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CUSTODIAL VIOLENCE IN INDIA**Abstract**

Custodial viciousness basically alludes to savagery in police authority and legal guardianship. Other than death, assault and torment are two different types of custodial brutality. Custodial savagery is definitely not an ongoing marvel. Sections 330, 331 and 348 of IPC; Sections 25 and 26 of the Indian Evidence Act, 1872; Section 76 of Crpc and section 29 of the Police Act, 1861 were sanctioned to control the propensity of police officers to fall back on torment to separate admissions and so on.

Custodial Violence

Custodial violence primarily refers to violence in police custody and judicial custody. Besides death, rape and torture are two other forms of custodial violence. Custodial violence is not a recent phenomenon. Sections 330, 331 & 348 of IPC; Sections 25 & 26 of Indian Evidence Act; Section 76 of CrPC and Section 29 of Police Act, 1861 were enacted to curb the tendency of policemen to resort to torture to extract confessions etc.

It is important to note that despite these legal provisions, custodial violence continues to occur. **Table 1** gives details of custodial deaths reported by state governments to the National Human Rights Commission (NHRC). It may be mentioned here that according to the December 1993 guidelines of the NHRC¹, every incident of custodial death or rape must be reported by the state governments to the Commission within 24 hours of occurrence. Information on custodial deaths should be followed by a post-mortem report, a video-graphy report on the post-mortem examination, an inquest report, a magisterial enquiry re deaths occur due to illness and old age. The remaining 20 per cent deaths are caused by medical negligence, violence between prisoners or suicide.

As regards deaths in police custody, the reasons are torture, illness, suicide or accident. Deaths in judicial custody is directly linked to the number of prison population during a given period. One of the serious problems that Indian prisons are facing today as discussed in May 2004 issue of Human Touch, is the problem of overcrowding. Overcrowding leads to deficiencies in basic services like medical facilities, food quality and others which adversely affect the prisoners.

¹ Guidelines of NHRC, December 1993

Considering the gravity of the situation, it may be argued that there is a strong need for better custodial management. Role of police personnel is crucial in this regard. They should be trained in matters pertaining to human rights and prison management. There should be adequate number of medical and women personnel in prisons. In the opinion of the NHRC, the Human Rights Cells established by the State Governments should play a more proactive role in improving conditions in the prisons, including the provision of health and related facilities. State Governments should take up this matter on a priority basis. **Table 1** below gives further details of the deaths in the time period ranging from 1993 – 2001.

Custodial Deaths Reported by the State Governments to the NHRC (1993-2001)²

Year	Police Custody	Judicial Custody	Others	Total
1993-1994	Not Available	Not Available	Not Available	34
1994-1995	111	51	9	171
1995-1996	136	308	0	444
1996-1997	188	700	0	888
1997-1998	191	807	0	998
1998-1999	180	1106	0	1286
1999-2000	177	916	0	1093
2000-2001	127	910	2	1039
2001-2002	165	1140	2	1307

There is also a need to amend Section 36(1) of the Protection of Human Rights Act, 1993 dealing with 'matters not subject to the jurisdiction of the Commission', as this Section is used by State government to bypass the NHRC. Constant vigil by organisations like NHRC and different non-governmental organisations working for protection and promotion of human rights coupled with efficient custodial management would be able to address the problem of custodial death, rape and torture in the country.

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² Source: National Human Rights Commission, Annual Report 2001 – 2002, Annexure 7, pp.360 – 61

³ NHRC passes order on its jurisdiction in matter pending before other commissions of inquiry

Meaning

The term custodial violence has not been defined under any law. It is a combination of two words custody and violence. The word 'custody' implies guardianship and protective care. Even when applied to indicate arrest or imprisonment, it does not carry any evil symptoms during custody. In a law dictionary the word custody; has been defined as charge and with regard to a person in imprisonment: judicial or penal safekeeping. As Per Chamber Dictionary, the condition of being held by the police, arrest or imprisonment is called custody. As Per Legal Glossary Dictionary⁴, custody is imprisonment, the detaining of a person by virtue of lawful Power or authority.

