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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

BEHIND LOCKED DOORS: RETHINKING CUSTODIAL VIOLENCE AND RESTORING JUSTICE IN INDIA

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ABSTRACT

Custodial violence is one of the most urgent yet often ignored human rights issues in India. Even with constitutional protections and legal safeguards in place, systemic flaws, poor enforcement, and a prevailing culture of impunity have allowed torture, abuse, and deaths in custody to persist. This paper delves into the underlying causes and effects of custodial violence, examining constitutional provisions, statutory protections, significant court rulings, and India's commitments on the international stage. It also looks at recent developments like the Bharatiya Nagarik Suraksha Sanhita, 2023, and the proposed Prevention of Torture Bill, 2023. By referencing the 273rd Law Commission Report and key judicial insights, the paper offers practical recommendations such as ratifying the UN Convention Against Torture, creating a specific anti-torture law, and enhancing oversight mechanisms. Through a rights-based and victim centered approach, this study seeks to close the gap between the promises of the law and the realities faced by detainees aiming to restore dignity, rebuild public trust, and reaffirm the right to life and liberty for everyone in custody.

Keywords: Custodial Violence, Human Rights, Torture Prevention, Legal Safeguards

INTRODUCTION

Violence against people in guardianship remains one of the worst mortal rights abuses in republic. In India, it shows how institutions have failed to keep law and order while guarding citizens' introductory rights. This violence includes torture and other cruel, inhuman, or demeaning acts against those held by police or courts. The Indian Constitution has strong protections in Articles 20, 21, and 22. These guarantee the right to not criminate oneself, the right to life and freedom, and safeguards during arrest and detention.¹ Yet, people frequently ignore these rights. Violence in guardianship does not just beget serious physical and internal detriment to victims. It also makes people lose faith in the justice system. This erodes the core ideas of republic and the rule of law.

The extent of custodial violence in India raises serious enterprises. The National Human Rights Commission (NHRC) reported 1,616 custodial deaths in 2016–17.² The Ministry of Home Affairs participated data in Parliament showing custodial deaths jumped from 100 in 2020 - 21 to 175 in 2021-22 - a 75 rise in just one time.³ From 2017 to 2022, Gujarat outgunned the list with 80 police custodial deaths followed by Maharashtra (76), Uttar Pradesh (41), Tamil Nadu (40), and Bihar (38). Among Union homes, Delhi had the loftiest count at 29 deaths. In the same timeframe, the NHRC recorded 2,150 deaths in judicial guardianship and 155 deaths in police guardianship. These figures suggest that custodial violence is not a one- off issue but a wide problem that needs fixing right down.⁴

Custodial violence continues in India due to numerous deep- confirmed problems. Poor training of police officers leads to questioning styles that break the law and violate mortal rights. Trespassed police weak internal checks, and no outside trolls produce a setting where this abuse goes on unchallenged. People's wrong support for "quick justice" makes effects worse. Late reporting, poor forensic tools, and fear of vengeance stop victims and substantiations from speaking up. Also, when evildoers do not face consequences, they keep getting down with it. To attack custodial violence, we need big changes in the system that concentrate on openness holding people responsible, and always guarding mortal quality and introductory rights.⁵

¹ *The Constitution of India*, Arts. 20, 21 and 22.

² National Human Rights Commission, *Annual Report 2016–17*, New Delhi: NHRC, p. 84.

³ Ministry of Home Affairs, *Reply to Unstarred Question No. 1056*, Rajya Sabha Debates, Session 258, 2022

⁴ *ibid*

⁵ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 1, 1984.

UNDERSTANDING CUSTODIAL VIOLENCE

Custodial violence happens when people in police or judicial guardianship face torture or cruel, inhuman, or demeaning treatment. The United Nations Convention Against Torture (UNCAT) defines torture in Composition 1. It describes torture as the deliberate causing of severe physical or internal pain. This frequently occurs to get admissions, discipline, or dread people, a public functionary does this or allows it to be.

