

**CUSTODIAL TORTURE- INJUSTICE BY THE PROTECTORS OF JUSTICE:
A CRITICAL ANALYSIS FOR REFORMS UNDER POLICE ADMINISTRATION**

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ABSTRACT

“Injustice anywhere is a threat to justice everywhere”- Martin Luther King Jr.

A standout amongst the most basic elements of the state is to keep up lawfulness and guarantee poise of its citizens and this capacity is endowed to a body known as the "Police". Policeman, as an overseer of law has a multifaceted character in a society, viz. conservation of lives and property, security of guiltless people against abuse and terrorizing nipping the reprobate inclinations and to act unremittingly to guarantee peace and request in the general public, where freedom, uniformity and equity saturate all men are the esteemed beliefs of a policeman. To execute these lawful obligations, extensive variety of forces of arrest and investigation are vested in police by law yet these forces are regularly mishandled by the police to torture the suspects either to unravel a crime or for sadistic pleasures in the so called bona fide name of investigation, which stands contrary to the duties of the police. As per the Oxford dictionary “custody” means protective care or guardianship of someone or something. In legal parlance, Custody is defined as any point in time when a person’s freedom of movement has been denied by law enforcement agencies, such as during transport prior to booking, or during arrest, prosecution, sentencing and correctional confinement.¹

¹ Gill J, Koelmeyer TD. Death in Custody and Undiagnosed Central Neurocytoma. Am J Forensic Med Pathol 2009;30: 289–291.

INTRODUCTION

The practice of torture by the law enforcement agencies is not a new phenomenon but was a feature of the administration of criminal justice even in the Vedic and post Vedic period in India. The trial by ordeals of fire, water, Poison etc. was in vogue to determine the guilt of the accused and sometime a person proved his innocence by death, as the ordeal was very painful and dangerous.²

In Medieval India and during Mughal rule the policing duties were entrusted to an officer known as "Kotwal" He was perceived to be ruthless, cruel, arbitrary and effective when it was so in his interest. The position of police during British rule did not see much change. During this period the police were exclusively concerned with the detection of crimes or prevention of infringements of law. They were generally callous or harsh and, on occasions ruthless, in administering the law and especially in the task of investigation of crimes.³

Though during this span of time a number of amendments were brought forward like designating various Police Commissions and establishment of Police Act in the year 1861. In the days preceding independence agitations, uprisings and even constitutional movements were undertaken as human liberties were mercilessly suppressed with the aid of the police and hence the police was looked upon with doubt and abhorrence by substantial segments of the general population who considered it as simple motor of mistreatment. The Police Act of 1861 still remains the central piece of legislation that governs all aspects of policing in India. The Police Act of 1861 was an absolute consequence of Indian Mutiny of 1857 and therefore, was intended to promulgate a police regulation on the citizens. The Police Act, 1861 introduced a police mechanism designed to be absolutely submissive to the executive and highly authoritarian. The managerial ideology of the police hierarchy was based as skepticism of the lower ranks.

The British government also observed that the Police Act of 1861 had defeated the purpose to emerge as an effective and competent police force. An extensive attempt to advance the police system was made in 1902, when the government formed a commission under the chairmanship of Sir A.H.L. Fraser to introduce changes in the police system. The commission made numerous proposals however the pioneer arrangement of policing stayed unaltered. Even after the termination of the British Raj in India, the police system was more or less the same. Post-independence, the Indian political system was reconstructed into a democratic one

² V.D. Kulshershra, Landmarks in Indian Legal and Constitutional history, Eastern Book Company, Lucknow, 6 Edition, 1992, P. 8-10

