Chapter-7

Case Studies on Custodial Crimes

7.0 Introduction

The case studies illustrate the nature, processes and patterns emerged in custodial crimes. The cases are a representation of (a) illegal arrest and detention (b) torture (c) deaths and (d) disappearances. The information for each case was gathered through in-depth interviews, observation, field notes and artifact collection along with conversation held with stakeholders. Besides, reports from post-mortem examinations, as inquiries reports prepared by Police, Magisterial, Human Rights Commission and media regarding custodial crimes were also looked into. The case studies are based on discussion held with victims/next-of-kin of victims. The researcher has presented them as stories from stakeholders’ perspectives. The information is sensitive; therefore, the names of the victims and other stakeholders have been disguised.
7.1 Illegal arrest and Detention in Police Custody

CASE STUDY 1: BAKERYWALA

Bakerywala, aged-28 years, an unmarried youth having two siblings and a widow mother, resident of Indira Colony, Sarvat Road, Muzaffarnagar city, Uttar Pradesh was illegally detained on 18/19 October, 1999 at midnight by the Civil Lines, Police Station, District Muzaffarnagar until he was produced in the court on 31 October, 1999.

The Process of Police Custody: Bakerywala was working in a bakery in Muzaffarnagar City. On October 10, 1999, evening, he went to watch Ramlila (kind of drama based on story of Hindu Mythology of Lord Rama) in the vicinity area of Indira Nagar Colony, Sarvat Road, Muzaffarnagar city. He came back home in the night time and slept. It was the mid night of 18/19, October 1999; when a police vehicle reached his residence and knocked at the door. Bakerywala opened the door and the police having guns in hands came inside and forcefully took Bakerywala and his younger brother in the police vehicle. When the family members resisted and asked about the reason of arrest police threatened them and started using abusive languages. The members of the victim’s family got nervous and felt helplessness (NHRC case no. 14423/24/1999-2000).

1. Observation of Civil Lines Police station: It is situated in the Civil Lines area of the Muzaffarnagar City. It is newly built double story building in 1989. Its strength of police staff is 73 including (one Station Officer, Nine Sub-Inspectors, Six Head Constables and Fifty Seven Constables). The police station covers more than one lakh population under its jurisdiction. On the ground floor, the Physical structure includes a room for S.O. a room for mal khan, a room for S.Is (sub-inspectors), a room for visitor, separate toilets for police personnel, a room for office used where assistant writers sit and report crimes incidents and a wireless set which is connected with control room of the district. Back side of the building, there is mess where one policemen cooking the food for staffs as well as for person in lock ups. The place of detention includes male and female lock ups (without window, electricity, drinking water) and toilet without water. The only thing one can see in side the lock ups in terms of black color blankets. The female lock up was found filled of garbage. No medical officer however there is first aid box but not shown to me. On the entry point of the police station, there is complaint box. In side the police station, there is a notice board of top ten criminals under the jurisdiction of civil lines police station. Another board related with human rights protection in police station. It has observed that people are sitting in the office inside called cachucha healed which is not reported in GD (general dairy). Once they are entered in GD immediately put inside the lockups as described by police Pack Healed. Unless or until they are in office, police are not considered in police custody and saying that they are detained for inquiry which is itself a kind of dilemma or contradiction of police custody (Visited Civil Line Police Station on 18-07-2006 at 07:30 p.m.). The researcher had chance to interact with two women (one old lady and other young one with four children aged 1, 2, 3, 4, years respectively in the Civil Lines Police Station). As one among them told the researcher the reason of their custody “We were sleeping in house at midnight on 26th august the police conducted raid and took them to the police station. The young lady told that the police had beaten her on her high, hype, hand, sole (table) and legs with ladhi (stick made of wood) and asking about my husband. They have provided food for us in the morning but nothing for my children. My children are hungry. Then the old lady spoke out that his son is doing acrobat and police is made allegation that he is involved in criminal case (described as Syria gang). That is why the police is detained us in custody (Visit Civil Lines Police Station on August 27, 2006 at 5 p.m.).” The next day the news published in daily Dank Jagran Daily Hindi newspaper Meerut edition dated 28-08-2006 mentioned that two women detained in civil Lines police station in connection of an accused belong to Syria gang. But even the media not at all mentioned about four small children and totally neglected their vulnerabilities in the custody.
Community and Family Response: Second day, Bakerywala’s mother started searching her sons in different police stations of the city (some times in Civil lines, Kotwali and New Mandi Police stations), however there was no clue of her sons’ whereabouts. She was frustrated and approached to the City Magistrate for intervention in the Matter. She was told by Magistrate that the local police have refuted the fact that they have picked up anyone. She was shocked to know the statement from the local police and re-approached City Magistrate Court and got her youngest son back but no clue about Bakerywala. But this time, she has reported the incident of Bakerywala to the higher authority through fax to the D.I.G. (Sharnapur) I.G (Meerut range) and National Human Right Commission (NHRC, New Delhi) (Interview held with the mother of victim on 13.09.2006 at 2:00 p.m.at Indira colony, Sarvat Road, Muzaffarnagar City).

Treatment in Police Custody: The younger brother of Bakerywala who was also in police custody for a day revealed that police took them (along with Bakerywala) in an unknown remote area and then changed the location of custody time and again like some times in Civil lines, Kotwali and New Mandi Police stations and Saket Police Chowki too. But he was unaware about his brother whereabouts. He also complained of police beating him in custody (Interview held with Bakerywala’s brother on 12.09.2006 at Indira colony, Sarvat Road, Muzaffarnagar City).

Role of National Human Rights Commission: National Human Rights Commission (NHRC) took cognizance of the complaint dated 19.10.1999 received from Bakerywala’s mother alleged Tortured and threatened elimination of her sons in encounter by Muzaffarnagar Police. The Commission vide its direction dated 20.10.1999(O-I) directed Director General (Investigation) to collect facts accordingly. The National Human Rights Commission (NHRC) investigation team found Bakerywala was in custody of Khatoli Police Station of Muzaffarnagar district. Bakerywala revealed to the NHRC investigating team that he was illegally detained and falsely implicated in Doda Post (a kind of local produced intoxicated drug in that region). Bakerywala also informed to the NHRC team that Doda Post which was kept in baggages kept inside the Khatoli Police station, NHRC investigating team saw the baggages with full of Doda post in side the Khatoli police
station and also verified the fact to finalization the report to the National Human Rights Commission (NHRC case file no. 14423/24/1999-2000).

**NHRC Recommendations:** The National Human Rights Commission (NHRC) revealed that upon consideration of the report of investigation team that “Bakerywala was in illegal detention from the interviewing night of 18/19 October, 1999 till he was produced in the court on October 31, 1999 and he was falsely implicated in a grave crime under the NDPS (The Narcotic Drugs and Psychotropic Substances Act 1985). The state is therefore, vicariously liable for his unlawful detention and shall pay immediately interim compensation amounting to Rs one Lakh to the victim. Bakerywala’s younger brother was also illegally detained for a day and therefore he should be paid Rs 10,000/- out of one Lakh, a sum pf the Rs 10,000/- may be paid under DD and balance amount of Rs 90,000/- shall be deposited in a nationalized bank as long term basis and the interest payable thereon shall be paid to Bakerywala every month. Besides, The SSP, Muzaffarnagar, is directed to immediately seize the 34 bags of the Poppy husk( also known doda post in local language) kept in store of the police station and submit a report of its seizure. Obviously, the police were using the stored poppy husk for false implication of innocent persons and have it destroyed and take appropriate action according to procedure. If it is the subject matter of any investigation or trial in any other case, subject to the orders of the court, the same may be dealt with according to law.

**Response of Uttar Pradesh Government:** In this regard IGP, UP in his letter dated 31.12.2001 has reported to the Commission that while decision of the State Government with regard to payment of compensation has not received by him, a case no.499/2000 u/s 342/212 has been registered on 30.07.2000 against delinquent police officials. Subsequently, the letter dated 10.01.2002 has reported that after due consideration it has been decided that there is no justification to pay any compensation from the Government funds. However, action to fix the responsibilities of the concerned delinquent officials was being taken by the Additional Inspector General of Police ( Human Rights), Uttar Pradesh, Lucknow ( NHRC case file no. 14423/24/1999-2000).
**Court Intervention:** In between, the Additional session judge-VIII, Muzaffarnagar, Uttar Pradesh gone through the case history of Bakerywala and found that since accused (Bakerywala) has been sentenced to life sentence on 31.08.2002 in session trial no. 42 of the year 1995, crime No. 472 year 1993, Sections 147, 148, 45,307,302 IPC, PS : Civil Lines, Muzaffarnagar and a new case Crime no. 2 years 2003, section-25 Arms Act, Case No : 579 year 1993, section 2/3 Gangster Act, PS –Civil Lines , Muzaffarnagar. The court furnished its opinion that Bakerywala seems to be a criminal person. Looking into the facts and circumstances of the present case the honorable judge opinioned that detention in the present case of illegal detention period from 07.01.2003 to 19.02.2000 may be treated as punishment and Bakerywala may be released and this will meet the justice( Judgment of Additional District and Session Judge-VIII, Muzaffarnagar dated 19.02.2003).

**Response of NHRC:** The Commission received report from ADGP(HR) dated 15.01.2004 revealed that accused in case No. 444/99/US/18/20 NDPS Act was sentenced imprisonment from 07.01.2003 to 19.02.2003 by Additional session judge-VIII, Muzaffarnagar, vide verdict date 19.02.2003. The legal opinion of Senior Public Prosecutor (SPO), Muzaffarnagar was obtained in case No.499/2000-U/S-342/212 IPC who opined quashing of charge sheet filed against S.I. (Sub-Inspector) in the said case. The concerned court had also directed to dispose of this case. Accordingly, action was taken for the quashing of charge sheet filed in the case No. 499/2000 u/s 342/212 IPC.

The National Human Rights Commission is taken on record the report of ADGP(HR). As report stated that accused (Bakerywala) is convicted under NDPS Act and sentenced by Add. District Judge-VIII, Muzaffarnagar vide verdict dated 19.2.2003. It is further stated that the investigation conducted against the alleged delinquent police officials and final report submitted in the court. In view of above circumstances, the Commission’s earlier order dated 19.01.2000 is recalled and the matter is closed and no action required dated 10.04.2004.

**Impact on Family of Victims:** Impact of the gruesome act is faced by mother of bakerywala, she is without any economic, social and psychological support. Bakerywala’s mother is aged about 55 years old and a widow. Her health is good. She is
middle height and healthy. She is straight forward and frank. She obtained middle class education but knew the legal process well while worked in Home guard department. Throughout interaction with researcher she maintained eye contact which indicates her boldness. She was looking satisfied with her struggle for justice. As she expressed, “Due to my activeness and persistently pursuing the matter up to NHRC level, the local police got disturbed and send the message for compromise the matter and also offered money. I refused it and decided to teach a lesson to them for not further victimization of any poor fellow in the same manner as I was victimized……….”

”I fought for justice and won even I have not got the compensation money which is recommended by NHRC but I do not feel any indifference. I am satisfied with my struggle which got success and defeat of government (interview held with the mother of victim on 13.09.2006 at 2:00 p.m.at her residence, Indira colony, Muzaffarnagar city)”.

**Police Response** : While pursuing the cases of Bakerywala in field, the researcher had interacted with Speical Investigation Squad (SIS) of Muzaffarnagar District Police. Since the squad was created to investigate caste, communal and political sensitive cases, the case of (Bakerywala) was handed over to the squad by order of Deputy Inspector General of Police (D.I.G.), Shaharanpur range dated 04-09-2000 vide letter no. C.O.-54-878/2000/9705 for investigation. The case was investigated and kept all the records in files. Despite researcher repeatedly approached to the SIS and requested for investigation report in Bakerywala case but no response was given in this regards.

However, few police personnel from squad were ready to furnish their opinion. As one of the police personnel said that torture is not a third degree. We can not force any accused to say something. Accused is free to say something. Police is empowered by law to use necessary use of force (it may be physical/mental and emotional) caused deaths, rapes and other offences). He also talked about natural and unnatural causes of custodial crimes such as suicide/ T.B. and poisoning as well as stressed on unnatural causes due to corruption and political interference (Interview held with police personnel of special squad cell on 25.08.2006 at 11: 00 a.m.).
The researcher had also interacted with police staff from Saket Police Chowki where victims were detained for couple of days. A group of constables narrated the problem faced by them in day to day policing in the district. As they said, “We are facing the problem of use of force or torture due to human rights in policing. Therefore, now-a-days, we are using psychological methods more rather physical such as oath of God, if person is Muslim then oath of Kuran or Allah, Oath of Mother as case may be deal the situation accordingly. They unanimously agreed upon the fact that use of the police force against criminal is ultimately in interest of public at large and national interest. Hence, Torture is not a crime (Interaction held with the police personnel on 01-09-2006 at 2: 00 p.m at Saket Police Post, Muzaffarnagar city).

**Current Status of Case:** The matter was closed by NHRC at its end for no further action required (visited NHRC website on 07.02.2007 at 8 p.m.). The question remains that why NHRC has not taken up the case in the Supreme Court or High Court of Uttar Pradesh, Allahabad, for implementation of its recommendation and met out the justice to the victims (under Section-18(b) of the Protection of Human Rights Act, as this case was investigated by NHRC’s investigating wing itself (Status of the case retrieved from National Human Rights Commission, www.nhrc.nic.in dated 7/2/2007).
7.2 Custodial Torture in Police Custody

CASE STUDY 2: SIKAYATWALA

Sikayatwala, 45 years old a Muslim men having beard, thin body with white and black color hairs resident from Sikari village, Bhopa Police station, District Muzaffarnagar, was taken into police custody during police raid on 21/22.07.2006 at night 12: 45 a.m. from his relative’s home at Mohalla-Kotla, Mirapur Town, District Muzaffarnagar, Uttar Pradesh and died on the spot at 01:a.m. morning.

