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JUSTICE BEHIND BARS: A CRITICAL STUDY ON CUSTODIAL DEATHS AND THE CRISIS OF TRANSPARENCY IN INDIAN LAW ENFORCEMENT

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I. ABSTRACT

“Custodial deaths” are one the most serious human rights problems in India, showing a very thin line between state power and constitutional respect. Despite having many legal safeguards, judicial pronouncements, and international obligations, the happening of deaths in police and judicial custody shows that there is a failure in our system. This research paper will investigate the crisis of transparency that surrounds custodial deaths, exploring how institutional secrecy, poor enforcement, and cultures of impunity undermines the constitutional guarantee of Article 21. Through the judicial interpretation from Nilabati Behera to D.K. Basu and many other cases, the analysis underscores the evolving jurisprudence that transformed compensation, and procedural safeguards into enforceable rights. The paper further demonstrates India’s reluctance to adopt the UN Convention Against Torture within the larger contradiction of constitutional guarantee without legislative commitment. The analysis emphasizes the structural flaws like overcrowded prisons, poor medical treatment, skewed investigations, and disproportionate targeting of marginalized groups which exacerbate the problem even more. While there are several protocols and reliefs has prescribed by the National Human Rights Commission but its limited mandate and reliance on state authorities often undermine its accountability to monetary compensation than deterrence. In respond to these enduring gaps, the article calls for an integrated reform agenda, passing a specific anti-torture law, enhancing independent oversight, responsibly utilizing technology, guaranteeing medical transparency, and prioritizing victims’ rights. Justice behind bars, thus, is not just about averting fatalities but about upholding the State’s constitutional duty to maintain dignity, transparency, and faith in the rule of law.

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II. KEYWORDS

Custodial deaths, Human Rights Violation, Article 21, Police Custody, Judicial Custody, Transparency Crisis, DK Basu Guidelines, National Human Rights Commission.

III. INTRODUCTION

Generally, a "custodial death" is a death when an individual is in State control, normally in police custody or judicial custody. It encompasses deaths soon after detention or in the course of transit between custodial locations. Death of an individual in state custody is more than a legal wrong, it is a violation of trust by the very same institutions which have been established to protect life and liberty. Custodial death, in its essence, takes away the hope of dignity that the Constitution of India guarantees to each and every person under Article 21. The moment a person is put into custody, the State takes complete charge of his safety and well-being. But with frequent cases of torture, abuse, and mysterious deaths within police stations and prisons, there is a shocking pattern that comes to light. That is why the procedural safeguards, independent investigations, and presumptions regarding burden of proof in "closed-door" offenses have developed in case law.

A recent judgement by *Chhattisgarh High Court* (26 July 2025) highlights the need to resolve this issue, which upheld that the death of a detainee was homicidal but reduced the conviction of four policemen from murder to culpable homicide not amounting to murder on the ground that the officers had sought "to teach him a lesson" rather than kill him.³ The court condemned the police for their inability to account for 26 injuries incurred in custody, but concluded murderous intent was not proved beyond reasonable doubt. The language used by the court, that is "teach him a lesson", expresses a pervasive disciplinary culture that undermines legality, transparency, and public trust.

³ Chhattisgarh High Court – PDF order noting “teach him a lesson,”, July 26, 2025
<https://highcourt.cg.gov.in/news/2025/july/26072025/15.pdf>

The contrast is stark, India's Supreme Court has assiduously constitutionalized custodial protections, but secrecy in micro-sites of power, the police station cell, the switched-off camera interrogation room, the remand corridor, continues to deliver deaths that the State finds difficult to explain credibly. Justice behind bars requires clear light, yet transparency is patch.

A. Research Questions

1. How effective are constitutional safeguards and judicial guidelines in preventing custodial deaths in India, and what are the key gaps between law and practice?
2. To what extent has the National Human Rights Commission (NHRC) ensured accountability and transparency in custodial death cases, and what systemic limitations impede its effectiveness?
3. How does India's reluctance to ratify the United Nations Convention Against Torture (UNCAT) affect its commitment to international human rights standards and the protection of detainees?
4. What structural reforms—legal, institutional, and technological—are necessary to strengthen transparency, accountability, and victim-centered justice in cases of custodial deaths?

B. Research Objectives

1. To critically analyze constitutional provisions, statutory safeguards, and judicial precedents addressing custodial deaths, while identifying the persisting enforcement challenges.
2. To evaluate the role, powers, and limitations of the NHRC in custodial death inquiries, with emphasis on its effectiveness in ensuring accountability and deterrence.
3. To examine India's non-ratification of UNCAT within the context of international obligations and assess its implications for domestic anti-torture mechanisms.

4. To propose a reform-oriented framework that incorporates anti-torture legislation, independent oversight, technological safeguards, and medical transparency to reduce custodial fatalities.

C. Research Methodology

The research follows on a qualitative and analytical framework, relies majorly on secondary sources to dive into the subject of custodial deaths in India. The research based on the constitutional provisions, judicial cases, statutory regulations, and international treaties, followed by reports of the National Human Rights Commission, the National Crime Records Bureau, and civil society reports. Academic journals, law commission reports, and news reports have also been studied to record both legal and human aspects. By combining these reports, the research aims to critically examine systemic failings and suggest reforms based on transparency, accountability, and human dignity.

IV. CONSTITUTIONAL FRAMEWORK AND INTERNATIONAL BASELINE

Power inside custody is unlike power anywhere else; it is absolute, unmonitored, and exercised over the most vulnerable. In the walls of a cell, power transforms from authority into domination, from discipline into cruelty. Custodial deaths are not accidents; they are the most visible fractures of a system where unchecked power thrives on secrecy. Every unexplained death in custody is not just a failure of law, but a grim reminder that when power is allowed to escape scrutiny, it ceases to protect and begins to consume.

