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# *amnesty international*

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## INDIA

### @Death in custody in Kerala

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This paper describes one more death allegedly as a result of custodial violence, in a Kerala police station. In March 1992, Amnesty International published a report, *India: Torture, Rape and Deaths in Custody*. In response to this report -- which included 12 cases of deaths in custody from Kerala -- the state's then Chief of Police was quoted as saying: "I am totally against third degree... I don't accept torture as a police philosophy. If anybody (in Kerala) practices third degree at any level (in the police force) then I hold him solely responsible. And I don't mind taking the strongest possible action." In February 1993, the Chief of Police was said to have sent a circular to police officers in Kerala following a further custodial death, calling deaths in custody "the work of devils". However, between the publication of the March 1992 report and December 1993, a further 12 deaths were recorded in Kerala, heightening Amnesty International's concerns that the recommendations it made in a ten point program for the prevention of torture in India have not been implemented.

In none of the cases listed in Amnesty International's report were police personnel found guilty and punished. The Kerala State Government claimed that two of the cases in which the victims were alleged to have committed suicide by hanging, had been the subject of magisterial inquiries which found no evidence of torture leading to death (magisterial inquiries are mandatory in law). Six other cases were investigated by the Criminal Investigation Department of the state, but again, no police personnel were found responsible for the deaths. In the remaining cases, inquests were deemed sufficient to disprove a case of custodial death. Despite Amnesty International's repeated requests for further documentation to support the government's conclusions in the 12 cases, no response has been received from the Kerala State Government.

In India, policemen are rarely brought to justice for killing people in their custody. If it happens, it takes an extraordinarily long time. In November 1993, the Supreme Court

sentenced two police constables in Kerala to five years' rigorous imprisonment for beating to death a man in police custody in December 1980. The victim, Bhuvendran, had helped his friend by intervening in a quarrel with a policeman about the price of fruit. The policeman complained to his superior, who sent a police party to arrest Bhuvendran, who was taken to the Fort police station, Trivandrum, and beaten to death. The judge ordered that the two constables, who were free on bail, should serve out the remaining period of their sentence.

## **THE DEATH OF UDAYAN IN MANNARGHAT POLICE STATION**

*Udayan's 90-year-old father, Krishnaswamy, with one of Udayan's brothers, Mahendran*

Udayan, a 28-year-old basket maker from Kalladikode village, Palakkad district, Kerala, was arrested on 19 January 1994, allegedly for carrying counterfeit currency notes. He was put in the lock-up in Mannarghat Police Station. The following day, the police informed members of his family that he had been found hanging from the ventilator of the lock-up toilet.

Udayan's elder brothers had visited him in the lock-up on the morning of 20 January and taken him some breakfast. Udayan told them that he had been stripped naked and brutally tortured during the night. Three hours later, when they returned to bring him lunch, they were told that he had hanged himself using his "lungi" (a piece of cloth wrapped around the waist). On 24 January, in Kerala's state assembly, the opposition alleged that he had died from torture.

Following Udayan's death many people disbelieving the police version protested: they said he had been killed in custody by the police after torture. When his body was being returned to his village for burial after post-mortem, tension mounted and an additional superintendent, Radhakrishnan, was sent to pacify the crowd but, on reaching Kalladikode, collapsed and died in uncertain circumstances. The police allege he was killed by the mob but civil liberties groups believe he died of a heart attack. Following this and further incidents, around 32 people were arrested including four of Udayan's relatives. The police registered a case against 3,000 people on charges of rioting and causing the death of Additional Superintendent Radhakrishnan and were reported to be harassing the people of Kalladikode in retaliation for the Superintendent's death.

Despite calls for the suspension of police officers on duty at Mannarghat police station at the time of Udayan's death, the government refused to do so. The opposition in the Kerala Assembly staged a walkout on 24 January demanding a judicial inquiry into Udayan's death and the suspension of the policemen responsible. However, the Chief Minister responded by offering a "truthful, lawful and impartial" inquiry into the incident led by a member of the State Revenue Board, but not an independent judicial inquiry.

A joint fact-finding investigation into Udayan's death by three local Kerala civil liberties organisations, the Kerala Civil Liberties Committee, the Organisation for the Protection of Democratic Rights and the Organisation for the Protection of Civil Rights, found that it would have been impossible for Udayan to hang himself from the ventilator in the lock-up toilet since it was too high to reach (20 foot) with the length of his lungi. A post-mortem was carried out on 21 January at the Kozhicode medical college, the result of which is not known. The civil liberties groups also questioned the presence of a lungi in Udayan's cell when he was known only to have been wearing short trousers and a shirt at the time of his arrest. They said they would approach the Kerala High Court to order a judicial probe into the incident if the government failed to institute an impartial inquiry. Details of their findings have apparently been sent to the Human Rights Commission which the government established last year.

#### **AMNESTY INTERNATIONAL RECOMMENDATIONS:**

- ◆ Amnesty International urges the authorities immediately to order an independent and impartial judicial inquiry into the circumstances surrounding the death of Udayan and to take steps to ensure that police allegedly involved are suspended pending the inquiry, that those found to be responsible are promptly arrested and brought to justice and that Udayan's relatives are granted prompt and adequate compensation.

**KEYWORDS:** DEATH IN CUSTODY1 / TORTURE/ILL-TREATMENT / IMPUNITY / POLICE / ARTISANS / POST MORTEMS / PHOTOGRAPHS /

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