

## Unit 4

# Custodial Justice

### 4.1 Introduction

You will study in this unit about the nature and meaning of custody and custodial justice. Every day in your official capacity as a police Officer, you are taking several decisions on arrest and detention of persons in police custody. The real question is whether these decisions were taken in accordance with the law of the land. In this unit, you will be acquainted with the measures to adopt human rights standards in police custody. This unit will also help you to re-think on alternatives to custody and work in accordance with observance of Human Rights. We will also discuss the precautions to be taken to prevent custodial violence

### 4.2 Objectives

- Understand the concept, nature and meaning of custody and custodial justice
- Acquaint the trainers about different violations of Human Rights committed in police and judicial custody.
- Discuss the application of Human Rights standards to combat custodial violence
- Familiarise with measures to uphold custodial justice

### 4.3 Custody and Custodial Justice

The dictionary meaning of 'custody' is care, guardianship and safe-keeping. In common usage, the word custody begins after formal arrest. However, the custody commences whenever an accused or suspect comes into the hands of the police. The custody extends to the situations when the police places some sort of surveillance or restrictions on the movements of the accused or suspect. It is applicable to all situations where the freedom of movement of the accused is curtailed by police or any other law enforcement agency.

Custody does not begin at the point of time when the person is actually put inside a police lockup. 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.

Custody is of two kinds: (a) Police custody and (b) Judicial custody. Whenever a person is arrested by the police and detained in the police station it is termed as Police Custody. Judicial custody starts when the detainee is produced for the first time before the court after arrest. The detainee will be kept in the prison, but under the overall supervision of the court.

The court will act as a watchdog to protect the interest of the detainee.

Custodial justice refers to the principles, processes, methods and practices developed to prevent custodial violence in all custodial institutions. Here the police, judiciary, prison authorities, civil society and Human Rights Commissions play a vital role in implementing custodial justice.

### CASE ONE

Suppose, you are the officer-in-charge of your police station investigating a case of murder of a youth and you suspect the involvement of Ram Singh as the prime accused in that murder case, who is not available for investigation. You strongly suspect that he is evading the police. To collect more information about the commission of murder, you call the wife of Ram Singh and his aged parents to the police station and pressurised them to reveal the whereabouts of Ram Singh. Since you have the apprehension that they would run away and it would be difficult to trace them, you order them not to leave the premises of the police station. They stay in the police station for two days.

### Activity 1

*In the above case, do you think Ram Singh's wife and old parents have been arrested? Is it a legal or an illegal arrest? Can a police officer call the wife and parents of the accused or suspect to the police station? Can a woman and an elderly people be called to the police station? Is it necessary to call them to the police station? Are there any alternatives?*

*What measures are to be taken while arresting a woman, juvenile, a judicial officer and an elected member of state legislature?*

## 4.4 Custodial Crimes

The National Human Rights Commission classifies custodial violence into illegal detention and arrest, torture, custodial death and disappearance. The extrajudicial executions or fake encounter deaths also need to be added to the list of custodial crimes. Let us understand the different forms of human rights violations committed within the police process and measures to prevent them.

### 4.4.1 Arrest and Detention

Arrest is taking into custody of a person to answer a criminal charge or preventing the commission of an offence. A person needs to be arrested only when there is real requirement of that person during investigation. The decision to arrest a person requires to be taken in public interest after consideration of conflicting interest of both the freedom and liberty of individual detainee and the society.



A judicial officer is best suited to decide such issues with a fair measure of reasonableness, impartially and detachment. This constitutes the rationale behind the requirement of obtaining a warrant prior to any arrest. The police have been provided with the powers of arrest without a warrant only when there is a reasonable presumption of Commission of a cognizable offence.

The police have the power to arrest without warrant under three circumstances. Firstly under sections 41. Secondly, under section 42 of the Criminal Procedure Code and thirdly under section 15 CrPC.

### BOX 1

- The police can arrest a person without warrant only when there is a reasonable satisfaction about the person's involvement in a cognizable offence (Sec 41 Cr.P.C).
- The police can arrest a person who has committed a non-cognizable offence without a warrant only when he has refused to give name and place of residence or there is sufficient reason to believe that the name and residence given is false. (Sec. 42 of Cr.P.C.)

