



Custodial Deaths and Article 21: A Study of Judicial Response in India

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ABSTRACT

Custodial deaths remain a significant human rights concern in India, raising serious questions about the protection of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution. This study examines the constitutional framework governing custodial deaths and critically analyzes the judicial response aimed at preventing custodial violence and ensuring accountability. It explores the evolution of Article 21 through judicial interpretation, highlighting the Supreme Court's role in expanding the scope of the right to life to include dignity, humane treatment, and protection against torture. The study further examines the statutory safeguards available under criminal procedural laws, the role of the National Human Rights Commission (NHRC), and the development of the doctrine of constitutional tort as a public law remedy for violations of fundamental rights. Particular emphasis is placed on landmark judicial decisions, including *Maneka Gandhi v. Union of India*, *Sunil Batra v. Delhi Administration*, *D.K. Basu v. State of West Bengal*, *Nilabati Behera v. State of Orissa*, and *Prakash Singh v. Union of India*, which have significantly strengthened procedural safeguards, compensation mechanisms, and police accountability. The study concludes that although the judiciary has established a comprehensive legal framework to combat custodial violence, effective implementation of judicial directives, institutional reforms, independent

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investigations, and enhanced police accountability remain essential for reducing custodial deaths and upholding constitutional values in a democratic society.

1. INTRODUCTION

Custodial deaths represent one of the most serious violations of human rights and constitutional governance in India. They occur when an individual dies while in the custody of the police, judicial authorities, or other law enforcement agencies due to torture, negligence, excessive use of force, or inadequate medical care. Such incidents undermine public confidence in the criminal justice system and challenge the fundamental principles of the rule of law, equality, and accountability. In a democratic society governed by constitutional values, the State has a legal and moral obligation to protect the life, dignity, and physical integrity of every individual in its custody. Since persons in custody are under the exclusive control of State authorities, any harm suffered by them raises questions regarding the responsibility and accountability of public officials.

Article 21 of the Constitution of India guarantees that no person shall be deprived of life or personal liberty except according to the procedure established by law. Over the years, the Supreme Court of India has adopted a broad and progressive interpretation of Article 21, holding that the right to life includes the right to live with human dignity, protection against torture, fair treatment during arrest and detention, and access to legal safeguards. The constitutional guarantee extends to every individual, including accused persons, undertrial prisoners, and convicted offenders, thereby affirming that incarceration does not result in the forfeiture of fundamental rights except to the extent permitted by law.

Despite constitutional protections and statutory safeguards provided under criminal procedural laws, custodial deaths continue to be reported across India, highlighting persistent concerns regarding police brutality, unlawful detention, abuse of authority, and institutional deficiencies. The enactment of procedural safeguards under the Code of Criminal Procedure, 1973, and its successor, the Bharatiya Nagarik Suraksha Sanhita, 2023, along with the oversight functions of the National Human Rights Commission (NHRC), reflects the legislative commitment to preventing custodial violence. However, inadequate implementation of legal provisions, delayed investigations, and limited accountability mechanisms continue to impede effective enforcement.

The Indian judiciary has played a transformative role in addressing custodial violence by interpreting Article 21 as a dynamic source of protection for individual liberty and human dignity. Through landmark judgments such as *Maneka Gandhi v. Union of India*, *Sunil Batra v. Delhi Administration*, *Rudul Sah v. State of Bihar*,



Nilabati Behera v. State of Orissa, *D.K. Basu v. State of West Bengal*, and *Prakash Singh v. Union of India*, the Supreme Court has established important constitutional principles governing arrest, detention, compensation for violations of fundamental rights, police accountability, and institutional reforms. These decisions have significantly strengthened the legal framework for protecting persons in custody and have reinforced the constitutional obligation of the State to prevent custodial abuse.

2. CONSTITUTIONAL PROTECTION AGAINST CUSTODIAL DEATHS UNDER ARTICLE 21

Article 21 of the Constitution of India guarantees every individual the **Right to Life and Personal Liberty**, providing that no person shall be deprived of these rights except according to the procedure established by law. Over the years, the Supreme Court has interpreted Article 21 broadly to include the right to live with dignity, protection against torture, and humane treatment during arrest, detention, and imprisonment. Custodial deaths and custodial violence constitute serious violations of this fundamental right, as they undermine the constitutional obligation of the State to safeguard the life and dignity of every individual, irrespective of whether they are accused, undertrial, or convicted prisoners.

2.1. Constitutional Protection Under Article 21

The protection guaranteed by Article 21 extends equally to individuals in police and judicial custody. The Supreme Court has consistently held that imprisonment does not deprive a person of fundamental rights, except to the extent permitted by law. Every detainee has the right to be treated with dignity, protected from torture, and safeguarded against arbitrary or excessive use of force by law enforcement agencies. Any act of custodial torture or death resulting from unlawful police conduct amounts to a direct infringement of the constitutional guarantee under Article 21 and attracts judicial scrutiny.