The Indian Constitutional framework establishes an unambiguous commitment to the Protection of life, dignity and liberty of every individual. Though it is nowhere expressly provided for either in our statutes or the Constitution, but there are a set of principles that for a century been considered as fundamental to our Criminal Jurisprudence⁴:

⁴ [Svpna.gov.in/static/docs/14_custodiandeaths.pdf](https://svpna.gov.in/static/docs/14_custodiandeaths.pdf)

The Burden of Proof is on the prosecution to prove the guilt of the accused and not on the accused to prove his innocence as laid in the *Woolmington Vs. Director of Public Prosecutor*, 1935 A.C. 462 and followed by the Indian Courts.⁵

A. Article 21 and the Concept of Dignitarian Custody

The constitutional right to life and personal freedom under Article 21, by way of judicial interpretation, has evolved into a dignitarian right. The Supreme Court has held that “life” under Article 21 involves more than mere survival; it includes the right to live a life of dignity, decency, and freedom from degradation ⁶(*Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608). ⁷This dignitarian interpretation of Article 21 becomes constitutionally determinative in the custodial context, where the State’s authority to detain intersects with its duty to respect the irreducible core of human dignity. In *D.K. Basu v. State of West Bengal* (1997), custodial torture was defined as a ‘naked violation of human dignity’ and against and contrary to constitutional morality.⁸ The Court’s insistence on procedural protection during arrest and detention confirms that legality is not enough to legitimise custody- it has to meet the standard of substantive dignity as well.⁹

In May 2025, the Supreme Court passed a landmark judgement in the custodial death case of Deva Pardhi, a young tribal male from Madhya Pradesh who is said to have died after being subjected to gruesome third-degree police torture. ¹⁰The Court expressed deep concern over the manner in which state authorities dealt with the matter, observing how the police thwarted justice by keeping back the FIR filing, manipulating post-mortem reports, protecting the accused officers, and going to the extent of attacking the prime eyewitness as well. The bench ruled that all these actions were not just careless but constituted an attempt to disrupt the rule of law.

Reasserting the constitutional imperative under Article 21, the Court adjudged custodial death to be a basic distortion of the right to life, dignity and equal justice. In

⁵ *Woolmington Vs. Director of Public Prosecutor*, 1935 A.C. 462

⁶ *Maneka Gandhi v. Union of India*, (1978), 1 SCC 248

⁷ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608

⁸ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416

⁹ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260

¹⁰ *Hansura Bai v. State of Madhya Pradesh* (2025) 2025 INSC 711

its emphatic observations, the Court further elaborated on the doctrine of “Dignitarian Death”. The Court asserted that any custodial death, even where life is itself fading away, cannot be trivialized into secrecy, denial or indignity. Therefore, dignitarian custody converts Article 21 from a shield against unlawful deprivation of life into a structural restraint on State Power- ensuring that even the most vulnerable and marginalised, when put into behind bars, are still owed the complete protection of dignity as the heart and essence of essential rights.¹¹

B. Public Law Compensation: From Nilabhati Behera to Structural Remedies

The development of custodial rights jurisprudence in India indicates a transition from simple declaratory acknowledgement of violations to the establishment of public law remedies. Previously, compensation for wrongful actions by State officials could be sought only through private law in tort, involving prolonged litigation and establishing negligence.

In *Nilabhati Behera v. State of Orissa* (1993) 2 SCC 746, the Supreme Court firmly designed and directed a public law remedy of Compensation for Custodial Death. The Court ruled that monetary relief could be granted directly under Article 32 and 226 for the infringement of fundamental rights, regardless of private law remedies. Justice J.S. Verma, on behalf of the bench, noted that a ‘mere declaration of rights without remedial relief would render the guarantee of fundamental rights illusory’. Through this transition of the remedial framework from tort law to Constitutional law, Nilabati Behera formalised compensation as a central aspect of the enforcement of Article 21.

Later Judgments Consolidated this jurisprudence. In *D.K. Basu v. State of West Bengal* (1997), the Court asserted that public law compensation is not only restitution to the family of the victim but also a deterrent against future infringements. Therefore, the public law compensation doctrine has evolved from an extraordinary judicial innovation in Nilabati Behera to a constitutional structural mechanism, infusing and blending accountability features into the justice system.

¹¹ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

C. UNCAT and India's Reluctant Ratification

The international legal framework has historically accepted torture and custodial brutality as absolute prohibitions under both customary international law and treaty law. *The United Nations Convention against torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT, 1984)* is the most advanced worldwide mechanism to avert torture, requiring State Parties to criminalize torture in national law, ensure preventive mechanisms, and provide enforceable remedies to the victims. India ratified the Convention in 1997 but has notably refrained from doing so. Ratification would commit India to implementing a separate anti-torture law, which successive administrations have been unwilling to do, citing already existing protection under the *Bhartiya Nyaya Sanhita* and the Code of Criminal Procedure. Nonetheless, not only the Law Commission of India in its 273rd Report (2017) but also the Select Committee of Parliament on the Prevention of Torture Bill (2010) emphatically advised ratification, citing the insufficiency of existing legislation to handle custodial torture in conformity with international norms. India's non-ratification not only undermines its ability to enforce its constitutional assurances against custodial torture but also erodes its legitimacy as a constitutional democracy that believes in the rule of law

V. STATUTORY AND REGULATORY FRAMEWORK: FROM ARREST TO ACCOUNTABILITY

The life of an accused person passes through a web of statutory and regulatory safeguards, starting with arrest and running sometimes right up to a custodial death. Ideally, these protections are meant to avoid misuse and provide transparency. But the fact that custodial deaths do take place and are being reported suggests the inability of law to convert from written word to action. In order to critically evaluate this lacuna, it is necessary to first know the statutory regime that governs arrest, detention, and accountability in India.

