



# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## THE IRONY IN REFORMATIVE JUSTICE: CUSTODIAL VIOLENCE IN INDIA

Quoting Martin Luther King, “Injustice anywhere is a threat to justice everywhere.” This specifically rings true to various sections of people, whether convicts, accused, or innocent, who fall victim to custodial violence by those very advocates of justice.

Our Constitution enshrines fundamental rights to all, but there are certain unfortunate instances where those entrusted to protect them violate them. As stated by Justice Krishna Iyer in the case of *Prem Chand v. Union of India*, “Fundamental Rights are fundamental, and personal liberty cannot be put at the mercy of the police.” So the question is, “Who will police the police?” as rightly put forth by the Judge.

Custodial violence refers to the violence faced by those in judicial or police custody. As recorded by the National Human Rights Commission (NHRC), there were around 2,512 deaths of people in judicial custody and 155 deaths of people in police custody.<sup>1</sup>

Recently, in Ahmedabad, Jadav, who was accused of cheating a rickshaw driver, was arrested by the Junagadh Police and was in police custody from Jan 10, 2023, to Jan 12, 2023; during this period; the accused was allegedly a victim of custodial violence. The accused, when admitted to the hospital, succumbed to his injuries, leading to his death. The medical reports stated that Jadav’s ligaments of leg and foot were severely damaged; he also suffered various other complications like

---

<sup>1</sup> Ayala, I. (2023a) *Custodial violence in India, The Society for Advancement of Criminal Justice*. Available at: <https://www.nujssacj.com/post/custodial-violence-in-india> (Accessed: 07 February 2024).

a leg fracture and blood clotting<sup>2</sup>. Jadav's brother Brijesh filed an official complaint against the police officer responsible for the death and claimed that the officer demanded money for not torturing his brother; when denied, the torture got harsher, eventually leading to Jadav's death.

Another case in Gujarat was where a 28-year-old man was picked up by three constables when he refused to answer the questions asked to him in connection with a case. The man was then brutally beaten up during custody. The family members who filed the complaint against the constables also claimed that the victim had complained of the policemen smashing his head to the wall during the questioning. When admitted to the hospital, the victim underwent brain surgery on April 20, 2023, and then was kept on ventilator support, eventually passing away on May 14, 2023.<sup>3</sup>

According to a report tabled in the Lok Sabha between the years 2016-2017 and 2021-2022, there were almost 478 custodial deaths, with Uttar Pradesh recording the highest deaths among all states at 2,580. Among the states, Kerala has seen a significant inclination in custodial deaths as per the data in August 2023; 14 custodial murders were reported from 2018-2019 to 2022-2023. Twenty-three officials were found to be accused by the CBI of their involvement in the custodial deaths.

The custodial death of Thamir Jifri of Tanur caused a massive uproar in the State. The victim was caught by the Tanur police in a drug trafficking case and died on August 1<sup>st</sup>, 2023. The police made a claim that the reason for his death was drug overuse. However, contrary findings were made by the crime branch probe, which found signs of custodial violence. The post-mortem reports showed that the victim died of the injuries suffered by him in custody; it revealed that there were 21 wounds on the body and swelling in the lungs. According to police sources, the team of the

---

<sup>2</sup> TNN / Updated: Jan 25, 2024 (2024) *Surat man tortured in police custody succumbs in Ahmedabad: Rajkot News - Times of India, The Times of India*. Available at: <https://timesofindia.indiatimes.com/city/rajkot/surat-man-tortured-in-police-custody-succumbs-in-ahmedabad/articleshow/107127801.cms> (Accessed: 07 February 2024).

<sup>3</sup> *Murder case against 3 Gujarat cops after man dies of custodial violence (2023) NDTV.com*. Available at: <https://www.ndtv.com/india-news/murder-case-against-3-gujarat-cops-after-man-dies-of-custodial-violence-4037935> (Accessed: 08 February 2024).

district anti-narcotic special action force physically assaulted Thamir and then taken into Tanur police station, where he died<sup>4</sup>.

With this escalation in custodial violence, there is a notable lack of significant action taken against the authorities. The data from the National Crime Record Bureau shows that across India, between 2016-2017 and 2021-2022, only 286 magisterial or judicial inquiries were ordered, 79 charge sheets were issued, and 114 police officers were arrested, but none were convicted. Particularly in the state of Tamil Nadu, despite the high number of custodial deaths, none were arrested or charge-sheeted in the past five years.<sup>5</sup> This is also supported by a report released by The News Minute in 2022; one instance was the death of 31-year-old Shemeer due to an alleged brutal assault by police officers when he was a remand prisoner at a Covid quarantine facility; it was reported there were around 40 marks on his body indicating the brutal assault. Around six officers were arrested by a crime branch special team, but all were reinstated after receiving bail<sup>6</sup>.

These are only a few of the many unfortunate instances in India that show the actual flaws in the system and shed light on the torture endured by those in custody; it is essential to note that this violence and injustice extend beyond individuals accused of serious crimes, even those who are brought in for petty crimes as well as those who are awaiting trial share the same fate. Another layer to this issue is the prevalence of violence within the four walls of prisons, which is simply another evident secret that raises the question of whether India truly embraces reformatory measures within its criminal justice system.

---

<sup>4</sup> Prasad , V. (2023) *Jifri custody death: Kin seek broader probe to find involvement of top cops* , *The New Indian Express*. Available at: <https://www.newindianexpress.com/states/kerala/2023/Aug/29/jifri-custody-death-kin-seek-broader-probe-to-find-involvement-of-top-cops-2609548.html> (Accessed: 08 February 2024).

<sup>5</sup> Loganathan, S. (2023) *Hostile witness, doctored evidence, erring judges: Justice K. Chandru on why police are not convicted for custodial violence: Data Point Podcast, The Hindu*. Available at: <https://www.thehindu.com/podcast/hostile-witness-doctored-evidence-erring-judges-justice-k-chandru-on-why-police-are-not-convicted-for-custodial-violence-data-point-podcast/article66732272.ece> (Accessed: 08 February 2024).

<sup>6</sup> Balan, S.S. (2022) *Families of Kerala custodial murder victims suffer but cops barely pay the price, The News Minute*. Available at: <https://www.thenewsminute.com/kerala/families-kerala-custodial-murder-victims-suffer-cops-barely-pay-price-163248> (Accessed: 08 February 2024).

This situation proves the relevance of the statement made by Justice Krishna Iyer in *Sunil Batra v. Delhi Administration*: “It is an unhappy reflection, charged with pessimism and realism, that Governments have come and Governments have gone, but the jails largely manage to preserve the Macabre heritage and ignore the Mahatma’s message.”