Section 167 of the Code of Criminal Procedure speak about two type of custody i.e. police custody and judicial custody. As per section 167(1) of Cr. P.C., the magistrate to whom an accused person is forwarded under this section may whether he has or not has jurisdiction to try the case, from time to time, authorize the detention of the accused in such custody as he may think fit. Provided that the magistrate may authorize the detention of the accused person, otherwise than in the custody of the police, beyond the period of 15 days if he is satisfied that adequate ground exist for doing so. So as per section 167 (1) of Cr. Pc. police custody can be granted for a maximum period of fifteen days only, Police custody basically means police remand for the purpose of interrogation. In law actually a police officer has two occasion to keep a person in its custody firstly, from the period when he arrest a person till he produce the said person in the court i.e. first 24 hours of the arrest of accuse. Secondly, when police gets, remand from court after producing the accuse in the court which can be extend up to a maximum period fifteen days, thereafter, a person is sent in judicial custody which in general terms means jail or prison, where an accuse remain in custody till he gets bail or if convicted and sentenced to jail till the completion of sentence. As per law, custody of a person begins when the police arrest him.

Other type of custody as mentioned earlier is judicial custody which means sending a person in jail or prison. As per section 3 (1) of 'The Prison Act, 1894'⁵, Prison means any jail or place used permanently or temporarily under the general or special order of a State Government for the detention of prisoners and include all land and building appurtenant thereto, but does not include:-

- (a) Any place for the confinement of prisoners who are exclusively in the custody of police; or
- (b) Any place specially appointed by State Government under section 541 of the old Criminal Procedure Code, 1882,
- (c) Any place, which has been declared by the State Government by general or special order to be subsidiary jail.

The term 'violence' is the state or quality of being violent, excessive unrestraint or unjustified force, outrage perforate injury. 'Violence' in its literal sense has been defined

⁴ As per Legal Glossary Dictionary custody is being defined as 'the care, possession, and control of a thing or person; the detention of a person by lawful authority or process'

⁵ A per The Prison Act' 1894 'prison means any jail or place used used permanently or temporarily under the general or special orders of a state govt. for the detention of prisoners; any place for the confinement of prisoners, who are exclusively in the custody of the police'

as the use of force by one person over another so as to cause injury to him. The injury may be physical, mental or otherwise. The simple definition of violence is behaviour designed to inflict injury on a person or damage to property. Custodial violence is a term, which is used for describing violence committed against a person by a police authority. Thus, custodial violence can be defined as an inhuman trait that springs out of a perverse desire to cause suffering when there is no possibility of any retaliation; a senseless exhibition of superiority and physical power over the one who is overpowered. According to Law Commission of India, crime by a public servant against the arrested or detained person who is in custody amounts to custodial violence. According to Dr. S. Subramaniam, Any use of force threat psychological pressure is termed as custodial violence. According to Justice B.P. Jeevan Reddy, "Custodial violence includes torture, death, rape and excessive beating in police custody".

Although, overcrowding, malnutrition, unhygienic conditions and lack of medical care are some of the factors of death in police and judicial custody, but custodial violence remains the common cause of deaths in prisons and lock-ups⁶. The custodial violence is a generic term and includes all and every type of torture, third degree, harassment, brutality, use of force not warranted by law, etc. custodial violence include illegal detention, arrest which is wrongful or on illegal or on insufficient grounds using third degree method, on the suspects, humiliating them, using filthy language, not allowing them to sleep, extorting confession under pressure, padding up of additional evidence, misuse of the power regarding handcuffing not allowing to meet counsel or family member to accuse, denial of food etc. However since the torture or third degree in the most common and prominent form of custodial violence by the police.

The police officials commit an act of violence upon the persons in their custody under the guise of investigation and interrogation. The heinousness of this crime is that it is committed upon the citizens by the very person who is considered to be the guardian of the citizens. It is committed under the shield of uniform and authority within the four walls of Police Station or lock up, the victim being totally helpless in these circumstances. The protection of an individual from torture and abuse of power by police and other law enforcing officers is a matter of deep concern in a free society.