Indian custodial violence manifests in several ways

- Physical Abuse-This includes beatings with bludgeons, electric shocks, hanging from ceilings, starving, forcing uncomfortable positions, and burning with cigarettes or hot particulars.⁶
- Mental Abuse- This involves death pitfalls, insulation, shame, cuts forcing people to watch torture, and cutting off senses.⁷
- Sexual Abuse- This covers rape in guardianship, forced bareness, sexual importunity, protrusive quests, and sexual cuts - aimed at women and nonage groups.⁸

All these types break mortal rights and legal safeguards. The Protection of Human Rights Act 1993 gives the National Human Rights Commission (NHRC) the power to look into similar cases and suggest action.

CAUSES OF CUSTODIAL VIOLENCE

Custodial violence continues in India due to institutional, legal, and artistic factors. Some crucial reasons include

1. Work Stress and Performance Pressure

Unrealistic demands to deliver quick results push police officers to use torture as a fast way to prize admissions.

2. Lack of Scientific Training and Investigative ways

Inadequate training in forensic styles and non-violent questioning leads to the use of outdated brutal practices.⁹

3. Immunity and Poor Legal Responsibility

Many police officers face conviction for custodial crimes. Internal examinations frequently warrant independence, and victims struggle to file FIRs against law enforcement officers.

⁶ Indian Penal Code, 1860, Ss. 330, 331, 348

⁷ Indian Law Institute, *Custodial Crimes in India: A Legal Analysis*, (2020)

⁸ Human Rights Watch, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, (2009).

⁹ Indian Express, "Police Need Scientific Training to Replace Outdated Methods," 2022.

4. Social Acceptance of Instant Justice

People suppose rough treatment of suspects is okay for public safety leading to acceptance of illegal practices in guardianship.

5. Political poking and deceitfulness

Politicians or officers pious to a party might defend officers who make miscalculations. It's hard to hold anyone responsible when original choosers put on pressure.

6. Poor Oversight

Section 176(1A) CrPC requires a judge to probe deaths in guardianship, but this happens. People do not follow NHRC rules veritably moreover.

CUSTODIAL VIOLENCE AS A HUMAN RIGHTS VIOLATION

India's legal and human rights system provides solid protection in theory, but lacks teeth in practice. Worldwide, prison abuse is off-limits. The Universal Declaration of Human Rights (UDHR) Article 5 bans torture and cruel, inhuman, or degrading treatment¹⁰. The International Covenant on Civil and Political Rights (ICCPR) Article 7 outlaws torture and demands humane care for prisoners.¹¹ India signed the United Nations Convention Against Torture (UNCAT) in 1997 but hasn't made it official. This limits Indian courts' ability to apply global anti-torture rules. At home, the Indian Constitution's Articles 20(3) and 21 offer key safeguards.¹² Article 20(3) shields against forced confessions, while Article 21 guarantees the right to live,¹³ which courts see as including freedom from torture. In the big case *D.K. Basu v. State of West Bengal*,¹⁴ the Supreme Court ruled that prison torture breaks Article 21. It set out detailed rules for arrests and lockups, like keeping arrest records, telling family members, and doing health checks. In *Nilabati Behera v. State of Orissa*,¹⁵ the Court said victims' families can get money from the government for deaths in custody showing the state bears responsibility in these cases. The lack of specific laws against torture makes India's legal approach even weaker. Legal expert Syed Asfar Alam points out that not ratifying CAT and not having a dedicated law to fight torture show that the state has failed to take custodial abuse seriously.¹⁶ Law enforcement tends to target disadvantaged groups more often, like Dalits, Adivasis, Muslims, and the poor,

¹⁰ *Universal Declaration of Human Rights*, 1948, Art. 5.

¹¹ *International Covenant on Civil and Political Rights*, 1966, Art. 7.

¹² United Nations Treaty Collection, Status of Ratification of the UNCAT by India (as of 2024).

¹³ *The Constitution of India*, Arts. 20(3) and 21.

¹⁴ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610.

¹⁵ *Nilabati Behera v. State of Orissa*, AIR 1993 SC 1960.

