CUSTODIAL DEATHS AND TORTURE: A HUMAN RIGHTS ABUSE

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ABSTRACT

The research paper aims to address one of the very serious and outraging issue of custodial deaths and torture in police custody depicting it as a play of power by the concerned authorities that inturn immensely abuses the human rights guaranteed under various provisions of law. This paper looks into the aspect of the statistics prevalent across the country along with certain specific violations of rights. It further tries to explore the foul play and impunity enjoyed by the police in such cases and consequently seeks to present some observations, suggestions and solutions for the same.

I. INTRODUCTION

"Custodial torture is universally held as one of the cruellest forms of human rights abuse."[1]

The appearance of Custodial deaths and torture has topped in the recent years, as revealed by the National Campaign Against Torture. However, it is noticeable that the Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966, Indian Constitution, 1950, and other criminal enactments only contain a few provisions for the assurance of human rights in police custody.

Nevertheless, there are infrequent incidents where these provisions are placed in the real world. It is extremely woeful that the advantage of the greater part of these rights has not reached the accomplished urban individuals. Socially and educationally backward classes are the most conditioned survivors of police overabundances.

The issue of death and torture in police custody is as of now in much pervasiveness in many States and follows its dates quite a long while prior. The flagrant maltreatment of law and authority by the police is certainly not an inquisitive subject as police are typically expected to utilize brutality to counter violations. There is an assumption of policemen that they are bound to utilize counter-violence to incapacitate criminals in order to keep them from causing further hurt to harmless individuals. This has prompted a set of accepted rules among the officials, driving many to submit horrendous breaches of such power to attest their strength over people in general.

This demonstration of 'quick justice' as exhibited by the police, a civil force of the State that is vested with power and duty to submit orders in the public by the individuals themselves, ruins the pillars made to help social order and justice in our general public. This gives an excessive impression of the courts and lawyers to be mere accessories and it inturn gives the intensity of punishing and granting of justice to unapproved vigilantes. In the continuous pattern of custodial violence being utilized to extricate data or admissions, there have been a few torture techniques the police would utilize, openly on men, women, and kids, violating few laws. This renders the non-recognition of fundamental human rights of citizens.

Torture (which is derived from the Latin word "*tortus*", means "to torment") is described as the act of deliberately inflicting severe suffering that is either physical or psychological on an

[1] Joginder Kumar v. State of Uttar Pradesh [(1994) 4 SCC 26]

individual by another as a punishment or which may be to fulfil the desire of the torturer or a force of action from the victim.

The purpose of torture is not just to fulfil the aspect of giving severe trauma but is also the deliberate and systematic dismantling of a person's identity and humanity through physical or psychological pain and suffering. Use of torture as a technique by law enforcement workforce for solving cases is a standard practice which comes under different titles, for example, "questioning", "continued interrogations", "extrajudicial executions" and so on.

RESEARCH PROBLEM

"Custodial Deaths and Torture: A Human Rights Abuse"

OBJECTIVES

I. To identify the areas of violation of human rights in police custody with the help of relevant statistics
II. To identify the judicial response to the areas of violation of human rights in police custody
III. To explore the foul play and impunity enjoyed by the police in such cases.
IV. To examine the possible preventive measures that may lead to a better state of living of every individual under police custody.

STATISTICS

Information shows that amidst 2001 and 2018, barely 26 police officers were sentenced for custodial brutality out of the 810 enrolled cases against the police. Regardless of 1,727 such deaths being recorded in India solely in the year 2019, no action is seemed to be accounted for. This comprises of the people in both police or judicial remand and those who were just arrested and not produced before the court. As most of such deaths were credited to reasons other than custodial torture, just a couple of them led to convictions.

With the exception of Uttar Pradesh, Madhya Pradesh, Chhattisgarh and Odisha, no police officer was sentenced for such death in all over the nation. Tamil Nadu, West Bengal, Gujarat, Andhra Pradesh and Maharashtra recorded zero convictions regardless of recording in an excess of 100 custodial deaths during the referred the period.

