
CUSTODIAL VIOLENCE IN INDIA: LEGAL ACCOUNTABILITY, HUMAN RIGHTS, AND THE NEED FOR INSTITUTIONAL REFORM

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ABSTRACT

The Indian criminal justice system faces serious problems because custodial violence continues to undermine both human rights protection and the rule of law enforcement. The term encompasses acts of physical torture, psychological abuse, coercion, or inhuman treatment inflicted upon individuals while they are under the custody of law enforcement authorities. The practices of custodial abuse and death result in judicial systems losing their essential components while violating constitutional rights, which protect individual dignity and personal freedom and prevent arbitrary government actions. Indian police forces still conduct custodial abuse against detainees despite constitutional protections and statutory rules which govern arrest procedures and detention methods, and questioning practices. The constitutional framework protects against violations through personal liberty rights and self-incrimination protection, and arrest and detention process protections. The criminal law and criminal procedure statutory provisions establish rules which protect detainees from coercive investigation methods and guarantee their right to receive proper legal treatment. The ongoing problem of custodial violence shows that organizations implement laws through their normative legal frameworks but their actual implementation remains incomplete. The paper conducts a critical analysis of custodial violence in Indian society while assessing the efficacy of existing constitutional and legal protections that aim to prevent such violations. The research investigates the institutional and systemic elements that enable custodial violence to continue through its examination of investigative demands and its study of police training limitations and oversight shortcomings. The study requires institutional accountability to improve investigative methods and establish effective anti-torture operations as its main requirement for success. The authorities need to enhance these protections because they serve two main purposes which include safeguarding human dignity and strengthening public trust in the criminal justice system.

Keywords: *Constitutional Safeguards; Criminal Justice Reform; Custodial Deaths; Custodial Violence; Human Rights; Police Accountability.*

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I. INTRODUCTION

Custodial violence stands as one of the most grave human rights breaches that occur in the criminal justice system. The term describes all forms of physical and psychological and sexual violence that law enforcement officers commit against people who remain in their custody. A constitutional democracy that follows the rule of law gives the state the duty to safeguard people's lives and liberty while conducting criminal investigations through proper legal procedures. When law enforcement officials use torture and coercive techniques against detainees, they destroy the integrity of the justice system while creating risks of government abuse and civil rights violations.²

Custodial violence exists in multiple forms which include physical torture and various interrogation methods and unlawful detention and treatment that violates human rights and deaths that occur during police custody. Law enforcement agencies use these methods during the criminal investigation process to obtain confessions and gather intelligence from suspects. Investigators who use violence to conduct their inquiries violate the basic human dignity standard which protects individual rights and constitutional rights to freedom and fair legal process.³

The problem of custodial violence causes major problems for developing democracies because these countries lack effective systems to oversee their institutions and hold people accountable for their actions.³ Academic studies and policy reports indicate that police brutality often arises from systemic challenges such as excessive workload, pressure to solve criminal cases within limited time frames, inadequate training in scientific investigative techniques, and lack of effective supervision within law enforcement agencies.⁴ The institutional deficiencies within the system create conditions that lead investigators to use aggressive interrogation techniques which have become an accepted method of custodial abuse during specific investigative procedures.

In India, the country has established an extensive constitutional framework along with multiple statutory protections for detainees, yet both custodial torture and custodial deaths continue to occur throughout the country. The ongoing problem of custodial violence demonstrates that there exists a crucial divide between existing legal standards and their actual enforcement. The solution to custodial violence needs both enhanced legal protections and new institutional reforms which will

² INDIA CONST. art. 21.

³ D.K. Basu v. State of W.B., (1997) 1 S.C.C. 416 (India)

⁴ Syed Asfar Alam, Custodial Violence in India, 7 INT'L J. L. MGMT. & HUMANS. 1268 (2024).

boost accountability and better human rights protection through improved investigative methods in the criminal justice system.

