
CUSTODIAL DEATHS IN INDIA: LEGAL FRAMEWORK, ACCOUNTABILITY AND REFORMS

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ABSTRACT

Custodial deaths is one of the gravest violations of human right in a democratic society. In our country, the number of custodial deaths is alarming, and it highlights a deep-seated problem within the police administration and judicial systems. This article is going present a thorough analysis by covering the phenomenon of custodial deaths in India, meanwhile focusing on the existing legal framework, challenges in ensuring accountability and potential reforms to be done in order to address this grave issue. The article is further going to conduct a comprehensive analysis of understanding the root cause and instances of custodial violence nationwide, also critically examining the underlying causes of custodial deaths in India.

INTRODUCTION

Custodial deaths in India are none less than a failure of a democratic country. It highlights a drawback of a nation with regard to its administration and judicial system. These incidents are not isolated occurrences but often point to deep-rooted structural issues. Custodial deaths, whether in **police custody** or **judicial custody**, pose a significant threat to the **rule of law**. Despite a comprehensive legal framework that also includes **equality before law**¹, **right to life**², **protection in respect of conviction**³ and **protection against arrest and detention**⁴, etc., India continues to report a disturbing number of custodial deaths every year. This persistent pattern suggests a disconnect between law and its implementation, raising critical questions about police practices, oversight mechanisms and the overall culture of impunity, that may exist within certain institutions. Addressing this issue is essential not only to protect individual dignity and human rights but also to reinforce public trust in the administrative justice system and uphold the democratic values upon which the nation is founded.

WHAT IS CUSTODIAL DEATH?

Custodial death refers to the **death of a person** while they were in the authoritative custodies, and is either directly or indirectly related to or significantly attributable to activities that were carried out while the person was in custody. The custody may be; a **custody of law enforcement agencies** such as the police; or in **judicial custody** such as in jail or prison. These deaths can occur under any circumstances or torture or foul play. These deaths can be categorized as follows:

1. **Police Custody Death:** This custodial death refers to the death of a person while they are being held or interrogated by the police. The police custody deaths are often controversial and have allegations of torturing the individual or illtreating them or foul play.
2. **Judicial Custody Death:** This custodial death often refers to the death of a person while they are being held in prison or under any judicial scrutiny, usually after

¹ INDIA CONST. art. 14.

² INDIA CONST. art. 21.

³ INDIA CONST. art. 20.

⁴ INDIA CONST. art. 22.

remanded by the court. These deaths may result from natural causes, medical neglect, violence among inmates or other factors.

Custodial deaths may include fatalities that take place in a jail, on a police vehicle, or even other vehicle, at a private or medical facility, or in a public space.

Further, if we talk about the reasons for the custodial deaths, then it would involve, torture, physical abuse, medical negligence, suicide, mental stress, poor infrastructure, assault by police or other inmates and many more.⁵

WHY CUSTODIAL DEATHS ARE A CONCERN?

Custodial deaths, with time, have become a major concern for the country. It signifies a failure at the side of police administration and the judicial system. These issues are well rooted in our country that it has now become essential to cope up with.

Custodial deaths and violence are against the **fundamental structure and values of the Indian Constitution**. This is clearly a violation of **Articles 20, 21 and 22** of the Constitution of India. Further, the police authorities also abuse and torture the convicted even before the formal arrest, which leads to injuries and sometimes death. Recently, the **Punjab and Haryana High Court** has held that '*the custodial deaths represent a reprehensible abuse of power given the vulnerability of detainees and the unequal power dynamics.*'⁶

In recent times, **rape** has become one of the prevalent forms of custodial torture. There was an incident of custodial rape in **Gadchiroli district** of Maharashtra in 1972, wherein a **tribal girl named Mathura** was allegedly raped by two policemen in the Police Station.⁷

There are also instances where the victim died due to the **harassment and beatings** by the police administration, while being in custody.⁸ Further, **fake encounters** have recently become a known reason for custodial deaths in India. A former Mumbai Police 'encounter specialist,'

⁵ Uttarakhand Judicial and Legal Academy, <https://ujala.uk.gov.in/files/Ch10.pdf> (last visited June. 15, 2025).

