

The Commission on Crime Prevention and Criminal Justice

Addressing the excessive use of force by law
enforcement



Forum	The Commission on Crime Prevention and Criminal Justice
Issue:	Addressing the excessive use of force by law enforcement
Student Officer:	Vivien Richter
Position:	Deputy President

Introduction

Excessive use of force by law enforcement is an immoderate use of force when managing civilians. In August 2011 the Independent United Nations human rights experts stated; “In recent months and years we have repeatedly voiced our concern over a steady increase in the use of excessive force, police brutality and other forms of inhuman or degrading treatment.... against predominantly peaceful protesters in all regions of the world”. Smaller scale/regional incidents arise from underlying tensions of religious and ethnic, political, and racial differences. Simultaneously, large scale migrations, climate action and protests, and many other controversial globally relevant topics experience discrimination in law enforcement.

In times of the Covid-19 pandemic it is furthermore important to note the excessive use of force by governments and police in order to regulate and administer the emergency measures of lockdowns and curfews to maintain public health. Whilst wanting to ensure the wellbeing of public health, officers have engaged in injury and psychological trauma of individuals along with irrational detentions and indiscriminate violence resulting in unlawful deaths.

Therefore, measures must be taken to improve and prevent further violations of such harmful developments through peaceful approaches that promote proactive communication about just implementations of political and civil rights.



Definition of Key Terms

Law enforcement- The agencies in charge of administering laws and public safety. Law enforcement includes; courts, corrections and police forces. Principal responsibilities of law enforcement covers investigation, apprehension, and detention of suspects of criminal offenses (Police Violence).

Excessive use of force- Use of force is the total effort needed to establish compliance from a reluctant individual by law enforcement. Excessive use of force can be referred to as applications of force immoderate of what a police officer believes necessary to control a situation.

Police Brutality- An excessive use of force by the police when managing civilians that infringes human rights. This includes beatings, unlawful killings, racial discrimination, wrongful searches, false arrest/imprisonment, sexual harassment, indiscriminate use of riot control, etc.

Minority- A smaller group of an entire population with unique racial, religious, cultural, and ethnic characteristics that differs from the more dominant group that they coexist with. 'Minority' is often used to describe a group that is/was exposed to discrimination and/or oppression. Immigrants, women, and indigenous people and many more have been labelled as minorities.

Black Lives Matter Movement (BLM)- A phrase used to bring awareness about racism, inequality, and racism experienced by black people. The social movement protests against cases of racially motivated acts of police brutality. The movement consists of numerous people and organizations.



Institutional/systemic Racism- The terms cover concepts of how white superiority is prominent in everyday life focusing on broad perspectives rather than specific cases. This can relate to regulations, laws, and unquestioned social systems.

United Nations Office on Drugs and Crime (UNODC)- A United Nations office stationed in Vienna, Austria originated from combining the United Nations International Drug Control Program (UNDCP) and the United Nations Office at Vienna (UNOV). UNDOC focused on crime prevention and justice, international terrorism, corruption, terrorism, and the trafficking and abuse of illicit drugs.

General Overview

Trust and confidence in the administration of justice and good policing practices are crucial in the development of supporting a community. With these fundamental principles, managing violent encounters with civilians is positively supported. In general, a good relationship between a community and its law enforcement workforce decreases the need and likelihood of excessive force needing to be used at all. But this is not the case, and it has become very apparent over the past year.

The death of George Floyd and the Black Lives Matter movement, torture of protesters in Belarus, and deaths of arrested civilians in Kenya and India during the Covid pandemic brought forward the importance of regulating law enforcement. Though groups focusing on the rights of civilians do exist, few have enough authority to make changes in policies. In most cases these groups only have the ability to issue recommendations with no ability to carry through with them.

The origin of modern policing and 'police brutality' originates from 18th century France. Earliest accounts of use of force in response to civilian behaviour come from events such as the Great Railroad Strike in 1877, and the Hanapepe massacre in 1924. There are five general forms of use of force in law enforcement; excessive use of force, wrongful search and seizure,



racial discrimination, sexual harassment and abuse, and false arrest and wrongful imprisonment.

Shamim Reza Rubel was lethally harmed by a police officer in Bangladesh in 1988. Reports from the father say that Shamim was tortured by officers after being accused of being in the possession of weapons. He admitted to possessing illegal weapons, which the police couldn't find upon searching his house, and he later confessed to have said to stop the beatings. Shamim was tortured further and died in custody. His father filed a case which was only addressed in June of 2003 after human rights organizations accused the Bangladesh police of corruption.

Another example of unaccountability is President Duterte's orders from June 2016 to kill anyone suspected to have connections to drug trade in the Philippines. He went as far as to promise protection of law enforcement workforces from charges, making it impossible for anyone to be held accountable or to counteract.

