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A CUSTODIAL VIOLENCE IN INDIA: A CRITICAL STUDY OF THE LEGAL FRAMEWORK, JUDICIAL RESPONSES, AND CONTEMPORARY CHALLENGES IN THE PROTECTION OF HUMAN RIGHTS

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CHAPTER-1: 1.1 Introductions

Custodial violence has emerged as one of the gravest human rights concerns in modern democratic societies. It represents an abuse of state authority wherein law enforcement agencies, prison officials, or other public servants inflict physical, psychological, or sexual harm upon individuals who are under their custody. While the state possesses the legitimate authority to arrest, detain, investigate, and punish offenders through due process of law, such authority is subject to constitutional limitations and the principles of human dignity. The exercise of police powers must therefore be consistent with the rule of law, human rights standards, and procedural safeguards established under the Constitution of India and international legal instruments.

India, being the world's largest democracy, guarantees the right to life and personal liberty under Article 21 of the Constitution. However, despite robust constitutional protections and judicial safeguards, incidents of custodial torture, illegal detention, custodial rape, fake encounters, and custodial deaths continue to be reported across various parts of the country. These incidents not only violate fundamental rights but also undermine public confidence in the criminal justice system and weaken the rule of law.

The issue of custodial violence has gained increasing attention due to several high-profile incidents involving deaths and torture in police custody. Reports published by the National Human Rights Commission (NHRC), National Crime Records Bureau (NCRB), and civil society organizations, and international

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human rights bodies consistently indicate that custodial violence remains a persistent challenge in India. Although India has enacted comprehensive criminal laws such as the Bharatiya Nyaya Sanhita, 2023 (BNS), Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and Bharatiya Sakshya Adhiniyam, 2023 (BSA), concerns continue regarding their effective implementation and enforcement.

The Supreme Court of India has repeatedly emphasized that torture and custodial violence are incompatible with constitutional democracy. Landmark judgments such as *D.K. Basu v. State of West Bengal*, *Nilabati Behera v. State of Orissa*, *Joginder Kumar v. State of Uttar Pradesh*, *Sheela Barse v. State of Maharashtra*, and *Prakash Singh v. Union of India* have significantly contributed to strengthening procedural safeguards against arbitrary police action. These judicial pronouncements have laid down mandatory guidelines governing arrest, detention, interrogation, compensation, and accountability of public officials.

At the international level, instruments such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the United Nations Convention against Torture (1984) recognise freedom from torture and cruel, inhuman, or degrading treatment as a fundamental human right. Although India has signed the UN Convention against Torture, it has yet to ratify it, leading to continued debates regarding the enactment of comprehensive anti-torture legislation.

The persistence of custodial violence is attributable to several structural and institutional factors. Colonial policing practices, inadequate police reforms, political interference, weak accountability mechanisms, delayed judicial processes, poor forensic infrastructure, insufficient training, lack of independent investigation, and societal acceptance of "third-degree methods" contribute significantly to the problem. Vulnerable groups—including women, children, Scheduled Castes, Scheduled Tribes, minorities, migrants, and economically weaker sections—are disproportionately affected.

Technological advancements such as CCTV surveillance in police stations,

body- worn cameras, digital arrest registers, videography of investigations, and judicial monitoring have been introduced to improve transparency. Nevertheless, implementation remains inconsistent, and institutional reforms continue to face administrative and political challenges.

This research paper seeks to undertake a comprehensive examination of custodial violence in India by analysing its historical evolution, constitutional and statutory framework, judicial responses, institutional mechanisms, international standards, comparative legal practices, and contemporary challenges. It also evaluates the effectiveness of existing safeguards and proposes reforms aimed at ensuring greater accountability, transparency, and protection of human rights.

1.2 Meaning and Concept of Custodial Violence

The expression "custodial violence" refers to any form of violence, torture, abuse, coercion, intimidation, harassment, or inhuman treatment inflicted upon an individual while he or she is under the custody or control of public authorities. Such violence may occur during arrest, police interrogation, judicial custody, prison detention, preventive detention, immigration detention, or any other form of lawful confinement.

The term "custody" denotes a situation in which an individual's liberty has been lawfully restricted by the state. Once a person is deprived of personal liberty, the state assumes a heightened duty of care and protection. Consequently, any injury, torture, or death occurring during custody raises serious questions regarding state responsibility and constitutional accountability.

