

WHEN CUSTODY ENDS IN DEATH: INQUESTS AND MAGISTRATE'S INQUIRIES UNDER THE BNSS

by

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Imagine a man who is taken to a police station for questioning. His family expects him to return home after the investigation. Instead, they receive the news that he has died in custody. The police say that he became unwell or died by suicide. But the family has questions. What happened inside the police station? Was he tortured? Did anyone try to save his life? Who will find out the truth?

These questions make custodial deaths a serious issue in India's criminal justice system. When a person dies in police custody or another form of authorised custody, the authorities cannot simply accept the explanation given by the people responsible for that custody. The circumstances of the death must be examined carefully.

This is where an **inquest and a Magistrate's inquiry** become important. An inquest is an official examination of the circumstances surrounding a death. A Magistrate's inquiry is a separate legal process that can help establish how the death occurred and whether further action is needed.

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which came into force on 1 July 2024, contains important rules on this subject. Sections 194 and 196 deal with inquiries into certain deaths and the role of Magistrates.

The main question is not simply how a person died. It is whether the investigation can establish the truth, especially when the death occurs in a place where the State has complete control over the person.

A Death Behind Closed Doors Cannot Be Ignored

A person in custody depends on the authorities for food, medical care, safety and basic protection. They cannot freely leave the place or seek help whenever they want. This makes the authorities responsible for taking reasonable steps to protect the person's life.

Custodial deaths can happen for different reasons. Some may result from illness, suicide or other medical problems. Others may involve alleged torture, physical violence, neglect or a failure to provide timely medical treatment. The cause must be established through proper investigation rather than assumptions.

The scale of the problem makes this issue difficult to ignore. According to figures from the National Human Rights Commission (NHRC) cited in a parliamentary reply in 2023, India recorded 164 deaths in police custody during 2022–23, compared with 175 in 2021–22. These figures concern police custody and should not be confused with the much larger number of deaths in judicial custody, such as deaths in prisons.

Each reported death represents a person whose family may be waiting for answers. Even where there is no evidence of wrongdoing, a proper inquiry is needed to establish the circumstances.

The difficulty is that the people who may know the most about what happened are often the same people whose conduct may need to be examined. This is why an independent legal process matters.

The First Step Is to Find Out What Happened

Section 194 of the BNSS deals with the police inquiry and report in cases involving suicide, killing, accidents and other deaths that raise a reasonable suspicion of an offence.

When the police receive information about such a death, the officer in charge of the police station, or another officer authorised by the State Government, must inform the nearest Executive Magistrate empowered to hold inquests. The police must then examine the apparent cause of death according to the procedure laid down in the section.

The examination takes place in the presence of two or more respectable local residents, unless the law or applicable directions provide otherwise. The police prepare a report describing visible injuries, such as wounds, fractures and bruises, and explain the apparent manner in which those injuries may have been caused.

The report must be signed by the police officer and the persons who agree with it. It must then be sent to the District Magistrate or Sub-divisional Magistrate within 24 hours.

These steps create an official record of the death. For example, if a person is found dead in a police lock-up with visible injuries, those injuries should be recorded rather than ignored.

However, an inquest report does not automatically prove that a crime has occurred. Its purpose is to record the apparent cause and circumstances of the death. A full investigation may still be required to determine whether anyone is responsible.

Most importantly, a police inquest is not the same as a Magistrate's inquiry. Both serve different purposes, and one cannot always replace the other.

Why the Magistrate Must Look Into the Death

Section 196 of the BNSS deals with an inquiry by a Magistrate into the cause of death.

Under Section 196(1), a Magistrate empowered to hold inquests must conduct an inquiry in certain cases involving the death of a woman within seven years of marriage, as described in Section 194(3)(i) and (ii). In other cases covered by Section 194(1), an authorised Magistrate may conduct an inquiry instead of, or in addition to, the police investigation.

For custodial deaths, the rule is stronger.

Section 196(2) makes a Magistrate's inquiry compulsory when a person dies or disappears, or when rape is alleged to have been committed against a woman, while that person is in police custody or another form of custody authorised by a Magistrate or court under the BNSS. The inquiry is in addition to the police investigation.

This distinction is important. The authorities cannot treat the police investigation as a complete substitute for the required Magistrate's inquiry.

Suppose a man dies while being questioned at a police station. The police may investigate the circumstances, collect records and question the officers on duty. But Section 196(2) also requires a Magistrate's inquiry.

The reason is simple. An examination carried out only within the police system may not be enough to answer concerns about possible misconduct by the police themselves.

The Magistrate's role creates another level of examination and helps ensure that the circumstances of the death receive proper attention.

