



CUSTODIAL DEATH WITH REFERENCE TO INDIA PERSPECTIVE

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Abstract

Custodial deaths actually breach the human right principles and provoke even more delicate issues in the sector of law enforcement. This report gives a general idea about prisoner deaths which happen in India mainly indicating reasons and legal framework behind the death of prisoners. In order to uncover these factors, the paper has done a literature review, analysis of official reports, and case studies, which will be used to explore socio-political, economic, and cultural factors leading to custodial deaths. It also discloses the systemic failure within criminal justice system revealed by for example police brutality, lack of accountability and inadequate safeguard for detainees. Similarly, the paper will address role of impunity and corruption in prolonging custodial violence and the challenges find in symbol the perpetrators responsible. However, it also evaluates the legal provisions and the appropriate judicial responses taken to combat custodial deaths by evaluating their effectiveness and flaws. Finally, the abstract advises for consequent reforms through legislative amendments, institutional reforms, and greater awareness of the public for the elimination of this menace and upholding the fundamental rights the individual ought to possess during police custody.

Keywords: Custody, Death, Fundamental Rights, Human Rights, Police

1. INTRODUCTION

Legally custody is a term that refers to the time when a person is moved against the will by the law enforcement officers from a case to a court, as well as during arrest, trial, sentencing, and when they are in jail among other scenarios. A phrase 'death in custody' means a death happening in any kind of custodial detention facility including for example, police cell or prison. It is remarkable that there are many stories of the misuse of powers by the police on their citizens and flirtation with the lives. It is extremely shocking that the very people who are considered the "safeguard" and "guardians of law" by the public have wilfully disregarded their duties and neglected to provide the most fundamental of all human rights; right to life, guaranteed under section 21 of the constitution. Custodial brutality is something that is a big issue. It becomes brazen in cases where the perpetrators are the people who the inhabitants are meant to look up to for security. International laws did not guarantee safeguards against torture in India; therefore, torture was practically not a crime in the country. The confinement and protest under the name of law apparently occurs in India as well. The police may deploy brutality while dealing with a suspect for example beating, chopping nose, ears, fingers off, burning by cigarette or boiling water, inserting a hot metal rod into anus, suspending on wrist or ankle or forcing a head to be placed under dirty water, electric shock, keep the victim sleep free, solitary confinement in a dark place, insertion of foreign body into genitals, nakedness before In consequence, the courts and

the officers of the Law Enforcement of the State should make strenuous efforts to halt any manifestation of any crime.

Custodial deaths in India have garnered widespread attention and criticism due to their alarming frequency and the circumstances surrounding them. According to reports by human rights organizations and government agencies, instances of custodial deaths occur with disturbing regularity across the country. These deaths occur in various forms, including alleged encounters, deaths due to torture, and suicides while in police custody. In spite of all the efforts aimed to resolve this problem, the growing number of custodial deaths is mainly responsible for the additional questions on the behavior of law-enforcement authorities and the protection of the rights and freedom of civilians. A few factors are responsible for the emergence of locked up deaths in India. Among those problems are systemic issues like police brutality, zero lack of accountability, and bad procedures in cases where detainees have to be dealt with. The existing situation of impunity, in which the police officers more often are overlooked by the law and thus become unpunished, gravely aggravates this matter. Along with it, socio-economic-related factors such as a poor social status, caste discrimination and power imbalance are among the decisive signs for the continuance of custodial violence.

While the immediate loss of life due to custodial death has grave consequences, the impacts are not limited to this. They destroy the law enforcement institutions' credibility, impair the rule of law, and support a culture of fear and might abuses.

2. MEANING AND CONCEPT

Custodial deaths in India have become one of the major human rights issues with regard to episodes of alleged police brutality, tortures, and negligence.

The main issue of police killings in India has been brought to the attention of the public due to the fact that they have become common and there is a problem with the legal system and the accountability of the victims. Many cases of custodial deaths have been reported as having been happened under strange circumstances which makes people question whether the police or people from the detention centre were the reasons behind the death of this person. In India, custodial deaths can be classified as those that are as a result of excessive police force application, denial of medical aid at interrogation, suicide committed by the inmates to escape the abusive situation or torture. Secondly, social psychosocial aspects such as poverty, discrimination and power issues can augment the vulnerability of prisoners.