Custodial violence encompasses not only physical assault but also psychological abuse, threats, prolonged interrogation, sleep deprivation, denial of food or medical care, sexual violence, humiliation, forced confessions, and other forms of cruel or degrading treatment. Such acts are frequently committed to extract confessions, obtain information, intimidate suspects, or punish detainees without following the due process established by law.

In the Indian context, custodial violence generally manifests in three forms:

1. Police Custodial Violence – Violence committed during arrest, interrogation, investigation, or police detention.
2. Judicial Custodial Violence – Violence occurring inside prisons, correctional homes, or judicial custody involving prison authorities or fellow inmates due to negligence.
3. Military or Security Force Custody – Violence committed while persons are detained by armed forces or other security agencies operating under special laws.

Custodial violence may further be categorized into the following:

- a. Physical torture
- b. Mental or psychological torture
- c. Sexual violence
- d. Custodial rape
- e. Illegal detention
- f. Enforced disappearance
- g. Custodial death
- h. Fake encounters
- i. Denial of legal assistance
- j. Medical negligence in custody

The Supreme Court of India has consistently held that custodial torture is one of the worst forms of abuse of state power because it strikes at the very foundation of constitutional governance. In *D. K. Basu v. State of West Bengal*, the court observed that custodial violence constitutes a direct assault on human dignity and violates Articles 21 and 22 of the Constitution.

Human rights scholars describe custodial violence as a manifestation of unchecked State power. It represents a conflict between the objectives of crime control and the constitutional commitment to civil liberties. While police agencies require sufficient authority to investigate crimes effectively, such authority cannot extend to torture or arbitrary deprivation of liberty.

International human rights law defines torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or with the consent of a public official for obtaining information, punishment, intimidation, or coercion. This definition underscores the responsibility of the state to prevent torture and prosecute offenders.

Thus, custodial violence is not merely an individual act of brutality; it is an institutional failure reflecting deficiencies in legal safeguards, accountability mechanisms, police training, oversight, and governance.

1.1 Nature and Scope of the Study

The present study is interdisciplinary in nature, integrating constitutional law, criminal law, human rights law, criminology, sociology, public administration, and comparative legal studies. It critically examines custodial violence as both a legal issue and a socio-political phenomenon.

The study covers:

- a. Historical development of custodial violence in India.
- b. Constitutional protections under Articles 20, 21, and 22.
- c. Statutory safeguards under BNS, BNSS, and BSA.
- d. Rights of arrested persons.
- e. Judicial interpretation by the Supreme Court and high courts.
- f. NHRC guidelines and institutional oversight.
- g. International human rights standards.
- h. Comparative analysis with the United Kingdom, United States, and Canada.
- i. Police reforms and technological interventions.
- j. Contemporary challenges and policy recommendations.

The research is confined to custodial violence by public authorities within India while drawing comparative lessons from selected jurisdictions. It does not deal extensively with private violence unless such violence occurs within state-controlled institutions.

1.2 Statement of the Problem

Despite constitutional guarantees and judicial activism, custodial violence continues to be a recurring feature of India's criminal justice system. Numerous

reports reveal instances of torture, illegal detention, custodial deaths, and abuse of vulnerable individuals. Convictions of police personnel for custodial offences remain comparatively rare due to inadequate investigations, evidentiary challenges, institutional bias, delays in prosecution, and procedural hurdles.

Several structural factors aggravate the problem, including outdated policing practices, excessive workload, and political interference, lack of scientific investigation, poor prison conditions, inadequate accountability, and insufficient human rights training. The absence of specific anti-torture legislation further complicates efforts to prosecute offenders effectively.

This study seeks to identify the legal, institutional, and practical shortcomings that permit custodial violence to persist and to assess whether existing safeguards adequately protect the constitutional rights of persons in custody.

1.3 Research Questions

The study seeks to answer the following research questions:

1. What constitutes custodial violence under Indian and international law?
2. What historical and institutional factors contribute to custodial violence in India?
3. Whether the constitutional and statutory safeguards adequately protect arrested and detained persons
4. How effective have judicial interventions been in preventing custodial torture and deaths?
5. What role do the NHRC, State Human Rights Commissions, and police reforms play in preventing custodial violence?
6. How do international standards compare with Indian legal practices?
7. What legal and policy reforms are necessary to eliminate custodial violence in India?

1.4 Research Methodology

The present research adopts a doctrinal (library-based) research methodology, supported by descriptive and analytical approaches.