³ P. Lakshmi & K. Vijaya Lakshmi "Custodial Violence- Stripping of Human Dignity" Criminal Law Journal, Vol. 114, part 1300, April. 2008, P. 9

but the police system remained its colonial substructure remained the same as the Police Act of 1861 remained unchanged. Unfortunately, all police manuals and new Acts are drafted almost exactly on the blueprint of 1861 Act. There is no critical change in the execution or conduct of the police. Police frameworks in India can even now be portrayed as an administration constrain, which puts the whims of legislators or the highly authoritarian over the lead of law and the necessities of citizens. In 1960's initiatives were taken by the State Governments to set up commissions for advancement of the police system. Amid the 1970's the Central government appreciated setting up the advisory group on police Training in 1971 and later the National Police Commission in 1977, in the new thousand years, Malimath Committee detailed in 2003 and Soli Sorabjee Committee drafted another Police Act in 2006.

CUSTODIAL TORTURE

Custodial torture ranging from assault of various types to death by the police for extortion of confessions and imputation of evidence are not uncommon. Such a method of investigation and detection of a crime, in the backdrop of expanding idea of 'humane' administration of criminal justice, not only disregards human rights of an individual and thereby undermines his dignity but also exposes him to unwarranted violence and torture by those who are expected to 'protect' him.⁴ The former Supreme Court judge, V.R. Krishna Iyer, has aforementioned that

*"Custodial torture is worse than terrorism because the authority of the State is behind it."*⁵

- A 20-year-old Dalit R. Jay Kumar died due to alleged torture at the Chitilapakkam Police Station in Kanchipuram district of Tamil Nadu. The deceased, a school van cleaner, was picked up for questioning in connection with a case of assault on 14 November 2010. The deceased was released on 15 November 2010 after his mother allegedly paid a bribe of Rs. 1000. However, he had to be hospitalized at the hospital where he died. The deceased's mother alleged that her son sustained injuries due to torture by two constables, which resulted in his death.⁶
- In another case, Babu (58 years), a laborer, died due to alleged torture at Kattakada Police Station in Thiruvananthapuram in Kerala. Babu was taken into custody on a warrant in connection with a clash over a land dispute in 2002. Police claimed Mr.

⁴ K.I. Vibhute, Criminal Justice-A Human Right Perspective of Criminal Justice Process in India, (Eastern Book Company, Lucknow, 1st Edition, 2004) p. 219

⁵ The Hindu, Custodial Torture Worse than Terrorism, <http://www.thehindujobs.com/thehindu/2003/07/27/stories/2003072703510500.htm> (Visited on January 23, 2010)

⁶ Complaint of Asian Centre for Human Rights to National Human Rights Commission, 3 December 2010.

Babu collapsed at the police station and was rushed to hospital where he died.

However, the deceased's family alleged that he was tortured resulting in the death.⁷

Today the society has nearly succumbed to the syndrome of lawless tensions, psychic penury and miseries of conflict, at individual, domestic, local, national and international levels. The legal mutiny far from salvaging man is gnawing at him from within. Incarcerating barbarity has been validated by the popular retributive-deterrent philosophy; this is current sentencing coin in many criminal jurisdictions.⁸

HUMAN RIGHT VIOLATION

The forbiddance of torture and other brutal or corrupting treatment has been upheld as far back as the reception of the Universal Declaration of Human Rights 1948 and the Geneva Conventions 1949, yet it was just in 1948 that the UN Assembly surprisingly embraced the tradition against torture. The tradition, other than different things conveys the meaning of torture. It characterizes torture as follows:

"Torture means any act by which severe pain or suffering whether physical or mental is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confessions, punishing him for an act he or a third person has committed or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official acting in the official capacity. It does not include pain or suffering arising only from inherent or incidental to lawful sanctions".⁹

The motto of the National Human Rights Commission is "Sarve Bhavantu Sukhinah". Happiness and health for all is sought to be achieved through a rights-based regime where respect for human beings and their dignity is cardinal. President's assent to the Protection of Human Rights Act was a major breakthrough in this direction. Section 3 of the Act provides for the setting up of the National Human Rights Commission (NHRC) and Section 21 provides for the setting up of various States Commissions (SHRC)¹⁰.

