

A Two-Year Prospective Study from Punjab Region of India

Mittal D R¹, Jasbir S², Rai G³, Kumar K⁴, Sharma R K⁵

¹Junior Resident, Government Medical College Amritsar; ²Assistant Professor, Saraswathi Institute of Medical Sciences, Hapur; ³Additional Professor & Head, Dept of Forensic Medicine & Toxicology, Government Medical College Amritsar; ⁴Assistant Professor, Government Medical College Amritsar; ⁵Professor & Head, Dept of Forensic Medicine & Toxicology, Saraswathi Institute of Medical Sciences, Hapur

ABSTRACT

On one hand the horizon of human rights is expanding but at the same time the crime rate is also increasing. In this context, custodial deaths are among most contentious deaths for investigation by forensic experts. These deaths sometimes invite mass resentment and condemnation. Not that always such deaths are due to unnatural or violent causes; indeed most of the time they are due to natural causes. To analyse custodial deaths from all aspects present prospective study was undertaken. A total of 135 (119 male and 16 female) cases of custodial deaths were examined in detail over a study period of 2 years. Based on place of confinement 100 cases (74.07%) died in jail custody, 33 cases (24.45%) died in mental hospital custody and in 2 cases (1.48%) death occurred in police custody. Among 92 cases (out of 135) in which final cause of death was declared, the death was natural in 95.65% while in 4.35% it was unnatural. Pulmonary tuberculosis was the most common natural cause among prison custodial deaths (22.8%, n=16). In mental hospital custody coronary artery disease (12.8%, n=9) was the leading cause of natural death. As far as unnatural deaths are concerned, there were two cases each of suicidal and accidental deaths (2.17% each) and no case of homicidal death was noticed.

Keywords: custodial deaths, jail, police, mental hospital.

INTRODUCTION

Unfortunately, the term 'custody' has not been defined in Criminal Procedure Code (CrPC). Its core meaning is that the law has taken control of the person. This control is not the final or absolute control of ownership but controlling of a person's liberty or curtailing in a substantial manner a person's freedom of action. But at the same time there is implied responsibility for the protection and preservation of the person in custody. The person in custody is thus totally dependent on his or her custodian for proper care and attention.

Custodial death is heard in news and media from time to time and most of the highlighted cases invite public resentment and condemnation. Such events invariably have substantial allegations of omission of proper care and attention or commission of atrocities and torture or abuse of power in one or the other way on part of the authorities' concerned.

Not that always such deaths are due to unnatural or violent causes; indeed most of the time they are

due to natural causes.^[1,2] Inadequate medical facilities, delayed medical attention, inadequately trained staff and insensitive custodial authorities are frequently blamed causes by the researchers, to contribute to untimely natural or unnatural prison deaths. Therefore all cases of custodial deaths need to be investigated thoroughly to bring out the actual facts surrounding the death.

Every case of custodial death is supposed to be reported to the National Human Rights Commission (NHRC) and the police is also required to report the findings of the magistrate's inquiry to the Commission along with the postmortem report.^[1] This is an important protection but these steps are frequently ignored. According to Human Rights Watch investigation, a judicial inquiry was conducted only in 31 of the 97 custodial deaths reported in 2015 and 26 cases were not even submitted for an autopsy.^[3]

The autopsy surgeon has a unique role in documenting medical evidence in cases of custodial deaths. His/her role assumes significance in events when the custodial authorities try to hide or alter the

actual facts behind the death to save themselves from any penal action. He/she can find out the cause of death after meticulous examination and may also come out clear about manner of death on thorough evaluation of available information.

MATERIAL & METHOD

The prospective analytic study was carried out in the Department of Forensic Medicine and Toxicology, Government Medical College Amritsar (GMCA) from 1.10.2014 to 30.9.2016 on cases of custodial deaths brought for postmortem examination. The postmortem was conducted as per the guidelines laid down by NHRC.

Custodial deaths were categorized into three groups namely jail custody, police custody and mental hospital custody (in the custody of Government Mental Hospital Amritsar) deaths.