2.2. Statutory Safeguards Against Custodial Violence

In addition to constitutional protection, several statutory provisions safeguard individuals against custodial abuse. The Code of Criminal Procedure, 1973 (CrPC), and its successor, the Bharatiya Nagarik Suraksha Sanhita (BNSS), prescribe procedural safeguards relating to arrest, detention, medical examination, production before a magistrate, and investigation into custodial deaths. The Indian Evidence Act also contains provisions governing the admissibility of evidence and the burden of proof in cases involving custodial offences. These statutory mechanisms aim to ensure transparency, accountability, and fairness in the criminal justice system while protecting the rights of persons in custody.



2.3. Role of the National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) plays a significant role in monitoring and preventing custodial deaths in India. It has issued comprehensive guidelines requiring mandatory reporting of every custodial death, prompt magisterial inquiries, post-mortem examinations, videography of autopsies, and independent investigations wherever necessary. The NHRC also recommends compensation to victims' families and advises governments on improving custodial conditions and strengthening institutional accountability. Through these measures, the Commission contributes to the protection of human rights and reinforces the constitutional mandate under Article 21.

2.4. State Responsibility to Protect Life and Human Dignity

The Constitution imposes a positive obligation on the State to protect the life, dignity, and physical integrity of every individual in its custody. Since detainees are under the complete control of law enforcement authorities, the State bears a heightened responsibility to ensure their safety and well-being. Failure to prevent custodial torture, abuse, or death amounts to a breach of constitutional duty and exposes the State to both legal liability and constitutional remedies, including compensation for violation of fundamental rights. The judiciary has repeatedly emphasized that the rule of law cannot tolerate custodial violence in a democratic society.

2.5. Judicial Interpretation of Article 21 in Custodial Death Cases

Indian courts have adopted a progressive interpretation of Article 21 by recognizing that custodial torture and deaths are among the gravest violations of human rights. Through a series of landmark judgments, the Supreme Court has expanded procedural safeguards, strengthened accountability mechanisms, and awarded compensation in cases involving unlawful detention and custodial violence. Judicial intervention has played a crucial role in ensuring that constitutional guarantees remain meaningful and enforceable, thereby reinforcing the principles of justice, dignity, and the rule of law.

2.6. Maneka Gandhi v. Union of India (1978)

In *Maneka Gandhi v. Union of India* (1978), the Supreme Court significantly expanded the scope of Article 21 by holding that the expression "procedure established by law" must be fair, just, and reasonable rather than arbitrary or oppressive. The Court linked Articles 14, 19, and 21, thereby establishing that any deprivation of life or personal liberty must satisfy the principles of fairness and due process. Although the



case did not directly concern custodial deaths, it laid the constitutional foundation for protecting individuals against arbitrary arrest, unlawful detention, and custodial abuse.

2.7. Sunil Batra v. Delhi Administration (1978)

In *Sunil Batra v. Delhi Administration* (1978), the Supreme Court ruled that prisoners do not lose their fundamental rights merely because they are incarcerated. The Court strongly condemned custodial torture, solitary confinement without legal authority, and inhuman treatment of prisoners. It held that prison authorities are constitutionally bound to respect the dignity and human rights of inmates, thereby affirming that Article 21 continues to protect persons even while they remain in custody.

2.8. Sheela Barse v. State of Maharashtra (1983)

The decision in *Sheela Barse v. State of Maharashtra* (1983) focused on the protection of individuals, particularly women, in police custody. The Supreme Court directed that female detainees should be interrogated only in the presence of female police personnel and emphasized the need for legal assistance, medical examination, and safeguards against custodial abuse. The judgment highlighted the constitutional responsibility of the State to prevent torture and ensure humane treatment of vulnerable detainees.

2.9. Joginder Kumar v. State of Uttar Pradesh (1994)

In *Joginder Kumar v. State of Uttar Pradesh* (1994), the Supreme Court held that the power to arrest does not automatically justify its exercise. The Court ruled that arrests must be based on reasonable justification and laid down important safeguards to prevent arbitrary detention. It further directed that the arrested person's family or friends should be informed promptly about the arrest and place of detention. These guidelines significantly strengthened procedural protections under Article 21 and reduced the likelihood of custodial abuse and unlawful detention.

3. JUDICIAL RESPONSE TO CUSTODIAL DEATHS IN INDIA: EVOLUTION THROUGH LANDMARK DECISIONS

The Indian judiciary has played a pivotal role in protecting the constitutional rights of individuals against custodial violence and deaths. Recognizing that custodial torture is a grave violation of human dignity and the Right to Life under Article 21 of the Constitution, the Supreme Court has consistently expanded constitutional protections through progressive judicial interpretation. Through a series of landmark decisions, the judiciary has strengthened accountability by developing constitutional remedies, awarding compensation to victims and their families, issuing procedural safeguards governing arrest and detention,



and directing institutional reforms. These judicial interventions have significantly influenced the legal framework governing custodial violence in India.