⁶ Punjab & Haryana High Court, Chandigarh, https://www.highcourthd.gov.in/sub_pages/top_menu/about/events_files/custodial%20death.pdf (last visited June. 15, 2025).

⁷ Tuke Ram & Anr. v. State of Maharashtra 1979 SCC (2) 143.

⁸ Nilabati Behera v. the State of Orissa 1993 (2) SCC 746.

has been sentenced to life imprisonment by the Bombay High Court for his involvement in the fake encounter in 2006.⁹

LEGAL AND CONSTITUTIONAL FRAMEWORK

1. **Article 20:** *It grants protection against arbitrary and excessive punishment to an accused person, whether a citizen or foreigner or legal person like a company or a corporation. It contains three provisions in that direction:*

- **No ex-post-facto law:** *It provides that a person should be prosecuted as per those laws that were in force when he committed the offense.*
- **No double jeopardy:** *It provides that a person shall not be prosecuted and punished for the same offense more than once.*
- **No self-incrimination:** *It provides that a person accused of an offense shall not be compelled to be a witness against himself.¹⁰*

2. **Article 21:** *“No person shall be deprived of his life or personal liberty except according to procedure established by law.” Following are certain rights available for prisoners:¹¹*

- *Right to Bail*
- *Right against Solitary Confinement*
- *Right against Inhuman Treatment*
- *Right against Illegal Detention*
- *Right to a Speedy and Fair Trial*
- *Right to meet Friends and Consult a Lawyer*

⁹ Ridhi, *Bombay High Court 867-Page Decision on 2006 Mumbai Fake Police Encounters — Simplified*, SCC Online (Mar. 21, 2024), <https://www.scconline.com/blog/post/2024/03/21/bombay-high-court-867-page-decision-fake-police-encounters-simplified/>.

¹⁰ INDIA CONST.

¹¹ INDIA CONST.

3. **Article 22:** It provides protection for individuals against arrest and detention in certain cases. It provides that a person arrested should be presented before a magistrate within 24 hours of arrest.
4. **Sections 302, 304, 330, 331:** Penalize murder, culpable homicide, and torture during interrogation.¹²
5. **Section 41 and Section 176(1A):** It lays down the conditions for arrest and mandates judicial inquiry in case of death in police custody.¹³
6. **Section 114B of Indian Evidence Act, 1972:** Presumes police officer responsible for custodial death unless proven otherwise.
7. **Protection of Human Rights Act, 1993:** It establishes the NHRC and empowers it to investigate custodial violence.

JUDICIAL PRECEDENTS AND INTERVENTIONS

The Indian Judiciary has played a significant role in addressing the issue of custodial deaths in the nation. It has given some landmark judgements and played a proactive role in handling such a grave issue.

1. ***Nilabati Behera v. State of Orissa***¹⁴: In this particular case, the court addressed the issue of **custodial deaths** and **state liability**. This case was filed by Nilabati Behera after her son died due to injuries sustained while in police custody. The court held that the State of Orissa is responsible for this and ordered a compensation to the victim's mother. This case set a **significant precedent** by establishing that the **State is accountable** for custodial violence and that victims or their families are entitled to compensation through constitutional remedies.
2. ***Joginder Kumar v. State of Uttar Pradesh***¹⁵: The Supreme Court in this particular case laid down certain **guidelines** in order to **make arrest**; first, arrest should not happen routinely; and second, a person should be informed about their arrest. Further,

¹² Indian Penal Code 1860.

¹³ Code of Criminal Procedure 1973.

¹⁴ Nilabati Behera v. State of Orissa (1993) 2 SCC 746.

¹⁵ Joginder Kumar v. State of Uttar Pradesh (1994) 4 SCC 260.

these guidelines were also included in the **Code of Criminal Procedure, 1973** after the amendment in the Act.

3. *Shri Dilip K. Basu Etc. v. State of West Bengal and Ors.*¹⁶: “The Supreme Court of India issued guidelines to **prevent custodial violence** and ensure **transparency in police procedures** during **arrests** and **detentions**. The case stemmed from concerns about increasing cases of custodial death and violence. The court's decision highlighted the infringement of **Article 21** and **Article 22** by police actions.”¹⁷

CHALLENGES TO ACCOUNTABILITY

Custodial deaths continue to be a grave concern in India. It highlights a systemic failure to hold perpetrators accountable. While the Constitutional and legal framework serves to safeguard the inmates against the torture and abuse in custody, the ground reality remains disheartening. There are multiple factors that contribute to the lack of accountability in such cases and thus, making justice elusive for victims and their families.

