

Research Article

The Custodial Deaths in India: A Legal and Humanitarian Perspective

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Abstract:

Custodial death is a pervasive issue and is regarded as one of the most egregious forms of violation, second only to the abhorrent crime of rape. The police are regarded as protectors or custodians of convicts, and in this context, the savior is only transgressing the laws and regulations established for the welfare of citizens and the safeguarding of humanity. Custodial deaths remain a stark reminder of the systemic failures in India's law enforcement and criminal justice system. Despite constitutional protections and international obligations, the persistent occurrence of such deaths underscores a grave disregard for human rights. This paper explores the legal framework governing custodial deaths, examines key cases and statistics, and critically analysis the role of institutional impunity and lack of accountability. It concludes with recommendations aimed at reforming investigative, judicial, and penal systems to prevent such violations of human dignity. A death that takes place in a correctional facility or while a person is under the care of law enforcement is referred to as a custodial death. It can occur due to various causes, such as excessive use of force, neglect, or abuse by the authorities.

Keywords: Custodial Deaths in India, Human Rights Violations, Police Accountability and Impunity, Criminal Justice System Reform, Custodial Violence and Legal Framework.

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INTRODUCTION

Custodial deaths—defined as deaths occurring in police or judicial custody—represent one of the gravest violations of human rights in India. These deaths are often the result of torture, ill-treatment, or gross negligence by law enforcement authorities. According to the National Campaign Against Torture (NCAT), India recorded 125 custodial deaths in 2022 alone, with most being attributed to police brutality or denial of medical care. The continued prevalence of custodial deaths reflects a systemic problem involving inadequate legal enforcement, a lack of transparency, and an entrenched culture of impunity. This paper analysis custodial deaths in India from both a legal and humanitarian lens.

Custodial violence primarily refers to violence in police or court custody. It encompasses murder, rape, and torture. In the recent five years, Gujarat has seen the most custodial deaths, followed by Maharashtra, Uttar Pradesh, Tamil Nadu, and Bihar. Delhi has the most incidences, followed by Jammu & Kashmir. Between 2017-2018 and 2021-2022, 146 people died while being held in police custody. Only 21 cases were subject to disciplinary action, accounting for 0.23% of the total number of cases. Between 2010 and 2020, nearly 69% of deaths in police custody were caused by sickness or suicide, with physical violence accounting for only 6% of occurrences.

HISTORY OF CUSTODIAL DEATHS

Custodial violence is predominantly defined as violence that occurs in the custody of law enforcement and the judiciary. It encompasses torture, rape, and death. Despite the fact that 1,727 such deaths were recorded in India, only 26 detectives were convicted of custodial violence between 2001 and 2018, according to data from the National Crime Records Bureau (NCRB). In 2018, injuries sustained during custody as a result of physical assault by law enforcement accounted for only 4.3% of the 70 fatalities. No police officer was convicted for such murders in the country, with the exception of Uttar

PRADESH, MADHYA PRADESH, CHHATTISGARH, AND ODISHA.

In addition to custodial fatalities, the police were also the subject of over 2,000 human rights violation cases between 2000 and 2018. Additionally, only 344 police officers were found guilty in those instances.

The Bill was referred to the Rajya Sabha Select Committee. Their recommendations included the following:

- ❖ Extending the meaning of torture.
- ❖ Severe sanctions should be imposed for torturing women or children.
- ❖ Set up an independent authority.
- ❖ Despite significant revisions, the Rajya Sabha did not pass the bill. In 2017, the law commission stated that "we are seriously considering the bill and looking into" changes to the IPC, CrPC, and evidence.
- ❖ Custodial deaths that occur during or after police or judicial custody are addressed under India's recently established criminal laws: the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya SakshyaAdhiniyam (BSA), 2023. These legislation replaced the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act.

