HUMAN RIGHTS LAW

Custodial Violence: A Mockery of Human Rights

M. Vignesh

Department of Legal Studies, University of Madras, Chennai, Tamil Nadu, India

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Abstract

In India, custodial violence is become a phenomenon since India's rule at the hands of British. It is a one of the greatest violation of human rights in a democratic society. It exposing the deep structural flaws with in the police and criminal justice administration. The constitution of India providing basic fundamental rights to every individuals in custody through articles 14, 20, 21 and 22 of constitution of India, along with statutory safeguards embedded in the old criminal laws and new criminal laws, and the protection of Human rights Act. It is the part of customary international law. However, India is the party of the convention against Torture. But it is yet to enact any municipal law protecting and preventing its citizens from custodial death and torture. The evolution of anti-torture legislation in India, focusing on the prevention of Torture Bills from 2010 to 2023, which reflect India's efforts to address custodial torture, custodial death offer victim compensation and safeguards human rights. This research study analyses the custodial death and torture through multi-dimensional way – its meaning, causes, historical background, constitutional and legislative mechanism, statutory provisions, international human rights obligations, and the critics of NHRC and SHRC. It also evaluates the major court judgments by the Supreme court and High courts that have shaped jurisprudence on police brutality and state accountability.

Keywords: custodial violence; death; police brutality; torture; UNCAT

1 Introduction

Custodial violence refers to physical or mental torture, humiliation, neglect, or death inflicted upon a person while in the custody of the State, whether in police custody or judicial custody. Although "custody" ordinarily implies guardianship and protective care, in the criminal-justice context it means the deprivation of personal liberty by lawful authority. When that authority is misused to cause suffering, custody becomes an instrument of cruelty rather than protection.

Custodial violence is a grave violation of human dignity, the rule of law, and the constitutional guarantees of life and personal liberty. In a democracy governed by the rule of law, the police are expected to protect citizens and investigate crime fairly; they cannot use interrogation as a means of vengeance or coercion. Yet torture, assault, humiliation, denial of medical care, and custodial deaths continue to raise serious questions about police accountability and the credibility of India's criminal-justice system. The National Crime Records Bureau recorded 75 custodial deaths in police custody in 2022, although independent and rights-based data sources often report higher figures because of differences in reporting methods.

2 Meaning and nature of custodial violence

Custodial violence includes every form of cruel, inhuman, or degrading treatment inflicted on a detainee. It may be physical, such as beating, suspension, electric shocks, denial of food and water, or

sexual violence; or psychological, such as threats, sleep deprivation, solitary confinement, humiliation, and intimidation of family members. It may also arise from gross negligence, such as failure to provide urgent medical treatment to a sick prisoner.

The essential feature of custodial violence is the imbalance of power: the victim is deprived of liberty and cannot effectively resist or retaliate. This makes State responsibility especially heavy. The State has a positive duty to protect the life, health, and dignity of every person in its custody. Custodial violence is therefore not merely an individual misconduct by an officer; it is an institutional failure when supervision, documentation, medical care, and accountability mechanisms do not function.

Torture as a method of extracting truth or punishing suspected offenders has deep historical roots in India. In ancient times, trial by ordeal—through fire, water, or poison—was sometimes used to determine guilt, placing the accused in painful and dangerous situations. During medieval and Mughal administration, policing functions were often performed by officials such as the Kotwal, whose authority was frequently arbitrary and coercive.

The modern police structure was largely shaped by colonial rule. The Police Act, 1861, enacted after the Revolt of 1857, created a force designed primarily to maintain colonial control rather than to serve citizens. Its centralized, hierarchical, and executive-dominated character continued after Independence. Although several committees—including the National Police Commission (1977), the Malimath Committee (2003), and the Soli Sorabjee Committee (2006)—recommended reforms, the basic structure of policing has changed only slowly. This colonial legacy contributes to a culture in which authority is sometimes valued more than accountability.

3 Constitutional safeguards

The Constitution of India provides strong protections against arbitrary State action. Article 21 guarantees the right to life and personal liberty, which the Supreme Court has interpreted to include protection against torture, cruel and degrading treatment, fair procedure, speedy trial, and access to legal aid. Article 20 protects persons from retrospective punishment, double jeopardy, and self-incrimination. Article 22 requires that an arrested person be informed of the grounds of arrest, be allowed to consult a lawyer, and be produced before a magistrate within 24 hours, excluding reasonable travel time.

These provisions establish that an accused person does not lose fundamental rights merely because of arrest. The State may restrict liberty according to law, but it cannot treat detention as a licence for violence. Any custodial death or torture, unless promptly and independently investigated, creates a presumption of institutional failure that must be answered by the State.