The Process of Police Custody\(^1\): Sikayatwala was an agricultural labor. He was working in the sugar cane field for cutting the sugarcane and making bundle of it in Sikari village of District Muzaffarnagar. Sikayatwala was living with his family with six children. One of his sons Najar Mohammad was falsely implicated in a murder took place in the nearby village Rahamatpur. The police started searching for his son and conducted a raid at his home in Sikari village so many times. Due to police harassment, Sikayatwala had reported a complaint to National Human Rights Commission (NHRC), New Delhi. He had also shifted his family to his relatives in Kotla, Mohalla, Mirapur town of Muzaffarnagar district. On 21/22 -07-2006 at 12: 45 a.m., a joint team (Bhopa and Mirapur Police Stations) conducted raid to the house of Sikayatwals’s relatives in the reached Mohalla-Kotla, Mirapur town of District Muzaffarnagar. During the raid, the police not only arrested Sikayatwala’s son but also arrested his two younger brothers and Sikayatwala too (Interview held with Sikayatwala’s wife on 14.09.2006 at 1: 00 p.m. in the Sikari village of Muzaffarnagar).

\(^1\)Observation of Bhopa Police Station: Bhopa police station is located in the crowded area of the town on main road towards Mirapur. It is small police station of single storey building but covers more that 2 lakh population (about 64 villages) with little resources of 18 police personnel( includes One Inspector, Three Sub-Inspectors and Fourteen Constables). On the front side of station, there is Human Rights Protection board in Hindi language. A total 5 rooms and two police lock ups ( male and female). There was no window, no light, no fan. The toilet ( dry latrine but no soap). The water facility was available outside the lock up as and when required and proved by Satri (Lock-up guard) inside the lock ups. The food was given to detainee during detention from the mess which is located inside the police station (Visited Bhopa Police Station on 14.09.2006 at 10.20 a.m. ).
Treatment in Police Custody: The Sikayatwala’s wife told to researcher, “That day the police was brutal. The police tied Sikayatwala with tree and beaten him brutally until he died on the spot”. Police made a story of heart attack and ran away from the kotla Mohalla, Mirapur town of Muzaffarnagar (Interview held with Sikayatwala’s wife on 14.09.2006 at 1:00 p.m. in the Sikari village of Muzaffarnagar).

Community and Family Response: The people from the locality and town got together and local media had also joined hands against police brutality. In the mean time, at 2:00 a.m., the Circle Officer 9 C.O.), Janshat, Muzaffarnagar had been reached on the place of incident. At 6:00 a.m. on 22.07.2006, a criminal case got registered against the police party in the Mirapur Police Station under crime no. 559/06 U/S-147,148,452 and 302 IPC Investigating Officer put under supervision of the Circle Officer, Jansat, Muzaffarnagar.

Post-Mortem Examination: Second day, on 22.07.2006 at 9:00, the body of the deceased (Sikayatwala) was sent to Sikera Police Station. It was around at12.00 noon. The cause of death could not be established, hence Viscera preserved (Medical Examination Report No.484/2006 dated 22.07.2006 at 3:45 p.m.). Researcher met with the medical officer who was involved in the post-mortem of Sikayatwala. According to Medical officer(ENT), District Civil Hospital, Muzaffarnagar, “Sikayatwala was an old middle aged person of weak physique. No injury was found on his interior or outer parts of the body. The cause of death could not be established hence Viscera preserved for further chemical examination of the internal organs of the body including heart. The medical doctor also showed his unawareness about National Human Rights Commission’s guidelines regarding Model Autopsy form and video filming. NHRC has issued guidelines and important instructions to all the states and UTs regarding to ensure independent evidence in custodial violence cases based on observation and opinion furnished by the doctor in the post-mortem report (NHRC letter guidelines on video filming of the post mortem examination dated August 10, 1995 and Model Autopsy form and the additional procedure for inquest no. ID/PM/96/57 dated March 27,1997). In the end, he suggested that Forensic Scientist should be involved for the purpose of Viscera report instead of police (Interview held with Medical Officer on 25-09-2006 at 9:00 a.m. at District Civil Hospital, Muzaffarnagar).
The researcher also interacted with Chief Medical Officer (CMO) and Chief Medical Superintendent (CMS), Health and Family Welfare Department, Muzaffarnagar to know about of Medical Examination of custodial deaths and VISCERA process at district level. They ponder following points:

- The Viscera Reports are sending to Lucknow and Agra Forensic Science out of 100 cases, we are getting reports of Viscera around 4-5% only caused delay in justice.
- Since January, February and March, 2006 reports were laying here (there is not time frame for that). They police say due to work load. They do not have time.
- In each and every case, we give them a specific number to the viscera reports and handed over to the constables who brought the dead body here from concerning Thana.
- Since last 10 year nobody came to pick up the sample for testing.
- VISCERA are the examination of internal organs of human body. These are stomach. Estes tine, kidney and liver. We preserve it for further chemical examination in forensic science labs in Lucknow and Agra as case may be.
- We preserve VISCERA in glass weight around 1-1/2 kg. and handed over to Investigation Officer (I.O.) to send it for examination.
- Most of the time the post-mortem done by senior doctors at least with 5 years experience and in case of doubts the viscera preserved.
- Video-filming arrange and done by police department. In this case of Sikayatwala, no video-filming has done.
- The panel of doctors or single doctor examination of dead body is also decided by the District Magistrate (DM) and Senior Superintendent of police (SSP). Even in suspicious deaths cases decided by DM/SSP in writing. It is also not happening in each and every case of death and rape in police custody.
- We are right now using the PME form of UP State Government. We did not get any model form from NHRC (Interactions held with Chief Medial Officer (CMO), Muzaffarnagar and Chief Medial Superintendent (CMS) at District Civil Hospital, Muzaffarnagar and Office of the Chief Medical Officer, Muzaffarnagar on 25.09.2006 at 2: 00 p.m.).
Media Reports:

Third day on 23.07.2006, the news was published in the local newspaper Amar Ujala-Meerut edition on the front-page, “Mirapur main dabish ke douran Khalid ko khambe se bandhkar buri tarah pita gaya jisse uski moke per hi maut ho gai” (During raid police tied Khalid (deceased) with tree and merciless beaten him up. He died on the spot).

On the Fourth day after the death of sikayatwala on 24.07.2006, the news related with post-mortem of deceased published in the Dainik Jagran-Meerut, “The Sunday was a relief day for Muzaffarnagar Police because Sikayatwala’s Death was found natural cause in post-mortem report for which the local police was intense on Saturday”.

Personal/Community rivalry and its relationship with crime: The family member of Sikayatwala alleged that due to old personal rivalry who instigated the police to false implication and use force. As Sikayatwala’s wife narrates that 15 years earlier a girl was eloped and allegation made on me that I was involved in this scene. Later, that girl was caught. She ran away from home so many times. After the community people had forced her to get marry to my brother in law. Due this rivalry, the people from Jhanjha community are taking revenge and disturbing us. They are behind us. They are very rich and want us to work in their field. If we refuse to work under them then they started to harass us. The police were having regular meeting with them (Interview held with Sikayatwala’s wife on 14.09.2006 at 1: 00 p.m. in the Sikari village of Muzaffarnagar).

Victim’s Perception of Police Compromise: The wife of deceased stated that the police said that they have not killed her husband. The police told that name of Jhoja community people who were behind the incident. The police also demanded Rs 10,000 as bribe and also withdrawal of first information report (F.I.R.) lodged against police in the sikayatwala case in custody. In return, the police promised to withdraw the names of her two sons falsely implicated in a murder case. For doing that sort of compromise, ‘I do not have money’. (Interview held with Sikayatwala’s wife on 14.09.2006 at 1: 00 p.m. in the Sikari village of Muzaffarnagar).

Impact of Family Members of Deceased: The next-of-kin and wife of Sikayatwala have been facing the problems of survival, livelihood, education and care of children. The death of sikayatwala has ruined whole family life because they have lost the bread winner and left behind a list of survivors includes wife, four boys and three small girls. The wife
of Sikayatwala expressed her vulnerability as mentioned that one of my 10 year old son was also kept for 7 days in police custody. They have beaten him by Butt (stock) of gun. He still complaints pain. Other side, we are living under poverty. My house was set fire sometime back. Somehow the people from village broke the wall and saved me. My house was reconstructed with the help of village headman. I am under debt of Rs 50,000 (Fifty Thousands). Nobody helps us. The brother of Sikayatwala’s wife (brother in law of deceased) said, “We are feeling insecure from same community people of Islam. They are rich. What can we do? We are killing our feelings and leave it to the God. We do not have trust on law because no guarantee for justice (Interview held with brother in law of deceased on 14.09.2006 at 2:00 p.m. in the Sikari village of Muzaffarnagar).

Impact on Muslim Community:

Fear and insecurity among Muslim community were found due to police brutality. One of the neighbor expressed his anguish, “Mere man yah aaya ye itna bara julm hai jiski coy intah nahi hai” (In my opinion this is the worse crime which is beyond everything). Due to this death, the people are fearful, and feeling insecurity in society like something can be done with us also. Now, this matter is going to cover up. The matter got almost finished. The people are scared of police. The accused police men got transferred may be posted in Kadhala in the same district as I heard. The problem in society is false cases registered against the innocent people. This should be dealt by the proper investigation and stop harassing them by police. Muslim community itself fragmented in the hierarchy such as Jhujje are powerful Muslim. If I talk to you and other party comes to know this fact then it may be in problem for me. They (Jhujje Community’s people) might implicate me also in some false case. We are scared of that false accusation and got threatened too. We can not take risk.” (Interaction with community people on 14.09.2006 at 12:00 p.m. in the Sikari village of Muzaffarnagar).

Police Response:
The researcher got different views from the police personnel while discussing the news published in local daily ‘Amar Ujala’ dated 23/6/2006 at police line compound in the city of Muzaffarnagar. One among them said- one person died because of heart attack), another intervened and said, (No, No police has beaten him that is why he died). Further, he added that police can do any thing for earning the money. The third one commended that actually he was old person and also weak by physic when he saw the police in raid at his relative’s house and collapsed on the spot and death. (Interaction with police personnel in the police line compound, Muzaffarnagar on 23/07/2006 at 7:00 a.m.)

During the field work, the researcher had visited Bhopa police station and met the In-charge of the Police Station. According to him” after the incident of Sikayatwala all accused police personnel got transferred in different police stations in the district. When researcher desired to visit victim’s house in Sikari village then his gesture suddenly changed. Not only this, while going to Village Sikari from Bhopa Police Station, the
reseaecher had noticed that few strangers were following the researcher (visited Bhopa Police station and interviewed station officer on 14.09.2006 at 10:00 a.m.). The same day on afternoon time, the researcher tried to contact investigating officer of the case over public mobile provided to him by State Government for public access. However, the investigating officer was evading questions or query about this case over mobile phone (Telephonic interaction with the investigation officer on 14.09.2006 at 2:00 p.m.).

**Current Status of Case:** This case was still in the process of investigation stage. The District Crime Records Bureau (DCRB), Muzaffarnagar has informed the researcher that this case was not considered as custodial death case by the direction of the senior officers, so the case got registered under sections 147,148,452 and 302 of Indian Penal Code (I.P.C). This was even not referred to the National Human Rights Commission, New Delhi because it was not custodial death case (District Crime Records Bureau, Muzaffarnagar).

It is noteworthy to mention that NHRC has issued guidelines to the District Magistrates and Superintendents of Police of every districts on December 14, 1993 regarding mandatory reporting of custodial deaths within 24 hours of occurrence. Failure to report of such incident prompt would give to presumption that there was an attempt to suppress the incident (Important guidelines/instructions No.66/SG/NHRC/93 dated 14 December, 1993). However, this incident of death in police custody was not considered as ‘custodial death’ and therefore it was not reported to the NHRC despite local media & civil society perceived this death as custodial death in police custody.
CASE STUDY 3 CHITWALA

Chitwala 21 years old, an unmarried Brahmin boy hails from Barbala Village, District Muzaffarnagar, Uttar Pradesh was arrested by Shahpur Police Station in connection with playing Satta (illegal gambling) in the village on 15 January, 2006 at 8:00 p.m. and died next day on 16 January, 2006 during hospitalization.

The Process of Police Custody: The fact of the incident was revealed through field work in Barabala village, District Muzaffarnagar that chitwala went to buy a match box in village on January 15, 2006, evening time at 8:00 p.m. On the way, he stopped to play satta (illegal gambling). In the meantime, the police came and caught him with a chit of satta. The mother of chitwala told to researcher that chitwala was involved in playing satta occasionally (Interview held with Chitwala’s mother on 15.09.2006 at 12:00 p.m. at Barbara Village, District Muzaffarnagar).

Community and Family Response: The next day, chitwala’s Uncle, the village Headman of Barbara Village along with one village dweller had visited Shahpur police station. The Shahpur police informed them about reason of detention as well as legal proceeding in the case. However, after sometime when the visitors left the police station, the police took chitwala in vehicle and left him on the road at the Bus stop near to Barbala village. Somehow, he (chitwala) managed to reach his home (Interview held with chitwala’s mother on 15.09.2006 at 12:00 p.m. at Barbara Village, District Muzaffarnagar).