Legal Framework

2.1 Constitutional Provisions

The Constitution of India guarantees several fundamental rights relevant to custodial protection:

- ❖ Article 21: Guarantees the right to life and personal liberty, including protection from torture and unlawful detention.
- ❖ Article 22(1): Provides that no person arrested shall be detained in custody without being informed of the grounds and shall have the right to consult a legal practitioner.
- ❖ Article 20(1): Article 20(1) stipulates that no individual shall be convicted of any offense, save for those that violate the law in effect at the time of the act's commission. Consequently, this statute forbids penalties above those specified in the legislation pertaining to the offense.
- ❖ Article 20(3): This article states that no individual can be forced to testify against themselves. It serves as a crucial legal protection for the accused, safeguarding them from being compelled to make confessions under duress or torture. According to Section 161 of the Code of Criminal Procedure, the police have the authority to question the accused; however, if they use coercive tactics during an investigation to extract information, such actions would be classified as forced testimony. Such compelled testimony contravenes Article 20(3) and therefore is not admissible.

2.2 Statutory Provisions

- ❖ Bharatiya Nyaya Sanhita (BNS), 2023
- ❖ The BNS outlines specific offenses and penalties related to custodial deaths:
- ❖ Section 100: Defines culpable homicide, applicable when a person causes death with the intention or knowledge that their actions are likely to cause death.
- ❖ Section 103: Prescribes punishment for murder, including death or life imprisonment.
- ❖ Section 105: Addresses culpable homicide not amounting to murder, with penalties ranging from five to ten years of imprisonment.
- ❖ Section 106: Pertains to causing death by negligence, punishable by up to five years' imprisonment and a fine. If the negligent act involves a registered medical practitioner during a medical procedure, the punishment may extend to two years' imprisonment and a fine.
- ❖ Section 120: Deals with voluntarily causing hurt or grievous hurt to extort confession, applicable when such acts are committed by public servants during custody.
- ❖ Section 127(8): Addresses wrongful confinement to extort confession, penalizing public servants who unlawfully detain individuals to extract information or confessions.
- ❖ Section 257: Concerns public servants in judicial proceedings who corruptly make reports or decisions contrary to law.
- ❖ Section 258: Pertains to confinement by a person in authority who knows that they are acting contrary to law.
- ❖ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023
- ❖ The BNSS outlines procedural safeguards and responsibilities to prevent custodial deaths:
- ❖ Section 196: Mandates inquiries by magistrates into deaths occurring in custody, suicides, or deaths under suspicious circumstances.
- ❖ Section 43: Specifies the manner of making arrests, emphasizing the use of minimal force and the rights of the arrested person.
- ❖ Section 46: Prohibits unnecessary restraint during arrest, ensuring the dignity and rights of individuals are maintained.
- ❖ Section 53: Requires the examination of arrested persons by medical officers, facilitating the documentation of any pre-existing injuries or conditions.

- ❖ Section 183: Details the procedure for recording confessions and statements, aiming to prevent coercion and ensure voluntariness.
- ❖ Bharatiya Sakshya Adhinyam (BSA), 2023
- ❖ While the BSA primarily deals with the admissibility and relevance of evidence in legal proceedings, it reinforces the importance of proper documentation and handling of evidence related to custodial deaths. This includes:
- ❖ Admissibility of Medical Reports: Ensuring that medical examinations of individuals in custody are properly recorded and admissible in court.
- ❖ Chain of Custody Documentation: Mandating thorough documentation of evidence handling to prevent tampering or loss, which is crucial in cases of custodial death investigations.
- ❖ However, these laws are rarely enforced effectively, and convictions in custodial death cases remain extremely rare.

INTERNATIONAL HUMAN RIGHTS PERSPECTIVE

Custodial death is not solely an issue in Indian society; it occurs globally. Derek Chauvin, a 44-year-old Caucasian police officer, killed George Floyd, a 46-year-old African American man, in Minneapolis on May 25, 2020, in the United States' custodial death case.

Floyd was apprehended following a store clerk's accusation that he procured smokes with a counterfeit \$20 bill. After Congress introduced a Police Reform Bill that included the creation of a National Database for Police Conduct to uphold the police registry, there was a major protest in the United States. Although it was discussed, an anti-torture bill was never passed in India.

