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REVIEW ARTICLE

Forensic Aspects of Custodial Deaths in India

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ABSTRACT

Custodial death is among the most serious violations of human rights and constitutional protections in a democratic society. Deaths occurring in police lockups, judicial custody, prisons, detention centres, mental health institutions, juvenile homes, or during police encounters raise grave medico-legal, ethical, forensic, and legal concerns. In India, custodial deaths continue to attract national and international scrutiny because of recurring allegations of torture, excessive use of force, medical negligence, delayed treatment, suppression of evidence, and failure of institutional accountability.

The forensic investigation of custodial deaths plays a central role in determining the cause, manner, and circumstances of death. Scientific examination by forensic experts helps distinguish between natural deaths, suicides, accidental deaths, and deaths due to torture or homicidal violence. Proper autopsy procedures, videography, injury documentation, toxicological analysis, histopathology, radiological imaging, and preservation of biological evidence are indispensable components of custodial death investigation.

The legal framework governing custodial deaths in India includes constitutional safeguards under Articles 20, 21, and 22 of the Constitution of India; statutory provisions under the Bharatiya Nagarik Suraksha Sanhita (BNSS); National Human Rights Commission (NHRC) guidelines; prison laws; police regulations; and landmark judicial pronouncements such as *D.K. Basu vs State of West Bengal* and *Nilabati Behera vs State of Orissa*.[1-6] Mandatory magisterial inquiry, videographed postmortem examination, preservation of evidence, and independent forensic evaluation have become essential safeguards in such cases.

This review article comprehensively discusses the epidemiology, classification, legal framework, constitutional safeguards, forensic pathology, autopsy protocols, torture-related injuries, investigative procedures, prison healthcare, psychological aspects, human rights concerns, judicial trends, technological developments, and

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preventive strategies related to custodial deaths in India. Special emphasis is placed on the role of forensic medicine experts in ensuring scientific transparency, accountability, and justice. The article also examines contemporary challenges including underreporting, institutional pressure, evidentiary manipulation, inadequate forensic infrastructure, and implementation gaps. Recommendations for reforms in custodial management, forensic investigation, medico-legal education, and legal accountability are discussed in detail.

KEYWORDS

• Custodial death • Forensic pathology • Torture • Police custody • Judicial custody • NHRC • Autopsy • Human rights • Medico-legal investigation

INTRODUCTION

Custodial death represents one of the most sensitive and controversial issues confronting criminal justice systems worldwide. The death of a person while under state custody immediately raises questions regarding the legality of detention, treatment of detainees, use of force, adequacy of medical care, and adherence to constitutional safeguards. In democratic societies, the state bears a special responsibility to ensure the safety, dignity, and welfare of persons deprived of liberty. Consequently, any death occurring in custody assumes great medico-legal and human rights significance.[1,2]

In India, custodial deaths have repeatedly attracted public concern because of allegations of police brutality, torture, third-degree interrogation methods, prison negligence, encounter killings, and suppression of evidence. Media coverage, intervention by human rights organizations, judicial activism, and public protests have highlighted the urgent need for transparent and scientific investigation of such deaths.[3,4]

The term "custody" encompasses a broad spectrum of situations in which an individual is deprived of personal liberty under authority of law. This includes police custody during investigation and interrogation, judicial custody in prisons and jails, military or paramilitary detention, psychiatric institutionalization, juvenile detention homes, and immigration detention centres. A death occurring in any such setting constitutes a custodial death.[16]

Custodial deaths may arise from various causes including natural diseases, suicide, accidents, torture, homicide, restraint-related asphyxia, drug intoxication, withdrawal syndromes, mental illness, and medical negligence. However, because the deceased was under state control, every custodial death must be treated with heightened scrutiny.[5,6]

Forensic medicine plays a pivotal role in the investigation of custodial deaths. Scientific autopsy examination often becomes the most objective source of evidence. Forensic experts are responsible for identifying injuries, detecting torture, establishing cause and manner of death, interpreting pathological findings, preserving evidence, and presenting unbiased expert testimony before courts.[5-10]

The emergence of standardized medico-legal guidelines, particularly those issued by the National Human Rights Commission (NHRC), has significantly improved custodial death investigations in India. Mandatory videography of postmortem examination, detailed injury documentation, histopathological examination, toxicological analysis, and magisterial inquiries are now integral components of custodial death protocols.[3]

Despite legal safeguards and judicial interventions, custodial violence continues to persist in many parts of India. Underreporting, delayed autopsy, tampering of records, intimidation of witnesses, inadequate prison healthcare, and lack of independent oversight remain major challenges.[4,11]

