**DWPS GLENGAZE MUN**

**AGENDA-**

Discussion on police brutality in India and new legal reforms to strengthen the justice system.

**LETTER FROM THE EXECUTIVE BOARD**

It is a pleasure for us to be moderating young minds like yours at DWPS MUN in AIPPM. The agenda is sensitive and is what each one of us has been seeing or at least hearing of in our surroundings. Police brutality is a mass problem that is left un-discussed by the public in fear of authority and power. It is high time that this issue gets the required attention and proper legal reforms be made. The list of acts where police officers blatantly ignored their jurisdiction of authority and did criminal events and got away free are innumerable. We look forward to having some concrete solutions and suggestions and hope that the portfolios will act under decorum. Hoping to have a good and productive session, see you all on 22 august 2020.

Adi Sharma- Moderator

Gaurav Mendiratta- Deputy Moderator

**INTRODUCTION**

In the beginning of Iockdown, families sat and watched videos and clips of police officers ‘punishing’ violators — raining lathis, making them do sit-ups and hop like frogs. On social media, corn menters approvingly wrote, *“Yehi hona cho hi ye aise logon ke saath* (such people deserve this treatment)” happy in their ignorance that their support is not for ‘justice’ but for a system of oppression, which could make them one of its victims too.

The police were clearly flexing their muscles on the poor by forcing them to do these humiliating acts that the public and media cheered without batting an eye. Many roadside shopkeepers and people who had stepped out of their homes just to buy milk and vegetables — termed ‘essential goods’ by Prime Minister Narendra Modi at the start of the lockdown — were beaten up black and blue, with some even allegedly dying as a resuft of the beating. The rage was justified as police ‘just doing their duty’.

The concept of justice in India is itself violent, with people baying for blood by calling for public hanging of the accused. The common opinion for the police to teach criminals a lesson, instead of taking them through the defined course of justice and correction, Is very strong. The widely celebrated act of Telangana Police shooting dead four people accused in the Hyderabad rape case in December 2019 is a case in point.

**LEGAL ACCOUNTABILITY OF THE POLICE IN INDIA**

In the past three decades, several measures have been initiated to make serious police reform& The National Police Commission submitted eight reports between 1978 and 1981 making various recommendations, but little action was taken to implement them. In the case of Vineet Narian v. Union of lndia4 the Supreme Court noted the urgent need for implementation of these reforms, following which the Ribeiro Committee submitted two reports, in 1998 and 1999, the Central Government appointed Padmanabhaiah Committee Report in 2000 and Malimath Committee Report in 2002.

 All of these reports culminated in the Prakash Singh v. Union of India judgment of the Supreme Court. The judgment broadly deals with three aspects of police organization- autonomy, accountability and efficiency. The Supreme Court gave detailed directions which are to be followed by the Centre and State Governments until legislations in this regard are enacted. The corrections include :- (1) each State Government must constitute a State Security Commission to ensure that police are protected from illegitimate political interference. (2) fixing the selection and minimum tenure of Chief of Police (DGP); (3) minimum tenure of other police officers including Inspector General of Police (IGP), Deputy IGP, Supreintendents of Police in-charge of districts and Station Officers; (4) separation of investigation function from ‘law and order’ functions; (5) setting up a Police Complaints Authority; (6) setting a National Security Commission; (7) setting up a Police Establishment Board which will decide issues concerned transfers, postings, promotions and other service related matters of officers below rank of Deputy Superintendent of Police.

 Given the scope of this memorandum, we shall limit our discussion to the Police Complaints Authority.

To keep abuse of power in check, the *Second Administrative Reforms Commission,* 2009 had sought the establishment of an independent committee that looks into the complaints of police misconduct. A body that is outside the control of the Centre or State’s political executive, and one with adequate representation from the *Notional Human Rights Council* to check for human rights’ violations.

**RECENT CASES OF POlICE BRUTALITY**

**Jamia Incident. December 15.2019**

 **As the natonwide protests against** the center’sCAA and NRC**raged on the** country onDecember **15, 2019,** witnessed an obscene abuse of power, when armed police **and paramilitary** forces stormed the gates of Delhi’s *Jamia MIllia Islamia university***, to** forcibly quell **the student** protests The **students** watched in horror as the **agency entrusted** with **the** upkeep of law and order, shelled **tear gas,** rubber bullets. lathi-charged students **and vandalized campus** property. Media quoted hospitals saying they tended to students with bullet **wounds**There was video and photographic **evidence of the police** employing brute force against unarmed protesters and hurling ‘anti-nationalist slurs **at** them Students were evacuated from **the university In a** criminal-lea manner, **with** their hands over **thee head. This sparked nationwide** condemnations **and student blocs** across **India protested against Deli police’s, unwarranted** brutality.
**Nearly s** months **later, the Deli High** Court had scheduled **a hearing of pleas related to the violence during the Jamia protests, on june 12. 2020.** Counsels **representing Delhi police had sought the dismissal of pleas, stating that the** petitions **are an utter abuse** of PIL jurisdiction, and the violence was a product of a **well-planned** *attempt by some persons**with local* support.