India is a signatory to several international conventions that prohibit torture and custodial violence, including:

The Universal Declaration of Human Rights (UDHR) –UDHR explicitly states that every person should be treated as innocent until the individual is found guilty. According to Article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

From 2010 to 2025, reports of the Asian Centre for Human Rights (ACHR) and related institutional data consistently indicate that custodial deaths in India remain a persistent and systemic human-rights concern. ACHR's analyses demonstrate that thousands of individuals continue to die annually in police and judicial custody, reflecting structural deficiencies in detention practices and oversight mechanisms.

The organisation highlights that custodial torture remains widespread and is often used as a coercive tool during interrogation, while many deaths are officially attributed to natural causes, suicide, or illness. Such classification practices contribute to significant underreporting and concealment of torture-related fatalities, thereby obscuring the true magnitude of the problem. ACHR further underscores a climate of institutional impunity, noting the low rate of prosecution and conviction of public officials implicated in custodial violence, delays in investigation, and lack of independent accountability mechanisms.

A key concern identified by ACHR is the absence of a comprehensive anti-torture legislation in India and the country's continued non-ratification of the United Nations Convention against Torture (UNCAT). Existing legal safeguards, while present in constitutional and statutory frameworks, are considered inadequate for ensuring effective prevention, investigation, and punishment of custodial torture and deaths.

Consequently, ACHR concludes that custodial deaths in India constitute a serious and ongoing human-rights crisis, requiring urgent legal, institutional, and policy reforms. These include the enactment of a standalone anti-torture law, strengthening of independent oversight and accountability mechanisms, improved transparency in custodial reporting, and the establishment of victim-centred remedies to address systemic failures within the criminal justice system.

International Covenant on Civil and Political Rights (ICCPR) – India ratified it in 1979. Every person has the intrinsic right to life, according to Article 6 of the International Covenant on Civil and Political Rights, and no one's right to life should be unjustly taken away from them. The ICCPR prohibits inhumane, cruel, and humiliating treatment of detainees. No one may be held or arrested without cause.

UN Convention Against Torture (UNCAT) – Signed in 1997 but not ratified by India.

United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015 Discrimination against prisoners on the basis of race, colour, sex, language, religion, political or other beliefs, national or social origin, property, birth, or any other status is forbidden by Section 6 of the Convention. A register must be kept in order to record the prisoner's identity, the reasons for their actions, and the dates of their entrance and release from detention, according to Section 7 of the Convention.

Despite these obligations, India has not enacted a standalone anti-torture law, citing sovereignty and security concerns. International cases associated with custodial death

Case of Aydin v. Turkey, 1997

Aydin, a female prisoner, was allegedly raped and mistreated in this instance. The European Court of Human Rights decided that the Turkish police forces' actions were unjustified. The employees violated Articles 3 and 13 of the European Convention on Human Rights and Fundamental Freedoms, the Court found. While torture is prohibited by Article 3 of the Convention, Article 13 ensures the right to an effective remedy, which was not provided in this instance since the victim's complaint was not taken seriously or given enough consideration.

Maria Elena Loayza Tamayo v. Peru, 1997

In this instance, the National Counter-Terrorism Bureau apprehended the victim. The woman endured cruel treatment while in custody, including numerous rapes and torture by officials who were trying to coerce her into making a confession. She accused officials of breaching her human rights in a complaint she filed with the Inter American Commission on Human Rights. The matter was also sent to the Inter-American Court by the Commission. The Court granted the victim's release after noting that the officials had breached Articles 5, 7, 8(1), 8(2), and 8(4) of the American Convention on Human Rights.

CAUSES AND INSTITUTIONAL GAPS

Torture as Interrogation Tool: Police often resort to physical coercion due to lack of training, infrastructural limitations, and pressure to solve cases quickly. The use of excessive force including torture to target marginalised communities and control people participating in movements or propagating ideologies which the state perceives as opposed to its stature.

Lack of Independent Oversight: The police and judiciary often function without effective external scrutiny. Investigations are frequently conducted by the same police department implicated in the crime.

