



Why proving custodial death is so tough

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New Delhi: Proving custodial death is tough. The Supreme Court has repeatedly noted that producing evidence against police is very difficult because officers investigating those cases do not proceed with haste against their own colleagues.

The D K Basu guidelines that the police are supposed to follow while detaining a suspect are often ignored. These include conducting a medical check-up immediately after detention and keeping a family member or friend of the suspect in the loop.

This wasn't so in the case of Govinda. Even in the death of a 55-year-old man at the Bawana police station last

month, which police say was a suicide, the family had alleged that they had been kept in the dark about him till the afternoon. He had also been left unattended in a room.

The Criminal Procedure Code is not followed either. According to the National Crime Records Bureau, 591 deaths happened in police custody between 2010 and 2015. But the police labelled most of these as suicides and deaths due to illness or other natural causes. Of the 97 custodial deaths reported in 2015, police records list only six due to physical assault by police; 34 are listed as suicides, 11 as deaths due to illness, nine as natural deaths, and 12 as deaths during hospitalisation or treatment. But in many such cases, the families

alleged that death occurred due to torture.

In December 2017, Human Rights Watch, a research and advocacy group, released a report on illegal detentions and custodial torture in the country. The report underlined that

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proper procedures were crucial to prevent the assault of a suspect or death in custody. Legal and civil rights experts agree that torture is very likely in most cases and it is done with various objectives: frequently to get information about

the criminal's associates, sometimes to extort money from the suspect, and also to scare the detainee into giving up illegal behaviour.

The report also highlighted a high court's observations that families of victims

seeking justice often faced intimidation and threats. Many of these families are poor and socially marginalised, making them especially vulnerable to such harassment.

The report also questioned the way India's various hu-

man rights commissions worked. "The national and state human rights commissions have largely failed in their oversight role in cases of custodial killings," the report said. "Between April 2012 and June 2015, of the 432 cases of deaths in police custody reported to NHRC, the commission recommended monetary relief of about Rs 22,910,000, but recommended disciplinary action in only three cases and prosecution in none."

NHRC is empowered to summon witnesses, order production of evidence and recommend that the government initiate prosecution of officials. But in practice, it mostly limits itself to calling on the government to provide compensation or other interim relief.