



The role and response of judiciary in prevention of custodial crimes in India: An analysis

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Abstract

The powers of investigation and arrest gives ample authority to the police to use third form of harassment against suspects. These powers sometimes lead to police brutality in police cells against detainees or suspects ranging from minor incidents of mental and physical violence to death or irreparable injury to the arrested and under trails. With the passage of times and witnessing the increasing numbers of deaths in custody attracted the attention of courts and invoked the need of the judiciary to intervene in this kind of grave violations of human right to life and due process in police custody and trial. The paper deals with the proactive role of Indian judiciary to limit the unrestrained practice of using third degree methods in police custody to prevent custodial crimes in India.

Keywords: arrest, custody, constitution, human rights, investigation, police, torture, etc

Introduction

In *Raghubir Singh v. State of Haryana*, AIR 1980 SC 1087 The Supreme Court while pointing out the issue of custodial violence quoted that:

"We are deeply disturbed by the diabolical recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new peril when the guardians of law gore human rights to death..... Police lockups, if reports in newspapers have a streak of credence, are becoming awesome cells. Is this development is disastrous to our human right awareness and humanist constitutional order"

The World Medical Association, in its Tokyo Declaration, 1975, defined "torture" as "the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons, acting alone or on the orders of any authority to force another person to yield information, to make a confession or for any other reason."

To begin with the fundamental law of India i.e. the Indian Constitution, Articles 20, 21 and 22 provide for basic human rights and fundamental existence of life and personal liberty and protection in case of arrest and detention. The Supreme Court being the custodian of all these rights has, Therefore, the responsibility to protect every arrested, detained and under trial to protect against custodial violence, crime and any kind of torture.

In one of the landmark case, of *Sheela Barse v. State of Maharashtra* (1983) 2 SCC 96 12, the court observed that the growing death toll in the nation is alarming. It shows a clear infringement of the rule of law and depicts the poor condition of the structure of criminal justice in India. The Supreme Court and various High Courts have addressed the issue of beatings, torture and death in custody. In various judgments, they have decided how to prevent the deaths of

counselors., Prison killings and arrests have continued due to the fact that the downfall of the system of criminal justice system has not been brought about the legitimacy of the relevant legislations but because of the failure of the executive council to implement them in writing and in their true and correct essence. There is a need to check and assess the abuse and malpractice in a cell. Specifically, officials should emphasize the clear mandate of the U.S. Human Rights Commission to report on the entire violence challenge within 24 hours. Keeping the situation in mind, there are numerous dimensions of Supreme Court judgements and guidelines addressing the case of detention in police stations and strive to address a number of its fundamental drawbacks that give rise to the problem of Indian police as a working organization while deliberating upon this issue.

The judiciary has confronted numerous cases related to police deaths and military arrests, violence against women including alleged rape, arbitrary arrests, periods of torture, disappearance, false contact and so on. The courts have been playing a significant part in safeguarding and supporting the rights of victims of criminal misconduct. The main concern of the judicial system is to bring a measure of restraint and accountability to those responsible for administrative responsibility, and issued directives, making it mandatory for the authorities.

Custodial crimes in India

Between 2011 and 2013, 308 people died in custody and only 40% of these deaths led to cases being registered against them. Between 2015 and 2017, 289 people died in custody with Maharashtra recording 50 custodial deaths in this period, the highest amongst all States and UTs. The year 2017 alone saw 100 custodial deaths all over the country and of these, 58 people were not on remand i.e. they had been arrested and not yet produced before a court. The Supreme Court, in 2017, observed that India's efforts to

extradite suspects from abroad are impeded due to the fact that India does not have an anti-torture law. The legislation, once enacted, will expedite India's extradition attempts and the due process of law. In the last five years (2015-2019), 159 of 444 deaths in police custody (36%) have been reported as suicides, compared to 136 of 560 deaths (24%) from 2010-2014. In 2019, 81% of the reported reasons were either death by suicide (39%) or illness/death in hospitals (42%) during treatment.

