



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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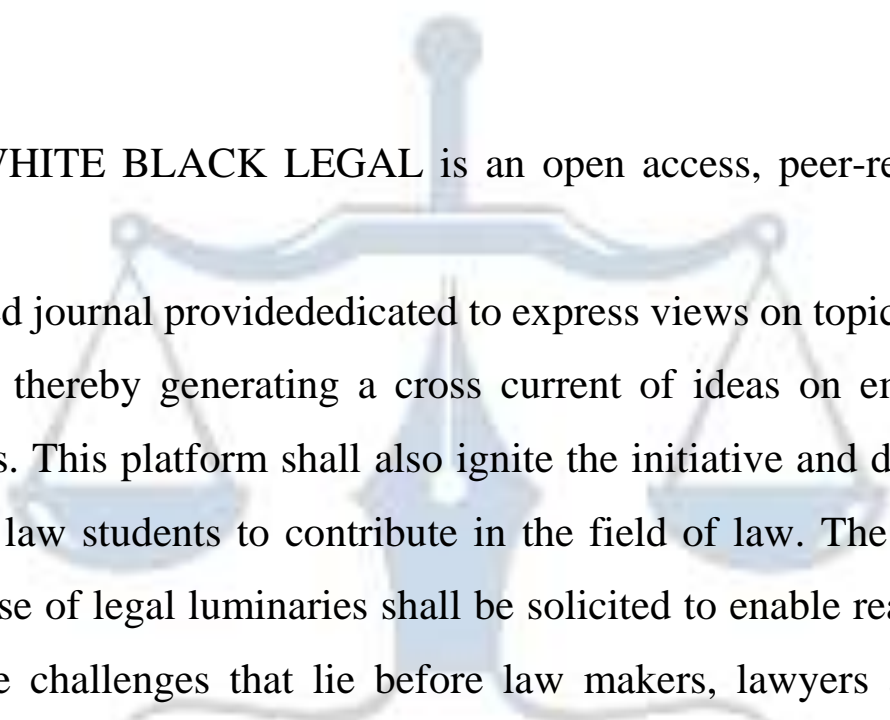


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire 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

# POLICE BRUTALITY AND HUMAN RIGHTS IN INDIA

AUTHORED BY - SHWETANG DANEKAR & PUNYESHA KHEKALE

## ABSTRACT

*The inherent dignity of every human being is the foundation of human rights. Law enforcement personnel must always respect and abide by the law. Given the great level of responsibility required by their profession, law enforcement officials must always fulfil their legal duties by protecting everyone from illegal activity and serving the community. Law enforcement personnel are not allowed to engage in any corrupt activities. They will vehemently oppose and combat any such acts. The norms of legality, necessity, non-discrimination, proportionality, and humanism must all be followed by any police activity. This essay discusses the rising number of police brutality instances and the overuse of force while interacting with citizens. Police forces have committed several atrocities against people and suspects or accused in detention as a result of their flagrant abuse of authority, which has gone unchecked and unaccountable for far too long. The study looks at the human rights abuses that police officers perform when they are on duty, primarily torture and custodial death. It also discusses the laws that are in place to protect citizens from police abuse, both physical and psychological, as well as the need for more stringent regulations that police must follow in order to be held responsible for their actions.*

**Keywords:** *proportionality, atrocities, non-discrimination.*

## **AIM**

Examining the structural causes of police brutality, existing legal protections for individuals, and the part played by civil society in calling for change and accountability, this study seeks to objectively assess the incidence and effect of police brutality on human rights in India.



## INTRODUCTION

India consists of 28 states and 7 Union Territories. According to the Indian Constitution, the police is a state subject. This means that it is the responsibility of the state governments. The organization and deployment of the police force is subject to the rules and regulations issued by the state governments. Each state/union territory has its own police force. In addition, the federal government has also set up central police agencies to perform special tasks. This large pool of well-trained manpower has the potential to be a powerful catalyst for positive change in society if they are forced to serve the rule of law and take responsibility for any crime committed or committed. The question of what responsibilities they must bear is closely related to the degree of control and supervision exerted on them.