4 Judicial safeguards: D.K. Basu guidelines

The most important judicial intervention is D.K. Basu v. State of West Bengal (1997). The Supreme Court held that custodial violence violates Articles 21 and 22 and laid down binding guidelines for all arrests and detentions. These directions seek to make custody transparent and to preserve evidence of abuse.

Key requirements include:

- Police officers making arrests or conducting interrogation must wear clear identification tags, and their details must be recorded.

- An arrest memo must be prepared at the time of arrest, mentioning the date, time, and place of arrest, and attested by a witness.
- A relative, friend, or other interested person must be informed of the arrest and place of detention.
- The arrestee must be informed of the right to have someone informed.
- An inspection memo must record injuries, if any, at the time of arrest.
- The detainee must be medically examined by a trained doctor every 48 hours during detention.
- The detainee must be permitted to meet a lawyer during interrogation.
- Copies of arrest documents must be sent to the jurisdictional magistrate.
- Police control rooms must maintain records of arrests and detention.

The Court also recognized compensation as a remedy for violation of fundamental rights. Failure to comply with the guidelines may invite departmental action and contempt proceedings.

5 Statutory and institutional measures

The Code of Criminal Procedure, 1973—now replaced in material part by the Bharatiya Nagarik Suraksha Sanhita, 2023—contains safeguards relating to arrest, production before a magistrate, medical examination, and detention. The Indian Penal Code, 1860, and now the Bharatiya Nyaya Sanhita, 2023, contain provisions relating to hurt, grievous hurt, wrongful confinement, and offences by public servants. The Indian Evidence Act and the Bharatiya Sakshya Adhiniyam, 2023 govern proof of custodial offences, including the evidentiary value of medical records and police documents.

The Protection of Human Rights Act, 1993 established the National Human Rights Commission (NHRC), which can inquire into custodial-death complaints, recommend compensation, and seek reports from State authorities. However, its recommendations are not always binding. India has signed the UN Convention against Torture but has not yet enacted a comprehensive standalone anti-torture legislation, despite repeated recommendations from the Law Commission, NHRC, and Supreme Court.

6 Causes of custodial violence

Custodial violence persists because of several interconnected causes:

- **Impunity:** Officers often believe they will not be prosecuted or convicted, particularly where evidence is controlled by the police.
- **Weak supervision:** Lock-ups and interrogation rooms are closed spaces with limited independent monitoring.
- **Tampering of records:** Police control station diaries, medical documents, and other records, which may be altered or incompletely maintained.
- **Coercive investigation culture:** Some officers treat third-degree methods as a shortcut to confession instead of relying on scientific investigation.
- **Delay in justice:** Victims and families face long legal proceedings, intimidation, and difficulty in securing witnesses.
- **Lack of awareness:** Detainees frequently do not know their rights to legal aid, medical examination, communication with relatives, and production before a magistrate.

- **Inadequate police reform:** Vacancies, poor training, political interference, and outdated colonial structures weaken professional policing.

7 Challenges in accountability

A major obstacle is proof. Custodial violence usually occurs away from public view, and the victim is under the complete control of the accused officers. In Gauri Shanker Sharma v. State of U.P., the difficulty of obtaining reliable evidence was highlighted because police officers control station records that may be tampered with. The court emphasized that death in police custody must be viewed seriously because it is committed by persons whose duty is to protect citizens, not misuse authority against them.

Official data also understates the problem. NCRB figures depend largely on police-recorded cases, whereas NHRC data may capture complaints received through wider channels; comparative studies show substantial differences between the two datasets. Moreover, reports indicate that very few police personnel are convicted for custodial offences, reinforcing the perception of impunity.

8 Suggested reforms

To curb custodial violence, India needs both stronger laws and effective implementation:

- Enact a comprehensive anti-torture law consistent with the UN Convention against Torture.
- Install CCTV cameras in all police stations, lock-ups, and interrogation rooms, with independent preservation of footage.
- Ensure prompt registration of FIRs, independent investigation, and prosecution in every custodial death or torture complaint.
- Strengthen State Human Rights Commissions and Police Complaints Authorities.
- Make medical examination, legal aid, and family notification mandatory and verifiable in every case.
- Train police in scientific investigation, human rights, mental-health awareness, and lawful interrogation.
- Educate detainees about their rights through notices in regional languages at every police station and prison.
- Impose strict departmental and criminal liability for failure to maintain custody records or produce detainees before magistrates.

9 Research methodology

In this research analyzed secondary sources like book, newspaper, journals, articles, magazines, internet etc. for analyzing the concept of custodial violence and has interviewed the concerned people, departments. The research involves an extensive of relevant laws, constitutional provisions, statutory frameworks, and international human rights instruments to analyze the legal safeguards against custodial violence.