In the recent incident of custodial violence in Tamil Nadu, father and son duo died after their arrest for allegedly violating the coronavirus lockdown in June 2020, were tortured for over six hours by policemen who "wanted to teach them a lesson" in how to behave with cops, the CBI has said in a charge sheet on the custodial deaths that angered the nation. The deceased Jeyaraj, 59, and his son Benniks, 31, were beaten so brutally that blood was splattered on the walls of the police station, The CBI charge sheet says the two were subjected to "several rounds of brutal torture with intervals in between 7.45 pm and 3 am".

The Prevention of Torture Bill

Tolerance of police atrocities, amounts to acceptance of systematic subversion and erosion of the rule of law. Torture is not permissible whether it occurs during investigation, interrogation or otherwise. It cannot be gainsaid that freedom of an individual must yield to the security of the State. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment prescribes that each State shall take effective legislative, administrative, judicial or other measure to prevent acts of torture. The offences of causing hurt or grievous hurt to extort confession are punishable under sections 330 and 331 of the Indian Penal Code. 'The Prevention of Torture Bill, 2017' (, 2010) was introduced in the Lok Sabha to give effect to the provisions of the Convention. Again in 2017 the Bill was introduced as a private member Bill in Rajya Sabha and then again in 2018, in the same form (private member bill) in Lok Sabha. The latter has lapsed due to dissolution of the 16th Lok Sabha. The Bill mentions that India is a signatory to United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Bill defines torture as an act by a public servant or by a person with acquiescence of a public servant, causes grievous hurt or danger to life, limb or health (whether mental or physical). Further the Bill proposes punishment of minimum 3 years which may be extended to 10 years and fine, for torture inflicted for purpose of extorting confession, or for punishing or on the ground of religion, race, Place of birth, residence, language, caste or community or any other ground. In 273rd Report of the Law Commission, the commission referred to the said Bill and specifically discussed the growing menace of custodial crime and government concern to redress this crime. The basic objective of the proposed law is to 'provide punishment for torture inflicted by public servants or any person inflicting torture with the consent or acquiescence of any public servant...'

273rd Report of the Law Commission

This report of the Law Commission was in response to a direction by the Central government while taking note of a writ petition filed before the Supreme Court by a former law

minister, Mr. Ashwani Kumar for implementation of the UN convention. The report traces the history of torture in India. It quotes from *D.K. Basu v. State of West Bengal*, wherein the Supreme Court had observed,

"Torture has not been defined in the Constitution or in other penal laws. 'Torture' of a human being by another human being is essentially an instrument to impose the will of the 'strong' over the 'weak' by suffering. The word torture today has become synonymous with the darker side of the human civilization".

Constitutional/Statutory Provisions for Persons in Custody

Article 20(3): provides that a person accused of any offence shall not be compelled to become a witness against himself. The accused has a right to maintain silence and not to disclose his defence before the trial.

Article 21: provides that nobody can be deprived of his life and liberty without following the procedure prescribed by law. The Supreme Court has consistently held that custodial torture violates right to life.

Article 22 (1) & (2): provide for protection against arrest and detention in certain cases. It prohibits detention of any person in custody without being informed the grounds for his arrest nor he shall be denied the right to consult and to be defended by a legal practitioner of his choice.

India Evidence Act

Section 24: provides that any confession obtained by inducement, threat or promise from an accused or made in order to avoid any evil of temporal nature would not be relevant in criminal proceedings.

Section 25: provides that a confessional statement of an accused to police officer is not admissible in evidence and cannot be brought on record by prosecution to obtain conviction

Section 26: provides that confession by an accused while in police custody could not be proved against him unless it is subjected to cross examination or judicial scrutiny

Section 27: Recoveries are not permitted to be procured through torture

CrPC

Sections 46(3) and 49: A detainee who is not accused of an offence punishable with death or imprisonment for life cannot be subjected to more restraint than is necessary to prevent his escape.

Section 54: extends safeguard against any infliction of custodial torture and violence by providing for examination of arrested person by medical officer.

Section 176: provides for compulsory magisterial inquiry on the death of the accused in police custody

Section 358: provides for compensation to persons groundlessly arrested.