This study is divided into four sections that discuss police accountability in India. The first section looks at fundamental aspects of the police system established by the British in this country and how the idea of holding the police accountable to those outside the system does not fit the colonial model of policing implemented here. The second section argues that while the police system has undergone significant changes since independence in India, its core organization, practices, and lack of public accountability have not changed. It also covers several trends that have led to an increase in the administrative power of the police and an increase in police abuse and misuse of police power. The third section emphasizes the importance of holding the police accountable, especially in relation to citizen complaints against the police. It also explores ways to ensure accountability both within and outside the institution

### **BACKGROUND ON POLICE BRUTALITY IN INDIA.**

Jivagribhs in the Rigveda and Ugras in the Upanishads appear to have served as police policemen. Dr. R. K. Mookerji refers to Kautilya's Arthashastra, which mentions 18 famous police officers, in his work "Chandragupta Maurya and his Times". The Mughals also maintained the indigenous system of village police. They had Subhedars, Foujdars, Thanadars, and Kotwals who handled police duties. Civil and criminal courts were established during British rule. In 1775, the British erected Faujdar Thanas and Chowkis. The British passed the Police Act in 1861, which established a substantive law governing the police. In 1866, the Railway Police was formed. The Delhi Special Police Establishment Act was the final statute passed by British authorities in 1946 to investigate bribery and corruption acts. Following



Independence, various acts were passed. The CRPF Act, 1949, the Kerala Police Act, 1960vii, the Mysore Police Act, 1963viii, and the Police Forces (Restriction of Rights) Act, 1966 ix were all promulgated. The All-India Services Act (LXI of 1951) established the Indian Administrative Service and the Indian Police Service. The emergence of police in India is not a novel concept.

## **POLICE BRUTALITY IN INDIA AFTER INDEPENDENCE**

After India's independence, the police department was given significant powers and responsibilities. The police are supposed to work with the executive and legislative branches and use their powers to protect citizens. However, there have been multiple cases of abuse of power, especially against minorities and vulnerable groups like Muslims, Dalits, Sikhs and Adivasis. Take the example of M. Nagaraj and Anr., two Dalits who died in suspicious circumstances while in police custody, along with the Inspector General of Police and others. The case highlights that custodial violence includes not only violence perpetrated by the police but also torture and cruelty perpetrated by the army. Police violence and brutality are commonplace in India, but little is done to hold perpetrators accountable. Police officers frequently use their power to avoid legal consequences and legal or moral accountability after committing unlawful acts. Police officers are alleged to commit systematic crimes within the scope of their profession while attempting to control crime within society.

### **Human Rights Violations in India**

Despite constitutional protections for human rights, breaches of freedoms and rights are frighteningly widespread in India. Reports routinely highlight a variety of abuses, including custodial torture, extrajudicial killings, illegal imprisonment, and the notorious use of third-degree tactics by police. These abuses are frequently worsened by a culture of impunity within law enforcement institutions, in which officers face little to no consequences for their acts. The media coverage serves as a sobering reminder of the structural faults afflicting the police force, with incidences of brutality routinely being exposed.

### **Disturbing Instances of Abuse**

Specific incidents highlight the terrible realities that ordinary folks suffer at the hands of the police. For example, sources describe the terrible suicide of six family members in Thanjavur, which was blamed on constant police harassment. Similarly, Jugta Ram's violent assault in a

Rajasthan police station exemplifies the harsh treatment of those in detention. High-profile cases, including as the beating of a government secretary's family members in Delhi and the kidnapping of Vipin and Gogia in Punjab, highlight the magnitude of police brutality. Furthermore, situations in which pro-Narmada Dam protestors were handcuffed and displayed by police in Gujarat demonstrate a flagrant disdain for civil freedoms. Such incidents demonstrate a systemic failure to defend citizens' rights and a worrying trend of abuse by police enforcement.

### **Custodial Crimes and the Justice System**

One of the most heinous examples of police abuse included Dhananjay Chatterjee, who was hanged in 2003 after serving 13 years in prison for offenses committed in 1990. His case highlights the possibility of major injustices in the criminal justice system, raising serious concerns about due process and the treatment of those convicted of crimes. The systematic nature of custodial violence, as well as the use of torture as a method of interrogation, fosters fear and mistrust, further distancing the police from the populations they are intended to protect.