NCAT recorded that torture techniques utilized by the police additionally consist of pounding iron nails on the victim's body (some of the casualties are: Gufran Alam and Taslim Ansari of Bihar), applying roller on legs and setting them on fire (casualty: Rizwan Asad Pandit of Jammu and Kashmir), 'falanga' wherein the bottoms of the feet are beaten (casualty: Rajkumar of Kerala), extending legs separated in the inverse side (casualty: Rajkumar of Kerala), hitting in private parts (casualties: Brijpal Maurya and Lina Narjinari of Haryana), stabbing with a screwdriver (casualty: Pradeep Tomar of Uttar Pradesh), electric shocks (casualties: Yadav Lal Prasad of Punjab; Monu of Uttar Pradesh), and numerous much more in each of the above-mentioned instances.

The NCAT report expresses this as a fact, stating that the Scheduled Castes and Scheduled Tribes face rank/ethnic-based viciousness by the police/security powers just as by the upper caste/general class individuals, that greater part of the victims of the police torture bears a place with the poor and underestimated segments of the general public who are regularly the vulnerable objectives on account of their financial status. The NCRB (National Crime Records Bureau) has enrolled 42,793 instances of wrongdoings against Scheduled Castes in 2018 more than 43,203 cases in 2017, however, several cases against Scheduled Castes and Scheduled Tribes go unreported.

NCAT reported 13 instances of death of Dalit and tribal people in police custody during the year 2019. These included eight tribes and five Dalits. Out of the deaths of 125 individuals in 124 instances of deaths were in police custody as documented by NCAT in the year 2019, 75 people or 60% had a place with the poor and minimized networks. These included 13 victims from the Dalits and tribal communities, 15 victims were accounted for from the Muslim minority community, 37 victims were for frivolous violations which demonstrate their financial status, three of them were farmers, one was a labourer, one was a refugee, two were watch guards, one was a rag-picker and two were as drivers.

These groups of people are normally given no satisfactory aid either, as inferable from their feeble money status and absence of education or numbness of the ignorance of pursuing legal remedies. Accordingly, it's safe to assume that however huge violations are in the urban communities, the subsequent impacts of these acts of neglect seriously sway the safety and dignity of the vulnerable as well.

In April of 2019, Nabbir, a prisoner in Tihar Jail had complained about the acts of the superintendent who had forcibly imprinted the symbol 'Om' on his back with fire. Later that

year in September, a pregnant woman in Darrang district in Assam, Minuwara Begum was arrested by the police officials in a case concerning kidnap and it was reported that she was kicked in her belly that resulted in the loss of her child due to miscarriage as a consequence of the ruthless treatment by the police. There have been many more such instances of police brutality prevalent that only manifests the act where the power that comes with the uniform is mis-utilized.

A recent case in Tamil Nadu only shows the continuance of police brutality irrespective of the various guidelines and code of conducts laid down for the betterment of the situation. The case of P Jayaraj and J Bennix, where police brutality is seen to have gone beyond limits is now being addressed in the Madras High Court. The father and son, working at a mobile shop in Sathankulam town were taken into custody for having allegedly violated lockdown norms. Here they were brutally beaten up and tortured mainly because Jayaraj is reported to have said something that was against the interest of the inspecting officer the previous night. Just an instance of speaking up while being questioned led to the deaths of the two individuals.

II. JUDICIAL RESPONSE TO THE AREAS OF VIOLATION OF HUMAN RIGHTS IN POLICE CUSTODY

A perusal of the landmark decisions has been laid down by the Honourable Supreme Court and different High Courts across the country that tells us that the Indian judiciary has made a huge accomplishment in ensuring custodial human rights and has also been encouraging compelling reliefs being conceded to the victims of custodial violence extending to their family members. Remedial measures are given in the Constitution[2] through writs[3] given by the Supreme Court and High Courts on infringement of rights of people in police custody.

Correspondingly, there is an inherent power within the authority the High Courts[4] to quash the procedures even in the first phase of registering an FIR. Under Article 51 of the Constitution, there is an obligation to encourage regard for International Law.[5] he legal executive additionally maintains the sacredness of human rights and recognizes the dependence of global

[2] Under Article 32 and 226 of the Indian Constitution, 1950
[3] Article 32(2) of the Indian Constitution, 1950
[4] Under Section 482 of the Code of Criminal Procedure
[5] V.R. Krishna Iyer, "Are not women human even when in custody", Human Rights Year Book (2000), p. 95. The corner stone of social justice from which custodial equity emanates, is the Constitution."

contracts which guarantees the essential human rights.[6] The judiciary particularly, the Supreme Court of India, through progressive decisions have created numerous significant rights for the arrested individuals through the human rights jurisprudence.

