

# Deaths in Police Custody: Whom and Why Do the Police Kill?

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WHEN a person is beaten to death in police custody, the very event, even without the need of any propaganda, generates an image which retrospectively justifies it: the victim would not be beaten so badly if he/she were not a 'desperate' criminal or an otherwise dangerous individual. The police usually add their flourish to the image by describing as the victim's crimes all the charges they have written down in the FIR, some of them even perhaps as an afterthought necessitated by the very death. And when a scholar like Upendra Baxi ("The Crisis of the Indian Legal System") manages to arrive at the conclusion, unsupported by any evidence on exhibit, that custodial violence is used not invariably but rationally or 'judiciously' (a particularly inept choice of a description) by the police in the course of the investigation of crimes, the image acquires respectable solidity: it would not be a very judicious use of torture that beats to death a mere drunkard or pickpocket or prostitute, would it?

It would not, obviously.

Crime, it appears, is not as yet a very fashionable topic of social science research in India; and much less fashionable is a study of the consequences of crime for the (real or suspected) criminal, as distinct from the Maw-abiding' citizenry. One has perforce to look to the information compiled at considerable risk and expense by civil liberties organisations for a proper evaluation of the common image of victims of police torture as 'dangerous' criminals. Perhaps it is the unhealthy disrespect that Upendra Baxi exhibits in his book for civil liberties activists—he describes them by such choice expressions as 'bleeding civil libertarians', 'leading lights of human rights', etc.—that helps him retain his notion that torture is used by the police judiciously and not as a matter of routine.

Let us take a look at the statistics pertaining to custodial deaths in AP over the last three years. Numbers are usually the most unreliable of all facts, because of the spurious air of solidity they possess, but some things are nevertheless worth enumerating some times. This state has seen 60 recorded or otherwise known cases of death in police custody during the last three years. The data is sufficiently comprehensive to meaningfully calculate the frequency distribution of victims of police torture classified according to the crimes they were charged with, simplifying the matter by dividing the crimes into two classes: serious and ordinary crimes. We can perhaps agree to describe murder, rape and dacoity as serious crimes; and theft, assault, prostitution, inebriety, unlawful assembly, etc. as ordinary crimes, without doing too much injury to prevailing social mores. But the moment we try to fit all the victims into these two classes, we discover that they are not exhaustive and a

third class is required: the class of victims of police torture who are not charged or intended to be charged with any crime but are taken into custody for a variety of more or less illegitimate reasons: you may be put inside a lock-up to keep you handy till the police decide whether to charge you with a crime or let you go; it may be your father/son/husband/brother/wife/daughter that the police really want and they may lock you up to force that person to come to them out of concern for your welfare and surrender (this is the most common method of apprehending 'wanted persons' and a method that takes full cognisance of the powerful pull that ties of affection exert on people, especially in cultures like ours that are not fully commoditised); you may be locked up so that some money may be extracted from you with the threat of charging you with a crime (this is again a very common source of illegal income for the police); you may be locked up because there is an influential person in your locality who thinks that a short stretch inside a lock-up will do you good and is willing to incur some expenditure to that end; you may be locked up because you are in the habit of helping inconvenient people (like, for instance, naxalites) and locking you up is felt to be the only way to rid you of the habit; you may be locked up 'preventively' on the suspicion that you are likely to commit a crime if left at large; you may be locked up as part of a general rounding up of 'anti-social elements', as for instance when there is a major disorder and the police are under pressure to give the impression of 'quick' action. And so on. Let alone torture, even locking up people is done most arbitrarily and injudiciously by the police—if by the word 'judicious' one means some kind of rationality *vis-a-vis* the investigation of crimes.

We are, therefore, forced into a three-class distribution: serious crimes, ordinary crimes and no crimes. The 60 victims divide themselves as follows: 6 were accused of serious crimes, 34 of ordinary crimes and 22 of no crimes. Not much commentary is required now to establish that there is no relation between seriousness of the crime a person is accused of and the probability of his/her getting killed in police custody. And from this it would appear to follow that police torture is used very arbitrarily and it results in fatalities not because a rational use of torture leads to excesses where the crime being investigated is of a serious nature, but because the normal methods and intensity of torture naturally and necessarily lead to death in a given combination of circumstances: the lock-up is exceptionally insanitary, the victim is of weak bodily health, does not get adequate food while in lock-up, is dispirited and demoralised by a false

or morally unjust accusation, is deprived of proper medical attention, etc. It further needs no argument to prove that these circumstances, insofar as they are not inherent to the system of policing, obtain more easily in the case of persons who get accidentally involved in crimes than with professional criminals. To enumerate these quantities, of the 60 cases referred to, at the most 'liberal' estimate only 12 can be described as professional or habitual criminals, if by this expression we mean that crime constitutes their prime or important means of livelihood. The remaining 48 persons are either casually or not at all involved in crimes.