The inquest papers, hospital record, autopsy findings and the results of laboratory investigations including histopathology and chemical analysis were perused. All the observations are tabulated and the results are compared with the previous studies.

OBSERVATIONS

Out of 695 autopsies conducted during this period, the number of custodial death cases was 135 (19.42%). Based on place of confinement 100 cases (74.07%) died in jail custody, 33 cases (24.45%) died in mental hospital custody and in 2 cases (1.48%) death occurred in police custody. (Table-1) Among those dying in jail custody 50% were convicted prisoners, 47% were undertrial prisoners and 3% were internee. (Fig-1)

Out of 135 deaths 88.1% (n=119) were male and 11.9% (n=16) were female. Among males maximum deaths occurred in jail custody (82.35%; n=98) followed by mental hospital custody (16.81%; n=20) and one (0.84%) died in police custody. Among females 13 (81.25%) died in mental hospital, 2(12.5%) died in judicial custody and 1(6.25%) died in police custody. (Table-2)

The proportion of overall custodial deaths was highest in 26-35 years (26.7%) age group followed by

36-45 years (21.50%) and 46-55 years (16.30%) age groups. In jail, maximum deaths 32% (n=32) occurred in the age group of 26-35 years. While in mental hospital maximum deaths 45.7% (n=16) occurred in the age groups of 46-65 years. Two cases-a 35 year old female and a 16 year old male-died in police custody. (Table-3)

A total of 104 (77.04%) persons received medical care before their death, while 31 (22.96%) died at their place of confinement and had not received medical care before their death.

In 43 cases of custodial deaths laboratory reports (chemical analysis and/or histopathology) were still pending. So the statistical analysis regarding cause and manner of death could be performed only in 92 cases (out of 135) in which final cause of death were established. Out of these 92 cases 88 (95.65%) died of natural causes while 4 (4.35%) died due to unnatural causes. (Table-4)

Among natural causes 38.64% cases had single organ involved, majority having pulmonary involvement, 28.26% cases had two organ system involved and 20% had multi-organ failure. Pulmonary tuberculosis was the most common natural cause of death in prison custody (22.8%, n=16). In mental hospital custody coronary artery disease (12.8%, n=9) was the main cause of natural death. (Table-5) Out of total 33 cases of mental hospital deaths only 2 cases (6.06%) had pulmonary tuberculosis. (Table-6)

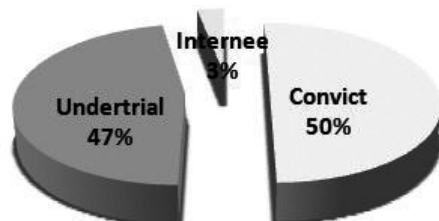
Out of total 102 cases of judicial/police custody deaths 53 cases (51.96%) were suffering either from TB or HIV or HCV or multiple infections. (Table-6)

As far as manner of unnatural deaths is concerned, there were two cases each of suicidal and accidental deaths (2.17% each) and no case of homicidal death has been noticed. Suicide was committed by 2 cases (n=2/92; 2.17%); one each in police and mental hospital custody. Hanging was the method used for suicide in both the cases.

Accidental death also accounted for 2 cases (n=2/92; 2.17%); one each died in jail and police custody. Accidental death in jail occurred due to accidental overdose of intravenous morphine in an undertrial prisoner. In police custody the accidental fall from height and consequent head injury resulted into death of the female inmate. (Table-4)

Table 1: Incidence of custodial death cases as per confinement

Type of custody	No. of cases	Percentage
Jail custody	100	74.07
Police custody	2	1.48
Mental Hospital custody	33	24.45
Total	135	100

**Figure 1: Conviction status of prisoners in jail custody****Table 2: Age wise distribution of custodial death cases**

Age group (in years)	No. of cases	Percentage
16-25	20	14.8
26-35	36	26.7
36-45	29	21.5
46-55	22	16.3
56-65	15	11.1
66-75	11	8.1
76-85	2	1.5
Total	135	100