⁷ Complaint of Asian Centre for Human Rights to National Human Rights Commission, 14 January 2010.

⁸ V.R Krishna Iyer : Constitutional Miscellany , 2 nd Edn (2003) p. 149, 151

⁹ Article 1 of the 1984 UN Convention Against Torture or other Cruel ,Inhuman Degrading Treatment , General Assembly Resolution 39/46 of 10th December 1984.

¹⁰ The Protection of Human Rights Act, 1993. Act 10 of 1994, with Amendment Act, 2006. Springborn RR. Outlook: Death in custody. Department of Justice Criminal Justice Statistics Centre, California. May 2005.

FACTORS- CUSTODIAL VIOLENCE

Evidently talking about our nation, we are usual to think as far as 'tit for tat' and 'a tooth for a tooth'. Thus, our society inherently expects and impliedly consents for inflicting physical force i.e. violence on suspects to solve the crime. Complainants themselves, instigate the police to use force on the suspected or the accused. In this way, policemen get figuratively speaking, social support for these illicit demonstrations. In this way there is no social disgrace appended to the custodial violence executed by the police, which is a critical social element. There are many purposes behind the custodial violence conferred by the cops inside the four dividers of police stations. A portion of the purposes behind such wrongdoings are as under:

A. **Psychological Reasons:** The use of scientific methods of investigation may at times be a long drawn process. Investigating officers lacking proper orientation in scientific methods resort to third degree measures for eliciting confession and for unearthing mystery or motive behind the commission of offence.¹¹

There are different psychological reasons because of that police regularly resort to custodial savagery. They are specified as under:

1. The law implementation officers regularly depend on third-degree torture because of the poor relationship between the police and the society.
2. The absence of legitimate training and familiarity with human rights laws.
3. They follow old methods which are used for training given to budding police officers.

The accentuation is still more on muscle than on brain. They trust that Aggressive implementation of law also, arranges as a fast settle answer for the issue of rising crime, without discussing the main reasons for increasing crime

4. Stress due to pitiable working states of the cops.
5. Corruption because of a poor state of administration in regard of pay, payments and various promotions.

B. **Pressure of Jobs:** An examination of the National Police Commission demonstrates that an examining officer commits just 37 percent of his time in investigational work while whatever is left of 63 percent his time is taken up by different obligations

¹¹ Puppul Srivastava & Shukti Trivedi, "Custodial crimes in India: A Grave violations of Human Rights" Criminal Law Journal, Vol. III , Part 1267, August, 2005, P.299.

associated with upkeep of VIP, band bust, petitions, enquiries, court participation and so on.

The outcome is constrained well to open and careful examination and placing reliance on an alternate way, additional lawful techniques and torture this will, be that as it may necessitate substantially bigger group of police officers to handle the heavy work load.

- C. **Inadequacy of Infrastructural Facilities:** Lack of independent female and juvenile lockups which is because lack of infrastructural facilities in many police stations has made it hazardous for women and juvenile denounced for confinement at the police stations after their arrest. The security of women corrodes as there is an inadequate number of woman police officers and woman constables at the police station leading to custodial rapes. In most cases sexual harassment in the form of molestation or rape in the custody are committed on women accused person who are left alone in the custody of sentry constables and duty officers at odd hours of night.¹² The Asian Centre for Human Rights reported that there have been 45 cases of custodial rape in India between 2002 and 2010 but in reality, this figure could be much higher.¹³
- D. **Torment Due to Low Job Satisfaction:** The society doesn't place much confidence and respect for the police officers. Also, the basic minimum working conditions are denied to them. They are poorly paid, they execute their work in poor working conditions, are denied housing and have scarce job security. All of this leads to frustration and aggression in the police officers which then treat the accused with severe means amounting to violence in the custody. Cops regularly see themselves as to be pawns in the hands of effective government officials. A large portion of the deaths in police custody is particularly credited to political impedance.