The chances of violence committed by police on persons in its custody are much greater than any other form of violence. The basic reason behind it is that the victims of such violence are unable to protest against it. The police officers use their official position to manipulate evidences against themselves. Death in custody is generally not shown on the records of the lock-up and every effort is made by the police to dispose of the body or to make out a case that the arrested person died after he was released from jail. Any complaint against torture is not given attention because of ties of brotherhood. No direct evidence is available to substantiate the charge of torture or causing hurt resulting into death, as the police lock- up where generally torture or injury is caused is away from public gaze and the witnesses are either policemen or co-prisoners who are highly reluctant to appear as prosecution witness due to fear of retaliation by the superior officers of the police.

⁶ Factors of Custodial Crimes, Code of Criminal Procedure, 1973

However, in spite of the Constitutional and Statutory provisions contained in the Criminal Procedure Code and the Indian Penal Code aimed at safeguarding personal liberty and life of a citizen, the growing incidence of torture and deaths in police custody has been disturbing. Experience shows that the worst violations of human rights take place during the course of investigation when the police, with a view to securing evidence or confessions, often resort to third-degree methods including torture and techniques of arrests by either not recording them or describing the deprivation of liberty merely as "prolonged interrogations". A reading of the morning newspapers carrying reports of dehumanising torture, assault, rape and death in police custody or other governmental agencies almost every day is, indeed, depressing. The increasing incidence of torture and death in custody has assumed such alarming proportions that it is affecting the credibility of the rule of law and the administration of the criminal justice system. As a result the society rightly feels perturbed. The society's cry for justice becomes louder.

Any form of torture or cruel, inhuman or degrading treatment, whether it occurs during investigation, interrogation or otherwise needs the severest condemnation. If the functionaries of the Government become law-breakers, it is bound to breed contempt for the law and no civilised nation can permit that to happen. Custodial violence may be both physical and or mental. It may also consist of gross negligence or deliberate inaction. In a case, when a person was suffering from high blood pressure or similar type of disease, almost for which continuous medicine is essential, and he is not allowed to take medicines the men develop serious health problem or dies. The Apex Court held it to be a case of custodial violence and the State was made liable for damages for their gross negligence in protecting the person in custody.

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History Perspective

Custodial savagery, which incorporates torment, passing and different abundances in police care or jail, is certifiably not wonder. It beenon the planet for a very long time. The law authorization offices had been rehearsing this on detainees, lawbreakers and the transgressors. Indeed, even in old Indian history, we discover ruler like Nanad Mahapadam in Mauryan time who had put the whole group of Chandra Gupta Maurya into penitentiaries and just as much food was given to whole family which was adequate for endurance of one individual as it were. Kautilya's Arthashastra, talks about different sorts of torment, for eg., consuming of appendages, tearing by wild creatures, stomping on to death by elephant and bulls, cutting of appendages and mutilation and so on. During the gupta time frame (A.D. 320-500 A.D.) preliminary by experience was normal. In the post Gupta period, torment of detainees turned into a strategy for discipline.

During the Mohammedan period the Sharia law was applied to crimes; a thief hands to be cut off; life for life; tooth for tooth was the basic principle of Muslim criminal Jurisprudence which is still followed in Islamic country. The British Raj was also notorious for using violence in police custody. Men, women and children were caught, beaten and tortured to make them confess to crimes, which they did not commit. During this period political workers were picked up for questioning and if they did not provide

the desired reply they were subjected to torture. The naked lying on ice, the denial of food or insufficient quantity of food, excess physical work and physical beatings were some of the methods employed during British Rule to punish law breakers mostly political prisoners and workers.

The Prison Act⁷ which was passed in 1894, has also remained unchanged. The Act gives vast power to jail officials to punish prisoners if they break jail rule. Probably mind set of peoples as well as police and rulers i.e. executives both political and bureaucracy has remained same only power has been transformed from foreign ruler to our native ruler.