Let us take a look at the matter from another angle. Why do the police torture suspects? If one takes at face value the formal supposition that persons are taken into custody in the course of the investigation of crimes, it follows that police torture is intended to extract information. The law, to the extent that it is at all worried about police torture, takes the same view. Sections 330 and 331 of the Indian Penal Code make it a criminal offence to subject anybody to torture in order to extract information concerning any crime: it is presumed that there can be no other reason for custodial torture. The UN declaration against torture takes the same view. It is only against such a presupposition that one can at all debate—as Upendra Baxi does—whether the use and the magnitude of torture is judicious, rational, etc. or not. Now if this presupposition were true, deaths in police custody should occur mainly in cases where the investigation of the crime is intricate, and evidence cannot be gathered without beating up somebody very badly. Yet, if we try to enumerate how many of our 60 cases fall within this category, we are in for a surprise. 24 cases (40 per cent) are cases such as theft which may 'require' torture to find out where the stolen material has been hidden, whom it has been sold to, etc. but the remaining 60 per cent of the cases are crimes such as assault, rioting, etc. in which the necessary evidence is all there on hand and nothing needs to be extracted.

The inescapable conclusion is that there is something wrong with the understanding that the police use torture mainly as, an instrument in the investigation of crimes. If that is not true, and if we rule out the explanation that by some kind of a principle of natural selection sadists and psychopaths alone enter the department (not because this is entirely far-fetched but because it will get us nowhere), then one is forced to take a much closer look at what, the police are actually doing when they are supposed to be investigating crimes.

The true answer is that the police are doing many things parallelly or even simultaneously when they are supposed to be preventing or detecting crime. The world of the police is such a closed underworld—in every sense of that pejorative metaphor—that our presuppositions are bound to take a sharp knock once we get close to it. It is not that the police do not investigate crimes:

they do. Most of the time that is what they are doing. Too much misinformation and deliberately distorted criticism of the police has been spread by the reports of police commissions chaired by retired but still terribly loyal policemen. Among those distortions is the complaint that the police spend much more of their time in security and *bandobast* duty than in their real job and that this is hampering their functioning. What is germane to our concern is that they nevertheless spend most of their time on their 'real' job and it is how they spend this time that is to be looked into, and not how much time they spend on it. What emerges from a close look at this is that while concerning themselves with the prevention and detection of crimes, the police are not necessarily—or even primarily—interested in punishing the guilty and doing justice to the injured party. At their best, their concern is not with justice but with the maintenance of 'order'; and at their worst it can be anything—making money, currying favour with influential people, doing the bidding of their political bosses, etc. There is much shedding of misguided tears at 'political interference' in the functioning of the police, which is supposed to be the main cause of the ills of the police establishment. This is one of the many half-truths spread by the reports of police commissions, which have regrettably become opinion-makers about the functioning of the police. What is deliberately kept out of focus is that the police are by no means innocent little angels in this business of 'political interference' in their functioning. The interference is a relation of give and take, sought after by both parties. The politician gets whatever he wants and the policeman gets his promotion, makes money and snubs his rivals in the department. And what is true of 'political' interference is true also of interference of all kinds—by persons of wealth, influence and clout.

The implications of these observations need to be elaborated upon. Let us take the best instance: we have a police officer who is primarily interested in the maintenance of order and he views everything else, from justice to the investigation of crimes, as subordinate to this job. He is honest, in the sense that he is not there to make money, but he naturally has scant respect for fundamental rights and such like things when they conflict with the needs of 'order'. Suppose now there is a case of rioting or a quarrel within his jurisdiction. Two groups or individuals clash and beat up each other. Investigation *per se* is no problem here for there will be enough witnesses on either side—including willing false witnesses—to supply all the required evidence. So all that is needed is to arrest the whole lot, take down their statements and prepare a charge-sheet. Torture would not be a 'rational' need here; and yet there is no policeman who would do things this way. He will either decide on his own which is the guilty party and beat them up, or he will beat up the whole lot of them, the reason being that he wants to teach them a lesson so that they will not indulge in rioting ever again in their lives; one or two of them may die in the process of course.

