

COMPLAINT TO
NATIONAL HUMAN RIGHTS COMMISSION
ON

**DEATHS IN POLICE CUSTODY, ANDHRA PRADESH
JANUARY 1984 - JULY 1995**

To
The Hon'ble Chairman
National Human Rights Commission
New Delhi.

Sir,

This is a complaint concerning deaths in police custody in Andhra Pradesh.

Custodial torture of the most heinous kind is commonly practised by the police in this State, as in all states of India. The practice of torture is such a routine affair that it does not attract any attention, except when it results in the tortured suspect's death.

Andhra Pradesh Civil Liberties Committee (APCLC), an organisation committed to the cause of the legal and democratic rights of the people of the State, has been consistently campaigning against custodial torture and killing. As part of our effort, we have evolved the practice of appointing fact-finding committees to investigate the veracity of the stories that the police put forward to account for custodial deaths. All but a few of the custodial deaths that are known to have taken place in this State from January 1984 to July 1995 have been thus investigated by us, and it is on the basis of that experience that we are filing this complaint. We say that we have investigated all but a few rather than all deaths in police custody, because there have been a few (not more than a dozen) reported cases of custodial deaths that we have not been able to constitute fact-finding committees to investigate. And there could be some which never got known to anybody excepting the police, and therefore never got reported in the Press or talked about by the people.

We are aware that the Protection of Human Rights Act (1993) under which we are filing this complaint prevents the Hon'ble Commission from taking into cognisance incidents that happened more than one year prior to the date of submission of the complaint, but for the sake of giving the Commission a detailed picture of the extent and nature of custodial violence

in Andhra Pradesh, we are giving as Annexure the full list of custodial killings from January 1984 to July 1995 (excepting the few that we have not been able to investigate). Only the last 24 of these killings (S.Nos. 188 to 211) come within the purview of the present complaint.

The list in the Annexure shows that there have been 211 deaths in police custody in Andhra Pradesh between January 1984 and July 1995. Six of the victims (as the second column indicates) are women or teenage girls. Three are infants a few months old. And the rest are men or teenage boys. While the youngest of the victims is a one-month-old infant who died in her mother's arms when her mother was hit repeatedly by the police who had taken her into custody (S.No. 190), the oldest is Parvath Hoath, a 75-year-old man, one of an itinerant band of Marathi speaking vendors of bangles and beads who died of suffocation when 30 men and women of his band were forced into one lockup room and denied even drinking water on a hot April evening (S.No. 23).

According to the police, 84 of the 211 are supposed to have died of natural (i.e. non-criminal) causes, e.g., a sudden stroke or prior illness or infection not caused by custodial detention. 76 are supposed to have committed suicide (by hanging (41), by poison (18), by drowning (11), by burning (3), by jumping from a building (2) or by stabbing themselves (1)). 11 are supposed to have died of accidental causes, 11 due to injuries caused by other persons, 5 of excess of drink and one of snake-bite. In 17 cases the police gave no explanation for the death, and only in 6 cases out of the 211 did the police admit that they had caused the death. In each case, however, we have given in the last column the facts (only the bare details) uncovered by our fact-finding committees, which frequently point to a different conclusion. The facts stated in the last column are limited to reliable information and direct inference. We have not gone in for any logical analysis of the police version.

Saying that a death has taken place in police custody is not necessarily the same thing as saying that the police have **caused** the death. But it certainly implies that the police are, to some extent or the other, **responsible** for the death, for they are exclusively and fully responsible for the welfare

of persons in their custody, whom they have, with the authority vested in them by law, deprived of their freedom, including the freedom required to look after themselves.

Not all the 211 cases we have listed out in the Annexure are admitted to be cases of deaths in police custody by the police. By death in custody the police usually mean death in their physical custody, e.g., in the lockup room. But such an interpretation is unacceptably narrow. A death may be directly attributable to ill-treatment suffered while the victim was in police custody, even if, at the time of death, he is no longer in the custody of the police. And secondly, custody itself does not mean only detention in the lockup room or the precincts of the police station. Its meaning is wider than that.

Death in police custody

We must, therefore explain fully and justify all the situations that we wish to encompass in the expression 'death in police custody'.

Custody does not begin at the point of time when the person is actually put inside a lockup room. It begins much before that. Custody starts the moment the person submits to the control of the police, whether voluntarily or after the use of force, that is to say, from the moment the person loses the freedom of movement, which passes into the control of the police. From this moment to the moment of being locked up in a police station, there may be a short or a long gap, depending upon the circumstances.

