POLICE CUSTODY DEATHS IN BANGLADESH: AN ANALYSIS OF LEGAL LIABILITY

Dewan Alif Ovi[1] & Tanvir Reza[2], The University of Asia Pacific, Dhaka, Bangladesh

ABSTRACT

Custodial death is the most ominous indicator in our country's capture, detention, and remand. It has now become all the rage across the country. Deaths in police custody usually generate a great deal of public attention and are frequently coupled with causality disputes. Accused individuals frequently come into encounter with the criminal justice system, with those suffering from mental illnesses over-represented in police custody. As a result, identifying vulnerability is critical in order to guarantee that proper precautions may be put in place. *This research is helping to show that* to prevent such a curse from afflicting society, the country has some existing legislation, directions, guidelines, and precedents that are constantly derived from court decisions of other nations. The judicial system in Bangladesh is no exception. In context of this, the research examined, with the goal of emphasizing on judicial reforms, applicable legislation and their implementation, national legislative framework, and court precedents on the banning of inhumane custodial torture, including arrest, custody, and remand by police. Finding of the research particularly concentrate upon irregularities of provision to safeguarding accused right in the jail. The lack of sanitation, healthcare, standard food quality also found as errors of concern authorities. Beside these normal and natural death also counted as death in custody but not due to torture by police. The political believes and support nurture by police is also one of the key reasons to increasing torture and deaths. To solve this problems state should amend existing provision which is contradictory related to custodial torture, Increase the circumference of Human Rights Commission and give them power to investigate these properly and follow the guidelines given by courts. This research demonstrated a real-life scenario of custodial torture and critically analyzed national mechanisms that directly contradict custodial deaths and brutal punishment.

Keywords: Custodial Deaths, Police Custody, Torture, Remand.

[1] LL. B (Hon's) from The University of Asia Pacific; Associate at Equity Law House
[2] LL. B (Hon's) from The University of Asia Pacific

1. INTRODUCTION

Torture is an inhumane and unacceptable practice that must be eliminated. The accused must be given due process rights. Any form of torture or illegal punishment that violates the right to life and liberty means a serious violation of basic human rights. Despite constitutional guarantees of immunity from cruel and degrading acts and punishments, Bangladeshi citizens are reported to be frequently subjected to such violence, especially in detention settings where law enforcement attempts to extract confessions from detainees after arrest or detention. Death in police custody has been one of the most serious issues in recent years. The majority of individuals are unaware of the police custody death. If there is a custodial death, the police will not release the information publicly. Incidents of torture and death in custody by law enforcement agencies are a regular occurrence. For example, in 2013, 72 people were victims of extrajudicial deaths by law enforcement agencies. There is a significant limitation on what the family of a death victim can do legally in the event of such a tragedy. Police custody is reported to be a hostile and chaotic environment for those entering it[3]. Despite this, however, it remains the most under-developed area of the criminal justice system[4]. Apart from this, recently the rate of torture and death in detention has increased in Bangladesh, and courts regularly hand over detainees to police for torture in the guise of legal documents commonly referred to as "remand". So, in short, we need a proper guideline from concern authority for the treatment of prisoner in police custody, otherwise this problem of deaths in custody keep continue growing.

2. OBJECTIVES OF THE RESEARCH

The main purpose of the research is to identify and find out the matter that affects whether the police custody death happened as a result of torture by the police. Also, there are some other specific goals that require setting to solve the problem. Such as what are the rights of detainees in police custody on the national level? And for this, we need to understand conceptual analysis. In addition, proper detection of problems can be helpful by using a legal framework on to reduce deaths in custody Finally, some proposals will be made to fill in the gaps that would

[3] Patrick Chariot et al, "Alcohol and Substance Screening and Brief Intervention for Detainees Kept in Police Custody. A Feasibility Study" (2014) 134 *Drug and Alcohol Dependence* <https://www.sciencedirect.com/science/article/abs/pii/S0376871613004171>.

[4] Lord Bradley The Rt Hon, *The Bradley Report* (DH Publications, 2009) <https://webarchive.nationalarchives.gov.uk/ukgwa/20130105193845/http:/www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098698.pdf>.

help us in the formation of an independent body to deal with the problems and have a special law in this regard.

3. CONCEPT OF CUSTODIAL DEATHS

Existing guidelines and legal systems describe "death in custody" in a variety of ways. First, there are differences in the places that are termed "custody." Depending on the definition, "custody" could refer to police custody[5] or could refer to various types of incarceration.[6] More infrequently, death in custody studies include deaths that occur "during an incident between a police officer (on or off duty) and a suspect"[7].

As per the definition of The Torture and Custodial Death (Prohibition) Act, 2013, "Custodial death" refers to the death of an individual while in the custody of a police official; additionally, any death of any individual during an unlawful detention, somewhere at time of arrest by any law enforcing agent, shall also be considered "custodial death"; any death occurring while a person is being arrested or taken into detention; being questioned, regardless of whether the person is a witness in a case or not.[8]

Custodial passing can be extensively ordered into three kinds:

- Death in police custody.
- Death in judicial custody and
- Death in custody of army or paramilitary force.

