In India’s Dark Record on Custodial Deaths, Jharkhand HC Offers Rare Hope

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The Jharkhand High Court orders fresh judicial probes into 262 of 427 custodial deaths, flags grave legal violations, and links them to wider national failures on torture, accountability and compensation. Edgar Kaiser asks: Can this verdict become a model to fix India’s custodial justice crisis?

A Jharkhand High Court has recently flagged **427 custodial deaths** in the state since 2018, ordering a judicial inquiry into the matter. The judgment by shines a ray of hope for hundreds of victims' families who long awaited the justice system to keep up to its Constitutional promise. A promise that has rarely been delivered in custodial violence cases across the country.

The *Mumtaz Ansari* verdict must be mapped in the larger canvas of international pushback, failure of domestic mechanisms, and the consistent clarion call for custodial accountability in India.

> Amongst prior rulings that either directed systemic reforms without reaching individual victims, or delivered justice to one family without systemic overhaul, this judgment is a pioneer, and stands unique by promising to deliver systemic reforms and collective justice to hundreds of victims.

A Crisis of Accountability

As early as 2016, Human Rights Watch came out with a staggering report on custodial torture in India, which highlighted the contradiction between the enormous instances of custodial deaths and very few to no convictions of police officers, marking the State's failure to meet the gap in accountability.

Almost 10 years later, the World Organisation Against Torture categorised India as a "high-risk" country in its Global Torture Index. Another International report revealed that the National Human Rights Commission (NHRC) received a total of 20,000 complaints of custodial deaths between 2014 and 2022, with a prosecution rate of zero.

> Recent figures from the NHRC reveal that there had been 170 recorded custodial deaths in only the first three months of this year, which points to a sharp incline from previous years. The NHRC, with a clear mandate to investigate torture, is nevertehless suffering from a credibility crisis at the International level due to its lack of independence and effectiveness, among other factors.

India lacks an anti-torture law and has not ratified the Convention Against Torture since 1997, despite repeated promises and the NHRC’s recommendation around the early 2000s. Several International bodies, including the UN Human Rights Committee, have been urging India to

address this issue by enacting an anti-torture law and introducing institutional reforms, but in vain.

This year alone, the UN Special Rapporteur on Torture made several attempts to urge the government to act, including her remarks at the Human Rights Council in Geneva, a joint letter to the Indian government and her recommendations during a civil society consultation last week. Despite all this, the government exhibits absolute impunity, culminating in international and local failure of human rights accountability in India.

Reforms without Remedy

It would be unfair to say that the judiciary has done nothing so far. A few weeks ago, **The Quint** reported the historic verdict in the Sathankulam custodial death case. But it doesn't extend much beyond the individual remedy to create systemic change and collective justice for past victims, as much as its symbolic value.

The Supreme Court has delivered several verdicts to create systemic reforms, including the setting up of CCTV cameras in police stations and the creation of a police complaints authority (PCA) for police accountability. However, both CCTVs and PCAs suffer from a serious implementation crisis, which leaves the accountability gap intact.

The Apex Court, even as early as 1999, has been stating that custodial violence "strikes a blow at the rule of law", but has it really been translated into systemic change and justice for victims? At this juncture comes the Jharkhand HC decision, which is compelling and reassuring for more than one reason: the rhetorical value, procedural safeguards and reparation to victims.

The Principal Bench of the Jharkhand HC delivered this verdict in a Public Interest Litigation, predicated upon the government data revealing 427 custodial deaths in the state between 2018 and 2026, more than half denied the independent judicial inquiry the law mandated.

The petition prompted the court to uphold constitutional morale, enforce procedural guarantees, and deliver collective justice. The court was very clear about its language from the beginning of the verdict. It asserted that the victims are 'marginalised and socio-economically weaker sections of society' who lack the financial and legal resources to pursue their rights against the 'state machinery'.

> The court was "shocked beyond words" perusing the data and rebuked the government for being in a "state of denial", calling it a "profound failure of constitutional machinery". The court reprimanded the 'pick and choose' approach employed by the government, stating that the government has no "luxury of choice" to make the executive magistrate investigate cases of custodial violence, which was outlawed decades ago.