3.1. Development of Constitutional Remedies and State Accountability

One of the most significant contributions of the judiciary has been the development of constitutional remedies for violations of fundamental rights. The Supreme Court has held that where custodial violence results in the infringement of Article 21, the State cannot escape liability merely because the wrongful act was committed by its officials. The Court has evolved the principle of public law compensation, enabling victims or their families to seek monetary relief directly under constitutional jurisdiction without waiting for the outcome of lengthy civil proceedings. This approach reinforces the accountability of the State and provides immediate relief for constitutional violations.

3.2. Doctrine of Constitutional Tort

The doctrine of constitutional tort has emerged as an important judicial innovation in India. Unlike traditional tort law, constitutional tort recognizes the liability of the State for violating fundamental rights guaranteed under the Constitution. Under this doctrine, compensation is awarded not merely for private injury but as a public law remedy for the infringement of constitutional rights. The Supreme Court has repeatedly emphasized that compensation serves both compensatory and deterrent purposes by acknowledging State responsibility and discouraging future violations by public authorities.

3.3. Judicial Guidelines on Arrest, Detention, and Investigation

The judiciary has also formulated detailed procedural safeguards to minimize the incidence of custodial torture and deaths. These safeguards include mandatory arrest procedures, maintenance of arrest records, medical examination of detainees, prompt production before magistrates, access to legal counsel, and immediate communication of arrest to family members. Courts have further directed independent and impartial investigations into custodial deaths to ensure transparency and prevent the misuse of police powers. These procedural safeguards have become an integral part of India's criminal justice system and significantly strengthened the protection available under Article 21.

3.4. Effectiveness and Continuing Challenges

Judicial activism has substantially improved the legal framework governing custodial violence; however, significant implementation challenges continue to exist. Delays in investigations, inadequate prosecution of offending officials, lack of independent oversight, and institutional resistance often weaken the practical



effectiveness of judicial directions. Despite comprehensive guidelines and constitutional remedies, instances of custodial deaths continue to be reported across the country. Therefore, effective implementation requires stronger institutional accountability, police reforms, regular human rights training, technological monitoring, and strict compliance with judicial directives to ensure meaningful protection of detainees.

3.5. Rudul Sah v. State of Bihar (1983)

In *Rudul Sah v. State of Bihar* (1983), the Supreme Court introduced the principle that monetary compensation may be awarded as a public law remedy for the violation of fundamental rights. The petitioner had remained in prison for several years even after being acquitted by the criminal court. Recognizing that mere release from illegal detention would not constitute adequate relief, the Court awarded compensation under Article 32 of the Constitution. This landmark judgment established that constitutional courts possess the authority to grant compensation for violations of fundamental rights, thereby laying the foundation for the doctrine of constitutional tort in India.

3.6. Nilabati Behera v. State of Orissa (1993)

The judgment in *Nilabati Behera v. State of Orissa* (1993) significantly strengthened the protection guaranteed under Article 21 in cases of custodial deaths. The case involved the custodial death of a young man whose body was later recovered with multiple injuries. The Supreme Court held that the State bears strict responsibility for protecting individuals in its custody and is liable to compensate the victim's family when this constitutional duty is breached. The Court clarified that constitutional compensation under public law is distinct from private law remedies and criminal prosecution, thereby reinforcing State accountability for custodial violence.

3.7. D.K. Basu v. State of West Bengal (1997)

The decision in *D.K. Basu v. State of West Bengal* (1997) is regarded as one of the most significant judgments concerning custodial violence in India. Acknowledging the widespread occurrence of custodial torture and deaths, the Supreme Court formulated comprehensive guidelines governing arrest and detention. These directions included the identification of arresting officers, preparation of arrest memos, notification of relatives, medical examinations at regular intervals, maintenance of custody records, and production of detainees before judicial authorities. These guidelines have become essential procedural safeguards for protecting the rights guaranteed under Article 21 and continue to guide law enforcement agencies across the country.



4. CONCLUSION

Custodial deaths represent one of the most serious violations of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Through progressive judicial interpretation, the Supreme Court has transformed Article 21 into a powerful safeguard against custodial violence by recognizing the rights of detainees, establishing constitutional remedies, awarding compensation for violations, and prescribing comprehensive procedural guidelines to ensure accountability. Landmark decisions such as *Maneka Gandhi*, *Sunil Batra*, *D.K. Basu*, *Nilabati Behera*, and *Prakash Singh* have significantly strengthened the legal framework governing arrests, detention, and police conduct while emphasizing the State's constitutional duty to protect the dignity and safety of every individual in custody. Despite these judicial advancements, the persistence of custodial deaths highlights the gap between legal principles and their effective implementation. Therefore, ensuring strict compliance with judicial directives, strengthening institutional accountability, promoting police reforms, enhancing independent oversight, and fostering a human rights-based approach to law enforcement are essential for safeguarding constitutional values and preventing custodial violence in India.

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