10 Hypothesis

In spite of various constitutional and legislative safeguards, the custodial violence still a continual phenomenon. Failure on the part of investigating agencies in safeguarding personal liberty and life of citizen. Blanks in the existing enforcement machinery to protect the right of accused person.

11 Research gap

Custodial violence is on rise. Whether it's states of India, the accused in police custody is not safe. Many enactments have been made by Indian government, but these laws have not been implemented properly. One of the reasons that custodial violence is widespread in our country that most of the time the accused does not even know there right in custody and therefore subjected to extra judicial punishment. This research is beneficial because it shows that in addition to making new laws to curb the menace of custodial violence. There is need for properly implement existing laws and educate inmates of their rights while in custody.

12 Research questions

The following research questions have been addressed in this research:

1. What are the causes of custodial violence?
2. What practice to be followed by police while arrest and interrogation?
3. What are various safeguards for curbing custodial violence?
4. What are Human Rights and scope of International Conventions on Custodial violence?
5. What are constitutional Rights of a prisoner in police custody?
6. What are the legislative measures available to a person in police custody?

13 Scope of the study

The present study covers with its scope the meaning and historical background of the concept of custodial violence, covering the magnitude of custodial deaths in India, and the number of custodial deaths committed in various states. The study also analytically examines the constitutional articles and provisions of Cr.P.C, I.P.C and Evidence and new criminal laws of protection of rights of prisoners ad also it scans important judgments of Supreme Court of India, regarding the protection of Prisoners right in India.

The study also analytically examined the available literature from various criminal law articles, journals and reports.

14 Significance of the study

Custodial violence has become so common these days that not only the police and bureaucracy but even people take it for granted as a routine police practice of integration. The result is that the news of such outrageous conduct causes nothing more than a momentary shock in the society. When a custodial death occurs, there is a public uproar, which either dies down with time or at the most subsided by constituting an enquiring committee.

A reading of the newspapers carrying reports of dehumanizing torture, assault, rape and death in police custody or other governmental agencies almost every day is, indeed, depressing. The increasing incidence of torture and death in custody has assumed such alarming proportions that it is affecting the credibility of the rule of law and the administration of the criminal justice system. As a result the society rightly feels perturbed. The society's cry for justice becomes louder.

Any form of torture or cruel, inhuman or degrading treatment, whether it occurs during investigation, interrogation or otherwise needs the severest condemnation. If the functionaries of the Government become law-breakers, it is bound to breed contempt for the law and no civilized nation can permit that to happen.

Custodial violence may be both physical and mental. It may also consist of gross negligence or deliberate inaction. In a case, when a person was suffering from high blood pressure or similar type of disease, almost for which continuous medicine is essential, and he is not allowed to take medicines the men develop serious health problem or dies. The Apex Court held it to be case of custodial violence and the State was made liable for damages for their gross negligence in protecting the person in custody.

15 Historical background

Custodial violence is one of the gravest violations of human dignity in a civilized society. It includes torture, custodial deaths, rape, illegal arrest and detention, false implication, disappearance from custody, and other excesses committed by persons entrusted with law enforcement. Although an accused or convict may be lawfully punished for an offence, the person does not cease to be a human being and retains basic rights guaranteed by law. Article 10 of the International Covenant on Civil and Political Rights accordingly requires that all persons deprived of liberty be treated with humanity and respect for their inherent dignity.

In India, custodial violence refers to violence occurring while a person is in the custody of the police, prison authorities, or any other State institution established for detention. It is a direct assault on the rule of law because it is committed by those whose duty is to protect life, liberty, and dignity. The victims are often poor, socially vulnerable, or unable to resist or seek effective redress. Custodial deaths may result from torture, negligence, denial of medical aid, unsafe custody conditions, or unlawful detention beyond the permitted period.

15.1 Custodial violence in ancient and medieval India

The roots of custodial violence in India lie in early systems of social control. In tribal and village communities, rules protecting persons and property were enforced by community authorities, often resembling military or police structures. Historical accounts suggest that from about 500 B.C. to 400 B.C., torture was used to punish offenders, while trials by fire, water, poison, and single combat were employed to compel confessions.

References to punishment and coercive authority can be traced to the Vedic period. The Rigveda mentions officials such as Jivagribhas, while the Upanishads refer to Ugras, who performed functions associated with policing. Ancient political thought regarded danda, or punishment, as an essential instrument of governance. Manu classified punishment into physical punishment, admonition, censure, and fine. Severe physical punishments included beating, mutilation, piercing, death, and

immersion in boiling oil. Punishment was often justified as atonement and deterrence rather than as a measured response based on individual rights.