### **Recent Human Rights Commission Findings**

The Punjab State Human Rights Commission (PSHRC) recently addressed an especially alarming case involving a Mohali resident who was reportedly tortured by local police. Following a comprehensive examination, the Commission recommended that the Punjab Government reimburse the victim Rs 25,000, noting the extent of the injuries he sustained. This instance, in which the victim was beaten and given to electric shocks before being abandoned in a village, exemplifies the difficult circumstances that many people confront when dealing with police enforcement. The PSHRC's involvement emphasizes the urgent need for structural reform in police procedures, as well as responsibility and justice for victims of police brutality.

### **The Plight of the Common Man**

These cases present a worrisome picture of India's human rights situation. The police's repeated violations of rights contribute to a pervasive climate of fear and mistrust in the community. Many residents are wary of the organizations designed to protect them, knowing that denouncing violations often leads to additional mistreatment. Significant reforms are required to rebuild trust in law enforcement and the justice system, including as more human rights training, stricter oversight systems, and a strong legal framework to hold perpetrators accountable. Until such measures are implemented, the common man's condition will remain

precarious, with human rights violations undermining the Constitution's promise of justice and equality.

## **INDIAN JUDICIARY ON THE PROTECTION AGAINST TORTURE**

Notwithstanding the absence of a clear legal definition of torture in the Constitution or relevant legislation, the Indian judiciary has concentrated on the topic. The United Nations Convention against Torture defines “torture” as an act that inflicts great pain or suffering, whether physical or mental, on a person. Indian courts have discussed the concept of torture, including its implications for human rights and the duties of law enforcement. The meaning of torture and the necessity of preventive measures have been clarified by a number of decisions rendered by the Supreme Court (SC) and High Courts.

In the seminal decision of **DK Basu v. State of West Bengal**<sup>1</sup>, the Supreme Court stressed the wide concept of torture's implications while acknowledging its lack of a precise definition. The Court declared that police and other state actors are capable of torturing people in a variety of ways, both intentionally and unintentionally.

The Supreme Court has also discussed the psychological effects of torture. The court in *Re: Ramlila Maidan Incident* ruled that sleep deprivation causes serious psychological harm, highlighting the significance of humane treatment in correctional settings. Additionally, the Supreme Court stated in **Shatrughan Chauhan v. Union of India**<sup>2</sup> that excessive delays in the execution of capital penalty could be considered torture. The Court stated that the remission of death sentences is justified since the delays are in violation of Article 21 of the Constitution, which protects the right to life and personal liberty.

State supreme courts have also taken strong action to stop torture. In order to increase transparency and accountability in the wake of a custodial death, the Bombay High Court mandated the installation of CCTV cameras at police stations in the case of **Leonard Xavier Valdaris v. Officer-in-Charge**<sup>3</sup>. This policy aimed to keep an eye on police conduct and stop abusive detention practices in the future.

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<sup>1</sup> AIR 1997 SUPREME COURT 610, 1997 AIR SCW 233, 1997 (1) SCC 416

<sup>2</sup> 2014 AIR SCW 793, 2014 (3) SCC 1, AIR 2014 SC (CRIMINAL) 641

<sup>3</sup> [2024] 5 S.C.R. 400 : 2024 INSC 344

Internationally, in cases like **Ireland v. United Kingdom**<sup>4</sup>, the European Court of Human Rights (ECHR) has set standards for judging the degree of abuse. Although the European Convention on Human Rights (ECHR) recognizes that torture is not always the same as maltreatment, it has set standards for identifying the circumstances in which maltreatment takes place. Similar rulings in cases like **Selmouni v. France**<sup>5</sup> and **Labita v. Italy** have reinforced the notion that the definition of torture is still flexible and evolving.

In spite of the Indian judiciary's endeavors to oppose torture and safeguard human rights, the absence of a codified legal definition persists in creating problems. The notion's capricious nature impacts both judicial processes and law enforcement responsibility. In order to guarantee that victims receive justice and that law enforcement is held responsible, legislators must establish a comprehensive legal framework that defines torture and explains protective measures. This will help the judge negotiate these difficulties.

## **POLICE ACCOUNTABILITY AND KEY MECHANISMS**

Instead of delivering essential services like maintaining order and reducing crime, police accountability in India involves holding law enforcement agencies and police personnel accountable to the general public. In addition to upholding legal competence, the police must equitably uphold human rights, conduct lawful searches, seizures, and arrests, and refrain from improper, misbehaving, or cunning behaviour.

The analysis of police accountability can be divided into two main categories: external and internal accountability methods.