The phenomenon of custodial crime is not new in India. We had reference of Torture and violence with the police in India, even since the Vedic age (2000-1400 B.C.). The ordeals of fire, water and single combat were used. In the Epic period (1400-800 B.C.) torture was practiced on prisoners by the police. Torture in various forms was widely prevalent in age of laws and philosophy (800 B.C. -320 B.C.).

Kautilya's Arthashastra speaks about various kinds of torture such as burning of limbs, tearing by wild animals, tramping to death by elephants and bulls, cutting of limbs and mutilation etc. Manu, the law giver of this age emphasized the necessity of torture to protect the society from the hands of the criminals. The Buddhist period (B.C. 300-300 A.D) was an age of great humanitarianism and administration of justice had become correspondingly imbued with the humanitarian ideals. Torture in any form was strictly forbidden and special favours were shown to prisoners, who happened to be women, aged or who had many dependents. In Gupta Period (A.D. 320-500) if the facts against prisoners were not clearly established by evidence, recourse was to be held to the four kinds of ordeals, trial by ordeal fairly common. Under the Mughals, no criminal or civil code existed. Torture to extort confession was widely spread⁹.

Growing Problem of Custodial Violence In India& Evolution and Development of Police System in India

Police in India, throughout the ages, have functioned as the principal law enforcement agency of the State. In the early and medieval periods of civilization, the governance of a State was entered in ruling individuals or family groups. Laws of the State were the individual rulers felt inclined to pronounce as such from time to time. Police enforcement of the law as propounded by the ruler practically meant regimented compliance of the ruler's demand and desires. The basic concept of governance in ancient India was of Dharma and Danda and there were functionaries to ensure the operation of 'Danda.' In fact, Dandaniti was an ingredient of State craft. In the Dharma sutras proper wielding of 'Danda' was held to be an important duty of the King (The First Report of National Police Commission, 1979). The basic unit of policing was the village; a village being an aggregation of families together with their land and pastures surrounding the village.

⁷ The Prison Act, 1894

⁸ Trial and Torture to elicit Confession, Chapter 8, Arthashastra

⁹ Ghosh S.K. and Rustomji K.F., Encyclopedia of Police, 1993

Every village had its local court which was composed of the Headman and the elders of the village. The courts decided minor criminal cases such as petty thefts as well a civil disputes. The Mahabharata speaks of Gramadhipati and the Buddhist Jatakas mention Grambhojaka. While these actually village headmen the **Nagaraguthka** was responsible for arresting and executing robbers¹⁰.

The key police functionaries during the Mughal period were Faujdar and the Kotwal. A number of village were grouped together to form a Mahal or Parganah. A number of Parganahs formed a Sarkar and a number of Sarkars formed a subah or Province. The Kotwal was responsible or policing the cities, towns and their suburbs. The functions of the Kotwals are mentioned in Ain-i-Akbari. He prevented crime and social abuses, regulated cemeteries, burials, slaughter, houses, jails and took charge of heirless property. He patrolled the city at night and collected intelligence from paid informers on men and matters. The sanad of his appointment enjoyed upon him to ensure that there was no theft in his city. In a register he maintained the addresses and professions of every resident of the town, observed the income and expenditure of various classes of men, and checked the accuracy of weights and measures. Preparation and distribution of intoxicants and the professions of prostitutes were also controlled by him. Thus, his functions were preventive, detective and regulatory.

The Faujdar was the head of the Sarkar and commanded troops to suppress rebellion and disorder in the area mainly rural of his jurisdiction. Although he was subordinate to the provincial Governor, he could directly communicate with the Imperial Government. He dispersed and arrested robber gangs and took cognizance of all violent crimes. His functions were to guard the roads in the countryside, suppress violent crimes, hunt down bandits, prevent manufacture of fire-arms, arrest disturbance of peace and assist the Malguzars in the collection of revenue by making demonstrations of force to overcome opposition, where necessary. In practice the Zamindar was made responsible for peace and security of the people in his zamindari. The Faujdar was only to ensure that the Zamindars did their job To reforms the then existing system, the first step taken by the British was to relieve the Zamindari of their liability for police service¹² and their place was taken over by the Magistrate in the district. Although several attempts were made to reform the police during the British Rule, the first major step was a statute thus the Police Act,1861, was passed¹³.