Protection under the Police Act, 1861

Section 7 of the Police Act, 1861 empowers the senior officers to "dismiss, suspend or reduce any officer of their rank who they deem to be reckless or negligent in the performance of his or her duties." Minor penalties may also be imposed. Section 29 of the Act provides that any police officer who violates the rules and regulations including any police officer "who will hand over any uncontrolled violence to any person under his control" will be severely punished with imprisonment for three months.

Judicial Response in the Prevention of Custodial Crimes in India

The judiciary is the custodian of the Constitution and aims to increase the scope of human rights to prevent Crime and abuse of police power. The courts started taking cognizance of abuse of power by the police over the past years and used the judicial acumen as a tool for social change. There is long list of cases to highlight the attempts to judge in a series of cases of torture, violence and deaths in police custody. Courts in India have expressed their deep concern about the recurrence of crime on a number of occasions.

In *Kidar Nath v. State of Punjab*, AIR 1972 SC 87 the Court reports that "the practice, which continues with other police officers by including a suspect in the handling of the Third Degree or in other cases caused by the 'sweating process', in the hope of obtaining clues or obtaining confession, is more dangerous and more frequent. It is the duty of the police to find the perpetrator but not by hiring violence. Volition and violence cannot exist. Despite the difficulty, the detective process must conform to appropriate personality standards.

The Supreme Court has issued detailed guidelines in *DK Basu v. State of West Bengal*, AIR 1997 SC (610) to be followed in all cases of detention and detention pending legal action by Parliament in this regard. These requirements were laid down to prevent unlawful arrest and prosecution for failing to ensure that the relevant authorities who fail to comply with these requirements will be liable for a debt incurred not only for contempt of court but also for departmental action.

In *Raghubir Singh v. State of Haryana*, 1980 AIR 1087, the Supreme Court ruled that it was profoundly bothered and concerned due to the repetition of police brutality that led to the fear in the minds of ordinary citizens that their lives and freedoms were under new danger when law enforcement officers.

In the case of *Kishore Singh v. The state of Rajasthan*, AIR 1981 SC 625, it is emphasized that the significance of human health is the true essence of Article 21, the SC has intensely criticized the application of "third" measures by the police. The Supreme Court in the case of *Prakash Kadam v. Ramprasad Vishwanath Gupta*, (2011) 6 SCC 189, expressed its displeasure on fake encounters. The Court observed that in cases where a fake encounter is proved against policemen in a trial, they must be given death sentence, treating it as the rarest of rare cases. The policemen were warned that they will not be excused for committing murder in the name of 'encounter' on the pretext that they were carrying out the orders of their superior officers or politicians. In *Dagdu & Ors. v. State of Maharashtra*, AIR 1977. S.C. 1579, the Supreme Court observed, "If the custodians of law themselves indulge in committing crimes then no member of the society is safe and secure."

In *Bhim Singh v. J&K High*, AIR 1986 SC 494 Court described "We do not want to use strong words to condemn police action. If the freedom of the Member of the Legislature is violated in this way, one might wonder what could happen to the deceased".

In another landmark decision the *Kishore Singh High Court v. The state of Rajasthan*, AIR 1981 SC 625, the court held that the use of the "third" method by the police violated Article 21 and ordered the government to take necessary steps to educate the police in order to instill human dignity. The court further stated that "human dignity is a clear constitutional obligation not to be detained as a result of complications by prison officials." The harassment and mistreatment of female suspects in police detention centers has also been cited as a violation of Article 21 of the Constitution. The court has issued detailed instructions to the relevant authorities to provide safety and security in police stations especially for those female suspects. Female suspects should be kept in separate police stations and not in the same conditions as male detainees and should be guarded by women police officers. The court directed L.G. Prisons and the State Board of Legal Aid Legal Committee to provide legal aid to those accused and poor suspects (men and women) when they are under house arrest or convicted prisoners?

