

STANFORD PRISON EXPERIMENT, THE BROKEN WINDOWS THEORY AND POLICE IN INDIA

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Abstract

The research is an attempt to seek whether the experiment and theory propounded by Dr. Zimbardo applies to police officers. Evidence of violence by police in India exists by way of statistics and there are provisions in law to tackle the same. However, the problem of custodial death and violence is always on the rise. The research concludes by the emphasising the need of forming a central, national body that would regulate and keep check on acts of the police guarding prisons.

Dr. Philip G. Zimbardo, a professor of Psychology at Stanford University, in 1969 conducted an experiment. Abandoning two identical cars (with their licence plate removed and hood up) in two neighbourhoods- the crime-ridden and poor, the Bronx, New York and a posh and quite affluent, Palo Alto, California, it was found the car in the Bronx was vandalised within minutes of it being left there, all valuable parts stolen within 24 hours and as days passed, turned into a place of play for the children. However, the car in Palo Alto remained intact for a week. Zimbardo initially concluded that such a result was caused due to the conditions of impoverishment and crime in the Bronx, which otherwise did not exist in Palo Alto. One week after of the car being left in Palo Alto, Zimbardo smashed its windows with a sledgehammer. It received the same destruction as the other car and in days was “turned upside-down”. What does this mean? How could the members of an affluent neighbourhood as such indulge in such a behaviour? Zimbardo finally came to conclude that such acts were not a result of conditions prevalent in a neighbourhood, but because something that is neglected and untended for, transmits the signal: “here nobody cares about this, this is abandoned” (Rovira n.d.). In short, the experiment meant that absence of law and order encourages more crimes in any given

situation. The experiment got formally shaped into a theory by James Q. Wilson and George Kelling, the “Broken Windows Theory”.

Two years after, in 1971, Zimbardo conducted a Prison Experiment, converting the basement of Stanford University’s Psychology Department building into a “simulated prison”. After conducting diagnostic interviews and personality tests, Zimbardo chose a sample of 24 male college students from the U.S. and Canada, “healthy, intelligent, middle-class”, who happened to be in the Stanford area and wanted to earn \$15/day by participating in the experiment.¹ Divided between two groups, they were arbitrarily assigned the role of prisoner or prison guard. Zimbardo states he was particularly interested in the psychology of prisoners, how they would react when confronted by persons possessing absolute authority. Though, initially planned to last for a fortnight, the experiment was called off within a week realising the extent of abuse, dehumanisation and torture the prisoners were being subjected to.

What is the nexus between the above two experiments? And how do they apply to police authorities? What can be concluded from the analysis of the two is that a person becomes prone to a pathological, sadistic behaviour and turn into evil if there is no institution or order in place to fix his behaviour. The metaphor of a ‘broken window’ left unrepaired was to signal a sign of neglect and implied that no one would care if the other windows are caused to break too. This theory was developed to find that once a person commits a petty offence for which he was not caught, like escape ticket-fare, he will further commit an offence like theft and eventually a graver or heinous crime like murder for money. Similarly, a police officer, as shall be seen especially in India, may start by assaulting or intimidating a prisoner in jail and if not made accountable, may end up committing the offence of murder, *inter alia* many offences committed by the police as listed in the Indian law. What also does not prevent, or rather gives impetus to the police to go ahead with their acts is the fact that their initial acts of assault go unchecked (reference to the Stanford Prison Experiment, where Zimbardo, in the being of a research psychologist intervened only on the sixth day of the experiment and let the guards harass the prisoners treat them with inhumanity).

¹ Zimbardo, Philip G. 1999. “2. Setting Up — Stanford Prison Experiment”. *Stanford Prison Experiment*. <http://www.prisonexp.org/setting-up>.

Between 1 April 2017 and 28 February 2018, the National Commission of Human Rights registered 1680 cases of custodial deaths.² A 2016 report by the Delhi-based NGO Commonwealth Human Rights Initiative found that out of 1,387 jails across India, only five were monitored as required by the law, and only four states had appointed independent visitors in all their jails.³ Further, there is only one psychologist for every 23,000 prisoners.⁴ The Prevention of Torture Bill, 2010 was introduced in Parliament on 26 April 2010 to allow India to ratify the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. The Convention against Torture requires member countries to bring their domestic legislation in conformity with the provisions of the Convention. However, the Bill lapsed in 2014 due to inaction. Then, during India's May 2017 Universal Periodic Review (UPR) at the United Nations Human Rights Council, 35 countries raised the issue of torture in India. They called on India to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India had signed in 1997 but never ratified.

Apart from the Fundamental Rights enshrined in the Constitution, many provisions exist in the country to curb custodial violence.

❖ **Constitution of India:**

Article 21 Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law

Article 22 Protection against arrest and detention in certain cases

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for

² The Times of India. 2018. "1,680 Cases Of Custodial Deaths Registered By NHRC In 10 Months", , 2018. <https://timesofindia.indiatimes.com/india/1680-cases-of-custodial-deaths-registered-by-nhrc-in-10-months/articleshow/63299768.cms>.

³ Bajoria, Jayshree. 2017. "Getting Away With Torture In India". <https://www.hrw.org/news/2017/08/20/getting-away-torture-india>.

⁴ Alluri, Aparna. 2016. "The Condemned". *The Hindustan Times*, , 2016. <https://www.hindustantimes.com/static/prisons-in-india-condemned/>.

the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate

❖ **Indian Penal Code, 1860**

Section 330

Voluntarily causing hurt to extort confession, or to compel restoration of property.-Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 331

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.-Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section 376

Punishment for rape.