We may add that this is not a novel definition of custody being introduced by us. It is implied by the wording of Section 46 of the Criminal Procedure Code, and has been reiterated many times by the courts.

Death in police custody, therefore, includes:

- (i) Death that occurs while the person taken into custody is in the police station precincts, whether in a lockup room or elsewhere in the premises.
- (ii) Death that occurs between the initial instant when the person is taken into custody, and the later instant of being lodged in the lockup room.

Death of the type (ii) can occur (hypothetically) for purely natural reasons. Death can visit a human being at any moment, and therefore it can visit at any moment while being taken to the police station from the spot of arrest. But if this hypothetical possibility were all that there is to the matter, there would be no cause for an elaborate discussion of it. But the truth is that the Indian policeman has the ugly habit of beating apprehended suspects from the moment of the arrest, and all the way to the police station. All such violence must be treated as custodial. Sometimes, the violence unleashed at the moment of taking into custody is so great that the intention to arrest may not be visible at all, and it may appear that the purpose is only to 'give a sound thrashing'. But if, taking all the facts into consideration, the violence can be understood as a preliminary part of the act of taking into custody, such violence and its consequences must be treated as custodial (cf. the case of Indurthi Amarendar Reddy, S.No. 29).

But this violence must be distinguished from a different category of violence that the police may (rightly or wrongly) find it necessary to unleash on the suspect while taking him/her to the police station. Sometimes the suspect tries to escape while being thus taken. And to prevent the escape the police may use violence upon the suspect. Of course, it is necessary to verify whether the story of the attempt to escape is true, or is a mere ruse to cover up for custodial killing (as in the cases of Gaddam Achyutaramaiah, S.No. 116 and Hyder Vali, S.No. 187). Even if it is true, it is still a question of fact whether only the minimally necessary violence has been used by the police, and policemen who employ more than necessary violence must be appropriately punished. But it would not be proper to count such violence as custodial.

However, there can sometimes be a thin line of difference between the violence habitually used by the police while taking a person into custody, and that used by the police to prevent the person from escaping from custody. If, taking all the circumstances into consideration, what appears as a case of the latter type is actually a case of the former type, then it should be counted as custodial violence (cf. the case of Thottuka Appa Rao, S.No. 84).

What has been said above of the situation (ii) also applies when the person is taken out of the police station by the police without releasing him from custody, e.g., to search for incriminating material, to take the suspect to court, etc.

But (i) and (ii) do not exhaust all cases of custodial death. Custody ends when a person is released in fact and actually set free, but the possibility of 'custodial death' does not. It frequently happens that the police torture a suspect very severely, and when the point is reached where his life is in danger, take him and dump him near his house or by the roadside (the case of Bonala Venkatanarayana, S.No. 152, is one such instance), or ask his family to take him and get him medically treated (cf. the case of Pedada Ramulu, S.No. 157), or, if he is still able to walk and move around, let him off on his own. If he dies later on account of these injuries, then it would be contrary to all reason not to treat it as a case of custodial death, merely because he has been set free by the police. And for this logic to apply, it is not necessary that the release of the person should have been actuated by the fear of his imminent death. Even if, at the time of letting off the tortured suspect, his death is not anticipated either by the police or the victim; even if the release is motivated by considerations other than the fear of the suspect's death; if the death results, and is directly attributable to the violence suffered in custody, then it should be logically treated as custodial death.

It cannot be a criterion for deciding whether the death is directly attributed to custodial violence, that if the victim had not been poor or illiterate, or resident of a remote village, then he could have got himself treated by a doctor and avoided death. For most of the victims of the police are poor and illiterate villagers who **cannot** get themselves properly treated, and often **will** die of injuries that need not be fatal in this period of human civilisation, and this fact is well within the knowledge of the police. And therefore the deaths in custody include:

- (iii) Deaths that take place after the person is released from police custody, whether into freedom or into judicial custody (prison), provided that the death is directly attributable to the ill-treatment

suffered in police custody, whether or not adequate medical treatment is taken subsequently by the victim. Except that in the case of a person being released into judicial custody, the fact that adequate medical treatment is not given would make the prison authorities also culpable to that extent.