### **1. Internal Accountability Mechanisms**

The Police Act of 1861 holds police accountable for their use of force. It gives senior officers the authority to fire, suspend, or even lower the rank of any junior officer who is accused of a crime. Senior officers are ranked Superintendent of Police and above. The following are a few of the penalties listed in the Act:

- a) detention for a maximum of 15 days in a quarter,
- b) a fine of no more than a month's salary
- c) dismissal from any distinguished office or special emolument.

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<sup>4</sup> App No 5310/71, A/25, [1978] ECHR 1, (1979-80) 2 EHRR 25, IHRL 16 (ECHR 1978), 18th January 1978

<sup>5</sup> (2000) 29 EHRR 403



## **2. External Accountability Mechanisms**

From a reactive and preventive standpoint, the National Human Rights Commission (NHRC) is a major contributor to external accountability mechanisms, along with non-profit organizations and the media. The NHRC is the only body that provides minimal support to law enforcement and is ultimately in charge of their operations. The Commission's work has been hampered in large part by the defective system and the gaps in the legislation governing its operation. Although the Protection of Human Rights Act, 1993 has several sections that highlight the Commission's dependence on the Government, the Commission should nonetheless be constrained in its operations. The Act subjects it to government control over some essentials, including labor and finances. Even more importantly, the Act does not authorize the Commission to investigate the human rights violations that members of the armed forces have reported.

According to the Act, they include not only the armed forces of the sea, air, and sea, but also certain central armed forces, such as the Border Security Force. The Act blatantly undermines the NHRC's ability to provide justice to the public in cases when its officers who are regularly assigned to law-and-order tasks in the most sensitive areas have violated the rights of individuals in general. According to the Act, the Commission's authority is limited to establishing a request for reports from the Central Government in circumstances akin to this one, after which it may either offer recommendations to the Government or decide not to pursue the case further.

## **3. Non-Government Organizations**

Two effective ways in which NGO conforms

(1) human rights violations by police officers and (2) modifications to the way the police department operates.

A typical reaction from the police or the government to accusations made by non-governmental organizations is a kind of forswearing. The government is constantly hesitant to release police records because the opposition party might turn on them. They must act even though the allegations of violations of human rights are sincere and backed by concrete evidence. The fabrication of these reports was a result of both the NGO's relative incompetence and flaws in the current organization. Particularly with regard to NGOs, the police are reluctant to provide information to outsiders. This makes it more difficult for NGOs to carry out their job, especially when it comes to police reforms.

#### 4. Media

The media is one of the most vigilant watchdogs against police abuse in this country. Indian media has a significant global presence and has established a powerful and expansive path in the modern period. The last several decades have seen a number of innovative breakthroughs that have changed the communications industry and opened doors that were previously unexplored or out of reach for the media. In a matter of seconds, others can become aware of any violation of human rights occurring anywhere in the country. The media's eagerness for covering these abuses of human rights has been astounding. Through it, they now have unrestricted access to information on police misconduct, including their mishandled activities in addressing national issues that are more important to them and any issues with which they may assist or be influenced. In this regard, the police are currently more accountable on social media than they are in traditional media.

#### EVER-GROWING AMBIT OF ARTICLE 21

The Indian Constitution's Article 21 declares, “No person shall be deprived of his/her life or personal liberty except according to procedure established by law.” Although this provision seemed simple at first, imaginative court interpretations have greatly broadened its application, making it a cornerstone of several other fundamental rights in India.

#### Judicial Expansion of Personal Liberty

The famous case **A.K. Gopalan v. State of Madras (1950)**<sup>6</sup>, which established that personal liberty cannot be deprived without adhering to a legal procedure, served as the impetus for the Supreme Court's interpretation of Article 21. The court did not, however, expand the meaning of “procedure established by law” to guarantee that it is not capricious, unfair, or irrational until **Maneka Gandhi v. Union of India (1978)**<sup>7</sup>. This case demonstrated that, in order to preserve the principles of justice and equity, a hearing should be impliedly required even in cases where the law does not so expressly state so. With his statement that “the spirit of man is at the root of Article 21,” Justice Krishna Iyer reinvigorated the article's significance as a safeguard for fundamental rights.

