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## Human rights and police interrogation

**Dr. Brinda**

Police are one of the main associations of the Indian social design. In an hour of need, a cop is the most fitting individual to approach. Police manages obviously express a police headquarters to be a powerful association where anybody can approach without a second thought. The standard likewise forces a significant work on police which is to support of the rule of law. This multitude of abilities vested into the police authority now and again prompts the abuse of such powers which thusly prompts infringement of essential Human Rights. In this article, we will manage the standards of police cross examination and how it once in a while disregards essential common freedoms.

During the course of interrogation of the accused the police officers may attempt to make the use of force to extract confessions which would help them to either find a new cause solve the case or may help find truth facts of the case also on ascertain the offender of the crime. However, coercing the suspect to form a confession of the crime against his will is unsuitable to the democratic found out of India. In order to serve this purpose, the Indian criminal justice system incorporates several provisions in its substantive and procedural laws to ensure the protection of the accused during interrogation, while in custody and until the completion of the trial. In addition to the legal rights of the accused, the Constitution of India bestows upon the accused protection against human rights violations within the type of Fundamental Rights.

### HUMAN RIGHTS AND POLICE INTERROGATION

The Police generally have the right to interrogate any accused person for a limited period of time with the permission of the court. Interrogation is completed so as to search the evidence or the other relevant information regarding the crime from the accused although, it's tough to extract such information as it could be fatal for the accused. Under such situations, police use various methods to bring out the reality.

These methods are sometimes accustomed such an extent that it's going to result in violation of the Human Rights and defeats the aim of the Criminal Justice System. Since the deterrent theory

of crime isn't followed anymore, the rights to punish vests with the court or the magistrate leaving the role of the police till the end of investigation.

Moreover, the Human Rights in India were violated during the period of Emergency, i.e., in 1975 when many people were detained by the police on the order of the Government without any warrant. Those who were protesting were tortured by the police officials during interrogation and there was no Audi alteram partem.

Police are one of the most important organisations of the society. The policemen, therefore, happen to be the most visible representatives of the government. In an hour of need, danger, crisis and difficulty, when a citizen does not know what to do and whom to approach, the police station and a policeman happen to be the most appropriate and approachable unit and person for him.[1]The police are expected to be the most accessible, interactive and dynamic organisation of any society. Their roles, functions and duties in the society are natural to be varied on the one hand; and complicated on the other. Broadly speaking the twin roles of the police are maintenance of law and maintenance of order. However, the ramifications of these two duties are numerous, which result in making a large inventory of duties, functions, powers, roles and responsibilities of the police organisation. Vesting of varied powers in the hands of police, while necessary to perform their duties on the other hand leaves door to misuse and hence infringement of Human Rights. This article will deal with Powers of Police, incidents of misuse of power, legislative checks and judicial control of police activities.

### **Definition of Police**

The term police have neither been defined in the Criminal Procedure Code nor in the Police Act 1881 nor in any State Police acts provides only the structure and organization of police force in the states.

Black's law dictionary defines "police" As (1) "the governmental department charged with the perversion of public order, the promotion of public safety, and the perversion and detection of crime" And (2) "the officers or members of this department".

The police force as an organized body came into being in England in the 1820's when Sir Robert Peel established London's first municipal force. Before that, policing had either been done by volunteers or by sliders in the military service.

The UN Code of Conduct for law enforcement officials defines “law enforcement officials”[5]As including all officials whether they are elected or appointed who exercise police powers, especially the powers of arrest or detention[6]and also include military personnel who exercise police powers whether they are allotted with police uniform or not.

The term “police” can simply be defined as any person or body of person created by the authority of the state, obligated and empowered to maintain law and order, prevention and investigation of crimes.[8]

### **International Commitments**

one of the important purpose of the UN charter is to promote and encourage human rights and fundamental freedom which is also included in International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

Article 3 of the UDHR provides:

Everyone has the right to life, liberty and security.

Similarly, Article 6(1)of the ICCPR provides:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 5 of the UDHR provides:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Further right to equality before law and right to effective remedy for acts violating the fundamental right have been guaranteed Article 9 of the Declaration provides:

No one shall be subjected to arbitrary arrest, detention or exile. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligation and of any criminal charge against him. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in public trial at which he has had all the guarantees necessary for his defence. No one shall be held guilty of any offence on account of any act or omission which did not constitute a penal offense under national or international law at e time when it was committed.

**Article 7 of the ICCPR further provides:**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

It has been further provided that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. The right of fair hearing and equality before the courts has also been guaranteed.