¹⁶ Syed Asfar Alam, "Torture and the Need for Specific Legislation in India," *Indian Journal of Law and Human Behavior*, Vol. 3, No. 1 (2021), pp. 34–42.

which suggests there is bias in the system. The National Campaign Against Torture (NCAT) and other civil society groups have confirmed that people in power often use torture to control society rather than to investigate crimes properly.¹⁷

Custodial violence poses a serious risk to India's legal and constitutional framework. It undermines the right to life and respect and shows the gap between what the law promises and what happens. India needs to take quick and complete action to tackle this problem. Ratifying the UN Convention Against Torture and creating a specific law to punish custodial torture are key steps to take. The National Human Rights Commission also needs more strength by giving it powers that hold weight and letting it carry out investigations on its own. Police reforms should make human rights training necessary, put CCTV cameras in all police stations and lock-ups, and ensure a judicial inquiry follows every custodial death. Public complaint systems and independent checks are vital to stop the unchecked abuse of power. However, it is not just about changing the laws. Changing the way systems think raising public understanding, and holding leaders accountable are crucial to restore trust in law and democracy. By working on all these areas at the same time can real improvement happen.

PROVISIONS UNDER THE CONSTITUTION

Custodial violence is a serious human rights concern in India, but thankfully, the Constitution offers robust protections through Articles 20, 21, and 22. Article 21 guarantees vital rights like access to legal aid, a fair trial, and safeguards against unnecessary handcuffing, all while affirming the right to life and liberty, which includes protection from torture. Article 20 defends against retroactive laws, double jeopardy, and self-incrimination, while Article 22 ensures that anyone arrested is informed of the reasons for their arrest and has the right to consult a lawyer. Additionally, Article 14 promotes equality before the law, and Article 19 supports free speech, although it can be restricted during detention. Collectively, these rights create a strong shield against abuse and underscore the significance of upholding the rule of law.¹⁸

Article 39-A of the Indian Constitution guarantees that everyone, no matter their financial situation, has the right to free legal aid, which helps ensure equal access to justice for all. The

¹⁷ National Campaign Against Torture (NCAT), *India: Annual Report on Torture 2022*, New Delhi, pp. 14–17

¹⁸ Deepti Sharma, "Custodial Violence in India and the Need for Police Reforms," (2022) 4(2) *Criminal Law Journal* 140, available at <https://www.criminallawjournal.org/article/108/4-2-27-436.pdf> (last visited Apr. 18, 2025).

Legal Services Authorities Act of 1987 builds on this by providing support to vulnerable groups, such as Scheduled Castes, Tribes, women, children, victims of trafficking, and individuals in police or mental health custody. If someone earns less than ₹9,000 a year (or a higher amount determined by individual states), they can take advantage of this aid, making sure that financial hardships don't stand in the way of justice. This initiative is backed by Article 21, which safeguards individuals from cruel treatment, and is further reinforced by the Supreme Court's condemnation of practices like solitary confinement and routine handcuffing, as highlighted in cases like *Prem Shankar Shukla v. Delhi Administration*.¹⁹

ROLE OF A MAGISTRATE

Article 22(2) of the Indian Constitution guarantees that anyone who gets arrested must be presented before a Magistrate within 24 hours, not counting travel time. The role of the Magistrate is vital in ensuring that there's no abuse-be it physical or mental-while in custody, and they also need to inform the person about their right to a medical examination. This often serves as the first opportunity for detainees to voice any mistreatment they may have experienced. The Magistrate's duties go beyond just confirming the legality of the arrest; they are also there to protect the rights of those who are most vulnerable. If the Magistrate misses signs of abuse or doesn't ask the necessary questions, it can prevent the individual from receiving the justice they rightfully deserve. That's why it's so important for the Magistrate to be both observant and empathetic.²⁰

PROVISIONS UNDER THE CRIMINAL PROCEDURE CODE

The Criminal Procedure Code (CrPC) is essential for protecting the rights of individuals who are facing criminal charges. It covers everything from how to file complaints to the procedures involved in arrest and interrogation. Key protections include Section 163, which prohibits using force or threats to get statements, and Section 164(4), which guarantees that confessions are made voluntarily. Section 49 limits the use of physical restraint, while Section 50 mandates that police explain the reasons for an arrest and inform individuals about their bail rights. Section 55A is all about ensuring the health and safety of those who are arrested. Additionally,

¹⁹ M. Manohari and K. Velmurugan, "The Role of the Judiciary with Relation to Custodial Death in India," (2022) 4(7) *International Journal of Advances in Engineering and Management* 305, available at https://ijaem.net/issue_dcp/The%20role%20of%20the%20judiciary%20with%20relation%20to%20custodial%20death%20in%20India.pdf (last visited Apr. 18, 2025).