The term 'custody' connotes guardianship and safety. Custodial brutality is an unnatural quality that arises from a perverted desire to cause misery when there is no potential of vengeance in a civilized society.[9]

[5] Gaggioli, Gloria and Bernice S. Elger, "Death In Custody: Towards An International Framework For Investigation And Prevention" [2016] *Emerging Issues in Prison Health*
[6] Nikolic, Slobodan et al, "Forensic Expertise Of The Injury Severity In Fatally Injured Car-Occupants" (2007) 135(1-2) *Srpski arhiv za celokupno lekarstvo*
[7] Best, David et al, "Near Miss Incidents In Police Custody Suites In London In 2003: A Feasibility Study" (2006) 13(2) *Journal of Clinical Forensic Medicine*
[8] *The Torture and Custodial Death (Prohibition) Act, 2013.* 2(vii)
[9] Momtaz, Suraya, "Human Rights Violations In Bangladesh: A Study Of The Violations By The Law Enforcing Agencies" (2013) 4(13) *Mediterranean Journal of Social Sciences*

4. THE REASONS FOR DEATHS IN POLICE CUSTODY

The reasons of death in police custody vary enormously depending on the region in which the prison is located. The availability of resources for water, food, hygiene, and health care in a country globally, as well as the relative amount of resources dedicated to prisons, is a critical factor. Prisoners continue to starve to death[10] and illnesses caused by a lack of vitamins in several regions.[11] Lack of health medical services, particularly for the countless chronic Infectious disease detainees, is another major cause of death in Bangladeshi prison, resulting in a "double sentence." A huge amount of deaths could have been avoided that are currently caused by high incidence of psychological illness and contagious diseases for which medication exists and is therefore not widely offered in prisons for a variety of reasons.[12]

Deaths are caused by torture or violence perpetrated by third parties are quite well reported in the medical research records. In terms of (potentially proportional) aggression during arrest, evermore recent research demonstrates that specific arrest tactics, such as taser guns[13] and restraints, are associated to a large number of deaths.[14] Restrictions are a significant contributor to the disease condition known as "excited delirium." This syndrome frequently leads to the death, which is most likely caused by hemorrhagic shock. Restrictions are a significant contributor to the disease condition known as "excited delirium." This syndrome frequently leads to the death, which is most likely caused by hemorrhagic shock and shackles.[15]

Sepsis, bleeding, multiple organ injury, and even weariness could all be factors in custodial deaths. Torture and death in custody are being investigated. Furthermore, in addition to the public grief, every death in custody imposes an enormous strain on the police and other organizations participating in the investigation.

The police must try CPR and get medical assistance as soon as they discover a person who is dead or dying in custody. Officials should continue to try to revive the person until he or she

[10] Alexander, Jocelyn, "Death And Disease In Zimbabwe's Prisons" (2009) 373(9668) *The Lancet*
[11] de Montmollin, Dominique et al, "Outbreak Of Beri-Beri In A Prison In West Africa" (2002) 32(4) *Tropical Doctor*
[12] Bobrik, Alexey et al, "Prison Health In Russia: The Larger Picture" (2005) 26(1) *Journal of Public Health Policy*
[13] Vilke, Gary M. et al, "Tactical And Subject Considerations Of In-Custody Deaths Proximal To Use Of Conductive Energy Devices" (2009) 30(1) *American Journal of Forensic Medicine & Pathology*
[14] Dickson, Brendan C. and Michael S. Pollanen, "Fatal Thromboembolic Disease: A Risk In Physically Restrained Psychiatric Patients" (2009) 16(5) *Journal of Forensic and Legal Medicine*
[15] Cevik, Cihan et al, "Acute Stress Cardiomyopathy And Deaths Associated With Electronic Weapons" (2009) 132(3) *International Journal of Cardiology*

is brought to the hospital or certified dead by a trained person. This inquest does not aim to establish individual guilt for a death; instead, it conducts an autopsy to determine the cause of death.

5. THE CURRENT DOMESTIC SCENARIO OF POLICE TORTURE CAUSING DEATHS

Custodial torture in the pretext of remand has been grown ruthlessly by Bangladeshi law enforcement officials. Section 167 of the Criminal Procedure Code (CrPC) grants the authority to interrogate an accused in the purpose of inquiry without resorting to torture, which is known as remand. However, law enforcement agencies habitually persecute and violate human rights by enforcing Section 54 of the Criminal Procedure Code and Section 167 of the Code Of Criminal procedure, which are infringements of citizens' profound rights to life, equal protection under the law, liberty, , to be treated fairly, and to be free from cruel inhuman, and cruel treatment and punishment, as guaranteed by Articles 32, 27, 31, 33, and 35 of the Constitution.[16]

In the case of BLAST vs. Bangladesh[17] 55 DLR 363 and Saifuz zaman versus Bangladesh it seems that a cluster of police officers attacks an opposing guilty person, engulfing him in terrible suffocation. Other causes of death during an arrest include police personnel using an arm-lock or a neck hold on a resisting victim. The arm lock is applied from behind or with the wrongdoer's top tucked under the officer's arm against the waist. During a fight, head wounds can result from falls against the ground, a divider, or another impediment. Custodial death is a common cause of death in custody, and it also plays a significant role in triggering aggressiveness and violent resistance to alcohol and drugs.