Sources of Data: Primary Sources

- a) Constitution of India

- b) Bharatiya Nyaya Sanhita, 2023
- c) Bharatiya Nagarik Suraksha Sanhita, 2023
- d) Bharatiya Sakshya Adhiniyam, 2023
- e) Police Acts
- f) Prison Acts and Prison Manual
- g) Supreme Court and High Court judgments
- h) NHRC Guidelines
- i) Law Commission Reports

Secondary Sources

- a) Books
- b) Peer-reviewed journals
- c) Research articles
- d) Government reports
- e) NCRB statistics
- f) Parliamentary Committee Reports
- g) Reports of Human Rights Organizations
- h) International conventions and UN documents

Method

The study analyses statutes, judicial precedents, policy documents, scholarly writings, and official reports through qualitative legal analysis. Comparative analysis with selected foreign jurisdictions is also undertaken to identify best practices relevant to India.

1.5 Review of Literature

Several scholars, jurists, committees, and institutions have examined custodial violence from legal, criminological, and human rights perspectives.

- a. K. I. Vibhute emphasizes that custodial torture reflects the failure of constitutional governance and highlights the need for stronger accountability mechanisms.
- b. Upendra Baxi argues that human rights jurisprudence in India has evolved significantly through judicial activism, particularly under Article 21.
- c. Justice V.R. Krishna Iyer consistently advocated that prisoners retain all

fundamental rights except those necessarily curtailed by lawful incarceration.

- d. The Law Commission of India (273rd Report) recommended the enactment of a standalone anti-torture law and emphasised victim compensation, independent investigation, and witness protection.
- e. The National Human Rights Commission (NHRC) has repeatedly documented deficiencies in arrest procedures, medical examinations, custodial death investigations, and police accountability.
- f. International organisations such as Amnesty International, Human Rights Watch, and the United Nations Committee against Torture have criticised the prevalence of custodial torture and recommended legislative and institutional reforms.
- g. Judicial literature demonstrates that the Supreme Court has played a transformative role by expanding the scope of Article 21 and recognising compensation as a public law remedy for violations of fundamental rights. The literature reveals that while extensive legal safeguards exist, implementation deficits remain the principal obstacle to eliminating custodial violence.

1.6 Objectives of the Study

The primary objectives of this research are:

1. To examine the concept and evolution of custodial violence in India.
2. To analyse the constitutional and statutory framework governing custodial violence.
3. To evaluate judicial responses and landmark decisions of the Supreme Court and High Courts.
4. To examine the effectiveness of institutional mechanisms such as the NHRC and State Human Rights Commissions.
5. To compare Indian legal standards with international human rights norms.
6. To identify legal and institutional deficiencies contributing to custodial violence.
7. To recommend reforms for strengthening accountability, transparency, and protection of human rights.

1.7 Hypothesis

This study proceeds on the following hypotheses:

1. The persistence of custodial violence in India is attributable more to deficiencies in implementation and institutional accountability than to the absence of legal safeguards.
2. Judicial interventions have substantially strengthened the protection of arrested persons, but effective enforcement remains inadequate due to administrative, structural, and procedural shortcomings.
3. Comprehensive police reforms, technological oversight, independent investigation, and the enactment of a dedicated anti-torture law are necessary to effectively prevent custodial violence and ensure meaningful protection of human rights.

CHAPTER 2: HISTORICAL EVOLUTION AND CAUSES OF CUSTODIAL VIOLENCE IN INDIA

Custodial violence is not merely a contemporary issue but has deep historical roots in India's policing and criminal justice system. The evolution of police administration in India reveals that coercive methods of investigation and interrogation have existed for centuries, though their nature and extent have changed over time. During the colonial period, policing was primarily designed to maintain political control rather than protect citizens' rights. Consequently, the use of force, arbitrary detention, and torture became institutionalized practices. Even after independence, many colonial structures, laws, and attitudes continued to influence policing, thereby contributing to the persistence of custodial violence.

Custodial violence is the result of multiple historical, social, political, economic, and institutional factors. Weak accountability mechanisms, inadequate police reforms, shortage of trained personnel, pressure to solve crimes quickly, and lack of scientific investigative techniques have collectively contributed to the continuation of custodial torture and deaths. This chapter examines the historical evolution of police administration, the colonial legacy of police powers, socio-economic and political factors influencing custodial violence, major causes of custodial torture and deaths, and recent statist

ical trends in India.

2.2 Historical Background of Police Administration

2.2.1 Ancient India

The concept of policing in India can be traced back to the Vedic period. Ancient Indian rulers recognized the necessity of maintaining law and order for effective governance. Texts such as Kautilya's Arthashastra, Manusmriti, and various Dharmashastras describe systems of policing, intelligence gathering, and criminal investigation.

