

CUSTODIAL JUSTICE

A lot of emphasis has been given to importance of Custodial Justice. The Government of India has promulgated the Protection of Human Rights Act 1993 and in terms of this Act, the National Human Rights Commission has been set up in 1993. The National Human Rights Commission has been empowered inter-alia to inquire, suo motu or on a petition presented to it by a victim or any person on his behalf or on a direction or order of any court, into complaint of violation of human rights. Section 30 of the Protection of Human Rights Act 1993 provides for setting up of Special Courts for speedy trial of offences arising out of violation of human rights. Further, the National Human Rights Commission has been issuing directions/recommendations from time to time to all State Governments on (i) reporting of custodial deaths/custodial rapes within 24 hours to the Commission, (ii) periodical health care and medical examination of under-trial prisoners, (iii) visit by judicial officers to jail/prison at regular intervals to see the conditions of prisoners and for recommending suggestion for improvement, and (iv) to follow a standardized procedure to deal with custodial crimes and police encounters.

The Hon'ble Supreme Court of India had also issued important guidelines in the case of D.K. Basu Vs. State of West Bengal which are to be followed by all authorities making arrest of individuals. One of the guidelines provides that a person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other persons known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee. These guidelines of the Supreme Court

which have to be mandatorily followed have been circulated to all State Governments for compliance by Ministry of Home Affairs, Government of India.

The recent amendment in Section 176 of the Criminal Procedure Code to provide that in the case of death or disappearance of a person or rape of a woman while in the custody of the police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within twenty four hours of death and this will go a long way to ameliorate the situation in the cases of custodial justice.

Similarly, there have been a number of important judgments delivered by the Hon'ble Supreme Court of India providing for payment of compensation to the persons affected by custodial crimes and such judgments have helped in curbing the tendency of committing custodial crimes.