As Professor Mohd Ghouse has rightly observed, the social aspects of arrest are much worse than mere infliction of punishment. Arrest damages irreparably a person's reputation, tarnishes the fair name of the family, deprives the family of its sole or main source of sustenance and endangers employment or occupation. The stigma that comes with arrest survives the release of the person even after 24 hours. But, not all those who are arrested ultimately turned to be

criminals. The law of arrest thus demands an exorbitant price from the innocent.

The Juvenile Justice (Care and Protection of Children) Act, 2006 lays down an important principle that juveniles should not be deprived of their liberty under any circumstances. Care, Protection and Rehabilitation is an important philosophy which is reflected in the new Act. But in reality, children are sometimes tortured and ill-treated in police custody. They are held in prisons in inhuman and degrading conditions. Section 13 of the juvenile Justice Act 2000 states that the juvenile after arrest should be produced before the Juvenile Justice Board within 24 hours and the arrest of a juvenile has to be informed to the parent or guardian.

There are several important issues to be kept in mind after arrest, to safeguard the human rights of detainees. These issues are : Intimation of Arrest, Time Limit, Review of arrest and detention and NHRC's guidelines on pre-arrest, arrest and post arrest.

### Intimation of Arrest

Intimation of arrest is an important reassurance to the suspect that his/her whereabouts are known to the family and friends. It will safeguard the personal liberty and fundamental rights of citizens and prevents possible misuse of police powers by effecting unlawful arrests and detention. It is a simple and effective check to balance the exercise of police powers. Once the family or friends are informed about the whereabouts of a person they can then obtain legal advice. The arrested person also has the right to speak over telephone for a reasonable time to the legal counsel, friend or relative to inform them about the arrest.

The National Police Commission in its Fourth Report which was later suggested by Supreme Court of India in the Joginder Kumar and D.K.Basu cases, influenced the amendment to Cr.P.C. (2006) for insertion of Section 50(A) in the Criminal Procedure Code. As per Section 50(A), when any person has been arrested and is being held in custody in a police station, he/she shall be entitled to have intimation of his arrest and of the place where he/she is being held, be sent to a person named by he/she.

## Time Limit

In case of every arrest, whether it is with warrant or without warrant, the arrested person shall be produced before the magistrate without unnecessary delay and such delay in no case shall exceed 24 hours, exclusive of the time necessary for the journey from the place of arrest to the court. The language employed in Article 22 of the Indian Constitution prescribes the permissible time period specifically by using expressions like

'forth-with', 'without delay', 'as soon as practicable' and 'within 24 hours' to enable the magistrate to keep an independent control over police. The basic object of this provision is to have an earlier recourse to judicial scrutiny to test the reasonableness and legitimacy of arrest. This right has been created with a view to afford an early recourse to a judicial ' officer independent of the police regarding reasonableness of arrest. It is also to prevent arrest and detention for the purpose of extracting confession and not to use police stations as 'detention centres'. If the investigation is not completed within 24 hours, the police can take the accused into remand under Section 167 Cr.P.C. after producing him before a magistrate. Therefore, time limit is one of the important measures of police accountability.

## Review of Arrest and Detention

The review of the decision of the police to arrest is made by the court only after the arrested person is produced before the Court within 24 hours. During this time, between the arrest and the production before the magistrate, the police have total control over the arrested person. This results in many police malpractices. For example, not recording the detainee's arrest and keeping him in unlawful custody without entering information of arrest in the police stations records. Thereafter, they produce the detainee with a false record, showing the arrest just before the production. The root cause of all these police malpractices is the lack of proper review of the decision of arrest before producing the detainee in the court of law. The Supreme Court in the Sheela Barse<sup>1</sup> Case realized the lack of proper review of arrest by an independent third party and suggested



1 Sheela Barse VS. State of Maharashtra, AIR 1983 SC 378.



intimation of the suspects and arrested to the District legal aid committee.

The Supreme Court of India in several cases impressed upon the magistrates before whom the accused person is produced for the first time after 24 hours, to inquire personally into the complaints of torture. If they have been tortured the Magistrate has to send them immediately for medical examination. In *Kharak Singh Case*<sup>2</sup>, Justice Bhagwati was shocked to note that the blinded prisoners had been produced before the magistrate several times, but they didn't personally enquire as to how they received injuries in their eyes. Similarly, Justice Chandrachud pointed out in the *Ramsaear Yadav* case how magistrates mechanically signed the remand applications without insisting on actual physical production of the accused. In this case, the Supreme Court appreciated the magistrate who refused to sign the remand paper without physical production of the accused. Then the police replied that the accused was not able to come in to the court hall and was lying outside on the veranda. The magistrate then personally went to the verandah and witnessed that the accused was about to die.