²⁰ Ishan Sharma, "Custodial Violence," *iPleaders Blog* (Jun. 28, 2020), available at <https://blog.ipleaders.in/custodial-violence/> (last visited Apr. 18, 2025).

Sections 56 and 57 require that an accused person be brought before a Magistrate within 24 hours, and Section 58 states that any arrest made without a warrant must be reported. The amendments made in 2009, especially Sections 41A to 41D, further enhance rights such as access to legal counsel, notifying relatives, and holding police accountable, striking a fair balance between law enforcement and the protection of fundamental rights.²¹

PROVISIONS UNDER THE INDIAN PENAL CODE

The IPC addresses custodial violence with several key provisions. For instance, Section 220 makes sure that public servants are held accountable if they unlawfully detain someone while performing their duties. Then there's Section 330, which punishes those who inflict harm to coerce confessions, carrying a penalty of up to 7 years in prison along with a fine. If the injuries are more severe, Section 331 raises the penalty to a maximum of 10 years and a fine. Section 348 tackles wrongful confinement aimed at extracting confessions or information, which can lead to a punishment of up to 3 years in prison and a fine. These laws clearly state that confessions must always be given voluntarily, emphasizing that violence has no role in the quest for justice.

PROVISIONS UNDER THE INDIAN EVIDENCE ACT, 1872

The IPC aims to tackle custodial violence, while the Indian Evidence Act of 1872 makes sure that only confessions that are both voluntary and legally sound can be presented in court. Section 25 specifically bars confessions made to police officers from being used as evidence, which helps to prevent any kind of coercive pressure. Section 26 goes even further by stating that confessions made while in police custody are only valid if they are recorded in front of a magistrate, ensuring that they are given freely and without any duress. Together, these sections serve to protect individuals in custody and promote fair legal practices.²²

PROVISIONS UNDER THE POLICE ACT, 1861

Under Section 29 of the Police Act of 1861, police officers are responsible for their actions, especially when it comes to misconduct like using violence against detainees. If an officer is found guilty of such behaviour, they could end up facing fines or even jail time. This law is

²¹ Drishti IAS Editorial Team, "Custodial Violence: Issues and Concerns," (2020) *Drishti IAS*, available at <https://www.drishtiias.com/pdf/1593520847-custodial-violence.pdf> (last visited Apr. 18, 2025).

²² Ishan Sharma, "Custodial Violence," *iPleaders Blog* (Jun. 28, 2020), available at <https://blog.ipleaders.in/custodial-violence/> (last visited Apr. 18, 2025).

designed to prevent abuse while in custody and to promote good conduct among police officers.²³

PROVISIONS UNDER BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS) 2023

The Bharatiya Nagarik Suraksha Sanhita (BNSS) is shaking up the way arrests and detentions are managed in India, raising some serious concerns about individual rights. One major change is the removal of the CrPC's 15-day limit on police custody, which now gives magistrates the authority to extend this period. This has sparked fears of coercion and possible violations of Article 21, which goes against the Supreme Court's decision in *D.K. Basu v. State of West Bengal*. While the detention limit is still set at 60 or 90 days, getting rid of the 15-day cap definitely weakens protections for those accused. The BNSS also tweaks bail rules, allowing first-time offenders to seek release after serving a third of their sentence. However, it permits courts to deny bail if there are multiple cases pending, which contradicts the Supreme Court's position in *Satender Kumar Antil v. CBI (2023)*. To top it all off, the law broadens police powers in serious cases like terrorism and reinstates the use of handcuffs without court approval, raising significant concerns about personal freedom and dignity.²⁴

The BNSS is rolling out new measures aimed at better safeguarding the rights of offenders. For instance, Section 479 now allows first-time offenders to request release on bond after they've served a third of their sentence prior to trial, with jail superintendents tasked with notifying the court. Arrest procedures are becoming more compassionate, granting detainees the right to reach out to someone they trust, and ensuring that every police station designates an officer (at least an ASI) to oversee arrests and clarify these rights. Additionally, the BNSS aims to curb the misuse of custody by permitting police to collect evidence such as fingerprints, handwriting, or voice samples without having to detain individuals.²⁵

²³ LawBhoomi Research Team, "Custodial Violence: Definition, Causes, and Laws," *LawBhoomi* (Jul. 14, 2021), available at <https://lawbhoomi.com/custodial-violence/> (last visited Apr. 18, 2025).