During the Buddhist era, humanitarian principles discouraged torture in incarceration, and special consideration was extended to elderly persons, women, and persons with large families. However, in the Gupta period, ordeal-based trials continued. After the death of Harsha in the seventh century A.D., detailed records of criminal justice became scarce owing to political fragmentation and frequent warfare.

Under Muslim rule from the thirteenth to the eighteenth century, criminal justice was largely influenced by Shariat principles. Yet severe punishments, public executions, mutilation, and torture in prisons were reported. Emperor Akbar attempted to introduce greater tolerance and reform harsh treatment of prisoners. Jahangir prohibited mutilation of ears and noses, though other severe punishments continued. Aurangzeb directed officials to detain persons only for valid reasons and to ensure speedy trials and release of innocent persons.

15.2 Custodial violence in British India

British colonial administration introduced a structured legal system modelled on English law, but coercion remained central to governance. There was no comprehensive guarantee of civil liberties, and persons in custody were frequently subjected to ill-treatment. The freedom movement provides numerous examples of torture, illegal detention, and repression inflicted on Indians between 1857 and 1947.

The Madras Torture Commission, appointed following allegations against the East India Company, reported in 1855 that police torture was not isolated but systemic. Its findings contributed to police reform and eventually to the Indian Police Act, 1861. Earlier, in 1790, mutilation as punishment was abolished in Bengal and replaced with imprisonment with hard labour. The Indian Penal Code was enacted in 1860, followed by the Indian Police Act in 1861, the Indian Evidence Act in 1872, and the Code of Criminal Procedure. These laws sought to regulate arrest, detention, investigation, and the admissibility of confessions.

The Criminal Tribes Act, 1871, however, stigmatized certain communities as hereditary criminals and subjected them to surveillance and arbitrary detention. The Indian Police Commission of 1902–03 found the police to be inefficient, corrupt, and oppressive, and recommended recruitment of educated Indians, better training, and separation of investigative and law-and-order functions. Despite these recommendations, the colonial police increasingly used coercive methods against political movements, labour unrest, peasant struggles, and the freedom movement.

15.3 Custodial violence after Independence

After independence, India transformed into a democratic, socialist, and welfare state. Yet the police machinery inherited from colonial rule retained many authoritarian features. The Constitution brought hope to victims of police violence by guaranteeing fundamental rights, especially the right to life and personal liberty under Article 21. The judiciary expanded Article 21 to include protection against torture, cruel, inhuman, or degrading treatment, and the right to live with human dignity.

India is a signatory to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. International law requires States to prevent torture, and it cannot be justified even in exceptional circumstances. Domestically, several Police Commissions

appointed during the 1950s, 1960s, 1970s, and 1980s documented third-degree methods, corruption, political interference, inadequate training, and lack of scientific investigation facilities.

The Shah Commission, constituted in 1978, examined police excesses during the Emergency of 1975–77. It found that the police had operated without adequate accountability and recommended measures to prevent improper political and administrative interference in law enforcement.

15.4 Reform commissions and legal safeguards

The National Police Commission observed that police officers sometimes resort to force during interrogation because of work pressure and the desire for quick results. It emphasized that interrogation demands patience, skill, and understanding of human psychology.

The Padmanabhaiah Committee on Police Reforms (2000) recommended better use of forensic science, investigation kits at police stations, and mobile forensic facilities at sub-divisional level. The Malimath Committee on Reforms of the Criminal Justice System (2003) recommended audio and video recording of statements, dying declarations, and confessions, along with properly equipped interrogation centres. The Police Act Drafting Committee, set up in 2005, prepared the Model Police Act, 2006, emphasizing professionalism, accountability, functional autonomy, human-rights norms, protection of weaker sections, and social diversity in policing.

Important statutory safeguards include Sections 24 and 25 of the Indian Evidence Act, 1872, which restrict the use of involuntary confessions. Under the Code of Criminal Procedure, 1973, Sections 46 and 49 regulate arrest and prohibit unnecessary restraint, while Sections 50 to 56 protect arrested persons and correspond to Article 22 of the Constitution. The Indian Penal Code also penalizes offences such as voluntarily causing hurt to extract confession, wrongful confinement, and custodial rape.

15.5 Present scenario and institutional response

Despite constitutional and legal safeguards, custodial violence remains a serious concern. Political interference, inadequate supervision, poor forensic infrastructure, delayed accountability, and the difficulty of proving police misconduct continue to weaken enforcement of rights. The National Human Rights Commission (NHRC), established on 12 October 1993 under the Protection of Human Rights Act, 1993, requires District Magistrates and Superintendents of Police to report custodial deaths within 24 hours. It also requires videography of post-mortems and examines complaints independently of police reports.