In series of judgements like *Ku Smt. Geeta Sangma v. State of Nagaland and others*, 1993(2) Crimes 805; *Dagdu v. State of Maharashtra*, 1977(3) SCC 68; *Bhagwan Singh v. State of Punjab*, 1992(3) SCC 249; *Smt. Kumari v. State of Tamil Nadu*, AIR 1992 SC 2069, the court has directed to compensate the victims through monetary compensation.

The decision in *D.K. Basu v. State of West Bengal* AIR 1997 SC 610 revealed that the decision in the case of *Joginder Kumar v State Of U.P.*, 1994 AIR 1349 was not adhered to in the country. In this case, the Supreme Court was informed of the ongoing practice of arrests by police. The court also found that even innocent people called to the police station continued to wait for days together without official arrest. They also found that a large number of suspects. The court, in the above case, has issued eleven guidelines to ensure the safety of suspects under investigation and to avoid violence or harassment in custody. The court also directed the Secretary of Home Affairs and the Director-General of Police in All Areas and City Councils to distribute the same to all police stations under their jurisdiction and to notify each police station in a visible area. References are below:

1. The police who make the arrest and handling of the war pen must have the correct, clear and clear ID and name tags for their appointment. Details of all police personnel handling the arrestee investigation must be recorded in the register.
2. That the police officer in charge of the arrest of the man who will arrange the marriage will prepare the arrest warrant at the time of arrest and this is proved by at least one witness, either a member of the arrestee family or a respected person of the place where the arrest is made. It will also be distributed by the arrestee and there will be a time and date of arrest.
3. A person who has been detained or detained while detained at a police station or in a detention center or other detention facility, shall have the right to have one relative or relative or other person known to him or interested in his or her own welfare. Witnesses of the bond obligation are such a friend or relative of the

- arrestee.
4. The time, place of detention and arrest of the arrestee must inform the police where the friend or next relative of the arrestee resides outside the district or city through the Regional Legal Entity and the police station the affected area by telephone within 8 to 12 hours after of arrest.
 5. An arrested person must be informed of this right of the person to be informed of his or her arrest or detention immediately after his or her arrest or detention.
 6. A diary must be submitted to the detention center regarding the arrest of the person who will also reveal the name of the next friend of the person who was notified of the arrest and the names and contact details of the police arrested.
 7. The arrestee must, on request for re-examination and, at the time of his arrest and any minor or minor injuries, if any, his body, be recorded immediately. The "Inspection Memo" must be signed by both the arrestee and the police officer on duty and a copy issued to the arrestee.
 8. An arrestee must be examined by a qualified physician every 48 hours during his or her medical detention by a licensed physician appointed by the Director of State or Continental Health. The Director of Health Services must prepare such a panel for all tehsils and regions.
 9. Copies of all documents including an arrest warrant, referred to above, must be sent to Magistrate Illaqa for his record.
 10. A juristic person may be allowed to meet with his or her lawyer during the interrogation, although not during the interrogation.
 11. The police control room must be provided to all families and the province, where the details of the arrest and detention of the arrestee will be communicated to the officer who made the arrest, within 12 hours of the action and the arrest of the police. Control room. It should be displayed on the visual bulletin board.

The Court, in a speedy trial, noted that "creating information about the rights of an arrestee would be a direct step in the fight against the evils of innocent crime and create transparency and accountability." He further was hopeful that these necessities would help prevent, if not totally stop and eradicate, the usage and application of dubious and uncertain means while interrogating and investigating lead up to a criminal committee.

In Chandania v. The State of the U.R. 2001 Cri. L. J. 2090 (Allahabad High Court) the arrested victim succumbed to his injuries. The cremation report clearly indicates that he died of a head injury from police. Investigation conducted by C.B.I. After taking into consideration all the facts and circumstances, the Court granted compensation of Rs. 1,50,000 / - except Rs. 10,000 / - already provided to the requester. The court also expressed its grief at the apparent failure of the State and its police officers by not holding the S.H.O. and Chief Constable. The court ordered them to take possible action to arrest them and take appropriate disciplinary action against those who were in charge of paying wages etc. For the people mentioned above if they are paid. Custodial rape is also one of the gravest form of crimes and human rights violation. In India. The law does not allow police to call a woman or child under the age of 15 at a police station. It is the right of every woman to be

examined in her house and in the presence of their relatives. Rape of women in police custody is a common occurrence.

