

Deaths in Police Custody: A Retrospective Analysis

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Abstract

Background: As per the Oxford dictionary custody means “protective care or guardianship of someone or something”. In the legal parlance Custody is defined as any point in time when a person’s freedom of movement has been denied by law enforcement agencies, such as during transport prior to booking, or during arrest, prosecution, sentencing, and correctional confinement. **Study design:** It’s a Cross sectional retrospective analysis. **Material and Method:** Retrospective analysis of 90 cases of custodial deaths that have occurred in various Police custody of Andhra Pradesh. The cases collected for the study were over a period of more than two decade. Records pertaining to 90 cases could be gathered from various sources. Permissions and consents were procured before the study and clearance from the Institutional Ethical committee was obtained in advance. **Observation and Discussion:** Total 90 cases of custodial death were analyzed. Out of these, 89 were males and 1 was female. Age group of these cases were between 21 to 60 years, maximum cases (37 cases) being between 21 to 30 years and 34 cases in the age group of 31 to 40 years, whereas 11 cases in between 41-50 years age group. Out of 90 deaths, 19 were natural death of the unnatural deaths, 38 were suicides, 9 accidents, 30 were due to injuries. Among suicides the commonest mode of suicide is hanging. Out of 38 suicides, 28 cases were hanging, 5 cases of poisoning, 3 cases were of drowning. Death occurring in early age is of great concern and highlights the importance of effective implementation of screening and diagnostic program. Studies have concluded that natural and suicidal cases are more common in custody than accidental, homicidal or torture. **Conclusion:** Measures should be taken to provide a safe environment at the time of interrogation in police custody, following of code of conduct by the police. There is also a need for proper reform to avoid deaths due to suicide, violence and self-harm among the inmates. There is a need to have constant surveillance over them and install Cameras to supervise their activities to prevent violence and suicide.

Keywords: Police Custody Deaths; Torture; Victims; Suicide.

Introduction

Healthcare and happiness is a right of every person regardless of a profession and conditions of living. Slaves and prisoners have equal rights of health as

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other people in the community. It is the duty of state to provide good quality and cost effective health facility to everyone [1]. “Society can be measured by the way prisoners are treated.” Winston Churchill. The motto of the National Human Rights Commission is “*Sarve Bhavantu Sukhinah*”. Happiness and health for all is sought to be achieved through a rights-based regime where respect for human beings and their dignity is cardinal. President’s assent to the Protection of Human Rights Act was a major breakthrough in this direction. Section 3 of the Act provides for the setting up of the National Human Rights Commission (NHRC) and Section 21 provides for the setting up of various States Commissions (SHRC) [2].

As per the Oxford dictionary custody means

“protective care or guardianship of someone or something”. In the legal parlance Custody is defined as any point in time when a person’s freedom of movement has been denied by law enforcement agencies, such as during transport prior to booking, or during arrest, prosecution, sentencing, and correctional confinement [3]. According to the report of the Asian Centre for Human Rights (ACHR), “Torture in India 2011”, the National Human Rights Commission (NHRC) recorded a total of 14,231 deaths in custody in India between 2001 and 2010, which includes about 1,504 deaths in police custody and about 12,727 deaths in judicial custody. The ACHR report observes that these are only the cases reported to the NHRC, and do not include all cases of custodial deaths. The report attributes the deaths in custody to torture, denial of medical facilities and inhuman prison conditions [3].

As per the NHRC guidelines, all custodial deaths are to be reported within 24 hrs and post-mortem examination is to be conducted by a panel of doctors & videography has been made mandatory. NHRC Report from 2001 -02 to 2006-7 showed an increase in custodial deaths all over India [4]. Many of these deaths are premature deaths and can be prevented with proper care and treatment. In addition, having knowledge and data regarding such deaths is important to focus attention on medical services and can facilitate the implementation of preventive programs. Such studies would also guide the authorities in setting priorities for the allocation of their healthcare services [5].

Material and Method

This is a retrospective analysis of 90 cases of custodial deaths that have occurred in various Police custody of Andhra Pradesh. The cases collected for the study were over a period of more than two decade. Records pertaining to 90 cases gathered from various sources like Legal Cell of DGP’s Office, from the reports of various Commissioners of Inquiries which were available in the library of AP Legislative Assembly as well relevant information was gathered from post-mortem reports and medical record files. An attempt was made to study and present 90 cases with regards to the circumstances of death, various causes of death, nature of death and lapses on the part of the doctors and various suggestions put forward in the judicial Commission to prevent recurrence of such deaths. The post-mortem examination of these cases was conducted in the mortuary of the institute as per the guidelines laid

out by National Human Rights Commission. Causes of death were categorized under natural (disease process) and unnatural (suicides/accidents/homicides). Sufficient permissions and consents were procured before the study and clearance from the Institutional Ethical committee was obtained in advance.

