Police terror and the theatre of law

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Context

* The murder of Jayaraj and Benicks at the hands of the local police in Sattankulam, Tamil Nadu has provoked national outrage. The bare bones of the incident are widely known. A small shopkeeper is picked up for a trivial offence, taken to the local police station. His son too is detained. Both are mercilessly thrashed. The hospital to which they are taken, admits that they have blood clots all over their body but gives false certificates of fitness. The magistrate remands them to judicial custody without examining their abused bodies, merely waving consent from far away.

State and the law

* The modern state emerged by gathering power dispersed among rivalrous, local strongmen and depositing it in a single set of inter-related institutions, now endowed with a monopoly of force and violence.

* These institutions were meant to function independently of the ruler — they do not belong to him, are not part of his personal estate. Instead, they work for the entire public.

* The Jayaraj-Benicks case makes us doubt if such a modern, impersonal state exists in India. It shows first that our political institutions, including the judicial machinery, are far from independent of the will of the rulers; rather, they work at their personal command.

* Second, local policemen think of themselves as sovereigns in their own little territory, executors of ‘laws’ they invent on the go.

* At the very least, they believe that they partake in sovereign power, protected by lawmakers sitting higher up. Indian society continues to consist of rival power groups, each with a ‘private’ police force at their mercy, coercing local populations to behave according to rules crafted at will.

* It is as if the entire country is splintered into little fiefdoms, each believing to have a monopoly of violence.
* Third, police brutality is a routine, banal feature of everyday life of the poor.

* The wanton actions of the police are woven into the fabric of daily social interactions. The police uniform plays a symbolic role expressing that anyone who dons it has power, prestige and the backing of the entire official apparatus.

* This social superiority sanctions extra-legal behaviour that often has the stamp of rampaging criminality.

* After all, nothing done by the Sattankulam police was by the rule book; everything from the first to the last violent moment was extra-legal.

**Law as performance**

* Our society is meant to be governed by the rule of law implemented by a state above it, impartially arbitrating social disputes.

* In reality, it is an arena where everyone fights with all their might over material resources, power, status, ideas, and crucially, the control of the legal machinery.

* To get the law on your side brings enormous advantage, for once under control, it functions at your pleasure, largely to benefit you.

* But since democracy requires that the law work for everyone, a performance must be staged to sustain this myth, a make-believe world created for ordinary people that ‘all is well’.

*The performance of law courts is like theatre or a film that seduces spectators into a reality of its own making.

* Winners at the ballot box appear to earn the right to rule by arbitrary power. They control and regulate whole populations at their pleasure, exactly as the maharajas of yesteryears.

**Excessive force**

* Undeniably, any system of law depends on the deployment of force. But its use must be consistent with the dignity of a person.

* Rule of law requires the presence of constraints on excesses.
* Excessive violence, for instance torture in pursuit of information and confession, is illegal in most decent societies.

* The European thinker, Michel Foucault, has argued that torturous spectacles, common in Medieval ages, have given way to punishment in disciplinary institutions isolated from society.

* Yet, as we know, public lynchings have not disappeared in our own times. Indeed, residual elements of the public display of violence are evident even in the Jayaraj-Benicks case. Flogged in an enclosed public space, their bloodied bodies must have been brought to the hospital in full public glare, then taken to be shown to the public magistrate, and when declared dead, publicly handed over to the family.

**The purpose of brutality**

* The Hindu reported that the day before detention, Jayaraj sympathetically went up to unpaid workers of a shop nearby, asking them to stand their ground, even as an abusive policeman had threatened to punish them if they did not disperse.

* Upon learning this, the police felt this openly challenged their authority, an act of aggression not just on the state but on their very person.

* From then on, their wrath knew no bounds. The Hindu also reported that illegal sand mining and the sale of illicit liquor are common in the area. It appears that any form of challenge to a police force that plays a key role in maintaining this corrupt and criminal order had to be dealt with swiftly, harshly. A crack in the system must not be allowed to open further, filled immediately.

* **Authoritarian rule works by fear**, brooking no deviation.