In *Tukaram v. State of Maharashtra*, (1979) 2 SCC 143 famously known as *Mathura Case* a female employee was raped by police who met inside the building on her way home from the police station with her brother and co-worker.

State of Maharashtra v. Chandra Prakash Kewal Chand Jain, AIR 1990 SC 658: (1990) 1 SCC 550 77 " 78 "is about the brutal rape of a Muslim married 18-year-old Muslim policewoman Shamim Banu. Raped her against her will.

Hussainara Khatoon (I) v. The State of Bihar, AIR 1979 SC 1360, brought with it a shocking disclosure that 22000 people were incarcerated in the Bihar prison and their imprisonment started from a few months to 10 years. Justice Pathak noted that any reasonable sense of individual freedom should be considered a tragedy, a long period of confinement in jails before the individuals waiting for the trial in court get the consideration of the administration of justice. It is a fundamental principle of criminal law that imprisonment follows a sentence and does not precede it. Keeping it under trial for long-term hold is traumatic and is a sign of all forms of human dignity development. In the strong words of Bhagwati, J: "There is no procedure that does not guarantee that a speedy trial may be regarded as 'reasonable, incorrect or right' and would be contrary to Article 21. Which is the foundation of life and liberty. "The High Court also condemned the arbitrary detention and detention of innocent children in the police's home unless they were released on bail. The court held this unnecessary harassment of innocent people on charges of violating Section 21 of the Constitution.

Mahesh Ram and others to v. State of Bihar and others 2008 Cri. L. J. 59, the applicants had been detained for six months on charges, the stones of which an investigator drafted giving details of how Ranju Devi was killed by the applicants and attempts to dispose of the body failed due to police intervention. In this case a man imprisoned for his death, found alive. It is alleged that the statement of confession recorded by the police provided all the information obtained was false and fabricated. The court ruled that "it is clear that not only is the State responsible for harm but it is also responsible for damaging examples that will not allow citizens to receive the same treatment in the future in the hands of the police. The country and its officials are held accountable for its action and / or inefficiency. The State was obliged to pay compensation of Rs. One lakh per applicant and the State shall be free to obtain the same from the offending officer. He was found guilty of recording improper confession and acquitted of a two-year 'temporary escape' fine. "

Therefore, it is clear from the various decisions of the Supreme Court and the Supreme Court that the judicial process is in accordance with Article 9 (5) of the International Co Convention on Civil and Political rights.

Undoubtedly, the judges also acknowledged that the violence of the faith was deeply ingrained in the minds of the working class. However, the message of the court is clear and conclusive that the violence of pastors of any kind cannot be tolerated as it is contrary to the basic principles of the Constitution of India. Over the past few years it has become apparent that the scope of Fundamental Rights is increasing. The Supreme Court also declared the term "State Debt" in the event of a violation of these rights, hence the

old notion of independence. Judicial activism has led to the emergence of a monetary compensation to a person who has suffered unjustly or illegally and who promotes the concept of "public accountability". The Supreme Court of India, by continuing human translation, has expanded the scope of Article 21 to include in its manifestation of the rights of the accused and the defendant in order to protect the interests of innocent people and to prevent abuse and abuse of police force. In doing so, the High Court has increased the security of torture and death in police custody at the level of fundamental rights under Article 21 even though it has not yet been exercised as a fundamental right in the Constitution. Undoubtedly, an Indian judge was deeply moved by the torture and death of people in custody. The judge not only provided justice to the types of victims of police brutality but also the police. It is ironic that when the Court directs the payment of damages and compensation to each State, the person in charge of that amount pays the tax, because in the end it is the taxpayer's money, paid for the misconduct of a public servant. Therefore, the State must not only pay the complainant to the public fund but also receive the same from the salary of the offending officials.

