

DEATH BEHIND THE BARS: IS THERE NO REMEDY FOR THIS CRIME?

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Deaths in police custody have a strange constancy in our State. Whoever rules the State, there are on the average two dozen such deaths each year. In one year the number may touch thirty, and in another year it may come down to twenty, but the average remains about two dozen.

You will not get this number if you look at official figures. Officially acknowledged custodial deaths are much less than that number. It may be objected that a lie cannot be told in such matters since a dead body cannot be hidden. It cannot, but the police have ways of denying their links with it. One very common method is that when the person is on the verge of collapse, they call for his or her relatives and ask them to take the person home, so that in the event of death later, they can say it did not happen in their custody: 'we released him and he died later'. Or else they call a rickshaw puller, put the semi-conscious detenu in the rickshaw and direct him to dump the person near the casualty ward of the local hospital, to be discovered as a vagrant the next morning. Or, if the detenu is already dead, they take him out and dump him in a well - or in the open land - some distance away from the police station and allow passersby to discover the body and then take up investigation with a straight face.

Acknowledging death in police custody is one thing, and acknowledging that the police have caused the death is quite another. This is almost never done. Even if it is admitted that the person died in the custody of the police, torture as the direct or indirect cause is never acknowledged. Officially speaking, all custodial deaths are either suicides or natural deaths.

Since the Constitution mandates that nobody taken into custody by the police should be detained beyond twenty four hours, these stories are prima facie doubtful. Even if the detained person feels an urge to commit suicide out of a sense of remorse - or insult - why should (and how can) he or she seek ways and means of doing so and put it into effect within twenty four hours? The ways and means are not easy of access when you are in confinement. Usually suicide, if it is such, is a consequence of more than twenty four hours' detention and third degree treatment, and (more importantly) the prospect of an indefinite prolongation of the same. If the police strictly abide by the legal limit of twenty four hours' detention, nobody would commit suicide in a police station at all. It is the prospect of indefinite detention and ill-treatment that drives persons to take an extreme step.

But as a matter of fact, torture of the most inhuman kind is a routine in our police stations, and Andhra Pradesh police have a special notoriety in the matter. The torture – and the fear of it – may directly result in the detenu's collapse and death, especially if he or she is of poor health, or it may impel the person to seek ways of putting an end to life.

The truth is never known because no investigation ever takes place. The entire matter of prevention and cure of the evil of custodial torture is left to the 'better sense' of the police department, since all concerned – and I am not excluding the higher judiciary and the National Human Rights Commission – carry a feeling that treating custodial crime on par with other crime – as the Constitution does – is 'impractical' and can send a wrong signal of encouragement to organised criminals and discouragement to the police. The victims of this sorry state of affairs are the poor and weak rather than any organised criminals who have their own methods of 'taking care of' the police. The caution that inhibits a proper response to custodial torture, a caution impelled by a seemingly reasonable fear of the growth of organised crime, has turned fatal for the poor and the weak who willy-nilly fall in the clutches of the police.