A. Arrest and Production before Magistrate

The first stage in custody begins at arrest. The Constitution of India under Article 22(1) ensures that an arrested individual will not be detained without being informed of the reason for arrest and will have the right to consult a legal practitioner of their choice.¹²

1. Under the *Code of Criminal Procedure, 1973 (CrPC)*, Section 57, the police are not allowed to detain an accused for over 24 hours without producing them before a nearest magistrate.¹³ This section's emphasis on protection of individual's right to liberty that is ensured under Article 21 of the Constitution of India, also this section makes sure of preventing the arbitrary and illegal detention.
2. This paradigm has been followed in the *Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)*, Section 58, to reaffirm that production before a nearest magistrate within 24 hours is mandatory.¹⁴

This legal provision is the first checkpoint against arbitrary detention. Yet, there are several reports of unlawful detentions that indicate the gap between practice and law remains to pose a threat to lives in detention.

B. Police Custody and Judicial Custody

The police custody refers to the period during which an accused is in an immediate custody of the police, usually for the purpose of interrogation and collection of evidence.

1. Under Section 167(2) of the *CrPC*, police custody can be seeking after taking the accused before a magistrate.¹⁵ The law strictly limits such custody to a maximum of 15 days within the first stage of remand. However, this time limit can further be extended up to 90 days in consideration of heinous offences and 60 days for others.

¹² Constitution of India, Article 22(1).

¹³ Code of Criminal Procedure, 1973, section 57.

¹⁴ Bharatiya Nagarik Suraksha Sanhita, 2023, s 58.

¹⁵ The Code of Criminal Procedure, 1973, section 167(2).

2. The newly enacted *Section 187(2) of the BNSS, 2023* maintains this very same principle but it adds more clarity, that the police custody does not have to be continuous and can be applied in parts within the first 15 days of remand.¹⁶ This provides greater flexibility for investigation while limiting the total period.

On the other hand, judicial custody, begins when the accused is sent to the prison on remand as per the direction of a magistrate. The jurisdiction over the accused passes from the police to the judicial side here, and the individual is accommodated in a jail under the guard of prison officials. In judicial custody, the suspect is no longer in the immediate physical custody of the police, but the latter can apply to the court for further questioning within prison if needed.

Under *Section 167(2)(a) of the CrPC*, the maximum duration of judicial custody is¹⁷:

1. 60 days for offences which is punishable with an imprisonment less than 10 years.
2. And 90 days for offences which is punishable with death, life imprisonment, or imprisonment, exceeding 10 years.
3. If the investigation is not completed and a charge-sheet is not filed within this period, then the accused have the right to statutory (default) bail.

The BNSS maintains the same framework in *Section 187(2)(a)*, which ensures that the safeguards around maximum detention and default bail remain untouched.

C. Legal Safeguards against Custodial Torture

Various statutory provisions act as a safeguard:

1. **Indian Penal Code, 1860 (IPC)/ Bharatiya Nyaya Sanhita, 2023 (BNS):**
 - *Section 330 IPC/ Section 120 BNS*: it punishes voluntary causing of hurt to extort confession.
 - *Section 331 IPC/ Section 120 BNS*: it punishes causing of grievous hurt to extort confession.
 - *Section 302 IPC/ Section 103 BNS*: it punishes offenders, who commits murder with punishment up to death, life imprisonment and shall also be liable to fine.

¹⁶ Bharatiya Nagarik Suraksha Sanhita, 2023, s 187(2).

¹⁷ The Code of Criminal Procedure, 1973, section 167(2)(a).

2. Evidence Act, 1872 / Bharatiya Sakshya Adhiniyam, 2023 (BSA):

- Both laws recognise that confessions made to police officers are not admissible in court (*Section 25 of the Evidence Act / Section 22 of the BSA*). This ensures that confessions obtained through coercion or torture cannot be used against an accused.

VI. JUDICIAL RESPONSE TO CUSTODIAL DEATHS IN INDIA: A TIMELINE OF LANDMARK CASES

*"Custodial violence, including torture and death in the lock-up, strikes a blow at the rule of law, which demands that the powers of the State be exercised in accordance with the Constitution"*¹⁸ as stated rightly by Supreme Court of India in *State of M.P. v. Shyam Sunder Trivedi* (1995).

The Indian judiciary has been instrumental in dealing with the widespread and critical issue of custodial violence and custodial deaths, holding them as being in gross violation of the fundamental right to life guaranteed under Article 21 of the Constitution. In a series of landmark judgments, the Supreme Court has not just granted relief to the victims and their family members but has also established preventive, remedial and reformatory steps to prevent custodial deaths. The jurisprudence grew over a period of time, with every case bringing another facet to the legal structure.

The first substantial move was made in *Nilabati Behera v. State of Orissa* (1993)¹⁹, wherein the mother of a young boy who passed away in police custody approached the Court under Article 32²⁰. Here, the Supreme Court, by Justice J.S. Verma, declared that the right to life under Article 21 cannot be excluded even in custody and that the State is strictly bound to safeguard it. The Court granted monetary damages to the mother, highlighting the fact that the remedy in public law is different from civil or criminal liability and is open for infringement of basic rights. The case set up the principle of constitutional tort and made the State directly answerable for paying

¹⁸ *State of M.P. v. Shyam Sunder Trivedi* (1995)

¹⁹ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746

²⁰ INDIA CONSTITUTION. ARTICLE 32.

compensation to victims of custodial deaths. It was a landmark moment as it turned custodial death from being simply an issue of public excess into a violation of basic rights, enforceable against the State itself.

Soon after, in *State of M.P. v. Shyam Sunder Trivedi (1995)*²¹, the Court dealt with the evidentiary issues which usually crop up in cases of Custodial Violence. As Torture and killings take place behind closed doors, victims or their families cannot possibly come up with direct evidence. Keeping in view this impossibility, the Court held that in these situations, rigid adherence to direct evidence would thwart justice. In such a situation, the judiciary has to be content with circumstantial evidence and make negative inferences where an individual last seen alive in the police custody is found dead. This ruling was pivotal in that it eased the burden of proof, recognized the unequal bargaining positions of victims and the State, and emphasized that denial of justice in these situations would undermine the rule of law.