II. CONCEPT AND NATURE OF CUSTODIAL VIOLENCE

Custodial violence describes the practice of law enforcement officials using their power to mistreat people who they have detained for the purpose of investigation or interrogation or detention. The term "custody" describes a situation where authorities, including police officers and prison officials, take control over an individual who loses their ability to move freely. Any case where people face violence or coercive treatment during their time in detention gets classified as custodial violence.⁵ The phenomenon represents a serious misuse of state power, as individuals in custody are especially weak and need to depend on their protectors for security and proper treatment.

Custodial violence can be divided into three main categories which include physical torture and psychological torture and sexual abuse. Physical torture consists of multiple methods which include beating and slapping and electric shocks and starvation and the use of painful body positions which detainees must maintain for extended time periods. Psychological torture uses multiple methods to threaten and humiliate and intimidate and sleep deprive and mentally harass the detainee until they reach their breaking point. Sexual abuse represents another grave form of custodial violence which includes custodial rape and sexual harassment and other exploitation methods performed by officials who misuse their power.⁶ The acts committed through these actions lead to severe violations which destroy bodily integrity and personal dignity and they contradict the fundamental principles which define a civilized legal system.

Criminal investigators use these abusive methods as their main technique to force suspects into making confessions and revealing information. The use of torture for investigative purposes renders the criminal justice system untrustworthy because it violates basic human rights which both constitutional and international legal systems protect. The process of obtaining confessions through force or torture results in unreliable evidence which leads to wrongful convictions that prevent the achievement of fair justice. Victims of custodial violence experience both psychological and social effects which make strong impacts on their lives. Survivors often endure

⁵ Syed Asfar Alam, *Custodial Violence in India*, 7 INT'L J. L. MGMT. & HUMANS. 1268, 1269 (2024).

⁶ Id. at 1270–71, *Supra* 4

permanent physical harm combined with intense psychological damage and an ongoing fear of police authorities. The most extreme form of police violence leads to custodial deaths which represent the most serious state authority misuse and a complete violation of human life rights.

The police officers' misuse of their authority during custodial violence incidents represents a bigger problem that exists beyond their individual wrongdoing. The problem exists because law enforcement agencies combine their current institutional procedures with their investigation requirements and their insufficient training programs and their ineffective accountability systems. The solution demands institutional changes which establish transparent systems for monitoring police activities while protecting human rights throughout the criminal justice process.

III. CONSTITUTIONAL AND LEGAL FRAMEWORK IN INDIA

The Indian legal system offers complete constitutional and statutory protections which serve to stop custodial violence while safeguarding detainees against mistreatment. The safeguards developed through these protections stem from Indian constitutional law and criminal law statutes and the procedural protections defined by criminal procedure. The legal systems established through these mechanisms control state investigative activities to ensure that officials operate within established legal boundaries while treating all individuals with fairness and respect for their human dignity.

The Indian Constitution provides multiple fundamental rights which safeguard people from being unlawfully arrested and detained and subjected to police torture. The Constitution's Article 21 establishes the right to life and personal liberty which no person can lose except through legal processes established by existing laws. The Supreme Court has extended this legal provision to protect human dignity and to prevent torture and cruel and inhuman treatment during detention.⁷ Article 20(3) provides additional protections which prevent authorities from forcing accused individuals to testify against themselves while safeguarding their right to remain silent.⁸ Article 22 establishes protective measures for arrested individuals which require authorities to inform them about their arrest reasons and their right to consult a lawyer and their requirement to appear before a magistrate within twenty-four hours after their arrest.⁹

⁷ INDIA CONST. art. 21; D.K. Basu v. State of W.B., (1997) 1 S.C.C. 416 (India).

⁸ INDIA CONST. art. 20, § 3.

⁹ INDIA CONST. art. 22.

Statutory laws together with constitutional guarantees provide protection against custodial abuse. The Indian Penal Code makes it a crime for public officials to conduct torture during interrogation or detention. The law considers it a crime when someone intentionally inflicts harm or serious injury to another person for the purpose of obtaining a confession or collecting evidence about a crime.¹⁰ The Penal Code Section 348 makes it illegal to hold someone against their will to extract confessions or force them to reveal information needed for police investigations.¹¹ The regulations establish criminal penalties as a means to prevent officials from using coercive interrogation techniques during their work.