Exclusion Criterion

Deaths in Judicial Custody, Mental Hospitals and encounter death were excluded from the study.

Observation and Discussion

In legal parlance custody is defined as any point in time when a person’s freedom of movement has been denied by law enforcement agencies such as during transport prior to booking or during arrest, prosecution, sentencing and correctional confinement [6]. However the legal authorities are bound by the law to provide adequate necessary amenities to ensure the health and safety of persons in their custody, including timely medical assistance, and treating the inmates in a humane manner. The persons held in custody retain their basic constitutional right except for their right to liberty and a qualified right to privacy [7].

The person who is held in custody is totally dependent on his or her custodian for proper care and enough medical attention [8]. The custodians are bound by the law to provide adequate necessary amenities to ensure the health and safety of persons in their custody, including medical assistance and treating the inmates in a humane manner [6].

As per Figure 1, a total of 90 cases of custodial death were analyzed. Out of these, 89 were males and 1 was female. The findings are consistent with the other author studies.

As per Figure 2 Age group of these cases were between 21 to 60 years, maximum cases (37 cases) being between 21 to 30 years and 34 cases in the age group of 31 to 40 years, whereas 11 cases in between 41-50 years age group. No cases were found below the age of 20 or more than 60 years. Death occurring in early age is of great concern and highlights the importance of effective implementation of screening and diagnostic program. Routine enquiry about presence of any disease or taking treatment for any ailment will solve the problems in many cases. Similarly the elder prisoners should undergo routine evaluation and necessary treatment should be provided.

Male Female Ratio in Custodial Deaths



Fig. 1: Showing gender ratio in Custodial Deaths

Age wise cases

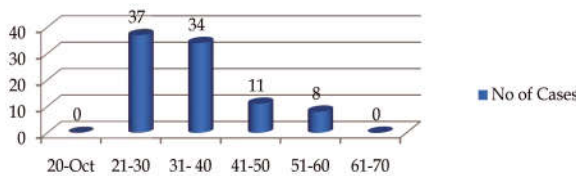


Fig. 2: Age wise no of custodial deaths cases

Manner of Death in Custody

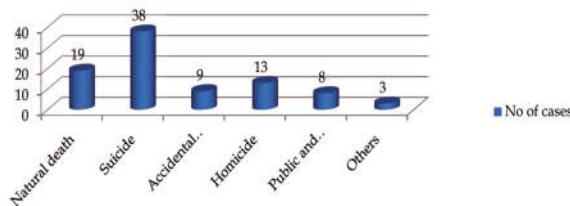


Fig. 3: Showing Manner of Death in Custody

Injuries

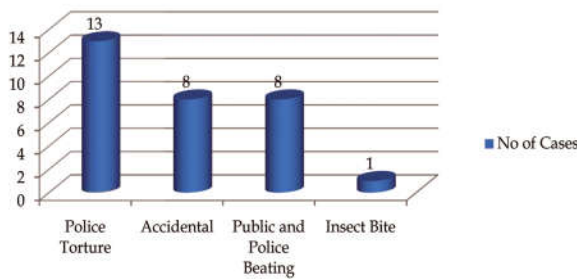


Fig. 4: Showing Deaths due to Injuries

Out of 90 deaths, 19 were natural death of the unnatural deaths, 38 were suicides, 9 accidents (including one insect bite), 30 were due to injuries. Out of 30 injuries 9 were due to accidental injuries, 13 were homicidal torture by the police, 8 cases were beaten by public and handed over to the police and again beaten by police. The causes of accidental deaths were as a result of deceased trying to escape from custody like jumping from a moving vehicle or while resisting arrest etc. Most of the deaths occur within a day or two of being apprehended. Most of the homicide cases were due to blunt trauma like beating, kicking, canning, pushing etc. According to the studies deaths in custody are not always unnatural, as opposed to general belief, but due to

various cause ranging from natural diseases, intoxication, accidents and self-destructive behavior of the inmate to the tortures on the hand of authorities and/or fellow inmates [9,10]. Some of these studies have concluded that natural and suicidal cases are more common in custody than accidental, homicidal or torture [11], while other studies shown un-natural deaths to be more common [12].

Out of the 90 cases of custodial deaths 30 cases had injuries, 13 cases injuries were due to police torture, 8 cases reported to have injuries due to accident, whereas 8 cases injuries received due to public beating and again police torture, in one of the case the injuries sustained was due to insect bite.