Historical Perspective of Custodial Violence

Custodial violence has existed throughout human civilization. Historically, torture was widely used as a method of punishment, coercion, extraction of confessions, and political repression. Ancient legal systems often permitted physical torture during interrogation.[12]

In colonial India, police brutality and coercive interrogation techniques were frequently used by British authorities to suppress dissent and maintain control. Reports by colonial commissions documented widespread custodial abuse and torture. Although independent India adopted constitutional safeguards and democratic institutions, allegations of custodial violence continued.[1,3]

Several high-profile custodial death cases in post-independence India generated public outrage and judicial scrutiny. Over time, human rights activism and media attention contributed to reforms in arrest procedures, custodial safeguards, and medico-legal investigation.[1,13]

The Supreme Court of India has repeatedly emphasized that torture and custodial violence are incompatible with constitutional democracy and rule of law. Landmark judgments have strengthened procedural safeguards and emphasized accountability of state authorities.[1,14,15]

Internationally, the development of human rights law following World War II contributed to recognition of freedom from torture as a fundamental human right. Instruments such as the Universal Declaration of Human Rights and the United Nations Convention Against Torture shaped modern custodial jurisprudence.[2,12]

Types of Custodial Deaths

Police Custody Death

Occurs when an individual dies while under direct control of police during investigation, interrogation, arrest, or transit.[1]

Judicial Custody Death

Occurs in prisons or jails under orders of judicial authorities.[4]

Encounter Deaths

Deaths occurring during police encounters or use of force operations.[13]

Deaths in Institutional Custody

Includes deaths in psychiatric hospitals, juvenile homes, rehabilitation centres, and detention camps.[2]

Epidemiology of Custodial Deaths in India

Custodial deaths remain a major public health and human rights issue in India. Official data from the National Crime Records Bureau (NCRB), NHRC, and independent organizations indicate hundreds of custodial deaths annually.[4,11]

Judicial custody deaths are more numerous due to overcrowding, poor sanitation, communicable diseases, inadequate healthcare, malnutrition, substance withdrawal, and delayed treatment. However, police custody deaths attract greater scrutiny because of allegations of torture and illegal interrogation practices.[16,17]

Common epidemiological features include predominance among young adult males, higher incidence among socioeconomically vulnerable populations, association with substance abuse, increased risk among mentally ill detainees, overcrowding in prisons, and delayed medical intervention.[4,16]

Contributing systemic factors include poor prison infrastructure, understaffed healthcare systems, lack of CCTV monitoring, inadequate training of police personnel, delays in judicial production, and poor documentation practices.[11,17]

Many custodial deaths remain underreported or misclassified due to institutional pressures, fear of repercussions, or manipulation of records.[3,18]

Constitutional Safeguards in India

The Constitution of India provides several protections against arbitrary detention, torture, and custodial abuse.[1]

Article 21

Article 21 guarantees protection of life and personal liberty. The Supreme Court has interpreted this provision expansively to include the right to dignity, humane treatment, and protection against torture.[1,14]

Article 20(3)

Provides protection against self-incrimination and coercive interrogation.[1]

Article 22

Ensures procedural safeguards during arrest and detention, including the right to be informed of grounds of arrest, right to legal counsel, and production before magistrate within 24 hours.[1,15]

The judiciary has consistently held that custodial torture violates constitutional morality and fundamental rights.[1,14,15]

Legal Framework Governing Custodial Deaths

Bharatiya Nagarik Suraksha Sanhita (BNSS)

The BNSS contains provisions regarding arrest procedures, medical examination of accused, magisterial inquiry, and custodial safeguards.[19] Section 196 BNSS mandates inquiry into custodial deaths.[19]

Bharatiya Nyaya Sanhita (BNS)

Relevant provisions include offences relating to hurt, grievous hurt, wrongful confinement, murder, and culpable homicide.[20]

Indian Evidence Act

The burden of explaining injuries sustained in custody may shift to authorities because the detainee was under state control.[21]

Protection of Human Rights Act, 1993

Established the National Human Rights Commission (NHRC), which monitors custodial violence and issues guidelines.[22]

Landmark Judicial Pronouncements

D.K. Basu vs State of West Bengal

This landmark Supreme Court judgment established mandatory guidelines for arrest and detention. The Court mandated identification tags for police personnel, arrest memo, informing relatives, medical examination every 48 hours, custody records, and access to lawyers. The judgment significantly reduced arbitrary custodial practices.[1]