The Code of Criminal Procedure provides various procedural safeguards for legal proceedings. The Code's Section 41 amendments created new regulations for arrest procedures through the introduction of Sections 41A to 41D which establish rules that limit police powers to make arrests without cause. The police must prove proper grounds to make arrests and they must execute the process of arrest according to established protocols.¹² The arrested individual has the right to ask for a medical examination under Section 54 which functions as a vital protection mechanism to identify injuries and stop abuse during police custody.¹³ The Indian Evidence Act protects defendants because it prohibits courts from using confessions obtained through threats or coercion as evidence during criminal trials.¹⁴

India today faces ongoing problems with custodial violence and custodial deaths despite having constitutional and statutory protections. The ongoing problem shows that legal protections exist but the actual implementation of existing laws fails to operate effectively. The process of protecting fundamental rights for detained individuals must first achieve institutional accountability and complete compliance with procedural safeguards which act as protective measures against custodial abuse.

IV. JUDICIAL RESPONSE

The Indian judiciary has played a significant role in addressing custodial violence and strengthening legal safeguards for individuals placed under state custody. The Supreme Court of

¹⁰ Indian Penal Code, 1860, §§ 330–331 (India)

¹¹ *Supra* 9, § 348

¹² Code of Criminal Procedure, 1973, §§ 41A–41D (India).

¹³ *Supra* 11, *Id.* § 54

¹⁴ ^s Indian Evidence Act, 1872, §§ 24–26 (India).

India through its landmark judgments has established that custodial torture and abuse violate fundamental rights which the Constitution guarantees to all citizens especially through Article 21 which protects their right to life and personal liberty. The judicial system has developed legal standards through its decisions which protect against wrongful detention and maintain police accountability.

The Supreme Court established complete guidelines for arrest and detention procedures through its ruling in *D.K. Basu v. State of West Bengal* which serves as a crucial judicial decision for this legal field.¹⁵ The Court established that custodial torture constitutes a direct infringement of both human dignity and fundamental human rights. The Court established multiple required protections which required police officers to prepare arrest documents and inform the detainee's family members about their arrest and to conduct medical assessments of the detainee and to keep accurate records of all arrests and custody periods. The law enforcement agencies developed these procedural safeguards to prevent officers from using arbitrary detention and abusive treatment since they required officers to display their operations and answer to their actions.

The Supreme Court in *Joginder Kumar v. State of Uttar Pradesh* established that arrest powers require valid reasons to be executed by police officers.¹⁶ The Court stated that police officers need to treat arrests as exceptional situations while conducting their duties because they need to protect citizens' constitutional rights to personal freedom. The decision established that law enforcement officers need to operate their authority within the boundaries established by constitutional protections.

The Supreme Court established its compensatory jurisprudence framework through its ruling in *Nilabati Behera v. State of Orissa* which involved custodial death cases.¹⁷ The Court ruled that state authorities face liability for fundamental rights violations executed by their personnel while they must compensate affected victims or their families. The ruling established a stronger framework which holds states responsible for all cases of custodial abuse that occur. The Supreme Court ordered police stations to install CCTV cameras in their interrogation rooms through its decision in *Paramvir Singh Saini v. Baljit Singh* to create transparent operations which will stop

¹⁵ *D.K. Basu v. State of W.B.*, (1997) 1 S.C.C. 416 (India).

¹⁶ *Joginder Kumar v. State of U.P.*, (1994) 4 S.C.C. 260 (India).

¹⁷ *Nilabati Behera v. State of Orissa*, (1993) 2 S.C.C. 746 (India).

custodial violence.¹⁸The Court showed that technological tools serve critical functions which monitor custody procedures while they safeguard detainees against mistreatment.

The judicial interventions that have occurred so far succeeded in establishing better legal protections against custodial violence. The success of these interventions needs law enforcement agencies to execute their duties correctly while judicial and administrative bodies maintain their supervisory roles. The judicial interventions which have taken place thus far have succeeded in enhancing legal protection against custodial violence. The success of these interventions needs law enforcement agencies to execute their duties correctly while judicial and administrative bodies maintain their supervisory roles.

