has undergone a great deal of transition in the most negative and destructive way possible. There are instances which accentuated the undue, uncontrolled and unregulated use of power by government agencies of course with due authorization from the government.

The incident of massacre carried out by the People's liberation Army after the Tiananmen Square protests by the students against the communist regime in China is still a dreadful and glaring instance in the eyes of the human rights activists. Issuance of Martial Law was the course of action adopted by the government and efficiently executed by the People's Liberation Army, which is technically a government agency.¹

The Playing Ground

In the recent past the entire world witnessed an heart boggling instance of police brutality in one of the most successful, empowering and glorifying democracy of the world. Yes, the George Floyd incident which triggered a wide scale protest mostly among the African-American citizens, who to some extent, though less than the past has been exposed to a great deal of discrimination in a country dominated by the whites.² In a matter of time there was mass escalation of the intensity of the protests in some of the prime as well as sub urban cities of the United States. The consequences of it ranged to an humongous extent and certain criminal activities were reported as well as videos of it uploaded on the social media. Certain ill elements taking the advantage of the protest and under its cover resorted to a number of criminal deeds. Shops were looted in places where escalation of the protest was at a different level. Along with this a number of acts of violence and lawlessness were witnessed and reported. We can understand the chronology of these criminal acts which are part of the aftermath of the policies which is a government agency.

India's Footing: Is it a status quo

Indian society is largely unorganized and we often feel homesick if we are not around this cosmic chaos happening around us. In the present times, there is a great deal of evolution which has taken place. The working of, if not all but certain governments have improved in great folds. But as history suggests, what we are today, immensely depends on what we were yesterday. The policing process of the government functioning as of today was not so, half a century back. The time when India emerged as a landscape covered by the dark clouds of emergency always accentuates the failure of our governments and its agencies. The period of 1975 and prior to that, certain acts which were passed by the Union Parliament for the proper stabilization of the Indian administrative structure and at the same time streamlining and channelizing the law regulating machinery. One among them was the Maintenance and Internal Security Act³, which was misused during the period of emergency to turn the tables in favor of the ruling party or the Prime Minister in general. The police was used for all sorts of ill deeds in the name of maintaining peace and harmony, where innocent people and opposition party leaders were arrested for up to 3 months without even facilitating them with proper periodic review or judicial oversight.⁴ A number of people were falsely detained, without any sort of deviancy reflected by them. You are evil if you are speaking against the government, good or bad doesn't matter. Certain studies based on the issue of falsely arresting someone has come forth which say that 19 out of 30 people undergo persistent personality changes as a vital part affecting their physical, mental structure. A number of people going through this incident suffer

¹ Available at: <https://www.history.com/topics/china/tiananmen-square> (Last Visited: 8 August 2021)

² Available at: <https://time.com/5847967/george-floyd-protests-trump/> (Last Visited: 8 August 2021)

³ Available at: <https://www.india.com/education/emergency-in-india-during-1975-atrocities-and-acts-during-emergency-1581724/> (Last Visited: 12 August 2021)

⁴ Available at: <https://www.hindustantimes.com/analysis/why-it-is-critical-to-review-preventive-detention-laws/story-OuN05iXpk3OZS9nrkSStUN.html> (Last visited: 13 August 2021)

catastrophic trauma. This incident also triggers certain other negative qualities to accentuate within a person. Like, it makes the person less compassionate, they lose the desire to help others and develop a hostile and mistrustful attitude.⁵ Any reasonable man will be well within his limits to understand that the above mentioned characteristics lead to rise in criminal activities, that can be of any type: Class I, Class II, Class III etc.

The emergency was the pinnacle of a gradual process of dismantling the government or public infrastructure. The demeaning of authority and politicization of every level of government, injected politics with people having criminal ties. A slew of political intimates having close ties with the congress, mostly goons particularly in acquaintance with the Prime Minister's younger son. These became power holders and were given ample authority during the period of emergency. India experienced a dramatic surge in the political and social sphere, which came to be known as the "Sanjay Culture", which surfaces the opinion of various political intellects that a large number of offenders were given to rule upon.

Positives to note

India is a diverse country in all forms may it be religion, linguistics, culture etc., Political aspirations of the people also vary from state to state, with this changes the political environment of a state, which can range from the worst of being in a state of lawlessness to a state of stability, peace and harmony. The state of Uttar Pradesh inclusive of the people staying there, till 2017 did experience a period no generation would want the next ones to experience. No going out after 7 pm, no 24*7 electricity, the authority of the goons legalized by giving them positions of administration are some of the unspoken provisions provided by the political parties who were in power before 2017. As we already know the government agencies who were the ones to be held accountable for any harassment faced by the normal hard-earning citizens of Uttar Pradesh, had to follow the directives of the government, which was also mostly constituted of the goons who were the power houses. Consequentially, there was no control on law and order and thus Gundaraj prevailed.

With the advent of the Yogi led BJP government in Uttar Pradesh in 2017. The government agencies rather machineries, most importantly the police was instrumental in eradicating the goon culture. Previously riots, murders, extortion, kidnapping was sort of a daily chore, but it was not after the formation of a new government in 2017. Major focus was led on controlling crime and keeping it as low as possible. According to a report more than 1200 encounters were conducted. When this is considered by many pseudo human rights activists as a mass violation of human rights, the public of Uttar Pradesh are experiencing situation just the opposite, a peaceful and stabilized life. Many of the goons have either fled or have made themselves employed in certain daily chores or businesses. This was an instance which made a fact fully clear that there is a positive backing from the government in power these things are always aligned in a way which is desirable.⁶

⁵ Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7838333/> (last visited: 13 August 2021)

⁶ Available at: <https://indianexpress.com/article/india/removed-jungle-raj-no-riot-in-uttar-pradesh-yogi-adityanath-on-six-months-in-office-4851598/> (Last visited: 14 August 2021)