There are certain rights that an individual has before being arrested and during the period under arrest –

i. Right against arbitrary arrest and detention
ii. Right to be informed of the ground of arrest
iii. Right to Counsel at the time of police interrogation
iv. Right against capricious and unnecessary handcuffing
v. Right against torture and custodial death
vi. Right to compensation

i. Right against arbitrary arrest and detention[7] -

Article 22 was at first taken to be the main defence against the governing body in regard to laws relating to the deprivation of life and liberty ensured by Article 21.[8] But the situation of Article 21 experienced a drastic change since *Maneka Gandhi v. Union of India*.[9] Now Article 21 itself has practically become an inexhaustible source of restriction upon the legislature. Therefore, the connection between Articles 21 and 22 has definitely changed, rather than having turned around.

In the case of *Joginder Kumar v. State of Uttar Pradesh*,[10] the Supreme Court opined that the doctrine of personal liberty which is ensured by the Indian Constitution, 1950 would as an effect expect that no arrest ought to be made simply on the grounds that it is legitimate for the police to do so. The Apex Court on the same matter observed that no arrest can be made in the light of the fact that it is legal for the police officer to do so.

The presence of the power to arrest is a certain thing. The justification for its activity is very different. No arrest ought to be made without a reasonable justification that comes up after

[6] See Visakha v. State of Rajasthan [(1997) 6 SCC 241] and Apparel Export Promotion Council v. A.K. Chopra [(1999)1 SCC 759]
[7] Article 22
[8] A.K. Gopalan v. State of Madras, AIR 1950 SC 27; Also, in the Constituent Assembly Dr. Ambedkar claimed Article 22 to be a compensatory for loss of 'due process' from Article 21.
[9] AIR 1978 SC 597; see also Kartar Singh v. State of Punjab, (1994) 3 SCC 569, where the validity of several Sections of the TADA was tested in the light of Article 21.
[10] AlR 1994 SCW 1886

some examination about the validity and bonafides of a grievance and reasonable belief concerning the individual's complicity and even in order to the need to impact his arrest. An individual is not at risk to be arrested merely on the doubt of suspicion of an offense. with an exception from heinous offenses, an arrest must be dodged[11].

ii. Right to be informed of the ground of arrest[12] -

In the case of *Ajaib Singh v. State of Punjab*[13], the Supreme Court took into consideration the part concerning the arrest of an individual under Article 22(1) and (2) and under Section 50(1) and (2) of the Code of Criminal Procedure, in detail and it was reasoned that Article 22(1) and (2) were pertinent to instances of an arrest made without a warrant and it was pointless to apply them to the arrests made under a warrant. It was important to apply the provision of Article 22(1) of the Constitution on the account of an arrest made without warrant in light of the fact that the prompt use of the judicial mind to the lawful authority of the individual being arrested ensures the normality of the system embraced by him can be guaranteed.

The Supreme Court in the case of *Sheela Barse v. State of Maharashtra*,[14] issued direction which states that: At whatever point that the circumstance may be when an individual is arrested by the police without a warrant, he/she should immediately be educated regarding the ground of his/her arrest and it must also promptly be made known to the individual a that he/she is qualified for applying for bail. Furthermore, when an individual is arrested the police should immediately obtain from him/her the name of any family member or companion whom he/she might want to educate about his/her arrest and the police ought to connect with such mentioned family member or companion and inform about his/her arrest.[15]

In the case of *D.K. Basu v. State of West Bengal*,[16] the court observed that - Notwithstanding the statutory and constitutional prerequisites, it would be helpful and successful to structure suitable machinery for contemporaneous recording and notifications of all the instances of an arrest and detention to acquire transparency and responsibility. It is prudent that the official who is arresting an individual ought to set up a memo of his arrest, that also contains the hour of arrest along with the presence of atleast one witness who might be an individual belonging

[11] Ibid., pp. 1349, 1353
[12] Article 22(1)
[13] 1953 CrLJ 180
[14] AIR 1983 SC 378
[15] ibid., p. 382
[16] AIR 1997 SC 610

to the family of the arrestee or any respectable individual of the area from where the arrest is made. The date and time of the arrest must be recorded in the same memo which should likewise be countersigned by the arrestee.