#### **4.4.2 NHRC Guidelines Regarding Arrest**

Concerned with the large number of complaints about abuse of police powers, particularly in relation to arrest and detention, the National Human Rights Commission has drawn up a set of guidelines. They are based on Constitutional provisions, existing laws, Supreme Court decisions and National Police Commission recommendations.

The Commission has said that these guidelines

should be translated into all regional languages and made available in all police stations throughout the country. They have also said that the police must set up a complaints redressal mechanism to promptly and effectively investigate complaints regarding violation of NHRC guidelines.

#### **Procedure to be Followed Prior to Arrest**

The Supreme Court has laid down in the *Joginder Kumar vs. State of U.P.* (1994) Case that arrest without warrant should be carried out only after reasonable satisfaction is reached about the genuineness of the complaint, a person's complicity in the offence; and the need to make an arrest.

The National Human Rights Commission on its part has asserted that arrests in bailable offences must be avoided unless there is a strong possibility that the person will run away. A police officer must be able to justify an arrest. An arrest without warrant can be justified only in the following circumstances:

- i. Where the case involves a grave offence such as murder, dacoity, robbery, rape etc. and it is necessary to arrest the suspect to prevent her/him from escaping or evading the process of law; and/or
- ii. Where the suspect is given to violent behaviour and likely to commit more offences; and/or
- iii. Where the suspect needs to be prevented from destroying evidence; interfering with witnesses; or warning other suspects who have not yet been arrested; and/or

<sup>2</sup> *Kharak Singh vs. State of UP and Ors.* AIR 1962 SC 356.

- iv. The suspect is a habitual offender, who unless arrested is likely to commit similar or further offences. [3rd Report of the National Police Commission]

## Procedure to be Followed at the Time of Arrest

Human dignity must be upheld and minimal force should be used while arresting and searching for suspects.

- As a rule, use of force should be avoided while making an arrest.
- In case the person being arrested offers resistance, minimum force should be used and care should be taken to see that injuries are avoided.
- Dignity of the arrested person should be protected. Public display or parading of the arrested person is not permitted.
- Search of the arrested person should be carried out with due respect for her/his dignity and privacy. Searches of women



should only be done by woman police officers, with strict regard to decency.

- Women cannot be arrested between sunset and sunrise. As far as practicable, women police officers should be associated when the person being arrested is a woman.
- Force should never be used while arresting children or juveniles. Police officers should take the help of respectable citizens to ensure children and juveniles are not terrorized, and the need to use coercive force does not arise.



- The arrested person should be immediately informed about the grounds of arrest in a language s/he understands.
- In case a person is arrested for a bailable offence, s/he must be informed about her/his right to be released on bail.

- Information regarding arrest and detention should be communicated without delay to the police control room and to the district and state headquarters. A round-the-clock monitoring mechanism should be put in place in this regard.

## Procedure to be Followed after Arrest

Constitutional and legal provisions requiring an arrested person to be informed about the grounds of arrest, her/his right to be represented by a lawyer and to be promptly produced before a court must be strictly followed.

Article 22 (1) of the Constitution lays down that an arrested person must be informed as soon as possible about the grounds of arrest; s/he must not be denied the right to consult and be defended by legal counsel of her/his

choice. Section 50 (1) of the CrPC requires a police officer to communicate to the arrested person, grounds of the arrest and full particulars of the offence under which s/he is being arrested.

Article 22 (2) requires an arrested person to be produced before the nearest magistrate within 24 hours. Section 57 of the CrPC says that an arrested person cannot be kept in custody for more than 24 hours without the order of a magistrate.

The arrested person should be examined every 48 hours during detention in police custody by a doctor or panel of approved doctors appointed by Director of health services of the concern state or union territory.

## 4.6 Procedure in Respect of Interrogation

Methods of interrogation must be consistent with individual rights relating to life, liberty and dignity.



- Torture and degrading treatment of suspects is prohibited.
- Interrogation of an arrested person should be conducted in a clearly identifiable place, which has been notified for the purpose by the government.
- The place of interrogation must be accessible. Relatives or a friend of the arrested person must be informed where s/he is being interrogated.
- An arrested person should be permitted to meet a lawyer at any time during the interrogation, though not necessarily throughout the interrogation.