V. HUMAN RIGHTS PERSPECTIVE AND INTERNATIONAL STANDARDS

Custodial violence is recognized as a severe breach of international human rights law. The fundamental principle of international human rights jurisprudence which prohibits torture and inhuman or degrading treatment has been included in multiple international treaties and conventions.

The Universal Declaration of Human Rights affirms that no person shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.¹⁹ The International Covenant on Civil and Political Rights (ICCPR) protects life and dignity and personal liberty while it prohibits enforced disappearance and unlawful detention.²⁰These international instruments establish minimum standards for the treatment of individuals in custody and emphasize the obligation of states to protect detainees from abuse by law enforcement authorities.

The United Nations Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment constitutes the most important international treaty which deals with the issue of custodial torture. The convention establishes requirements for state parties which mandate them to create law systems that treat torture as a crime while developing methods to hold offenders accountable and provide victim support and financial restitution.²¹ India signed the Convention in

¹⁸ Paramvir Singh Saini v. Baljit Singh, (2021) 1 S.C.C. 184 (India).

¹⁹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 5 (Dec. 10, 1948).

²⁰ International Covenant on Civil and Political Rights art. 7–9, Dec. 16, 1966, 999 U.N.T.S. 171.

²¹ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 1–4, Dec. 10, 1984, 1465 U.N.T.S. 85.

1997 but it has not yet ratified the treaty which prevents the country from enforcing its provisions through domestic laws.

The human rights framework requires the criminal justice system to protect detainee rights which represents a fundamental requirement for maintaining fairness and humanity. The basic rights of arrested or detained individuals remain intact because they face criminal charges against them. The law enforcement authorities need to perform their duties through investigation practices which show respect for human dignity while refusing to use coercive or violent interrogation techniques. International human rights standards establish essential requirements which help organizations build accountable processes for conducting lawful criminal investigations.

VI. CHALLENGES IN ENSURING ACCOUNTABILITY

The ongoing problem of custodial violence in India remains unsolved because there are multiple systemic and institutional obstacles which block the implementation of constitutional safeguards and statutory protections and judicial guidelines. The most critical challenge to law enforcement accountability systems exists because police departments lack mechanisms which provide effective oversight of their operations. Police departments handle most of their internal investigations regarding custodial abuse allegations through their own disciplinary units which depend on the same resources as the police authorities who conduct the investigations. Police departments use internal disciplinary processes to conduct investigations which lack both independence and transparency resulting in decreased investigation quality and restricted accountability for police misconduct.²²The institutional framework creates conditions which permit officials accused of custodial violence to escape from facing real criminal penalties.

The operational demands placed on police officers to solve criminal investigations create their most difficult challenge. Investigating agencies need to show their ability to solve criminal cases within a short time frame which becomes especially important for investigations of serious criminal matters. Investigators use coercive interrogation methods to collect confessions and information because they face pressure to produce results which prevents them from using scientific methods that include forensic analysis and evidence-based investigation. The criminal

²² Supra 3

justice system loses its ability to function properly because law enforcement officials use coercive interrogation methods which increase the chances of false convictions. The ongoing problem of custodial violence emerges because law enforcement officials receive insufficient training about human rights and have no understanding of human rights principles. Police officers receive inadequate training about contemporary investigative methods and human rights standards which leads them to continue using traditional interrogation methods that involve physically and mentally coercive tactics. Law enforcement agencies maintain their existing practices because they lack both proper surveillance and independent monitoring systems which could detect their actual operations.

Social attitudes toward police violence in custody situations function as a hidden force that makes police brutality which occurs during custody situations seem normal to society. In certain instances, public opinion may tolerate or even support harsh treatment of suspects, particularly in cases involving serious or sensational crimes. The public develops weaker police oversight because these attitudes exist, which prevents them from supporting essential reforms that exist to protect detainees from police mistreatment. The solution to custodial violence requires both legal changes and institutional transformations plus social progress which establishes human rights standards and legal principles as essential values.