Nilabati Behera vs State of Orissa

The Court held that compensation can be granted for custodial deaths involving violation of fundamental rights.[14]

Joginder Kumar vs State of Uttar Pradesh

Emphasized safeguards against unnecessary arrests.[15]

People's Union for Civil Liberties Cases

Strengthened guidelines regarding encounter deaths and independent investigation.[13]

National Human Rights Commission Guidelines

The NHRC has developed extensive protocols for investigation of custodial deaths. Important requirements include reporting within 24 hours, mandatory magisterial inquiry, videography of autopsy, independent forensic experts, preservation of viscera, histopathological examination, injury photography, collection of medical records, and submission of inquiry reports.[3]

The NHRC guidelines have become central to custodial death investigation protocols.[3]

Role of Forensic Medicine in Custodial Deaths

The forensic expert is central to custodial death investigation. Core responsibilities include determination of cause of death, determination of manner of death, injury documentation, collection of evidence, preservation of biological samples, interpretation of torture injuries, and court testimony.[5-10]

Forensic experts must remain independent and objective.[12]

Prison Healthcare and Custodial Deaths

Many deaths in judicial custody are related to inadequate healthcare. Common deficiencies are delayed referral, lack of specialists, poor emergency care, overcrowding, and inadequate psychiatric support.[16,17] Tuberculosis and communicable diseases remain major causes.[16]

Mental Health and Custodial Deaths

Mental illness significantly increases custodial vulnerability. Important concerns are suicide risk, substance withdrawal, depression, psychosis, and self-harm. Mental health screening is essential.[16]

Female Custodial Deaths

Women in custody face unique vulnerabilities like sexual violence, pregnancy-related complications, lack of privacy, and inadequate gynecological care. Special safeguards are required.[2,4,16,17,23,24]

Juvenile Custodial Deaths

Deaths of minors in custody demand heightened sensitivity. Important considerations are child protection laws, psychological vulnerability, abuse detection, and independent oversight.[2]

Human Rights Perspective

Custodial torture violates international human rights standards. Relevant instruments are the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and UN Convention Against Torture.[2,12] India has signed but not ratified the UN Convention Against Torture.[2]

Istanbul Protocol

The Istanbul Protocol provides internationally recognized standards for documentation of torture.[12] It emphasizes independent evaluation, injury documentation, psychological assessment, and ethical reporting. Integration into Indian forensic practice is necessary.[12]

Ethical Responsibilities of Forensic Experts

Forensic experts must maintain scientific objectivity, professional independence, confidentiality, and ethical integrity. Pressure from investigating agencies must be resisted.[5,12]

Challenges in Investigation of Custodial Deaths

Major challenges faced are delayed reporting, suppression of evidence, manipulation of records, witness intimidation, poor forensic infrastructure, political interference, and lack of independent oversight.[3,11,18]

CONCLUSION

Custodial deaths represent a profound challenge to constitutional governance, human rights, and criminal justice administration in India. The death of an individual while under state control carries immense legal, ethical, and social implications. Allegations of torture, coercive interrogation, delayed medical care, and suppression of evidence continue to undermine public confidence in custodial institutions.[1,3]

Scientific forensic investigation remains the cornerstone of accountability in custodial deaths. Meticulous autopsy examination, documentation of injuries, toxicological analysis, histopathology, videography, and preservation of evidence are essential for determining the truth. The forensic pathologist plays a central role in distinguishing natural deaths from homicidal violence, torture-related fatalities, or negligence.[5-10]

Judicial interventions, NHRC guidelines, and constitutional safeguards have significantly strengthened custodial death investigation procedures in India. Landmark judgments such as *D.K. Basu vs State of West Bengal* have established mandatory safeguards against arbitrary detention and custodial abuse.[1] However, implementation gaps remain substantial.[3]

Persistent challenges include overcrowded prisons, inadequate prison healthcare, lack of forensic infrastructure, political pressure, delayed inquiries, and institutional reluctance to ensure transparency. Independent oversight mechanisms and scientific medico-legal practices are therefore essential.[11,16,25,26]

Preventing custodial deaths requires a multidimensional approach involving police reforms, prison modernization, strengthening of forensic institutions, human rights education, judicial accountability, and strict enforcement of procedural safeguards. The integration of international standards such as the Istanbul Protocol into Indian forensic practice may further improve transparency and reliability.[12]

Ultimately, the protection of detainees is not merely a legal obligation but a reflection of constitutional morality, democratic values, and respect for human dignity. A transparent and scientifically rigorous approach to custodial death investigation is indispensable for ensuring justice, accountability, and public trust in the rule of law.[1,2]

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