The most comprehensive framework was provided with *D.K. Basu v. State of West Bengal (1997)*²², in which the Court, alarmed at the number of custodial deaths on the rise, established a comprehensive code of procedure for arrest and detention. The regulations specified that police officers put on proper identification, that an arrest memo is made and verified, that the relatives or friends of the arrested subject must be notified promptly, the medical check-ups must be done regularly, and the arrested subject must be presented before a magistrate within 24 hours.²³ These preventive measures were framed to safeguard the dignity and life of those in custody and have been considered binding law ever since. This ruling remains one of the pillars in the struggle against custodial violence, instilling human dignity as the core of Article 21.

Subsequently, in *People's Union for Civil Liberties v. State of Maharashtra (2014)*²⁴, the Court moved on to extrajudicial executions, commonly referred to as police "encounters", some of which were purported to be fabricated custodial deaths. The Supreme Court issued sixteen elaborate guidelines, mandating mandatory

²¹ State of M.P. v. Shyam Sunder Trivedi, (1995) 4 SCC 262

²² D.K. Basu v. State of West Bengal, (1997), 1 SCC 416

²³ National Human Rights Commission, Guidelines on Custodial Death/ Rape Cases(1993)

²⁴ People's Union for Civil Liberties v. State of Maharashtra, (2014) 10 SCC 635

registrations of FIRs, independent investigation by the CID or another police station, magisterial inquiry, and reporting to the National and State Human Rights Commissions.²⁵ This ruling was important as it went beyond police-lock up custodial death jurisprudence to embrace encounters, upholding the principle that no police killing can go unexamined by the Courts.

Technology's role in warding off custodial torture was touched upon in *Paramvir Singh Saini v. Baljit Singh (2020)*²⁶. The Court ordered the deployment of night vision and audio capturing CCTV cameras in all interrogation centres and police stations and secure preservation and storage of the same. It also ordered monitoring by State and District Human Rights Committees. This decision recognized the shortcoming of the conventional barriers and brought electronic surveillance as a contemporary means to dissuade torture and promote accountability. By basing itself on impartial evidence instead of disputed testimonies, the Court endeavoured to make custodial environments transparent.

Last but not least, in the line of *Prison Condition PILs*, starting with the Inhuman Conditions in 1382 Prisons (2016),²⁷ the Court *Suo moto* noted the abysmal condition of prisons in India, where overcrowding, the absence of medical facilities, and custodial apathy tended to result in fatalities. By way of ongoing mandamus, the Court gave directions to enhance infrastructure, install open jails, and provide legal aid clinics²⁸. These directions expanded the scope of custodial death jurisprudence by acknowledging that these deaths are not limited to police stations alone but take place within the prison structure too.

Considered together, these decisions show an improving judicial attempt to fight custodial deaths on several fronts. Nilabati Behera established State liability by way of compensation, Shyam Sunder Trivedi resolved issues of evidentiary onus; D.K. Basu instituted preventive measures; PUCL stretched the accountability cover to reach encounter deaths; Paramvir Singh Saini employed technology to ensure monitoring.

²⁵ Law Commission of India, 152nd Report on Custodial Crimes (1994)

²⁶ *Paramvir Singh Saini v. Baljit Singh*, (2020), 3 SCC 635

²⁷ *Inhuman Conditions in 1382 Prisons*, In Re, (2016) 3 SCC 700

²⁸ National Crime Records Bureau (NCRB), Prison Statistical India (latest available report).

The path traces a jurisprudence that has shifted from individual relief to institutional responsibility and preventive reform, not viewing custodial deaths as isolated instances but as structural lapses subverting the constitutional guarantee of life and dignity under Article 21.²⁹

VII. REPORTS AND STATISTICS: WHAT DO THE NUMBERS SAY?

When we are discussing "justice behind bars," statistics aren't mere figures rather they're testimony from behind the gates most of us never see. India monitors custodial deaths along two separate tracks: custodial deaths in police custody and judicial custody. The picture revealed is lopsided, improving in some quarters, and seriously distressing in others.

A. Police Custody Deaths

The *National Crime Records Bureau (NCRB)* recorded mid-70s police-custody deaths in 2022 across the country. Various interpretations of the identical NCRB tables (remand versus non-remand) produce slight discrepancies, which shows some reports tally 75 deaths, while others report 73.³⁰ In either case, the figure falls within the same tight range and is in line with the previous several years. Looking in a longer-term perspective, an independent examination of NCRB time series records an average of 92 custodial deaths in police-custody deaths annually from 2000–2022.³¹ The highest number was recorded in 2005 with 128 deaths, followed by 118 each in 2007 and 2013. The lowest was in 2010, with 70 deaths. The persistence of the average, apart from training, oversight structures, and court directives indicates embedded risks at the first point of contact with the system.

Accountability is the exception. For instance, in 2021 the Crime in India report documented 88 deaths in police custody, but no policemen were convicted of human-

²⁹ United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT, 1984)

³⁰ The Hindustan Times "The NCRB recorded 75 custodial deaths in 2022" (Dec. 5, 2023). <https://www.hindustantimes.com/analysis/what-data-tells-us-of-police-accountability-and-what-it-doesnt-101701781515745.html?>

³¹ Factly data article, "The Trend in Custodial Deaths in India" (July 7, 2025) <https://factly.in/the-trend-in-custodial-deaths-in-india/?>

rights abuse that year. This gap repeats throughout editions.³² Official responses to Parliament verify that the data is monitored, but also expose fragmentation as on 1 August 2023, the Lok Sabha placed state-by-state cases filed on police-custody deaths (2018–2023),³³ a reminder that most "deaths" are initially recorded as cases and then slowly progress through several agencies.