1 Observation of Shahpur Police Station: Shahpur Police Station is located in the centre of the Shahpur Town. It covers about two lakh population of 34 villages in nearby areas. It has a total number of 25 police staff includes (One Station Officer, Three Sub-Inspectors, Three Head Constables and Eighteen Constables). Human Rights Protections guidelines are written on the board at the front of the main gate of Thana. Inside the police station, a major portion occupied by a number of two wheeler vehicles bearing the case numbers & dates of the cases. The Police Station Shahpur has two types of detention facilities or lock ups- man and female lock ups (women lock ups was filled by the cement packs). In the lock up room no window, no light, no fan only 2 black color Blankets were there. As far as concerned hygienic – no water in side the bathroom and no soap. There is hands pump in the premise and a mess for cooking the food by falber. First Aid Box is available but not in use and when medical treatment is required they sent to the Primary Health Centre (PHC), Shahpur for treatment. According Police the Police Station is running on lease land and the main problem faced by police is space. Another problem related with electricity especially in the night time. The generator facility is also not available which created problems in the night time because the criminals are committing crimes in the night time. During discussion with the police personnel spoke out their grievances such as low pay scale even below to the primary teacher, long hour duty, no cash increments of holidays, delay in promotion (after 16 years from Constable to head constable scale and after 24 years promotional pay scale), problems of early promotion to Scheduled caste people then general caste which creates tension amongst the staff, problem of housing or quarters and barracks at the police station and the worst problem of food for jawan at thana. The government has given only falwar (cook for preparing food) but not rationing and gas or stove (Visited Shahpur Police Station on 28.07.2006 at 11 a.m.).
Treatment in police custody: Chitwala’s mother stated, “When my son came home, he was not feeling well. I took him to the local doctor but his health was not improved. Eventually, I took him to the Civil Hospital, Muzaffarnagar where he died. Further, she said “He was kept one night in police custody and was beaten up (Interview with mother of deceased on 15.09.2006 at 12: 00 p.m. at Barbara Village, District Muzaffarnagar).

“The police inflicted tortured him (chitwala) and when he became unconscious or in half dead condition then the police released him. Blood was coming out from his mouth and also both ears and police did not even provide first aid to my son (Interviewed held with member of women wing of UP Women Commission on 19-09-2006 at 4: 00 p.m. at her residence Bhopa road, Muzaffarnagar city)”.

Police Ransom for Satta (illegal gambling): A member to women wing was nominated by UP Women Commission working for welfare of women in the district said that the Police of Shahpur Thana use to take ransom from gamblers of Satta from the villages in its jurisdiction. In chitwala incident, the police had arrested three youth. Two other fellows in this particular case had released same day while paying bribe. But because of the victim (chitwala) was a poor fellow could not pay the money to police faced torture in custody. Further she stated, “I raised this particular case because I am a Brahmin and the chitwala also belongs to same caste. I have been pursuing this case to the Prime Minister, Union Home Secretary, U.P. Home Department levels. In response of that the U.P. Home Department had sent an order for preceding the case for legal action but the SSP, Muzaffanagar seems to trying to suppress the incident as nothing has happened. On the other hand, one of the policemen who were perhaps involved in this case posted in the Fughana police station of the Muzaffarnagar with out any action (Interview with member of women wing of UP Women Commission on 19-09-2006 at 4: 00 p.m. at her residence Bhopa road, Muzaffarnagar city and subsequently telephonic conversation with her on 14.04.007 at 6: 30 p.m.)

Reaction of Civil Society: The non-political organization called Bhartiya Kishan Party Union is working for welfare of the marginalized people in the city of Muzaffarnagar. The President who is also a practicing lawyer said, “Our organization had taken up this case. First of all, we had given notice to the District administration for protest ( Dharna) in this case that shahpur police station picked him up (chitwala) from the village Barbala
and beaten him in custody and made the story of death occurred due to heart attack. After that the case came in light and other political organizations like ShivSena and Bajrang Dal joined hands to put pressure on administration to investigate the fact (Interview held with advocate & President Bhartiya Kishan Party Union on 06.06.2006 at 5:00 p.m. in his lawyer chamber, Collectrate compound, Muzaffarnagar).

**Impact on Family of Deceased:** Chitwala’s mother feels deeply marginalized and vulnerable. She is a widow with white hairs, thin and cooking food of mid day meal for children at Barbara school no.2 in the Barbala village. At the time of chitwala’s death her economic condition was so bad as she expressed;

“I had no money even for funeral of my son. Then, somebody form Uttar Pradesh Women Commission came and gave me Rs. 2100/- for his last ritual. Now I left alone. My husband had already died ten years back I had three daughters they got married. Look at my house, it is made of mud. If my son would have gambled then the condition of my house would not like. Her vulnerability goes beyond money as she expressed her distressed, “I am alone in the house and nobody to look after me I am feeling nightmare. I am not feeling hungry sometimes. I have not received any help from any sources. Now, I am cooking mid day meal for children in the School No.2 at Barbala village of District Muzaffarnagar for monthly Rs. 800/-per and also getting widow pension Rs.750 in a six months for survival” (Interview held with Chitwala’s mother on 15.09.2006 at 12: 00 p.m. at Barbara Village, District Muzaffarnagar)”.

**Police Response:** The Senior Superintendent of Police (SSP), District Muzaffarnagar has put his point of view on police torture and its underpinning in the context of Muzaffarnagar. As he explained that there are so many factors instigated police to use torture. The first and foremost, the police is working under pressure by politician, businessmen, high ups (I.G./D.I.G.) and media for showing quick result consequently police use torture. He further narrate that now-a-days, the police torture is very less. Earlier, there was an interrogation team comprises of C.I.(Circle Inspectors) and Sub – inspectors for the purpose of getting information from suspects/accused in custody using various interrogating techniques including torture. But in the present circumstances, the police have a lot do useless work like canal related work, electricity, municipality, school/ college, V.I.P escort and public jam for maintain law and order situation. Due to this pressure the police is using short cut methods e.g. torture. We are also having inadequate staff, lack of supervisory or assessment, lack of lock -ups maintenance etc. all cases of custodial death are not result of torture per se, sometimes may be loneliness.
psychological downfall, sometimes may be resulted high level desperation and low level tolerance power caused suicide (through window and using nada of trousers. Sometimes consuming sulphase tablet etc. In recent cases, the public have shown low tolerance level and started beating accused and handed over to the police (cited some examples of public beatings such as Than Charthawal-Tejpal Singh theft case, Thana Bhawan-motor theft case and Lohari Khurd case).

He pointed out that Muzaffarnagar is normlessness society (father kills son, son kills father and mother kill son/daughter vice versa). The social structure is distorted. The state actors like police can not change the whole society. The Non-political organization so called Bhirtiya Kishan Union (BKU) is doing fully normless activities. The problem lies in socialization process. We do not learn to follow the rule (it is not in our blood). Hence, Police, Jail and Judiciary have failed (whole criminal justice system has collapsed). The crime is become a source of livelihood. NHRC is easy access machinery and a defense mechanism for them those break the rules and try to pressurize the police department. Consequently the police are under pressure by NHRC. Other side the police is weak in terms of numbers and also perceived as outsider. There is problem in policing too. The police generally create fear in mind of general public. The problems are many and vary such as Non-registration of F.I.R. and third degree method etc. The corruption is vibrant in police but it is prevalent in other departments too. However, Indian society is in its transition phase and becoming open day by day. The latest example is right to information Act. As far as custodial crimes are concern, the following actions taken against alleged police personnel as per law;

- Suspension
- Transfer
- Case recommended for legal action
- Recommendation for compensation to Chief Minister
- The police party gives the money to victims.
The researcher asked to him about institutionalizations of mechanism for of victim’s compensation. He further said that if compensation to the victims of torture is institutionalized then it will have some side effect. Like, anti-social elements with political backing will inflict self injury & claim for compensation. Further he added that we not require more institutions such as NHRC etc to oversight police conduct. We need of effective mechanism, do not create more institutions. This shows that police is not open to the public scrutiny (Interview held with Senior Superintendent of police (SSP), District Muzaffarnagar on 25/09/2006, at 07: 00 p.m. at his official residence, Muzaffarnagar City).

**Current Status of the Case :**

Despite sincere efforts made by civil society organizations, media and political workers, no criminal case was registered against police in this matter. Other hand, the victim’s family lost a boy and felt discrimination everyday in social life by one or other way.
7.3 Custodial Deaths in Police Custody

CASE STUDY 4: MACHINEWALA

Machinewala, (Deceased) aged around 30-35 years, hailed from Village –Faimpur, Police Station- Sikera, District Muzaffarnagar, Uttar Pradesh, was detained on 01-04-2008 at Kotwali –Police Station, District Muzaffarnagar and died on 04.04.1997 early in the morning while 5: 55 a.m.

The Process of Police Custody¹: The deceased was working as a Machine Operator in Northern India Package Company in Begrajpur, Muzaffarnagar. On 1st April, 1997, he was doing his routine work in the factory. At around 2.00 p.m., some police personnel came inside the factory premises, arrested him and took him in a jeep to Mansoorpur police station without giving any reason for the arrest. The fellow workers in the factory were shocked to see this incident and immediately informed the In-charge of the factory. The In-charge went to the Mansoorpur police station to pursue at first hand. He was informed by Mansoorpur police station that Machiewala had been brought to the Police Station for inquiry regarding a stolen loaded truck and had been shifted to the Kotwali Police Station in Muzaffarnagar city. However, no procedure followed by police at the time of carrying out the arrest of Machinewala, as mandatory guidelines issued by the Supreme Court in case of D.K. case to follow the police in arrest and detention in custody².

¹. Kotwali Police Station: The Kotwali Police Station is situated in the heart of the Muzaffarnagar city. It is very old building. It covers 3 lakh population under seven police post or police sub-station (chowkies) and having 106 police personnel staff includes (One Inspector, Twelve Sub-Inspectors, Eight Head Constables and Eighty five Constables). The police station has separate male and female police lock-ups. The capacity of each lock-ups around 30 people at a time. There was no window, light, toilet and tap inside the lock ups. The detainees ask for drinking water from guard in plastic bottle and get two times food within 24 hours prepared by mess in the police station for which the government paid Rs.5 per diet. The female lock up was filled of old motorbikes and other materials. The women detainee was ask to sit in the reporting room of the station in presence of women police or home guard lady. During the visits, it has been observed that the frequent visitors of the police station were family members, friends, lawyers, local leaders, political workers and media person. (Police station visits on 18.07.2006 at 4:30 p.m.),

². Supreme Court of India in case of D.K., Basu v. State of West Bengal( AIR,1997 SCC 610) issued detailed guideline to carry out arrest and detention by police. The police must wear visible and legible identification and name tags with their designations.

The time, place of arrest and venue of the custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telephonically within a period of 8-12 hours after the arrest etc.
Family and Community Response: As the news of arrest of Machiewala had reached to his village-Faimpur Kala, few villagers and family members rushed to Muzaffarnagar city and saw Machiewala sitting inside Kotwali Police Station. However, they were not allowed by the police to meet Machiewala in police custody (excerpt from Magisterial Inquiry Report).

Treatment while in Police Custody: Second day of visit to the police station Kotwali on 02.04.1997, Machiewala’s brother spoke about infliction of torture on him in custody. The brother of deceased also met police officers who were present in the police station at that time.

Machiewala’s brother requested the police at Kotwali Police Station for the release of deceased from custody and argued that if he had not committed any crime, why should he not be released. Even if he was suspected to have done so, then remand him to judicial custody (Jail). But the police officer did not listen to him. Consequently he had returned home. On 03.04.1997, during the third day of visit of the brother of deceased came to know about continued infliction of torture on deceased by police who had also denied him food and water in custody. As deceased was very fearful and expressed apprehension of killing him by police in custody. Once again, brother of deceased approached the police authority but the police disregarded him and ordered to get out from the police station (excerpt from Magisterial Inquiry Report).

Communication from the police (deceit and bribe): On the fourth day 04.04.1997, when people from the villages in large numbers and family members went to the Kotwali police station around 9. a.m. and asked about machiewala from police, they were informed by police that machiewala was already released from custody. But when family members and villagers backed to Faimpur village, they did not find him. At about 2.00 p.m. a police jeep reached to the village and informed about the death of machiewala and that his body was kept in the civil hospital, Muzaffarngar city. Policemen offered money to the mother of Machiewala and told her not precede the matter. However, she refused the offer. Then, the people from village Faimpur proceeded to District Hospital, Muzaffarngar and saw the body of machiewala in the hospital. It was around 8.30 p.m., the post-mortem of the boy was conducted by doctors. They were present there and saw the police personnel roaming around the hospital and also met with doctors frequently during the post-mortem period. The doctors did not tell the cause of death. The body of deceased brought backed to the home. This shows that even medical doctors are also in hand in glob with the local police in suppressing custodial crimes matters.
Reaction from community and family: On 05.04.1997, a group of people from nearby villages had gathered in Faimpur Kala and decided for demonstration before the district authority in the City of Muzaffarnagar with the dead body. The village Headman of Faimpur Kala, who was also participating in the demonstration narrated the fact of the case:

The deceased (Machinewala) had a relative from Nagadi village who was working on a Truck. One day that truck was stolen, because the deceased had connection with Nagadi village. Therefore, he was suspected by the police. On the basis of mere suspicion, he was illegally arrest and detained for the three days in Kotwali police station. The police also tortured him under the influence of the truck owner. As a result, machinewala died in police custody. Then police made a story that he died due to heart attack. The police also offered 1 lakh rupee for compromising the matter. But, we refused and decided to fight and protest the highhandedness of police. We had demonstrations against the police at Shiv chowck in the heart of the Muzaffarnagar city with the dead body. Later, the move joined by two local politicians in the same manner which resulted, the First Information Report got registered against police personnel (Crime no. 174/1997 under sections 342,302 IPC, PS- Kotwali, Muzaffarnagar dated 05.04.1997), the District Magistrate had been ordered re-post mortem of the body and also set up the Magisterial inquiry to find out the cause of death. The victims noting to earning. No officer like D.M./S.S.P. visited even the house of the victims. In my opinion, in such cases of custodial death, the victims should get at least special pension of Rs. 1000/- per month along with life insurance policy policy should be like that the policy company can calculate the earning of the deceased at the time of death till age of sixty and pay money accordingly) and the police personnel should get arrested immediately and matter should referred to the fast track court for speedy justice to the victims(Interview held with village headman of village Faimpur, district Muzaffarnagar on 08-09-2006 at 2.00 p.m.) .