**Northeast Delhi riots, February 23, 2020**

The communal riots of Delhi that claimed 53 lives, was another gory blotch on Delhi’s history that witnessed large scale bloodshed and violence. Out of the 53, two thirds were Muslims, and by mid-March, several from the community remained missing. The perpetrators of violence were pegged to be unruly Hindu mobs, bearing saffron flags, who fatally attacked several Muslim citizens unprovoked.

A viral video made rounds on social media where five men were seen lying on the ground, surrounded by armed policemen who were prodding them to sing the national anthem. One of the five, a 24-year-old named Faizan, a resident of Kardam Puri, later succumbed to his injuries. His family said he was misidentified by the police as one of the protesters when he was coming out of a mosque. Dr.

Kishore Kumar, medical director of *Lok Nayak Hospital* where Faizan was admitted, said he had suffered gunshot wounds.

The police are said to have registered an FIR following his death, which the family was denied access to. It is unlawful to keep someone in custody without a record. Faizan’s family received no documents regarding his detention or release, furthering police’s culpability. While the higher-ups had initially refused to comment on the incident, Joint Commissioner Alok Kumar was reported informing BBC that a probe has been launched into the incident, and that “*action will be taken against whoever was responsible*”. This was on March 3, 2020.

Victims recounted their spine-chilling ordeal where the police shoved *lathis* in their mouths, dragged them on the roads facedown and were subjected to inhuman assaults.

**Police Violence During Lockdown, April 2020**

The national lockdown to counter the impact of Corona virus pandemic was imposed on March 23, 2020, which immediately came into effect without giving citizens time to chalk out their plans for the next 30 odd days. The country was reeling under the effect of lockdown and the financially vulnerable were scrambling to find economic purchase to tide over the next month.

Merely a week into the lockdown, numerous reports of gruesome brutality at the hands of police surfaced. Since the pre-colonial times, the police’s first act of response is meting out *lathi*-charge to either punish or disperse crowds. Countless videos surfaced, showing policemen overturning vegetable carts, at a time when a large share of the population was going hungry. They were also seen beating up the hungry and homeless migrant workers who had decided on journeying back to their states on foot.

Across cases, the majority of victims of police brutality have been the socially and economically depressed groups, those whose voices are easily suppressed.

India’s attitude towards police violence has been retributive rather than preventive. Apart from merely flagging concerns, it is imperative to take policy actions that deconstruct police brutality and curb its normalisation. There is a growing need for a legitimate authority that will monitor police’s exercise and enforcement of laws, if the increasing custodial torture, deaths and rapes are anything to go by.

Other cases include-

**JAYRAJ AND PHOENIX CASE** OF TAMIL NADU WHERE THEY WER BRUTALLY RAPED AND KILLED BY POLICE OFFICERS FOR OPENONG THEIR SHOPS 2 MINUTES AFTER THE IMPOSED CURFEW TIME.

**ENCOUNTER OF VIKAS DUBEY** BY POLICE QUESTIONABLE CIRCUMSTANCES.

**WHAT CAN INDIA DO?**

However, the directions of the Supreme Court have fallen on deaf ears. The Justice Thomas Committee appointed by the Supreme Court for monitoring compliance with the Prakash Singh judgement expressed dismay in its 2010 report over the total indifference exhibited by the states. In 2013, the Justice Verma Committee, constituted after the Nirbhaya gangrape, also noted such non-compliance in its report and urged all states to fully comply with the top court’s directives so as to tackle systemic problems in policing.

More recently, data as on August 01, 2016 in a NITI Aayog document on police reforms in India betrays that precious little has been done to comply with the binding directions contained in the Prakash Singh decision, nearly a decade after the top court’s judgement. Only 17 states had passed legislations to amend the police statutes; this had not been done in 11 states, all the Union Territories and Delhi. In some of the states where there was no legislation, Police Complaints Authorities were constituted by way of government notifications. However, their composition in almost all states was at variance with the decision of the Supreme Court

Moreover, the recommendations of the Authorities were not binding in almost all states, contrary to the top court’s directive. The document also reveals that Bihar and Madhya Pradesh had not constituted state-level authorities, while Uttar Pradesh and Jammu and Kashmir had not done so either at the state or district levels. Odisha sought to vest the powers of the state authority in the Lokayukta and had failed to constitute the authority at the district level. This was also the case in various other states