Custodial deaths in India need reforms that are purpose-oriented to fulfill the pledge of human rights, and accountability and the rule of law. This would involve bringing of appropriate measures for as example the treatment of detainees, improved oversight mechanisms, sufficient training of law enforcement staff, among others and last but not least, timely and impartial investigations. Apart from this, combating custodial deaths in India requires a larger amount of public awareness, advocacy and participation of human rights bodies, civil groups, and judiciary as well.

Remedying custodial deaths in India incorporates wide ranging measures of right protection, accountability and pervasive rule of law.

3. CUSTODIAL JUSTICE-LEGAL FRAMEWORK

In India, custodial justice is a hybrid system of the constitutional provisions, statutes, and precedents that protect the individuals held in custody from abuse and guarantee responsibility of the state authorities.

Another custodial death is the one which is natural and in which police don't accompany; for example, where the criminal detainee or accused person on trial succumbs to sickness. There is a problem that surfaces when someone is dying under police care and law enforcement is involved. However, because of the arguments that the police often use in such situations, it makes it very difficult to prove that they are the ones responsible for the incidents. Other times, the police would commit violence on the accused even before the officer arrests the person so that they could argue the torture is not done while under his or her custody but rather earlier. The recent use of the expression "fake encounters", which is another form of custodial death in the newspapers, is one of the types of custodial death. When these situations arise, all the documentation/proof about the incident is in police

custody and as such it is difficult to show they have done wrong. Hence, it becomes very difficult to present liabilities of the public officers and to prove their guilt.

According to the Indian Constitution, every citizen has such a right as the right to life and liberty, while the torture included in the interrogation that tries to force a confession is illegal. It aspires to robustly guarantee the security of prisoners and suspects in police and judicial custody; nevertheless, officials like the police disregard these legal restrictions and commit incidents of abuse of detention and torture. Custodial deaths come without any contribution of police, like the death of a criminal defendant or accused person can occur when they are sick. But issues arise when the police are involved in another person's death by the person who is in their care at that particular time. It is however very difficult to prove that the application of the strategies by the police was not on fault due to the policies used in the cases. In certain cases, the police force victimizes the suspected person before an effective arrest has been made, thereby making the injuries an attribution of what has happened while still in the custody of the police, but of what happened before the police came into custody. The latest term "fake or staged encounters" used in many news reports is known as custodial death. In such circumstances, all the evidence and documentation related to the incident stays with the police department, making it very difficult to prove their misjudgment of the truth. The end product of this is that it is practically impossible to prove that the government itself is guilty and the public authorities were involved in it.

According to Indian Constitution, a person shall have right to life and personal liberty and no person be subjected to any form of torture whether physical or mental severity in order to obtain a conviction or confession. The Indian constitution promises the security of criminals and suspects in police or judicial detention, but the superior authorities like the police frequently violate this and engage in torture and abuse.

The legal framework for custodial justice in India encompasses several important elements are as follows:

Constitution of India

The Constitution of India guarantees certain fundamental rights to all citizens, including the right to life and personal liberty (Article 21) and the right against torture and inhuman treatment (implicit in Article 21). These rights serve as the foundation for protecting individuals from custodial abuse and ensuring their dignity and well-being while in custody.

Criminal Procedure Code (CrPC)

The CrPC sets down the procedural enrichment for the arrest, imprisonment, and interrogation of suspects by the law enforcement agencies. It specifies that arrests have to be carried as per the laid down rules, for example arresting warrant (Section 41) where the police must inform the arrested person the grounds for the arrest.

Indian Penal Code (IPC)

IPC consists of such articles that make it an offense for police officers to use custodial violence, torture and abuse. Custodial abuse laws 330 (voluntarily causing grievous

hurt to extort confession), 331 (voluntarily causing grievous hurt to extort confession), and 342 (wrongful confinement) are mainly used to try abusers.