Post-Mortem Examination of Body:

On the fifth day, 05.04.1997, the re-post mortem of the body of deceased was conducted by a panel of doctors from District Civil Hospital, Muzaffarnagar, by the order of DM/CMO/CMS, Muzaffarnagar. The examination report revealed that the body was sent by SHO, Kotwali, Police Station. The body was 1 ½ day old. Both the eyes were closed. Blue color was found on nails and lips. No mark of ante-mortem injury was found. Congested lever was removed and congested urine observed empty. Cause of death could not be ascertained, hence VISCERA preserved (Post-Mortem Report No.207/97 dated 05-04-1997 at 4: 30 p.m.).

Magisterial Inquiry Report ascertaining the cause of death: The District Magistrate vide its order no. 343/18 B/94-97/JA dated 07-04-997 ordered Magisterial Inquiry. In this regard, a notification was published in the news paper on 17.04.1997 requesting public to depose statements/evidence in writing or oral by persons concerned in matter of custodial death of machinewala (deceased) in the City Magistrate Court on 03-05-1997.
The Magistrate also requested Chief Medical Officer (CMO)/Chief Medical Superintendent (CMS), Muzaffarnagar to furnish a copy of post-mortem report, instructions given to the in charge of Kotwali police station, Muzaffarnagar to provide inquest report, copy of FIR, criminal history of deceased and also ensure the presence of police personnel involved in the matter on 03.05.1997 at 10:00 a.m. in the City Magistrate court for inquiry. Over a period of time, the evidences gathered, documents received from concern authority, statements recorded from witnesses, family members, community peoples and co-workers from factory and police personnel as well. In addition, the VISCERA report received from SSO Office no. J-530/2005 dated 14-12-2005 as stated the cause of death of deceased due to Aluminum Phosphate poison. After observing fact and circumstances of the case, the City Magistrate in his report concluded;

(1) Deceased had no criminal history. It is precisely evident that he was not a criminal nature person.

(2) It is clear that deceased died on 04.04.1997 at 5:55 a.m. in police custody.

(3) The Death due to Aluminum Phosphate poison.

In view of the above, how the Aluminum Phosphate poison reached the deceased in police custody was clearly not mentioned in the evidences furnished by police authority. But, it was undisputed fact the accused died in police custody due to poison. It shows carelessness of part of policemen (By order of City Magistrate, Muzaffarnagar dated 20-12-2005(Magisterial Inquiry Report).

**Delay in Justice Delivery Process:** According to victim’s lawyer, this case is pending in the court of Chief Judicial Magistrate (CJM), Muzaffarnagar. The CJM court has not any taken legal action. Besides, a number of times discussion took place in CJM court for trial. In this particular case, the mistake was that when one Gazette Officer like C.O is one of the accused and then how come another C.O. should have conducted the inquiry against the same level of officer? At least, an I.P.S. or Addl. S.P. level officer should have done this. Since the last 4-5 years the case is roaming around in different courts. Sometimes the court asked for inclusion of NHRC Report and Magisterial Inquiry Report. It is not understandable to me about the relevance of NHRC report in criminal proceeding. There is no such provision in Criminal Procedure Code (Cr.P. C.1973).
The Magisterial Inquiry was conducted and found guilty of police personnel for custodial death. It was really a matter of the courage of ADM (Additional District Magistrate-Executive) who found police personnel guilty and had written to UP Government for action as per law against police. However, he expressed his opinion on delay in justice to poor victims by district judiciary while dealing case of custodial death in police custody, “Nayalaya mai bhi Itna buta nahi hai ke do darroga ur ek sipahi ko talab nahi kar sake (The judiciary has no dare even to produce two accused sub-inspectors and one constable in court). Even though the court is delaying in delivery of justice to the poor victims… (Interview held with lawyer at his chamber in the court premises of District Muzaffarnagar on four occasions - 25.07.2006,23.08,2006, 25.08.2006,08.09.2006 and subsequently Two telephonic conversation on 06.04.2007 at 11.25 a.m. and 29.06.2007 at 09.45 a.m.)

Impact on family members of deceased:

The impact of the harassment and loss has been deeply felt by Machinewala’s mother. She was about 60 years old. Her skin was in black color and short height. She wore white sari and a widow. She spoke of the physical condition and the ailments she suffers. The body is functioning properly I can not see clearly through open eye. Your face is not clear to me I can not see without spectacles. I have problem in cooking the food I do not cook the food at evening. My hands and legs are not working properly I feel bodyache. After the death of Machinewala, my body became useless. She narrated her sense of loss, fatigue and frustration with the judicial system, “I have seen a number of proceedings taken place since last nine years. I do not have the idea about the conclusion of all that. The people came with vehicles. They have taken my photographs too. But I could not get any assistance or relief. Meanwhile other events occurred in her life, making life even more difficult for her. She mentioned, my daughter in law (wife of deceased) along with three children left home one day. Her parents are also dead. She had no brother. I do not know, Now, Where are they living? Some time before, she used to write letter but not now-a-days. “ I do not have money to give her. Her financial stress she described as, ‘I used to get monthly ten kilograms wheat in earlier village headman period. But, from this last six months period and event after newly elected village headman. Since then, I got anything. I did not get even my widow pension. I have small shop for livelihood. Even that the people borrow things on credit and do not return easily because I am poor and helpless. Where can I go from my home? Here, at least I can survive on credit or borrow the loan from people. The body is not functioning properly. I can not see clearly through open eyes. Your face is not clear to me. I can not see without spectacles. I have problem in cooking the food. I do not cook the food at evening. My hands and legs are not working properly. I feel body ache. After the death of my son,, my body becomes useless. I do not have money for doctor. I do not feel hungry. I have lost my sense. I do not feel sleeping during the night time. I feel sleepy in five or ten days. That is why my eyes got swollen” (interview held with the mother of deceased on 08.09.2006 at 12. 00 p.m. in Faimpur Village, District Muzaffarnagar).
Police Response: The Ten police personnel including one Circle Officer, one Station House Officer (SHO also called Kotwal in Uttar Pradesh Police), Three Sub-Inspectors of Police (S.Is.), and four Constables have deposed their statements to the City Magistrate, Muzaffarnagar during Magisterial Inquiry regarding death of Machinewala. All of them mentioned that deceased (Machinewala) was brought to the Kotwali Police Station on 04./04.1997 report no.7 time 3:25 a.m. and around 5:55, he had complaint of chest pain and then police referred him to the city hospital 6:30 a.m. where he was declared dead by doctors. However, the Official records of the Senior Superintendent of Police (as data of five custodial deaths supplied to the researcher for study by the SSP Office) mentioned that machinewala was taken into police custody by Kotwali Police Station on 01.04.1997 till 04.04.1997. This discrepancy was found in the police version and police records itself tell the tale. Moreover, when researcher approached the Kotwali police station and asked about detailed or gauged the case. Then, the police personnel from Kotwali Police Station were reluctant to share the information. They pretended that it is an old case and will take time in searching the records and also shown their judgmental attitude, “it is a poisoning case why are you pursuing it?

Researcher had interacted with one of the Police Sub-Inspector from Kotwali Police Station who shared his experienced of torture of an accused in police custody. As he said, sometimes the accused is not revealing truth after so many attempts of questioning him and any reason to believe that accused has some information and not confessing. Then, we use torture. Torture is crime. But it is used because of confession relating to recovery of fact or material is admissible evidence in court of law. He also mentioned the practical problems in implementation of instructions of the National Human Rights Commission (NHRC) and Supreme Court’s guidelines in D.K. Basu case regarding preventing custodial crimes. As he said:

“On an average in fifty percent of arrest cases, if you are delaying even in one minute for arresting an accused person that might result in societal protest against that arrest, community tension and violence against police. The Supreme Court guidelines can not be implemented unless or until there is change in society level. The time has come to formulate measures for society. It should be strict law against such kind of people or agitators in disturbing legal process. In this context, the existing laws S.352,553 and 186 under criminal law and procedure are not sufficient. The law should be like TADA/POTA.”
As he mentioned that the impact of custodial crimes goes beyond the victims and it has impact on police personnel too like they lost their job, livelihood and care of dependents, pay the money to victim’s family for out of court settlement (compromise the matter) etc. He has suggested that there is need of specific interrogation training, custodial management course and extension of duration of police custody from 24 hours to 48 hours. “The present system is like making an order as per law not law as per order” (Interview held with police personnel on 10-09-2006 at 4: p.m. at Kotwali Police Station, Muzaffarnagar).

**Current status of the case:** The current status of the case is that the Honorable Chief Judicial Magistrate Court, Muzaffarnagar has rejected the final report which was submitted by police and referred the matter for re-investigation to the CBCID the case. Other hand, the NHRC started proceedings for interim compensation to the victim’s family. However, Machinewala’s mother and next –of –kin continues to suffer.
CASE STUDY 5: SATTAWALA

Sattawala 36 years, a Married Hindu Kshatriya hailed from Mohalla- Pachhalla, Town-Budhana ( Jat dominated area of District-Muzaffarnagar, Uttar Pradesh), was detained on 13.05.2003 at Police Station Budhana, District Muzaffarnagar and died on third day of his detention on 14.5.2003 during transportation to Meerut Medical college, Meerut, U.P.

The Process of Police Custody1: On 13.5.2003, Sattawala was working in his sugar cane field. At 11: 00 a.m., two policemen in civilian clothes reached to the field and took him to Budhana Police Station. His mother informed the researcher even before Sattawala could understand reason of his arrest, he was detained in crime no. 129/2003 under section-2/3, Gangester Act. His mother also revealed that though he was involved in Satta (illegal gambling) and once booked under Satta Act, then he stopped it. He wanted be free from the earlier case and to live a good life with family. But police started asking hafta (extortion money) and putting pressure on him to re-start Satta (gambling). This is the reason behind his detention in police custody (Interview held with Sattawala’s mother on 11.07.2006 at 2:00 p.m. at Mohalla Pachhalla, Budhana Town, and Muzaffarnagar).

1.Observation of Budhana Police Station : Budhana Police Station is situated in middle of town. It covers around 32949 population of town area. The structure is made of bricks and cement of two storey building including reporting room, recreation room, rest room, station in-charge room, toilet and police lockups on ground floor. The mess was working in different building within the campus. The upper floor is allotted to the residential purpose to the police personnel as well their families. There is temple of lord Shiva in the premises and nearby a hand pump for fetching fresh water all the time. The Budhana Police Station has a total number of 41 staff includes (One Inspector, Five Sub-Inspectors, Eight Head Constables and Twenty Seven Constables). The police station has separate male and female police lock-ups. No window, Lights (looking dark rooms), toilets and water. No provision for medical officer at police station level. There is first aid box provided by government but nobody knows about prescription of medicine. Food was provided to the detainees from mess. Both the gates of police lock ups found open. The duty officer (Assistant Writer) informed the researcher is that three cases of custodial deaths taken place in the lock ups of budhana police station in recent years. So, police got scared to keeping the detainee in lock-ups. Now, we are not using the lock-ups. We are asked mulzim to sit in the reporting room. Another problem related with cleaning or maintenance of police lock – ups. There is no permanent posting of cleaner (Jamadar). The Jamdar is getting only Rs 250/-monthly form government (there is nothing like hygiene in the eye of law or government is concern) (Visited Budhana Police Station, District Muzaffarnagar on (20.06.2005 at 5; 00 p.m., 28.07.2006 at 2; 30 p.m. and 07.09.2006 at 3 : 00 p.m.).
Treatment in Police Custody: Sattawala was kept for three days in the police lock up of Budhana Police Station. When his health failed in police lockup, the police referred him to district hospital. In hospital, somebody saw him in critical condition and informed his family. According to wife of Satawalla, “I saw him crying and telling me in the hospital that police tied his legs and hands. The police had also forcefully fed him sulphas tablets and left in the hospital. He also stated that he was beaten mercilessly in lock up due to not given the money to police for carryout satta (gambling) in the town. Later, he died on the way while transporting to Meerut Medical College on 14.05.2003(Interview held with Sattawala’s wife on 07.09.2006 at 2:00 p.m. at her residence at Mohalla Pachhallla, Budhana town, Muzaffarnagar).

Community and Family Response: First day, the members of family were allowed to meet and feed Sattawala in police lock up of Budhana Police Station. Second day on 14.05.203, the police did not allow them to meet him in police custody. When family members resisted, police threatened, “If anyone comes inside the police station, would face similar treatment like putting in lock up illegally”. After the death of Sattawala, Public unrest took place in the Budhana Town (includes blocked the public road, slogan and rally and public protest of local police). Finally it was ended with the registration of a criminal case against Budhana police (Interview held with Sattawala’s elder brother on 23.08.2006 at 12: 00 p.m. in the court premises of Muzaffarnagar City).

Police demands bribery: The local police demanded one lakh rupees bribe to release Sattawala from elder brother through a middleman. According to the brother of Sattawala (One lakh rupees) was handed over to middleman for settle the matter. Since the middleman gave the money to the police high official but not the police station Budhana. It was his great mistake. If money had reached to the Budhana police station in time, my brother would have survived. That is why; an FIR was registered against middleman too and was accused along with police personnel from Budhana Police Station (Interview held with Sattawala’s brother on 23.08.2006 at 12 : 00 p.m. in the court premises of Muzaffarnagar and 07-09.2006 on 2: 00 at Mohalla- Pachhallla, Budhana Town, Muzaffarnagar).
Post-Mortem Examination: The next day of his death, post-mortem of the body of deceased examined by Meerut Medical College on 15.05.2003. The cause of death could not be established hence viscera preserved. It is only after six and half months, after the viscera report was received by the office of the District Magistrate that reported the cause of the death was Potassium Phosphate poison (Telephonic Conversation held with Assistant to Judicial Assistant in Judicial division in the Office of the District Magistrate, Muzaffarnagar on 30.11.2006 at 2: 40 p.m.).

