

# Custodial Violence-Origin & Growing Problem in India



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## Abstract

Experience shows that worst violations of human rights take place during the course of investigation, when the police with a view to secure evidence of confession often resort to third degree methods including torture and adopts techniques of screening arrest by either not recording the arrest or describing the deprivation of liberty merely as a prolonged interrogation. A reading of the newspaper almost every day carrying reports dehumanizing torture assault, rape and death in custody of police or other governmental agencies is indeed depressing. The increasing incidence of torture and death in custody has assumed such alarming proportions that it is affecting the credibility of the rule of law assumed such alarming proportions that it is affecting the credibility of the Rule of Law and the administration of criminal justice system.

The government maintains that there exists rule of law and in ordered society in country, but the fact that there exist violation of law by many police officials and law by many police officials and law enforcement agencies. Most of the police torture cases are either not reports due to fear of further Prosecution or fail to be prosecuted due to a lack of proper laws and corrupt practices on the part of officials.

## Introduction:

### Custodial Violence

The term custodial violence has not been defined under any law. It is a combination of two word custody and violence. The word 'custody' implies guardianship and protective care. Even when applied to indicate arrest or imprisonment, it does not carry any evil symptoms during custody. In maxim, a law dictionary<sup>1</sup> the word 'custody'; has been defined as charge' and it regard to a person in imprisonment: judicial or penal safekeeping. As per Chamber dictionary, the condition of being held by the police, arrest or imprisonment is called 'custody'<sup>2</sup>. As per Legal Glossary<sup>3</sup> Dictionary, custody is imprisonment, the detaining of a person by virtue of lawful Power or authority.

Custodial Violence including torture and deaths in lockups strikes a heavy blow at the Rule of Law, which demands that the power of the executive should not only be derived from law but also that, the power should be limited by law. It is further aggravated by the fact that persons who are supposed to be the protector of citizens; themselves commit human right violations. These violation are committed under the shield of 'Uniform' and authority within the forewalls of police station, lockups, prison etc., the victim being totally helpless.

Lord Action has very well put the reality in his famous dictum- 'Power corrupts, absolute power corrupts absolutely.'

No other factor has been responsible for tarnishing the images of the police in this country as much as the alleged involvement in several incidents of brutality particularly when the brutality has been directed against person in their custody. Law can be lawless when left to authoritarian excess.<sup>4</sup>

No doubt this is the legitimate right of the police to arrest a suspect on receiving some credible information or materials but the arrest should be in accordance with the law and the interrogation should not be accompanied with torture and use of third degree methods. In fact by torturing a person and using the third degree method the police tries to accomplish behind the close doors, those things, which our legal order forbid. But it is also true to say, if the