

Behind Bars: Addressing Custodial Deaths in India's Criminal Justice System

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ABSTRACT

Torture and violence have been common since ancient times. Torture is the deliberate infliction of cruelty by individuals in positions of power on others who lack power and are vulnerable. Custodial torture is torture that takes place in police stations, prisons, or under the authority of government institutions. These actions are a serious infringement of human rights and go against Article 21 of the Indian Constitution. This paper provides an in-depth examination of the legal framework of custodial violence. While the idea has not been clearly defined, different laws deal with the matters of custodial torture and sexual assault. Therefore, the judiciary has taken on the burden of defining this extensive phrase. This study analyzes the judiciary's approach to combating custodial violence by examining judicial rulings to determine the judiciary's position on these matters. The author concludes the analysis by recommending legislative measures that need to be promptly put into effect to address the deficiencies noted by the judiciary.

Keywords: Torture, Violence, Custodial torture, Human rights, Constitution of India, Legal framework, Custodial violence, Judiciary, Judicial Precedents, Legislative measures

1. INTRODUCTION

A prisoner is someone who has been legally condemned to imprisonment for committing a crime or is detained while awaiting trial. It can also describe someone who is restricted or trapped by circumstances, resulting in the involuntary loss of their freedom. Judicial custody involves an accused person being placed under the authority of a magistrate and confined in jail, as opposed to police custody when the accused is detained at a police station's lockup. While in judicial custody, the individual is subject to the court's authority for further investigations, as specified in Section 167 of the Code of Criminal Procedure in India (3)(4). Judicial custody can last up to 90 days for crimes that carry the punishment of death, life imprisonment, or imprisonment over 10 years, and up to 60 days for other offenses, depending on the magistrate's decision.

Custodial violence and the misuse of police authority have become significant human rights issues in modern societies. These issues undermine democratic values and impede human development. "Custodial violence" encompasses both the physical and psychological torment inflicted on detainees, constituting a severe infringement of their human rights and a crime against human dignity. In nations like India, the complexity of custodial violence is often attributed to systemic issues rather than isolated incidents. Custodial deaths in India, which highlight severe human rights breaches and misuse of power by law enforcement, have prompted serious concerns (National Human Rights Commission). Despite existing legal frameworks, such violations persist, igniting public demand for accountability. Factors leading to

custodial deaths in India include police brutality, torture, medical neglect, and poor jail conditions. Addressing these issues is crucial for maintaining justice and safeguarding human rights within the country.

Custodial torture, entailing physical, mental, or psychological harm to individuals in police or jail custody, remains a prevalent challenge in India, infringing upon the rights and well-being of detainees. Despite national and international laws prohibiting such practices, reports of custodial torture continue. This abuse, aimed at extracting confessions or information, is a gross violation of human rights. Beyond causing immediate harm to victims, custodial torture damages the credibility of the criminal justice system and diminishes public trust in law enforcement. Tackling custodial torture is imperative for the protection of human rights and the enforcement of the rule of law in India.

1.1 THE LEGAL FRAMEWORK SURROUNDING CUSTODIAL VIOLENCE

The legal framework surrounding custodial violence emphasizes the protection of an individual's life and liberty. As enshrined in Article 21 of the Indian Constitution, this principle forms a core aspect of fundamental rights, celebrating the right to live with dignity. Constitutional courts have prioritized human rights in cases of custodial violence, broadening the interpretation of Article 21 from mere survival to a dignified existence. Furthermore, Articles 20(3) and 22 reinforce this notion by underlining the importance of dignity in life. While the Constitution lays the groundwork for preventing such crimes, it's crucial to examine specific statutes that address custodial offenses.

The Indian Penal Code includes important sections like Section 330 (torture to obtain a confession), Section 331 (causing grievous harm for confessions), Section 376(2) (sexual assault in custody), and Section 348 (illegal detention) to address and punish custodial offenses. Chapter V of the Code of Criminal Procedure provides protective measures for arrested individuals to safeguard their rights by the police. Confessions collected through duress or inducement by police are inadmissible in court according to the Evidence Act, which highlights that only confessions made in the presence of a Magistrate are considered valid.