Causes of Custodial Violence

In spite of the fact that every segment of the society feels concerned about custodial violence, over the years it has remained unabated. It seems to be on rise every year, in spite of the fact that rate of literacy has increased and the people have become aware about their rights and duties. The main arm of the criminal justice system that deals with people in custody is police. It will, therefore, be necessary to find out ailments, which govern this agency resulting into abuse of those who are in their custody. In this section, an attempt is made to find out as to what lies at the root of the problem of

¹⁰ 1st Report, National Police Commission, 1979

¹¹ Report of National Police Commission, 1979

¹² Encyclopedia of Police in India, 1993

¹³ 5th Report, Second Administrative Reforms Commission, 2007

custodial violence. For this it is essential to study the conditions under which police works and to find out their mode of operation in dealing with the accused persons. A very important reason for continuing brutal behaviour by the Police is pressure. The sources of pressure are several, but basically they relate to performance or output beyond the narrow confines of police role, in spite of constraints on adequate role performance. Policemen have to deal with crime and disorder not on bits of paper but in the raw, directly. This generates lot of pressure, both from the people and the government. In addition to the constraints of the system are the constraints arising out of its actual operation. The outcome of Police efforts as they lead to deterioration of evidence and thereby reduces the chance of conviction in a court of law. Medical and legal reports are often received very late. TIP's (Test Identification Parade) are often delayed considerably, before which the accused are bailed out, thus defeating the purpose of holding such a parade. In our accusatorial system, a person is presumed innocent unless his guilt is proved beyond reasonable doubts and thus, the degree of proof, which is required on part of prosecution, to secure conviction is exceedingly high. Thus, in a trial the chances of conviction are roughly one out of four. But results have to be achieved as quickly as possible or else the officer is transferred. So a shortcut is required to achieve result and for them, the UP Police Commission 1970-71¹⁴ observed,

The whole tenor of the criminal justice system is punitive, hence a subsystem of it expected to be of service to the people cannot so operate. On account of the constraints of the system, the nature of the police function also becomes punitive, and many policemen see their brutality as extension of the punitive role of the organisation.

The production of result ease the pressure on his superiors, even wins the acclaim of all and sundry, with the result that all his sins are and have to be forgiven. In due course and sometimes earlier, such a policeman rises in his hierarchy. This reinforces his use of third degree methods not only in his own eyes but also in the perceptions of his peer group and his subordinates. Sometimes the expertise at third degree of some policeman receives such wide appreciation that other policeman confronted by an intractable situation or a case, requests for his assistance. He then goes like as superior performer 'tackles' the suspect and produces results, gathering a reward in the bargain. This constant positive reinforcement of third degree method when it produces results is a very important cause of violence by Police in custody.

Thus, positive reinforcement of Police violence takes place because it produces results and produces them fast, at least quicker than otherwise.

The reasons for custodial torture can be sexual weakness, sadism etc. Male police personnel may have a tendency of attraction towards opposite sex prisoner. For satisfaction of this lust he may use force and commit rape in the custody or he may use his official position to obtain consent for sexual intercourse. An amendment has been made in the IPC, 1860 to provide for stringent punishment for those officers, who use their official position to obtain consent of female prisoner in the custody for having sexual intercourse with them. The third degree methods are also applied for 'teaching a

¹⁴ UP Police Commissigov on 1970-71: www.uppolice.gov.in

lesson' or 'vomiting out anger'. It is the stage, where professional competence of the individual policeman surrenders before a situation and then he almost goes out of his mind. This can be averted if the policeman could keep their cool, not be overcome or torn by emotions, maintain a philosophical detachment and as a parallel requirement, have sufficient professional skill.