²⁴ Common Cause, "In Custody: A Report on Custodial Deaths in India (2022–2023)," (2024) *Common Cause Quarterly*, July–Sept Issue, 14–27, available at https://www.commoncause.in/wotadmin/upload/july_sept_2024_Colour_Copy_for_Scroll.pdf (last visited Apr. 18, 2025).

²⁵ Press Information Bureau, Ministry of Home Affairs, "Custodial Deaths in the Country," *PIB Delhi*, Apr. 3, 2024, available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=2082757> (last visited Apr. 18, 2025).

273rd LAW COMMISSION REPORT

The 273rd Law Commission Report is calling on India to finally get serious about passing an anti-torture law. This has been a long time coming, especially since the country signed the UN Convention Against Torture (CAT) back in 1997 but still hasn't ratified it. This delay is causing problems with extraditions, as other countries are reluctant to send suspects to a nation that doesn't have clear laws against torture. The report sheds light on the ongoing issue of torture, which has been around since ancient and colonial times. It notes that while the Supreme Court has condemned torture in cases like *D.K. Basu v. State of West Bengal*, the legal protections in place are still not enough. The report suggests reforms, such as adding Section 114B to the Indian Evidence Act and making changes to the CrPC to enhance safeguards during arrests. Even though there are constitutional protections under Articles 20(3), 21, and 22, enforcement is still lacking. The report emphasizes the urgent need for India to ratify CAT and pass a law like the Prevention of Torture Bill, 2017, which would define torture, set penalties, and offer better protection for vulnerable individuals.²⁶

PREVENTION OF CUSTODIAL TORTURE BILL, 2023

In 2023, Professor Manoj Kumar Jha took a significant step by introducing a bill in the Rajya Sabha aimed at making custodial torture and abuse by public officials punishable by law. This bill clearly defines custodial torture as any form of physical or mental suffering inflicted to extract confessions or intimidate individuals. The proposed penalties range from 3 to 10 years in prison, along with fines starting at ₹1 lakh. In the most severe cases, like those involving death or sexual abuse, offenders could face life imprisonment. Victims of such acts would also have the right to seek compensation for medical expenses, lost income, and support for their families, with a two-year period allowed for filing complaints. This bill takes precedence over any conflicting laws and empowers the central government to set the rules for its implementation. In line with Article 21 of the Constitution, it seeks to address legal shortcomings and help India progress towards ratifying the UN Convention Against Torture, ultimately ensuring justice and safeguarding human dignity.²⁷

²⁶ Department of Legal Affairs, Ministry of Law and Justice, *Guidelines to Curb Custodial Violence and Torture*, Government of India (Aug. 2022), available at <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081620.pdf> (last visited Apr. 18, 2025).

²⁷ *The Prevention of Torture Bill, 2023*, Rajya Sabha, Bill No. XXX of 2023, available at https://sansad.in/getFile/BillsTexts/RSBillTexts/Asintroduced/custodial_torture-E1219202344710PM.pdf?source=legislation (last visited Apr. 18, 2025).

