

# A Study on Police Accountability and Custodial Violence in India

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**ABSTRACT** – The present study aims to critically analyse the cases of custodial violence in the nation and also crucially examine the reasons of custodial deaths in India. The study attempted to enrich the existing literature on “A Study on police accountability and custodial violence in India”. In the study, the custodial violence has been divided into three categories namely physical, sexual and psychological. Various reasons have been encountered for the custodial deaths such as suicide, death due to treatment in the hospital, injuries sustained prior to custody, physical assault by police, while escaping from custody, road accidents connected with the journey etc. The study gives various recommendations to improve the police administration and foster the need for reforms in the working of police officials.

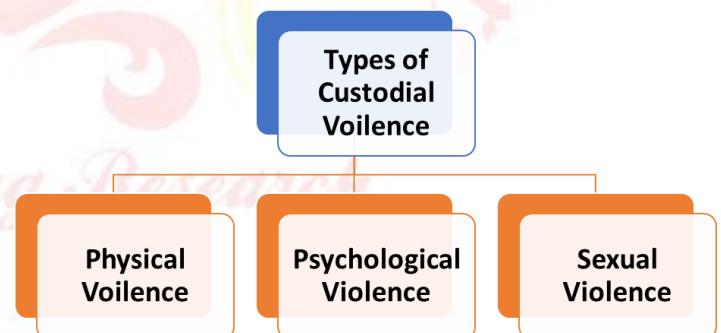
**Keywords:** *Police accountability, Custodial Violence, Misuse, Death*

## I. Introduction

Custodial deaths have been a major issue in the nation. The violence in the custody of the police leads to death of the criminals. The police authorities treat the prisoners very badly often they torture the prisoner and force them to commit suicides. There is a need of reforms in the police administration and it is always the point of debate with regard to custodial deaths. The custodial deaths are major reason of creating fear in the mind of prisoners. In the custody of the police the prisoners are tortured physically and mentally.

A study by Anand & Anurup 2020 evaluated custodial death as curse to humanity. In most of the cases it has been seen that the reason that is shown for the deaths of the criminals in the jail is not the custodial deaths rather it is the suicide or the death during the treatment in the hospitals. This issue is against the humanity and put human rights at stake. There are some other reasons for the death of prisoners such as malnutrition, unhygienic conditions, lack of medical care and overcrowding but the custodial deaths remain the major cause of death of criminals in the police custody. A study by Rani & Sharan (2018) focused on the need for transformation in the custodial deaths and police needs to be accountable for all their wrongdoings. In the process of investigation, the police often use third degree torture which leads to the death of the prisoners. The police in order to collect the evidence sometimes cross their human limits and humiliate criminals. The police often at the time of arrest causes discomfort to the

prisoners. The process of interrogation also affects the mental stability of the criminals and police misuses it to certain limits. Donald R Cressy, *The Prison* (New York): The author of the book stated that the countries having low per capital income are more prone to events of custodial violence and countries that are economically advanced also disrespect humans and they put humanity at stake. Aston & Paranjape (2011) in his study focused on reframing the Indian Police System. The cases of voluntary imprisonment also affect the human dignity and social welfare. The Supreme Court in the various judgements has conceded criticism against police torture and viciousness on prisoners, under-trials and accused persons.



*Source: Collated by author*

## II. Types of Custodial Violence

1. **Physical Violence:** It is basically the coercion and physical harm caused to the criminals during the process of interrogation.
2. **Sexual Violence:** The language used by the policemen is disrespectful and it can have far reaching impact on the mental health of the prisoners. The sexual abused can be caused by oral communication and it is harmful for the dignity of the human rights.
3. **Psychological Violence:** The mental torture and not providing requisite information to the patients affects the mental health of the prisoners. This may have long lasting impact on the metal stability of the criminals.

## III. Legal Requirements for Custodial Violence in India

The following provisions were decreed to control the propensity of policemen to recourse to torture to excerpt confessions, etc.:

- Sections 330, 331 & 348 of Indian Penal Code (IPC)
- Sections 25 & 26 of the Indian Evidence Act
- Section 76 of Code of Criminal Procedure (CrPC) and Section 29 of the Police Act, 1861

## IV. Other important constitutional provisions are as follows:

- Protection from torture is a fundamental right enshrined under Article 21 (Right to Life) of the Indian constitution
- Section 41 of the Criminal Procedure Code (CrPC) was amended in 2009 to include safeguards under 41A, 41B, 41C and 41D, so that arrests and detentions for interrogation have reasonable grounds and documented procedures, arrests are made transparent to family, friends and public, and there is protection through legal representation
- Article 21 of the Indian Constitution provides that no person shall be deprived of life or personal liberty except according to the procedure established by the law