iii. Right to Counsel at the time of police interrogation[17] -

In re Llewelyn Evans,[18] the Bombay High Court held that the accused ought to be not just at liberty to be defended at the hour of legal procedures yet additionally that he should have a sensible chance, if in the custody, of getting into communication with his lawyer.[19] This view was emphasized by the Lahore High Court in the case of *Sunder Singh v. Emperor*.[20]

In the case of *Moti Bai v. State of Rajasthan,*[21] where the applicant was arrested and kept in custody by the police, the Rajasthan High Court reviewed it as an encroachment of the Constitutional rights under Article 22(1) and the right ensured by Section 340 (1) of the Code of Criminal Procedure, 1973.[22] It was observed that since the time the individual's arrest, he/she has a privilege to be counselled by a lawful advisor of his decision and to be guarded by him.

It was additionally seen that the Indian Evidence Act, 1872 by a particular provision under Section 126 endorses that all communications are to be treated as favoured between a client and his advisor.[23] So it is apparent that the communication among the client and his advisor won't be classified if the police authorities are inside the earshot of such communication. Further, such communication must be between the accused and his legal advisor as well as with his companions and relations out of the hearings of the police official.

Nevertheless, it was held by the Supreme Court that the decision of counselling and being spoken to by a legal practitioner of one's decision, however being a right which is unavoidably ensured, is truly not an absolute right in regard to practice.[24] Article 22 doesn't ensure any absolute right to be provided with a legal counsellor by the State.[25] Nor does the provision present any option to engage in an attorney who is disabled under the law.[26] The privilege

[17] Article 22 (1) of the Constitution and Section 340 of the Code of Criminal Procedure, 1898 confer this right to an arrested person.
[18] AlR 1926 Born 551; Also see Hans Raj v. State of Punjab [AIR 1956 All 641, p.642]
[19] Ibid., p. 554
[20] AlR 1930 Lah 945
[21] 1954 Cr.L.T. (Raj) 1591
[22] Now Section 303
[23] Sudha Sindhu v. Emperor, A.I.R.1935 Cal 101
[24] Tara Singh v. State of Punjab, AIR 1951 SC 441, p. 452
[25] Janardan v. State of Hyderabad, (1951) SCR 344
[26] Public Prosecutor v. Venkata, AIR 1961 AP 105

ensured is just to have the chance to connect with an able and legal practitioner of his decision. It has been additionally held that this right to a counsel is not restricted uniquely to the people arrested however, it can be availed by any individual who is at risk for losing his own liberty.[27]

iv. Right against capricious and unnecessary handcuffing[28] –

In *Sunil Batra (II) v. Delhi Administration*,[29] the Supreme Court laid down that the normal resort to handcuffing and iron indicates the barbarity that is threatening our objective of human dignity and social justice. In the case of *Prem Shankar Sukla v. Delhi Administration*,[30] the Court responded against handcuffing saying that cuffs ought not be utilized in the daily schedule. They are to be utilized just when the individual is 'frantic', 'rowdy', or is engaged with a non-bailable offense.[31] Although there have been so many accurate and thought-provoking decisions laid down by the various court, police officials continued to resort to hand cuffing in many cases like *Altemesh Rein v. Union of India*,[32] *Harbans Singh v. State of Uttar Pradesh*,[33] *Sunil Gupta v. State Madhya Pradesh*,[34] *Khedat Mazdoor Chetna Sangath v. State of Madhya Pradesh*[35] etc.

v. Right against torture and custodial death[36] –

The Supreme Court is of the view that any manifestation of torture or of humiliating treatment is hostile to human dignity and is precisely violative of Article 21 of the Indian Constitution, 1950.[37] In the case of *Kishor Singh v. State of Rajasthan*,[38] extreme restraints were passed by the Court against the power of the police for its demonstration of torture. Criticizing the third-degree techniques used by the police for the act of inflicting torture, Justice Krishna Iyer observed in this case that nothing is more coward and unreasonable than an individual in police

[27] State of Punjab v. Ajaib Singh, AIR 1953 SC 10
[28] Article 21
[29] AIR l980 SC 1579, p. 1595
[30] AIR 1980 SC 1535, p. 1541
[31] Here, Justice Krishna Iyer had also arrived at the conclusion that: "Handcuffing is prima-facie inhuman and, therefore, it is unreasonable and is over-harsh as well as arbitrary." Ibid.
[32] AIR 1988 SC 1768
[33] AIR 1991 SC 531
[34] (1990) 3 SCC 119)
[35] (1994) 6 SCC 260, AIR 1995 SC 31
[36] Article 21
[37] Francis Mullin v. Union Territory of Delhi, AIR 1979 SC 746
[38] AlR 1981 SC 625

custody being tortured severely and that which does not attract a more profound injury on the constitutional culture than a State official running hysterical to human rights.