VII. NEED FOR INSTITUTIONAL REFORMS

The ongoing existence of custodial violence throughout India presents an immediate requirement for entire institutional changes which should develop better accountability systems and more effective investigative methods used by police agencies. Law enforcement agencies need to establish complete anti-torture legislation which should define torture acts and create severe criminal penalties for officials who commit custodial violence. Existing criminal laws contain multiple provisions which address specific types of custodial violence yet the legal system lacks a dedicated anti-torture law which creates critical deficiencies in handling such violations.²³ Dedicated anti-torture laws would establish a framework to help India achieve international human rights standards through its domestic legal system.

²³ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 1–4, Dec. 10, 1984, 1465 U.N.T.S. 85.

Police reforms are equally essential to address systemic challenges within law enforcement institutions. Training programs should focus on teaching participants constitutional principles and human rights standards and scientific investigative techniques. Modern investigative practices including forensic evidence analysis and digital investigation methods and evidence-based interrogation procedures enable investigators to decrease their dependence on coercive interrogation methods. The development of policing institutions needs stronger accountability mechanisms as an essential reform. Independent complaint authorities and external oversight bodies can play an important role in ensuring that allegations of custodial abuse are investigated impartially and transparently. These institutions would give victims simple ways to pursue justice while they build public trust in law enforcement accountability systems.

Technological reforms can also contribute to the prevention of custodial abuse. The implementation of CCTV systems in police stations together with audio-visual interrogation recording systems and digital arrest documentation systems will create better transparency which will help prevent police violations. The Supreme Court has already established that organizations should use technological safeguards to enhance custodial monitoring.²⁴

The public needs to increase its knowledge about legal rights and available remedies for detainees because this knowledge forms the foundation for fighting against custodial abuse. The educational process about procedural safeguards and legal protections enables victims to pursue their rights while holding law enforcement accountable. The combination of legislative changes together with institutional responsibility and technological monitoring and public education will lead to a substantial decrease in custodial violence incidents while protecting human rights in the criminal justice system.

VIII. CONCLUSION

Custodial violence remains a major threat which endangers human rights protection and criminal justice system integrity throughout India. Existing legal systems deliver constitutional protections together with statutory rights and judicial rules which aim to stop custodial abuse yet custodial violence still occurs because these legal systems fail to function effectively. The ongoing incidents of custodial torture and custodial deaths demonstrate how law enforcement practices fail to match

²⁴ Paramvir Singh Saini v. Baljit Singh, (2021) 1 S.C.C. 184 (India).

up with established legal standards. The legal protections which Indian law provides to citizens demonstrate their effectiveness in protecting rights to citizens. The legal foundation which protects detainees essential rights consists of three constitutional guarantees: Article 21 rights to life and personal liberty, Article 20(3) protection against self-incrimination, and Article 22 legal rights for arrest and detention.²⁵ The legal framework for custodial abuse protection includes criminal law and procedural law statutory provisions, which work together with Supreme Court landmark decisions to create operational judicial guidelines.²⁶ The Indian legal system establishes formal legal measures which show its commitment to stop custodial violence while showing respect for human dignity during state detention.

The legal protections established in this system face diminishing power because of the existing problems with their enforcement processes and the accountability systems for institutions. The persistence of custodial violence occurs because multiple systemic elements combine to create this situation which includes investigative demands that pressure law enforcement personnel and their lack of modern investigative skills and their deficiency in understanding human rights norms and the absence of strong independent monitoring systems.²⁷ The internal disciplinary systems that policing organizations implement for their members do not provide transparent or independent processes which creates an environment where officers who commit custodial abuse face no effective legal punishments.

The implementation of custodial violence solutions needs complete institutional reforms which will create better accountability systems while establishing better methods to investigate incidents. The most important reform requires the creation of complete anti-torture laws which will define torture acts and set severe penalties for their violation thus bringing domestic legislation into agreement with international human rights requirements.²⁸ Police reform needs to create better training programs, which will introduce scientific methods of investigation and establish independent oversight organizations that will perform fair investigations of custody abuse claims. The implementation of CCTV cameras in police stations together with audio-visual interrogation recording systems and digital arrest documentation systems will create technological safeguards which improve transparency while preventing misconduct. The Supreme Court has already

²⁵ INDIA CONST. arts. 20(3), 21, 22.