There are certain other types of death that are related to custodial torture, but are not deaths in actual police custody or a consequence of police custody. For instance there are cases of persons who are repeatedly taken to the police station and beaten. Unable to stand this regular torture, that person commits suicide in between periods of custody. Or the case of a person who is taken into custody in the investigation of a crime, tortured badly, and told to go home and come back in a couple of days to face further 'interrogation'. Such a person goes home and commits suicide. Though such cases are aplenty, they are not included in the definition of custodial deaths.

Police responsibility

As we have said above, to say that a person has died in police custody is not to say that the person's death has been **caused** by the police. It may or may not have been. But the police have to bear some degree of responsibility for every custodial death, irrespective of how it occurs. There are the following possibilities:

- (i) The death may be directly caused by the police in the sense that they use force that is, within their knowledge, sufficient to cause the death of the person. Here, unlike in offences under the Indian Penal Code, all infirmities or ill-health that the victim is suffering from should be presumed to be within the knowledge of the police, for it is their responsibility to know these things when depriving the person of his freedom to look after himself and taking him into their custody.
- (ii) The police may not beat the person enough to kill, even taking the person's infirmity and ill-health into consideration, but may cause injuries which, in the absence of medical treatment, may lead to the person's death. Since beating in police custody is a criminal offence,

and since the person in custody has not the freedom to look after himself, it is absolutely the duty of the police to make arrangements for medical treatment. The police usually do not do so. As the Annexure shows, in case after case, the police usually take the person to a doctor in the last minute. Often it is the dead body that they take to the doctor. Even if the person leaves police custody before dying, and dies afterwards without being able to get himself treated medically, it being the police who caused the injuries, and totally unlawfully, the police cannot be exonerated on the ground of the victim's 'negligence' (which is in any case usually due to poverty and other causes that are beyond the victim's control, a fact that is within the policeman's knowledge).

- (iii) The person may really die of ill-health. This frequently happens in the case of prolonged illegal detention. Since all detention beyond 24 hours is unlawful, the responsibility for the death rests squarely upon the police. Even if the death occurs within the first 24 hours, there is an obligatory burden on the police of taking care of the health of persons in their custody, especially taking account of the fact that arrest and detention, with the tension they cause, are likely to worsen a person's health drastically. This burden casts an inescapable responsibility upon the police.

The Annexure shows that in the majority of the cases the death occurs within 24 hours. In many of these cases, the police beat the person enough to kill him within 24 hours. But in equally many cases, it is a combination of the fear of police custody, the psychological impact of detention, and the physical torture that leads to quick death.

- (iv) There are cases where the suspect commits suicide in the lockup room or in the premises of the police station. The number of cases of actual suicide is much less than the number claimed by the police. For 'suicide' is the policeman's favourite concoction to explain a violent custodial death. As the second column of the Annexure shows, in 76 out of the 211 cases, it was claimed that the detenu committed suicide. Most of these stories are improbable for the simple reason that it is very difficult to get hold of the material,

the means and the privacy needed to commit suicide when one is locked up in a police station. Yet, there are cases where the detenu actually manages to commit suicide. It could be because of prolonged detention and torture (e.g., the case of Jannu Ratnam, S.No. 197); threat or realistic fear of torture (e.g., the cases of Syed Arif, S.No. 186 and Kanuku Ramulu, S.No. 180); or a sense of personal or social humiliation (e.g., the case of Kolla Mangathayaru, S.No. 62, and perhaps also that of Kasibabu, S.No. 78). In the first two of these categories, there is direct responsibility of the police. And in all cases of suicide, there is the responsibility upon the police to realise that detention in a criminal case may lead to suicidal tendencies, and to ensure that the detenu who wishes to commit suicide cannot do so.

- (v) It sometimes happens that a person who has committed a crime is first apprehended by the victims of that crime, who beat him in revenge, and then hand over the person to the police (there are 10 such cases out of the 211 in the Annexure). The duty of the police in such cases is to immediately get the person treated medically, and to arrest those who have assaulted him. The police do neither. They implicitly sanction the private act of revenge, let off those who have assaulted the accused, and detain the injured person without getting him medically treated. If the person dies later, even if the death is due to blows received before being handed over to the police, the police cannot escape responsibility.