Procedural Violation and Constitutional Failure

At the heart of the judgment lies a statutory violation of section 176(1-A) of the CrPC, inserted by Parliament in 2006 following theLaw Commission's 152nd Report of 1994, which clarified that custodial death inquiry must be conducted by a Judicial Magistrate, not an Executive Magistrate.

The court referred to the Law Commission's report, which stated that custodial violence, a substantive violation, should be taken over by the procedural safeguard of ensuring a prompt and impartial inquiry.

The earlier arrangement, which allowed executive magistrates to investigate custodial deaths, was inherently erroneous, as it placed the inquiry within the same executive framework it was designed to oversee. *'Both the inquiring officer and the personnel whose conduct was under scrutiny were functionaries of the same administrative hierarchy, often operating under identical political and bureaucratic pressures.'*

The 2006 amendment was a direct legal response to address this conflict of interest, which the Jharkhand government had ignored completely.

> Of 427 custodial deaths between 2018 and 2026 in Jharkhand, 262 were handed to Executive Magistrates, which the court held to be *void ab initio* and "not a mere procedural lapse". The state's own affidavit compounded the violation with a revealing arithmetic failure, i.e, 262 executive magistrate inquiries and 225 judicial magistrate inquiries yielding 487 cases, against a total of only 427 deaths.

The court noted this discrepancy directly, 'casting serious doubt on the state's veracity.' This systemic bypass, the court held, violated both Article 21, the right to life cannot be investigated by the very executive responsible for its deprivation, and Article 14, since the arbitrary pick and choose selection of which families received judicial inquiry and which did not introduces unconstitutional caprice into a domain where equality before the law is non-negotiable.

The Court's Intervention

The remedy was path-breaking; '*de novo*' inquiries ordered across all 262 cases, retrospective, collective, court-supervised and most importantly, time-bound. The court set a clear deadline and reporting for all the directions it gave.

In addition, the court also directed the judicial academy to prepare Standard Operating Procedures (SOPs) and a model format for inquiry reports to all judicial officers within four months. The court went a step further and ordered that every inquiry report upon completion must be forwarded to both the NHRC and the Jharkhand State Human Rights Commission, with explicit assurance from the concerned magistrate and Superintendent of Police that the inquiry has complied with the statutory requirement.

As a human rights lawyer from a victim-centred organisation, what appears most striking to me is how quietly, yet revolutionarily, the court delivered reparation for victims.

> As a form of reparations to the victims, the court stated, “It is an admitted reality that the doors of this Court are often practically inaccessible to every litigant for the purpose of seeking compensatory remedies. While a robust framework already exists in the form of District Victim Compensation Committees, we find that its potential is seldom realised in cases involving custodial deaths.”

The court directed that upon receipt of an inquiry report disclosing custodial violence, the District Victim Compensation Committee shall, on its own motion, take up the matter and determine compensation within thirty days, without unnecessarily burdening the victims to approach the court.

A Rare Judicial Breakthrough

As elucidated above, the judgment is novel and path-breaking for many reasons. This is the first verdict by any constitutional court providing a collective remedy to hundreds of custodial death victims for the violation of procedural safeguards. It is also the first case where the court has held a violation of Article 21 along with Article 14 for the pick and choose methodology deployed by the government.

> By asking the judicial academy to prepare SOPs and mandating the reporting to national and state human rights institutions, the verdict quite significantly wakes up different branches of the executive and judiciary, which have long operated in silos, collectively blocking the path to justice in custodial accountability. Beyond the prayer, the court captured the vulnerable status of the victims and revitalised an existing body to compensate the victims, also to avoid unnecessary litigation.

This case could be a great model for every other state where custodial deaths go uninvestigated and families uncompensated. The data needed to replicate this litigation already exists in NHRC annual reports, potential RTI responses from state home departments, and starred questions answered in state legislative assemblies.

While custodial justice has long been a distant dream for victims across India, *Mumtaz Ansari* shows it is not an impossible one, an exemplary case of strategic litigation for human rights lawyers, and for the hundreds of families who have navigated this dark sea alone, it may finally be the lighthouse they were looking for.

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