Institutional Challenges: Political patronage, little departmental accountability, and feeble civil society advocacy foster a culture in which law enforcement perceives itself as immune to repercussions. The prison system is fundamentally opaque, allowing minimal openness. Access to the prison is contingent upon previous authorization, which includes depositing "Rs. 1 lakh in the name of the superintendent of the respective jail" before to admittance. All recorded or documented material in the prison undergoes excessive inspection. India continues to neglect essential jail reforms, resulting in substandard conditions, overcrowding, severe manpower shortages, and inadequate safety measures within correctional facilities.

Delayed and Inadequate Prosecution: Despite legal provisions, very few custodial death cases lead to convictions. According to NCRB data, only a handful of policemen were convicted in over 600 custodial death cases from 2001 to 2024.

Absence of Strong Legislation India lacks anti-torture law and has not criminalized custodial violence, while accountability for negligent officials remains elusive. The Indian government either refutes the occurrence of torture within the nation or justifies its reluctance to implement legislation by asserting that adequate measures exist within the domestic legal framework to ban and penalize torture. These assertions, however, remain shallow and lack any protective measures.

Not Adhering to International Standard: Despite India signing the United Nations Convention against Torture in 1997, its ratification is pending. Signing merely signifies the nation's will to adhere to the treaty's responsibilities, whereas Ratification involves enacting laws and establishing systems to fulfill those commitments.

ROLE OF JUDICIARY AND NHRC

The Indian judiciary has, at times, played an activist role:

Rudal Saha v. State of Bihar & another

Rudal Shah, the petitioner, was arrested for his wife's murder but acquitted by a Muzaffarpur session court after serving his sentence. Despite this, he spent 14 additional years in prison before being released. A Habeas Corpus petition was filed in the Supreme Court, questioning his prolonged detention. The court ruled that his extended imprisonment was illegal and addressed two issues: entitlement to compensation under Article 32 and whether compensation for illegal detention is covered by Article 21 of the Indian Constitution. The judgment awarded Rudal Shah Rs. 35,000 in total for his unlawful detention.

DK Basu v. State of West Bengal

In the case involving D.K. Basu, Executive Chairman of Legal Aid Services, a petition was submitted to the Supreme Court of India addressing fatalities in police custody highlighted by media reports. This led to two letters being recognized as Writ petitions, prompting the Court to request that law commissions and state governments propose measures to address

the issue within two months. Key concerns included the rise in custody-related crimes and the necessity for specific arrest guidelines. The Supreme Court subsequently issued several guidelines aimed at reforming arrest practices, which include maintaining detailed arrest memos, informing relatives about arrests, ensuring detainees are aware of their rights, documenting injuries, mandating medical examinations every 48 hours, and allowing access to legal counsel during interrogation. Copies of all records must also be sent to the magistrate and a police control room established in each jurisdiction.

Prakash Singh v. Union of India

The National Police Commission case is a landmark judgment that recognized the need for police reforms in India. The Court's directions for the establishment of a Police Complaints Authority and a National Security Commission have been instrumental in ensuring accountability and impartiality in the functioning of the police. The case highlights the importance of an efficient and impartial police system in upholding the rule of law and protecting the rights of citizens. Seven directives have been established in this case: the formation of a State Security Commission, a merit-based appointment system for the Director-General of the Police, a minimum two-year tenure for SP and station house officers, separation of investigative and law enforcement functions, the establishment of a Police Establishment Board, the creation of a Police Complaint Authority, and the formation of a National Security Commission.

Rohtash Kumar v. State of Haryana

The Supreme Court held the police responsible for torturing a detainee to death. However, the officers received light sentences and continued in service, reflecting the judiciary's reluctance to impose harsh penalties.

State of Haryana v. Sube Singh (2006)

The Supreme Court used the occasion to specify the spectrum of situations in which compensation might be granted in response to a claim of torture while in custody. When determining whether or not to provide compensation for the infringement of basic rights, it outlined three considerations that any court must ask:

1. Was it obvious that the right to life had been violated?
2. Was the transgression so egregious that it shocked the court's conscience?
3. Was there evidence of visible bruises, scars, or disabilities, or did the alleged death result from the torture occur in custody?