This kind of court environment actually makes police services more aware of their involvement in human rights abuses. This should be a sign to the police that they do not expect the courts to appear when it comes to human rights abuses and at the same time it should be a barrier to open-mindedness and a human rights approach. Suspicious violence can only be prevented if we create human rights standards in the police system and this can only be achieved if we change the basic aspects of police culture. It is also surprising that the government, that is, the State has never issued a law to determine the individual victim's claim in this regard. The Law Commission of India in its Preliminary Report on Liability of State in Tort (1956) recommended that such a law be enacted. Even so, the Indian judge was very sympathetic and lived up to the protection of human rights. It uses judicial activists to develop new tools and to develop new solutions to ensure the precious human right to life and personal liberty. Therefore, the Indian Courts have established new tools to distribute justice to those who are victims of criminal prosecution.

Conclusion and Suggestions

The Supreme Court and a number of Indian High Courts, have played an important part in ensuring prevention of torture and atrocities in police custody. But, only judiciary cannot curb this problem alone, the government must guarantee the firm observance of all police officers authorized to arrest and detain persons. Steps must be taken to ensure that regular visits to police stations are made by senior officials and that a specially formed team of police officers are competent perform their obligations without discrimination against any police officers.

- It must be ensured that such officials respect human rights. Police officers must be strictly trained to obey all Court rulings regarding court violence.
- In our current criminal justice administration system, arrests are followed by investigations and evidence collection. After arresting a person in custody, investigators often try to make confessions about physical and emotional abuse. This is in stark contrast to the criminal justice system followed by other developed countries such as England. A new criminal

investigation system should be developed where arrests and investigations should be a last resort after knowing that the suspects have collected and collected all the evidence in a legal manner.

- Reasonably enough time must be provided to the investigating officer to gather evidence against the culprit. Appropriate preparation must be properly referred to the police. Police force of arrest must have strict limits and there must be adequate security for arrest. The police are needed to establish in writing the requirement of personal detention as a way to reduce the number of unnecessary arrests due to vested interests.
- The govt. must provide orders to all police personnel that arrests must be made only in according to the statutory mechanism. They should also be taught that arrests can only be made by police officers wearing 85 uniforms that visibly show their names, separate spaces and names of foreign police stations.
- Completely kept records comprising of every detail of the arrested individual from the time they were arrested must be placed at the station. When an individual is arrested, the place, time of detention, identity, where the person is being held, where he or she has been transferred, the details of the witnesses and other relevant details should be included in the diary.
- All matters should be referred to the Chief of Regional Police and the Chief Administrative Officer accordingly. All police stations must keep accurate records in the period of this data as well as the causes for the detention and the time and date of the person's entry and release from the police station.
- Police stations should be monitored from time to time or unexpectedly by senior officials or the visiting team and those steps that can be taken should be taken.
- Waiting rooms should be provided in all police stations. A recording record must be kept on these calculators. The accused must be brought to the station only after entering the register.
- The individual who has been detained must be notified immediately as to the reason for his or her arrest and detention so that he or she can 86 properly present his or her case, which requires a legal remand. In-charge Police officers must be given instructions that every detained individual must be formally notified of their rights.
- Arresters should be known to their legal rights by displaying on the Lock-up a list of those rights written in the regional language. It is further recommended that this list of rights should be read to the detainee in a language he or she comprehends as a legal form.
- There is also a need of Disciplinary requirements in police stations. In view of the increasing violence against women against women, a number of suggestions have been made. No woman will be arrested between sunset and sunset except in circumstances when it is totally indispensable to be arrested at night itself. If arresting a female during night time is absolutely essential, then consent must be obtained from the next chief executive officer. If consent is not plausible to obtain, the reasons for the arrest should be reported to the next senior officer without delay. The officer making the arrest must have an adequate number of female police officers and the

arrested woman must be kept under their control. Relatives or neighbors' of the arrested woman must be permitted to go along with her to the station.