The Body Must Be Examined, Not Just the Statements

In a custodial death, medical evidence can be extremely important.

Section 196(6) of the BNSS provides that the Magistrate, Executive Magistrate or police officer conducting the inquiry or investigation under Section 196(2) must, within 24 hours of the death, send the body for examination to the nearest Civil Surgeon or another qualified medical person appointed by the State Government. An exception is allowed where this is not possible, but the reasons must be recorded in writing.

A medical examination can help establish the likely cause of death and identify injuries that may not be obvious from an ordinary inspection.

For example, a person may have no major visible wound but may have suffered internal injuries. A proper post-mortem examination may help identify such injuries and explain whether they could be linked to the death.

Medical evidence does not answer every question by itself. The findings may need to be considered alongside CCTV footage, station records, witness statements, medical history and other available evidence.

Still, without a proper examination, important facts may be lost. Delay can also make it harder to establish the cause of death.

The law therefore treats the medical examination as an important part of the process rather than an optional step.

The Family Should Not Be Kept Outside the Process

When someone dies in custody, the family is often left with confusion and grief. They may not know what happened, whom to approach or whether the official explanation is correct.

Section 196(5) of the BNSS addresses this concern. Wherever practicable, the Magistrate conducting the inquiry must inform the deceased person's known relatives and allow them to remain present during the inquiry.

For this provision, the law defines relatives as parents, children, brothers, sisters and a spouse.

This is an important safeguard because the family may know about earlier threats, complaints of violence or medical problems that could help explain the death.

For example, a family may have noticed injuries when meeting the person shortly before the death. They may also know that the person had asked for medical help while in custody. Such information could be relevant to the inquiry.

Allowing relatives to remain present does not mean that they control the investigation or decide who is guilty. The Magistrate must examine the available facts independently.

However, the family should not be treated as an unwanted outsider. They have a legitimate interest in understanding how their relative died.

What the Supreme Court Has Said About Custodial Deaths

The Supreme Court has repeatedly made it clear that custodial violence is a serious violation of human rights.

In *D.K. Basu v. State of West Bengal* (1997), the Court laid down important safeguards for arrest and detention. These included requirements relating to arrest records, identification of police officers and informing a friend or relative about the arrest.

The decision recognised that people in custody are vulnerable to abuse because they cannot freely protect themselves. Proper records and clear procedures help make the authorities accountable.

Another important case is *Nilabati Behera v. State of Orissa* (1993). The Supreme Court dealt with a custodial death and recognised that the State could be held responsible for violating the fundamental right to life under Article 21 of the Constitution. The case also established the importance of compensation as a public law remedy for such violations.

These decisions show that a custodial death is not merely an internal matter for the police department. It may raise serious questions about constitutional rights and State responsibility.

The same basic principle remains important under the BNSS: a person does not lose the right to life and dignity merely because they are in custody.

When an Inquiry Exists Only on Paper

Having a legal provision is one thing, Following it properly is another

A Magistrate's inquiry may fail to provide meaningful answers if important witnesses are not questioned, medical evidence is overlooked or the inquiry is delayed. If the investigation depends too heavily on the accounts of officers who were present at the time of death, doubts may remain.

The NHRC has issued guidelines dealing with custodial deaths and related matters. These are intended to help authorities follow a proper process when such incidents occur.

The challenge is to make sure that the required steps are actually followed. Relevant records must be preserved, medical findings must be carefully examined, and available electronic evidence should not be ignored.

There must also be a clear distinction between conducting an inquiry and proving criminal responsibility. An inquiry may reveal suspicious circumstances or failures that need further investigation, but criminal guilt must still be established through the proper legal process.

This protects both the deceased person's family and anyone accused of wrongdoing.

A fair inquiry should not begin by assuming that every custodial death is murder. Equally, it should not accept an official explanation without checking the available evidence.

The Law Must Lead to Real Answers

Sections 194 and 196 of the BNSS provide an important framework for examining deaths that occur in suspicious circumstances and, especially, in custody. Section 194 deals with the police inquest and report, while Section 196 provides for a Magistrate's inquiry and makes it compulsory in specified custodial cases.

The rules on medical examination and family participation also help make the process more transparent.

But the real value of these provisions depends on their implementation. A report filed on time is useful only if the facts recorded in it are accurate. An inquiry is meaningful only if it examines the evidence fairly and independently.

When a person dies in custody, the family deserves answers, and the public deserves confidence that the law applies equally to everyone, including the authorities responsible for enforcing it.

The death may have occurred behind the walls of a police station or prison, but the responsibility to establish the truth does not end there. Custody gives the State control over a person's freedom. It also places a serious duty on the State to protect that person's life and explain how it was lost.