

# **Spectre of brutality: Custodial death in Chennai shocks Tamil Nadu**

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The custodial death of a Dalit youth in Chennai again sparks outrage and highlights the urgent need to humanise the police force.

On the night of April 18, a team of Chennai policemen, carrying out a routine vehicle check, stopped an auto-rickshaw and found one of its occupants, Vadivel Vignesh, (25), a pavement dweller who makes a living giving joyrides on horses at the city's famous Marina beach, in possession of some "dry ganja (marijuana) leaves barely adequate for two cigarette fillings, a quarter bottle of Indian Made Foreign Liquor (IMFL), and a knife." With him was his friend G. Suresh (28), a repeat offender. Vignesh, who dropped out of school after Class VII, has no serious criminal track record except for being involved in a scuffle once, registered at the Triplicane police station.

The police, claiming that the duo was behaving suspiciously, took them to the Secretariat Colony Police Station, where both were beaten severely with casuarina logs and subjected to other third-degree torture till the early hours of April 19. Vignesh started vomiting and developed seizures. He was taken to a private hospital nearby and then rushed to the Government Kilpauk Medical College Hospital, where he was declared "brought dead".

## **Claims disproved**

The police registered a case under Section 174 of the CrPC (Code of Criminal Procedure) for Vignesh's death, while sending Suresh to judicial custody since they had already registered cases against the duo under Sections 341, 294 (b), 353, 323 and 506 (2) of the Indian Penal Code (IPC).

As news of the custodial death began to spread, provoking public anger, an inquest was quickly initiated. A post-mortem was carried out on April 20, which disproved the police's claims that the victim had died from an epileptic seizure.

The autopsy report, which was made available to the victim's family only on May 4, clearly states that Vignesh suffered 13 wounds. Multiple contusions, abrasions, cuts, diffuse contusions, etc., were noticed in the skull, left cheek, right hand, forearms, right lower limb, thighs and left foot sole. It further recorded that the injuries were dark red in colour and on dissection, thick blood oozed out. The entire 90-minute procedure performed by two senior doctors was videographed.

It is Vignesh's older brother, Vinod (30), who has been chasing the police for updates. He is the eldest of six brothers who were orphaned young after their parents died of illnesses.

Since then, the brothers have lived on pavements and beaches. Vinod runs errands and does odd jobs to put food on the table for him and his brothers.

Vinod has said that some policemen gave him Rs.1 lakh to hush up the crime. During an inquiry, Vinod told the magistrate that he was ready to return the money. He has since lodged a formal complaint of custodial death against the perpetrators. Speaking to *Frontline*, Vinod said, “Today, we are united in grief and discovering a new-found resolve to fight the beastly system that is preventing us from getting justice.”

After the widely publicised custodial deaths in 2020 of P. Jeyaraj and his son J. Beniks in Thoothukudi, Vignesh’s death has triggered a Statewide uproar against the Tamil Nadu police once again. Bowing to pressure from activists and civil society, Syendra Babu, Director-General of Police, transferred the case to the CB-CID (Crime Branch-Criminal Investigation Department) on April 22.

The National Commission for Scheduled Castes has asked the police to register a case of murder under Section 302 of the IPC, along with appropriate provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendments Act. It also noted with grave concern that the police attempted to hide the caste identity of the victim.

The issue rocked the Tamil Nadu Legislative Assembly too. Responding to special call attention motions, Chief Minister M.K. Stalin announced a solatium of Rs.10 lakh to the victim’s family, and on May 5, he announced that the charge had been converted to murder. Five policemen and one home guard were found to have been involved in the crime. They were arrested and remanded to custody.

Speaking again in the Assembly on May 10, Stalin said that to prevent lockup deaths, the government had issued “strong instructions” to police personnel to not psychologically or physically torture those taken to police stations for inquiries.

### **Custodial torture and deaths**

Torture and violence are deeply ingrained in the working system of law enforcers across the country. Deaths in both police and judicial custodies are commonplace.

Worried over the chilling consistency with which such extra-judicial killings are taking place, the Supreme Court has, in various verdicts, called for an urgent need to humanise the system of police governance. It has issued instructions in this regard and delivered judgments, including the landmark judgment in *D.K. Basu vs State of West Bengal (1997)* on the increasing number of custodial deaths, where it issued a 10-point charter of Dos and Don’ts to the police, known as the ‘Ten Commandments’, with regard to investigation, detention, arrest, remand, and custody. But the charter is followed more in the breach.

*Henry Tiphagne, a Madurai-based rights activist, who is assisting the Joint Action Committee of Custodial Torture, a collective of various rights forums that is helping Vignesh's family fight the case, said that custodial death is a major issue that requires a concrete solution and a radical shift in how law enforcers interact with the public, whom they are legally mandated to protect.*

According to the National Campaign Against Torture (NCAT), a voluntary organisation, around 60 per cent of torture victims belong to marginalised and minority communities such as Dalits, tribal people, and Muslims.