Government data placed before Parliament stated that 4,484 custodial deaths and 233 alleged police encounters were reported between 2020–21 and 2021–22. These figures include deaths in both police and judicial custody; NHRC data for 2021–22 recorded 155 deaths in police custody and 2,152 in judicial custody. A Transparency International report stated that the NHRC recorded 31,845 custodial-death cases between 1993 and 2016.

The persistence of custodial violence shows that legal provisions alone are insufficient. Effective reform requires independent oversight, scientific investigation, prompt prosecution of responsible officials, compensation and rehabilitation for victims, police training in human rights, and a public culture that refuses to tolerate torture. A civilized criminal-justice system must ensure that custody protects society without destroying the dignity of the individual in State care.

16 Custodial violence: a violation of human rights

Custodial violence is one of the gravest forms of human-rights violation because it is committed by the very authorities entrusted with protecting citizens and enforcing the law. Custody, in its true sense, implies guardianship, protection, and responsible care; it does not justify cruelty, humiliation, or torture. When police officers or prison authorities misuse their power against a helpless detainee, they not only violate individual rights but also erode public confidence in the rule of law and the criminal-justice system.

Custodial torture is an affront to human dignity. It strikes at the constitutional guarantee of life and personal liberty and contradicts the basic principle that the power of the State must be derived from, and limited by, law. Torture is often used to extract confessions, punish suspects, intimidate detainees, or assert authority. Such methods are barbaric, unreliable, and incompatible with a civilized democracy. The end of crime detection cannot justify unlawful means; an investigation must be effective, but it must also be lawful, fair, and humane.

16.1 Human rights and constitutional protection

Human rights are inherent rights possessed by every person simply because they are human. They include rights relating to life, liberty, equality, dignity, and freedom from cruel, inhuman, or degrading treatment. The Protection of Human Rights Act, 1993 defines human rights as rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in international covenants and enforceable by courts in India.

In India, custodial violence violates Articles 21 and 22 of the Constitution. Article 21 protects the right to life and personal liberty, while Article 22 protects persons against arbitrary arrest and detention. The Supreme Court in D.K. Basu v. State of West Bengal held that torture, cruel, inhuman, or degrading treatment in custody violates Article 21, whether it occurs during investigation, interrogation, or detention. The Court also issued binding safeguards for arrest and detention, including visible identification of arresting officers, preparation of an arrest memo, prompt information to a relative or friend, medical examination, access to a lawyer, and maintenance of custody records.

Internationally, the Universal Declaration of Human Rights, 1948 and the Convention Against Torture, 1984 prohibit torture and cruel, inhuman, or degrading treatment. Article 1 of the Convention defines torture as the intentional infliction of severe physical or mental pain or suffering by, at the instigation of, or with the consent or acquiescence of a public official, for purposes such as obtaining information or a confession, punishment, intimidation, or discrimination.

16.2 Nature and forms of custodial violence

Custodial violence may occur in police custody, judicial custody, protective custody, or other State-controlled institutions. It includes physical assault, psychological abuse, sexual violence, neglect, and custodial death. The first twenty-four hours after arrest are often considered especially dangerous because the detainee may be isolated, interrogated intensively, and denied effective access to legal or family support.

16.2.1 Physical torture

Physical torture includes beating, kicking, slapping, whipping, positional torture, burning, electric shocks, suffocation, starvation, forced labour, and other forms of bodily harm. These methods may

cause permanent injury or death and are frequently concealed through false medical explanations or claims of suicide.

16.2.2 Psychological torture

Psychological torture includes threats to harm or kill the detainee or their family, humiliation, religious or social degradation, mock executions, forced witnessing of violence, and prolonged fear or isolation. Although invisible, such treatment can cause severe mental suffering and is equally prohibited under human-rights standards.

16.2.3 Sexual violence

Custodial sexual violence is an extreme abuse of authority. It includes sexual harassment, molestation, rape, threats of rape, forced nudity, and other degrading acts. Women, juveniles, poor persons, and marginalized communities are particularly vulnerable because they may lack resources, legal awareness, or social protection. Custodial rape is especially serious because the offender uses State authority and the victim's helplessness to commit the crime.

16.3 Causes of custodial violence

Custodial violence is not caused by a single factor. It arises from institutional, psychological, social, and administrative failures.

- **Impunity and weak accountability:** Delayed inquiries, poor documentation, non-registration of FIRs, and rare prosecution encourage officers to believe they will not be punished.
- **Pressure to obtain quick results:** Officers may use torture to extract confessions or close cases quickly, especially where conviction rates are treated as a measure of performance.
- **Inadequate training:** Lack of scientific investigation training and insufficient awareness of human-rights law lead some officers to rely on coercive methods.
- **Overburdened police machinery:** Long working hours, non-investigative duties, staff shortages, and political interference reduce time for proper investigation and increase reliance on shortcuts.
- **Poor infrastructure:** Absence of separate lock-ups for women and juveniles, inadequate medical facilities, overcrowding, and insufficient female police personnel increase vulnerability to abuse.
- **Social acceptance of violence:** Public expectations of immediate punishment and a "tit-for-tat" attitude may indirectly normalize police brutality against suspects.
- **Poor working conditions:** Low pay, lack of housing, job insecurity, stress, and corruption can contribute to frustration and aggression among police personnel.