Magisterial Inquiry Report: Five days later of the custodial death case registered in the Budhana Police Station. On 20.05.2003, the District Magistrate, Muzaffarnagar had been ordered for Magisterial Inquiry to find out the cause of death. Over the years, the inquiry found guilty of the police personnel for carelessness in handling of accused in police custody (Magisterial Inquiry Report and Telephonic Conversation held with assistant to judicial assistant in judicial division of district magistrate office, Muzaffarnagar on 30.11.2006 at 2: 40 p.m).

Impact of Family Members of deceased:
The impact has not only financial but also physical, psychological and social. The impact of lost breadwinner has been deep as indicated by his wife of sattawala. She is around 35 years old, good physique, fair complex and block hairs. As she narrated, “I have two sons aged about 18 and 16 years respectively. The elder one is studying at the intermediate class (12th standard) and younger one is a physically challenged. The Government has not done any help, not even artificial shoes to my son. We have lost house. We have spent so much money so far including lawyers’ fees and transportation expenditure for attending inquiry. Now, we are so fed up with this case, it has impact on our eyes while continues crying and now paining in legs. We all are become patient” (Interview held with Sattawala’s wife on 07/09/2006 at 2: 00 p.m., Mohalla Pachhalla, Budhana Town, Muzaffarnagar). Besides, the re-victimization and police harassment continues as experienced by sattawala’s elder brother stated, “I got threatened so many times and felt helplessly while pursuing the case. Once, I was approached by a local political leader saying that police are excusing and want to settle the matter with money. I refused it. Consequently, One day, I was at my home. The police called me at Budhana police station without any reason. When I reached at the station premises, I saw the C.O. (Circle Officer) Budhana, S.O. (Station Officer) along with police party. When I asked about cause of meeting then they revealed their intention and were trying to putting pressure on me for compromising the matter. When I refused to do so, the SHO of Budhana had falsely implicated me in a NDPS case and other in a murder case since then I have been shifted to Delhi due to this kind of police harassment. Now-a-days, I keep my present secret in the Muzaffarnagar as well as in Budhana. I came directly from Delhi to Muzaffarnagar Court and after attending the court going back to Delhi without knowing anyone about my movement in the city. In this case, my family members are only witnesses so that police are harassing for compromising the matter. I need support and security (Interview held with Sattawala’s brother on 23.08.2006 at 12: 00 p.m. in the court premises of Muzaffarnagar and 07-09.2006 at Mohalla- Pachhalla, Budhana Town, Muzaffarnagar).
**Reaction of Community people towards victims:** When the researcher visited Budhana town during field work and interacted with Community. A few neighbors said “we also belong to the same Tyagi community of Hindu religion like Sattawala. He was involved in Satta (illegal gambling which is prohibited by Satta Act in the State of Uttar Pradesh) and whole family was benefited out of that. They wanted to get all the money earned out of Satta. They sent the poisonous food in police lock ups. They are not good people and nobody have concern with them in society. They are alone (Conversation held with neighbors of deceased in Mohalla- Pachhalla, Budhana Town, District Muzaffarnagar on 11/07/2006 at 01: 30 p.m.).

Another person from local community was working in Nyay Panchayat Office, Budhana Town as a clerk revealed that the deceased was doing satta. He was making lot of money out of that. His sister in laws mixed the poison in the food for lust of taking portion of her brother in law’s money (Sattawala). It was news that the food sent by family member to deceased in police lock up of Budhana Police Station (Interaction held with clerk in the Nagar Panchayat Office, Budhana town, Muzaffarnagar on 28.07.2006 at 3.00 p.m.).

**Police Response:** According to police constable from Budhana Police Station, “This case related with poisonous food in police lock up. The food was brought by the relatives of the detainees in the lock up. The duty officer refused to feed them in lock up but S.I. (Sub-Inspector of Police) who was having political nexus allowed the food in police custody resulted deaths. The investigation is going on—the sub-inspector is safe but constables are implicated.” Further, he told that political influence in the present police functioning is rampant. He cited his personal experience that a sub-inspector caught holds a truck of beef and faced violence by local M.P. and his party workers who had beaten him and taken away force fully the truck from police custody. In another case narrated by him is that Bharitya Kisan Union (BKU)’s Leader hold a protest in court compound resulted police ladhi charge. In result of that the BKU leaders declared that if a schedule caste (SC) police personnel appear in patrolling in the areas, just kill them. Consequently the schedule caste (SC) police personnel have stopped doing their duty since least 6 moths. Again given the practical problem due to human rights said that, “For example, 7 feet Jat and 125 weighty criminal supposed not to handcuff by the
Supreme Court ruling but this sort of criminal can not be handled by the old two constables whose weight is 120 kg and having spectacles on their eyes.( problem of sight). One criminal in the jail who is equal to four constables. If a Jat criminal shouted on backward caste police constables then what will happen, they will fall down. These sorts of problems of human rights are faced by the police in day to day functioning. The human rights have given a lot of safe guards to the criminals but noting such safeguards to the police. There must be some safeguards to the police personnel too (Interview held with police constable on 15.06.2005 at 2: 00 p.m. and 28.07.2006 at 2: 30 p.m at Budhana Police Station, Muzaffarnagar).

**Current Status of Case:** During field work the case was under process of investigation. It has referred to Circle Officer (C.O.), Khatoli, and District Muzaffarnagar from CBCID. The accused being politically connected persons are trying to influence the investigating process at the police station level therefore, the case was handed over to the CB-CID, Bareilly. However, it has now been again transferred to the District Police. The accused police personnel being powerful people are trying to manage the case at Police Station level or district level (Interview held with Sattawala’s brother on 07-09.2006 at Mohalla-Pachhalla, Budhana Town, Muzaffarnagar).
CASE STUDY 6: BANDWALA

Bandwala, aged 25 years, an unemployed, fair complex and good physique schedule caste youth from Buddha Vihar locality of Budhana Town of District Muzaffarnagar, arrested on 13.05.2008 at Budhana Police Station was co-accused in connection with case no-129/2003 u/s 2/3 Gangster Act and died after two days of his detention on 14.5.2003 during hospitalization to Civil Hospital Muzaffarnagar.

The Process of Police Custody: Bandwala was working as a singer in local band in Budhana town of Muzaffarnagar district. One day, he was singing on the occasion of some marriage party in the Town. He saw two people were quelling with knives. He went to resolve the matter; consequently, somebody had falsely implicated his name in fight. In this connection, on Tuesday, 13th May, 2003 at 9; 00 a.m, morning time, as he was getting ready to attend the court in Muzaffarnagar City. Two police constables reached at his home in uniform along with arms and asked victims (Bandwalla) to go with them to the Budhana Police Station for inquiry. Bandwalla told them about his urgency to attend the court and informed that if he did not present himself in the court, the court might issue a warrant against him to jail. However, the police constable did not convinced with him and forced to take him to police station. Somehow, he managed to reach at the Budhana Bus Stand and got Bus for Muzaffarnagar City. Nevertheless, police chased and pulled him out from bus and started beating him on the way to the police station.

“Everybody in the market saw the incident” (Interview held with Bandwala’s mother on 11.07.2006 at Mohalla-Budhya Vihar, Budhana Town, Muzaffarnagar).

Treatment in Police Custody: According to Bandwala’s mother, “It was afternoon time; when I returned from field after grazing the grass and rushed to Budhana Police Station. Daroga (It is used in local terminology since the Manual period referred to Police Sub-Inspector) did not allow me to meet my son in police lockup. The Daroga was using filthy language and ordered to get out from police station. Next day on 14.05.2003, I went with tea to offer my son in police lock up. The police sub-inspector (Daroga) had not only denied to meet my son (Bandwala) in police custody but also thrown the tea over my body. Consequently, I was burnt in many spotted on my body and felt restlessness eventually; I returned home helplessly. On the night of the same day, a police constable
reached me home and informed about the death of my son. I felt unconscious after listening the sad news and fell down on ground” (Interview held with Bandwala’s mother on 11.07.2006. at 11: 00 at her residence, Mohalla- Budhavihar, Budhana Town, Muzaffarnagar).

Community and Family Response: The news got spreaded in the town and local people protested the police atrocity. Blocked the road, raised slogan against police and also sat on dharna as well as local media published the news. The police disbursed the protestors by used lathi charge. It turned resulted in a criminal case got registered against Budhana Police and the CBCID inquiry initiated (Interview held with Bandwala’s mother on 11.07.2006. at 11: 00 at her residence, Mohalla- Budhavihar, Budhana Town, Muzaffarnagar).

Local Media Response


Post-Mortem Examination

The body of the deceased examined by a panel of doctors from District Hospital, Muzaffarnagar by ordered of the District Magistrate-Muzaffarnagar on 15-05-2003 at 5:15 p.m. The team of the medical officers concluded that the cause of death could not be established hence the viscera preserved (Post-mortem Report). Over the years, the viscera report received by the office of the District Magistrate through Senior Superintendent of Police, Muzaffarnagar, the cause of custodial death was confirmed due to Potassium Phosphite poison as found in Viscera Report (Telephonic Conversation held with Assistant to Judicial Assistant of Judicial division, on 30.11.2006 at 2: 40 p.m. at the Office of the District, Magistrate, Muzaffarnagar).
Magisterial Inquiry to Ascertaining to Cause of Death: After six days of death in custody, the District Magistrate, Muzaffarnagar had ordered for Magisterial Inquiry on 20.05.2003 to find out the cause of death. Over more than three years the inquiry officer concluded that the death in custody of police station was due to Potassium Phosphate poison. Therefore, the Magisterial Inquiry Report found guilty for failed to protect the life of a detainee in custody and forwarded to the government for further action accordingly (Telephonic Conversation held with Assistant to Judicial Assistant of Judicial division, Office of the District, Magistrate, Muzaffarnagar on 30.11.2006 at 2: 40 p.m.).

Impact on Family Members of Deceased: Despite financial assistance to victims’ family from UP Government under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the family members of the deceased (Bandwala) have been suffering a number of problems in daily life. Their first and foremost problem is safety and security of victims and witness as the sister in law of Bandwala (elder brother’s wife) has raised question on functioning of governance and system, “So many people are coming to us, we do no know who they are? We do not know what is going on? We are living in fear in day and night. Strangers are coming in night time and peeping through windows and trying to putting fear on us, sometimes unknown person is coming in side the house in nights too. Therefore, we are not opening the door at late night. We do not know what will happen with us?. She narrates that the people are going in my relatives in nearby village and pressuring them too for compromising the matter. Though we got a sum of Rs 1.5 Lack as monetary relief from Uttar Pradesh Government under Prevention of Atrocities Act, 1989, we spent half of the money in constructing house and rest of the money in pursuing the case we still feel insecure. The Bandwala’ mother aged around 60 years, thin and weak in body expressed her distressed, “Government is thief. I do not want to live. If I get angry any time then I will kill five policemen in police station other wise the government should listen my voice I want justice and punishment of the delinquent police officers who were involved in this case and still in job (Interview held with mother of deceased and sister in law of the deceased on 11.7.2006 at 12:00 p.m. in Mohalla- Budhavihar, Budhana Town, Muzaffarnagar).
Impact on Community: Researcher had visited victims’ home in Budhana Town and interacted with community people and also got their views on the issue of custodial death of Bandwala. A woman from neighbor raised the important issue as she said, in our Hindu society; there is lack of unity between higher and lower caste people. The higher caste people have not shown much interest in this case, because victim is very poor and belong to lower caste so nobody listen them in society (caste dynamics). Other person from community who was working in Dr. Behind Rao Ambedkar Uthan Samiti-Budhana, Muzaffarnagar said that this incident is a murder by Khaki men & therefore guilty police officers must be jailed. Let them realize that they killed a child of family. Now, feeling of insecurity for family members prevailed. One boy aged around 10-12 years said, “If police come again in this locality, I will see them” (Interaction held with neighbor and community members on 11.7.2006 at 12:00 p.m. in Mohalla- Budhavihar, Budhana Town, Muzaffarnagar).

Police Response: The other side of the story gives us a different perspective. The Senior Superintendent of Police, Muzaffarnagar who had reported the incident to National Human Rights Commission(NHRC), New Delhi mentioned that accused (Bandwala) was detained with co-accused(Sattawala) in Budhana Police Station on 14-05-2003 in connection with case no-129/2003 u/s 2/3 Gangster Act. On account of his serious condition, he was sent to local hospital for treatment and referred to District-Hospital, Muzaffarnagar. The victim died while being taken to Muzaffarnagar Hospital (Bandwala). The SHO (Station House Officer) of Budhana Police Station and other police personnel were suspended for dereliction of their duties. A complaint about custodial registered (Bandwala) under crime no-143-A/2003 sections -147/148/342/302 IPC and 3/2/5 SC/ST Act against 5 police personnel of Bhudhana Thana of Muzaffarnagar (National Human Rights Commission, Case file N0.-5621/24/2003-04CD).
Current Status of Case:

During field work, it was reported that the case has been referred to Circle Officer (C.O.), Khatoli, and District Muzaffarnagar from CBCID. The accused being influential and politically connected people, the case was handed over to CBCID since 2003 and again it transferred to the District Police for investigation. Now police (accused) are trying to manage the case in with close nexus with local police. We do not have any hope for fair investigation by local police. We are helpless (Interview with brother of co-accused (Sattawala) on 07-09.2006 at Mohalla- Pachhalla, Budhana Town, Muzaffarnagar).
CASE STUDY 7: AROPEWALA

Aropewala aged 21 years, tall, fair complex, black color of hair, a unmarried Muslim boy belonged to Sikari, Village- Police Station-Bhopa, District Muzaffarnagar, Uttar Pradesh was arrested by New Mandi, Police Station on 28.01.2005 afternoon and died same day at 8.00 p.m. evening.