(2)(a) provides that a police officer can commit rape and punishment for the same.

❖ **Code of Criminal Procedure, 1973**

Section 76

Person arrested to be brought before Court without delay.

The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 71 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person: Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

The NHRC in 1993 formulated a set of guidelines “On Custodial Deaths/Rapes”. The guidelines are about post-mortem and autopsy reports to make investigation easier that whether the death had occurred natural circumstances or otherwise.

Following the case of State of U.P. v. Ram Sugar Yadav, the Law Commission of India in its 113th Report recommended the introduction of Section 114-B to the Indian Evidence Act. The proposed law was:

“114B. (1) In a prosecution (of a police officer) for an offence constituted by an act alleged to have caused bodily injury to a person, if there is evidence that the injury was caused during a period when that person was in the custody of the police, the court may presume that the injury was caused by the police officer having custody of that person during that period.

(1) The court, in deciding whether or not it should draw a presumption under sub-section (1), shall have regard to all the relevant circumstances, including in particular, (a) the period of custody, (b) any statement made by the victim as to how the injuries were received, being a statement admissible in evidence, (c) the evidence of any medical practitioner who might have examined the victim, and (4) evidence of any magistrate who might have recorded the victim's statement or attempted to record it”.

The report emphasised the need to amend the law appropriately so that policemen who commit atrocities on persons who are in their custody are not allowed to escape by reason of paucity or absence of evidence. However, it has not been inserted in the Act.

In *Nilabati Behera v. State of Orissa*, the Supreme Court observed: “A custodial death is perhaps one of the worst crimes in a civilised society governed by the Rule of Law (and) the defence of “sovereign immunity” in such cases is not available to the State”⁵.

In *D.K. Basu v. State of West Bengal* too, the Court observed: “Custodial violence, including torture and death in the lock ups, strikes a blow at the Rule of Law, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law”⁶. In light of the increasing incidents of custodial deaths and violence by the police, in this case, the Court laid down 11 specific procedural guidelines that the police and other agencies have to follow for the arrest, detention and interrogation of any prisoner.

As evidenced by the statistics, custodial deaths and violence practiced by police should be a serious case, but that is not so in the country, even after provisions to tackle the problem exist. Therefore, there is an immediate need to research on this topic to raise issue and draw attention of the legislature to promulgate guidelines to regulate such acts of violence of the police.

Norway, is one of the few countries that does not permit its police possess firearms. It is therefore, of no surprise that police officers in Norway have to undergo a training of three years to be qualified for the post and training is very extensive that the police can face the criminals or prisoners and bring them under order, even without the use of guns. This is opposed to countries like the USA which requires only nineteen weeks of police training, using weapons akin to military ones like grenades, and launchers and India where candidates are not given much physical training to counter such situations is completely neglected.

In Iceland, the police are punished for shooting and killing a citizen. The police are sent to mandatory training and removed from their field training programs for shooting a suspect to death.⁷ The police officers are also sent to seek grief counselling to deal with the burden of taking an irreplaceable human life. The Icelandic police do not shoot to kill suspects for public pageantry or heroism even in circumstances that can be considered justifiable and necessary. Rather, the Icelandic police protect human life without the use of guns, and “the practice is

⁵ 1993 AIR 1960

⁶ *Shri D.K. Basu, Ashok K. Johri vs State Of West Bengal, State Of U.P* on 18 December, 1996

⁷ William Wallace Grigg, ‘What’s Wrong With Police In Iceland?’

<<http://freedomourtime.blogspot.com/2013/12/whats-wrong-with-police-in-iceland.html>> accessed 18 September 2018.

rooted in tradition and the belief that arming the police with guns engenders more gun violence than it prevents”⁸.

Though, developed to seek the behaviour of a petty criminal in absence of order, the research shows that the Broken Windows Theory can be applied to police officers to obtain the same results. Also, like in the Stanford Prison Experiment, the police guarding prisons have practiced acts of torture against the prisoners. The research leads to the conclusion that that there is an urgent need to form a central, national body that keeps check on the police guarding prisons and formulate guidelines to prevent violence. The plight is that even after there being legislations, police officers are not tried under them and the prisoners have to seek writ petitions under Articles 32 and 226 to stop the offences the being committed against them and seek compensation. Even after there being a mechanism to register case of death or disappearance against the police, backed by statistics for the same, conviction rate of police officers all these years has been zero. Taking inspiration from the Norwegian and Icelandic police, India should develop its very own model of preventing custodial violence and fixing the problem from the roots. A proposed model “National Body to Control Custodial Torture” could incorporate the following suggestions:

- 1) The body should make regular visits to prisons to interact with the police and the prisoners and check for any torture. Reports should be made and published under its website.
- 2) That police do not commit acts of ill-treatment, such as omitting meals to prisoners etc should also be checked.
- 3) A Superintendent should be placed at each block of prison to prevent violence.

Lastly, police in India should be trained physically with minimal usage of firearms and sticks. This will reduce their tendency to use the same on prisoners. Also, since it is difficult to train without firearms, and counter situations when they are needed, the duration of police training should extend at least to two years.

⁸ George F. Will, ‘Eric Garner, Criminalized To Death’ *The Washington Post* (2014) <https://www.washingtonpost.com/opinions/george-will-eric-garner-criminalized-to-death/2014/12/10/9ac70090-7fd4-11e4-9f38-95a187e4c1f7_story.html?noredirect=on&utm_term=.1a75e1d00cf7> accessed 18 September 2018.