The Supreme Court kept expanding the meaning of “personal liberty” in later decisions. For

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<sup>6</sup> 1950 AIR 27, 1950 SCR 88, AIR 1950 SUPREME COURT 27, 1963 MADLW 638

<sup>7</sup> 1978 AIR 597, 1978 SCR (2) 621

example, in **Kharak Singh v. State of Uttar Pradesh (1963)**<sup>8</sup>, police incursions throughout the night were considered an infringement on personal freedom, which resulted in the acknowledgement of privacy as an essential component of that freedom. In **People's Union for Civil Liberties v. Union of India (1997)**<sup>9</sup>, the court denounced practices like telephone tapping, acknowledging that it constituted a grave infringement on privacy that could only be justified in extraordinary situations.

### **The Right to a Fair Trial**

It's evident from the judicial tendency that followed Maneka Gandhi that human liberty extends beyond only bodily freedom. The court held in **Kartar Singh v. State of Punjab (1994)**<sup>10</sup> that the denial of rights under Article 21 must abide by the principles of justice and fairness in addition to legislative procedure. This paved the way for the right to a prompt and fair trial to be acknowledged as a fundamental aspect of individual freedom. The court noted in **Hussainara Khatoon v. Home Secretary, Bihar (1979)**<sup>11</sup> that Article 21 implicitly guarantees the right to a prompt trial, highlighting the critical need to resolve the predicament of undertrial detainees who are kept in detention without receiving prompt justice.

The case of **Kadra Pahadiya v. State of Bihar (1981)**<sup>12</sup> brought attention to the egregious delays in the legal system, characterizing it as a “crying shame” that individuals might be incarcerated for an extended period of time without facing trial. As evidenced by **Hussainara Khatoon v. Home Secretary, State of Bihar (II) (1979)**, where the court ordered the release of women jailed under the name of protection without any charges, the judiciary's response to the difficulties surrounding protective detention was equally crucial.

### **Human Rights and Police Practices**

The usage of bar fetters and the cruel practice of handcuffing have also been addressed by the Supreme Court. The court held in **Prem Shankar v. Delhi Administration (1980)**<sup>13</sup> that handcuffing should only be used in exceptional cases and under the supervision of the judiciary, not as a general policy for all inmates who are awaiting trial. In a similar vein, the court rejected

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<sup>8</sup> 1963 AIR 1295, 1964 SCR (1) 332, AIR 1963 SUPREME COURT 1295

<sup>9</sup> AIR1997SC568, JT1997(1)SC288, 1996(9)SCALE318, (1997)1SCC301, [1996]SUPP10SCR321, 1997(1)UJ187(SC), AIR 1997 SUPREME COURT 568

<sup>10</sup> 1994 SCC (3) 569

<sup>11</sup> 1979 AIR 1369, 1979 SCR (3) 532

<sup>12</sup> AIR 1997 SUPREME COURT 3750

<sup>13</sup> 1980 AIR 1535, 1980 SCR (3) 855

the use of solitary confinement as a standard form of punishment in **Sunil Batra v. Delhi Administration (I) (1978)**<sup>14</sup>, highlighting the need for human rights to be upheld even in cases where criminal convictions have occurred.

The judiciary has firmly condemned the mistreatment and abuse of police officers. The judiciary emphasized the state's obligation to stop police brutality in **Raghubir Singh v. State of Haryana (1980)**<sup>15</sup> and **Rakesh Kaushik v. Superintendent of Central Jail, Tihar (1981)**<sup>16</sup>, highlighting the need for particular actions to stop such acts. The court's rulings have highlighted the need for strict legal repercussions for police abuse and fatalities in custody.

The judiciary has paid special attention to custodial fatalities, which are a grave breach of human rights. In **Nilabati Behera v. State of Orissa (1993)**<sup>17</sup>, the Supreme Court upheld the obligation of the state to provide compensation to victims of police abuse by awarding exemplary damages in a case involving a custodial death. The judiciary's dedication to upholding human rights was further demonstrated in the **Rudul Shah v. State of Bihar (1983)**<sup>18</sup> case, in which the court granted compensation to a man who had been wrongly detained for 14 years after being found not guilty.

### **Further Expanding Article 21**

The scope of Article 21 has been creatively expanded by the Supreme Court's decisions. The court's recognition of a detainee's freedom to publish a book written while incarcerated in State of **Maharashtra v. Prabhakar Pandurang Sanggir (1995)**<sup>19</sup> further exemplifies the expansive meaning of personal liberty. The court in **Francis Coralie v. Union Territory of Delhi (1981)**<sup>20</sup> ordered the police to permit detainees to visit with family and friends, emphasizing the value of social connection.

