

# Custodial Deaths

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**Context-** The Union government recently provided Rajya Sabha with an update on India's custodial deaths.

## Key Highlights-

- The specifics of the custodial deaths that were reported across all Indian states and Union Territories between April 1, 2017 and March 31, 2022 have recently been provided to the Rajya Sabha by the Ministry of Home Affairs.
- In India, police violence and brutality have increased exponentially over the past four to five years.
- This issue has also been exacerbated by inadequate legal provisions in the judicial system to discipline law enforcement authorities for using torture and other cruel methods.
- In the past, the **National Human Rights Commission (NHRC)** reported 2,150 deaths in judicial custody and 155 deaths in police custody between 2021 and 2022, indicating a steady rise in the number of deaths in custody.
- According to Article 21 of the Indian Constitution, every person has the fundamental right to life. Human rights activists have raised this issue.

## Key Results

- Gujarat had the highest number of custodial deaths in the last five years, with 80, followed by Maharashtra with 76, Uttar Pradesh with 41, Tamil Nadu with 40, and Bihar with 38.

- In the last five years, Delhi had the highest number of custodial deaths among the nine Union Territories, with 29 incidents, followed by Jammu and Kashmir with four.
- In 2017, 146 deaths in police custody were reported, 136 in 2018 and 2019, 112 in 2019 and 2020, 100 in 2020 and 2021, and 175 in 2021 and 2022.
- States like Sikkim and Goa didn't have any incidents between 2017 and 2020, but they did have one custodial death in 2021 and 2022, respectively.
- Even though there were 9,112 deaths in custody over the past five years, only 21 were disciplined, or 0.23 percent of the total. Nearly 69% of deaths in police custody from 2010 to 2020 were caused by illness (40%) or suicide (29%) and only 6% were caused by physical assault by police.

## What is a Custodial Death?

- The term “custodial death” refers to the death of an accused person while they were in the custody of the police, either before or after they were convicted.

## Types of Custody

- Although the terms “custody” and “arrest” are not interchangeable, the term “custody” refers to the practice of keeping a person in protective custody for the purpose of preventing harm to society.
- **Police custody:** It is known as “police custody” when a police officer takes an individual who is suspected of committing a crime into custody and takes him to the police station.
- **Legal custody:** The magistrate in charge of the area is in charge of the accused.
- **India's CrPC custody and judicial remand:** In accordance with Section 57 of the Criminal Procedure Code, a police officer cannot keep a person in custody for more than 24 hours without first obtaining special permission from the magistrate.

## Major issues with Custodial Deaths in India

- **Neglect of human dignity:**
  - In the NCRB's 2018 prison report, there are no details recorded for 149 custodial deaths caused by unnatural or unknown causes.
  - Suicide was the cause of many deaths; however, it is not clear whether inmates committed suicide or were forced to do so in order to avoid additional violence and torture.
  - Inmates' mental health is neglected, and there is no psychiatric assistance available.
- **Terrible Conditions in Prison:**
  - The prison environment is awful, and there aren't enough medical facilities for inmates.
  - Inmate fights are common and often result in fatalities.
  - An inmate's mental trauma is exacerbated by physical suffering.
- **Police's Excessive Authority:**

- One of the most significant causes of the rise in deaths while in custody is the excessive authority that the state grants police officers.
  - Authorities in the police force frequently use too much force.
  - Administrative cover-ups cover up many custodial death cases.
  - In the past, no severe actions were taken against the individuals, and no precedent has yet been established.
- **Custody Terror:**
    - The act of torturing a suspect while they are in the custody of a law enforcement agency is what it means.
    - The idea of custodial torture has been rejected by the Supreme Court because it is a clear violation of human dignity and degradation.
    - It is a crime that must be punished by law, but the perpetrator frequently is not punished.
    - It is difficult for doctors to diligently carry out their medical responsibilities because they are subjected to pressure from authorities in the police.
- **Infractions against the law:**
    - The death in custody caused by police violence and torture goes against the Constitution of India's fundamental structure and several fundamental laws it guarantees.
    - Article 20(1) forbids any punishment beyond that specified in the applicable law.
    - A person cannot be forced to testify against themselves under Article 20(3).
    - Article 20(3) is violated by forced testimony.

## What legal penalties exist for custodial death?

- **Indian Penal Code (IPC) Section 302:** a police officer is charged with murder after a suspect in custody dies.
- **IPC Section 304:** For "culpable homicide not amounting to murder," a police officer is punished, while custodial death by negligence is punishable under Section 304A.
- **Code of Criminal Procedure (CrPC) Section 176(1):** enables the magistrate to conduct a death investigation while a person is in custody.
- **Indian Police Act sections 7 and 29:** penalizes police personnel who perform their duties negligently and gives senior police officers the authority to fire or suspend negligent police officers.

## International laws pertaining to human rights

- **Universal Declaration of Human Rights, 1948-** No one should be tortured or treated cruelly, and everyone ought to be treated as innocent until proven guilty.
- **International Covenant on Civil and Political Rights, 1966:** Every person is entitled to life and the prevention of prisoners being treated cruelly, degradingly, or inhumanely.
- **United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015:** It discourages prisoners from being treated differently because of their race, gender, language, religion, political or other opinion, national or social origin, property, birth, or other status.

- **United Nations Charter (1945):** It outlines the UN's goals and principles, including the advancement of human rights.
- **European Convention for the Protection of Human Rights and Fundamental Freedoms(1950)-** The purpose of this international treaty is to safeguard individuals' fundamental freedoms and human rights in Europe.

## Way Ahead

- The government must take steps to establish checks and balances against the states' protection of police, which violates the Indian Constitution.
- In this regard, implementing the guidelines and directives recommended in the Prakash Singh case will be a welcome state contribution to preventing custodial deaths.