Targeted individuals face a variety of consequences as a result of law enforcement organizations' politicization. The most heinous result is being humiliated and, in some cases, dying in captivity. Many cops feel that information or confessions cannot be elicited without the use of physical force or torture.[18] That is why, despite the fact that torture is illegal, it is widely used, particularly during' remand'. Torture involves pounding on the soles of the feet, crucifixion, and suspension by the

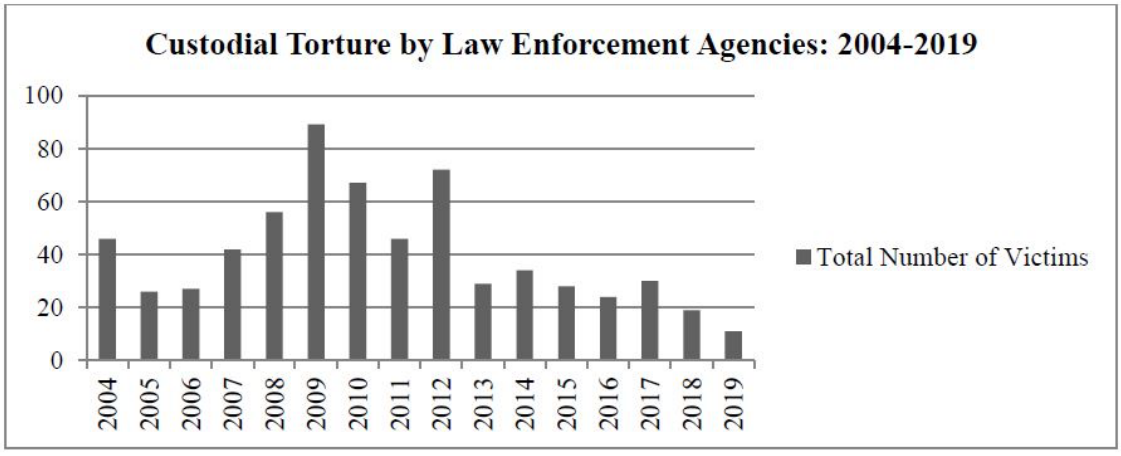
[16] Mia, Badsha, "Custodial Torture: Laws And Practice In Bangladesh" (2020) 2(II) *Electronic Research Journal of Social Sciences and Humanities*
[17] *BLAST v Bangladesh 55 DLR 363*
[18] Ibid

arms while they are roped behind the back, hanging upside down, hammering, electric shocks, and mental torture such as disgrace, threatening, and insult, among other things.

For a long time, death in custody has been a common occurrence. The High Court ruled in Jatiyo Mahila Ainjibi Samity vs. Bangladesh and Others (Criminal) that detention in secure custody against a detainee's will was unlawful. As is commonly understood, the safeguarding of a prisoner is a key element of police law.[19] According to Basic Standard 8, all prisoners must be treated humanely.[20]

6. STATISTICS OF CUSTODIAL DEATHS AND TORTURE IN BANGLADESH

According to Odhikar statistics, a total of 104 and 76 persons were killed in prison and police custody in 2002 and 2003, respectively.[21] Odhikar reported in the daily Prothom Alo on October 1st, 2005, that there have been 62 deaths in jail and prison. According to Odhikar's 2010 yearly report on the human rights situation in Bangladesh, 109 people died while in the custody of law enforcement agencies last year, while 16 people are still missing. In 2009, the figures were 123 and 02, respectively. The number was reported to be 140 in 2011, from January to December.



[22]

Odhikar Statistics on Custodial Torture in Bangladesh. (2020)

[19] *Jatiyo Mahila Ainjibi Samity vs Bangladesh and Others* (2007) 55 DLR 447

[20] "10 Basic Human Rights Standards For Law Enforcement Officials - Amnesty International", *Amnesty International* (Webpage, 2022) <https://www.amnesty.org/en/documents/pol30/004/1998/en/>

[21] *Investigation, Research And Publication Of Human Rights Violations Program* (Odhikar, 2005) <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://odhikar.org/wp-content/uploads/2012/09/Annual_activity_report_2005.pdf>

[22] "Odhikar | Statistics On Torture By Law Enforcement Agencies", *Odhikar.Org* (Webpage, 2022) <http://odhikar.org/statistics/torture-by-law-enforcement-agencies/>

7. CUSTODIAL DEATH AND POLICE REACTIONS

In custodial deaths of Pallabi Police Station in 2014; A young man in police custody exemplifies the problem of police abuse and death. The National Human Rights Commission has received complaints about torture, illegal detention, abusive behaviour at home, government inaction, and permitted disappearance. In most cases, these complaints were reported to law enforcement agencies, such as the Rapid Action Battalion (RAB), which has requested that major government agencies investigate the incidents.

The National Human Rights Commission (NHRC) received a case of enforced disappearance, custodial death, and torture in 2014. However, the NHRC expresses worry about the regularity with which non-governmental organizations and the media report on killings, deaths, and torture by law enforcement forces. Politicians, businessmen, students, professors, and leaders and activists from both the government and opposition parties are among the victims. After being kidnapped, some are resurrected as though they were dead.

However, law enforcement officials deny any knowledge of the missing. They also have a duty to protect anyone they have detained or imprisoned in order to defend themselves. It is hoped that the police will detain those who have confessed to breaking the law. This dual commitment makes any change in police authority uncomfortable and perhaps problematic. It can be very upsetting for the family of the deceased to find not only that someone close to them has died, but also that this occurred while they were in police custody. The death itself will have been harmful to the police officers involved, and the ensuing investigation will very certainly put them under great personal strain.

8. Legal Framework on Preventing Torture and Illegal Detention

8.1 CONSTITUTION OF PEOPLE'S REPUBLIC OF BANGLADESH

Article 35 guarantees a cluster of rights in respect of trial and punishment. Clause (5) prohibits torture or to cruel inhuman or degrading punishment or treatment[23]. This clause shall affect the operation of any existing law, which prescribes any punishment or procedure for trail. 'Existing law' means a law which was in existence at commencement of the constitution but does not include any amendment of the existing law made after the commencement of the Constitution.

[23] *Constitution of people's republic of Bangladesh*. 35(5).