CONCERNS FOR CUSTODIAL VIOLENCE BY POLICE AUTHORITIES

Custodial torture has been an International concern which can be traced back to the 19th Century where the movement to eradicate slavery began. The Universal Declaration of Human Rights in its preamble acknowledges the constitutional dignity and equality as

¹² Ibid P. 230

¹³ The Asian Centre for Human Rights, report 13th March 2011.

inviolable rights of every member of the society as bedrock for Justice, Peace and Freedom. The General Assembly proclaimed that the declaration of human rights as a common standard of achievement that all nations shall constantly keep in mind and shall strive by teaching and education to promote respect that all human beings are born free and equal in dignity and rights.¹⁴ Therefore measures have been taken by countries to safeguard the victims of custodial violence. Article 5 of Universal Declarations of Human Rights states that no one shall be subject to torture or cruel, inhuman or degrading treatment or punishment¹⁵, Article 9 of the Universal Declaration of Human Rights guarantees that human has the right to security of persons. No one shall be subjected to arbitrary arrest or detentions.¹⁶ Article 6 of the International Covenant on Civil and Political rights defines that every state shall keep proper check on techniques used by the police officers for interrogation and arrangements shall be made for custody and treatment of persons who are in custody.¹⁷

- Manoj Yadav, 28, was crying when his father Dayanand Yadav met him in the lock-up of Sadar police station in Bihar's Nawada district. The police torture had left him in excruciating pain. He could not even eat the home cooked food his father had brought. The next day, Manoj's body was found in a barren field, sprawled in the dust, saliva oozing from his gaping mouth. This was the second time the police had arrested Manoj, who had no criminal record. First time he was arrested for using a murdered businessman's mobile phone, which he had found abandoned in the streets. The police released him after interrogation when he was found innocent. But with pressure mounting to crack the murder case, the police picked up Manoj again and this time, the police thrashed him in an effort to make him talk, killing him in the end. The incident sparked off a furore, forcing the police to file an FIR against five policemen. Superintendent of Police, Nawada, Surendra Lai Das claims Manoj was never arrested, but he fails to explain why, in that case, was the FIR lodged against the policemen.¹⁸

¹⁴ Article 1 of the Universal Declaration of Human Rights, 1948 – “Everyone has the right to life, liberty and security of person.”

¹⁵ Article 5 of the Universal Declaration of Human Rights, 1948 – “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

¹⁶ Article 9 of the Universal Declaration of Human Rights, 1948 – “No one shall be subjected to arbitrary arrest, detention or exile.”

¹⁷ Article 6 of the International Covenant on Civil and Political Rights.

¹⁸ <http://indiatoday.intoday.in/story/bihar-custodial-deaths-on-riseinindia/182367.html>, Article name, 'Policemen are killers in khaki' by Amitabh Srivastava Visited on 06/03/2017.

LEGAL REMEDIES

Detention does not deprive one of his Fundamental Rights.¹⁹ It has been adjudicated in a number of cases that an arrestee is not deprived of his fundamental rights for the sole cause that he is in the police custody and is detained; the violation empowers the arrestee to approach the Apex Court under Article 32.²⁰ They don't flee the persons as he enters the prison although they may suffer shrinkage necessitated by incarceration.²¹ In any case, the degree of shrinkage can and ought to never achieve the phase of torment in authority of such a nature, to the point that the people are decreased to a mere animal presence.

CONSTITUTIONAL PROVISIONS

1. ARTICLE 20

Article 20 predominantly gives a person rights against conviction of offences. This incorporates the principle of non-retroactivity of penal laws (*Nullum crimen sine lege*).²² Therefore, ex-post facto laws in this way making it an infringement of the people's fundamental rights if endeavors are made to convict him and torment him according to some statute. Article 20 also acts a safeguard against Double Jeopardy (*Nemo debet pro eadem causa bis vexari*)²³. The police subjects a person to brutal and continuous torture to make him confess to a crime even if he has not committed the same.