Protection of Human Rights Act, 1993

The Legislation requires the creation of a National Human Rights Commission (NHRC) at national level and State Human Rights Commissions (SHRCs) in the states to investigate complaints of human rights violations, including custodial deaths and torture. These bodies fall under the statutory category perform the primary tasks of probing the allegations of custodial violence, recommending actions against perpetrators and providing compensations to victims.

4. JUDICIAL PRONOUNCEMENTS

The Indian judiciary has thus shown to be of a great importance actor in defining and expanding the area of custodial justice via path-breaking decisions. The Courts have always highlighted the fact that the fundamental principle of the society is upholding the rights of people in custody, that's why custodial violence is always condemned and the law enforcement is always held responsible for their wrong actions. Judicial activism had lead to the development of legal principles, such as the presumption of innocence, the privilege of legal defense, the prohibition of torture and inhuman treatment of prisoners. The judiciary works with the powers of interpretation and enforcement of all relevant laws, including the India Constitution, International human rights conventions, and domestic law regulations, in a way that detainees' rights are upheld. Courts establish standards in the legislature field touching on detainment, interrogation, and application of force by law enforcement agencies. Courts receive the power to review the cases of the actions and decisions taken by law enforcement agencies including the case of alleged custodial deaths. The judicial review carries out the function of making the state actions meet the legal norms and establishment of principles, and also allows the individuals to claim the violations of their rights through the mechanism of seeking redress.

Although constitutional machinery is present, enforcement of custodial justice in India remains full of obstacles. Cases of custodial killings and torture re-occur today, which demonstrates the fact that there is a need for more and better information on these issues, as well as accountability and reforms regarding the criminal justice system, so that the law of the land is observed and every person, irrespective of their status, their rights can be preserved. Judiciary's role to prevent the dying in custody is extremely important in maintaining the rule of law, institute accountability, and defend the rights and integrity of the individuals in the custody.

Through its interpretative, adjudicative, and oversight functions, the judiciary contributes to preventing abuses, ensuring justice, and fostering respect for human rights within the criminal justice system.

Apex court ordered the state and central governments to give no extra load to the police authorities.

In *Prakash Singh v. Union of India* in this case the Supreme Court provided guidelines related to the arrest or

detention to prevent custodial violence. The cases of the custodial death and violence were increasing day by day and there was a great concern regarding safety of the prisoners hence the Supreme Court framed guidelines to deal with the same in the present case.

Apart from the *D.K. Basu v. State of Bengal* judgment, 7 directions were given in the matter of *Prakash Singh v. Union of India* which need to be implemented as well.

5. CAUSES OF CUSTODIAL DEATH

Custodial deaths in India can stem from a variety of complex factors, both systemic and situational. Understanding these causes is crucial for addressing the issue effectively. Here are some of the key causes of custodial deaths in India:

Police Brutality and Use of Excessive Force

An important factor leading to custodial deaths in India is over-use of force by policemen during the process of arresting, interrogation, or while the prisoners are still in the custody. The causes of police brutality, however, can be many, including inadequate training, impunity, or a culture of violence that is deeply rooted in some police departments, among others.

Torture and Physical Abuse

Custodial deaths usually occur as a result of people being tortured and getting beaten by police officers. In some cases, the suspects are tortured with the use of cruel gaming techniques like extracting confessions or information, which at the end turn out to be severe injuries or death.

Lack of Accountability

An atmosphere of impunity, which allows law enforcement officers to imagine they are above the law, leads to deaths in custody. Lack of accountability mechanisms and the absence of effective oversight leave the perpetration of abuses unpunished, thus consolidating a cycle of violence and impunity.

Poor Detention Conditions

Custodial deaths also happen due to substandard conditions of holding persons and detainees in police lockups, jails, and detention centres. absence of sufficient medical services, lack of cleanliness and unhealthy nutrition worsen health problems and raise the likelihood of death for detainees.