The first and one of the most critical challenges is the **lack of independent investigation**. In some cases, the investigation of custodial deaths is conducted by the same police department where the incident had been occurred. This creates a clear conflict of interest and often leads to biased or manipulated inquiries, where evidence is suppressed and reports are doctored to protect fellow officers. The absence of an independent and impartial authority for investigation, undermines the credibility of the entire process and prevents fair outcomes.

Another challenge would be the **weak implementation of existing laws and guidelines**. The Hon'ble Supreme Court has laid down certain guidelines in some landmark judgements, related to arrest procedures, documentation and safeguard against torture, but the compliance remains poor. Many police officers are either **unaware** of these guidelines or choose to **ignore** them, and somehow commit custodial violence.

Further, **delayed justice and inefficient legal processes** intricate the problem. Investigations related to custodial deaths are often continued for years and trials are riddled with adjournments

¹⁶ *Shri Dilip K. Basu Etc. v. State of West Bengal and Ors.* (1997) 1 SCC 416.

¹⁷ Supreme Court of India,

<https://scr.sci.gov.in/scrsearch/tmp/658313afdaa186139bc43a906303871298da4ef108e76e9e1c3a5580e43600f91750061358.pdf> (last visited June. 17, 2025).

and procedural lapses, resulting into delayed justice. The absence of **witness protection programs** is a serious concern, as those who come forward often face threats or coercion, making it perilous to testify against powerful law enforcement officials.

Talking about more challenges then, **intimidation of victims, witnesses and their families** plays a significant role in silencing dissent and discouraging legal action. Further, **political and institutional shielding** adds another layer of complexity, as police officers involved in custodial deaths are often shielded by political authority or by senior officers in the bureaucracy.

Additionally, the **lack of transparency in custodial procedures**, that includes poor CCTV coverage, inadequate medical examinations and absence of audio-visual recording of interrogations, often makes it difficult to establish the evidence for custodial deaths or violence.

REFORMS MEASURES

To overcome these above-mentioned challenges of accountability, India needs robust institutional reforms, legal reforms, some ratification, technological advancements and many more.

- 1. Establishment of Investigation Agencies:** The government should look into the idea of establishing independent investigating agencies so that there would an impartial investigation and the victim gets the justice.
- 2. Police Reforms:** The government should make some reforms in the training of Police and ensure that the officers know all the guidelines and measures that should be taken care of while arresting a person.
- 3. Technological Advancements:** All Police stations and interrogation rooms should be installed with CCTV cameras, so that the evidences can be collected and there is also a need to ensure that the data stored in these cameras are tamper-proof.
- 4. Fast-track Courts:** The government can also establish some fast-track courts in order to determine that the justice is not delayed and justice is served right.
- 5. Witness Protection:** The government should take some initiatives in order to protect

the witnesses of the custodial violence and deaths. Some strengthening legal and financial protections should be established for witnesses and victims' families.

6. **Public Awareness:** There should be campaigns and education that helps the citizens to know about their rights and how to report violation of their rights.
7. **Stricter Punishment for offenders:** The government can amend the laws in order to provide harsher penalties for custodial torture and deaths.

CONCLUSION

Custodial deaths are not merely lapses of law and order, but a breach of human rights and dignity. It is a threat to democracy. Our country needs a good system of rules and regulation that could curb the issue of custodial deaths across the nation. Further, it is important that the government and judiciary should address this issue and it will require a multipronged approach involving legal reforms, institutional strengthening and societal vigilance. India, as the largest democracy in world, must uphold the rule of law and ensure that custodial spaces do not become chambers of torture and death. Custodial deaths are a grave concern that is prevalent in our country and should be treated as an urgent need to cure the same and uphold dignity and rights of an individual. The custodial deaths, their legal reforms, accountability of the states, challenges to accountability and reforms should be taken into considerations in order to cope up with this grave issue across the nation.