

## CUSTODIAL DEATHS IN INDIA

NEWS: The recent custodial death in Sivaganga district in Tamil Nadu, has once again drawn national attention to the issue of custodial practices and the treatment of individuals in police custody.

### WHAT'S IN THE NEWS?

#### Understanding Custodial Deaths

- **Definition:**
  - Custodial death refers to the **death of a person in police or judicial custody**. This may occur:
    - Before a trial (pre-trial detention)
    - During interrogation
    - After conviction (in judicial/prison custody)
- **Causes:**
  - May result from **torture, assault, negligence, denial of medical treatment, or suspicious circumstances**.
- **Violation of Rights:**
  - Such deaths **undermine the rule of law** and represent a **grave abuse of state power**.

#### Constitutional Provisions Violated

- **Article 20(1):**
  - **No person shall be punished except under the authority of law** – custodial deaths often involve extrajudicial punishment.
- **Article 20(3):**
  - **Protection against self-incrimination** – custodial torture often forces confessions, violating this protection.
- **Article 21:**
  - **Right to life and personal liberty** – custodial deaths directly contravene this fundamental right, as affirmed in multiple Supreme Court judgments.

#### Custodial Deaths in India: Data Snapshot

- **Magnitude of the Issue:**
  - As per Parliamentary data, **11,656 custodial deaths** were recorded **between 2016–17 and 2021–22**.
- **State-wise Trends:**

- **Uttar Pradesh** reported the **highest number** with **2,630 deaths**.
- Among southern states, **Tamil Nadu** had the most at **490 deaths**.
- **Important Caveat:**
  - Not all custodial deaths are due to torture or police excess; some may result from natural causes, suicide, or medical conditions – though these too need proper investigation.

### **Reasons for High Custodial Deaths**

- **1. Legal Vacuum:**
  - India has **signed but not ratified** the **UN Convention Against Torture (UNCAT)**.
  - The **Prevention of Torture Bill, 2010** lapsed and was never enacted; **India lacks a dedicated anti-torture law**.
- **2. Procedural Flaws:**
  - Though the **K.S. Basu vs. State of West Bengal (1997)** judgment laid out safeguards (e.g., mandatory arrest registers, informing relatives), these are **poorly implemented**.
  - **Magisterial inquiries** into deaths are often **delayed and lack transparency**.
- **3. Institutional Incentives for Abuse:**
  - Confessions made under duress are **inadmissible under Section 25 of the Indian Evidence Act**, but still **informally used in policing**.
  - Officers often rely on physical coercion due to lack of modern investigation tools.
- **4. Weak Accountability:**
  - Custodial death investigations are often done by the **same police department**, leading to **conflict of interest**.
  - **Judicial inquiries**, if ordered, are slow and rarely lead to convictions.
- **5. Political Interference:**
  - Policing in India is **heavily politicised**, with officers often shielded by political patrons, leading to **lack of accountability**.

### **International Legal Frameworks**

- **UN Charter (1945):**
  - Emphasises **respect for human rights** and the dignity of individuals.
- **Universal Declaration of Human Rights (1948):**
  - Prohibits **torture and degrading treatment**.

- Ensures the **presumption of innocence** until proven guilty.
- **International Covenant on Civil and Political Rights (ICCPR), 1966:**
  - Binds states to **protect the right to life** and **prohibit torture**.
- **Nelson Mandela Rules (2015):**
  - UN Standard Minimum Rules for the **humane treatment of prisoners**, laying out minimum conditions of confinement and protection.
- **European Convention on Human Rights (1950):**
  - Provides a model for **access to justice and remedy** against torture or illegal detention.

## **Recommendations for Reform**

### **A. Legal Reforms**

- **Law Commission Reports:**
  - **69th Report (1977):** Suggested admitting confessions made before senior police officers (Section 26A of Evidence Act – not enacted).
  - **273rd Report (2017):** Recommended a **specific anti-torture legislation**, calling existing safeguards insufficient.
- **Need for New Legislation:**
  - India must **enact a stand-alone anti-torture law** to comply with UNCAT and improve protections.

### **B. Police Reforms**

- **Prakash Singh Case (2006) Directives:**
  - **Separate law and order from investigation functions**
  - **Create Police Complaints Authorities** at the state and district levels.
  - Ensure **tenure security for police leadership** to reduce political interference.

### **C. Technological and Operational Reforms**

- **Mandatory CCTV Installation:**
  - Interrogation rooms and lock-ups must be **under continuous surveillance**, with footage preserved for accountability.
- **Use of Body Cameras and Digital Logs:**
  - Ensure **evidence of arrest, movement, and treatment** of detainees is recorded.

### **D. Judicial and Procedural Reforms**

- **Fast-track courts:**
  - Establish **dedicated fast-track courts** to try cases of custodial torture and deaths.

- **Independent Investigations:**
  - Assign **independent investigation agencies or judicial officers** to probe custodial deaths.
- **Strict Penalties:**
  - Implement **stringent punishment for complicit officers**, including dismissal, criminal charges, and loss of pension.

### **Concluding Observations**

- **Deep-rooted Issue:**
  - Custodial deaths represent not just **violations of human rights**, but **failures of legal, institutional, and cultural safeguards**.
- **Need for Accountability:**
  - Without **effective oversight and independent monitoring**, perpetrators escape justice and systemic abuse persists.
- **Urgent Action Required:**
  - India must **uphold its constitutional values** and fulfil its **international obligations** by:
    - Enacting a **comprehensive anti-torture law**
    - Ensuring **transparency, accountability, and reform**
    - Strengthening **police professionalism** and **citizen trust in the justice system**

Source: <https://www.thehindu.com/data/custodial-deaths-police-convictions-remain-zero-in-tn-and-beyond/article69766995.ece>