16.4 Facts and case illustrations

Official data show that custodial deaths remain a serious concern in India. According to figures shared by the Ministry of Home Affairs based on NHRC data, judicial-custody deaths rose from 1,616 in 2017–18 to 2,152 in 2021–22, while police-custody deaths increased from 144 to 155 during the same period. Uttar Pradesh reported the highest number of judicial-custody deaths, while Maharashtra recorded the highest number of police-custody deaths. These figures point to concerns regarding prison conditions, medical care, detention safeguards, and accountability.

The problem is aggravated by under-reporting and weak follow-up action. Many custodial deaths are recorded without a conclusive finding of torture, and disciplinary or criminal proceedings against responsible officials are uncommon. This creates a climate in which victims and families find it

difficult to prove abuse, particularly because violence occurs behind closed doors and the victim is entirely dependent on State authorities.

Reported cases illustrate the human cost of custodial violence. In Tamil Nadu, R. Jayakumar, a young Dalit man, allegedly died after torture at Chitilapakkam Police Station following detention for questioning. In Kerala, Babu, a labourer taken into custody in connection with a land dispute, died after his family alleged police torture. In Gujarat, Velji Parmar reportedly died after detention at Tajada Police Station; the post-mortem was said to reveal multiple injury marks. Such cases demonstrate the urgent need for independent investigation, transparent medical examination, and prompt prosecution where evidence establishes custodial abuse.

16.5 Custodial violence and State accountability

***Rajakannu v. State of Tamil Nadu, 1994-2-LW (Crl) 680*,** illustrates the importance of judicial intervention in exposing custodial violence and securing state accountability. Rajakannu, detained on suspicion of theft, died following custodial torture, although the police claimed that he had escaped; the Madras High Court proceedings exposed the circumstances of his death and resulted in directions for compensation of Rs. 1,10,000 to his wife.

Subsequent incidents demonstrate the continuing relevance of the case. In June 2020, ***P. Jayaraj and his son J. Bennix*** died after police assaulted them at Sathankulam, Tamil Nadu, following their detention for allegedly violating COVID-19 restrictions. Their deaths exposed serious failures in custodial protection, and, in April 2026, a Madurai trial court sentenced nine police officers to death for their involvement in the killings.

The alleged custodial death of ***Babu Sheikh Nisar*** in Vadodara similarly raised concerns about torture and concealment of evidence. He disappeared after police apprehended him on suspicion of theft on 10 December 2019, and an FIR registered in July 2020 accused six police personnel of murder and destruction of evidence. According to a police witness cited in the FIR, Nisar was restrained and tortured during interrogation; investigators subsequently examined allegations that his body had been disposed.

The ***Unnao case*** demonstrated how political influence could compound custodial abuse. The rape survivor's father died in judicial custody on 9 April 2018 after being assaulted and implicated in a false arms case; in March 2020, former MLA Kuldeep Singh Sengar and six others received ten-year prison sentences for offences including culpable homicide not amounting to murder.

Kerala's Udayakumar case highlights the importance of reliable investigation rather than punishment alone. Although a CBI court sentenced two police officers to death in 2018, the Kerala High Court overturned the convictions in 2025, citing serious investigative and evidentiary deficiencies; the CBI subsequently challenged the acquittals before the Supreme Court.

More recent Tamil Nadu incidents reinforce these concerns. In Ambasamudram in 2023, detainees, including minors, accused ***ASP Balveer Singh and other officers of severe torture***, including damaging or extracting teeth; an administrative inquiry subsequently found prima facie corroborating evidence. In June 2025, 27-year-old temple security guard ***B. Ajith Kumar*** died following police interrogation in Sivagangai district, with his post-mortem examination revealing 44 external injuries and internal bleeding.

These cases support a broader understanding of accountability: compensation and prosecution must be accompanied by credible investigations, preservation of evidence, independent medical examina-

tions, meaningful judicial scrutiny and protection for witnesses. The central reform priority should be preventing abuse and ensuring dependable accountability, rather than relying solely on exceptionally severe sentences after custodial deaths occur.

16.6 Consequences and the need for reform

Custodial violence damages more than the immediate victim. It undermines public trust in policing, weakens the legitimacy of the criminal-justice system, and encourages a culture where force replaces fair investigation. Torture may produce false confessions, misdirect investigations, and ultimately defeat the cause of justice. It also harms the reputation of honest police officers who perform their duties lawfully.