2. ARTICLE 21

The Indian judiciary has interpreted the purpose of this article in a catena of cases that it is to protect the right to be free from torture. This view is held because the right to life is more than a simple right to live an animalistic existence.²⁴ The expression "life or personal liberty" in Article 21 includes a guarantee against torture and assault even by the State and its functionaries to a person who is taken in custody and no sovereign

¹⁹ Prabhakar Pandurang v. State of Maharashtra, AIR 1966 SC 424

²⁰ Sunil Batra (II) v. Delhi Admn., (1980) 2 SCR 557

²¹ V.N. Paranjape, Criminology and Penology, (Central Law Publishing, Allahabad, 12th Edition, 2005) p. 381

²² "No crime, no punishment without a previous penal law", Article 22 of the Rome Statute of the International Criminal Court

²³ "No one ought to be twice troubled or harassed [if it appear to the court that it is] for one and the same cause", http://www.wordinfo.info/words/index/info/view_unit/3475 (Visited on January 23, 2010)

²⁴ Sarah Smith, The Right to Life in India: Is It Really the 'Law of the Land', <http://www.hrsolidarity.net/mainfile.php/2005vol15no05/2446/> (Visited on January 23, 2010), Francis Coralie Mullin v. Administrator, Union Territory of Delhi and Ors, AIR 1981 SC 746a; Bandhua Mukti Morcha v. Union of India, (1997)10SCC549; People's Union for Democratic Rights and Ors v. Union of India (UOI) and Ors, AIR 1982 SC 1473.

immunity can be pleaded against the liability of the State arising due to such criminal use of force over the captive person.²⁵

3. ARTICLE 22

Article 22 renders four key fundamental rights in respect to conviction.

- I) Being informed of the grounds of arrest.
- II) Legal practitioner of the accused's choice.
- III) Preventive detention laws.
- IV) Accused to be produced before the magistrate within 24 hours of arrest.

In this manner, these arrangements are intended to guarantee that a man is not subjected to any evil treatment that is without statutory support or outperforms recommended abundances.

OTHER AUTHORITIES

A. INDIAN POLICE ACT, 1861

This statute provides for dismissal, penalty and suspension for police officers who are found to be neglectful in discharging their duties or are unfit to carry out the same (Section 7 & 29). This can be seen in the light of the police officers violating various constitutional and statutory safeguards along with guidelines given in *D.K Basu v. State of West Bengal*.²⁶

B. INDIAN PENAL CODE (IPC), 1860

After the controversial *Mathura Rape Case*²⁷ as an amendment, a revision was realized in Sec. 376 of the IPC. Sec. 376(1) (b) punishes custodial rape committed by the police. This was a much needed development made to the segment being referred to as it at last censures the demonstrations of cops who exploit their powers. Sections 330, 331, 342 and 348 of the IPC have ostensibly been designed to deter a police officer, who is empowered to arrest a person and to interrogate him during investigation of an offence from resorting to third degree methods causing 'torture'.²⁸

²⁵ D.K.Basu v. State of W.B, (1997) 1 SCC 416

²⁶ AIR 1997 SC 610

²⁷ (1979) 2 SCC 143

²⁸ State of Madhya Pradesh v. Shyamsunder Tviwedi, (1995) 4 SCC 262 at 273

C. INDIAN EVIDENCE ACT, 1872

Section 25 makes a confession made by the accused to the police officer inadmissible in Court. Also, Coerced confessions made due to threats by the police officials in order to prevent any temporary evil would be irrelevant in proceedings. Consequently, despite the fact that custodial torment is not explicitly disallowed by law in India, the proof gathered by unlawful means, including torment is not acknowledged in courts.

