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THE RACIAL PREJUDICE AMONG THE CRIMINALS IN INDIA

ABSTRACT

The cultural fusions of India have been recognized as some of the most intricate, encompassing religion, castes, clothing, cuisine, and language. Due to its rich culture and high rates of violence, the nation has experienced a significant setback. As a result of identity derived from race, religion, caste, and gender, racial violence, mob lynchings, hate crimes, and discrimination are on the rise. According to race-based conflict theory, minorities will face significant, institutionalized prejudice in the justice system of criminals. The authorities, police, and the custodians of the law, who are responsible for upholding, fail to fulfil their duties and differentiate individuals according to their religion and ethnicity. They are obligated to ensure that the law is enforced impartially and that human rights, property, life, and liberty are protected. Globally, men, women, and children are branded criminals, lawbreakers or terrorists based on ethnicity, race, or skin colour.

Keywords :

Crimes, criminals, discriminations, prejudice, rights.

INTRODUCTION

Part III of the Indian Constitution guarantees fundamental rights to all citizens, regardless of caste, gender, religion, or faith. Human rights are fundamental freedoms and rights that every person needs to live a dignified life. The Indian Constitution's preamble guarantees the satisfaction of every person in the country by pledging justice and free speech, religion, and belief. India has ratified the Universal

Declaration of Human Rights. The judiciary, one of the three branches of government, has emerged as a proponent of human rights in India. It carries out this responsibility primarily by creatively interpreting and applying the Constitution's human rights provisions. Race-based conflict theory predicts that minorities experience severe institutionalized discrimination in the criminal justice system in India, despite significant increases throughout the human rights spectrum.

According to Article 10 of the Universal Declaration of Human Rights (UDHR), "Everyone is entitled in complete equality to a fair and public hearing by an independent and impartial tribunal, and the determination of his rights and responsibilities, as well as of any criminal allegation against him." It is essential for those who encounter the criminal justice system as accusers, suspects, convicted offenders, or convicts to have a right to justice.

Furthermore, "discrimination based on race, religion, sex, language, national or social origin, birth place, etc., is prohibited under Article 2 of the Universal Declaration of Human Rights. The International Covenant on Civil and Political Rights Article 2, the International Convention on the Elimination of All Forms of Racial Discrimination Articles 1, 2, and 5, and the Convention on the Rights of the Child's Article 2 all provide the same protection. Racial profiling is a heinous kind of discrimination that violates these laws"¹.

POLICE

The Indian police have been since 1843, but they still have trouble adjusting to the country's diverse caste, class, gender, and religious cultures. As a result, racial profiling is used against the vulnerable population. The 2018 Status of Policing in India Report states that, this may be because of inadequate training, inadequate sensitization, or inborn biases within the workforce.

Laws claiming to be race- or descent-neutral may discriminate against disadvantaged minorities or even majorities due to prosecutorial discretion, sentencing guidelines, or their structure. The ensuing effects on specific groups based on descent may be far more severe than the individuals of these groups taking part in the overall criminal behaviour pattern.

In **Tehseen Poonawalav. Union of India**, the Supreme Court issued directives to the Central Government and the Police. Official sensitization was also included in these instructions. However, the truth is that India's police officers lack enough training in caste awareness, human rights issues, and crime preventative measures. The study emphasizes that just 6.4% of the police force has

¹ Diva Rai, *An Analysis to Racial Profiling Vis-À-Vis Police Bias*, iPleaders (2020).

undergone in-service training during the past five years. Staff at the constabulary level do not receive any in-service training, except for senior officers.

In the administration of justice, including police, criminal prosecutions, sentencing, trials and incarceration, there is discrimination, may have profound adverse effects on people and society. Prosecutors and the legal system often discriminate against minorities and vulnerable groups, incarcerating them arbitrary, and abusing them.

In numerous nations, police disproportionately target members of marginalised groups for arrest. Members of these groups may experience unjust trials, and excessively prosecution or harsh penalties as a result of the criminal charges levelled against them. These groups' members have limited access to legal remedies for abuse, and they are frequently subjected to humiliating treatment including beatings, sexual assaults, and gunshot deaths. Ostensibly race- or descent-neutral policies may disfavour weaker minority or even majorities due to prosecutorial discretion, sentencing criteria, or the design of the legislation itself. The ensuing effects on specific groups based on descent may be far more severe than the actual participation of members of these categories in the overall pattern of criminal behaviour.

CUSTODIAL DEATHS

Custodial death is a very worst cruel form of abuse. The phrase "custodial death" refers to any arrestee who passed away while being tortured by a police officer or other person in charge of their custody, whether it be police custody or magistrate custody. According to current Indian law, physical abuse in a detention setting has the same severe consequences as murder, rape, and other forms of abuse. All State Governments now have access to updated guidelines from the National Human Rights Commission.

According to the “Universal Declaration of Human Rights, every person should be considered innocent until proven guilty. The topics of torture and cruelty are covered under Article 5 of the Universal Declaration of Human Rights (UDHR),1948. No one shall be subjected to torture or harsh treatment, according to Article 5 of the UDHR, regardless of where they are in the world”².