- The third degree is a short act to quick results. As per the report of National Police Commission,¹⁵ an investigating officer is able to devote only 37% of his time in investigation while the rest of his time is consumed in law and order duty, VIP and security duty, court attendance and other miscellaneous duties. The result is naturally short cut and extra – legal.
- Political and bureaucratic influence and interference, collusion with rich and influential people and dancing to their tune.
- They feel immune to the fact that whatever they will do won't be questioned.
- Disproportionate ratio between crime rate and manpower.
- Lack of effective supervision and inspection of Police Station by superior officers.
- Delay in trial gives more time to interrogate.
- Erring police officials go unpunished due to lack of evidence.
- Psychological aberrations of the custodian – sadism, sexual weakness, social hatred, etc. Lack of time for investigation.
- Inability to keep a person for longer duration in custody for interrogation than 24 hours are such factors which induce police to keep suspect in unofficial custody which ultimately encourage the police to indulge in custodial violence.
- Long duration of work and deplorable conditions of work. A study carried out by National Productivity Council had shown that a policeman has to work sixteen hours a day and seven days a week.

Custodial Violence and Indian Constitution

The legal framework in India both constitutional and statutory contains provisions relating to safeguards arrest, detention, custodial torture and other crimes in custody. The substantive law (Indian Penal Code, 1861) provides punishment of a person causing injury, torture or death on the body of a person in custody. The procedural law (Criminal Procedural Code, 1973 and Indian Evidence Act, 1872) contains several provisions safeguarding the legal rights of a person in custody.

Article 21 of the Constitution of India provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. Right to life is a fundamental right. Right to life does not mean just bare existence it means life full of dignity necessary for human existence in a society, personal liberty is taken care of

¹⁵ Reports by National Police Commission – www.humanrightsinitiative.org

by Article 22 which provides that the arrested person should be informed about the grounds of his arrest and should be produced within 24 hours of his arrest before magistrate. Liberty is the most cherished possession of man.

The protection of life and liberty and protection from or against arrest of a citizen are contained in our constitution. The protection of life and liberty of a citizen includes the person so arrested, as the person so arrested is also a citizen of India and he is protected by Article 21 of the Indian constitution and, as much if at all his life and liberty is to be curtailed, it must be according to Article 21 of the

Indian constitution which says that 'no person shall be deprived of his life or personal liberty except according to procedure established by law'. The expression personal liberty is not limited to bodily restraint or to confinement to prison only as has been illustrated by Hon'ble Supreme Court in **Kharak Singh V. State of U.P.**¹⁶ (Kharak Singh v. State of U.P., 1962)

The Constitution in its part III deals with Fundamental Rights. The prohibitions imposed by Article 20, 21 and 22 of the Constitution are directly relevant to the criminal process. Article 20 (1) prohibits retrospective operation of penal legislation. Article 20(2) guards against double jeopardy for the same offence. Article 20(3) provides that no persons accused of any offence shall be compelled to be a witness against himself. Of course, constitution article protects against testimonial compulsion on the premise that such compulsion may act as a subtle form of coercion on the accused. Article 21 of the Constitution provides that no person shall be deprived of life or personal liberty except according to procedure established by law. The expression "Life and personal liberty" occurring in the Article has been interpreted to include Constitutional guarantee against torture, assault or injury against a person arrest and custody. The following are the illustrative decisions, **in Dastagir v. State of Madras**,¹⁷

it was held that Punishment which has an element of torture is unconstitutional.

In case of **Inderjeet v. State of Uttar Pradesh**, the Apex Court hold the view that prison restrictions amounting to torture, pressure or infliction and going beyond what the court authorities, are unconstitutional further it extended that an under-trial or convicted prisoner cannot be subjected to physical or mental restraint, which is not warranted by the punishment awarded by the Court, or which amount to human degradation **Sheela Barse v. State of Maharashtra**¹⁸

Article 22(1) and 22(2) of the Constitution are also relevant for the present purpose because one of their objects is to ensure that certain checks exist in the law to prevent abuse of power of arrest and detention. Article 22(1) provides that no person who is arrested shall be detained in custody without being informed as soon as may be, of the ground for such arrest ,nor shall he be, of the ground s for such arrest, nor shall be de denied the right to consult and to be defended by legal practiner of the choice. Article 22(2) provides that every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of 24 hours of such arrest, excluding the time necessary for the journey from the place of arrest to court of