Table 3: Gender wise distribution of custodial death cases

Gender	Judicial			Police	Mental Hospital	Total
	Convict	Undertrial	Internee			
Male	48 (96%)	47 (100%)	3 (100%)	1 (50%)	20 (61.61%)	119 (88.10%)
Female	2 (4%)	0 (0%)	0 (0%)	1 (50%)	13 (39.39%)	16 (11.90%)
Total cases	50	47	3	2	33	135

Table 4: Manner of death in custodial death cases (n = 92/135)

Manner of death	Mental Hospital	Judicial			Police	Total
		Convict	Undertrial	Internee		
NATURAL	23	36	26	3	0	88(95.65%)
UNNATURAL						
Accidental	0	0	1	0	1	2(2.17%)
Suicidal	1	0	0	0	1	2(2.17%)
Homicidal	0	0	0	0	0	0(0%)
Total	24	36	27	3	2	92(100%)

Table 5: Cause of death in custodial death cases (n = 92/135)

Cause of death	Mental Hospital	Judicial			Police	Total
		Convict	Undertrial	Internee		
Asphyxia	1*	0	0	0	1*	2
Hemorrhage & Shock	0	1	1	1	0	3
Septicemia	2	1	2	0	0	5
Poisoning	0	0	1*	0	0	1
Shock	0	0	1	0	0	1

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Organ failure						
<i>One organ failure</i>						
Brain	2	1	1	0	1*	5
Lungs	4	11	10	1	0	26
Liver	0	2	0	0	0	2
Heart	1	0	0	0	0	1
<i>Two organ failure</i>						
Brain &Heart	2	0	0	0	0	2
Brain &Lung	2	3	3	0	0	8
Heart &Lung	7	4	1	0	0	12
Liver &Lung	1	2	0	0	0	3
Kidney &Lung	0	1	0	0	0	1
Multi-organ failure	2	10	7	1	0	20
Total	24	36	27	3	2	92

*Unnatural deaths

Table 6: Prevalence of HIV, TB and HCV infections in custodial death cases

	TB	HIV	HCV	HIV+ HCV	HIV+ TB	TB+ HCV	HIV+ HCV+TB	Total
Judicial/police (n = 102)	22 (21.57)	11 (10.78)	12 (11.76)	4 (3.92)	1 (0.98)	1 (0.98)	2 (1.96)	53 (51.96)
Mental hospital (n = 33)	2 (6.06)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	2 (6.06)

(Parenthesis indicates percentage)

DISCUSSION

According to the NHRC, the number of custodial deaths in 2000-2001 was 1,037 while in the year 2012-2013 they have increased to 2,157. A total of 1,702 prisoners have died in Indian jails during 2014; out of which 1,507 were natural deaths and 195 were unnatural deaths.^[2]

In present study the incidence of custodial death was 19.42% of the total autopsies. In previous studies from same region conducted by Gargi^[4] (1995-97) and Vohra^[5] (2009-2010) the incidence of custodial death was 0.77% and 2.93% respectively. This increased proportion of custodial deaths is on account of the fact that since 2013, the GMCA is conducting autopsies in custodial death cases and referred cases requiring forensic pathologist expertise besides in-hospital deaths. Autopsies in all other cases are now being conducted at District hospital.

Out of 135 cases of custodial deaths, 11.9% were female and majority of them died in mental hospital

with only two deaths occurred in prison. Vohra^[5] has also mentioned 18.6% female deaths, majority of them died in mental hospital. Gargi^[4] and Bardale^[6] reported all males while Mittal^[7] reported only one female death in prison. Higher incidence of female deaths in mental hospital was during their old age after they had been left here by the relatives for rest of their life.

Predominantly the custodial deaths (26.7%) were seen in the age group of 26-35 years while Bardale^[6] and Vohra^[5] reported maximum age incidence (24.3%) in age group of 31-40 years. It shows that crime rate is enhancing amongst the younger age group.