Strong reforms are therefore necessary. These include strict implementation of the D.K. Basu guidelines, mandatory CCTV surveillance in police stations and prisons, independent custodial-death inquiries, prompt medical examination, legal-aid access, protection of women and juvenile detainees, scientific investigation methods, and effective punishment of guilty officials. India must also move toward comprehensive legislation specifically criminalizing torture in accordance with international standards.

Custodial violence is not merely a law-and-order issue; it is a constitutional and moral failure. A democratic State governed by the rule of law cannot permit those who enforce the law to become its violators. Protecting the dignity, liberty, and life of every person in custody is essential to preserving both human rights and the credibility of justice itself.

17 Legal frameworks on custodial violence

Custodial violence—torture, assault, sexual abuse, or death of a person in police or judicial custody—violates human dignity, the rule of law, and fundamental rights. India has developed constitutional, statutory, judicial, and institutional safeguards to prevent such abuse and provide remedies to victims.

17.1 Constitutional protection

The Constitution of India protects persons in custody through Articles 14, 20, 21, and 22. Article 14 guarantees equality before law; Article 20(3) protects an accused from being compelled to be a witness against himself; Article 21 guarantees life and personal liberty, including the right to live with dignity; and Article 22 provides safeguards against arbitrary arrest and detention.

Article 22 requires that an arrested person be informed of the grounds of arrest, be allowed to consult a lawyer of choice, and be produced before a magistrate within 24 hours, excluding travel time. In Maneka Gandhi v. Union of India, the Supreme Court expanded Article 21 to include the right to live with human dignity, while Sunil Batra (II) condemned the unnecessary use of handcuffs and irons.

17.2 D.K. Basu guidelines

In D.K. Basu v. State of West Bengal (1997), the Supreme Court laid down mandatory safeguards for every arrest and detention to prevent custodial violence. These include visible identification of arresting officers, preparation of an arrest memo witnessed and countersigned by the arrestee, informing a relative or friend, and maintaining entries in the police diary.

The Court also required medical examination of the detainee every 48 hours, recording of pre-existing injuries, access to a lawyer during interrogation, transmission of arrest documents to the magistrate, and communication of arrest details to the Police Control Room within 12 hours. These guidelines were later reflected in amendments to the Code of Criminal Procedure, 1973.

17.3 Statutory remedies

The Protection of Human Rights Act, 1993 established the National Human Rights Commission (NHRC) and State Human Rights Commissions to inquire into complaints of custodial violence, recommend compensation, and monitor custodial deaths. NHRC guidelines require custodial deaths and custodial rapes to be reported within 24 hours, videographed post-mortems, and submission of magisterial inquiry reports.

Under the former Code of Criminal Procedure, 1973, Sections 46 and 49 regulated the manner of arrest and use of restraint; Section 54 provided for medical examination; and Section 176 mandated a magisterial inquiry into every custodial death. The Indian Evidence Act, 1872, Sections 24 to 26, made confessions obtained through threat, inducement, or made to police inadmissible, thereby discouraging torture to extract confessions.

The Indian Penal Code, 1860 penalised hurt or grievous hurt caused to extort confession under Sections 330 and 331, wrongful confinement under Section 348, and custodial rape under Section 376. The Indian Police Act, 1861 provided departmental consequences, including suspension, penalty, or dismissal, for negligent or unfit police officers.

17.4 New criminal laws

The Bharatiya Nyaya Sanhita, 2023 continues protection against custodial abuse through provisions punishing public servants who misuse legal power, fabricate false records, cause hurt to extract confessions, or wrongfully confine persons. It also contains provisions concerning sexual offences by persons in authority and custodial rape.

The Bharatiya Sakshya Adhiniyam, 2023 preserves the rule that confessions obtained through coercion, fear, or threats by a person in authority are inadmissible. It also restricts the evidentiary value of statements made directly to police, reinforcing the constitutional protection against self-incrimination under Article 20(3).

17.5 Judicial remedies

In Nilabati Behera v. State of Orissa, the Supreme Court held that custodial death violated Article 21 and awarded compensation to the victim's mother, establishing that the State may be vicariously liable for violations of fundamental rights by its officers. Joginder Kumar v. State of U.P. reaffirmed that arrest must be justified and that the arrested person must be informed of the reason for arrest.

Other important decisions include Sheela Barse v. State of Maharashtra, which laid down protections for arrested women; Munshi Singh Gautam v. State of Madhya Pradesh, which highlighted the threat custodial torture poses to the credibility of the justice system; and J. Prabhavathiamma v. State of Kerala, where police officers were convicted for a custodial murder.