This provision ensures that the power to punish is exercise within the limits of civilized standards[24]

While tending to the assurance against torture and debasing discipline under Article: 35(5) the High Court Division in *Alhaj Yousuf Ali vs. The State*[25] affirmed against the police torture and talked about part of the police not to exercise their power of arrest capriciously and whimsically. Torture for separating any sort of admission would not be correct nor just not fair. To portray inhuman punishment a judgement of court in India says punishment of death cannot pass the test of constitutionality[26].

8.2 THE BANGLADESH PENAL CODE, 1860

Physical and psychological ill-treatment of suspects by law enforcement officials is illegal and punishable in Bangladesh, according to the Penal Code 1860(PC). Public servants who cause "hurt" or "grievous hurt" to obtain confessions or compel property restoration face sentences of up to seven and ten years in prison, respectively, under sections 330 and 331. Section-330 of the code simply says “A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.”

The principle object of this section is to prevent torture by the police. Where a constable during a inquiry into a theft case, violently beat the deceased who died after nine days afterwards from the effect of beating, it was held that he was guilty under this section.[27] The decision does not appear to be very sound. He was liable for at least culpable homicide not amounting murder under section 304 of the Penal Code, 1860. An offence under this section made out if it is proved that the accused cause hurt to extort confession or any information. If the victim dies later it is not necessary to prove that the death was result of hurt cause.[28] The offence is complete as soon as the hurt is caused to extort confession or any information.

Section 331 is similar to the 330 except that the hurt cause under 331 should be “grievous hurt”.

---

[24] *Miranda v Arizona* [1966] 384
[25] *Yousuf Ali vsThe State* (2002) 22 BLD 231
[26] *Attorney general vs Lachman Devi* (1986) 467 AIR
“Execution of the death sentence in public is a degrading punishment and cannot pass the test of constitutionality”
[27] *Meah Mohammed, (1866)* PR No. 86 of 1866
[28] *State of himachal Pradesh Vs. Ranjit Singh,* 1979 Cr LJ NOC 210 (HP)

8.3 THE EVIDENCE ACT, 1872

Sections 24, 25, and 26 of the Evidence Act of 1872 set up conduct rules and procedure to protect people who are being interrogated from being tortured. A confession by an accused person is irrelevant if it does seem to have been induced or threatened, according to Section 24 of the Evidence Act. No confession given to a police officer could be used against an accused person, according to Section 25. As per section 26 of the act says Confessions made by a person in police custody are not admissible unless made in the immediate presence of a magistrate.

In *M.M. Rafiqul Hyder Vs. The State* 41 DLR 274 his lordship Mahmudul Amin Chowdhury observed – The Statement was made by customs officer and written by the appellant and in that circumstances, it cannot be found that the statement was voluntary and may have been secured by some sort of inducement or threat. When such statement is secured by some sort of inducement by the person in authority such confession or statement cannot be considered as evidence and the same is also barred under section 24 of Evidence act.[29]

The reason for provisions 24,25, and 26 of the Evidence Act of 1872 is that when a person found himself confined and captured in the hands of the police or other such officials as mentioned above, his only desire that constantly permeates his mind is to be released into freedom, and in such a state of mind, he may make confession totally untrue in the expectation of a promised benefit[30]. Similar events occurred when he or she was subjected to constant torture and made false statements[31].

8.4 THE CODE OF CRIMINAL PROCEDURE, 1898

It is open secret to all that police custody torture is obvious thing for any person weather rich or poor. While taking accused statement they threatening the accused to confess committing crime. But section 161 says A police officer must not make any inducement or threat to obtain the statement must be voluntary by the witness. If the statement is obtained by the inducement or promise or threat the same will not admissible even to contradict the witness. [32]

[29] *M.M. Rafiqul Hyder Vs. The State* 41 DLR 274
[30] Nazrul Islam, Muhammad, *Reflections on The Law of Evidence* (Kamrul book House, 2nd ed, 2018)
[31] Ibid
[32] Halim, Md. Abdul, *Text Book On Code of Criminal Procedure* (CCB Foundation, 15th ed, 2019)

In regard of this relevant section in a case the appellate division held that "no confession or statement given to the police under section 162 will not be admissible as evidence in the court of law.[33]" The supreme court also held that in *Mohammad Box Vs. State* 9 DLR (SC) 11, that even if the accused person gives statement on oath to a police officer still that will not be admissible to the court.[34] But in a of 35 DLR 303 observed – The confession Police taking from accused person is showing right and authentic as per the crime scene and seizure list and founds using arms during the crime on the basis of accused statement then the confession is relevant to the case[35].

All these decision and provision under this act indicates that there is somewhere abusing working ethics and violating law; and police officer doing this in regular basis. That's why these instruments are the tools to protect victim from those police officer.

8.5 THE TORTURE AND CUSTODIAL DEATH (PROHIBITION) ACT, 2013

The Torture and Custodial Death (Prevention) Act-2013 was enacted in response to Bangladesh's pledge to the Committee Against Torture, a UN body to which Bangladesh is a party to the agreement, to prohibit torture and other harsh, inhuman, or humiliating punishment or treatment of anyone in police custody, as well as to punish those who commit it.[36]

Provision no. 11 of the said legislation; Specifically deals instruments to protect the complainant, allowing him to file an appeal under the continual gaze of the Sessions Judge's Court for guarantee from the charged. Having followed receipt of the appeal, the Court will facilitate or reject the application within 14 days after notifying the respondents within 7 days.[37] When the Court deems it necessary, the accused may be requested to be held for at least seven days, with the possibility of a continuous extension. Unless necessary, the Court may arrange its migration in accordance with the court's unique insurance; it may also issue prohibitory instructions against the plaintiff, including blocking the respondent's independence to enter and stay in specific areas.[38]