The laws pertaining to locus standi in instances of police brutality have also been loosened by the judiciary. The Supreme Court demonstrated its willingness to act quickly to redress human rights violations when it accepted a letter from a prisoner describing abuses in **Sunil Batra v.**

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<sup>14</sup> 1980 (3) SCC 488 1980 SCC (CRI) 777

<sup>15</sup> 1980 AIR 1087, 1980 SCR (3) 277

<sup>16</sup> 1981 AIR 1767, 1980 SCR (3) 929

<sup>17</sup> 1993 AIR 1960, 1993 SCR (2) 5817

<sup>18</sup> 1983 AIR 1086

<sup>19</sup> AIR 1966 SUPREME COURT 424

<sup>20</sup> 1981 AIR 746, 1981 SCR (2) 516



**Delhi Administration (II) (1980)**<sup>21</sup>. Furthermore, in **Sheela Barse v. State of Maharashtra (1983)**<sup>22</sup>, the court ordered the creation of women-only jails and stipulated that female constables have to be present when questioning female detainees.

## **PROTECTION UNDER ARTICLE 22**

In addition to the safeguards provided by Article 21, Article 22 of the Indian Constitution acts as a vital safeguard against arbitrary arrest and detention. In particular, it offers four crucial protections that guarantee people's rights when they are being arrested. These rules aim to protect the dignity of those who have been detained and avoid unjustified confinement.

### **Key Safeguards in Article 22**

1. **Right to Information:** According to Article 22(1), anybody detained must be made aware of the reasons behind their detention. This provision makes sure people know why they are being held, so they can plan a suitable defense and, if needed, apply for bail. The need of providing the arrested person with adequate and unambiguous information to understand the nature of the alleged offense has been underscored by the Supreme Court. The person has the right to be released if the police do not disclose these reasons, as demonstrated by the re **Madhu Limaye** case.
2. **Right to Legal Counsel:** Article 22(1) also protects the right to meet with and be represented by a lawyer of one's choosing. The 42nd Constitutional Amendment, which requires the state to offer legal aid to people who cannot afford it, has enhanced this right. This move acknowledges the significance of legal counsel in guaranteeing equitable treatment and justice for every person, irrespective of their financial circumstances.
3. **Right to be Produced Before a Magistrate:** According to Article 22(2), an arrested individual has 24 hours after being taken into custody to appear before the closest magistrate. Because it makes judicial oversight of the arrest procedure easier, this rule is essential to reducing police arbitrariness. According to the Supreme Court, this clause must be properly followed, and if it isn't, the person must be released right away.

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<sup>21</sup> 1980 (3) SCC 488 1980 SCC (CRI) 777

<sup>22</sup> AIR 1983 SUPREME COURT 378, 1983 (2) SCC 96

4. **Protection Against Detention for More Than 24 Hours:** Without a magistrate's approval, no one may be held for more than 24 hours. This protection is essential for avoiding unauthorized arrests and the misuse of authority by law enforcement. The judiciary has emphasized that adherence to this clause is necessary in order to safeguard the rights of individuals.

### **Addressing Arbitrary Arrests**

The apex court has taken the initiative to examine cases of arbitrary arrest. The court in **Joginder Kumar v. State of Uttar Pradesh**<sup>23</sup> condemned the practice of making arrests without sufficient cause, emphasizing the permanent damage that such actions can do to a person's self-esteem and reputation. The court ruled that a first inquiry that verifies the veracity of the complaint must occur before making an arrest, rather than just acting on suspicion.

### **Custodial Deaths and Guidelines**

The Supreme Court addressed police violence and deaths in custody by taking a holistic approach in *D.K. Basu v. State of West Bengal*. The court created rules to control the arrest procedure after seeing the detrimental effects that jail abuse has on society. According to these standards, arrests must only take place in specific situations, such as when the crime is serious, there's a chance the accused will flee, or the person is a threat to others. To stop violence against detainees, the court established eleven stringent rules that police personnel must adhere to when making an arrest. Officers who disregard these rules risk both departmental repercussions and contempt of court.

