



## When The Body Speaks: Custodial Deaths In India And The Evolving Role Of NHRC Post-Mortem Guidelines

**Dr R. Monisha<sup>1\*</sup>, Dr J Karthika<sup>2</sup>**

<sup>1,2</sup>Assistant Professor,

Department of Forensic Medicine,

<sup>1</sup>Tagore Medical College and Hospital, Tamil Nadu, India.

<sup>2</sup>Chettinad Hospital and Research Institute,

<sup>2</sup>Chettinad Academy of Research and Education, Kelambakkam-603103, Tamil Nadu, India

**\*Corresponding Author:**

**Dr R. Monisha**

Assistant Professor, Department of Forensic Medicine,

Tagore Medical College and Hospital, Tamil Nadu, India

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### Abstract

Custodial deaths represent one of the gravest violations of the right to life and human dignity. Despite constitutional safeguards, judicial oversight, and institutional mechanisms, deaths in police and judicial custody continue to occur in India, often accompanied by contested narratives and delayed accountability. In such cases, the medico-legal post-mortem examination frequently becomes the sole impartial source of truth. This review examines custodial deaths in India through a humanised lens, with particular emphasis on the evolving post-mortem guidelines issued by the National Human Rights Commission (NHRC). Using recent custodial death controversies, including the widely reported Ajith Kumar custodial death in Tamil Nadu, as contextual entry points, the article explores the ethical, forensic, and human rights dimensions of custodial autopsies. A comparative analysis with international protocols—especially the UN Minnesota Protocol—highlights both the strengths and limitations of India’s approach. The review argues that while NHRC guidelines reflect a strong normative commitment to transparency and accountability, inconsistent implementation and systemic constraints continue to undermine their transformative potential.

**Keywords:** Custodial death, NHRC guidelines, Postmortem examination, Minnesota Protocol, Human rights, Forensic ethics

### Introduction

In mid-2024, the custodial death of **Ajith Kumar** in Tamil Nadu drew widespread public attention and renewed scrutiny of custodial practices in India. As with many such deaths, competing narratives emerged—official explanations on one hand, and visible bodily injuries, eyewitness accounts, and public scepticism on the other. While judicial processes continue to examine responsibility, the case underscored a recurring reality: **when a person dies in custody, the body often becomes the only witness capable of speaking without fear or coercion.**

Tamil Nadu has historically been a focal point in India’s custodial death discourse, marked by public protests, judicial interventions, and heightened media attention following deaths in police custody. Each such incident resonates nationally, reflecting deeper anxieties about the state’s duty of care when liberty is curtailed. Custodial death is not merely an aberration within law enforcement; it represents a profound contradiction within constitutional democracy, where the authority to detain simultaneously carries an enhanced obligation to protect life and dignity under Article 21 of the Constitution of India.

In custodial death cases, conventional evidentiary mechanisms are often compromised. The absence of independent witnesses, delayed reporting, and institutional pressures can obscure the truth. Consequently, the medico-legal post-mortem examination assumes a central role—not merely as a medical procedure, but as a **human rights safeguard**. Recognising this, the National Human Rights Commission (NHRC) has, over the past three decades, developed and refined detailed guidelines governing the investigation and post-mortem examination of deaths in custody.

This review critically examines custodial deaths in India with particular emphasis on NHRC post-mortem guidelines. It situates these guidelines within a broader constitutional and human rights framework and compares them with international standards, especially the United Nations Minnesota Protocol. Throughout, the article maintains a humanised perspective, acknowledging that behind every custodial death lies not only a legal file but a life lost under State supervision.

## **2. Custodial Deaths in India: Scope and Patterns**

Custodial death refers to the death of an individual while under police custody, judicial custody, or any form of detention exercised by State authorities. Such deaths may occur in police lock-ups, prisons, during transit, or while undergoing medical treatment under custody. Importantly, custodial deaths may arise from both **natural causes** and **unnatural causes**, including torture, assault, suicide, or medical neglect.

Multiple Indian studies have reported that a majority of custodial deaths are officially attributed to natural causes, such as septicaemia, cardiac disease, or respiratory illness. However, forensic literature cautions that “natural” classifications may mask **delayed consequences of physical abuse, neglect, or inadequate medical care** [1–3]. Overcrowding, poor hygiene, malnutrition, and delayed access to healthcare remain endemic within many custodial institutions.

