

Compensation jurisprudence in custodial death cases: A socio-legal analysis of Gujarat

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Abstract

Custodial deaths represent one of the most serious violations of human rights and constitutional governance in India because they occur when an individual is under the protection and control of the State. Such incidents raise important questions regarding the accountability of law enforcement agencies, the protection of fundamental rights and the effectiveness of compensation as a constitutional remedy. The concept of compensation jurisprudence has developed significantly through judicial interpretation, particularly under Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. The Supreme Court of India has recognized that monetary compensation may be awarded under public law where State authorities violate fundamental rights through custodial torture, illegal detention or custodial death. This principle has transformed compensation from a private law remedy into an important constitutional mechanism for enforcing human rights and ensuring State accountability.

The present study examines the evolution and application of compensation jurisprudence in custodial death cases with particular reference to the State of Gujarat. It analyses the constitutional and statutory framework, judicial precedents and the role of institutions such as the National Human Rights Commission [NHRC] and the Gujarat State Human Rights Commission [GSHRC] in protecting the rights of detainees and recommending compensation. The paper also evaluates recent developments in policing, forensic investigation and human rights protection in Gujarat while identifying practical challenges relating to investigation, accountability and implementation of judicial directions. The study adopts a socio-legal approach by examining not only the legal principles governing compensation but also the social realities affecting victims and their families. It concludes that although Indian constitutional jurisprudence has considerably strengthened the right to compensation in custodial death cases, effective implementation requires institutional transparency, prompt investigation, independent oversight and sustained commitment to constitutional values and human dignity.

Keywords: Custodial death, compensation jurisprudence, human rights, police accountability, constitutional remedies

Introduction

The protection of life, liberty and human dignity constitutes the foundation of every democratic legal system. In India, these values are guaranteed by the Constitution and reinforced through judicial interpretation, statutory safeguards and international human rights principles. Among the most serious challenges to these constitutional commitments are custodial deaths, which occur when an individual dies while under the custody or control of police, prison authorities or other law enforcement agencies. Such incidents not only result in the loss of human life but also raise fundamental questions concerning the exercise of State power, accountability of public officials and the effectiveness of legal safeguards intended to protect persons deprived of their liberty. Since individuals in custody are completely dependent upon the State for their safety and well-being, the Government bears a heightened constitutional responsibility to ensure that their fundamental rights are respected throughout the period of detention.

In recent decades, the issue of custodial deaths has received increasing attention from constitutional courts, human rights institutions, legal scholars and civil society organizations. Although India has established a comprehensive legal framework governing arrest, detention and investigation, incidents of custodial violence continue to be reported from different parts of the country. These incidents undermine public confidence in the criminal justice system and highlight the need for effective mechanisms to prevent

abuse of power and provide remedies to victims. The State of Gujarat, recognized for its rapid economic development, modern policing initiatives and technological advancement in criminal investigation, has also witnessed cases of custodial deaths that have generated judicial scrutiny and public concern. These developments demonstrate that technological progress alone cannot guarantee the protection of human rights unless supported by institutional accountability, ethical policing and effective enforcement of constitutional safeguards.

An important development in Indian constitutional law has been the emergence of compensation jurisprudence, whereby courts have recognized monetary compensation as a public law remedy for the violation of fundamental rights. Traditionally, compensation was primarily available through civil suits under private law, often involving lengthy litigation and procedural complexities. Though, the Supreme Court of India has gradually expanded the scope of constitutional remedies by holding that where the State violates the right to life and personal liberty guaranteed under Article 21 of the Constitution, victims or their families are entitled to compensation as an immediate and effective remedy. Landmark decisions such as *Rudul Sah v. State of Bihar*, *Nilabati Behera v. State of Orissa* and *D.K. Basu v. State of West Bengal* have established that compensation serves not merely as financial assistance but also as recognition of State responsibility for constitutional violations. This judicial approach has strengthened the

enforcement of fundamental rights and enhanced the accountability of law enforcement agencies.

The relevance of compensation jurisprudence has increased further in the contemporary legal framework with the implementation of the Bharatiya criminal law reforms, greater emphasis on scientific investigation, installation of CCTV cameras in police stations and improved human rights monitoring by institutions such as the NHRC and the Gujarat State Human Rights Commission. Nevertheless, recurring custodial deaths indicate that legal safeguards require more effective implementation and continuous institutional reform. Delays in investigation, inadequate disciplinary action, lack of awareness among vulnerable communities and inconsistent compliance with judicial guidelines continue to impede access to justice for victims' families.