ROLE OF NATIONAL HUMAN RIGHTS COMMISSION

The National Human Rights Commission (NHRC) plays a crucial role in protecting the rights of individuals in custody, especially when it comes to addressing issues like custodial deaths and abuse. They require that any incidents occurring in police or judicial custody be reported within 24 hours and demand that post-mortems are recorded on video using a standardized form to avoid any cover-ups. In situations involving police encounters, the NHRC insists on magisterial inquiries that include the victim's family and supports independent investigations whenever necessary. Officers who are under investigation are prohibited from receiving promotions or rewards until the case is fully resolved. Additionally, the NHRC frequently visits detention centers, advocates for improved healthcare in prisons, and ensures that polygraph tests are voluntary and conducted under the supervision of a lawyer and magistrate. Furthermore, they push for the release of undertrial prisoners and call for better collaboration among police, courts, and prisons to reduce overcrowding and promote fairer access to bail.²⁸

INTERNATIONAL FRAMEWORK AGAINST CUSTODIAL VIOLENCE

Around the globe, we've established strong legal protections aimed at putting an end to torture and upholding human dignity, particularly for those in custody. It all started with the 1948 Universal Declaration of Human Rights, which proclaimed the right to be free from torture and wrongful detention. This was followed by the 1984 Convention Against Torture, making it a legal obligation for countries to take action against such practices. Additional regional agreements, like the European Convention (1950), the Inter-American Convention (1987), and the African Charter (1986), have further bolstered these protections, even acknowledging that mental suffering can be considered torture. Global initiatives, such as the 1975 UN Declaration on Torture and the Nelson Mandela Rules, emphasize that torture is never acceptable and highlight the importance of humane treatment and accountability.²⁹

²⁸ National Human Rights Commission (India), *Selected Letters and Guidelines on Deaths in Custody*, Ministry of Home Affairs, Government of India (2019), available at https://www.mha.gov.in/sites/default/files/2022-12/NHRCselectedlettersandguidelinesondeathsincustody_09042019_0%5B1%5D.pdf (last visited Apr. 18, 2025).

²⁹ Ayushi Awasthi, "Custodial Violence: A Threat to Human Rights," (2023) 2(2) *International Journal of Legal Studies* 84, available at <https://www.journalsalliancepub.com/index.php/ijls/article/view/71/90> (last visited Apr. 18, 2025).

JUDICIAL INTERPRETATION AND LANDMARK JUDGMENTS

In *Paramvir Singh Saini v. Baljit Singh and Others*³⁰, the Supreme Court made a huge stride in cutting custody brutality short by mandating all States and Union Territories to fit CCTV cameras in all police stations without exception. The order included interrogation and detention rooms of central institutions such as the CBI and NIA. The Court also ordered the provision of the necessary infrastructure to facilitate this system. Significantly, it decreed that the CCTV footage must be retained for at least six months. Where there are allegations of human rights abuses, the footage must be produced to the victims or to the relevant Human Rights Commissions.

In *Arnesh Kumar v. State of Bihar*³¹, The Supreme Court established important guidelines to check abuse of arrest powers and safeguard personal liberty. It ruled that in cognizable offenses, the police must eschew immediate arrest and issue instead a notice summoning the accused to appear before the officer in charge of investigation. Also, when the accused is brought before a Magistrate, the police have to submit a checklist explaining the reasons for the arrest. The Magistrate has to sift through this carefully and allow detention only if the arrest is necessary and justified in the eyes of the law.

In the case of *Prem Shankar Shukla v. State (UT of Delhi)*³², The Court ruled that routine handcuffing is inhumane, arbitrary, and violates Article 21, which protects the right to life and liberty. This judgment highlighted the need for robust laws to address custodial torture, combining criminal and constitutional protections. The Court emphasized the importance of police accountability, effective investigation mechanisms, proper police training, and public awareness. Civil society also has to intervene to close the gap between provisions in law and actual implementation.

The Supreme Court, in *Gauri Shanker Sharma v. State of Uttar Pradesh*³³, recognized the difficulty in establishing custodial deaths, since police officials, as custodians of records, might tamper with or destroy evidence. The Court denounced such practices as severe misuses of authority and emphasized that severe punishment must be invoked to deter like transgressions

³⁰ *Paramvir Singh Saini v. Baljit Singh*, (2020) 10 SCC 664

³¹ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

³² *Prem Shankar Shukla v. Delhi Administration*, (1980) 3 SCC 526.

³³ *Gauri Shanker Sharma v. State of Uttar Pradesh*, AIR 1990 SC 709.

and maintain constitutional guarantees. It highlighted that the officials who are given the power of law enforcement should never abuse their authority to exploit the detainees.