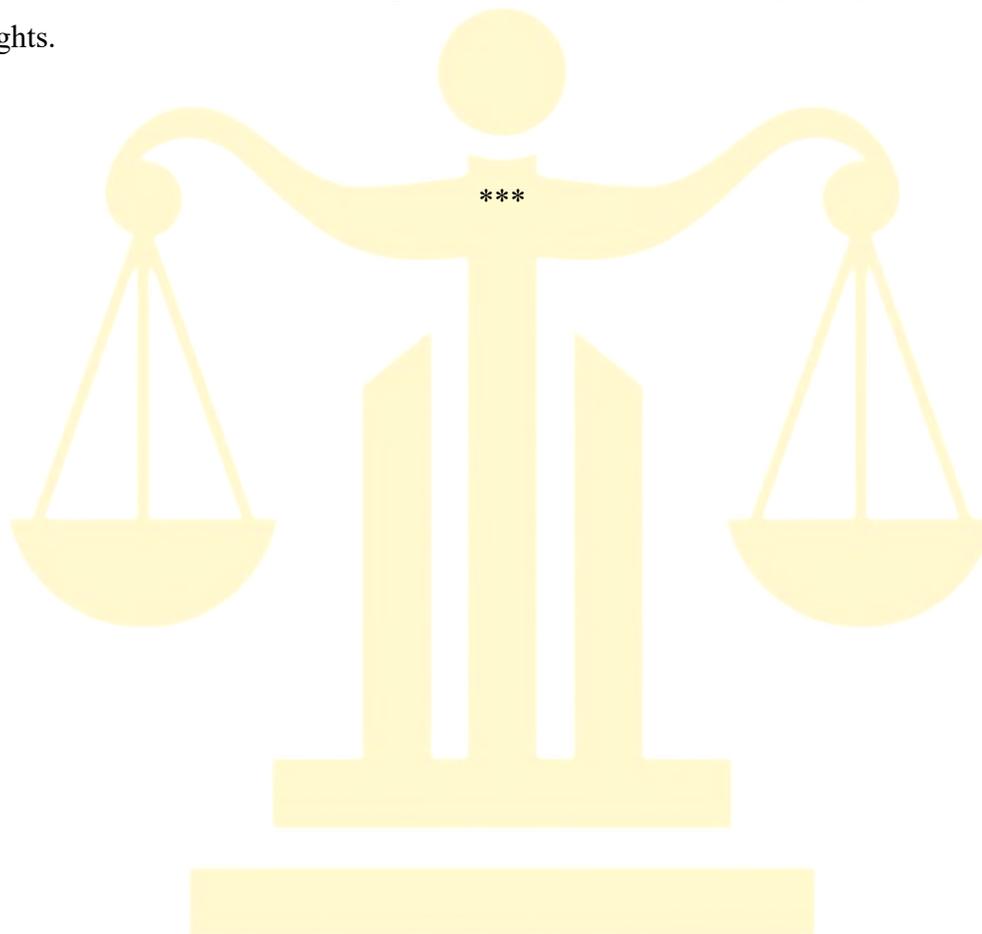
²⁶ Supra 14,15,16 & 17

²⁷ Supra 3

²⁸ Supra 22

emphasized the importance of such measures in promoting accountability within custodial environments.²⁹ Public awareness regarding the legal rights of detainees and accessible mechanisms for reporting custodial abuse are also essential for empowering victims and ensuring effective remedies.

The criminal justice system needs to protect both the dignity and fundamental rights of people who remain in custody because this protection sustains system legitimacy and builds public trust in legal authority. Protection against custodial violence requires both effective legal protections and ongoing dedication from institutions to uphold accountability and transparency while safeguarding human rights.



²⁹ Supra 17