The Process of Police Custody: Aropewala was doing painting work in the Sikari village of Muzaffarnagar. On 28.01.2005 at afternoon time, he was going from Sikari village to Muzaffarnagar city by bus. At the Bus stops at New Bhopa road bus stand in Muzaffanagar city, the police entered in the Bus and tried to pulled him out of the bus, when he resisted they started beating and took him into police custody to the New Mandi, Police Station in Muzaffarnagar city (Interview held with the Aropewala’s mother on 28.07.2006 at 10 : 00 p.m. in the Sikari village, Muzaffarnagar).

Community and family response: Aropewala’s mother narrates “I came to know about arrest of my son through his friend over phone. His friend who was also traveling in same bus informed me arrest by police officials from New Mandi police Station and when I contacted to the police they demanded (Rs. 20000/- (Rupees Twenty Thousand) as a bribe to release my son from custody” Some how, I have arranged Rs15000/- (Rupees fifteen thousand). But, it was too late, around 8-9 O’clock evening time, I was informed by New Mandi police that my son consumed poison resulted death in police custody. The people in the village registered a false complaint against my son that is why police arrested him and police beaten him up lead to his death The police said that about the matter could be compromised by arresting rival party or mulzim (mulzim refer here the rival party who lodged complainant against victim (aropewala) But police did nothing (Interview held with Aropewala’ mother on 28.07.2006 at 10 : 00 p.m. in Sikari village, Muzaffarnagar).
**Treatment in Police Custody:** The local media perceived police highhandedness in the case and also alleged that police was trying to destroy the evidences. A Reporter from Rashatraiya Sahara (a leading news paper published form Lucknow) described:

“I was very much involved in the case of Aropewala. The New Mandi police inflicted tortured on aropewala resulted his death in police custody. Actually, the police hurriedly buried his body without post-mortem. When I came to know this fact and spoke to District Magistrate in night time, I have taken order from DM (District Magistrate) and went to the place where body was buried by police. I along with some media fellow dug the field and taken out body and given it for post-mortem. That is why the date of post-mortem still written in my dairy was 31/01/2005. However, New Mandi police does not considered it as a matter of custodial death. The New Mandi police station police thought that firstly, death was not taken place in custody. Secondly, the deceased had consumed poison (Interview held with media member held on 26.09.2006 at 7:00 p.m. in the SAHARA Office, Sadar, Muzaffarnagar City).

Further, he said that due to media activeness for social cause the case was known to public and consequently a criminal case was registered against police personnel in New Mandi Police Station no.54/2005, “forcefully picked up by police and murder through poisoning”under section -302/328/364 IPC(Indian Penal Code), New Mandi, Police Station, Muzaffarnagar. The said part of this case is that the victim’s family have reached to a compromised with police,” I have taken so much interest in this case personally and almost done it but the victim had given affidavit in favour of police and also taken money from them, as a result the case got lost the grip and the police submitted final Report in the court and finished everything. At this, I got so much angered with victims later when the family members approached me. I told them to leave my cabin and do not come here again (Interview held with media member held on 26.09.2006 at 7:00 p.m. in the SAHARA Office, Sadar, Muzaffarnagar ).

**Post-Mortem Examination** : After three days of his death the Post-Mortem done on 31-01-2-2005 at 4.30 p.m. by a panel of Medical officer through the order of S.D.M. sadar no. (6) and DM Order vide case no (7). The medical team found in the post mortem examination that the cause of death could not ascertain however viscera preserved. The sample of viscera was given to Constable of Police Station, Bhopa, Muzaffarnagar (Post-Mortem Report no. 73/2005 dated 31.01.2005 at 4:30 p.m.).
Attitude of Community: A neighbor from Sikari village stated, “Aropewala (victim) was involved in love affair in village. He died because of police torture in custody. But police had given money of Rs 2.5 Lakhs to the aropewala’s mother and asked for file affidavit in court mentioned that aropewala was not died in police custody. This way the police managed the victims and covered the whole case (Interview held with advocate on 19.08.2006 at 2: 30 p.m. at his lawyer chamber in court premises of Muzaffarnagar). However, during field visit to the Sikari Village the researcher had interacted some of neighbors who responded very badly to guide the researcher actual resident of the victims in the village. One of the women from the same Muslim community reacted, “Go and do research who died in police custody but in my family” this indicate how a victims of police torture treated with stigma in the same religion of Muslim community (Interaction held with community in on 28.07.2006 at 10 : 00 .p.m. in the Sikari village, Muzaffarnagar)

Impact on family of deceased: The family members of the aropewala particularly mother were deeply distressed after death her young son. She is around 60 years and a widow. She is thin and wore salwal & kurta and sat under the tree inside the house in lonely condition. The symptoms of her anxiety, nightmare and post-traumatic disorder also manifested in the interaction with researcher. As she expressed her distress.....

“ I am so weak and scared after the incident. If I hear any kind of shouting from outside of my house then I become nervous without knowing the reason of it Now-a-days, hardly I go out from home. All the time stay at home under this tree. Sometimes I could not sleep whole night because of thinking every time about death of my son. Some times I felt restlessness and fear in the night which result released unwanted urine ( medical problem) Some times I am rooming around whole nights alone in the locality. It is because I hurt from death of young son. I loved very much my son and he was very affectionate. That is why I missed him so much. He was just 21 years old. I have four boys and four girls but he was youngest & dearest in family.” (Interview held with mother of deceased on 27.08.2006 at 10:00 a.m. in the sikari village, Muzaffarnagar).
**Police Response** : The Police constable from New Mandi Police Station informed the researcher that Aropewala was an accused of abetment to the commission of suicide of a girl with whom he developed love affairs in village Sikari. In this connection; the father of that girl registered a complaint against him under Section -306 IPC in the Bhopa Police Station, District Muzaffarnagar (Interviewed with constable from New Mandi Police Station on 26.11.2006 at 4: 00 p.m.). When researcher visited New Mandi Police Station during field work and interacted with police personnel of New Mandi Police Station, the day duty officer rude with him because of researcher discussed about the case. He said, “This is not a matter of custodial death He (aropewala) did not die in police custody. He had consumed poison”. When researcher gauged the information about Aropewala’s medical examination (post-mortem report) then that police officer became very angry and told that no record is available at the police station level go to C.O. (Circle Officer), office (Interviewed with Day duty officer at New Mandi police station on 12/09/2006 at 5:00 p.m.) Same day around 7:00 p.m. the researcher visited C.O. City Office. The police officer responded that in this case FR (final report) was submitted to the court on 01/03/2006. This was the time when researcher wanted to know about Final Report (F.R.) from police record. In response the police officer did not provide the information from record and commented that what you do want? Do you want that charge sheet may be submitted against police in each and every case of custodial death (Interaction held with the police officials in the office of the Circle Officer on 12/09/2006 at 7:00 p.m. at Muzaffarnagar City).

The researcher interacted with Station House Officer of New Mandi Police Station. The officer said that “Torture includes abusive language, slapping and any kind of threat process and he described as moral torture. He accepted the fact that each and every death in police custody is not a result of torture by police. The custodial deaths are taken place due to natural causes too like Heart patient / depression, low tolerance level of arrestee or detainee and due to by public beating and handed over to police custody) etc. He also throws light on some practical problems faced by police department in district Muaaffarnagar. First of all, he mentioned that Police custody duration 24 hrs are less for the purpose of investigation and in Uttar Pradesh Judicial system does not give police remand easily. The investigation is solely depends on interrogation of an accused person. It is because use of computer and forensic science minimal level in the investigation
level. The major problem in quality of policing he felt is that political interference in policing. According to him…

“Due to political interference the criminals are fearless consequently the crime is increasing. The crimes are happening in daylight and police is neutral due to political influence. The police department is running due to grace of god. In Muzaffarnagar, one can see local, regional and national level political influence in police department (Interview held with Station Officer at 15.06.2005 at New Mandi Police Station, Muzaffarnagar City).

Further he said that there are natural and unnatural causative factors behind custodial deaths in police custody. There are several causes like heat attack, disease of any kind like T.B patient, medicine taken and reaction place in custody, fear of custody, and old age problem in police custody. In some cases police do indulge in custodial violence such as access beating of weak person. He felt Human Rights and its objectives are ideal and most of time benefited to the non-government organisations and public at large but not for government officers and police personnel. NHRC objectives are hitting the police functioning and both the NHRC and police are opposite to each other. On the question of illegal arrest made by police, as he replied that

“Illegal Custody is happening in all over India. It is because shortage of manpower, time constraints of investigation officer therefore we need more than 24 hours from where the illegal custody begins.”

He suggested that proper follow up of NHRC guidelines, Supreme Court rulings, strengthen the police staff, regular refresher course for police, availability of scientific tools, substantial grants for police lock ups maintenance etc. may change the situation of Custodial Crimes ( Interview with Station House Officer on 12-09-2006 at 6: 00 p.m. in the New Mandi Police Station, Muzaffarnagar City).

**Current status of case:** During data collection it was found that the case was closed by police at their end and submitted final report to the court of law due to lack of evidences. However, the victims have still a ray of hope for justice.
CASE STUDY - 8: DHAVAWALA

Dhavawala aged about 40 years a Hindu youth, having fair color hails from Mohalla-Saikhpur, Falavda Road, Khatoli Town, District Muzaffarnagar, Uttar Pradesh was taking into police custody for being witness and detained on 03.03.1997 at Khatoli, Police Station, and District Muzaffarnagar and died within three days in police custody on 05.03.1997 at 10:15 p.m.

The Process of Police Custody: Dhavawala (deceased) was running a hotel (Dhava) at Mill gate area of Khatoli town of District Muzaffarnagar. On 03.03.1997 at 9: 00 p.m, he was arrested by an Investigation officer from Khatoli Police Station in connection with kidnapping of a boy from another village (Mathedi) who used to visit his restaurant for meal. On the day of incident, the boy had food from hotel and after some time kidnapped by unidentified people. Therefore, the police detained him in Police Custody for 3 days from 03.03.1997 till 05.03.1997(Interview held with Dhavawala’s brother at Mohalla-Saikhpur, Falbada Road, Khatoli Town, Muzaffarnagar on 19.09.2006 at 12p.m.).

1. Observation of Khatoli Police Station: The Khatouli Police Station is situated on the main road passing through Meerut to Muzaffarnagar. It covers population over 70,000 thousands. The police station has a total number of 52 police personnel includes (one Inspector, seven Sub-Inspectors, eight Head Constables and thirty six Constables). The police station has separate male and female police lock-ups. There was no window, light and water facilities in side the lock ups except toilet. The drinking water was provided by the police staff to the detainee as and when it required and food prepared in mess for them. Out side food was not allowed. The male lock up was clean and it has capacity of 10 people at a time. The female lock up was filled of tin boxes. The women detainee was ask to sit in the reporting room of the station in presence of women police or home guard lady. In case of medical help, the cases referred to the Community Health Centre( CHC) however the station has Fist Aid Box in case of emergency but not shown to the researcher. The family members, friends and lawyers are allowed to meet detainee as visitors in police lock-ups. Besides police lock up visit, the researcher got a chance to interact with a Junior Engineer of UP Police Housing Corporation department, Meerut branch, Utrar Pradesh. The Engineer has explained about the “On going scheme of Interrogation Rooms in Khatauli Police Station and other stations of the District Muzaffarnagar” As he told the researcher that 25 police stations were identified in the Muzaffarnagar district including Khatauli out of 28 police stations in the district for construction of interrogation rooms of 12 %30 meters X 3.66 meters ) with a gate and two ventilation made of iron inside the room. Finally, he spoke out issues involved in this process, first and foremost is that the in -charge of the police stations are reluctant to share the information. They are showing indifference doing so. Some times they are pretending that they are too busy etc. The other issue is that few police stations are on rent, gift and lease land which are not consideration for the present scheme ( Khatauli police station visit on 24:07:2006 at2: 30 p.m.).
Treatment in Police Custody: The next day on 04.03.1997, the mother of deceased had visited Khatoli police station and the saw dhavawala vomited in the custody. During her subsequent visit, she did not find him inside the police station. She mentioned that the police released Dhavawala initially after two days of detention and later re-arrested him the next day. The police handed over him to the party of kidnapped boy and he was beaten him by both police and Mathedi villagers. Dhavawala’s mother perceived police connivance with complainant person (Powerful person) to use force resulted his death in police custody Later, a police constable came in the village and informed to village headman about the death in custody.

Community and family response: This event was followed by a mass protest against Khatoli police station and as a result, victim’s family got dead body of deceased. This was a public protest for getting body of dhavawala. After two days of this sad incident, the kidnappers were caught by police and they confessed that Dhavawala hand no link in this case (Interview held with family members at his residence falbada road, Khatoli town, Muzaffarnagar on 24.07.2006 at 12 p.m.).

Post-mortem examination: Second day after dhavawala’s death on 06.03.1997 at 3: 30 p.m the Post-mortem of the body done by the District Hospital, Muzaffarnagar.It was revealed that the cause of death could not be established so that the viscera preserved for further examination of the organs of the body( Post-Mortem Report).

Approached to National Human Rights Commission: Third day on 07.03.1997, the matter was faxed to the National Human Rights Commission (NHRC), New Delhi by one of the relative of the deceased (The NHRC case no-36/24(157)96 LD).