In *State of Uttar Pradesh v. Ram Sagar Yadav*³⁴, the Supreme Court considered a gruesome case of custodial torture, where a farmer was falsely accused because of a neighbour's personal vendetta in a dispute over cattle. Upon the complaint by the farmer against a police officer for extorting a bribe, he was arrested and brutally tortured, and died within six hours. The Court was extremely concerned with repeated custodial violence and the perception of impunity among police officers. It emphasized that no action is taken in these cases because only the participating police officers know what occurred, and these officers are generally defended by their colleagues. The Court emphasized that these kinds of abuses of authority call for stern accountability to avoid injustice.

In *D.K. Basu v. State of West Bengal*³⁵ This was a landmark judgment and established binding guidelines to avoid custodial torture and deaths. The Court directed that police have to prepare a memo of arrest during detention, and notify a relative or friend of the detainee. It also directed that no violence or coercion should be employed during interrogation. These measures sought to safeguard the dignity of detainees and ensure constitutional guarantees against inhumane treatment.

Prior to D.K Basu, even in *Sheela Barse v. State of Maharashtra*, the Supreme Court identified the rights of arrestees as well as custodial rights of women detainees. The Supreme Court issued a strong list of guidelines, holding that female suspects should not be detained in a lock-up with male suspects (in police stations), should be protected by female constables only during custody or interrogation and female suspects should be interrogated only in the presence of female police officers. These guidelines were not only pioneering but also stated in D.K. Basu more than 10 years later. These are the base of procedural protection against custodial violence in India.

In the case of *Nilabati Behera v. State of Orissa*³⁶, This case reiterated that constitutional rights do not cease when an individual is apprehended in custody. The petitioner's son passed away

³⁴ State of Uttar Pradesh v. Ram Sagar Yadav, AIR 1985 SC 416.

³⁵ D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.

³⁶ Nilabati Behera v. State of Orissa, (1993) 2 SCC 746

in police custody, and the Court held the state responsible, giving ₹1.5 lakh as compensation to the mother. The Court strongly emphasized that Article 21 of the Constitution guarantees the right to life and personal liberty even for those in detention. It made clear that state authorities are responsible for the safety and dignity of individuals in their custody, and custodial violence is a serious human rights violation that cannot go unpunished.

The recognition of prisoners' rights was further broadened in *T.V. Vatheeswaran v. State of Tamil Nadu*³⁷, where the Supreme Court affirmed that the fundamental rights outlined in Articles 14, 19, and 21 of the Constitution still apply to those who are incarcerated. This idea was reinforced in the case of *Charles Sobhraj v. Superintendent, Central Jail, Tihar*³⁸, where the Court stated that being imprisoned does not take away a person's fundamental rights. It stressed that the core of Article 21 is about ensuring fairness, justice, and due process, which must continue to uphold the dignity and freedom of all individuals, including those in prison.

In the case of *Rudal Shah v. State of Bihar*³⁹, it was a landmark case wherein the petitioner was illegally imprisoned for 14 years despite being acquitted by the Sessions Court. The Supreme Court held the state accountable for this glaring abuse of fundamental rights and granted ₹35,000 as compensation. The ruling was instrumental in defining the idea of constitutional remedies. The Court held that the safeguard of Article 21 would be useless without the jurisdiction to award compensation. It was not sufficient to declare a detention illegal-actual justice demanded compensatory relief to vindicate the right to life and liberty.

In the case of *Sunil Batra v. State (UT of Delhi)*⁴⁰, The Supreme Court reacted to a complaint of custodial torture by a prison administrator, taking the chance to evaluate solitary confinement procedures in Indian prisons. The Court considered Section 30(2) of the Prisoners Act, 1900, which authorized segregation of prisoners but was vague and without procedural protection. It kept the provision vague and arbitrary, declaring it unconstitutional on the grounds of infringing Article 21 the right to life and personal liberty. Apart from solitary confinement, the Court also spoke about the habitual use of handcuffs and irons on undertrial prisoners, saying that such acts undermines human dignity and is against constitutional

³⁷ T.V. Vatheeswaran v. State of Tamil Nadu, (1983) 2 SCC 68

³⁸ Charles Sobhraj v. Superintendent, Central Jail, Tihar, (1978) 4 SCC 104.