B. Judicial Custody Deaths

The figures in judicial custody deaths are much larger. The report of NCRB's Prison Statistics India (PSI) 2022 logged 1,995 prison deaths (compared to 2,116 in 2021).³⁴ Of these, 159 deaths were "unnatural," and 119 were suicides. That leaves the vast majority tagged as "natural," but unnatural deaths, particularly suicides, constitute a serious cause for concern. A separate data-driven explainer the same week confirmed the direction, 1,995 overall deaths in 2022; ~8% "unnatural"; 119 suicides (approximately three-quarters of unnatural deaths).

The problem of overcrowding and mental health stresses make these figures more comprehensible and more avoidable. India's prisons operated at 131.4% capacity as of end-2022, a structural strain in literature correlated with violence, abandonment, and self-injury.³⁵ An analysis of 2025 NCRB series synthesis in 2025 revealed that ~80% of total "unnatural" deaths inside prisons during 2017–2022 were due to suicides (779 out of 980), and the count of prisoners with noted mental illness increased sharply.

C. NCRB vs NHRC: why numbers don't always match?

The NHRC has direct complaints and notifications, and its counts tend to be higher than NCRB's because they are event-driven (complaint/information) rather than case-based and are based on a distinct reporting channel. A NHRC brief comparing the

³² Crime in India 2021 (Vol. III) summary (hosted by PARI): 88 police-custody deaths; no convictions of policemen for rights-violations in 2021. <https://ruralindiaonline.org/en/library/resource/crime-in-india-2021-volume-iii/>

³³ Lok Sabha Unstarred Q. No. 2055 (Aug. 1, 2023): state-wise cases registered regarding police-custody deaths, 2018–2023. <https://sansad.in/getFile/loksabhaquestions/annex/1712/AU2055.pdf>

³⁴ PSI 2022 coverage (LiveLaw) <https://www.livelaw.in/news-updates/ncrb-releases-prison-statistics-india-report-2022-243973>

³⁵ World Prison Brief – India <https://www.prisonstudies.org/country/india>

period 2010–2020 indicates 17,146 deaths reported in judicial/police custody during that decade, which is way beyond what figures in NCRB's annual reports.³⁶

Even the reports by civil-society organizations and the international community also mention the undercount. A 2025 synthesis noted that NCRB reported 328 police-custody deaths (2014–2022), a number many rights groups estimate as conservative.

³⁷The issue is not about whose count is "accurate," but that methodology and mandate condition the numbers.

VIII. WHY DO CUSTODIAL DEATHS PERSIST?

People who enter police or judicial custody are already terrified and vulnerable. For most of the families, the anxiety does not cease with the arrest, it occasionally turns into a horror story when a member of their family fails to return alive. Custodial deaths in India continue not due to any one reason, but due to a whole series of agonizing issues piling up on top of another: deep-rooted cultures of impunity, lack of adequate accountability and oversight, inconsistencies between law and practice, bad medical care in custody, and social attitudes that tend to dehumanize the accused too readily. The result is a pattern where tragedies repeat, reforms are promised, and families keep waiting for justice.

A. Number show this isn't rare

An official records and human-rights bodies reported hundreds of deaths in custody across recent years, mainly deaths in police lockups, in transit, and in prisons. The National Human Rights Commission and parliamentary replies shows record that are dozens to hundreds of such cases each year, and the NHRC has suggested many relief and action.³⁸ Those numbers highlight that custodial deaths are not isolated headlines but a recurring phenomenon.

³⁶NHRC brief (Sept. 12, 2022) <https://nhrc.nic.in/sites/default/files/2022-9-12.pdf>

³⁷ <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2024-pdfs/RS04122024/1039.pdf>

³⁸ <https://nhrc.nic.in/sites/default/files/2023-2-09.pdf>

B. Rules exist but they are often not followed

The landmark judgement of Supreme Court in *D.K. Basu v. State of West Bengal* (1997) establishes procedural protections like immediate medical check-up, memo of arrest, notification to relatives, and police accountability mechanisms, that aimed at minimizing abuse and making detention transparent.³⁹ In spite of these guidelines, enforcement at the grassroots level is haphazard: forms are lost, medical examinations are delayed, and reports are sometimes written to validate the official account and not the truth. This disparity between law in books and law on the ground provides opportunity space wherein rights get violated.

C. Impunity and institutional norms protect wrongdoer

Inquiries into custody deaths are most frequently carried out internally by police or by authorities that are not independent. Human Rights Watch and Amnesty International have time and again shown how incompetent investigations, coerced witness testimony, and tardy prosecutions enable police officers accused of torture or fatal violence to escape serious punishment. When officers rarely face prompt and impartial consequences then abusive practices can easily be normalized.

D. Medical neglect and inadequate custodial healthcare

Most custodial deaths result from untreated medical emergencies, torture-related injuries, or avoidable illnesses that is followed after poor clinical care. Where custodial facilities are devoid of prompt, unbiased medical examinations and where the records are incomplete or contradicted, families and investigators find it difficult to determine what transpired and lives are lost that could have been saved.