D. CODE OF CRIMINAL PROCEDURE, 1973

Section 46 & 49 was made with the legislative intent to protect those in custody from infliction of torment who are not accused of an offence punishable with death or life imprisonment and also during escape. Provisions 50 – 56 are in conformity with Article 22 of the Constitution. Section 54 of the Code is an arrangement that to a huge degree corresponds to any punishment of custodial torment and brutality. According to it, when an allegation of ill-treatment is made by a person in custody, the Magistrate is then and there required to examine his body and shall place on record the result of his examination and reasons therefore.²⁹ It gives them the right to bring to the Court's notice any torture or assault they may have been subjected to and have themselves examined by a medical practitioner on their own request.³⁰ A compensatory mechanism has also been used by courts.³¹ When the Magistrate does not follow procedure with respect to entertaining complaint of custodial torture, it calls for interference by the High Court under Sec. 482 of the Code.³² Another significant provision with respect to custodial torture leading to deaths is Sec. 176 of the Code where a compulsory magisterial inquiry is to take place on death of an accused caused in police custody. Sections 167 and 309 of the Code have the object of bringing the accused persons before the court and so safeguard their rights and interests as the detention is under their authorization.³³

²⁹ A.K Sahdev v. Ramesh Nanji Shah, 1998 CrLJ 2645 at 2650 (Bom.)

³⁰ Shakila Abdul Gafar Khan v. Vasantraghunath Dhoble, 2004 (1) GCD 812 at 823 (SC)

³¹ J. Y.V Chandrachud & V.R Manohar, The Code of Criminal Procedure, (Wadhwa Nagpur, 18th Edition, 2006) p. 114

³² Mukesh Kumar v. State, 1990 CrLJ 1923 at 1925

³³ Bhai Jasbir Singh v. State of Punjab, 1995 CrLJ 285 (P&H) cf. P.C Bannerjee, Criminal Trial and Investigation, (Orient Publishing Co, Allahabad, 3rd Edition, 2003) p. 222

JUDICIAL PRECEDENTS

The Supreme Court is acclaimed as a protector of rights against cruelty and torture. The Apex Court since 1990s has constructed two ingenious methods for dealing with Custodial Torture and Custodial Death that are:

- 1) The Right to Compensation for Custodial Torture and
 - 2) Supreme Court has also formulated Custodial Jurisprudence for the same.
- Award of Rs 15 lakh to the widow of custodial death victim by Supreme Court: In *Indu Singh & Ors vs State of Uttar Pradesh*³⁴, The Supreme Court on 10 October ordered the government to compensate a widow with Rs. 15 lakh for the custodial death of her husband 27 years ago, Indu Singh's husband Vinay Singh, a doctor by profession, had died in custody in March 1987, allegedly during an altercation that broke between him on the one hand and two constables on the other. The petitioners were represented by advocates SS Nehra, ND Gaur, and Arun Kumar Tripathi. The respondents had senior advocate Ratnakar Das and advocates Ashutosh Kr. Sharma and Gaurav Dhingra appearing. On 29 August this year the Supreme Court asked the government to show cause why it should not be directed to pay a lump sum compensation to the widow, at which the government sanctioned an amount of Rs. 5 lakh to be granted to her in compensation. However, when on the next date of hearing the widow asserted that she is liable to greater compensation since her husband was a doctor and his death took place a long time ago, the bench of justices SJ Mukhopadhaya and PC Pant disposed of the case with the grant of an additional Rs. 10 lakh in compensation. The lump sum amount will be recovered from the guilty police constables.
 - In *Sheela Barse v. State of Maharashtra*³⁵ has contributed to safeguard the interests of the arrested persons especially for women by providing guidelines for the same, in the same case that Court has put a duty on the Magistrates which is to inform the arrested person of their rights.
 - In *D.K. Basu v. State of West Bengal*³⁶ Supreme Court provided guidelines in respect to the Rights of the persons in custody. The most critical one being the arrestee ought to be subjected to medical examination at regular intervals (48 hours) amid his confinement by a specialist from the affirmed board of doctors and

³⁴ (WP Cr 40/2014)

³⁵ 1983 CrLJ 1923 (Del)

³⁶ (1997) 1 SCC 416

duplicates of every endorsed record shall be sent to the concerned Magistrates? Also, the arrestee shall be permitted to meet his lawyer during interrogation.

