

4. Custodial Death Probe Delays – Polity

A Supreme Court panel has released a comprehensive report on prison reforms, revealing deep systemic gaps in the investigation of custodial deaths

Major Highlights of the Issue

A. Delay in Custodial Death Investigations

Severe delays occur in forensic examinations due to a 52% vacancy rate in state forensic labs, significantly slowing the process of verifying cause of death. As of 2023, 1,237 inquiries into custodial deaths remained pending for over a year in district courts. Lengthy investigations deny closure to families and weaken the possibility of prosecuting guilty officials.

B. Structural Issues in Prison Administration

Prison manuals in several states continue to use terms such as “*menial work*” and “*work of degrading character*”, reflecting a colonial and hierarchical approach to labour. In some states, work in prisons is still allocated based on caste identity, perpetuating caste-based discrimination within institutional structures. Such provisions violate constitutional morality, equality (Article 14), and dignity (Article 21).

C. Disparity in Prison Wages

Daily wages paid to prisoners vary widely—from Rs 20 in Mizoram to Rs 524 in Karnataka, demonstrating lack of standardisation. Many states pay wages far below the statutory minimum wage, undermining the principle of equal pay for equal work. Prisoners often must use these meagre wages to pay for court fees, phone calls, or personal items, causing financial distress.

D. Inadequate Mental Health Care

Jail medical officers across most states lack mandatory training specified in the Mental Healthcare Act, 2017, violating legal standards. Mental health issues such as depression, anxiety, and suicidal tendencies remain poorly identified and untreated. Prisons lack psychiatrists, counsellors, and rehabilitation programs, worsening inmate well-being.

E. Delay in Judicial Processes for Undertrials

Significant delays occur in cases where accused persons remain in custody for more than a year—often due to adjournments, police delays in filing chargesheets, and inadequate legal aid. This worsens undertrial overcrowding, where nearly 75% of India’s prisoners are undertrials, not convicts.

Custodial Deaths in India – Data Overview

Deaths in Custody (2016–2022) – India recorded 11,650 custodial deaths during this period (NHRC data). This includes both police custody and judicial custody (prisons).

State-Wise Burden – Uttar Pradesh has the highest number – 2,630 custodial deaths, indicating systemic failures in policing and prison conditions.

Magisterial Inquiries – Between 2017–2022, only 345 magisterial inquiries were ordered nationwide, leading to only 123 arrests. This indicates a low level of accountability despite high reported deaths.

Socio-Economic Vulnerability – According to NHRC, 71% of custodial death victims (1996–2018) came from poor, marginalised, or vulnerable communities. Low legal literacy, lack of resources, and social exclusion contribute to higher susceptibility.

Custodial Deaths are Rampant in India

Colonial Legacy of Policing– The Police Act of 1861, still the basis of policing in many states, emphasises control, extraction of compliance, and maintenance of order rather than citizen-centric service. Policing culture remains hierarchical, force-driven, and opaque.

Weak Accountability Mechanisms – Investigations into custodial deaths are usually conducted by the same police unit involved in the incident, leading to inherent bias. Lack of independent oversight bodies enables impunity.

C. Torture as a Tool of Investigation – Due to poor training, inadequate forensic support, and shortage of skilled investigators, police rely on third-degree methods for evidence collection. Torture is seen as a “shortcut” due to systemic inefficiencies and backlog pressure.

D. Discrimination Against Vulnerable Groups – Poor individuals, Dalits, Adivasis, migrants, and minorities are more vulnerable due to lack of access to lawyers, inability to secure bail, and fear of police retaliation. Fear of approaching authorities discourages reporting of abuse.

E. Poor Implementation of Safeguards – Constitutional safeguards (Articles 20, 21, 22), D.K. Basu guidelines, and NHRC protocols are often ignored.

Examples of violations include

1. Failure to record arrest memos
2. Not informing relatives
3. No mandatory medical examination
4. Delayed production before magistrate
5. Absence of legal counsel during interrogation

Key Concerns Emerging from Custodial Deaths

A. Erosion of Rule of Law – Systematic violations of Articles 21 & 22 show that the State is failing to protect the right to life and liberty. Public confidence in the justice system declines when police abuse remains unpunished.

B. Damage to India’s Human Rights Reputation – International criticism from UNHRC, Human Rights Watch, Amnesty International, etc. Weakens India’s ability to speak against human rights violations in global forums.

C. Perception of India as Police-State – High custodial deaths create an image of an excessively coercive State. Contrary to the idea of a democratic welfare state.

D. Weaknesses in Criminal Justice System – Lack of forensic capacity, outdated investigation methods, and slow judicial processes show systemic inefficiency. Excessive dependence on confessions instead of evidence-based investigation.

Legal & Institutional Initiatives to Curb Custodial Deaths

A. D.K. Basu Guidelines (1997) – Supreme Court issued mandatory safeguards including

1. Arrest memo with time/date
2. Right to inform relative or friend
3. Medical examination every 48 hours
4. Legal counsel during interrogation
5. Production before magistrate within 24 hours

Binding under Article 141 as law of the land.

B. NHRC Protocols – Mandatory reporting of every custodial death within 24 hours. States must submit post-mortem, videography report, and magisterial inquiry report. NHRC issues advisories and seeks compliance reports.

C. CCTV in Police Stations (2020 SC Direction) – In Paramvir Singh Saini case, SC ordered

1. CCTVs with night vision, audio recording
2. Storage of data for 18 months
3. Installation in interrogation rooms, lock-ups, corridors
4. State-level and district-level oversight committees

Ensures transparency in police functioning.

D. Judicial Oversight – High Courts and Supreme Court regularly intervene, order compensation, monitor investigations, and direct structural reforms.

E. New Criminal Laws (BNSS, BNS, BSA 2023) – BNSS (replacing CrPC)

1. Mandatory videography of search, seizure, and arrest
2. Encourages forensic methods over custodial interrogation
3. Transparency in arrest procedures

BNS (replacing IPC) modernises offences and reduces reliance on confessions.

BSA (replacing Evidence Act) strengthens admissibility of electronic evidence.

Way Forward (Expanded Recommendations)

A. Strengthen Independent Investigation Mechanisms – Create a separate police complaints authority in every district. Ensure custodial death investigations are handled by an independent agency, not the same police force.

B. Enhance Forensic Infrastructure – Fill 52% staff vacancies. Set up more regional forensic labs with modern tools and adequate staffing.

C. Improve Police Training – Mandatory training in

1. Human rights
2. Scientific investigation
3. Forensics
4. Behavioural psychology
5. Conflict management

D. Reform Prison Labour & Wage Policy – Standardise wages across states closer to minimum wages. Abolish caste-based labour assignments. Ensure social security benefits for prisoners' work.

E. Implement Mental Health Act Strictly – Recruit trained psychiatric professionals in prisons. Conduct periodic mental health assessments.

F. Reduce Undertrial Overcrowding – Fast-track bail hearings. Strengthen legal aid clinics. Promote alternatives to incarceration such as community service.

Conclusion

Custodial deaths pose a direct challenge to the constitutional promise of dignity, liberty, and justice. Despite strong judicial guidelines, statutory safeguards, and NHRC oversight, implementation gaps persist due to systemic weaknesses in policing, prisons, forensics, and accountability mechanisms. Meaningful reduction in custodial deaths requires a combination of police reforms, technological adoption, independent oversight, humane prison administration, and strict enforcement of legal safeguards. Only then can India fulfil its constitutional commitment to human rights and rule of law.

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