E. Social and political pressures

High-pressure investigations, political demands for speedy "results," and widespread public opinion equating accusation with unworthiness for sympathy allow such shortcuts and violent interrogation techniques to be tolerated. Recent civil society demands for an independent anti-torture law, and for independent monitoring, that

³⁹ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416

indicate increasing awareness that shows structural will be required to end this cycle rather than superficial measures.⁴⁰

IX. THE NHRC'S ROLE: PROTOCOLS, INQUIRIES AND GAPS

The National Human Rights Commission (NHRC) established by the Protection of Human Rights Act, 1993⁴¹ was envisioned as an institutional protector of basic rights where State authority comes up against individual freedom. No context illustrates this conflict more sharply than custodial deaths occurring in police stations, jails and secret detention centres hidden from public observation. Custodial death is a direct attack on Article 21 of the Constitution assuring the right to life and dignity⁴², and has consistently been deplored by courts⁴³ and international agencies. In this arena, the NHRC has acted as a principal player by prescribing procedures, overseeing investigations, and suggesting relief, although its potency remains hotly debated.⁴⁴

A. Protocols and Preventive Guidelines

In order to standardize custodial death responses, the NHRC has established clear guidelines. First, all custodial deaths should be brought to the notice of the Commission within a period of twenty-four hours, supported by a proper incident report.⁴⁵ This is done to avoid cover-ups and undue delays that habitually facilitate evidence destruction. Second, the Commission insists on a magisterial inquiry in all cases of custodial deaths, since departmental inquiries are vulnerable to conflict of interest.⁴⁶ Third, it demands that every post-mortem examination be video graphed and recorded so that evidence of torture, strangulation, or other forms of abuse may not be hidden⁴⁷.

⁴⁰ Times of India coverage of civil-society calls

<https://timesofindia.indiatimes.com/city/madurai/enact-separate-comprehensive-law-criminalising-custodial-torture/articleshow/122410028.cms>

⁴¹ The Protection of Human Rights Act, 1933, No.10 of 1994, India Code (1994)

⁴² Article 21, Constitution of India, 1950.

⁴³ Nilabati Behera v. State of Orissa, (1993) 2 SCC 746.

⁴⁴ A.P. Pathak, The Role of NHRC in India's Human Rights Jurisprudence, (2015) 57 JILI 233

⁴⁵ NHRC, Guidelines on Custodial Deaths/Rape (issued 1993; revised 2010)

⁴⁶ In Re: Death of Sawinder Singh Grover (NHRC Case No. 4/1/95-96)

⁴⁷ NHRC, Revised Guidelines for Conduct of Post-Mortem in Custodial Death Cases(2003).

Preventive steps have also been emphasized by the Commission. Highlighting the Supreme Court's judgment in *D.K. Basu v. State of West Bengal* (1997)⁴⁸, the Commission reaffirmed the significance of arrest memos, prompt medical check-ups, and the right of the arrestees to notify relatives of their detention. Besides initiatives for reconciliation, the NHRC has ordered installation of CCTV cameras in prisons and lock-ups, periodic medical examination of detainees, and supervision by district magistrates.⁴⁹ Beyond Prevention, it has upheld initiatives based on the doctrine of public law compensation set out in *Nilabati Behera v. State of Orissa* (1993)⁵⁰, routinely suggesting ex gratia payments to victims' families. Together, these protocols try to instill a culture of openness within custodial environments that have traditionally existed in secrecy.

B. Inquiry Mechanisms

The NHRC can order enquiries in cases of custodial deaths on the basis of complaints, *Suo Moto* cognizance, or even newspaper reports⁵¹. It requires reports from State Authorities, scrutinizes them, and can go for spot enquiries if necessary. By these questions, the Commission not merely holds accountable specific cases but also collects yearly custodial death statistics, a vital indicator of human rights implementation in India.⁵² But the process is frequently undermined by States' delays in complying, incomplete or evasive reports, and substandard forensic infrastructure in rural districts.⁵³

Though the NHRC has stepped into several high-profile cases and suggested compensation or disciplinary action against errant officials, the implementation of its orders is patchy. In reality, victim families have to fight for years before they get compensation, and suggestions for prosecution of erring officials are not followed through by State governments.⁵⁴

⁴⁸ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

⁴⁹ NHRC Annual Report 2017-18, Ch. 6.

⁵⁰ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

⁵¹ NHRC, Procedure for Handling Complaints (1997).

⁵² NHRC Annual Report 2020-21, Annexure B (Custodial Death Statistics).

⁵³ PUCL, *Torture, Custodial Deaths and Impunity in India* (2019).

⁵⁴ Arvind Narrain, "NHRC and the Politics of Impunity", *EPW* Vol. 38, No. 28 (2003).

C. Persistent Gaps

And yet, in spite of these guidelines, custodial deaths recur with grim frequency, exposing fundamental systemic fault lines. The NHRC's most significant drawback is that it has recommendatory powers, not binding powers⁵⁵. Even when it unambiguously concludes foul play, State governments can- and usually do- disregard its recommendations without facing any consequences. This much reduces its deterrent effect.

Second, the Commission is reliant on police or prison administration reports- the same institutions presumed to be guilty. This dependency critically undermines the credibility of investigations, ensuring a cycle in which abuses are investigated by the abusers⁵⁶. Third, underreporting is endemic. Custodial deaths are often reported as suicide or accidental deaths, which distorts statistics and ensures non-accountability.⁵⁷ Fourth, although the NHRC mandates video graphed post-mortems and quick reporting, the latter is uniformly not followed by the States.⁵⁸

These loopholes are the reasons why, in spite of NHRC's presence, custodial deaths persist doggedly. India officially reports hundreds of custodial deaths annually, although the actual number is probably greater because many are concealed⁵⁹. Rather than being a deterrent, NHRC's intervention has often been restricted to suggesting compensation after the event, instead of averting death in the initial place.⁶⁰

D. Reform pathways

For the NHRC to become efficacious in preventing custodial deaths, structural changes are the need of the hour. To begin with, its suggestions- especially regarding compensation and disciplinary action- need to be endowed with binding authority, so that States cannot escape accountability.⁶¹ Second, an independent investigative and prosecutorial branch needs to be established within the Commission, out of reach of

⁵⁵ The Protection of Human Rights Act, 1993, Section 18.

⁵⁶ K.G. Kannabiran, *Custodial Deaths and Rule of Law in India*, (1996) 31(4) EPW 2359.

⁵⁷ Asian Centre for Human Rights, *Torture in India*, 2011.

⁵⁸ NHRC, *Compendium of Advisors on Human Rights* (2020).

⁵⁹ NCRB, *Crime in India Report 2022* (Chapter on Custodial Crimes).