In **State of U.P. and others v. Joginder Kumar**, The Court stated in this precedent-setting judgement that the rights guaranteed by Articles 21 and 22(1) of the Constitution must be recognized and upheld.

² Sneha Mahawar, *Custodial deaths - iPleaders*, iPleaders (2022), https://blog.iplayers.in/custodial-deaths/#Universal_Declaration_of_Human_Rights_1948_UDHR .

To safeguard the protection of these rights, the Court adopted a few rules. The judgement is significant because it acknowledges the individual's basic human rights and fundamental rights and offers a means of defending them.

In **State of Maharashtra v. Yashwant and Others**, The High Court of Bombay condemned nine Maharashtra police officers to three years in jail after they were found guilty of causing death in custody in 1993. The penalty term was increased from three years to seven years each by the Supreme Court, upholding the high Court's decision.

The National Human Rights Commission (NHRC) has recently brought attention to an alarming statistic regarding deaths in custody between 2021 and 2022. According to the NHRC, there were 155 incidents of fatalities while in police custody and 2,150 cases of fatalities while in court custody³.

POLITICAL INFLUENCE

The police are reduced to becoming passive bystanders as crime is committed due to the obstruction of the political parties in the inquiry. Although police are not directly engaged in some instances of the oppression of religious and racial minorities, their inaction makes them the target of violent racial profiling by those who hold the law in their hands. The research also states that 28% of police employees think political pressure is the most significant obstacle to conducting effective criminal investigations⁴. While looking into instances involving influential people, 72% of police officers have been under political pressure.

Prakash Singh v. Union of India argued that those with influence could avoid the justice system's grasp even when blatant legal violations occur. This directly violates the rights of citizens from economically and racially underprivileged groups through unjustified detentions, torture, harassment, and other forms of unfair treatment, as well as through fabricated evidence and malicious prosecutions.

WOMEN

Our society has a dualistic view of women. On the one hand, we glorify women as revered deities, while on the other, we oppress them and drive them to the perilous peripheries of society. A girl child

³ India Today, *Press Trust of India*, India Today (2022).

⁴ Diva Rai, *An Analysis to Racial Profiling Vis-À-Vis Police Bias*, iPleaders (2020).

is not permitted to live her life in the community in which we live. One of the highest incidences of crimes against women is in India. Women are only employed as sexual objects or for domestic tasks in India. In our culture, women are not even safe in their own homes. Thus, the situation is particularly noteworthy when a woman gets accused of a crime. The agony of being separated from their children and other family members is even worse than their punishment⁵.

In the **case of Rameeza Bee (1978)**, In this instance, lady Rameeza Bee, age 26, and her husband were detained in Andhra Pradesh. She was detained in the police station for a short while before the three officers sexually assaulted her there and only there. Because he had engaged in some demonstration, her spouse was brutally beaten to death.

Women neither have protection in police stations nor jail. It's horrendous. In her book "It's Always Possible," Kiran Bedi describes how women convicts at the Tihar Jail were exposed to the most humiliating experiences, which deprived them of what little dignity and self-respect they had coming into the institution. The fact that these women could maintain their sanity in the face of such tremendous obstacles must be seen as some miracle. According to a government of India study on "Women Prisoners and their Dependent Children" in UP, there were over 200 women incarcerated in the vicinity of 60, of whom only 20 were found guilty (April 2020). In jail, women also have more difficulties than males do. Women deal with issues including congestion, an unsanitary environment, losing sanitary products, etc. According to a study of prison-dwelling women, these women frequently endure horrific beatings and sexual harassment. According to the research, women in Indian society are treated with "universal apathy."

CONCLUSION

A structural change in the way society depicts and criminalises minorities is needed. If someone violates the law, it does not follow that they lose their humanity and are no longer entitled to the rights and freedoms essential to human dignity. Judicial activism has resulted from disturbing prison conditions and violations of fundamental human rights, including custodial deaths, physical violence/torture, police excess, degrading treatment, custodial rape, poor food quality, lack of water supply, poor support for the health system, failure to produce criminals to Court justified prolonged detention, forced labour, and other issues noted by the Supreme Court⁶.

⁵ Harsh Vardhan, "Human Rights and Women Prisoners in India: With Emphasis on their Living Condition Issues," 7 (2020), <http://www.penacclaims.com/wp-content/uploads/2020/04/Harsh-Vardhan.pdf>.

⁶ Lawcian, *VIOLATION OF HUMAN RIGHTS OF PRISONERS*, Lawcian (2020), <https://www.lawcian.com/post/violation-of-human-rights-of-prisoners>.

To improve the state of law enforcement and foster the growth of citizens in the nation, the police, the government, and society all have important roles to play. Training and ongoing education have a significant impact on corporate behaviour and police training. The stature and effectiveness of the police force may be raised with assistance from all spheres of society, but especially from the media. In the event of a violation of human rights, governments should act swiftly to remedy the situation. The governments should formulate a uniform policy against law enforcement violating the Human Rights of the accused. In the event of human rights violations, governments should enact strict laws punishing the perpetrators.



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