Punishment for custodial deaths

We have discussed above the nature of police responsibility in the various kinds of custodial deaths. All of them can be brought under Sections 302, 304, 304-A and 306 of the Indian Penal Code, read with other provisions pertaining to illegal custody, custodial torture etc. However, in view of the special nature of custodial deaths, we feel that an effort should be made to define and classify the various kinds of custodial deaths and police responsibility separately instead of fitting it into existing penal law. Custodial violence is different from ordinary violence in that here the perpetrator of

the violence carries a certain authority in his person. And hence the violence is not resisted but is borne silently by the victim. Even if the use of the instruments of force -- the lathi, the revolver, the lockup room etc., -- for the purpose of custodial torture is unlawful, the one who is using them is authorised to use them, and that lends a spurious authority to the violence perpetrated. There is, moreover, no real parallel in ordinary penal law for the kind of responsibility that the police bear for any injury to persons in their custody. Finally, there is the matter of superiors in the police hierarchy directly ordering or putting pressure on their subordinates to perpetrate custodial violence, as a consequence of which it is the subordinates alone that are actually found committing violence. This responsibility of the superior officers is not adequately covered by the usual penal category of abetment or incitement.

For all these reasons, we feel that the penal law for custodial violence must be defined and structured anew. We hope that the Hon'ble Commission will pay attention to this need, and advise the Government accordingly.

The Supreme Court and the Law Commission have, in the past, acknowledged one aspect of the special nature of custodial violence. The Supreme Court said in Ramsagar Yadav's case (1985) that since there can be no independent witnesses in a case of custodial violence, the onus of proof must be shifted to the policemen. The same opinion was reiterated by the Supreme Court in the case of Bhagwan Singh (1992). The Law Commission expressed the same opinion in its 113th report. Though a decade has passed since then, no action has been initiated by the Government to legislate this recommendation.

Prosecutions are not being undertaken even under ordinary penal law, as they can very well be without any amendment of the law. Of the present 211 cases, criminal prosecution has been launched in not more than 10 cases. To our knowledge, only three of them (S.Nos. 30, 31 and 49) have resulted in conviction at the trial court.

A judicial enquiry is no substitute for a prosecution. But some judicial enquiries have been ordered into custodial deaths in this State, that too under public pressure. A series of custodial deaths in the latter half of 1986

(S.Nos. 42 to 50) led to major public protests in the State. At that time the State Government promised to hold judicial enquiries into all custodial deaths. Judicial enquiries were ordered in that period into many cases of custodial deaths (S.Nos. 42, 45, 46, 47, 49, 50, 54, 59, 61, 65 and 69). But then the promise ran dry, and later only a few judicial enquiries were conducted (S.Nos. 109, 118, 123, 171 and 172, to our knowledge), though custodial deaths have continued unabated.

As the last 24 of the 211 cases come within the purview of the Hon'ble Commission, we request that thorough enquiries be conducted by the Hon'ble Commission into these 24 cases, so that the State Government may be given a clear direction to initiate prosecution in those cases where a *prima facie* case against the police exists.

The Protection of Human Rights Act, under which the Hon'ble Commission has been set up, has a provision for declaring every District Sessions Court a Human Rights Court to receive complaints about violation of Human Rights and initiate prosecution. We request the Hon'ble Commission to direct the Government of Andhra Pradesh to immediately give effect to this provision, so that all cases of custodial violence are taken cognisance of by the Human Rights Court, and prosecutions launched.

Compensation

As the Annexure indicates, the persons who are killed in police custody are often the principal earning members of their families. Their death results in serious economic disability to the family. As it is the minions of the State that have taken away the lives of the person, it is the responsibility of the State to compensate the family adequately.

The Government of Andhra Pradesh has not followed any policy of payment of compensation to families of victims of custodial violence. Sometimes, on the discretion of the Government, an ex-gratia payment of Rs. 5,000 or 10,000 (which does not amount to an adequate compensation) is made. Sometimes, in response to an agitation or political pressure, some compensation in the form of an acre of land or a loan is given to the victim's

family by the district administration. In the majority of the cases, no compensation is at all given.

The courts have also not been very helpful in this matter. A writ petition that covers the custodial deaths of the period 1984-89 has been pending in the High Court of Andhra Pradesh for many years. In the single case of Basheer Ahmed (S.No. 127), the High Court has, in a separate petition, directed the State Government to pay a substantial amount as compensation.

The question of liability of the State for the violation of citizens' fundamental rights has now been made clear by the Supreme Court in the case of Nilabati Behera (1993). Earlier this question was unfortunately entangled in the complexities of the tortious liability of the Indian State, governed by the very inadequate terms of Article 300 of the Constitution of India. The Supreme Court has now shifted the matter from the realm of tort law to that of public law, and has said that the "State must repair the damage done by its officers' to the citizens' fundamental rights".