⁶⁰ Human Rights Watch, *Bound by Brotherhood: Custodial Torture in India* (1991).

⁶¹ Vibhuti K.I., *Human Rights and the NHRC: Need for Reform*, (2014) 56 JILI 117.

police control.⁶² This would enable credible investigations rather than a dependence on tainted reports. Third, strict timelines for compliance should be enforced, with consequent penalties for delays or lack of compliance.⁶³ Fourth, there must be greater transparency through public reporting of all custodial death cases and action taken reports, allowing civil society and the media to exercise oversight⁶⁴. Lastly, courts must become more proactive monitors of NHRC's recommendations, putting them into the overall constitutional framework of Article 21 protections⁶⁵.

The NHRC has been at the forefront of developing custodial death jurisprudence in India, bringing about protocols, prescribing inquiries, and calling for transparency but without suggestive reforms being mandated, custodial deaths will continue to mar India's democratic landscape, making Article 21 a mere promise to those most exposed to State power. ⁶⁶

X. CRISIS OF TRANSPARENCY

There are few tragedies, that are more haunting than a human life lost not on some distant or isolated battlefield, but inside a police cell or prison. And yet, one of the most grievous failures of justice is when such fatalities do take place and truth gets buried behind institutional walls. This is the crisis of transparency in custodial deaths, where protections fail, responsibility disappears, and families wait in silence.

A. An invisible system that protects the powerful

In India, the procedures of custodial death such as prompt medical examination, arrest notices, and informing family members are often ignored and this becomes a ritual. Even the courts have noted that police officers handling these cases hardly act with the speed or impartiality needed, especially when one of their own colleagues is involved. The National Human Rights Commission (NHRC) was to serve as a watchdog in protecting the rights of the people and it says all custodial deaths have

⁶² Justice J.S. Verma, NHRC's Contribution to Human Rights Jurisprudence in India, NHRC Silver Jubilee Lecture, 2018.

⁶³ NHRC, Advisory on Custodial Deaths (2015).

⁶⁴ Commonwealth Human Rights Initiative(CHRI), Stolen Lives: The Continuing Crisis of Custodial Deaths in India (2020).

⁶⁵ People's Union for Civil Liberties v. State of Maharashtra, (2014) 10 SCC 635.

⁶⁶ Amnesty International India, Justice Under Trial: Custodial Deaths in India (2018).

to be reported to it within 24 hours, and it has to push for inquiries.⁶⁷In practice, the NHRC often stops at recommending compensation and cases seldom result in prosecution. Investigations are typically passive and often lacking independent spot-checks and plagued by chronic delays. From April 2012 to June 2015, of the 432 deaths in custody reported to the NHRC,⁶⁸ just three deserved disciplinary action, and none resulted in prosecution, which the vicious cycle they always follow.

B. The data desert

India's official data paint a grim picture, that shows there are more than 2,300 custodial deaths alone in 2021-22, and more than 11,650 deaths between 2016 and 2022.⁶⁹But behind these figures is another reality, which eventually conclude that the investigations are a rarity. Between 2017 and 2022, only 345 magisterial inquiries were initiated, resulting in mere 123 arrests and only 79 cases with charges, merely skimming the surface of justice.⁷⁰In a single state alone (Tamil Nadu), 39 inquiries were conducted, with no convictions. A closer examination unearths the appalling dearth of convictions. In ten years, there had been over 1,000 custodial deaths, yet only four police officers had been convicted, three in 2013 and one in 2010.

C. Legal and investigative gaps

India has constitutional guarantees and legislation like Articles of Constitution, the CrPC (now BNSS), the IPC (now BNS) that meant to protect against custodial deaths but still there is weak enforcement. For instance, there is a Section 330 IPC (Section 120 BNS) that clearly imposes a maximum of seven year of imprisonment for torture, but convictions are few. In the landmark case of *DK Basu v. State of West Bengal*⁷¹, certain guidelines were given such as medical examination and arrest memos but still these guidelines are not followed by the police officials, which is a quite gruesome situation for an individual who is behind the bars and his/her family. This unsatisfied circumstances are not end here, there are also other barriers like the lack of a separate

⁶⁷ Human Right Watch, bound by brotherhood- India's failure to end killings in police custody

⁶⁸ Supra note 19

⁶⁹ The New Indian Express, Custodial Death- The Police line we need to cross.

⁷⁰ Supra note 21

⁷¹ Supra note 17

anti-torture act, non-ratification of the UN Convention Against Torture (UNCAT), late inquiries, and institutional resistance to charging officers which make the case even worse.

D. Inequality in custody

It is found that violation of rights during custodial abuse has become a common phenomenon and police officials thought that they can extort information by using illegitimate force on the accused but experts say that majority of the custodial death victims are predominately from marginalized communities. People who come from higher class have greater influence over the police officials, they can use their power and easily get rid of this situation but the people from poor and underprivileged groups often face such problems and have to go through the entire system where police officers take advantage of their own power. According to NHRC records, from 1996 to 2018, 71% of the dead detainees belonged to poor or vulnerable sections of society.⁷² This is a vicious reflection of how caste, class, and systemic discrimination intersect within the police. There is also a problem of erratic reporting as the National Crime Records Bureau (NCRB), NHRC, and civil society organisations regularly report radically different numbers for the same year. For example, in 2020, the NCRB reported custodial deaths at 76, the NHRC at 90, and the National Campaign Against Torture recorded 111. This fallacious reporting shows, that how there is a larger gap between our system and law.

E. A voice in the void: A case that brought hope

In July 2025, in Tamil Nadu, a gruesome custodial killing of an individual happened, named Ajith Kumar, who was brutally beaten up and it was officially certified as a state killing. This incident elicited unprecedented quick action like arrest, suspension, CBI inquiry, and land for victim's family.⁷³ Civil society organizations called on Tamil Nadu to enact a specific anti-torture law and establish independent scrutiny. But such accountability is the exception, not the rule, a flash in an otherwise relentless cycle of impunity.