The present research adopts a socio-legal approach to examine compensation jurisprudence in custodial death cases in Gujarat. It seeks to analyze the constitutional and statutory foundations of compensation, evaluate judicial developments relating to State liability and assess the role of human rights institutions in ensuring accountability. The study also explores the practical challenges affecting implementation and identifies measures that can strengthen transparency, institutional responsibility and protection of human rights. By integrating constitutional principles, judicial precedents and contemporary developments, the research aims to contribute to the ongoing discourse on police accountability and constitutional governance in India. It argues that compensation should not be viewed merely as a financial remedy but as an essential instrument for protecting human dignity, reinforcing the rule of law and ensuring that every exercise of State power remains subject to constitutional limitations.

Concept of Custodial Death and Compensation Jurisprudence

Custodial death refers to the death of a person while he or she is under the custody or control of police authorities, prison officials or any other law enforcement agency. Such deaths may occur in police custody during investigation, in judicial custody within prisons or while the person is being transported under official supervision. Since individuals in custody are deprived of their personal liberty and remain under the complete protection of the State, the Government assumes a heightened constitutional and legal responsibility to safeguard their life, health and dignity. Therefore any custodial death resulting from torture, excessive force, negligence, denial of medical treatment or other unlawful conduct amounts to a serious violation of fundamental rights and raises questions regarding the accountability of public authorities. Custodial deaths not only affect the victim and the family but also weaken public confidence in the criminal justice system and challenge the principles of constitutional governance and the rule of law.

The concept of compensation jurisprudence has evolved as an important constitutional remedy to address such violations of fundamental rights. Traditionally, compensation was awarded through civil proceedings under the law of torts, which often required lengthy litigation and placed a heavy burden on victims' families. Recognizing these limitations, the Supreme Court of India developed the doctrine of constitutional compensation by holding that monetary compensation may be awarded under public law

whenever the State violates the fundamental rights guaranteed under Article 21 of the Constitution. Landmark judgments such as *Rudul Sah v. State of Bihar*, *Nilabati Behera v. State of Orissa* and *D.K. Basu v. State of West Bengal* established that compensation is not merely financial assistance but a constitutional remedy recognizing State responsibility for unlawful custodial deaths and other violations of human rights. Although compensation cannot restore the life lost, it provides immediate relief to the victim's family reinforces State accountability and strengthens public confidence in the administration of justice. Thus, compensation jurisprudence has emerged as an essential mechanism for protecting human dignity and ensuring that constitutional rights remain meaningful in practice.

Constitutional and Statutory Framework

The constitutional and statutory framework governing custodial deaths and compensation in India is primarily founded upon the principles of human dignity, equality, personal liberty and the rule of law. Article 21 of the Constitution guarantees that no person shall be deprived of life or personal liberty except according to the procedure established by law. Through progressive judicial interpretation, Article 21 has been expanded to include protection against custodial torture, illegal detention, inhuman treatment and arbitrary deprivation of liberty. Article 14 guarantees equality before the law, while Article 22 provides important safeguards relating to arrest, legal representation and production before a Magistrate within the prescribed period. These constitutional provisions collectively ensure that every individual, including a person in custody, enjoys legal protection against abuse of State power.

The statutory framework has been strengthened through the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023, which emphasise procedural fairness, scientific investigation, digital documentation and transparency in criminal proceedings. The Protection of Human Rights Act, 1993 further reinforces these safeguards by establishing the National Human Rights Commission and State Human Rights Commissions to investigate complaints of custodial deaths, monitor human rights violations and recommend compensation and other remedial measures. In addition, judicial decisions such as *Nilabati Behera*, *D.K. Basu*, *Joginder Kumar* and *Prakash Singh* have strengthened police accountability by prescribing mandatory safeguards relating to arrest, detention, medical examination and independent investigation. Collectively, these constitutional provisions, statutory enactments and judicial precedents create a comprehensive legal framework for protecting individuals in custody and ensuring that compensation functions as an effective constitutional remedy against violations of fundamental rights.