Among suicides the commonest mode of suicide is hanging. Out of 38 suicides, 28 cases were hanging, 5 cases of poisoning, 3 cases were of drowning and other mode of suicides like self inflicted injuries (1) etc. Suicide in prison causes an enormous degree of distress to other prisoners, prison staff and of course, to the inmate’s family and friends outside. Indeed, it is sometimes regarded as a testament to the failure of our penal institutions to fulfill their obligation to provide offenders with a humane and safe environment during the period of their incarceration [13]. In the custodial deaths, the deaths in prison outnumbered the death in police custody. The death in prison was natural in almost 85% cases and unnatural in 15% cases. Moreover all suicides in the custodial death occurred in the police cell [14]. Thus the suicide in prison was uncommon in India, which is in sharp contrast to that seen in developed countries. In Australia, almost 50% of all prison deaths were as a result of inmate suicide with hanging as the most common method [13]. Suicide is documented as the leading cause of death in prison in Canada [15], and in Britain [16] with hanging as the most common method. Moreover, Suicide in prison is much more common than suicide in community [15]. However, both England and US reports have noted the relative infrequency of suicide in special security hospitals [16,17]. The increase in custodial death is mainly due to increase in the number of suicide in police custody. The suicide in custody is worrisome and suggests lack of preventive effort by the authorities. As per the guidelines of NHRC, the government and the concerned authorities are taking all necessary precautions to prevent custodial death [18]. However, the prisoner who wants to commits suicide finds one or other new ways to end their life. So the concerned authorities have made various other stringent measures at police lockup and prison to prevent death in custody

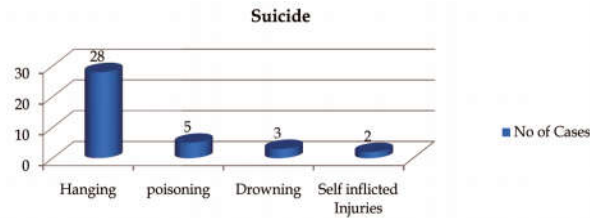


Fig. 5: Suicides in custody. Suicide: n=38

Suggestion and precautions for the medical experts in Custodial Death cases

- Case should be dealt with all equipped, well trained and well experienced experts.
- Model autopsy protocol should be followed to ensure a systematic and comprehensive examination to prevent the commission or lack of important details.
- Independent consultant must review the findings and opinion of the autopsy report.
- Autopsy should be thorough to be meaningful and conclusive.
- The medical investigator should leave access to the scene where the body is found.
- There should be coordination between the medical and non-medical investigator.
- The inquest findings should be consistent with the autopsy findings
- Adequate photographs are crucial for thorough documentation of autopsy findings and must demonstrate all injuries commented in the postmortem report.
- All skeletal injuries should be documented by X-rays.
- Keep records of all specimens saved, preserved all evidence and record the chain of custody.
- Perform appropriate toxicological, microscopic and bacterial tests and portions of tested samples retained to permit retesting.
- Circumstances of cases should be carefully evaluated before giving the opinion regarding the cause of death.
- A careful evaluation of the trauma should be done to determine whether the injuries sustained were before or after the arrest, and also to decide whether the injuries are accidental or self inflicted or due to police beating or homicidal.
- Opinion should be based on scientific facts and cause and manner of death should be determined with accuracy.

- Doctors should not refuse to conduct the postmortem examination.
- Proper preservation and early postmortem examination is necessary to minimize artefacts which could lead to error in interpretation of the findings.
- When death occurs in custody it should be autopsied in the presence of representatives of the family.
- Body should be preserved in cold storage in cases of delay in conducting the postmortem examination.
- The doctors conducting postmortem examination should come to a conclusion about the cause of death immediately and should avoid vague reporting like brain edema, lung edema, etc.
- Any pattern or practice that may have brought about the death should be noted to distinguish between natural, accidental or homicidal nature of deaths to aid in prosecution of the responsible.

Conclusion

Custodial deaths are among the most difficult and contentious deaths for investigation. The inmates in custody are marginalized populations that have poor access to healthcare in the community. The Magistrate inquest is conducted for all deaths in custody and is the only means of inquiry available to obtain information. Unfortunately, the inquiry reels around the cause of death and nothing substantial surfaces out regarding preventive aspect. The Article 21 of the Constitution of India enshrines the fact that no person shall be deprived of his life and personal liberty except according to the procedure established by the law.

Torture should be avoided under all circumstances. The government should take the responsibility to take legal, social, medical and psychological need of the victim of police violence and their families while the investigation is ongoing. Developing good practice standards on training; reviewing recommendations from NHRC, and monitoring progress in their implementation are some of the steps in a positive direction. Measures should be taken to provide a safe environment at the time of interrogation in police custody, following of code of conduct by the police.

There is also a need for proper reform to avoid deaths due to suicide, violence and self-harm among

the inmates. There is a need to have constant surveillance over them and install Cameras to supervise their activities to prevent violence and suicide.

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Conflict of Interest

The author declares no conflict of interest in the present study

Author Disclosures

Authors have no conflict of interest. This study was a part of departmental research activities of Forensic Medicine at Osmania Medical College, Hyderabad Telangana State.

Ethical Consideration

Clearance from the Institutional Ethical committee was obtained in advance.

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