#### **NHRC Directions on Mandatory Reporting of Custodial Death/ Rape and Video-Filming of Post Mortem Examinations**

- All cases of custodial death and custodial rape whether in police lock-up or in jail must be reported to the NHRC within 24 hours of occurrence by the concerned District Magistrate or Superintendent of Police. Failure to report promptly will give rise to the presumption that there is an attempt to suppress the incident.
- All post-mortem examinations in respect of deaths in police custody should be video-filmed and a copy of the recording should be sent to the NHRC along-with the post mortem report.
- Autopsy Report forms prescribed by the NHRC should be used to record the findings of the post-mortem examination.

## **CASE TWO**

Suppose, you as a police officer, called a young lawyer to the police station in connection with some inquiries. When the father of the young lawyer visited the police station to inquire about his son, he could not find him in the police station. Later he found that his son was taken to an undisclosed location and detained there for a period of five days. The father filed a habeas corpus petition before the supreme court to find out whereabouts of his son.

As a police constable, what do you think are the procedures to be followed in the above case? What are the human rights violations committed in the above case? Where in our Constitution have the safeguards against arrest been provided? What are the guidelines of NHRC in case of pre-arrest, post-arrest of detainees?

## **Activity 2**

*Do you agree that "being arrested is a frightening experience and is often far worse than any punishment subsequently visited upon the person by the courts"? Explain your views on the above statement.*

*The National Police Commission (NPC) has observed that the power of arrest is the most important power which involves exercise of considerable discretion in the day to day working of the police. This gives scope for corruption and malpractice accompanied extortion and harassment to the public and deserves a close look from the angle of reducing the scope of several attendant malpractices. NPC further pointed out that a good portion of the arrests made by police has been, on further scrutiny, found not really necessary from the point of view of the crime prevention or the interest of investigation. Why did the NPC make such observations? Think and write your comments.*

## 4.7 Torture

Many persons who have been taken to a police station complain about torture. The torture may be committed by infliction of physical pain, including mental trauma. The first 24 hours period of initial detention at the Police station is more prone to torture. It may take several forms; violence against women detainees, psychological torture, or, the ultimate, death or disappearance of the victim.

Rape in police custody is not only an injury against person but a calculated violence to destroy the dignity, integrity and self esteem of the women. The emotional damage and psychological trauma of the victim of rape is of greater severity than the physical event. As succinctly observed by the People Union for Democratic Rights (PUDR), "the social power that men have over women gets intensified with the legally sanctioned authority and power of policemen. Even the limited Supportive mechanism that exists for women becomes less effective when the rapist is a policeman".

The torture and the injury caused on the body of the detainee sometimes results in his death. Death in custody is not generally shown in records and every effort is made by the police to dispose of the body or to make out a case that the arrested person died after he was released from custody. Any complaint against such torture or death is generally not given any attention by the police officer on account of brotherhood. No First Information Report at the instance of the victim or his kith and kin is generally entertained and many a times, even the higher police officers prefer to turn a blind eye to such complaints.

Even if a formal prosecution is launched by the victim or his kith and kin, many a times, no direct evidence is available to substantiate the charge of torture or causing hurt resulting into death. The police lock-up where generally torture or injury is caused on the arrested person is away from the public gaze, where the sole witnesses are either police men or co-prisoners who are highly reluctant to appear as prosecution witnesses, firstly because of police brotherhood and, secondly, due to fear of retaliation by the superior officers of the police.

**Convention against Torture (CAT)** defines torture as, "Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of/or with the consent or acquiescence of a public official or other person acting in an official capacity."

## 4.8 Death in Police Custody

Custodial death can be interpreted narrowly as death of a person in a police lock-up. But sometimes, death takes place outside the premises of a police station, in a hospital or on the streets, but technically in the custody of police.

Suppose a woman domestic worker was being forcibly vacated from her rented house by the landlord with the help of the police. During this forcible eviction, a five-year child of the woman domestic worker clings to the body of the woman while being forcibly evicted and



receives serious injuries that prove fatal resulting in death of the child. The question is would it amount to custodial death or not? Further, whether the police should be involved in a civil case like this, wherein the landlord uses police illegally for eviction of the tenant?

The lack of specific definition of the term 'custody' creates confusion. The police treats only those cases as death in custody wherein the person has been arrested formally; leaving out all cases where death occurs from violence against a person under inquiry or interrogation or when a person was apprehended without formal arrest. A study by the Indian Institute of Public Administration explains the way police conceptualise death in custody.