## V. Reasons of Custodial Violence in India



In India there are no stringent acts to punish the people guilty of Custodial Violence. The role of politicians has increased in preventing the culprits from going to jail because of acts of custodial violence. The complete prison organization is characteristically dense giving less room for transparency. In India prisons continued to be exaggerated by deprived surroundings, congestion, severe manpower scarcities and minimal security against destruction in reformatories. The police officials work under thrilling pressure and in cases of a quick solution to complex cases, they elect ferocity to get evidence and admissions. Seeing the approach of “an eye for an eye”, the people in supremacy selected to practice fierceness to get out material from the one’s suspects of a wrongdoing. India had signed the United Nations Convention Torture in 1997 but its insinuations are yet to be compulsorily followed in the nation. The police authorities have less time for performing their duties that’s why they harm criminals in the process of interrogation, they sometimes face pressure from higher authorities and acute working hours also

## VI. Prevention of Custodial Violence - The Way Forward

There is a need of giving proper training to the police officials so that they can understand the humanity and treat the criminals with due respect and dignity. The training should focus on how during interrogation period to take confessions from the criminals what process should be followed. There is need to install proper CCTV cameras in the police stations so that how they ill treat the criminals can be properly monitored



and necessary steps can be taken to take proper penal actions. There is need of reforms at the international level to prevent the instances of judicial and custodial violence. The proper work environment should be given to the police officials so that they remain calm and composed at the work place. It has been fostered in many Laws Commission those mere administrative punishments are not sufficient rather strict criminal prosecution is required to punish the guilty police officials. India should focus on reforming the polices related to the arrest, detention and imprisonment of the criminals.

As per the report of National Crime Records Bureau the Highest number of deaths in the year 2020 have been reported in Gujarat i.e., 15 custodial deaths of criminals who were not in remand and in Haryana there were only 3 custodial deaths. There no instances of custodial deaths in Haryana of the criminals who were on remand in the year 2020. There was total 43 custodial deaths (Persons not in remand) in India and 33 custodial deaths of the criminals of those who were on remand in the year 2020. There are several reasons of the custodial deaths, as per the report NCRB 2020 the following reasons could be there such as suicide, death due to treatment in the hospital, injuries sustained prior to custody, physical assault by police, while escaping from custody, road accidents connected with the journey etc.

## VII. Case Laws on Custodial Deaths

### A. Custodial Death of Ghatkopar Blast suspect

Sayyed Khwaja Yunus, age 27 years, a software engineer, inborn of Parbhani was detained by the Mumbai police in linking with a bomb blast at BEST bus at Ghatkopar in December 25, 2002. Yunus was booked under the Stringent Prevention of Terrorism Act. Due to Assistant Police Inspector Sachin Waze third degree “modern techniques” led to Yunu’s death. The Assistant Police Inspector perforated him on stomach and decanted ice cold water on him. He died on the spot.

Sachin Waze was accused of covering a custodial death and that of making a false plan that Yunus escaped their custody near Palmer, Ahmednagar when he was taken for further examination at Parbhani.

### B. Sangli Custodial Deaths

In November 2017, one Mr. Aniket Kothale was caught for burglary and was later killed as a result of police torment and mayhems. In an attempt to hide the actions of custodial death, the police had tried to burn the mortal remnants of the body,

however, the same was found two days after his bereavement. The police also made an effort at extenuating their actions by saying that the suspects were trying to escape custody.

## VIII. Findings of the study

In the study it has been found that maximum number of custodial deaths have been reported in the state of Gujarat. The reasons of the custodial deaths are the absence of humanity in the police officials. There are no stringent laws that penalises the police officials for the custodial deaths. It is the violation of the human rights; every individual should respect the humanity and dignity of living. Various Human Right Commission have suggested for numerous reforms for holding police officials accountable and guilty for the deaths in the lockups. The reforms should be introduced and police officials need to be trained to treat the criminals with human nature.

## IX. Conclusion

The present study aims to critically analyse the cases of custodial violence in the nation and also crucially examine the reasons of custodial deaths in India. The study attempted to enrich the existing literature on “A Study on police accountability and custodial violence in India”. In the study the custodial violence has been divided into three categories namely physical, sexual and psychological. Various reasons have been encountered for the custodial deaths such as suicide, death due to treatment in the hospital, injuries sustained prior to custody, physical assault by police, while escaping from custody, road accidents connected with the journey etc. The study gives various recommendation to improve the police administration and foster the need for reforms in the working of police officials. The countries having low per capital income are more prone to events of custodial violence and countries that are economically advanced also disrespect humans and they put humanity at stake. The cases of voluntary imprisonment also affect the human dignity and social welfare. The Supreme Court in the various judgements has conceded criticism against police torture and viciousness on prisoners, under-trials and accused persons.

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