### **Article 20(3) and Protection Against Self-Incrimination**

Article 20(3) is an essential instrument against police abuses in addition to Articles 21 and 22, especially when it comes to questioning. The Supreme Court's ruling in **Nandini Sathpathy v. P.L. Dan**<sup>24</sup> highlighted that police interrogations are covered by the prohibition on self-incrimination, in addition to court procedures. The court decided that people cannot be forced to answer questions that could lead to self-incrimination this includes using coercive interrogation techniques or psychological coercion.

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<sup>23</sup> 1994 AIR 1349, 1994 SCC (4) 260, AIR 1994 SUPREME COURT 1349, 1994 (4) SCC 260

<sup>24</sup> 1978 2 SCC 424

## **CONCLUSION**

The relationship between policing and human rights underscores the need for a vigilant, reformative approach to law enforcement in democratic societies. Effective policing is crucial for public order and individual rights, yet it must respect human dignity and legal standards. The police serve dual roles as law enforcers and protectors of human rights, requiring a delicate balance that is often difficult to achieve. Judicial oversight plays a vital role in safeguarding fundamental rights, especially when police actions threaten individual freedoms. Landmark rulings highlight the unacceptability of torture and coercive interrogation methods, emphasizing that justice should never compromise human rights.

Training and sensitization of police personnel are essential for fostering a culture of respect for human rights. Proper education equips officers to conduct humane investigations and reinforces the connection between upholding the law and protecting citizens' rights. Legislative reforms, such as amending the Indian Evidence Act to shift the burden of proof in custodial injury cases, can deter police misconduct and restore public confidence in the legal system.

Active civil society also plays a critical role in ensuring accountability and advocating for victims of police abuse. Organizations can monitor police actions and raise awareness of human rights violations, empowering citizens to seek justice. Addressing the socio-economic, psychological, and political factors contributing to custodial violence is essential for creating a protective environment.

International legal instruments set binding obligations for states, enhancing accountability and reinforcing the notion that police should be agents of the law. In conclusion, a multifaceted approach is necessary to establish a policing system that honours human rights while upholding the rule of law, requiring commitment from state functionaries, judicial oversight, and active civil engagement. This collaboration is vital for reducing custodial abuses and restoring public trust in the legal system.

## **BIBLIOGRAPHY**

- Javeda, Maasir. "Police Brutality and Human Rights Violations by Police Authorities." 1 JCLJ (2021): 569. Received 23 June 2021; Accepted 09 July 2021; Published 12 July 2021. Accessed on 10.10.2024

- Nehra, Neha. “Custodial Violence and Police Brutality: A Critical Overview and Ways to Reach Reforms.” 2 JCLJ (2022): 1239. Accessed on 10.10.2024
- Commonwealth Human Rights Initiative, *Handbook of Landmark Judgments on Human Rights and Policing in India* (2020) [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org). Accessed on 10.10.2024
- R.N. Mangoli & Ganapati M. Tarase, “A Study of Human Rights Violation by Police in India,” *International Journal of Criminology and Sociological Theory*, vol. 3, no. 2 (December 2010): 401-418. Accessed on 10.10.2024
- ”LawFoyer International Journal of Doctrinal Legal Research,” vol. 2, no. 1 (2024): 306-351, available at [www.lijdlr.com](http://www.lijdlr.com). ISSN: 2583-7753. Accessed on 10.10.2024
- Joshi, G.P. “Police Accountability in India.” Accessed on 10.10.2024
- Centre for Law and Policy Research. “Legal Accountability of the Police in India.” Accessed on 10.10.2024
- Bhuteria, Muskan. “Police Custody and Human Rights Violations in India.” Team SACJ, January 26, 2022. Accessed on 10.10.2024
- Flores, Claudia, Citro, Brian, Guruli, Nino, Olaizola Rosenblat, Mariana, Kehrer, Chelsea, & Abrahams, Hannah S. “Global Impunity: How Police Laws & Policies in the World's Wealthiest Countries Fail International Human Rights Standards.” Public Law and Legal Theory Working Paper Series, No. 772 (2021). Accessed on 10.10.2024
- Chaudhary, Satyam. “Police Brutality – An Infringement of Human Rights in India.” *International Journal of Creative Research Thoughts (IJCRT)* 8, no. 5 (May 2020): 1028. ISSN: 2320-2882. Available at: [www.ijcrt.org](http://www.ijcrt.org). Accessed on 10.10.2024
- Office of the United Nations High Commissioner for Human Rights. *Human Rights Standards and Practice for the Police: Expanded Pocket Book on Human Rights for the Police*. New York and Geneva: United Nations, 2004. Professional Training Series No. 5/Add.3. Accessed on 10.10.2024
- Suman, Sourav. “The Police Brutality in India: A Critical Analysis.” 3rd Year BBA LLB Student, CPJ College of Higher Studies and School of Law (Affiliated to GGSIPU), Narela, New Delhi. Accessed on 10.10.2024
- Bhat, Sandeepa. “Judicial Activism in Regulating Human Rights Violations by Police Authorities in India.” *Kathmandu School of Law Review*, vol. 5, no. 2, Nov. 2017, pp. 104-112. Accessed on 10.10.2024