Though the Hon'ble Commission, in recommending compensation to victims of human rights abuses, is not bound by any legal technicalities, it is nevertheless a positive sign that the highest court of the land has taken an unambiguous stand on the matter. We hope that the Hon'ble Commission will formulate clear and adequate guidelines for the payment of compensation to families of custodial victims, whether or not they are breadwinners of the family, and whether or not their death is **caused** by the police. As we have argued above, the police, and hence the State, cannot escape responsibility for any custodial death, even if they have not actively caused it.

The social nature of custodial violence

Both from the point of view of the law, and of civil rights, custodial torture of even a professional criminal or a well-to-do person is unacceptable and inexcusable. It must be prevented and punished. But if the social character of custodial violence is such that it is neither the professional thieves' gangs nor the wealthy swindlers who die of it but the hard working

people of this country, and that too not for having committed an obnoxious crime such as rape but for theft or ordinary assault or drunken misbehaviour, then there is a greater urgency to the remedial task.

The Annexure reveals that the majority of the victims of custodial violence and brutality are the poor, and not even the 'hardened criminals' among the poor but the unorganised and occasional perpetrators of illegalities. And that the crimes that are targeted by the custodial violence are, by and large, not some heinous act of barbarity like wife-killing but the day-to-day acts of illegality and other crimes that only reflect the poverty and other social disabilities of the people of the country rather than any wanton criminality. It is a telling commentary on the nature of policing in India that the one who is subjected to frequent custodial torture and is killed in police custody is (in the majority of the cases), neither the corrupt bureaucrat nor the swindling businessman nor even the hardened professional thief but the worker and the peasant, and that too not for burning his wife or raping a woman but for criminal acts allegedly committed under various social and economic pressures. It is not our contention that society can or should ignore such crimes, for the victims of a poor man who steals out of economic necessity is often only a slightly less poor person. But such crimes require handling by methods quite different from police brutality, apart from such brutality being in principle unacceptable in a democratic country.

In the Annexure, we have described the 'social background' of each of the victims of custodial killing in the second column. The focus of the classification is on whether the victim can be described as a 'criminal' in some sense or not, for hardened crime is the moral justification claimed by the police for custodial torture. We have not used the strict criterion of whether that person has actually been convicted of any crimes in the past. Nor whether he has been booked in criminal cases prior to this one. We have gone by the general opinion held by the people of the locality (including the police), and the general circumstances of that person's life, to decide whether the person lives **mainly by crime** or mainly by some other productive activity. Persons of the former type we have described as 'a person with

a crime record', and persons of the latter type by their normal economic activity. There is no implication here that the persons of the latter type are innocent of the particular crime concerning which they were picked up and killed. Nor that persons of the former type are guilty of the crime alleged, nor that such people deserve to be tortured and killed.

Using this criterion, we find the following distribution of the victims in terms of their social background:

Peasants	34
Urban workers	59
Rural workers	32
Persons with a crime record	32
Small businessmen and vendors	11
Students	6
Youth	19
Miscellaneous	18
Total	211

The 'Miscellaneous' category includes 4 class-IV Government employees, 2 housewives, 3 Naxalite activists, 3 infants in the mother's arms, 2 medical practitioners, 1 beggar and 3 whose personal details are not known.

We must add, by way of explanation, that the difference between urban worker and rural worker is somewhat thin. 'Urban' includes not only big towns but also small towns. Basically, work of the traditional rural type (agricultural labour, toddy tapping, smithy in villages, etc.), has been classified as rural labour, and work of the more modern type (including not only factory and quarry labour but also rickshaw pulling and building construction work including masonry), has been counted as urban. Rickshaw pullers and masons, even if they live in villages and ply their trade to some extent in villages, work principally in some neighbouring urban or semi-urban centre. Secondly, we have included small peasants in the category of peasants along with the medium farmers, rather than in the

category of rural workers, because of lack of adequate data concerning the extent of land-holding in each case. Finally, the category 'youth' comprises those teenagers who are still dependent upon their parents, though they may be employed in some work, including work on their family's fields.