Filed Writ in High-Court: After a little over a month of Dhavawala’s death (21.04.1997), the victims’ family also approached Honorable High Court Allahabad and filed a writ petition for claim of compensation. In this regard, a civil suit is pending in honorable High Court under criminal miscellaneous application no. 684 of 1997.
Magisterial Inquiry Initiated Ascertaining Cause of Death: Although after six days of the gruesome act, the District Magistrate, Muzaffarnagar constituted Magisterial Inquiry to find out the cause of death (DM letter no-188/18 B/94-97JA dated 20.03.1997). It was only six and half years, on 11-09-2003, that the magisterial inquiry Report made some observations. According to the Nakal Rapat no-48 time 21: 30 p.m. dated 5-3-97, the family members and relatives of the deceased came with a large crowd in the police station of Khatoli and filed an application stated that on date 03-03-1997 around 11:00 clock, the police in-charge( then) of khatoli picked him (deceased )up and detained in the khatoli police station. Since 03-03-97 till 05-05-97, he was beaten by police party and Mathedi villagers in the police station consequently he died in police custody. Hence, action sought for guilty officers as well as pension for life to the victim’s wife and demanded of Rs 5 lakhs financial assistance to the next of kin. In this connection, F.I.R. ( First Information Report) was lodged to the khatoli Police Station dated 10-05-1997 in the crime no-67/97 under section 302/342 IPC. Later, Inquest and other related documents handed over to the CB-CID (Crime Branch Crime Investigation Department), Lucknow. According to the Post-Mortem Report, the cause of death is not clear and preserved the viscera and yet to be received.

The Inspector of the PS- Khatoli Station (then) filed an affidavit on two days after Davawala’s death 05-03-97, denying that the deceased was taken in police custody at all because he was a witness (Perceived deceased as a witness) in the crime no. 54/97. In the connection of Crime no-54/97 under section 364 IPC so that no question to take him in police custody, as he said. It was the time of High School and intermediate examination of UP Board( X and XII Standard) and he had left the police station early in the morning for maintain law and order in the schools/colleges. Later he was busy in attendant of the court of Muzaffarngar in both the days ( 03-03-97 and 05-03-97) hence he was not available in these two days in the Khatoli. Police station. However Dhavawala’s brother had mentioned in F.I.R that family members (mother and wife of Dhavawala) had witnessed the police torturing (beating) deceased in the khatoli police station. Whereas, the station in-charge and sub- Inspectors of Police, have produced documentary evidences that they were not present on these days & dates in the police station.
Hence, how could be possible for a man to beating him (deceased) in the police station who was not present in the police station?

On the basis of information, it was concluded that Dhavawala died on 05-3-97 under suspicious circumstances. Since, the cause of death has not clear and viscera report received yet. Further, the matter is under investigation with CB-CID which will assess the situation after completion (cause of death in dilemma) (By order of SDM, Jansat, Muzaffarnagar, dated -11-09-2003(Source: District Magistrate Officer, Muzaffarnagar no.-4518/ S.T. XVIII B-94-97).

Court Intervention: In this case (no. 342/1997), the local police submitted a final report to the Court. The matter was heard by a Special Judge on basis of final report submitted by police and closed the case due to lack of evidence (Interview held with police parokar from Khatoli police station at the tea stall inside the court premises of the District Court, Muzaffarnagar on 25.08.2006 at 01: 00 p.m.).

Impact on family members on Deceased:

Life for the family of the Dhavawala has changed after the death of bread winner in the family. Soon after eight months his wife also expired after delivering a baby girl. Now, she is 9 year old and studying in 2nd standard. The problem of survival of daughter and her future. She is looked after by her uncle (brother of deceased). The Dhavawala’s brother is riding bullock cart for doing loading and unloading sugarcane from field to sugar mill. He is under debt because of the huge expenditure borne by him since the beginning of the case in various levels. He felt need of financial help at least 1 lakh rupees for securing the future of girl who is orphan. He has also expressed his limitations saying that because of burden of full family on him, his own children could not get schooling. He has sold every valuable things belong to him even land. His health is also not in good condition. Every time he is thinking about the result of the case and still having hope from judiciary and NHRC. He regretted not accepting offer of money from accused police personnel around 3 lakh rupees at the time of incident because one of his relative assured for getting at least 5 lakh rupees if case registered to NHRC. But he got nothing (Interview held with the Brother of deceased at his Residence in Khatoli Town, Muzaffarnagar on 10-09-2006 at 12: 00 P.M.)

Police Response:

According to Police Parokar (police constable who looks after the legal matter of concerning police station in the court), “I was posted in Khatoli police station at the time of Dhavawala’s incident. Dhavawala was picked up by police on suspicion in connection with a kidnapping case. The next morning, the news of his death was spreaded in whole area. Due to public agitation a criminal case was registered against the police personnel in the presence of C.O. and Additional S.P. The Inspector of Khatoli police station was asked to surrender his badges & uniform and he was put up in the police lock up. Then,
the public got satisfied. The police party from Khatoli police station had also given money of Rs 1.5 lakhs to the mother of deceased. He further added a significant point that Death in custody is a serious crime. In such types of cases, generally the accused police personnel arrange the money from concerning police station staff and handover to the victim’s families and ask for their favour that death was not caused due to torture in police custody. On the basis of that the final report submitted in the court to close the matter due to lack of evidence. (Interview with held with Police Parokar on 19-08-2006 at 1:00 at the Tea Stall in the District Court premises, Muzaffarnagar).

During field visit, the researcher contacted Khatoli police station and requested Police Staff to furnish details of the Dhavawala Case. The policemen were unwillingness to furnish any information regarding custodial death case. Fortunately, researcher met a Police Sub-Inspector who has not only helped the researcher in finding out the details of Dhavawala case but also expressed his opinion about on policing. He said, “The nature of job of policemen in the society is reported to unsatisfactory. The family life of a policeman is also very difficult. Thus at the one end he could not a good public service at another end he could not family & social life. It is a struggle which end the life of a policeman in obligation of society and gets negate by social behavior” further he added that those who are in power politics forcing police to frame innocent people in false cases due to their vested interest. The officers are mute before their powerfullness” (Interaction held with Police staff of Khatoli Police Station on 24.07.2006 at 12 :00 p.m.).

To understand the phenomenon of custodial crimes in police custody the researcher interacted with a retired police officer who also admits that police do torture the accused in police custody. He said that he got undergone some refresher course including human rights during service period. In fact human rights are creating problems now-a-days due to false implication by the political pressure and victim's party also involved in protest/block roads/ Thana protests etc. (wrong people are in the jails). This can be sorted out at the time of proper investigation but who will give you to do that the high-up are also working under pressure of politician and the officer given the arguments that when the witnesses are ready to furnish his/her statements then why you are taken unnecessary headache.
According to him…

*Police custody constitutes when we detained an accused person by 24 hours and made an entry of it in GD. We can detain him only 24 hours and later we can again call him for investigation or interrogation through the entry made in GD. Entry in GD is must. If we call accused in police custody for inquiry and keep him for 2-3 days without making an entry in GD is not illegal custody and also offence at all. It is a part of investigation.*

According to him, “Torture is not a crime”. For example, our children are not ready to tell truth simply unless you are not becoming harsh with them. In the same manner, we repeatedly ask to the accused about the incidents and tally the statements of accused with the victims & witnesses etc. if an accused is not ready to confess crimes then we use torture. The real fear in criminals is police torture. If we are not doing such things then the fear of police will disappear in the society. Further he told that a case of torture registered against him when he was posted at Khatoli police station. He said “I am in tension now due to this case. I am feeling mental pressure and thinking every time for the consequences of the case (what would be result of this case). Every gap of 10 days after I am coming for hearing in court of Muzaffarnagar by own expenditure. In society people are commenting badly on me (Interview held with retired Police Sub-Inspector of Khatoli Police station on 18-09-2007 at 01:30 p.m. in the Court of Additional District Judge –VIII, Court Compound, and Muzaffarnagar).

**Current Status of the case:** Due to lack of evidence the case was closed and the final report submitted by police in the court of law. Other hand, the local judiciary even not informed to the victim’s family about the status of the case. However, it is still under consideration of the National Human Rights Commission. In the meanwhile, one accused police personnel is retired and has settle down in different district and other one is detained in Meerut Prison, Uttar Pradesh in some other case.
7.4 Enforced Disappearance in Police Custody:

CASE STUDY 9: DRIVERWALA

Driverwala, aged 25 years, a Hindu Jat unmarried youth hailed from village-kutva, Shahpur Town, District Muzaffarnagar, Uttar Pradesh was detained at Budhana, Police Station, District Muzaffarnagar on December from 19th to the 22nd 2002. He disappeared from police custody yet (Official data furnished by the office of the Senior Superintendent of Police, Muzaffarnagar).

The Process of Police Custody: Driverwala was a jeep driver. His jeep was impounded six months prior to his detention in the month of June, 2002 by a Sub-Inspector of Police from Budhana Police Station, District Muzaffarnagar for not producing driving license. On 17.12.2002 he moved an application in the court of Judicial Magistrate Budhana, for release of the vehicle on which the Assistant Prosecuting Officer asked the Station House Officer (S.H.O.) Budhana police station to report the matter to Budhana Court. On the day of his detention -19-12-2002, when driverwala went to Budhana Police Station and made a request to the S.H.O. to release his jeep, he was detained instead of release his vehicle. The police detained driverwala with view to make a confession to a false crime which he never committed( Report of Committee for Monitoring Compliance of Supreme Court’s Directions in D.K. Basu case in Uttar Pradesh dated 23.02.2004).

Treatment in Police Custody: The Driverwala was detained four days in police custody and mercilessly beaten up by police at intervals and put into the police lock up. When the helpless victim (driverwala) died in the night of 20/21-12-2002, the police party of Budhana police station took the dead body in a car, taking advantage of darkness and threw it in Ganga canal. The police stated that the deceased had committed suicide in the lock up and fabricated the records accordingly. (Report of Committee for Monitoring Compliance of Supreme Court’s Directions in D.K. Basu case for Uttar Pradesh dated 23.02.2004).
Reaction of community and family: The Driverwala’s mother lodged the First Information Report (F.I.R.) on 22.12.2002 at 6:00 p.m. she alleged that her son was illegally detained in Budhana Police Station, and inflicted with torture in police custody and disposed his corpse. She had also requested to recover the body of her son (First Information Report no. 388258 dated 22.12.2002, Budhana Police station crime no. 420/2002 under section 302/342/201 IPC).

On the next day after gruesome incident, there was public protest in the town against police brutality and later just after one week on 01-02-2003, it got fuelled by a non-political organisation, Bhartiya Kishan Union Leaders along with Smajwadi and Lokdal parties leaders who took over the possession of Bhudhana Police Station and demanded that the body of the deceased be handed over. They locked up the police station and wrote on the display board “Bhartiya Kishan Union” in place of “Budhana Police Station”. The administrative machinery such as SDM Janset, DSP Budhana and SP Rural were scared and they ran away from the town (Interview held with police constable on 28.06.2006 around 2:30 p.m. at Budhana Police Station, Muzaffarnagar).

Two months later, the Chief Minister of Uttar Pradesh Ms. Mayavati ordered on 06-02-2003 that Bhartiya Kishan Union (BKU) workers and leaders must leave the police station Budhana. On 07-02-2003 at about 4 o’clock negotiations took place between the leaders of BKU and District administration to vacate the police station. The BKU not only destroyed public property of Budhana Police Station but also looted. In response to that, criminal cases were also registered against BKU leaders and its workers (Interview held with police constable on 28.06.2006 around 2:30 p.m. at Budhana Police Station, Muzaffarnagar).

Magisterial Inquiry Report ascertaining the cause of death: It was almost after the lapse of a year, that the SDM (Sub Divisional Magistrate), Tehsil-Jansat, Muzaffarnagar conducted a Magisterial Inquiry on 02-12-2003. The facts revealed through the inquiry report were that report that the Bhartiya Kisan Union (BKU)’s workers met Chief Minister of Uttar Pradesh and gave a memorandum regarding custodial deaths of Driverwala in Budhana Kotwali on 19/20-12-2002 and disappearance of his corpse. The
BKU had demanded action against errant police personnel and financial compensation to victim’s family. In this connection, the press notifications were issued in between from 16-01-2003 and 30-01-3-2003 for collection of evidences. After that, the third notification was issued on 30-04-2003. Every time, a copy of notification was sent to the C.O., Budhana, S.O. Budhana and SSP, Muzaffanagar but no report received from police station Budhana. After all this, again a letter was dispatched to the In-charge of Budhana, police station (letter no-2276/ST, dated 25.07.2003) to direct police personnel to be present before the magistrate court. However, the situation was that no one had come to give neither statements nor any documentary evidences in this regards after sending repeated letters to police station Budhana.

The inquiry officer concluded on the basis of available facts and circumstances that driver wala R/o- Village- Kutva, PS- Budhana, District-Muzaffarnagar died under suspicious circumstances in the Budhana police station. It is prima-facie case against Budhana police station (by order Sub-Divisional Magistrate (SDM-Jansat), Muzaffarnagar dated 02-12-2003).