Evolution of Compensation Jurisprudence in India

The concept of compensation for violation of fundamental rights has undergone remarkable development in India through constitutional interpretation and judicial activism. Traditionally, compensation was governed by the law of torts, where an aggrieved person was required to file a civil suit and establish negligence or wrongful conduct to obtain damages. This process was often expensive, time-

consuming and inaccessible for economically weaker sections of society. Recognizing these practical difficulties, the Supreme Court gradually evolved the doctrine of constitutional compensation by treating monetary relief as a public law remedy for violations of fundamental rights, particularly the right to life and personal liberty guaranteed under Article 21 of the Constitution.

The landmark decision in *Rudul Sah v. State of Bihar* marked the beginning of this jurisprudence when the Court awarded compensation for illegal detention, holding that constitutional rights would lose their significance if effective remedies were not available. Subsequently, in *Nilabati Behera v. State of Orissa*, the Court firmly established that compensation could be awarded in cases of custodial death as a constitutional remedy independent of civil or criminal proceedings. Later, *D.K. Basu v. State of West Bengal* further expanded the doctrine by recognizing custodial torture and deaths as serious violations of human rights and directing the State to ensure effective safeguards against abuse. Over time, compensation jurisprudence has evolved into an important mechanism for enforcing constitutional accountability, recognizing State liability and protecting the dignity of individuals subjected to unlawful custodial treatment. Today, compensation is viewed not merely as financial assistance but as an acknowledgment of constitutional responsibility and a means of restoring public confidence in the rule of law.

Judicial Development of Public Law Compensation

The Indian judiciary has played a transformative role in developing the doctrine of public law compensation through progressive interpretation of constitutional rights. Unlike private law damages awarded under civil law, public law compensation is granted directly by constitutional courts under Articles 32 and 226 to remedy violations of fundamental rights by State authorities. The Supreme Court has consistently held that where the State fails to protect the life and liberty of a person in its custody, constitutional courts have the power to award immediate monetary compensation without requiring victims to pursue lengthy civil litigation. Decisions such as *Rudul Sah*, *Nilabati Behera*, *D.K. Basu*, *Saheli v. Commissioner of Police* and *People's Union for Civil Liberties v. Union of India* have strengthened this doctrine by emphasizing that compensation serves both remedial and deterrent purposes. The courts have clarified that compensation awarded under public law does not replace criminal prosecution or departmental proceedings but exists as an independent constitutional remedy. This judicial development has significantly enhanced police accountability and reaffirmed the principle that every exercise of State power must remain subject to constitutional limitations, fairness and respect for human dignity.

Current Scenario of Custodial Death Cases in Gujarat

The issue of custodial deaths continues to attract legal and public attention in Gujarat despite significant advancements in policing and criminal justice administration. The State has adopted several modern reforms, including digital policing, forensic science laboratories, cyber investigation units, CCTV surveillance in police stations and improved electronic record management. These initiatives have enhanced transparency and scientific investigation; however, reports of custodial deaths indicate that

institutional challenges still persist. According to recent observations of the Gujarat State Human Rights Commission, custodial deaths continue to occur in both police and judicial custody, highlighting the need for stronger implementation of constitutional safeguards, improved prison healthcare, independent investigations and greater accountability of law enforcement agencies.

The National Human Rights Commission has also taken cognizance of complaints relating to alleged custodial torture in Gujarat, reiterating the importance of prompt reporting, magisterial inquiry, forensic examination and compliance with its guidelines. Factors such as excessive reliance on confession-oriented investigation, inadequate human rights training, workload pressures, delays in forensic analysis and limited legal awareness among vulnerable communities continue to contribute to custodial abuse. The introduction of the Bharatiya Nagarik Suraksha Sanhita, 2023, with greater emphasis on procedural fairness, digital documentation and scientific investigation, offers new opportunities to strengthen transparency and reduce custodial violence. Nevertheless, effective implementation of these reforms requires continuous judicial oversight, institutional accountability, ethical policing and active cooperation between law enforcement agencies, human rights institutions and civil society. The Gujarat experience demonstrates that technological advancement alone cannot eliminate custodial deaths unless accompanied by a sustained commitment to constitutional values, professional policing and respect for human dignity.