---

[33] *Siddiqur Rahman Vs. State,* 7 BLD (AD) 93, 6 BCR (AD) 375
[34] *Mohammad Box Vs. State* 9 DLR (SC) 11
[35] 35 DLR 303
[36] Sarkar, Ashutosh, "Custodial Deaths: Law There, Victims Afraid To File Cases" *The Daily Star* (2020) <https://www.thedailystar.net/frontpage/news/custodial-deaths-torture-law-there-victims-afraid-file-cases-1958141>
[37] *The Torture and Custodial Death (Prevention) Act, 2013*. 11.
[38] Ibid

According to section-13 of Torture and Custodial Death Prevention Act, 2013 If someone tortures another person, it is considered a crime committed by that person.[39] As a result, the Act should include a definition of that word "person," which is defined as a public official or other person operating in an official capacity in accordance with the Convention against Torture in section 13 (1).[40]

Section-15 contained a description about the punishment of the offender who has commit, provoke, conspire to comment the offence.[41] As per the provision whoever commits an offence under section-13(i) shall be held rigorous imprisonment of 5 years or fifty-thousand-taka compensation or both at the same time and in addition to that another compensation amounting twenty-five thousand Taka to be paid to the victim/aggrieved person/ persons.[42]

If any person tortures another person and that person causes death as a result of the torture, the offender is deemed to have committed an offence under Subsection I of Section 13 of this Act and shall be punished with rigorous imprisonment of at least life term or a monetary penalty of at least one hundred thousand Taka, or both, for that crime, and additional compensation of at least two hundred thousand Taka must be paid.[43]

Any individual found guilty under this Act must pay the monetary penalty and compensation described in Subsections (i), (ii), and (iii) to the trial court within 14 days of the verdict's entry. No appeal against a judgement rendered under this Act shall be accepted unless this duty is met.

9. INVESTIGATION

Deaths in custody necessitate a thorough inquiry to ascertain causality and, if necessary, guilt[44]. The individual's underlying health issue (such as a history of heart or cancer), as well as specifics of the actual occurrence (including the use of a firearm)[45], must be thoroughly documented and examined. A forensic autopsy is required for an objective review because it

[39] *The Torture and Custodial Death (Prohibition) Act, 2013*. 13.
[40] Hasan, Md. Monjur, Md. Arifuzzaman and Mohammad Mizanur Rahaman, "Torture In Lawful Custody: Violation Of United Nations Convention Against Torture In Criminal Justice System In Bangladesh" (2017) 08(04) *Beijing Law Review*
[41] *The Torture and Custodial Death (Prevention) Act, 2013*. 15(i).
[42] Ibid
[43] *The Torture and Custodial Death (Prevention) Act, 2013*. 15(ii).
[44] Reay, Donald T, *Death In Custody* (18th ed, 1998)
[45] Ibid

can assist in discovering an exact cause of death if possible.[46] There seem to be currently just a few studies that deal with extensive error analysis and legal ramifications.[47] There have scarcely been legal implications for the doctors and police personnel involved, according to research. An examination of 21 investigative proceedings conducted against doctors, police officers, and paramedics in Germany revealed only one incidence of a medical practitioner being convicted and fined. These data show that, while errors were detected during a brief retrospective examination, the intricacy of these instances may have hindered the detection of real carelessness, flagrant departures from the standard of care, or severe guilt that would warrant medico-legal restitution[48].

10. PREVENTION

This form of inquiry, in addition to the methodical examination of the components, already indicated, must be taken into consideration in order to provide complete preventative suggestions. Only a few studies that have looked at the validity of medical assessments done in cases of death in custody. This sort of instance was seen in 38 percent of cases in Germany and 42%[49] of cases in Denmark. In the Netherlands and Norway, about half of all cases were subjected to this sort of investigation. Whereas medical examinations are frequently performed in such cases, the timing of such assessments and the actions taken on the basis remain unknown. The author believes that some deaths are the consequence of undervaluation of the severity of intoxications, insufficient monitoring and supervision of injuries, and ineffective communication between medical professionals and police.[50]

According to reports from England and Wales, between 1998/1999 (3.6 deaths per 100,000 cases of being brought into police custody) and 2008/2009 (1.0 per 100,000), there was a considerable decrease in such deaths. In Norway the decrease in incidence was primarily related to increased physician examination in the second period.[51] The limited number of people arrested and the deployment of video surveillance were both considerations. This

[46] Siegel, Jay A, Pekka J Saukko and Max M Houck, *Encyclopedia Of Forensic Sciences* (Elsevier Ltd., 2nd ed)
[47] Heide, Steffen et al, "Healthcare And Forensic Medical Aspects Of Police Detainees, Suspects And Complainants In Europe" (2018) 57 *Journal of Forensic and Legal Medicine*
[48] Ibid
[49] Segest E. (1987). Police custody: deaths and medical attention. *Journal of forensic sciences*, *32*(6), 1694–1703.
[50] Hannan, Maria, *Deaths In Or Following Police Custody* (Independent Police Complaints Commission, 2010)
[51] Aasebø, Willy, Gunnar Orskaug and Jan Erikssen, "Dødsfall I Norske Politiarrester 2003 – 12" (2014) 134(3) *Tidsskrift for Den norske legeforening*

advancement was ascribed to suicide standard precautions and a training program put in place following the first trial. In contrast, no declining trend was detected in Australia between 1990 and 2008, despite the fact that all deaths were documented and analyzed in a national database throughout this time period. As a result of the Maryland (USA) study, a nationwide database was also built to determine the most important factors in reducing the frequency of deaths of this type.[52] Systematic case recording in databases is a crucial step in developing focused prevention actions.