¹⁶ Kharak Singh v. State of U.P., 18th Dec,1962; 1963 AIR 1295, 1964 SCR (1) 332 – www.indiakanon.org

¹⁷ Dastagir v. State of Madras, 26th Feb,1960; 1960 AIR 756, 1960 SCR (3) 116 – www.indiakanon.org

¹⁸ Sheela Barse v. State of Maharashtra, 18th Sep, 1987; JT 1988 (3) 15 – www.indiakanon.org

the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

Custodial Violence and POTA

The Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA), which slipped by in 1995, was found to have prompted across the board utilization of torment by law requirement authorities. Just as pulling back protections under article 22 of the Constitution for those associated with comprehensively characterized offenses of troublesome exercises and Terrorist Act it further shields and there by encouraged the utilization of torment. Under Section 25 and 26 of Indian Evidence Act, 1872; is made to cop are not allowable as proof. These arrangements recognize the threat in depending upon such admissions taking into account the proceeding with doubt that they will be caught by the police turning to illicit works on including torment. Proof of the proceeded with the utilization of torment to remove admission, notwithstanding this clear protect fortifies the requirement for its proceeding with presence and thorough application. Be that as it may, Section 15 (1) of TADA suspended this protect and made admissions to a cop of the position of Superintendent of Police or more permissible in proof. Section 32 of the Prevention of Terrorism Act (POTA), 2000, is similar to Section 15 of TADA. Before passing of this Act, NHRC expressed its opinion, that, this would increase the possibility of coercion and torture in securing confessions and thus be inconsistent with Article 14 (3) of the International Covenant on Civil and Political rights. Its concerns appear to have been realised in practice. In Gujarat there have been several allegations made by detainees in Court that confessions have been extracted forcibly from them. As well as directly facilitating torture by suspending safeguards for detainees, legislation exists in India which facilitates immunity for perpetrators of torture and therefore leads to further acts of torture by officials who believe that they are immune from prosecution.

Conclusion

Custodial violence and custodial deaths is not a new phenomenon. It is prevailing in our society from the ages. Despite several initiatives in recent years, torture and ill treatment continues to be endemic throughout India and continues to deny human dignity to thousands of individuals. Custodial torture has become so common these days that not only the police and bureaucracy but even people take it for granted as a routine police practise of interrogation. The result is that the news of such outrageous conduct causes nothing more than a momentary shock in the society. When a custodial death occurs, there is a public uproar, which either dies down with time or at the most subsided by constituting an enquiring committee. The law in all countries authorises the police to use force under certain circumstances. This authority is in fact, basic to its role and cannot be questioned. It is a part of policeman's legal mandate. Despite of legislations, which secures the life and liberty of a human being, despite of so many reports given by so different committees time to time, why there is still custodial violence, torture and custodial deaths are happening.

We do acknowledge the police works under such a lрге amount of weight and different unsettling influences, at that point is likewise there, however the police positively has no privilege to exact ruthlessness on a powerless individual under its care disregarding the canons of law. In a vote based nation like India, its the Individuals and not the police who are the genuine bosses as the sovereign fore is refreshed with them. The police are simply the agent of the government which is ultimately accountable to the people. The police have to

protect the society from the acts of murderers, armed robbers, habitual criminals, and terrorists and make it a safe place to live in. Thus, apprehension of the gang of dacoits, arrests of accused who violently defies arrests etc. Is the situations which call for a measure of counter-violence by police.

The expansion in custodial wrondoings remembering torment for police care has featured in noteworthiness of human right research in nations like India. In spite of India is a gathering of different International human rights including UN Convention against torture and cruel Inhuman Degrading Treatment or Punishment (CAT 1984), torment keep on being not a problematic issue. The current custodial wrondoings in police authority. Torment in police guardianship has been seen a difficult issue for people, closest relative or casualty's families and networks on the loose.

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