Role of the National Human Rights Commission (NHRC) and Gujarat State Human Rights Commission

The National Human Rights Commission [NHRC] plays a central role in protecting human rights and promoting accountability in cases of custodial deaths and police violence in India. Established under the Protection of Human Rights Act, 1993, the Commission is empowered to investigate complaints of human rights violations, review legal safeguards, inspect prisons and detention centers, recommend policy reforms and advise governments on measures to strengthen the protection of fundamental rights. In matters relating to custodial deaths, the NHRC has issued comprehensive guidelines requiring every custodial death to be reported within twenty-four hours. It further mandates independent magisterial inquiries, scientific post-mortem examinations, videography of post-mortem procedures, forensic analysis and submission of detailed investigation reports. These safeguards aim to ensure transparency, prevent suppression of evidence and promote impartial investigation. Where violations are established, the NHRC may recommend monetary compensation to the victim's family, disciplinary action against responsible officials and, where necessary, criminal prosecution. Although its recommendations are advisory in nature, they carry considerable persuasive value and have significantly influenced judicial decisions and police reforms.

At the State level, the Gujarat State Human Rights Commission [GSHRC] performs an important function in addressing complaints relating to custodial violence, illegal detention and prison conditions within Gujarat. The Commission conducts inquiries, seeks reports from police authorities and other government departments and recommends corrective measures to strengthen institutional accountability. It also organizes seminars, awareness

programmes and training activities to promote respect for constitutional rights among law enforcement agencies and the general public. Recent reports of the GSHRC have highlighted concerns regarding custodial deaths, prison healthcare, overcrowding and the need for regular human rights training for police personnel. Despite these valuable contributions, practical challenges such as delays in investigations, limited resources, non-binding recommendations and inconsistent compliance by authorities continue to affect the overall effectiveness of both commissions. Strengthening their institutional independence, ensuring prompt implementation of recommendations and improving coordination with the judiciary and investigative agencies remain essential for effective human rights protection.

Landmark Supreme Court Judgments

The Supreme Court of India has played a decisive role in developing compensation jurisprudence and strengthening constitutional safeguards against custodial deaths. In *Rudul Sah v. State of Bihar* 1983, the Court for the first time recognized compensation as a constitutional remedy for illegal detention, holding that enforcement of fundamental rights requires effective relief. This principle was further developed in *Nilabati Behera v. State of Orissa* 1993, where the Court held that the State bears constitutional responsibility for protecting persons in custody and that compensation may be awarded under public law for violations of Article 21. In *D.K. Basu v. State of West Bengal* 1997, the Supreme Court issued comprehensive guidelines regulating arrest and detention, including preparation of arrest memoranda, medical examination of detainees and communication of arrest to family members and maintenance of custody records. These directions remain the foundation of custodial safeguards in India.

In *Joginder Kumar v. State of Uttar Pradesh* 1994, the Court clarified that the power to arrest must be exercised only when necessary and cannot be used arbitrarily. Further, *Prakash Singh v. Union of India* 2006 introduced significant police reforms by directing States to establish Police Complaints Authorities, improve institutional independence and strengthen accountability mechanisms. Collectively, these judgments have transformed compensation jurisprudence into an effective constitutional remedy while promoting transparency, accountability and respect for human dignity.

Comparative Analysis with Other Indian States

A comparative study of custodial death cases across different Indian States demonstrates that custodial violence remains a nationwide challenge rather than a problem confined to any single region. However, the effectiveness of preventive measures differs considerably depending upon the quality of policing, institutional accountability, judicial supervision, forensic infrastructure and public awareness of human rights. The experience of Gujarat, when compared with other States, highlights both notable achievements and areas requiring further reform.

Gujarat has made significant progress in modernizing its criminal justice administration through digital governance, forensic science laboratories, cybercrime investigation units, electronic record management and CCTV surveillance in police stations. These initiatives have improved transparency and scientific investigation, reducing

dependence on traditional interrogation methods. Nevertheless, incidents of custodial deaths continue to raise concerns regarding effective implementation of constitutional safeguards and accountability mechanisms. This indicates that technological advancement alone cannot eliminate custodial abuse unless accompanied by ethical policing, independent investigation and strict adherence to judicial guidelines.

Kerala has generally been recognized for promoting community policing, regular police training and greater public participation in law enforcement. These initiatives have strengthened trust between citizens and the police, although isolated allegations of custodial violence continue to arise. Tamil Nadu has experienced several high-profile custodial death cases that prompted judicial intervention, extensive media scrutiny and demands for stricter enforcement of arrest procedures, scientific evidence collection and institutional transparency. Similarly, Uttar Pradesh has faced challenges arising from the size of its police force, heavy investigative workload and allegations of excessive use of force, resulting in increased emphasis on technological monitoring and independent investigations. Maharashtra, with its advanced forensic infrastructure and specialised investigation units, has also invested in professional police training and digital policing; yet occasional incidents of custodial violence demonstrate that continuous institutional vigilance remains necessary.