17.6 International framework

Internationally, custodial violence is prohibited by the Universal Declaration of Human Rights, 1948, particularly Articles 5 and 9, which prohibit torture and arbitrary arrest. The International Covenant

on Civil and Political Rights requires humane treatment of detained persons, fair trial guarantees, legal aid, and compensation for unlawful arrest or detention.

The United Nations Convention against Torture (CAT) defines torture as intentionally inflicted severe physical or mental suffering by, with the consent of, or at the instigation of a public official for purposes such as obtaining information, punishment, intimidation, or discrimination. India signed the CAT in 1997, but a comprehensive standalone anti-torture law has not yet been enacted; the Prevention of Torture Bill, 2010, lapsed before passage.

Despite a strong legal framework, custodial violence persists because of weak enforcement, inadequate oversight, and delayed accountability. Effective prevention requires strict compliance with D.K. Basu safeguards, independent magisterial inquiries, prompt NHRC reporting, compensation for victims, and sustained institutional and political commitment to protect the dignity of every person in custody.

18 Limitations

Custodial violence persists due to several limitations:

- **Weak accountability mechanism:** Police officers responsible for torture are rarely prosecuted or convicted.
- **Lack of transparency:** Custodial spaces are often closed environments with limited independent oversight.
- **Delay in justice:** Victims and their families face long legal battles to obtain justice.
- **Institutional culture:** In some cases, coercive interrogation methods are normalized within police system.
- **Fear and lack of awareness:** Victims may hesitate to report abuse due to fear of retaliation.

Custodial violence is incompatible with constitutional democracy, human dignity, and the rule of law. While India has a strong framework of constitutional rights, judicial guidelines, and statutory safeguards, their uneven enforcement allows abuse to continue. The solution lies not only in creating new laws but in ensuring transparency, independent oversight, prompt punishment of guilty officers, compensation to victims, and sustained police reform. Protecting even the most vulnerable person in custody is essential to preserving public faith in justice.

19 Conclusion

Custodial violence and torment, which are often normalized as routine practices within police agencies, represent grave violations of human rights and human dignity; despite India's constitutional safeguards, landmark judgments such as D.K. Basu v. State of West Bengal, and protections under Articles 21 and 22, reports of abuse, mistreatment, and deaths in custody reveal a serious gap between law and practice. To build a more just and accountable system, the Supreme Court's guidelines must be strictly implemented and monitored across all states, while the long-pending Prevention of Torture Bill, 2010 should be enacted with clear provisions for victim compensation and independent investigation of torture complaints. The 273rd Law Commission Report's recommendation to shift the burden of proof onto police officials in cases of custodial injury would further deter misconduct and ensure accountability, and the NHRC's guidelines for fair treatment during arrest and detention should be uniformly adopted and enforced by every state. Most importantly, meaningful

police reform is essential, including regular human rights training, counselling, and education on the mental and social dimensions of policing, to transform institutional attitudes and foster empathy and professionalism. Ultimately, ending custodial violence is not merely about punishing wrongdoers but about reaffirming the commitment to the rule of law, justice, and humanity, ensuring that every person in custody is treated with dignity and that justice never comes at the cost of human suffering.

References

[1] Amnesty International (1992). India: Torture, Rape and Deaths in Custody. *London: Amnesty International*.

[2] Bayley DH (1969). The Police and Political Development in India. *Princeton: Princeton University Press*.

[3] Bureau of Police Research and Development (1993). Custodial Crimes: Ways and Means to Meet the Malady. *New Delhi: BPR&D*, Government of India.

[4] Human Rights Watch (2016). Stifling Dissent: The Criminalization of Peaceful Expression in India. *New York: Human Rights Watch*.

[5] Jain MP. *Indian Constitutional Law*. 9th ed.

[6] Kannabiran KG (1992). Creeping decay in institutions of democracy. *Economic and Political Weekly*, August 1992.

[7] Lal B (2012). The Law of Evidence. *Central Law Agency*; p. 57.

[8] Law Commission of India. *The Law on Criminal Defamation*. Report No. 285. 22nd Law Commission of India.

[9] Mishra SN (2012). The Code of Criminal Procedure. *Central Law Agency*; pp. 50–58.

[10] Rajan VN, Gaur KD (2022). Criminal Law: Cases and Materials. *10th ed*.

[11] Sahay (1993). Report on custodial crimes. *The Hindustan Times*, 8 October 1993.

[12] Saksena NS (1993). Custodial deaths. *The Telegraph*, 15 October 1993.

[13] Singh KM (1993). Report on custodial deaths for Parliament. *The Hindu*, 25 September 1993.

[14] Vadackumchery J (1994). Custodial violence and death: problems and prevention. *Paper presented at the Symposium of the Indian Society of Victimology*, Madras.