Of the 60 cases mentioned there are eight of this category, where an accused in a case of quarrelling or rioting was taken into custody and beaten to be taught a lesson and died before he learnt the lesson. Needless to add, such notions as police teaching people lessons are alien to criminal law as it presently stands in India or any civilised country. That is supposed to be the job of the courts, but there is not a single policeman who has an ounce more of respect for the capacity of the courts to punish criminals than the most hardened criminal himself. The average policeman believes that the courts are extremely ineffective in proving and punishing the guilty. He therefore decides in the course of his investigation who is guilty, what is the moral standing of the guilt, what is the appropriate punishment to be given, and sets about doling out the punishment (converted into quanta of torture) inside the lock-up itself. A large part of custodial torture consists of punishment for undetermined guilt by unlawful force, and not the judicious use of force to extract information regarding crimes. It is only after the determination of the guilt and punishment are over that the policeman takes the suspect to court—with the air of one honouring a quaint ritual—to have his guilt and punishment determined all over again, this time by lawful means.

An extension of this 'teaching of lessons' occurs in a special political context. Supporters of the naxalite groups are frequently taken to police stations and beaten to teach them not to support the naxalites. There must be literally thousands of such cases of political uses of torture, and if we add the activists of the naxalite groups who are also subjected to much more vicious torture than is normal, the number of such victims comes to 11 out of our 60.

As we leave behind our honest—if lawless—policeman and go on to other types of 'irrational' torture, we descend further into the depths of inhumanity. Some amount of torture is plainly for monetary considerations: to extract money from the victim or because somebody has given the police money to thrash him/her. This element is so pervasively present in cases of police torture that any enumeration would be a meaningless exercise. Any criminal suspect who has ever been tortured will tell you that all the while he was uncertain whether the police officer wanted money or a confession. But there are at least three out of our sixty cases in which the torture was exclusively—and not incidentally, as is common—motivated by the desire to extract money. One was a student who had run away from home to Vijayawada with 3,000 rupees in his pocket, one a drunk who had 7,000 rupees in his pocket and propositioned a girl on the street, taking her to be a prostitute, and one a peasant who was suspected of having unearthed some buried gold in somebody else's field. And there are at least eight cases where—without doubt—the torture was a consequence of money/influence used by powerful people. Perhaps the worst case was one that happened in East Godavari district on August 26, 1985. The victim was a 16 year

old harijan youth who had stolen some bananas from somebody's plantation. The landlord caught the boy, beat him badly, and handed him over in a profusely bleeding condition to the Yeleswaram police; an eye witness says that the landlord himself unlocked the lock-up door, pushed the boy inside and told the head constable in charge to 'take care' of the boy; he was duly taken care of and died by the next morning. The full tragedy of the killing was revealed the next day, when the stolen bananas were auctioned by the court, and fetched the princely sum of 6 rupees and 25 paise.

Sheer animal brutality and the desire for revenge are perhaps the worst of the causes of police killings. Both these factors are always present in police torture; the police hold strong feelings of resentment towards anyone who is suspected of causing a crime or obstructing its investigation. Their justification is that whereas with other types of work the hours of duty determine the amount of work done, with the police it is the amount of work to be done that determines the duration of their duty time. The more there is of crime the more they therefore hate the people who are suspected of having caused the crime to be committed. This resentment is a very important factor in police torture and accounts for a substantial part of police brutality. It takes particularly vicious forms when the suspect has done injury to the police themselves; it is a well known fact that anybody who assaults the police or otherwise puts them to personal trouble will find it a tough proposition to get away with his life and limbs intact. In our sixty cases, there are two who did not; one a radical activist who was beaten to death because his comrades raided a police inspector's house and damaged some property; the other a convict who escaped from a sub-jail, thereby causing some policemen to be suspended from their jobs; they caught him, put him inside a lock-up, chained him to the lock-up bars and beat him to death.

It would perhaps be apt to round up the account—and put the final touches to the conclusion that police brutality has many more dimensions than just the conscious and considered use of torture as an instrument in extracting information—with an account of two particularly senseless killings. Both the victims were children—one of them 10 months old and the other 4 years old. Both of them were trampled to death by the boots of policemen during raids. On the night of December 10, 1984, 4-year old Savitri was trampled to death in a slum of Hyderabad when the police raided their house in search of her uncle who was wanted in a case of rioting; and on August 17, 1985, in the village of Kushaiguda, a suburban village of Hyderabad, a 10-month old child was similarly trampled to death when the police raided their house, also in search of persons involved in a case of rioting. The child had not even been given a name. With such killings we reach the extremity of 'custodial' deaths; the very existence of such extremities stands testimony to the wide and as yet uncharted range of police brutality.