To be practical, one must assume that even if all essential care is provided, not that every demise in custody will be prevented in the future. Appropriate preventative efforts, on the other hand, might dramatically minimize the number of incidents and the resultant debate between law enforcement, medical experts, and the general public. To address the issue of fatalities in prison, more systematic research is needed, as well as improved comparison studies both nationally and globally. And the government should take such research findings as important one to decrease the mortality rate.

FAMOUS BANGLADESH LEGAL AID AND SERVICES TRUST (BLAST) AND OTHERS VS. BANGLADESH AND OTHERS

Where a few basic freedoms and lawful guide, non-government associations recorded a writ appeal in the High Court moving the maltreatment of police forces to capture without a warrant under Section 54 of the Code of Criminal Procedure, 1898 and the maltreatment of forces in regards to bringing the denounced into remand (police authority) under Section 167 of the Code.

The candidates alluded to late occurrences of gross maltreatment of force, including claims of custodial demise, torment and brutal treatment, in remand after capture under Section 54 of the Code of 1898. Until this point, quite a long while since the judgment, no such glass-apportioned rooms have yet been developed and torment and other debasing types of treatment are as yet distributed to a denounced in remand.[53] The candidates contended that these arrangements considered a self-assertive exercise of force and that the Court ought to articulate shields to

[52] Okoye, Matthias, Erin H Kimmerle and Karl Reinhard, "An Analysis And Report Of Custodial Deaths In Nebraska, USA" (1999) 6(2) *Journal of Clinical Forensic Medicine*

[53] Huda T, 'Justice For Jonny: Ending Impunity For Custodial Torture At Last' The Daily Star (2020) <https://www.thedailystar.net/opinion/justice-practice/news/justice-jonny-ending-impunity-custodial-torture-last-1959193> accessed 1 May 2021.

forestall or diminish police maltreatment of forces and self-assertive activities by Magistrates, which comprise infringement to a few basic rights ensured under Articles 27, 31, 32, 33 and 35 of the Constitution of the People's Republic of Bangladesh.

The High Court set out a bunch of fifteen rules as to exercise forces of capture and remand, including the accompanying.

- No police officer shall arrest someone under Section 54 [of the Code of Criminal Procedure 1898] with the intention of imprisoning them under Section 3 of the Special Powers Act, 1974.
- The concerned official will document the explanations for the individual's injuries, if any, and transport him/her to the nearest emergency clinic or government specialist.
- The individual captured will be outfitted with reasons of capture inside three hours of presenting to him/her to the Police Station.
- The individual concerned should be permitted to counsel a legal advisor of the decision or meet closest relations.
- If the Magistrate authorizes the individual's detention, the Officer will examine the accused in a jail chamber until a room with a glass divider or grille on one side inside sight of a legal counselor or relatives is constructed.
- In any application for taking charged in custody for interrogation, reasons ought to be referenced as suggested.[54]
- When granting detention in police custody, the Magistrate will adopt the suggestions outlined in the ruling.
- Under accordance with these ideas, the cop capturing under Section 54, or the Investigating Officer bringing an individual to authority or the jailor, shall notify the nearest Magistrate about the death of any individual in care.[55]

In spite of the previously mentioned lawful cures and legal choices, custodial death and torture have stayed a steady practice in Bangladesh. As per the measurements of Ain o Salish Kendra, 75 individuals kicked the bucket in care in 2020 and eight passed on in authority in January 2021 alone. Considering the developing worries of custodial torment, particularly with respect to detainment

[54] Ibid.
[55] Ibid.

under the DSA, the opportunity has already come and gone for the public authority to satisfy the relevant global common freedoms guidelines.

In this case, Custodial violence prompting wounds, assault, or demise of suspects or charges has gotten normal in our country. Basic liberties associations in their reports have likewise been alluding to custodial deaths and communicating worry over their expanding number. In any case, even after every one of the perceptions and improvements, the occurrences of custodial deaths are proceeding unabated. As per the common liberties association Odhikar, 184 individuals have been allegedly extra-judicially murdered by the law implementing offices in 2007 and of them in any event, 69 kicked the bucket in the authority. It isn't secret that while in police custody a wide range of third-degree strategies is utilized by cops to remove data from the charged which, numerous a period, lead to custodial demise.

11. FINDINGS

This study effectively identifies type and reasons of death in police custody. The judicial traditions of arrest, imprisonment, remand, and extra-judicial death in our country, as well as their non-implementation is also be successfully find out. In this regard, it shows the cause for unlawful arrest, imprisonment, and extra-judicial killing, where the document holds accountable the sections 54, 161, 167 of the CrPC; 3 of the Special Power Act; and sections 26, 316 of the PRB, which are classified as black laws, for misuse of the aforementioned authorities. Sections 54 and 167 of the CrPC, as well as Section 3 of the SPA, are the ruling party's sole tool for persuading the opposition to defect. Because many torture and illegal acts are been happened and there are lots of flaws in legal instrument which is misused by the law enforcement agencies even though Bangladesh ratified the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 1998, but did not send a national party report to the Committee until 2019.[56] Beside extra judicial killing and torture killing in the detention center some of the people are also dead due to lack of sanitation, healthcare, food and nutrition and other diseases. But as a human being minimum standard on living, sleeping, recreation should be provided which is absent in our jail. Political mentality