The definition of custodial death must include the death of a person who has been arrested or otherwise detained by the police. It also includes death occurring whilst a person is being arrested or taken into detention. The death may have taken place on police, private or medical premises, in a public place or in a police or other vehicle. Death in the following circumstances are amongst those covered by the definition.

## 4.9 Death in Judicial Custody

Death in judicial custody must include death that occurs in prisons or juvenile detention facilities. This also includes death that occurs during transfer from prison or juvenile detention or in medical facilities following transfer from adult and juvenile detention centres.

This is a typical case of death of a two months old infant girl who died in Rohtak Jail in Haryana. The mother of the child was lodged in the Rohtak District Jail along with her two children, one about two years old and another,

the infant of two months. The mother of the deceased stated that the infant did not get the diet to which she was entitled immediately after the delivery and in turn she was unable to provide proper nourishment to the child. The National Human Rights Commission concluded in its report that the death of the infant could not be said to be 'natural', but was attributable to malnutrition which occurred due to inadequacies of food served to the mother which had an impact on the child. The NHRC held that the jail authorities are guilty of violating their duties and obligations as they were under the obligation to take special care of the infant child which was only ten days old when brought to the jail along with the mother.

## 4.10 Disappearance

The term 'Disappearance' includes abduction of persons who are deprived of liberty by organized groups or private individuals or even by the State officials. There are instances where police has arrested individuals without charge and kept them in detention indefinitely without acknowledging the detention. While in custody, they were tortured and killed and their dead body secretly disposed off to destroy evidence. Disappearance is used to terrorize people.

Disappearance serve as a double form of torture in which victims are kept ignorant of their own fate, while family members are deprived of knowing the whereabouts of their detained loved ones. Moreover, in the wake of disappearance, many families suffer from the loss of the household breadwinner, leading to extreme economic hardship and poverty. Furthermore, the relatives sometimes file Habeas Corpus cases, but courts may dismiss them for lack of evidence or due to political pressure. The victims and their relatives may become re-victimized in their search for the truth.

The first case of 'disappearance' which came before the Supreme Court of India was from Nagaland. Mr Sabastian Hongray of the Naga People's Movement for Human Rights in 1984 approached the Supreme Court for habeas corpus to know the whereabouts of two priests who had been arrested in Nagaland by the army. The Supreme Court directed the army in Nagaland to produce these two person before the Supreme Court. There was a clear evidence of their arrest by army, but later their whereabouts were unknown. The army said that they had disappeared from the custody. The Supreme Court in a pathbreaking judgment awarded compensation of one lakh each to be paid to the relatives of the deceased

In India, disappearance has been widely reported from various parts of India, especially in the areas of armed conflict. Often people approach the NHRC to direct the state government to publish the reports of inquiries related to disappearance.

#### **4.11 Extrajudicial Execution or Encounter death**

The term 'encounter death' officially entered the Human Rights vocabulary in the late 1960s. In UN parlance it means extra-judicial execution. In colloquial terms an encounter is essentially an armed confrontation during which an exchange of fire takes place and suspected insurgents are killed. Its hallmark is that it is a stage-managed extermination of an individual or a group. It is said that police routinely circulate similar stories in all cases of encounter deaths, stating that 'armed encounters' took place between suspected insurgents and police, during which the police

fired in self-defense. Armed confrontation is not ruled out in some cases but not in all cases.

The Andhra Pradesh Civil Liberties Committee in its complaint before the National Human Rights Commission stated that in every case of encounter deaths, the police version of the incident was identical. "On receiving information about the movements of suspected insurgents, the police party took up combing operations. During the combing operations the police encountered the insurgents and opened fire in self-defense in which unidentified persons were killed..."

The sordid story is that the police do not even file a First Information Report after an alleged encounter, making it easy to bury the evidence later on. No investigations are conducted into the encounter, or if conducted, they are done by the same policemen who were involved in the incident. No account of the ammunition used during the encounter is maintained. No proper post-mortem examinations are done.

Recognizing the legal vacuum that exists in many countries, the UN and the international community expressed its concern at the occurrence of the extrajudicial executions.

The UN and the international community began to formulate a set of principles and medico legal standards for investigation and prevention of extra legal, arbitrary and summary executions. The work dates back to the beginning of the 1980s and resulted in the formulation of principles on the effective prevention and investigation of extra legal and arbitrary and summary executions.