Delayed Medical Attention

Refusing to grant the prompt medical attention to detainees who are unwell will result in custodial deaths. It is not uncommon that the sick and injured while in the custody are not obtained medical attention promptly.

Mental Health Issues

People with mental health issues are at a greater risk of custodial deaths, as they may not be receiving adequate health care or support in prison. When law enforcement officers do not have sufficient awareness and training regarding mental health, it can result in worsening the harm potential for detainees.

Social and Economic Factors

Among the factors that predispose some vulnerable groups to be victims of custodial violence are class differences, discrimination, and marginalization. There are more chances of systematic discrimination and lack of access to justice for the individuals from marginalized communities like Dalits, Adivasis and minorities when it comes to custodial deaths.

Lack of Legal Awareness

Many detainees do not know their legal rights or are afraid to report the abuse by the police authorities. The legal ignorance and restricted access to justice goes along with the impunity circle and, as a consequence, the efforts to prosecute perpetrators are not as effective.

Elimination of the main causes of custodial deaths in India necessitates comprehensive reforms in the criminal justice system through the ways of establishment of accountability mechanisms, improvement of detention conditions, legal education of law enforcement personnel regarding human rights and non-coercive methods of interrogation, and raising awareness among the public of their legal rights.

Additionally, efforts to address socio-economic disparities and discrimination are essential for ensuring the protection of all individuals' rights, regardless of their background or circumstances.

6. MODES OF CUSTODIAL DEATH

A report NCAT showed that on average five people each day died in 2019 when in the detention centre. As narrated in the cases investigated by the NCAT, the present picture is serious than the number of crimes in the country statistics. Official Crime Bureau purportedly found the number of deaths occurring in 2019 similar to the total figure of all deaths occurred during a period of 20 years. The detained person is kept in police lockup which is part of a police station. The police will be under the obligation to present the accused before the magistrate no later than 24 hours after the detention. Remand is the term used for being detained at the magistrate's as well as the judicial custody. Respectively, police custody is the deprivation of the freedom of the accused within a police station lockup. Police have to submit the culprit in front of a magistrate within 24 hours of an arrest. A judicial custody is for an accused to be under the custody of a magistrate while he/she is kept in the jail.

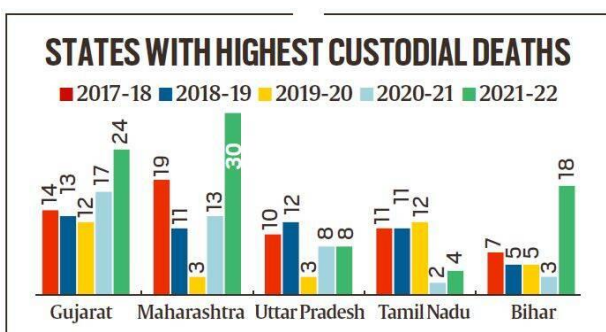


Figure 1 Custodial Deaths data

Analysis of above data shows that some states in India are tolling. Custodial deaths in India as modes bring about a problem within the criminal justice system of India and

portray systemic failures, human rights violations, and the need for reform. The PUDR (which began to investigate deaths in police custody and publish reports in the 80s) has faced immensely tough time in getting their complaints against the accused police officers registered and assisting the families of those who died in police custody.

7. CONCLUSION

Custodial deaths in India represent a grave violation of human rights and a systemic failure within the criminal justice system. The various modes of custodial death, including physical assault, torture, medical negligence, and encounters with the police, highlight a culture of impunity, neglect, and abuse of power among law enforcement officials. It should be understood that it is the Fundamental Right of all citizens to have a life. Thus, in custody, nobody is entitled to snatch away a person's life from him. Custodial deaths are the classic instances of "Corruption and the Misuse of Power". All we need is fair punishment as an example. Custodial deaths in India calls for a combined drive from government entities, civil society organizations and the general public so as to defend the dignity and rights of everyone, irrespective of their legal status. Only with the informed and dedicated pursuit of justice, accountability, and human rights can India fix the causes of custodial deaths and be sure that every person is dealt with justice in a fair, dignified, and respectful manner by the law.

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