RECOMMENDATIONS

Some suggestions which would form path for safeguarding the rights of the victims and reforms in the police administration system are as follows:

- Firstly, we must adopt a humane tool to reform the crime, criminal, abandon the fanatical superstition that the State brutality will sensitize the savage into a social member and offer new breakthrough in crime control consonant with human rights and curative curial compassion.³⁷ Custodial torture must be made a crime. This could be brought in by way of a special law.
- Secondly, the root of all the evil lies in vesting enormous judicial powers to the police officials. Their job begins from the arrest to the conviction of the arrestee.³⁸ Many instances of custodial torment could be forestalled if law-authorizing organizations took after the current laws identifying with arrest and detainment. The guidelines built up by the Supreme Court-- however not an entire cure- ought to be connected without disappointment. The individuals who neglect to consent must be arranged.
- Thirdly, the general population - and particularly concerned proficient gatherings, including rights bunches and the media- - should nearly screen police practices to see that administration guarantees are maintained. The political restriction should likewise observe to it that the Director General of Police presents an answer to the administrative get together, and an investigative report, on each instance of custodial demise and torment.
- Fourthly, the central government ought to be encouraged to approve the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. The legislature has neglected to confirm the arrangement on spurious grounds that current laws are sufficient to forestall custodial torment which is apparently not the situation. Were that the case, 70 years after independence and regardless of various concerns and rules issued by courts all over India, torment would not hold on unabated as it does today.

³⁷ V.R Krishna Iyer : Constitutional Miscellany , 2nd Edn (2003) p. 151

³⁸ http://www.rmlnl.ac.in/webj/custodial_deaths_barkha_Neha.pdf

CONCLUSION

The very thoughts of a person in authority put something aside for assurance and sustaining is hellish cursedness to human presence. The word custody infers guardianship and defensive care. Notwithstanding when connected to show arrest or imprisonment, it doesn't convey any evil side effects of viciousness amid authority. In a complaint of custodial torture, the court should not adopt a casual approach to it on the ground that it has been made by a habitual offender.³⁹ It is a perennial problem of statecraft.⁴⁰ It hence, gets to be distinctly basic to advance an arrangement of state administration that permits the police to successfully keep up lawfulness and to counteract and recognize the commission of a wrongdoing without endangering lawful rights; benefits and cases of laymen. Such a framework clearly warrants proper control over the police with a specific end goal to debilitate them from practicing their energy in a fanciful way. Similarly, an effective institutional grievance redressed mechanism to vindicate 'police excesses' is also the need of the hour.⁴¹

Be that as it may, the Constitution stipulates as one of the mandate standards of state's arrangement to attempt to cultivate regard to international law and settlements which depend on standards of common equity which sets up a dynamic culture in a quantum jump of inventiveness and stirred to a high predetermination, do not wiped out anymore or savage or casualty of stress, depression and breakdown. What adds to the anger is a rehashed refusal of India to approve the UN Convention against torment and other coldblooded, segregate and unfeeling acts.

It is on the whole correct to state "*Acknowledge what you can't change, change what you can't acknowledge*", the present issue is the pivot of our stresses.

³⁹ D.J. Vaghela v. Kantibai, 1985 CrLJ 974 (Guj)

⁴⁰ Nandini Satpathy v. P.L. Dani, (1978) 2 SCC 424

⁴¹ S.C Sarkar, Sarkar's Commentary on Code of Criminal Procedure, (Dwivedi Law Agency, Allahabad, 1st Edition, 2005) p. 506