### **NHRC's revised guidelines on encounter deaths**

- A. When the police officer in charge of a police station receives information about the deaths in an encounter between the police party and others, he shall enter that information in the appropriate register.
- B. Where the police officers belonging to the same police station are members of the encounter party, whose action resulted in deaths, it is desirable that such cases are made over for investigation to some other independent investigating agency, such as State CBCID.
- C. Whenever a specific complaint is made against the police alleging commission of a criminal act on their part, which makes out a cognisable case of culpable homicide, an FIR to this effect must be registered under appropriate sections of the IPC. Such cases shall invariably be investigated by the State CBCID.
- D. A magisterial inquiry must invariably be held in all cases of death which occur in the course of police action. The next of kin of the deceased must invariably be associated in such inquiry.
- E. Prompt prosecution and disciplinary action must be initiated against all delinquent officers found guilty in the magisterial enquiry/ police investigation.
- F. Question of granting of compensation to the dependents of the deceased would depend upon the facts and circumstances of each case.
- G. No out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/

recommended only when the gallantry of the concerned officer is established beyond doubt.

- H. A six-monthly statement of all cases of deaths in police action in the State shall be sent by the Director General of Police to the Commission, so as to reach its office by the 15th day of January and July respectively. The statement may be sent in the following format along with post-mortem reports and inquest reports, wherever available and also the inquiry reports:-

1. Date and place of occurrence
2. Police Station, District.
3. Circumstances leading to the death:
  - i. Self-defense in encounter
  - ii. In the course of dispersal of unlawful assembly
  - iii. In the course of effecting arrest.
4. Brief facts of the incident
5. Criminal Case No.
6. Investigating agency
7. Findings of the magisterial enquiry by senior officers:
  - i. disclosing in particular names and designation of police officials, if found responsible for the death; and
  - ii. whether use of force was justified and action taken was lawful.

It is requested that the concerned authorities of the State are given appropriate instructions in this regard so that these guidelines are adhered to both in letter and in spirit.

## 4.12 Prevention of Torture

The Supreme Court of India in the case of Sube Singh vs. State of Haryana AIR 2006 SC 1117 held that "Custodial violence requires to be tackled from two ends, that is, by taking measures that are remedial and preventive." Award of compensation is one of the remedial measures after the event. It also directed the following steps for effective preventive measures:

- (a) Reorientation of attitudes of police through training to respect Human Rights.
- (b) Monitoring the functioning of police constables at the cutting edge level.
- (c) Compliance with the eleven requirements in the D K Basu guidelines.
- (d) Prompt registration of first information reports of all crimes.
- (e) Computerisation, video-recording and maintenance of records of FIRs, Mahazars, inquest proceedings, post-mortem reports and statements of witnesses.
- (f) Independent investigating agency preferably Human Rights Commission or CBI to investigate complaints of custodial violence.



## 4.13 Contribution of NHRC

The National Human Rights Commission's policies in dealing with custodial violence can be summed up as follows:

- NHRC considers the individual complaints of Human Rights violation, calls reports from the state governments and wherever necessary orders for inquiries to be conducted by its own investigation division. Compensation to the victim and action against the violators are recommended after establishment of a prima facie case.
- NHRC initiated the process of mandatory reporting of custodial rapes and deaths in custody within 24 hours by the district magistrate and superintendent of police in every district. This is a significant contribution of NHRC in the systematic documentation of custodial violence in India

- The Commission directed that all post mortem in all cases of deaths in police custody and all cases of suspicious deaths in judicial custody should be video filmed and the cassettes/CD to be sent to the commissions together with the written reports.
- NHRC also developed model autopsy forms to standardize the procedure of recording post-mortems.
- NHRC is also strengthening the visitorial mechanisms to all custodial institutions.

### Check your Progress

- What are the social, economical and legal implications of arrest?
- Why do we arrest people? Is arrest warranted in all cases?
- Does indirect control over the movement of a suspect by the police amount to police custody?
- Please reflect upon the following

observations of the National Police Commission (NPC). It observed that "the insistence of examination of witnesses, particularly women witnesses, at their residences in preference to a police station is more to avoid inconvenience to them by having to be absent from the house for a long time than to strengthen or recognize any impression that a police station is a place to be avoided by the public, particularly womens".

### 4.14. Let us sum up

The trainee after going through this unit will be able to internalize the concept, nature and meaning of custody and custodial justice. Some cases and activities are also given in this unit, to make the trainee understand the issue of custodial justice and Human Rights violation in a more practical sense. In the subsequent unit, some of the best practices are taken up, to exhort the trainee to work towards the protection and promotion of Human Rights.