³⁹ Rudal Shah v. State of Bihar, (1983) 4 SCC 141

⁴⁰ Sunil Batra v. Delhi Administration, (1978) 4 SCC 494

safeguards. It reiterated that undertrials continue to enjoy freedoms under Article 19, and any limitation has to be in terms of law and supported by exceptional reasons. This case was a milestone in the acknowledgment of prisoner rights and humane treatment in custody.

In the case of *People's Union for Civil Liberties v. State of Maharashtra*⁴¹, the Supreme Court established an important safeguard in cases of custodial deaths due to police torture. It held that such cases have to be investigated by a Judicial Magistrate, not an Executive Magistrate, under Section 176 CrPC (now matching Section 196 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The Court reiterated that a Judicial Magistrate, as not being subject to the executive, would be more likely to provide a fair, impartial, and credible inquiry. This decision is especially significant in light of the common accusations of institutional prejudice in custodial investigations. The Court emphasized re-examining the extent of police custody, underlining the significance of upholding fundamental rights and dignity of persons under detention. It emphasized that effective and impartial inquiry mechanisms are at the heart of preventing abuse of authority and upholding constitutional values.

SUGGESTIONS

The first step in tackling custodial violence is to strengthen the legal framework. India needs to pass a dedicated anti-torture law, like the Prevention of Torture Bill, 2023, to clearly define and penalize such abuses. Additionally, ratifying the UN Convention Against Torture—signed more than twenty years ago—would show India's genuine commitment to upholding global human rights standards. We also need to ensure that judicial oversight is more consistent. Allegations of torture and custodial deaths should be investigated solely by Judicial Magistrates to guarantee impartiality. Moreover, police stations and detention centers must be equipped with CCTV cameras, with the footage securely stored for investigations where rights violations are suspected.

Equally crucial are reforms in institutional operations. The National Human Rights Commission should be given the authority to act on its findings and enforce accountability. Police forces need training in ethical and lawful interrogation methods to move away from coercive practices. Investing in forensic tools and promoting evidence-based investigations will help reduce reliance on forced confessions. At the same time, we should review controversial

⁴¹ *People's Union for Civil Liberties v. State of Maharashtra*, (2014) 10 SCC 635.

provisions in the Bharatiya Nagarik Suraksha Sanhita, 2023-especially those that extend custody limits and allow handcuffing without court permission-to prevent the erosion of hard-won legal protections.

Reforms need to prioritize inclusion and awareness. It's crucial that legal aid is readily accessible to detainees, particularly those from marginalized communities such as Dalits, Adivasis, Muslims, and those facing economic hardships, as they are more vulnerable to custodial abuse. We should launch rights awareness campaigns at the grassroots level to ensure detainees know their rights. Implementing community-based oversight and conducting regular independent audits of detention facilities can help transform accountability from a mere concept into a tangible practice. By taking these steps, we can reduce custodial torture and rebuild trust in the justice system, all while honouring the dignity and equality that our Constitution promises.

CONCLUSION

Custodial violence isn't just an isolated issue-it highlights significant flaws in India's justice system. Even though there are constitutional protections and legal safeguards in place, the harsh reality for many detainees tells a different tale. Instances of torture, abuse, and even death persist in police and judicial custody, revealing a concerning divide between the law and its enforcement. This disconnect erodes public trust and undermines the very essence of justice and dignity that the Constitution promises.

India's reluctance to ratify the UN Convention Against Torture and to enact a law specifically targeting custodial abuse has diminished its moral and legal authority. While courts have made progressive rulings aimed at curbing abuse, these decisions often fall short in implementation due to a lack of follow-through. Reforms such as CCTV monitoring, independent investigations, and rights-based training are crucial, but real change demands political will and a cultural shift within institutions.

Ultimately, putting an end to custodial violence goes beyond merely punishing offenders. It's about creating a system where every person-regardless of their background-is treated with fairness, compassion, and respect. Through legal reforms, enhanced oversight, and a steadfast commitment to human dignity, India can strive towards a justice system that genuinely embodies its constitutional values and democratic principles.