Data from the National Crime Records Bureau (NCRB) consistently reveal a troubling pattern: while hundreds of custodial deaths are reported annually, only a small proportion result in the registration of criminal cases or prosecution of officials [4]. This accountability gap reinforces the importance of

**independent and meticulous post-mortem examinations**, which may determine whether a death is investigated as an unfortunate inevitability or a preventable rights violation.

## **3. The Post-Mortem Examination as a Human Rights Instrument**

In ordinary medico-legal practice, a post-mortem examination seeks to establish the cause and manner of death. In custodial deaths, however, the autopsy assumes a far greater ethical and legal significance. It may represent the **only objective reconstruction** of events that occurred within closed institutional spaces.

The NHRC has repeatedly observed that post-mortem reports in custodial deaths are often inadequately documented, delayed, or influenced by institutional pressures [5]. In such cases, omissions—failure to record external injuries, improper documentation of internal findings, or vague cause-of-death opinions—can effectively foreclose justice.

Forensic practitioners conducting custodial autopsies thus occupy a dual role: they are scientists tasked with medical accuracy, and **silent guardians of constitutional values**. The ethical burden of this role underscores the necessity for structured, standardised, and transparent post-mortem protocol.[8]

## **4. Evolution of NHRC Post-Mortem Guidelines in Custodial Deaths**

The NHRC’s procedural guidelines on post-mortem examinations in custodial death cases, originally issued up to 1997, continue to provide the operative framework and were most recently consolidated and reaffirmed in 2019.

### **4.1 Mandatory Reporting of Custodial Deaths**

One of the earliest and most significant interventions by the NHRC was the directive mandating **intimation of all custodial deaths to the Commission within 24 hours** of occurrence or knowledge thereof. This requirement was introduced to counter the frequent delays and suppression of information that had historically characterised custodial death reporting. By imposing a strict temporal obligation, the NHRC sought to preserve evidentiary integrity and prevent retrospective reconstruction of events. Failure to report within the stipulated time frame has been viewed by the Commission as raising a presumption

of concealment or negligence, underscoring the seriousness attached to early transparency.

#### **4.2 Panel-Based Post-Mortem Examination**

Departing from routine medico-legal practice, NHRC guidelines recommend that **post-mortem examinations in custodial deaths be conducted by a panel of doctors**, rather than a single medical officer. This measure reflects an awareness of the professional vulnerability faced by individual forensic practitioners when dealing with deaths involving law enforcement agencies. A panel-based approach introduces collective responsibility, reduces the risk of undue influence, and enhances the credibility of medico-legal opinions. From a forensic standpoint, it also allows for multidisciplinary scrutiny of injuries, disease processes, and timelines, which is particularly crucial in complex custodial environments.

#### **4.3 Mandatory Videography of the Autopsy**

Perhaps the most transformative element of the NHRC guidelines is the requirement of **mandatory videography of the entire post-mortem examination** in custodial deaths. The Commission has repeatedly observed that conventional written autopsy reports, in isolation, are susceptible to ambiguity, omission, and manipulation. Videographic documentation serves multiple purposes: it creates a contemporaneous visual record of findings, deters procedural lapses, and enables subsequent independent review by judicial or human rights bodies. Importantly, videography shifts the post-mortem from a closed institutional exercise to a **verifiable process**, reinforcing public confidence in forensic outcomes.

#### **4.4 Adoption of the NHRC Model Autopsy Form**

To address inconsistencies in documentation and recurrent deficiencies observed in custodial death autopsies, the NHRC introduced a comprehensive Model Post-Mortem Report Form in 1997, following consultations with forensic experts and a review of international standards, including the United Nations model autopsy protocol. The Commission noted that conventional autopsy formats used across states were often inadequate, non-uniform, and susceptible to omission or manipulation, particularly in cases involving allegations against custodial authorities. The NHRC Model Autopsy Form was therefore designed to standardise medico-legal documentation and to

function as a safeguard against distortion of forensic evidence in custodial deaths.

The form mandates meticulous recording of case particulars, including the timing of inquest and autopsy, identification details, and the presence of videographic documentation. It requires systematic documentation of post-mortem changes, clothing, and identification features, followed by detailed recording of external injuries with serial numbering, measurements, anatomical landmarks, estimation of age, and diagrammatic representation. The internal examination protocol emphasises thorough evaluation of the head, neck, thoracic, abdominal, spinal, and genital structures, with specific attention to injuries suggestive of restraint, blunt force trauma, asphyxia, or sexual abuse. Correlation between injuries and the alleged custodial events is explicitly required, reinforcing the interpretative responsibility of the forensic expert.