The Supreme Court of India and the different High Courts have censured custodial violence and have also spoken emphatically against it. They have also proposed stringent punishments for the act of custodial violence. In the case of *Gauri Shankar Sharma v. State of Uttar Pradesh*,[39] which is a case of a police official attempting to safeguard his associate by giving proof which is favourable for the charged police official.

Re-establishing the conviction and sentence of seven years by the trial court and dismissing the request for replacement of detainment by a fine, the Supreme Court noticed that the offense is of a genuine nature bothered by the way that it was submitted by an individual who should safeguard the citizens of the country and not abuse his uniform and position to fiercely attack them while in his authority.

Demise in police custody must be genuinely seen as otherwise we would be helping in taking a step towards the police. It must be controlled with a substantial hand. The punishment ought to be that which would dissuade others from enjoying such conduct. There can be no space for tolerance.[40]

In the case of *Sheela Barse v. State of Maharashtra*,[41] the Honourable Supreme Court laid down a few directions and proposals that were directed towards the State Governments to forestall the repeated acts of police torture. In any case, these reasonable mandates have not been executed by far by most of the officials, police officers, and Magistrates. Hence, it is not a big surprise that cases like that of *State of Uttar Pradesh v. Ram Sagar Yadav*,[42] keep on occurring.

vi. Right to compensation -

Para 5 of Article 9 of the International Covenant on Civil and Political Rights, 1966 ensures that any individual who has been the victim of an unlawful arrest or detainment will have an enforceable right to remuneration. The subject of conceding to grant of remuneration to arrested individuals was considered by the Supreme Court without a precedent in the case of

[39] AIR 1990 SC 709
[40] 1990 (Supp) SCC 667
[41] AIR 1983 SC 378
[42] AIR 1985 SC 416

Khatri v. State of Bihar,[43] wherein Justice Bhagawati saw for the question of "what reason should the court not be set up to produce new reliefs and devise new solutions for the purpose behind vindicating the most valuable fundamental right to life and personal liberty"

The Supreme Court in the case of *Nilabati Behra v. State of Orissa*,[44] made a differentiation between the remedy of remuneration that is accessible under the Indian Constitution and under private law i.e., Law of Torts and the inapplicability of the governing principle of sovereign immunity in the Constitutional remedy. The Court had also decided that the ward of remuneration is a procedure under Article 32 by the Supreme Court or by the High Court under Article 226 of the Constitution which is a remedy that is accessible in public law, in view of strict liability for the contravention of fundamental rights.

Presently, the doctrine of 'sovereign immunity' has been modified by the Supreme Court which previously was an absolute right guaranteed as the Courts had to meet the changing needs of the society. According to this principle, the various Courts had granted the remedy to the family members of the individuals in cases like *Dhananjay Sharma v. State of Haryana*,[45] *State of Maharashtra v. Ravi Kanth S Patil*,[46] and many such more.

III. LACK OF INTERVENTION BY THE LEGISLATURE THAT RESULTS IN IMPUNITY OF THE POLICE

There exists a wide range of guidelines and codes of conduct laid down under several different statutes, that demand responsibility and legitimate utilization of power by the police. Perhaps this just shows the lack of wisdom, considering the adopted culture which has been prevalent for an incredibly long time within the police authorities to utilize and overlook those laws which are convenient to them or their case with nobody to address them.

The inference that we can draw from the Section 197 (1) of the Criminal Law (Amendment) Act of 2018, is that no police official or public servant can be arrested for any crime that he/she is accused of committing while that individual is thought to be discharging his/her obligations, without the approval of the Central or the State Government.