### **A long list**

On April 27 this year, Thangamani, a 47-year-old tribal man from the Kurava community in Thandampattu block in Tiruvannamalai district, died in the subjail at Tiruvannamalai town. He had been arrested on charges of selling illicit liquor and remanded in judicial custody a day earlier. His family allege that he was tortured. In January, a 45-year-old physically challenged man named Prabhakaran died a day after he was detained by the Senthamangalam Police in Namakkal district in connection with a theft.

In June 2020, Jeyaraj and Bennix were beaten to death in police custody. A CBI probe is currently under way under High Court supervision. The past few decades have seen several custodial deaths in Tamil Nadu police stations. They include the Padmini case in 1994, in which a man named Nandagopal was taken to Annamalai Nagar police station in Chidambaram on theft charges and later died of torture. When his wife Padmini went to the police station, she was raped. The case went up to the Supreme Court, which convicted the perpetrators.

Two youths from the Kurava community died in custody in separate incidents: one was Rajakannu (25) of Mudanai village in 1994, whose story inspired the Tamil film *Jai Bhim*, and the other was K. Ravi (35) of Paranthal village in 2010, both from Villupuram district. While the accused in the Rajakannu case were convicted after a prolonged legal battle, Ravi's case fell through the cracks.

In 1992, Viruppalingam (35), a Vanniyar (a Most Backward Caste community), was shot dead at Kullanchavadi Police Station for speaking in support of some women from his village who had been arrested on the charge of bootlegging. A lower court convicted the accused, but the case could not be sustained in the High Court. Many other such incidents have been quietly buried.

Among the many instances was the case of 24-year-old Parvathy, who belonged to the Marava OBC (Other Backward Caste) community, who was the first woman to die in custody in, ironically, an all-women police station in July 1994. She had been detained for an inquiry following a domestic issue and was found hanging in the station toilet the next

morning. The government instituted an inquiry commission, which ruled out any police high-handedness.

### **Crime statistics**

The National Crime Records Bureau (NCRB) registered 1,888 custodial deaths in the two decades ended 2020, in which 893 cases were registered against the police, 358 perpetrators were charge-sheeted, and a mere 26 convicted. While 1,185 deaths were categorised under ‘persons not on remand’, 703 deaths were of ‘persons in remand’. In 2020 alone, 43 deaths of ‘persons not on remand’ occurred in police custody, with Gujarat topping the list with 15 deaths, followed by Maharashtra (5) and Tamil Nadu (4).

Responding to a query in Parliament in July 2021, Nityanand Rai, Minister of State for Home Affairs, said that India reported 1,840 custodial deaths in 2020-21. Uttar Pradesh stood first with eight deaths in police custody and 443 in judicial custody, followed by Bihar with three in police custody and 156 in judicial custody, and Madhya Pradesh with eight in police custody and 155 in judicial custody.

However, the National Human Rights Commission (NHRC) said in its 2001-02 report that between 1993-94 and 2001-02, the number of custodial deaths reported by States and Union Territories stood at a staggering 7,260, with 2002 registering the highest at 1,307. In its 2018-19 report, NHRC said that between 2013-14 and 2017-18, 8,085 people had died in judicial custody and 714 in police custody.

The NCRB depends on data it receives from the police of the respective States and Union Territories. Hence, its data has significant variations from that provided by independent organisations such as the NHRC. A data analyst, requesting anonymity, said: “We have been insisting that the government provide precise statistics on crimes. The States tend to inflate or deflate the data as per their political and sociological exigencies. We need a codified and independent data resource mechanism.”

### **Laws and lacunae**

As activists have pointed out, the absence of specific laws, the limited use of forensic techniques, and lack of reforms and accountability have been major impediments in humanising the police force. The laws to punish erring police personnel are inadequate.

Sections 132 and 197 of the CrPC seek to protect an officer from harassment when acting in the discharge of his official duties, thus prohibiting the courts from taking cognisance of such offence except with the prior sanction of the competent authorities—namely, the Central or State governments.

The Law Commission of India in 2003 had recommended a change in the Evidence Act, asking the government to introduce a section wherein the onus of proof of not having

tortured a person falls on the police and not on the victim. That has not happened yet. A draft bill on the Prevention of Torture, 2017, has not seen the light of day either.

As Tiphagne said: “Getting a conviction in any torture case against a police officer has been a tortuous experience for us.”

<https://frontline.thehindu.com/the-nation/human-rights/spectre-of-brutality-custodial-death-in-chennai-shocks-tamil-nadu/article38491806.ece>