The present study found more incidence of death among convicts (50%) comparative to undertrials (47%); the finding is in line with findings of Bansal et al^[8] who has reported, respectively 58.7% and 41.3% deaths among convicts and undertrials. Contrary to this observation Vohra^[5] has mentioned 71.4% deaths involving undertrial prisoners.

In present study 77.04% of inmates received medical care before their death. The studies of Vohra^[5], Bardale^[6] and Mittal^[7] put this figure respectively at 55.71%, 64.28% and 69.56%. It points towards a positive trend of timely referral of sick custodial patients.

Natural Deaths: The current study found that natural causes were responsible for majority of custodial deaths (about 95%).^[4-12] Among natural deaths most of the deaths were due to pulmonary system involvement; pulmonary tuberculosis being the leading cause. This finding is supported by various other researchers.^[4-6,11-14] However, Wobeser et al^[9] and Frueshwald et al^[10] found that majority of deaths were due to cardio-vascular diseases. This is attributed to overcrowding, closed living conditions, insufficient ventilation and poor nutrition in Indian jails as compared to western countries.

In our study out of 102 cases in judicial/police custody 21.57% were having tuberculosis, 10.78% were HIV infected and 11.76% were HCV infected. Besides, 8.7% cases were infected with multiple infections. (Table-6) Bansal^[8] and Bardale^[6] found the prevalence of HIV respectively in 13.5% and 14.08% of prison inmates. From above observation it is clear that prisoners constitute high risk group for acquisition of these infections.

Unnatural Deaths: The unnatural deaths comprised only 4.35% of cases which is lowest figure found as compared to figures reported by other authors. General welfare of prisoners and vigilance in Punjab jails might be comparably better than other study regions. The reason for this can be attributed to NHRC activism, media and general public awareness regarding custodial deaths, and constant fights of various NGO's against the custodial torture.

Suicidal and accidental deaths were found to have equal incidence (2.17% each). In this respect, the present study differs from other researchers, who found overall higher incidence of suicides, and also the most common manner of unnatural death. (Table-4)

However present study is in consonance with studies by Vohra^[5], Bardale^[6], Bansal^[8], Agnihotri^[11], Sonawane^[12] and Sonar V et al^[13] as far as most common method used for suicide viz. hanging. Therefore authorities should be careful that the inmates are not in the possession of such materials which may help them in taking the extreme step of ending their lives.

No case of homicide has been noticed in present study and this indicates effective control of authorities over inmates. However one disturbing fact is that all deaths occurring under police custody were unnatural. (Table-4) Moreover these deaths had occurred shortly after arrest and one of the arrestee was detained without any entry in daily diary. These shocking practices used by police undermine public faith in law enforcement.

Accidental deaths were due to drug overdose (poisoning) and accidental fall. The access of prisoners to poisons/drugs of abuse indicates lapses in jail security and has been found to be the commonest cause of unnatural deaths by few authors.^[7,14]

CONCLUSION

Custodial deaths are predominantly due to natural causes and pulmonary tuberculosis is the leading cause in developing countries, which is further compounded by high prevalence of HIV and HCV infections among prisoners. There should be regular health check-up and an effective programme to screen and treat inmates. Better maintenance of prisons, trained, sensitive and more dedicated staff including medical staff and de-crowding of prisons are few of important suggestions to be followed.

Access to various drugs and poisons inside jail is also a matter of concern and this could not be possible without connivance of jail officials. Those involved in such practices should be warned and strict action need to be taken. De-addiction and rehabilitation services to addict prisoners and timely medical care to sick ones should be provisioned as a matter of right.

An unnatural death in police custody is another grave area of concern. The way forward is to strictly enforce existing laws and guidelines on arrest and detention. The Supreme Court's D.K Basu decision particularly with respect to recording detentions, informing families, producing suspects before magistrates and providing medical examinations should be adhered to by the police.

Only a more humane approach towards prisoners and providing care and timely medical aid as a matter of right will go a long way to bring down the incidence of prison deaths in India.

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