We do not claim any perfection for the data we have collected, and do not rule out mistakes altogether. But nevertheless the fact that emerges from the table is that 32 out of the 211 victims of custodial killing are classified as professional criminals in some sense; whereas 91 persons are (urban or rural) workers and 34 are cultivating peasants. These are the principal categories of the victims. In terms of percentages, the 'criminals' account for a little more than 15 per cent, and the peasants and workers for about 59 per cent of the victims. As we have said above, this is not to imply that the peasants and workers who have been killed in police custody are not guilty of any crime at all, but only to indicate the social nature of custodial violence. It means that the violence is not aimed at the 'hardened criminal' who has taken to crime as a way of life, but at the ordinary toiling citizen who gets involved in criminal activity in a moment of weakness, or under provocation, or under the pressure of circumstances, or in a state of inebriation. That our society 'needs' to treat such people so violently in order to maintain order and protect law is a telling commentary on the nature of our society and its 'law and order'.

The same story is told if we look at the caste of the victim. We have not noted the caste in the second column of the Annexure because we have not gathered the information in all cases, and incomplete data is of little use. But the situation can be summarised thus: There is not a single Brahmin among the 211 victims. Of the other upper castes, there are 2 Vaishyas, 3 Rajus, 4 Reddys and perhaps about 10 Kammas etc. On the other side of the caste divide there are 16 tribals and 13 Muslims. The remaining (about 160) are persons of dalit and backward communities.

Let us look at the matter from a different angle. The second column of the Annexure gives also the nature of the offence that the victim was (rightly or falsely) accused of. It will be seen (see Table in the next section) that the offence of theft is absolutely preponderant. Nearly 45 per cent of the victims

were accused of theft. While violence against women (both domestic and other) is a very common crime even among the poor, and these days does get reported to the police more frequently than in the past, it does not attract the ire of the police as much as theft does. Hardly 6 per cent of the victims of custodial killing were accused of rape, molestation or wife-killing.

The category of theft which preponderates so much includes all the crimes classified by the Penal law as theft, robbery, dacoity and extortion. But what it does not include is while collar swindling, whether in the public sector or the private sector, whether of the politician, the bureaucrat, the businessman or the financier. While nobody would deny that plenty of such crime exists and is 'worth' many times all the thefts and dacoities put together there is not a single perpetrator of such a crime in the list of custodial victims (which is one of the reasons why there are so few upper caste persons in the list). Even the 32 persons whom we have identified as persons who may be called 'criminals' are only plebian practitioners of crime and not the high society criminals who cost society much more, not one of whom is found in the list.

The other category of crime that turns up frequently in the list is assault, or destruction of property. But these cases of assault are those that take place due to neighbours' property disputes and social tensions and pressures in villages. They are only conflicts of a social and economic nature in villages and not organised riots or gang fights (with the possible exception of the case of Veerraju, S.No.95), though there is plenty of such really criminal activity in the big towns.

The culture of policing

Apart from enquiries, prosecution, award of punishment to the perpetrators of custodial violence and compensation to the victims' families, effort needs to be put to reform the culture of policing. One reason for the urgency of the task is indicated in the previous section, where we have noted the social content of custodial violence.

A more detailed look at the culture of policing as revealed in the Annexure will tell us a lot about the need to curb custodial violence. The following is the Table of the crimes that the victims were accused of:

Theft	94
No specific accusation	21
Assault or destruction of property	16
Murder	13
Naxalite activity	13
Violence against women	12
Nuisance	7
Attacking or resisting police	6
Abduction	5
Gambling	5
Others	19
Total	211

- (i) The overwhelming preponderance of theft charges in the list is remarkable. It is not because thefts take place that much more frequently than other crimes but because thefts involve money, gold or other property. On the one hand, our social culture gives more importance to property loss than loss of any other kind. This puts more pressure on the police not only explicitly but also implicitly because the culture is inbuilt in our social character and spontaneously directs the behaviour of everyone including the police. This aspect does not concern us for the present. But there is another related reason why the police give importance to property offences in their investigation, and that does concern the present complaint. Investigating theft cases is a lucrative business for the police. The one who has lost property will pay, the one who has stolen it will pay, the one into whose hands the stolen property has passed will pay, and even the one who is falsely accused of stealing

or receiving stolen property will pay, provided that all the violence that the police are capable of is brought to bear on the matter. And that is why theft charges turn up so frequently in the list of custodial killings. We emphasise this point because in all the discussion that usually takes place on the causes and reasons for custodial violence, the factor of corruption is downplayed, though it is a very important factor. The police routinely extort money from people they lockup, not only on theft charges but any charge or even no charge at all. There are many instances in our list of 211, but the most blatant is the case of the Registered Medical Practitioner Ashalu (S.No.172), who voluntarily offered to get arrested when one of his patients died, but was illegally detained by the police in order to extract money from him, until he himself died of cardiac arrest in the uncongenial surroundings of the police lockup room.