Data from documenting law enforcement use of force in the US, Brazil, and the UK have shown that people of African heritage are more likely to be questioned, arrested, and violently approached. With the example of Brazil, statistics show Brazilians of colour to be thrice more likely to be killed by law enforcement than white Brazilians.

Situations where law enforcement is pressured into using excessive force, or force in general should be liable to thorough and transparent investigation and evaluation. In cases of unreasonable use of force officers should be held responsible for their actions, but statistics show that unlawful injury or killings or citizens often don't have consequences.

A police crime database at Bowling Green State University shows 10,287 criminal arrests of 8,495 police officers between 2005 and 2014 in the USA. More recent reports from May 2020 mention 110 charges of murder or manslaughter against police officials for lethal use of force although more than a thousand people are killed by law enforcement annually. Going more in-depth, these statistics come to show that only 42 of the accused officers were convicted, 18 cases are still being worked on, and 50 weren't sentenced at all.



The lack of organized statistics shows concern as to how an officer could be held responsible as the data is incredibly hard to track down and organize in the first place. No systems currently exist to report inappropriate uses of force by law enforcement, meaning that a central database of such incidents doesn't exist. Reports and studies are scattered around with nobody controlling them either. This can also lead to false claims on use of force, something to further take into account as a lot of cases of police brutality are currently discussed publicly.

As a result of Covid-19 police brutality has increased globally due to restrictions such as lockdowns, border control and curfews. Since the pandemic became a sanitary emergency, law enforcement has been granted increased power which at times resulted in excessive use of force against individuals with an absence of accountability. The issue here is that nobody is around to monitor the actions of the police as human rights groups aren't allowed to operate. Amongst other instances crowd control during protests and ensuring that citizens follow policies have resulted in the inappropriate use of non-lethal by law enforcement such as tasers, tear gas, and stun grenades. Victims of excessive use of force during the pandemic are most often minorities and those living under the poverty line.

Major Parties Involved

The United States of America have hugely impacted the awareness around excessive use of force by law enforcement through the killing of George Floyd in May of 2020. The event triggered global attention and resulted in local and global protests against systemic racism. Discussions highlighted the need for non-lethal weaponry and non-violent approaches to law enforcement with the purpose of reducing injury or death.

The Philippines have experienced some of the most extreme current acts of excessive use of force with their president endorsing and protecting law enforcement from any charges. His call to eliminate all citizens under suspicion of connections to drug dealing and transport has caused the deaths of over 12,000 Filipinos.



Venezuela is the country with the highest crime rates as of 2021. The corrupt and underpaid police, problems in the politicized judicial system and prison are some factors that add onto the police brutality imposed on low-income communities, accelerating the crime rates as a response. The Special Actions Force of Venezuela repeatedly carries out serious violations of human rights.

The United Nations Office on Drugs and Crime (UNDOC) is a major party involved in the prevention and reduction of police brutality focusing on crime prevention and justice, international terrorism, corruption, terrorism, and the trafficking and abuse of illicit drugs.

Timeline of Key Events

July 14th - Sept. 4th 1877 The Great Railroad Strike in 1877 is noted as one of the earliest accounts of excessive use of force

July 23rd 1998 Shamim Reza Rubel dies after getting tortured by Bangladesh police officers claiming he was in possession of illegal weapons

June 30th 2016-current President Duterte of the Philippines starts the ‘War on Drugs’ leading to numerous killings of people believed to be associated to drug dealing

May 25th 2020 46-year old George Floyd’s death in the hands of a Minneapolis police officer

May 21st 2021 A side event of the UNODC and member states discussing use of force and prevention of it at the 30th CCPCJ session

UN involvement, Relevant Resolutions, Treaties and Events



- Code of Conduct for Law Enforcement Officials, 17th December 1979 (A/RES/34/169)
 - https://www.unodc.org/pdf/criminal_justice/Code_of_Conduct_for_Law_Enforcement_Officials_GA_43_169.pdf
- Guidelines for the Effective implementation of the Code of Conduct for Law Enforcement Officials, 24th May 1989 (E/RES/1989/61)
 - <https://digitallibrary.un.org/record/75546?ln=en>
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 27th August-7th September 1990 (A/CONF.144/28/rev.1)
 - <https://www.un.org/ruleoflaw/files/BASICP~3.PDF>

Previous Attempts to solve the Issue

There have been attempts to solve the issue of excessive use of force by law enforcement. Many of these come from suggestions and recommendations submitted by communities and small organizations that hold no power and make little progress towards change. There have also been some UN issued papers, reports, and resolutions to address the issue.