- Nehra, Neha. “Custodial Violence and Police Brutality: A Critical Overview and Ways to Reach Reforms.” *Jus Corpus Law Journal*, vol. 2, no. 4, June-Aug. 2022, pp. 653-663. Accessed on 10.10.2024.
- Singh, Natasha, and Rekha Anand. “Rise of Police Brutality and the Need of Better Control Measures in Recent Times.” *Supremo Amicus*, vol. 20, 2020, pp. 341. Accessed on 10.10.2024.
- Mandal, Sangeeta. “Custodial Torture and Human Rights in India.” *Indian Journal of Law & Justice*, vol. 1, March 2010, pp. 75. Accessed on 10.10.2024.
- Kumar, Oviya. “The Surge of Police Brutality in India.” *Supremo Amicus*, vol. 30, 2022, pp. 261. Accessed on 10.10.2024.
- Roy, Sudipto. “Brutality in Police Custody in India.” *Kriminologija i Socijalna Integracija*, vol. 8, 2000, pp. 95. Accessed on 10.10.2024.
- Javeda, Maasir. “Police Brutality and Human Rights Violations by Police Authorities.” *Jus Corpus Law Journal*, 2021, ISSN 2582-7820. Received 23 June 2021; Accepted 09 July 2021; Published 12 July 2021. Accessed on 10.10.2024.
- Marwah, V. “Human Rights and Role of Police.” *Journal of the Indian Law Institute*, vol. 40, no. 1/4, 1998, pp. 138–142. <http://www.jstor.org/stable/43953314>. Accessed on 10.10.2024.
- Arora, Nirman. “Custodial Torture in Police Stations in India: A Radical Assessment.” *Journal of the Indian Law Institute*, vol. 41, no. 3/4, 1999, pp. 513–29. JSTOR, <http://www.jstor.org/stable/43953348>. Accessed 13 Oct. 2024.
- Pierce, H. B. “Blacks and Law Enforcement: Towards Police Brutality Reduction.” *The Black Scholar*, vol. 17, no. 3, 1986, pp. 49–54. <http://www.jstor.org/stable/41067274>. Accessed 13 Oct. 2024.
- Miller, M. “Police Brutality.” *Yale Law & Policy Review*, vol. 17, no. 1, 1998, pp. 149–200. <http://www.jstor.org/stable/40239523>. Accessed 13 Oct. 2024.
- Sekhon, Nirej. “Police and the Limit of Law.” *Columbia Law Review*, vol. 119, no. 6, 2019, pp. 1711–72. JSTOR, <https://www.jstor.org/stable/26794354>. Accessed 13 Oct. 2024.
- Sail, Rajendra K. “Police Brutality.” *Economic and Political Weekly*, vol. 35, no. 52/53, 2000, pp. 4590. JSTOR, <http://www.jstor.org/stable/4410092>. Accessed 13 Oct. 2024.

- Noorani, A. G. “Audit of Human Rights.” *Economic and Political Weekly*, vol. 36, no. 44, 2001, pp. 4167–69. JSTOR, <http://www.jstor.org/stable/4411316>. Accessed 13 Oct. 2024.
- Mathur, Shubh. “Torture, Empire and Nation.” *Economic and Political Weekly*, vol. 40, no. 10, 2005, pp. 993–95. JSTOR, <http://www.jstor.org/stable/4416310>. Accessed 13 Oct. 2024.
- Mishra, Jitendra. “Custodial Atrocities, Human Rights and the Judiciary.” *Journal of the Indian Law Institute*, vol. 47, no. 4, 2005, pp. 508–21. JSTOR, <http://www.jstor.org/stable/43951999>. Accessed 13 Oct. 2024.