- At all police stations, there should be enough space for the detainees to sleep in the middle of the night and the locks should have adequate access, adequate bathroom and toilets close to the detention centres. There should be ongoing and ongoing monitoring of detainees held in police custody.
- Police officers arresting a person should contact a Custody official about his or her background, mental health and behavior. It is important to note that detainees do not engage in any activities that could endanger them and others.
- All people in police cells should be provided with basic food and quality and clean water or, if they wish, they should be given access to food at their own expense and it should be reviewed from time to time.
- Relatives and attorneys should have free Lock-up access to see the detainee. There should be routine check-ups of all detainees by conducting health camps during the time of the detainment. A copy of the detainee's medical examination report must be provided to him or her or his or her nominee's attorney or his or her relatives.
- The Admissions Centre led by senior police officers including a doctor and a psychiatrist should be established in all fields. In cases of high-level mortality, it must be done within 24 hours.
- Appropriate training and practice should be provided to medical professionals to prepare post-mortem reports based on ethical standards. Relatives of the deceased should be allowed to send a medical professional at the time of arrival.
- All post-mortem examinations in connection with the deaths of people in police custody should be videotaped and submitted to the NHRC. Measures must be engaged to guard the medical professionals who cook human remains and medical examinations of victims of torment due to police pressure. As a measure in favour of this, it should be done to compel police officers not to be present during autopsies or medical examinations.
- There should be enough places for uninfluenced conversation between the person being investigated and the investigator. Details must be notified immediately of any charges against him. A checklist for police investigations should be developed and records concerning with surveillance should be kept to the officers conducting the investigation. Such records must contain the names and addresses of the persons present during the investigation and the intervals between the interrogation periods.
- Extensive training for new scientific research can be incorporated to create specialized research units. The investigative work of the police must be made completely free of all forms of political and other pressures. The scientific approach to recruitment should be adopted to find talented people, a healthy character, political neutrality, extra intelligence and emotion.
- Steps should be taken to recruit qualified and competent staff to be emotionally stable, human rights activist, healthy character, political neutrality, moderate intelligence, etc. with the police service.
- The first optional treaty on the International Covenant

on Political and Political Rights must be approved by the Government of India. The Government of India must take steps to cancel the bookings made while accepting the agreement so that Indian citizens can claim compensation if they are not arrested or unjustly detained. Appropriate and adequate measures must be taken by the government to promptly and effectively investigate all media reports of harassment by an autonomous, fair and neutral organization. It should also introduce model prosecutions in opposition to committers of police harassment. NGO's and human rights activists must be encouraged and stimulated to make attempts to in their efforts to protect human rights. 93

- Protecting prisoners present from arrests issued by the SC, especially in *D.K. Basu v. State of West Bengal*, must be included in the required legal code and every police manual.
- Steps must be undertaken to keep a check on their performance and statistics must be published in a period manner. The communication between the police and the community should be friendly enough to create respect.
- Finally, as per the recommendation of the law commission, the existing provisions under various statutes referred to hereinabove, should be amended. specifically, section 357B to include a provision regarding payment of compensation in case of torture as well, in addition to payment of fine as provided under section 326A or section 376D of the Indian Penal Code, 1860. Similarly, the Commission is of the opinion that it shall be the responsibility of the State to explain the injuries sustained by a person while in custody, and therefore, recommends amendment to the Indian Evidence Act, 1872, by inserting section 114B on the lines of the Bill, viz., The Indian Evidence (Amendment) Bill, 2016, as introduced in Rajya Sabha on 10 March 2017.
- The commission also recommended payment of compensation to victims of torture at the hand of public servants or at the behest of public servant, as the case may be. Such compensation to be paid keeping in mind socio-economic background of the victim, nature, purpose, extent and manner of injury, including mental agony caused to the victim such as the amount suffices the victim to bear the expenses on medical treatment and rehabilitation.

The need of the hour is to adopt humane, tolerant and polite attitude by the police. This is the only way to recreate and redefine the sense of security and confidence in the mind of general public towards police. No doubt the law enforcement machinery has to resort to compulsive and strict measures but the style of using those methods must not be arbitrary, whimsy and must adhere to proper procedural and ethical principles.

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