But the scope for making money is most in offences relating to property. This point is usually missed and the discussion of custodial violence is conducted exclusively in terms of pressure of work and shortage of personnel, which are no doubt real factors but not the only ones. The sole primacy given to these factors serves to divert attention from the culture of policing and to put the blame on the institutional drawbacks.

- (ii) There are 6 cases of persons who were accused of attacking the police, or resisting the police (S.Nos 58, 59, 72, 153, 163 and 209). And while Gaddam Achyutaramaiah (S.No. 166), was primarily accused of theft, the torture that he was fatally inflicted with was because he attacked the police when they came to arrest him. These killings testify to a very brutal but common trait of the Indian police. It is claimed as a right that if anyone attacks or resists the police, the police can kill the assailant or cause any amount of harm to the assailant and his kin. What would be a minor criminal offence if committed upon an ordinary citizen would be rewarded with brutal custodial violence if perpetrated upon a policeman. That private revenge can, in such cases, masquerade as public duty is an attitude sanctioned by the State, and accepted as 'under-

standable' or 'unavoidable' by society at large. This pernicious attitude contributes to a lot of custodial violence. For this revenge to operate, it is not necessary that the victim should have physically resisted and injured the police. Anyone who resists their authority or causes them any inconvenience is taught a vengeful 'lesson', as witness the cases of David Raju (S.No. 50) who caused the police the inconvenience of temporary suspension by running away from jail; Jarbula Amru (S.No. 1), whose bull it was that attacked the policemen; Putti Mukunda Rao (S.No. 182) and Tottuka Appa Rao (S.No. 84) who tried to run away when the police came to arrest them; Balija Hanumanthu (S.No. 137), who only gave a complaint to the higher police officials against their subordinates; Hanuman-tolla Rajeswar (S.No. 134), who picked up a quarrel with the police for having needlessly (or so he felt) detained a friend of his; and Moola John (S.No. 77), who merely insisted, against the command of the police, that he would wait at the police station until his relatives who were in police custody finished eating the dinner that he had brought for them.

- (iii) Apart from seeking private revenge on their own accord, the police have acquired the habit of acting as instruments of other people's private revenge. This happens in more than one way, as is evidenced by the Annexure.

An alleged thief or other criminal is apprehended by the local residents or the victim of the crime. He is thrashed in anger, on mere suspicion and no proof, and then handed over to the police. The police should in fact register a case against those who have injured the alleged criminal, but instead they legitimise the act of private revenge by letting them off, putting the injured 'criminal' in lockup, not even giving him medical treatment, and often beating him further in their turn. The saddest example in our list is Kadugula Shankaraiah (S.No. 34), a 16-year-old dalit boy who stole a few bananas from a rich man's plantation. But there are many other (S.Nos. 25, 38, 71, 93, 96, 124 and 145).

The second way in which police function as instruments of private revenge is even more direct and blatant. For instance, an employer uses the

police to get his insubordinate workers tortured (cf. Venkaiah, S.No. 52, Appala Narasimha Raju, S.No. 100 and Maskuri Mallaiiah, S.No. 193). Or it may be a case of police being requested by harrassed wives or parents to 'teach a lesson' to a troublesome husband or son by locking him up and softening him with lathis (cf. Ashirvadam, S.No. 195, and Kuruma Hanumanthu, S.No. 164). Such a request may not be socially pernicious in itself, and many merely reflect the lack of more civilised corrective mechanisms in society, but once the police get into the habit of thus 'teaching a lesson' by the unlawful use of force, there can be far-reaching repercussions.

Of course, apart from these instances of persons who are not accused of any criminal offence being 'taught a lesson' by the police at the behest of a private party, there is the very common occurrence of people bribing the police to beat up, as a matter of vicarious revenge, criminal suspects who have caused them harm. These instances are extremely common, and they constitute one important cause of custodial violence. The most glaring instance of this type in our list is the case of Meka Mastanaiah (S.No. 14), but an element of vicarious revenge is present in a large number of cases of custodial violence. It has become a habit with the people who can afford (which does not mean only very rich people) to pay the police to keep a suspect a little longer in illegal custody and to inflict a little more torture on him.