The comparative analysis indicates that States possessing stronger forensic capabilities, active human rights institutions, independent complaint mechanisms, regular police training and effective judicial oversight generally demonstrate better compliance with constitutional safeguards. Gujarat can further strengthen its compensation jurisprudence by expanding scientific investigation, enhancing human rights education, ensuring prompt disciplinary action against erring officials and improving coordination among the police, judiciary and human rights institutions. Ultimately, the experiences of different States confirm that preventing custodial deaths requires not only legal reforms but also institutional integrity, professional policing and an unwavering commitment to the constitutional values of justice, equality and human dignity.

Suggestions and Policy Recommendations

The present study demonstrates that compensation jurisprudence has emerged as an important constitutional mechanism for protecting the right to life and personal liberty in cases of custodial deaths. However, effective prevention of custodial violence requires comprehensive institutional reforms extending beyond the award of monetary compensation. First, there is a need to enact a comprehensive anti-torture legislation in conformity with international human rights standards, particularly the principles contained in the United Nations Convention against Torture. Such legislation should clearly define custodial torture, prescribe stringent penalties and establish effective mechanisms for investigation and victim compensation.

Secondly, all cases of custodial deaths should be investigated by an independent agency to ensure impartiality and public confidence in the criminal justice system. Mandatory compliance with the Supreme Court guidelines in *D.K. Basu v. State of West Bengal* including preparation of arrest memoranda, medical examination of detainees,

communication of arrest to family members and maintenance of custody records, should be strictly monitored. Installation and continuous functioning of CCTV cameras in police stations, lock-ups and interrogation rooms should be ensured, while digital recording of interrogation proceedings should be adopted wherever feasible.

Thirdly, scientific investigation must replace confession-oriented policing. Greater investment in forensic science laboratories, digital evidence collection, cyber investigation techniques and specialised training for investigating officers will reduce dependence on coercive methods. Police personnel should receive regular training on constitutional ethics, human rights, stress management and professional standards of investigation. Sensitization programmes should also emphasize the protection of vulnerable groups, including women, children, Scheduled Castes, Scheduled Tribes and economically weaker sections.

Further, the National Human Rights Commission and the Gujarat State Human Rights Commission should be provided with adequate financial, technical and investigative resources. Their recommendations should be implemented promptly, and periodic compliance reports should be monitored by the concerned governments. Legal aid services should be strengthened to ensure that every arrested person has timely access to legal representation, medical assistance and information regarding constitutional rights. Community policing initiatives, public legal awareness programmes and transparent disciplinary mechanisms should also be encouraged to improve trust between citizens and law enforcement agencies.

Conclusion

Compensation jurisprudence has become an integral part of Indian constitutional law by recognizing that violations of fundamental rights committed by State authorities require immediate and effective remedies. Through progressive judicial interpretation, the Supreme Court has transformed compensation from a private law remedy into a constitutional instrument for enforcing accountability and protecting human dignity. The socio-legal analysis of Gujarat reveals that although the State has made considerable progress in modernizing policing through digital governance, forensic science and technological reforms, custodial deaths continue to present significant legal and administrative challenges.

The study further establishes that constitutional safeguards, statutory reforms, judicial precedents and the institutional efforts of the NHRC and the Gujarat State Human Rights Commission have considerably strengthened the protection available to persons in custody. Nevertheless, effective implementation remains the greatest challenge. Delays in investigation, inadequate human rights training, limited forensic resources in certain areas and inconsistent compliance with judicial directions continues to affect police accountability. Therefore, compensation should not be regarded merely as financial assistance but as recognition of State responsibility for violations of constitutional rights. A transparent, accountable and human rights-oriented policing system, supported by independent oversight and effective judicial supervision, is essential for preventing custodial deaths and strengthening public confidence in the criminal justice system. The experience of Gujarat demonstrates that meaningful reform requires continuous cooperation among the legislature, judiciary, executive,

police administration and civil society to ensure that the exercise of State power always remains consistent with the constitutional values of justice, dignity, equality and the rule of law.

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