PUCL v. State of Maharashtra SC directed that all police stations must have CCTV surveillance to ensure accountability. *Extra Judl.Exec.Victim Families ... vs Union Of India &Anr*

In July 2016, the Supreme Court ordered the CBI to probe 1,528 alleged fake encounters in Manipur involving custodial killings. This case expanded the legal definition of custodial deaths and highlighted the role of armed forces under the Armed Forces (Special Powers) Act (AFSPA).

Jayaraj and Bennix Case (2020)

In Tamil Nadu, father-son duo Jayaraj and Bennix died in judicial custody after being brutally assaulted by police for violating COVID-19 lockdown norms. Their deaths sparked nationwide outrage and led to a CBI probe. Despite media coverage, the case exemplifies systemic brutality and delay in justice.

Ajit Kumar v. State of Jharkhand (2023)

Reiterated the accountability of law enforcement in cases of custodial torture and emphasized the need for prompt judicial intervention.

These landmark cases emphasize the judiciary's commitment to combating custodial torture and safeguarding human dignity. By holding the state accountable and providing remedies such as compensation, the courts have created a framework to address these violations. Continued vigilance and reform are necessary to uphold the rule of law and protect fundamental rights.

The NHRC, tasked with investigating human rights breaches, has promulgated rules and requested compensation for victims, however it lacks enforcement authority. The National Human Rights Commission was established on 12 October 1993. The Protection of Human Rights Act of 1993 contains the NHRC's legal framework. The Paris Principles, which were developed in October 1991 during the first international workshop on the defence and advancement of human rights, are upheld by the NHRC.

Shortly after its establishment, the Commission recognized that custodial death is a significant issue and subsequently issued guidance to law enforcement authorities. Reporting deaths in correctional facilities and police lock-ups is now mandatory; the District Magistrate and Superintendent of Police must notify the Commission of custodial deaths within 24 hours of their occurrence. Additionally, videography of the autopsy was deemed essential. The Commission has been

instrumental in reducing certain custodial fatalities through effective interventions. The Commission acknowledges the grievances expressed by the victims' family members and does not exclusively depend on the information provided in the police reports. Transparency International's 2019 study indicated that the NHRC documented 31,845 instances of custodial death from 1993 to 2016. Despite the NHRC's commendable performance, further improvements are necessary. The Commission's findings should be rendered enforceable, so instilling apprehension in law enforcement agencies, prompting them to exercise caution in their employment of force.

REFORMS AND RECOMMENDATIONS

Ratify UNCAT and Enact Anti-Torture Law

- ❖ India must ratify the UN Convention Against Torture and introduce comprehensive domestic legislation that defines and criminalizes torture.
- ❖ Independent Investigative Agencies

All custodial death cases should be investigated by an independent body such as the CBI or a special judicial magistrate.

Police Reforms

- ❖ Implementing the Prakash Singh Guidelines for police reform, including separation of investigation and law-and-order functions, will reduce abuse.
- ❖ Technological Surveillance
- ❖ Mandatory CCTV coverage of all custodial areas and real-time monitoring by magistrates should be enforced.
- ❖ Compensation and Victim Support
- ❖ States must be legally mandated to offer swift compensation and rehabilitation to the families of victims.
- ❖ Training and Sensitization
- ❖ Regular human rights training for police and judicial officials should be institutionalized.

CONCLUSION

Custodial deaths are not mere aberrations but systemic failures that reveal deep-rooted flaws in India's justice system. While laws exist, their implementation is fraught with delays, bias, and neglect. A comprehensive legal and institutional overhaul is essential—not only to punish the guilty but to restore the dignity of those who have been wrongfully silenced in custody. Addressing this issue is not just a legal imperative but a humanitarian one, central to the values enshrined in the Indian Constitution.

The Indian police use force or third-degree torture to question individuals and obtain information from them. Consequently, the accused killed himself by burning himself, poisoning himself, hanging himself, or severing his nerves. Bias-based harassment of the accused and inadequate training and preparation for interrogations caused a daily rise in custodial violence each year.

The 2023 legal reforms in India, through the BNS, BNSS, and BSA, have strengthened the legal framework to address and prevent custodial deaths. By defining specific offenses, outlining procedural safeguards, and emphasizing the importance of evidence integrity, these statutes aim to uphold the rights and dignity of individuals in custody.

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