The code of conduct for Law Officials is a 1979 adopted General Assembly resolution focusing on defining law enforcement and their power, discussing human rights and how they have been infringed, and confidentiality. Whilst the report does mention “the human rights in question” and how they can be identified it gives no information on how that would be made possible. What the code of conduct does well is discuss how officials are meant to act; that they shouldn’t be violent and that the code should be respected to the “best of their capability”. Consequences aren’t discussed. Overall the code makes a good effort at highlighting issues with police brutality, but doesn’t do much further.

The 1990 Basic Principles on the Use of Force and Firearms somewhat furthers what the 1979 code wanted to achieve. The report offers solutions such as training and counselling for law enforcement workforces, sets up foundations for a reporting system for incidents where use of force leads to injury or death and use of firearms. It also tackles the policing of



people in custody and detention, setting clear guidelines as to how the present authorities should interact with those in custody.

Possible Solutions

Possible approaches governments, NGOs, CSOs, and United Nations agencies could take include initiating means of communicating procedural justice in situations where force needs to be used. The CCPCJ suggested “increasing accountability for disparities in force by repealing laws that provide ‘qualified immunity’, impunity from judicial review, and potential punishment” in the 30th session (Police Violence). Furthermore, the importance of respecting the human dignity of individuals, their rights, and how an officer should most effectively handle a situation could be established through training. These could direct emotional control, conflict management, and approaches to de-escalation. Law enforcement workforce could also be educated in the position of a bystander; how to act and react, and when to interfere in the case of an officer exercising excessive use of force on an individual.

It is also essential to acknowledge histories of bias and systemic racism in law enforcement. By doing so a culture around human rights could encourage understanding around just uses of force that respects human rights, without distinctions based on race colour, sex, or other status (Thirtieth Session). Along with it, consistent reviews of these policies of law enforcement institutions to warrant adherence of policies could be encouraged.

Lastly, an effort towards reconciling minorities and the law enforcement workforce through a restorative justice approach may help identify localized issues yet unrecognized and allow for apologies and collective conceptualizing of refined approaches. This could be done through events such as but not limited to panel discussions and small conferences where individuals can openly share their experiences of excessive use of force procedures and other interactions with law enforcement. Increasing and encouraging the collaboration between citizens and authorities to improve on policies and strategize better use of force leads to policing focused on a community compatible with a communities’ expectations.



Bibliography

“30th Session of the Commission on Crime Prevention and Criminal Justice.” *CCPCJ_Side_Event_Report_2021_Final_3.Pdf*, 21 May 2021, www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_30/CCPCJ_Side_Event_Report_2021_Final_3.pdf.

“Who Polices the Police? The Role of Independent Agencies in Criminal Investigations.” *Open Society Justice Initiative*, 7 May 2021, www.justiceinitiative.org/publications/who-polices-the-police-the-role-of-independent-agencies-in-criminal-investigations.

Jaquemet, Iolanda. “Police Brutality Reaches Torture Levels during the Covid-19 Pandemic.” *OMCT*, 17 Mar. 2021, www.omct.org/en/resources/reports/police-brutality-reaches-torture-levels-during-the-covid-19-pandemic.

“Excessive Force.” *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/wex/excessive_force#:~:text=Excessive%20force%20refers%20to%20force,investigatory%20stop%2C%20or%20other%20seizures.

National Institute of Justice. “Overview of Police Use of Force.” *National Institute of Justice*, 5 Mar. 2020, nij.ojp.gov/topics/articles/overview-police-use-force.

“What Is Police Brutality?” *The Law Dictionary*, 26 Jan. 2021, thelawdictionary.org/article/what-is-police-brutality/.

“Police Violence.” *Amnesty International*, 1 June 2021, www.amnesty.org/en/what-we-do/police-brutality/.

Yaseen, UN News/Shirin. “End 'Rampant' Police Brutality, Promote TOLERANCE: UN Human Rights Experts.” - *Global Issues*, 19 Aug. 2021, www.globalissues.org/news/2021/08/13/28496.



“UNODC Police Reform.” *United Nations : Office on Drugs and Crime*, www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-police-reform.html.

“UN Experts Call for an End to Police Brutality Worldwide.” *OHCHR*, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27376&LangID=E.

Thirtieth Session. United Nations Economic and Social Council, 12 May 2021, www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_30/NGO_papers/ECN152021_NGO2_e_V2103467.pdf.

Appendix

Appendix I; useful links:

<http://www.munish.nl/pages/research>

<https://www.osce.org/>

<https://thelawdictionary.org/article/what-is-police-brutality/>

<https://www.unodc.org/unodc/en/commissions/CCPCJ/index.html>

<https://www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-police-reform.html>