[56] Uttom Rozario, Stephan, "Custodial Torture And Deaths Plague Bangladesh" *Union of Catholic Asia News* (2020) <https://www.ucanews.com/news/custodial-torture-and-deaths-plague-bangladesh/89996>

is also a major reason for the custodial death. According to Ain o Salish Kendra records, 75 persons died in detention in 2020, with eight deaths in January 2021 alone.[57]

12. RECOMMENDATIONS

1. The Parliament should revise sections 54,167, and 344 of the Code of Criminal Procedure in accordance with the Supreme Court's directions in the BLAST case, on the proposal of the Ministry of Law, Justice, and Parliamentary Affairs.
2. The High Court Division's instructions and directives on arrest, investigation, and remand in the cases of BLAST and Others versus Bangladesh and Saifuzzaman vs State shall be rigorously followed.
3. Trying to reform the National Human Rights Commission Act of 2009 to provide the National Human Right Commission the power to investigate human rights abuses performed by law enforcement authorities.
4. When an arrested individual is transported to the police station or Thana, a General Dairy (GD) should be produced right away and, providing protection to anyone who register a complaint against a law enforcement officer.
5. Amending the Torture and Custodial Death (Prevention) Act of 2013 to safeguard eyewitnesses in torture proceedings.
6. Bangladesh ought to consider revising Article 46 of the Constitution in request to restrict the power given to Parliament by barring demonstrations of torment and other brutal, cruel, or debasing treatment or discipline from the extent of represents which public officials can be indemnified.
7. Judges ought to proclaim inadmissible any explanation which is made because of torment, in similarity with Articles 12 and 13 of the UN Convention against Torture, and the restriction of self-implicating proclamations revered in Article 35 (4) of the Constitution of Bangladesh.
8. The investigation office ought to be isolated from the police division where the police are charged for committing torture as result of custodial death.
9. Human rights training should be provided to police officers, and they should not be utilized for political purposes. Police personnel and magistrates should be selected by honest people with high moral standards.

[57] The Daily Star, "Torture In Police Custody: Serious Cause For Concern" (2021) <https://www.thedailystar.net/city/news/torture-police-custody-serious-cause-concern-2065857>

10. The NHRC should be granted more authority and autonomy. The NHRC should appoint the necessary skilled professionals to carry out its duties properly. Its investigative functions must be strengthened.
11. Victims of abuse should speak out against those who torture them. In this regard, the Human Rights NGO can be quite useful. Government, media, and non-governmental organization (NGO) awareness initiatives should be conducted.

13. 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. 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.[58] 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.[59]

[58] Sudha, Rambarapu, B. Lakshmi Prasanna and Nishat Ahmed Sheikh, "Deaths In Police Custody: A Retrospective Analysis" (2016) 9(4) *Indian Journal of Forensic Medicine and Pathology*
[59] Ibid

Bibliography

Cases

1. Shri DK Basu,Ashok K Johri V. State Of West Bengal,State Of UP, Supreme court of India (1997)
2. BLAST & others vs Bangladesh & others, 55 DLR (HCD) (2003) 363
3. Jatiyo Mahila Ainjibi Samity vs Bangladesh and Others (2007) 55 DLR 447
4. Saifuzzman vs State 56 DLR 324
5. Miranda v Arizona [1966] 384
6. Yousuf Ali vsThe State (2002) 22 BLD 231
7. Attorney general vs Lachman Devi (1986) 467 AIR
8. State of himachal Pradesh Vs. Ranjit Singh, 1979 Cr LJ NOC 210 (HP)
9. M.M. Rafiqul Hyder Vs. The State 41 DLR 274
10. Siddiqur Rahman Vs. State, 7 BLD (AD) 93, 6 BCR (AD) 375
11. Mohammad Box Vs. State 9 DLR (SC) 11
12. 35 DLR 303

Legislations

1. Constitution of The People's Republic of Bangladesh
2. Torture and Custodial Death (Prevention) Act, 2013
3. The Penal Code, 1860
4. The Code of Criminal Procedure, 1898

Books

1. Quazi Reza-ul Hoque, Preventive Detention Legislation in Bangladesh And Judicial Intervention in Bangladesh (1999).
2. Chowdhury, Badrul Haider, The Long Echoes (Naima Haider, 1st ed, 1990).
3. L. Ross, Darrell and Theodore C. Chan, Sudden Deaths in Custody (Humana Press, 1st ed, 2022)
4. Alexander, Jocelyn, "Death and Disease in Zimbabwe's Prisons" (2009) 373 The Lancet
5. Nazrul Islam, Muhammad, Reflections on The Law of Evidence.

6. Halim, Md. Abdul, Text Book On Code of Criminal Procedure.
7. Reay, Donald T, Death In Custody
8. Siegel, Jay A, Pekka J Saukko and Max M Houck, Encyclopedia of Forensic Sciences

Journals

1. Ahmed, Md. Nazir, " Preventive Detention, Violation of Individual Human Rights: An Over from Bangladesh Prevention " (2015) 5(1).
2. Chariot, Patrick et al, "Alcohol and Substance Screening and Brief Intervention for Detainees Kept in Police Custody. A Feasibility Study" (2014) 134 Drug and Alcohol Dependence.
3. Forrester, Andrew et al, "Demographic and Clinical Characteristics Of 1092 Consecutive Police Custody Mental Health Referrals" (2016) 28(3) The Journal of Forensic Psychiatry & Psychology.
4. Heide, Steffen and Theodore Chan, "Deaths in Police Custody" (2018) 57 Journal of Forensic and Legal Medicine.
5. Gaggioli, Gloria and Bernice S. Elger, "Death in Custody: Towards an International Framework for Investigation and Prevention" [2016]
6. Nikolic, Slobodan et al, "Forensic Expertise of The Injury Severity in Fatally Injured Car Occupants" (2007) 135(1-2)
7. Best, David et al, "Near Miss Incidents in Police Custody Suites in London in 2003: A Feasibility Study" (2006) 13(2)
8. De Montmollin, Dominique et al, "Outbreak of Beri-Beri In A Prison in West Africa" (2002) 32(4)
9. Bobrik, Alexey et al, "Prison Health in Russia: The Larger Picture" (2005) 26(1) Journal of Public Health Policy.
10. Vilke, Gary M. et al, "Tactical and Subject Considerations of In-Custody Deaths Proximal to Use of Conductive Energy Devices" (2009) 30(1) American Journal of Forensic Medicine & Pathology.