In addition to this, there are standard minimum rules for the treatment of prisoners; declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment; convention against torture and other cruel, inhuman or degrading treatment or punishment and code of conduct for law enforcement officials.

**Nature And Extent of Police Atrocities:**

Due to continued police brutality and torture during the past two decades it seems that custodian of law have become the law-breakers. After the eighties the police seem to be more concerned with lathi-wielding attitude and its brutality and use of third degree methods by it has become the order of the day. The mounting police atrocities and other repressive measure are the instances of violations of human rights.

**I. Police atrocities during emergency:**

During the emergency period in march 1976, a satyagrahi was taken into custody by the police, but no case was registered against him. He was kept in illegal confinement for a few days during which he was subjected to various kinds of physical torture like stamping on the bare body with heeled boots, beating with cane on the bare soles of feet, beating on the spine, beating with rifle but inserting live electric wires into body crevices, burning with lighted cigarettes and candle flame, etc.

In Kerala, police atrocities took ugly turn when all prisoners were stripped to their underwear and beaten by group of 10 to 12 constables. No food was provided while in custody. If physical

signs of beating are too obvious they were not produced before a magistrate but moved from station to station. Madhya Pradesh was such a state where maximum number of prisoners were kept in jail during the operation of emergency. In Gwalior district jail, political prisoners were kept along with notorious dacoits and were allowed to be abused by them.

## **II. Nature of police atrocities-after eighties:**

After 1980, police has resorted to more repressive techniques as not to leave any scar of police atrocities on the body of victims. Even minors were not spared at the hands of police. Young boys were supplied to convicts for their delectation, some tortured into impotency, hanged upside down, ruthlessly beaten, given electric shocks etc. Brutal methods were adopted for forcing confessions.

## **III. Death in police custody:**

After the seventies death in police custody has become very common. These deaths are usually the result of torture to extort information or to teach the person concerned a lesson.

## **IV. Torture:**

It is a common fact that police brutality and torture have long been widespread throughout India. Such methods are frequently used when people suspected of ordinary criminal offences are interrogated by the police. In order to extract confessions or for purpose of intimidations the police use extreme type of physical harm to the suspected persons. Torture is reported to have taken place in police stations although a few cases of beating in prisons have also been reported.

## **V. Atrocities against women:**

The Mathura rape case was an incident of custodial rape in India on 26 March 1972, wherein Mathura, a young tribal girl, was raped by two policemen on the compound of Desai Ganj Police Station in Chandrapur district of Maharashtra. The Supreme Court ruled in *Tukaram Vs. State of Maharashtra*, [18] that there were no injuries on the person of the girl, which meant that she did not put up resistance and that the incidence was a "peaceful affair". After the Supreme Court acquitted the accused, there was public outcry and protests, which eventually led to amendments in the Indian rape law via The Criminal Law (Second Amendment) Act 1983 (No. 46).

## **Rights Interpreted By The Court:**

### **I. Right to remain silent:**

India follows adversarial system of trial proceedings[19] in which accused person is presumed to be innocent until the guilt is proved before the court beyond reasonable doubt. As the burden in this system lies on the prosecution and in turn on the police to prove the case before the court to such an extent to remove the shadow of doubt, the police who follow unscientific investigation through torture, threat, assault, harassment, etc. as methods to elicit confessions, facts and information from accused and witness of crimes. The accused has a right to confess or remain silent. However, the right to remain silent is not expressly provided under the Indian constitution. Article 20 (3) protects persons from self-incrimination thereby avoiding to be witness against himself in a crime. The supreme court has interpreted the right to remain silent as implied under article 20(3).

In *M.P. Sharma v. Satish Chandra*, [20] the court held that a person, whose name was mentioned as an accused in the first information report and an investigation was conducted by the police on the basis of that report, could claim the protection as ‘accused of an offence’ under article 20(3).

### **References**

- [1] INDIA CONST art. 20, cl. 2
- [2] *M. P. Sharma And Others V Satish Chandra*, 1954 AIR 300, (INDIA)
- [3] *Babubhai vs State Of Gujarat & Ors*, 1985 AIR 613, (INDIA)
- [4] *Bhim Singh, Mla vs State Of J & K And Ors.*, AIR 1986 SC 494, (INDIA)
- [5] *Prem Shankar Shukla vs Delhi Administration*, 1980 AIR 1535, (INDIA)
- [6] *Francis Coralie Mullin vs The Administrator*, 1981 AIR 746, (INDIA)

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