⁷² Supra note 21

⁷³ Deccan Chronicle, Madras HC Orders Rs 25 Lakh Relief in Ajith Kumar Custody Death.

XI. REFORM ROADMAP: A PATHWAY TO HUMANE JUSTICE

Following are the reform roadmap to address custodial death:

A. Illuminate the crisis: understanding the scope

It is a sad reality in India for people to die in police or judicial custody. There are myriads of cases in India that highlight the issue of police officials using undue force for extracting information from the people. The most saddening part is that the very same institution who promises to protect the people are involve in tormenting them as well and these abuses are mostly misreported because no one is ready to take the accountability for their vile act. Even in the last fiscal year 2021–22, the NHRC counted 2,152 deaths in judicial and 155 in police custody up to the end of February 2022. There are many states like Uttar Pradesh, Maharashtra, West Bengal and Tamil Nadu, where cases of police or judicial custody are much more higher than the other states. Also, with no open data, the problem is out of sight, so to prevent such crisis it is advisable to build a database that shows the exact number of number of deaths, footage status, inquiry outcome and early disclosure of post-mortem. It is also very imperative to provide legal aid to the families of such victims.

B. Enact specific anti-torture legislation

In India, custodial torture or abuse is very much prevalent, even though government officials have reiterated that using of illegitimate force by the police officers on an individual, who is in police or judicial custody is illegal. There is no specific law governing the custodial torture in India and presently the only general legislation that we have is Section 125(8) of the Bharatiya Nyaya Sanhita, which punishes only "unlawful confinement for extracting confession", with punishment up to three year of imprisonment.⁷⁴ This is poor enough to deal with custodial torture. To get rid of such crisis we need a proper anti-torture law with stringent punishment and penalties to deter custodial torture and fatalities.

⁷⁴ The Times of India, enact separate, comprehensive law criminalizing custodial torture, July 13, 2025.

C. Leverage technology with responsibility

With the widespread use of technology everywhere, we can easily understand that it can help prevent custodial deaths. But, we can also not ignore the fact that technology can either hide or protect the truth, as we have seen many cases where the cameras are not properly working inside the prison. Recently, Maharashtra's human rights commission blamed a prison death on negligence and penalized officials for non-working CCTV systems. It also suggested to draft a formal Standard Operating Procedure (SOPs) for CCTV maintenance.⁷⁵ For better assurance of fairness, it is advisable for custody areas and post-mortems to be recorded using tamper-proof, auditable systems under independent oversight.

D. Medical oversight

Medical oversight in custodial deaths have to follow a certain set of guidelines which are already established. Post-mortems should not only tell stories but it should be indispensable to serve the truth. NHRC's initiative for video-filmed autopsies was prompted by concerns about doctored or carefully selected reports.⁷⁶ A national mandate for custodial deaths is to establish an independent forensic analysis with video recording, chain-of-custody requirements, and periodical audits.

E. Redress and victim-centered justice

Justice should not only mean reforms, it should also mean giving recognition. So, it is pertinent to recognize the rights of victims, such as maintaining transparency, speedy inquiries, and giving compensation to the families of victims. Recently, NHRC hearings (e.g. Odisha) have led to relief such as compensation and speeding up of inquiries.⁷⁷ State human rights commissions now provide compensation (e.g., ₹5 lakh) and insist on accountability in states such as Maharashtra.⁷⁸ So, this proves that an empathetic policy prevents families from being left behind in pain and tragedy.

⁷⁵ The Times of India, Maharashtra human rights panel recommends Rs. 5 lakh compensation for prison death, seeks action against jail authorities, June 24, 2025.

⁷⁶ Ministry of home affairs, selected guidelines on custodial deaths.

⁷⁷ Press information bureau, NHRC India concludes its two-day Odisha open hearing and camp sitting in Bhubaneswar.

⁷⁸ Supra note 27

XII. CONCLUSION

Custodial deaths not only highlight the failure of the enforcement of law, but also represent moral breakdown in the democratic nature of India. The moment a person is dragged into custody, the State takes complete charge of protecting his safety, dignity, and life. But repeated cases of torture, abuse, and mysterious deaths show how custodial areas have largely become places of terror instead of safety. These constant fatalities underscore how families of victims are deprived of justice and destroy the integrity of institutions established to serve the country and its people. "*The true measure of any society can be found in how it treats its most vulnerable members*" as correctly narrated by Hubert H. Humphrey, 1977 Democratic National Convention.⁷⁹ Nothing highlights the decay of that measure more than custodial killings on the name of extracting confessions.

There are many legal frameworks, aided by landmark judgements; affirming that the prisoners are rights-holding persons and they all deserve dignity under Article 21. But enforcement gaps, absence of independent investigation, and the culture of impunity further undermine these safeguards. Statistics also establish the continuity of the issue, while institutional mechanisms such as the NHRC, despite their many efforts, remain unable to resolve it and instead provide only recommendations. The failure to ratify UNCAT also indicates a lack of enthusiasm to bring national law strictly under the umbrella of international norms of human rights.

A humane way forward needs more than judicial protection, it requires a structural commitment to accountability, transparency, and compassion. Passing certain anti-torture legislation, holding credible and police-independent investigations, and offering effective medical and mental health treatment in detention are immediate necessities. In addition to legal change, there must be a cultural shift also, one in which the dignity of each detainee is seen not as a form of charity, but as a constitutional right. It is only when the State treats even prisoners humanely that democracy can

⁷⁹ Hubert H. Humphrey, Speech at the Democratic National Convention (1977), cited in Garson O'Toole, Quote Investigator (2013), <https://quoteinvestigator.com/2013/10/29/society-measure/>

properly boast of safeguarding justice. In such a context, safeguarding against custodial deaths is not merely legal reform, it is a moral imperative.

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