[43] AlR 1981 SC 928
[44] AlR 1993 SC 1960; (1993) 2 SCC 746
[45] (1995) 3 SCC 757
[46] 1991 (2) SCC 373

There have been various instances of custodial deaths wherein the corpses of the victims were burnt even before the individual's families were permitted to see the deceased, and it has been observed that the police often alter or altogether discard all the pieces of evidence before any significant case or FIR can be recorded against them or their subordinates. It clearly indicates an evil that has been decaying the framework for quite a long time and has just appeared to have been deteriorating.

IV. OBSERVATIONS, SUGGESTIONS AND SOLUTIONS

1. Ratification of the 'United Nations Convention against Torture' as this convention was signed by India in the year 1997 however it was never ratified. No official law has been passed by the enactment on Anti – torture or police reforms which are concerning the custodial deaths regardless of the recurrence of such situations insofar as well as a few recommendations and concerns that have been shown by the NHRC and the Apex Court.
2. The different proposals made by the Apex court in decisions like *DK Basu v. State of West Bengal*[47] must be enforced and any ignorance of the law by any police headquarters or public authority ought to be penalized. Some mostly include that –

(i) All police officials must wear their IDs that clearly indicate their name and designation.

(ii) (ii) Police must enter the complete information of the officers leading an investigation in a register.

(iii) The police must contact and educate the family member/companion at the time of the arrested/detained individual with information such as the place of the individual's arrest and the specific area where the arrested individual is detained.

3. Usage of the Section 114B[48] that is mentioned in the Law Commission Report, 1985 which raises the notion of considering the officials responsible or with criminal culpability in the event that anybody is discovered tortures or dead in their authority.
4. In spite of the fact that torture is totally standardized in custody for extricating confessions, legally, the suspects have the right to withhold any self-incriminatory data or proof that can be utilized against them. This is under the assumption of being innocent until proven guilty.

[47] 1997 (1) SCC 416
[48] Indian Evidence Act, 1872

5. Additionally, it would be noteworthy to spread more public awareness of specific rights and provisions of the citizens, prisoners or the accused such as the writ of habeas corpus in instances where the police officials unlawfully adopt an act with the arrestee. As this will compel the police to resort to other undeniable strategies than adopt to third-degree techniques. Thus, another proposal can be the presence of a lawyer during interrogation by the police after the arrest in order to secure the arrestee's privileges.
6. Ensuring that the first production before the magistrate is fulfilled as a matter of procedure. This must also ensure that the magistrate physically takes a note of the individual in custody and must further continue to ask if the individual has been going through any sort of torture during the time he was under arrest/detainment. This situation manifests the functions of the judiciary as during this the judiciary acts as a watchdog over the executive.

V. CONCLUSION

Police individuals' infringement of human rights and accounts of police brutality are the circumstances that need to be fixed and furthermore, need a conclusion. At present, the police framework and policing forms are all the more adding injustice to the present society. Reforms in the police done so far are just beautifying agents and not therapeutics.[49] Reforms are the need of the time. Every single foundation in our criminal justice system requires a change. Essentially, the majority of our criminal laws, which are passed over hundred years back are required to be altered by the adjustments in our general public.

Notwithstanding the fact that many civil liberties groups, national and international organizations, commissions of inquiries, press and above all judicial decisions and findings of National Human Rights Commissions have contemplated and distributed data in regards to human rights infringement in police custody, no deliberate, comprehensive and profound observational investigation has been led up until now.

Responses to wrongdoings submitted by the police take various structures. A few sorts of violations such as calling some sorts of abusive names to individuals are once in a while responded against. Some different sorts of wrongdoing can be beating an individual openly or under police custody without causing obvious injury are also sparingly responded against.

[49] S.K. Awasthy and R.P. Kataria, Law Relating to Protection of Human Rights (2000), p. 773.

A couple of wrongdoings such as custodial violence, torture and so on are responded against with dread and hesitance. All violations i.e., murder in police custody, custodial assault and so on are perpetually responded against by open disturbances. This implies that it is without a doubt, intense and heinous violations submitted by the police are disliked and responded against. A demonstration is deciphered as a wrongdoing by the law authorization officials.

The general concept of authority is security or guardianship in any situation even while applying it to arrests and detainments. All things considered, law enforcement authorities ought to be considered responsible to their violations to advance lawful standards among all people. In this manner, there is a need to find some kind of harmony between the individual human rights and societal interests in dealing with wrongdoings by utilizing a realistic approach.

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