11. Dickson, Brendan C. and Michael S. Pollanen, "Fatal Thromboembolic Disease: A Risk in Physically Restrained Psychiatric Patients" (2009) 16(5) Journal of Forensic and Legal Medicine.

12. Cevik, Cihan et al, "Acute Stress Cardiomyopathy and Deaths Associated with Electronic Weapons" (2009) 132(3) International Journal of Cardiology.

13. Mia, Badsha, "Custodial Torture: Laws and Practice in Bangladesh" (2020) 2(II) Electronic Research Journal of Social Sciences and Humanities.

14. Momtaz, Suraya, "Human Rights Violations in Bangladesh: A Study of The Violations by The Law Enforcing Agencies" (2013) 4(13) Mediterranean Journal of Social Sciences.

15. Hasan, Md. Monjur, Md. Arifuzzaman and Mohammad Mizanur Rahaman, "Torture in Lawful Custody: Violation of United Nations Convention Against Torture in Criminal Justice System in Bangladesh" (2017) 08(04) Beijing Law Review

16. Segest E. (1987). Police custody: deaths and medical attention. Journal of forensic sciences, 32(6), 1694–1703.

17. Aasebø, Willy, Gunnar Orskaug and Jan Erikssen, "Dødsfall I Norske Politiarrester 2003 – 12" (2014) 134(3) Tidsskrift for Den norske legeforening

18. Okoye, Matthias, Erin H Kimmerle and Karl Reinhard, "An Analysis and Report of Custodial Deaths In Nebraska, USA" (1999) 6(2) Journal of Clinical Forensic Medicine

19. Sudha, Rambarapu, B. Lakshmi Prasanna and Nishat Ahmed Sheikh, "Deaths in Police Custody: A Retrospective Analysis" (2016) 9(4) Indian Journal of Forensic Medicine and Pathology

Newspapers & Websites

1. "Criminal Laws and The Constitution of Bangladesh (Part 2) - Assignment Point", Assignmentpoint.Com (Webpage, 2022) https://www.assignmentpoint.com/arts/law/criminal-laws-and-the-constitution-of-

bangladesh-part-2.html

2. "Custodial Death and Anti-Torture Law - Ipleaders", Ipleaders (Webpage, 2022) https://blog.ipleaders.in/custodial-death-anti-torture-law/#:~:text=This%20right%20states%20that%20no,against%20custodial%20torture%20and%20violence

3. "National Human Rights Commission - Banglapedia", En.Banglapedia.Org (Webpage, 2022) https://en.banglapedia.org/index.php/National_Human_Rights_Commission

4. The Rt Hon, Lord Bradley, The Bradley Report (DH Publications, 2009) https://webarchive.nationalarchives.gov.uk/ukgwa/20130105193845/http:/www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098698.pdf

5. "10 Basic Human Rights Standards For Law Enforcement Officials – Amnesty International", Amnesty International (Webpage, 2022) https://www.amnesty.org/en/documents/pol30/004/1998/en/

6. Investigation, Research And Publication Of Human Rights Violations Program (Odhikar, 2005) http://odhikar.org/wp-content/uploads/2012/09/Annual_activity_report_2005.pdf

7. "Odhikar | Statistics On Torture By Law Enforcement Agencies", Odhikar.Org (Webpage, 2022) http://odhikar.org/statistics/torture-by-law-enforcement-agencies/

8. Sarkar, Ashutosh, "Custodial Deaths: Law There, Victims Afraid To File Cases" The Daily Star (2020) https://www.thedailystar.net/frontpage/news/custodial-deaths-torture-law-there-victims-afraid-file-cases-1958141

9. Bashar A, 'State'S Liability in Cases of Custodial Torture and Death' The Daily Star (2020)

10. https://www.thedailystar.net/law-our-rights/news/states-liability-cases-custodial-torture-and-death-1918773

11. Abrar, C R, "Four (Custodial) Deaths And An Alibi" The Daily Star (2020) https://www.thedailystar.net/opinion/human-rights/news/four-custodial-deaths-and-alibi-1873927

12. Saggi, Deeksha, "Custodial Deaths And Role Of Judiciary: A Critical Analysis", Latest Laws (Webpage, 2020) https://www.latestlaws.com/articles/custodial-deaths-and-role-of-judiciary-a-critical-analysis

13. Huda T, 'Justice for Jonny: Ending Impunity for Custodial Torture at Last' The Daily Star (2020)

14. Uttom Rozario, Stephan, "Custodial Torture And Deaths Plague Bangladesh" Union of Catholic Asia News (2020) https://www.ucanews.com/news/custodial-torture-and-deaths-plague-bangladesh/89996

15. The Daily Star, "Torture In Police Custody: Serious Cause For Concern" (2021) https://www.thedailystar.net/city/news/torture-police-custody-serious-cause-concern-2065857