Importantly, the NHRC guidelines extend beyond the autopsy itself by prescribing preservation of viscera, biological samples, clothing, foreign bodies, and photographic or videographic records for subsequent forensic analysis.

The Commission further supplemented the autopsy protocol with additional inquest procedures, recommending scientific assessment of rectal temperature and rigor mortis at the scene to improve estimation of time since death. Collectively, the Model Autopsy Form and accompanying procedural directives seek to transform the custodial death post-mortem from a routine medico-legal exercise into a structured human rights investigation, recognising that in the absence of independent eyewitnesses, the body often constitutes the most reliable and impartial source of truth in custodial death inquiries [5].

#### **4.5 Preservation of Biological Samples and Viscera**

NHRC guidelines further stress the **mandatory preservation of viscera and relevant biological samples** for toxicological, histopathological, and serological analysis. This requirement acknowledges that custodial deaths may involve poisoning, substance withdrawal, delayed complications of trauma, or medical neglect that may not be immediately apparent on gross examination. Proper preservation ensures that subsequent expert analysis remains possible,

particularly in cases where initial findings are contested or judicial scrutiny is prolonged.

#### 4.6 Integration with Magisterial Inquiry under BNSS, 2023

With the enactment of the **Bharatiya Nagarik Suraksha Sanhita, 2023**, the statutory framework governing custodial death inquiries has been updated. Section 196 of the BNSS now mandates a **judicial (magisterial) inquiry** in cases of death, disappearance, or alleged sexual offences occurring in custody, replacing the earlier provision under Section 176(1A) of the CrPC. NHRC guidelines operate in tandem with this provision, emphasising that post-mortem findings must be meaningfully integrated into the magisterial inquiry process. The medico-legal autopsy thus serves not merely as a medical opinion, but as foundational evidence informing judicial oversight and State accountability.

#### 4.7 Forensic Integrity as the Axis of Accountability

Collectively, these guidelines reflect NHRC's consistent recognition that **the credibility of custodial death investigations hinges on the integrity, independence, and transparency of medico-legal evidence**. In environments where power asymmetries are stark and narratives are contested, the post-mortem examination often becomes the decisive interface between truth and denial. By strengthening procedural safeguards around custodial autopsies, the NHRC has sought to ensure that deaths occurring in custody are investigated not as administrative inconveniences, but as potential human rights violations demanding the highest standards of forensic scrutiny.

### 5. Comparative Perspectives: Global Protocols and India

#### 5.1 The Minnesota Protocol

The UN **Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)** is the most authoritative international standard governing the investigation of deaths in custody and other suspicious deaths. It mandates that investigations be **prompt, effective, independent, impartial, and transparent**, and explicitly recognises the autopsy as a human rights obligation rather than a discretionary medical act [6,7].

Key features include:

- Independence of forensic experts from implicated institutions

- Detailed scene examination and correlation with autopsy findings
- Comprehensive documentation of injuries suggestive of torture
- Involvement of families and transparency of findings

#### 5.2 Comparison with NHRC Guidelines

India's NHRC guidelines align substantially with the Minnesota Protocol in intent, particularly regarding videography, documentation, and mandatory reporting. However, critical differences remain. Unlike the Minnesota Protocol, NHRC guidelines do not structurally guarantee **institutional independence** of forensic experts, and implementation varies widely across states.

Rather than reflecting a lack of normative commitment, this gap highlights the tension between **global human rights ideals and domestic institutional constraints**. The promise of NHRC guidelines is therefore mediated by ground-level realities, including infrastructure limitations, staffing shortages, and uneven training. [9,10]

### 6. Ethical and Human Dimensions of Custodial Autopsies

Custodial death investigations cannot be reduced to procedural compliance alone. Families of the deceased often experience prolonged uncertainty, stigma, and institutional silence. Transparent post-mortem practices—such as videography and clear documentation—serve not only legal accountability but also **symbolic recognition of dignity**, affirming that a life lost in custody will not disappear into bureaucratic obscurity.

### 7. Conclusion

Custodial deaths challenge the moral authority of the State and the credibility of its justice system. In these cases, the post-mortem examination stands at the intersection of medicine, law, and human rights. India's NHRC post-mortem guidelines represent a significant step toward aligning forensic practice with constitutional values and international standards. However, their transformative potential depends on consistent implementation, professional independence, and a commitment to ethics.

When custodial deaths occur, the body may be the last witness left behind. Whether it is allowed to speak the truth depends on how society listens—through its laws, institutions, and the actions of those entrusted with forensic responsibility.

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