Order for Prosecution of guilty officer: Fifteen months later on 23.02.2004, the Committee for monitoring compliance of Supreme Court’s directions in D.K. Basu’s case for the State of Uttar Pradesh examined the matter and taking reference of the case investigated by the CBCID and charge sheeted against police personnel for the offences of wrongful confinement, murder and causing disappearance of corpse under sections 342,302 & 201 I.P.C. (Crime Branch of Criminal Investigation Department (CBCID) inquiry report). In view of the fact that the Committee has ordered on 23.02.2004, through Chief Secretary and Principal Secretary (home) are called upon to, in terms of para 37 of judgment in D.K. Basu initiate commensurate disciplinary proceedings preferably for a major penalty against the (then Senior Superintendent of Police, Muzaffarnagar, Nodal Officer (Additional Superintendent of Police) and Circle Officer, Budhana under rules 4(1)(a)/14(1) of U.P. Police Officers of subordinate Rank (Punishment & Appeal) Rules 1991, (Report of Committee for Monitoring Compliance of Supreme Court’s Directions in D.K. Basu case for Uttar Pradesh dated 23.02.2004).
Court Intervention: The advocate (who is defending the accused police personnel in the court of law) stated, “This matter was listed in court. The accused were bailed out. At present the situation was that all the accused should come together for committal of the case for session trial. Presently, the accused were got transferred in different places or district in the State. One accused is in Ghaziabad Jail in a different crime. The court is sending summons to all accused wherever they are but no compliance (Talmi) so far. According to him, “Delay in the disposal of cases in the lower court has given liberty to the accused police officers escaped from punishment (Interview held with advocate held in his lawyer’s chamber no.-101, collector compound, Muzaffarnagar on 28.08.2006 at 2:00 p.m.).

Reason for non-appearance of accused: The non-appearance of accused in effecting trial of the case in court. Among others, the main reason is that in this case many accused police officers are not posted in one place. Because delay in the court they are now posted in various places & all of them are not appearing in the court on the given date & time. It is called Ring Arm policy. It means evidences get affected or neutral so the accused caught get benefit through escaping from appearance in the court. (Interview held with In-charge of summons cell-in the office of SSP district-Muzaffarnagar. on 22-09-2006 at 3:00 p.m.).

Impact on family members of deceased: The impact has been tremendous on the family – the loss and the harassment. The unfortunate mother was a widow who has also faced discrimination in social life. One of the villagers from Kutva, Shahpur Town commented….

The deceased’s mother also faced the revictimisation and discrimination at societal level. She is a widow and very poor. The worst thing has happened with her unfortunately that her husband was also died in Shahpur police station some years ago. She has noting for survival. She was begging for survival in the village Even somebody in the village forcefully grabbed her land (Eventually, she left kutva village after the death of her son and shifted to the Deshpati village, Post-Babli, Post-Barot, District-Bagpat, Uttar Pradesh (Interaction with villagers from Kutva sat on demonstration in front of the Office of the District Magistrate Muzaffarngar on 13.09.2006 at 3:00 p.m.). The researcher tried to contact the Driverwala’s mother in the field and come across a rumor about her death. To verify the fact, the researcher contacted individuals (advocate and police personnel) and organizations (Jan Kalyan Samiti, Muzaffarnagar) in the field and got the information that she is very much alive and shifted to Khajuri khas in Trans Yamuna area of Delhi due to fear of authority (interaction with police constable on 07-09-2006 at 12: p.m. in the Public relation office of the SSP Police Headquarter, Muzaffarngar city, meeting held with head of the organization of Jan Kalyan Samiti, on 01.09.2006 at 10:00 a.m. and Telephonic conversation held with lawyer on 4.12.2006 at 1:30 p.m.)
**Police Response:** The researcher got the opportunity to meet with two accused police personnel who came to attend court hearing in the court of the Additional Judicial Magistrate, Muzaffarnagar on 20th September, 2006. After the case was heard by the honorable court and the accused police personnel were coming out from court premises. The researcher tried to interact with them. However, both the accused started walking fast towards main road and on the way mentioned that they are posted in districts Auriaya and Muffarnagar respectively. They also told the researcher that if you are interested for details about this case meet their advocate and started laughing while looking each other faces (Interaction held with accused police personnel in the Additional Judicial Magistrate Court-I, Muzaffarnagar city on 20-09-2006, Time: at 11 : 00 am). Same day at about 6: p.m. the researcher tried to contact to the third accused in the case who was posted in the Shamli Chowky, Muzaffarnagar city. Initially he was interested to meet me (researcher) but when he came to know that it is related with case of driverwala, he switched off his mobile phone (Interaction held with accused police personnel over mobile phone on 20-09-2006 at 6: 00 p.m.).

**Current Status of the Case:** The case is still pending in the court of Additional Judicial Magistrate-I, District Court Muzaffarnagar. However, honorable court could not commit the case for session’s trial due to non- appearance of the accused altogether despite a number of time hearings took place. According to the advocate, one of the accused then police Inspector was detained in Ghaziabad Jail in Uttar Pradesh in another fake encounter case registered against him. Amongst others, two of them were posted in the same district Muzaffarnagar and other one got transferred in District- Auraiya of Uttar Pradesh State. On the other hand, driverwala’s mother has been in a pathetic condition for her survival and security without any sort of relief and rehabilitation and also migrated to Delhi due to discrimination and fear of authority.
CASE STUDY 10: JEWELLERYWALA

Jewellerywala, aged 35 years; a married man hailed from Vaishya community resident of Saraffa Market, Muzaffarnagar city was taken into custody by Civil Lines police station in an injured condition on 24.08.1999 in the morning at 6:00 a.m. and disappeared yet.

The Process of Police Custody1: The Jewellerywala was running a shop of jewellery in the Saraffa Market of Muzaffarnagar city. On 24th August, 1999, early in the morning around 6.00 a.m, he was going to Delhi for a business trip with gold and cash. Before reaching the roadways bus stand of Muzaffarnagar city he was shot by unidentified persons. He fell down on road in injured condition. After sometimes, a police vehicle came on the spot and took his injured body. Since then his body is clueless (Interview held with the father of deceased on 16.07.2006 at 4:00 p.m. at Mahender Medical Store, District Board Market, Muzaffarnagar city).

Treatment in Police Custody: One tea stall vender who has witnessed the whole incident said that police has taken the injured body of victim (Jewellerywala). It was a clear cut case of murder and loot by then S.H.O. (Station Officer) of Civil Lines police station, Muzaffarnagar and other police personnel. They have not only murdered the Jewellerywala but also disposed his body somewhere which is still clueless. The researcher also contracted some businessmen and they opined that it is a case of loot has to be registered the source of that gold and cash shall be told to police and I.T. departments. Although since this was availability of victims’ family did not mention that the deceased was carrying jewellery and cash of Rs. 4 lakh (Interview held with advocate on 21.08.2006 at 1:00 p.m. in his lawyer’s chamber at District collectrate office, Muzaffarnagar city and also with State General Secretary of Uttar Pradesh trade Security Forum Committee, Muzaffarnagar on 01.09.2006 at 07.30 p.m. at District Board Market, Muzaffarnagar city).

1. Observation of New Mandi Police Station: New Mandi Police Station is situated in the New Mandi area near by railway line crossing on Jansat adda road. It covers the population around 1.25 Lakhs. This New Mandi police station has four police posts (chowkies), New Mandi, Kukra Mandi, Gandhi Colony and Gandhianila. The total availability of police personnel is 79 (including one Station Officer, eleven Sub-Inspectors, Ten Head Constables and Fifty Seven Constables). It seems newly constructed building made of brick and cement and a two storey structure. In front of the police station, there is human rights protection notice board on which various provisions of Law and Procedure including NHRC guidelines and Supreme Court directions are written. There is another notice board enlisted Top Ten Criminals under jurisdiction of New Mandi Police station. The first room for Station House Officer (S.H.O.), followed by the crime & complaint reporting room and the next room is called mal khana. After that there is open space and a kitchen where one policemen cooking the food for stuffs called faher (Rs 10/- per diet per head is also preparing food for detainee in lock ups). The station has both Police lock-ups (without window, electricity) water and toilet facilities are out side of the police lock ups. A male person aged about 40 years along with his son aged about 16 years were in male police lock up. When researcher interacted with them in lock up, the detainee spoke out, he said “Police picked us from house and reasoned that my son eloped with girl, help me. My wife is not well at home” (Visited New Mandi police station on 18-07-2006 at 8:35 p.m.)
Community and Family response: The victim (Jewellerywala) was identified first of all by Muzaffarnagar bulletin in the city (a popular local new paper- Hindi edition) stated by the editor of Muzaffarnagar Buttetin. He further added that surprisingly, even the family members had not identified their own son but we have done it. Then, the District Magistrate called me about this case and asked about the authenticity of identification. I told to him (District Magistrate) that this is the news of Muzaffarnagar Bulletin that is why people trust our news and we got the credit for reliability of news” (Interview held with editor on 02.10.2006 at 7: 00 p.m. at office of the Muzaffarngar Bulletin, Muzaffarnagar city). The next day of the shocking incident of police highhandedness, the public started movement against police and district administration. According to State General Secretary of Uttar Pradesh trade Security Forum Committee, Muzaffarnagar)…

“ I was personally involved in this protest movement and sat on dharma so called Amaran Ansan (protest till death). After that the district administration shaken and District Magistrate came out with assurance to hand over the dead body within 3 days. I demanded CBI investigation but the government ordered CBCID Inquiry” (Interview held with General Secretary of Uttar Pradesh trade Security Forum Committee, Muzaffarnagar on 01.09.2006 at 07.30 p.m. at District Board Market, Muzaffarnagar city).

Court Intervention: According to Lawyer of the victim side, “A criminal case was already registered against the police (main accused Station Officer, Civil Lines) and others. The bail application rejected by the court of session judge, Muzaffarnagar but the Honorable, High Court of Allahabad granted bail on the ground that charge sheet could not be filed by local police within 90 days as prescribed under section-167 of the Code of Criminal Procedure, 1973. The question was also raised in UP Assembly (Vidhan Sabha) consequently the CB-CID inquiry got ordered in this case. The CB-CID Meerut sector filled the charge sheet against accused in the year of 2000. After lapses of 6 years of the case is still pending in the court of law. The summon could not be served to the accused by the Chief Judicial Magistrate Court of Muzaffarnagar. The accused police sub-inspector is currently posted in Meerut city. Other side, the father of deceased who became half mad and no compensation had been given to the grieved family. The advocate also pointed out that the people are loosing faith in the judicial system of the country. The poor litigants are being re-victimized by the so called protector of the legal justice delivery system. Further, he shared his anguished saying that :
“Even the chargsheet is filed by CBCID & the Court had issued non-bail able warrant against accused but no compliance so far. It is happening in case of a sub inspector of police. What would be the fate of the case if matter is against senior officer such as SP or DIG? Later he informed to researcher through telephone that the case has committed in court of law and no one is coming forward as witness in this case. The matter is reached to the evidence, but the accused is still not appeared in the Court of law. Nothing can be done (Interview held with advocate on 21.08.2006 at 1:00 p.m., 25.08.2006 at 2:00 p.m. and subsequently telephonic conversation over phone on 07.04.2007 at 11:30 a.m).

Impact of family of deceased:

The impact on family member of Jewellerywala felt distress on, spouse and family tension, psychological illness of parents and siblings. As the father of Jewellerywala’s stated that I had three children (middle one who was killed by police), why are you digging the grave? Nothing can be done now? He told that like media who took initially the case very positively and later sensationalized the news of this case for publicity (Interview held with the father of deceased on 10.09.2006 at 12:00 p.m.).

The spouse of the deceased are highly disturbed because of clueless of the body of her husband yet. There is dilemma in her life whether she is married one or widow? Now, the wife of the victim is asking to the Government that whether she is widow or married because the body of her husband is not found yet? She has not gone for re-marriage (interview held with General Secretary of Uttar Pradesh Trade Security Forum Committee, Muzaffarnagar on 01.09.2006 at 07.30 p.m. at Medical store, District Board Market, Muzaffarnagar city). The younger brother of jewellerywala perceived family tension in day to day life after death of his elder brother (Jewellerywala) “my brother was a frugal man who left huge property. However, my sister in law is spending that money elsewhere. She had deposited some money. Now, she is very much disturbed. She has consulted many doctors. She is a lady and has her own needs like physical need and also having impact on her day to day life. (Interview held with brother of deceased on 05.09.2006 at 1:00 p.m. at Mahender Medical Store, District Board Market, Muzaffarnagar city).

Police Response:

The researcher held meeting with Circle Officer (C.O. City also known as Deputy Superintendent of Police) and a supervisory officer of three police stations in the city including Civil Lines Police Station. He has expressed his opinion about the use of force or torture in police custody. His notion of torture was that when a person arrested or otherwise detained and also deprived his/her freedom this itself constitutes torture. Further he explained about different forms of custodial crimes includes deaths, torture, rape, molestation of women and also told about the reasons of custodial deaths which are natural such as suicide, heat attack and natural death. From his point of view generally
the victims belong to the weaker sections of society. Further, he suggested that the recommendations of the NHRC and Supreme Court directions shall be implement properly. This apart, the forensic tools such as lie-detector and other latest techniques should be used by police. The changes in the law such as confessional statements should be admissible in court of law and the supervisory officers must look into misuse of power by lower rank officers etc. (Interview held with C.O. City on 22/05/2005 at 7: 00 p.m. at his office, Muzaffarnagar city).

Researcher also held conversation with a sub-Inspector of Police from Civil Lines Police Station on use of force. He said that use of force or torture by police depends on the situation. Citing his personal experience of a incident of peculiar nature, he told that once father of a son approached him and wanted to arrest his own son. The father mentioned that his accused son was earlier arrested by police in a number of times but could not do anything. After listening this whole story, I took the initiatives and used force against his son and sent him jail (Main Use Tode Dala). Another incident when a person was misbehaving in public transport Bus and shown his indecent behavior, I beaten him up and booked in a criminal case (Interview held with Sub Inspector of police on 29-08-2006 at 9: 00 p.m. at Vaiso Devi Hotel, Near Roadway Bus stand, Muzaffarnagar City).

**Current Status of Case:**

The case is still pending in the court of law despite the CB-CID investigated the case and submitted charge sheet in the year 2000. After so many years lapse, the case could not reached on trial stage because the lower judiciary is not serious about appearance of accused altogether. This is a paramount cause of concern for victim’s justice. They are frustrated because the delay in justice delivery system.