The judiciary, which interprets the law and is a fundamental part of justice, has a crucial responsibility in dealing with custodial violence. The violence illustrates the clash between individual freedom and government authority, with the judiciary working to harmonize these opposing influences. The police have been hesitant to admit their involvement in such crimes and protect each other, but the judiciary has played a crucial role in ensuring accountability. The legislature has not defined custodial violence, but the judiciary has defined phrases such as custodial torture and solitary imprisonment. When statutory laws are insufficient in explaining legal applicability, the courts have intervened. In the case of *D.K Basu v. State of West Bengal*, the Supreme Court established guidelines for the arrest process, which included specific procedures for police during detention, the development of an inspection memo, and the documentation of investigative personnel. These measures aimed to strengthen judicial supervision in instances of custodial violence.

In the landmark case of *Joginder Singh v. State of Uttar Pradesh*, the court set forth standards outlining the rights of individuals during arrest and required the police to strictly follow these criteria. The courts have examined the questioning techniques used by law enforcement to obtain information from detainees. The *Kidar Nath v. State of Punjab* finding clearly established that violence has no role in criminal law, a view also expressed in the *Public Prosecutor v. Shaikh Ibrahim* case. Justice Y.V. Chandrachud's perspective on the issue is succinctly summarized in *Dagdu and Ors. v. State of Maharashtra*, where he

pointed out that the police, possessing extensive authority, tend to overstep their limits in their zeal to solve crimes, frequently employing severe methods against individuals within their grasp. It is crucial for justice that these inclinations and temptations be restricted promptly.

1.3 OBJECTIVES OF THE STUDY

1. To raise awareness regarding custodial torture.
2. To underscore the increasing instances of custodial torture and fabricated encounters over the past few years.
3. To emphasize the existing laws and legislation aimed at preventing these injustices.
4. To advocate for the penalization of torture committed by public officials or anyone committing torture with their agreement or acquiescence.

2. REVIEW OF LITERATURE

Encounters by police and deaths in custody pose significant challenges to the justice system, with state-empowered officers often misusing their authority. Despite being critical issues, custodial deaths and fraudulent encounters have not received sufficient attention or resolution. Following the Supreme Court's directives, there was still a notable increase in cases of custodial death (Sk). Acts such as rape, illegal detention, and harassment against detainees remain prevalent, highlighting the ongoing risk despite the establishment of custody rights guidelines (Aston).

The failure of the police to adhere to legal procedures represents a dire assault on justice. Statistical analyses reveal the widespread issue of custodial violence within the nation and the urgent need to address this alarming concern (Amnesty International). The misuse of power by the police, resulting in brutality and killings, reflects not acts of lawful encounter but premeditated murders. Such acts, where police officers act as judge and executioner without a formal trial, violate Article 6(1) of the International Covenant on Civil and Political Rights, highlighting the severity of this transgression (Heath).

Justice A.N. Mulla's decades-old statement, still echoed worldwide, criticizes the misuse of power by public servants in India, who see their roles as an opportunity to arbitrarily end the lives of individuals without ensuring a fair trial (Lokaneeta, *Transnational Torture: Law, Violence, and State Power in the United States and India*). This situation underscores the urgent need for legal reforms and the introduction of new laws to prevent suspects from being subjected to police custodial torture and brutality, thereby preserving the integrity of justice against the tarnish of inhumane police actions.

The judicial framework in India embraces the principle that an individual is presumed innocent until proven guilty, a concept enshrined in Article 14(2) of the International Covenant on Civil and Political Rights. This presumption is crucial due to the grave nature of punishments that may be meted out, necessitating a thorough investigation before any punitive action is executed (Mathew). At the heart of criminal law lies the doctrine of *Mens Rea*, meaning a guilty mind, which stipulates that no individual should be punished under criminal statutes unless they possess a wrongful intent. This doctrine is relevant in cases of fabricated encounters and custodial deaths, identifying them as criminal acts with no differentiation from other offenses based on their inherent malice (Chakraborty). In response to the unwarranted brutality by police towards detainees, the Protection of Human Rights Act of 1993 was enacted, and the National Human Rights Commission was established, aimed at curbing such inhuman treatment and safeguarding the rights of the accused (Bajoria).