(iv) The habit of 'teaching lessons' on somebody else's behalf by the unlawful use of force is an aspect of a more general habit that the police have cultivated. This is the habit of acting as judge and executioner rather than as merely the police. This attitude has been allowed to develop, and has been implicitly sanctioned and encouraged, by the political establishment. Whatever the niceties of the penal jurisprudence developed by civilised thought, in India it is in the police lockup that the investigation, trial and punishment of crimes takes place. Often, the three take place simultaneously or

even in reversed order. The punishment starts before the investigation begins, and it is in the course of dealing out the punishment that the investigation is completed and the judgement delivered, including a possible verdict of not guilty. And the norm of punishment is preventive and retributive, not reformative.

This retributive and preventive pre-judicial punishment takes lives most arbitrarily. Of the 18 'miscellaneous' persons left unclassified in the table of victims according to social background, there are three infants a few months old. Two of them (daughter of Sophia (S.No. 169) and daughter of Orusu Narsamma (S.No. 190) were in the mother's arms when the police, needless of the presence of the infants, started hitting and kicking the mother. As the mother wept and cringed and begged the police not to hit her, the blows hit the child and it died in the arms of the mother. The third (daughter of Lakshmidevi and Venkateswarlu, S.No. 90), was dragged unlawfully along with its mother to the police station to stay in prolonged illegal custody while the child's father was tortured to confess to a burglary. The child died of disease and infection while in the custody of the police.

The brutality is also reflected in the cruel way in which the suspects are tortured. The most recent of our list of victims (Angarapu Muralikrishna, S.No. 211), died within three hours of being taken into custody, with 14 injuries on his body. Muralidharan (S.No. 49) in whose case a prosecution of the policeman had to be launched, also suffered multiple brutal injuries in one night's detention. Buditaboyina Chinna Rao (S.No. 37) had cigarette burns on his body; Koora Narayana (S.No. 191) received electric shocks; Angadi Prabhakar Rao (S.No. 25) who died within 20 hours of detention had 20 injuries on his body; Indurti Amarendra Reddy, (S.No. 29) was beaten to death 'like a snake' in the words of an eyewitness; Kishan (S.No. 22) and Sarojini (S.No.154) had their bones smashed with stone boulders; 12-year-old Mastanvali (S.No. 20) was trampled to death under the boots of four policemen; Malyala Chandra Reddy (S.No. 130) had his wrists and knee joints broken; 13-year-old Simhachalam (S.No. 126) had pins stuck under

his finger nails, and Kukkala Rami Reddy, (S.No. 69) died within three hours of detention with 16 injuries on his body including broken ribs.

We may add that, in addition to hitting on sensitive parts of the body with rifle butts and sticks thick enough to injure a buffalo, the other favourite methods adopted by the Andhra Pradesh police include: Sticking pins under the finger nails, suspending the suspect upside down for a prolonged period and hitting with sticks and rifle butts; trampling with heavy boots upon the prostrate body; forcing the body into a bundle, suspending the bundled body and hitting with sticks and rifle butts; placing a wooden roller at the knee joints of the prostrate person, bending the knees over the roller, standing upon the bent legs and hitting the person with sticks; pulling the person's legs apart in a vicious jerk that makes the rectum bleed; forcing the person to sit on a bottle with the cap removed and pressing him down until the mouth of the bottle enters the anus; giving electric shocks to the earlobes, the temples and the penis; slashing the calves and feet and applying chilly powder; forcing two men in custody to sodomise; raping or molesting women in custody; etcetra. We are not stating this from our imagination. These and other similar methods of torture are routinely used in most police stations in this State.

Prayers

We have already indicated in the text of the complaint certain general tasks that we hope the Hon'ble Commission will take up in earnest. Specifically, we pray that the Commission may

--- have a thorough enquiry conducted into the last 24 deaths, in police custody (S.Nos. 188 to 211) listed in the Annexure that fall within the purview of this complaint.

--- direct the Government of Andhra Pradesh to pay a compensation of not less than Rs.1 lakh each to the next of kin of these 24 deceased without waiting for the enquiry report.

--- direct the Government of Andhra Pradesh to declare the Sessions Court of each district a Human Rights Court and provide all the necessary infrastructure and facilities for these courts to function effectively.

(Dr. K.Balagopal)
General Secretary
APCLC

(M.T.Khan)
President
APCLC

1 August, 1995
Hyderabad