Honorable Justice Krishna Iyer, a fervent supporter of human rights, poignantly asked, "Who will police

the Police?" This question underscores the detrimental effect of custodial violence and resultant fatalities on the integrity of human rights legislation, casting a shadow over the justice system's credibility (Heath). Murali Kannan highlights in a Deccanherald blog the societal repercussions of police misconduct, emphasizing how the legal shield provided to law enforcement is often exploited. The harrowing incident of a father and son dying in police custody in Tamil Nadu has ignited public condemnation against such longstanding injustices (Lokaneeta, *The Truth Machines: Policing, Violence, and Scientific Interrogations in India*).

The enduring problem of police malfeasance, particularly in disregarding the fundamental rights of detainees, raises critical concerns about the misuse of authority cloaked in legal immunity. Despite the enactment of various statutes and international treaties designed to mitigate custodial violence, such atrocities continue covertly, occasionally leading to prejudiced judgments by the courts (Aston). Joshua N. Aston, in his work 'Torture behind the bars,' focuses on the police force's responsibility and advocates for reforms to eradicate the blatant acts of custodial violence, thereby restoring faith in the legal system and ensuring justice prevails.

The prospect of job transfer due to unsatisfactory results places immense stress on police officers, prompting them to employ coercive methods, including torture, to extract confessions from suspects (Carver and Handley). Given the limited timeframe of 24 hours to hold an accused in custody for interrogation, police often resort to expedited, and sometimes unethical, investigative tactics to gather essential evidence for the prosecution (Ramakrishnan).

Certain law enforcement officials hold the conviction that imposing punitive measures on offenders is a crucial strategy for crime prevention, arguing that incarceration no longer serves as a deterrent since inmates often adapt comfortably to prison life (Bajoria). Moreover, some prison authorities advocate for the use of harsh interrogation methods, particularly against individuals accused of grave offenses like murder and rape, believing such individuals warrant severe treatment (Sk) (Lokaneeta, *The Truth Machines: Policing, Violence, and Scientific Interrogations in India*).

The Death in Custody Reporting Act (DCRA) of 2013 mandates that states must report specific details regarding any death that occurs under custody, including the date, time, place, and the circumstances surrounding the death, alongside demographic information of the deceased. This requirement aims to decrease the instances of custodial deaths by ensuring transparency and accountability (see Appendix A for the full statute).

Research by Burch (2011) revealed that from 2003 to 2009, a total of 4,813 deaths reported through the Arrest-Related Deaths Program (ARDP) predominantly resulted from law enforcement actions, with homicides constituting about 60% of these cases. The remainder of the deaths were due to various causes, including suicides, accidental injuries, and natural causes. A similar pattern was observed in a study by Banks et al. (2019), which found a majority of arrest-related deaths to be homicides, followed by suicides and accidents.

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CONCLUSION

Article 21 of the Indian Constitution guarantees that every person has the basic rights of life and personal freedom. Custodians must prioritize upholding the human rights of detainees and fulfilling their duty to offer necessary facilities for the well-being and safety of these individuals. It is crucial to guarantee access to sufficient medical care and uphold humane circumstances for detainees. Custodial torture is a huge blemish on human society.

Recent studies suggest a decrease in instances of custodial torture. Factors contributing to this positive change include actions by the National Human Rights Commission, greater media attention on custodial abuse and deaths, increased public awareness, persistent advocacy by different NGOs against custodial torture, and the medical community's role in accurately documenting cases of torture. Prison inmates are very vulnerable to several diseases because of the unsanitary, overcrowded, and stressful environment of incarceration, as well as the prevalence of mental health concerns like anxiety, despair, and social isolation.

It is crucial for prison authorities to enhance inmates' living conditions and conduct regular psychological assessments to mitigate aggressive tendencies. Medical professionals play a crucial role in identifying and managing both physical and mental health challenges faced by detainees. The significance of a doctor in curtailing torture practices is immense. Forensic pathologists, in particular, are strategically positioned to aid in the prevention of torture. Through thorough investigation and meticulous documentation of medical findings in cases of custodial torture, they can significantly bolster the exchange of information between healthcare providers and oversight bodies, thereby improving the assessment and understanding of such incidents.

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