Kautilya advocated a highly organized administrative structure in which officers were responsible for maintaining public order, preventing crime, collecting intelligence, and protecting citizens. While punishments were often severe, the administration emphasized the king's responsibility to ensure justice. Torture was recognized only under limited circumstances and was regulated by prescribed procedures.

Unlike modern policing, ancient law enforcement was decentralized, with village headmen and local officials exercising administrative and policing functions. Although physical coercion occasionally occurred, there was no institutionalized police force resembling the modern colonial model.

2.2.2 Medieval India

During the Delhi Sultanate and Mughal periods, policing became more centralized. Officials such as the Kotwal, Faujdar, and Muhtasib were responsible for maintaining public order, preventing crimes, supervising markets, and collecting intelligence.

The Kotwal exercised extensive authority over criminal investigations and public administration. Although judicial authority rested with the Qazis, police officials often used coercive methods during investigations. Arbitrary detention and corporal punishments became more frequent, especially during periods of political instability.

Nevertheless, policing during the medieval period remained primarily administrative rather than investigative. Systematic custodial torture was not formally institutionalized to the extent witnessed under colonial administration.

2.2.3 British Colonial Administration

The modern police system in India originated during British rule. Following the Revolt of 1857, the British Government enacted the Police Act, 1861, which established a centralized and militaristic police force designed primarily to suppress dissent and maintain imperial control rather than protect civil liberties. The colonial police functioned as an instrument of State authority. Their principal responsibilities included:

- a. Maintaining public order,
- b. Protecting colonial interests,
- c. Collecting intelligence,
- d. Suppressing political movements,
- e. Investigating criminal offences.

The police enjoyed broad discretionary powers with limited judicial oversight. Torture and coercion during investigation became widespread due to inadequate forensic methods and administrative pressure to secure convictions.

The Indian Police Commission (1902 – 03) acknowledged the prevalence of corruption, abuse of power, illegal detention, and torture among police officers. However, meaningful reforms were largely absent.

The colonial policing model fundamentally influenced post-independence police administration. Many structural characteristics — including hierarchical command, emphasis on confession-based investigations, and centralized control—continue to shape policing in India today.

2.3 Colonial Legacy and Police Powers

The colonial legacy remains one of the most significant contributors to custodial violence in contemporary India.

2.3.1 Police Act of 1861

The Police Act of 1861 created a highly centralized police force accountable primarily to the executive rather than the public. The Act emphasized discipline, obedience, and maintenance of order instead of safeguarding individual rights. Several characteristics of colonial policing continue to influence modern policing:

- 1) Excessive executive control,

- 2) Militaristic hierarchy,
- 3) Broad discretionary powers,
- 4) Limited public accountability,
- 5) Use of force during investigations.

Although police reforms have been recommended repeatedly, several States continue to operate under the framework established by the Police Act, 1861.

2.3.2 Confession-Oriented Investigation

During British rule, investigations relied heavily upon obtaining confessions due to the absence of modern forensic science. Consequently, physical torture became an accepted investigative practice.

Even today, despite advancements in forensic technology, some investigators continue to rely upon coercive interrogation techniques, leading to allegations of custodial violence.

2.3.3 Executive Interference

Colonial policing prioritised governmental interests over citizens' rights. Political interference in police functioning continues to undermine professional independence.

Transfers, promotions, and disciplinary actions often remain subject to executive discretion, thereby discouraging impartial investigations and accountability.

2.3.4 Weak Accountability Mechanisms

The colonial legal framework offered limited remedies against police misconduct. Although constitutional safeguards now exist, independent oversight remains inadequate.

Investigations into custodial deaths are frequently conducted by the same police department accused of misconduct, creating conflicts of interest.

2.4 Socio-Economic and Political Factors

Custodial violence cannot be understood solely as a legal issue. Various socio-economic and political factors contribute significantly to its persistence.

2.4.1 Poverty

Poor individuals often lack access to legal representation and are more vulnerable to illegal detention and police abuse.

Economic disadvantage reduces awareness of legal rights and limits the ability to seek judicial remedies.

2.4.2 Illiteracy and Lack of Legal Awareness

Many detainees remain unaware of their constitutional rights, including:

- a. Right to legal aid,
- b. Right against self-incrimination,
- c. Right to medical examination,
- d. Right to be informed of grounds of arrest,
- e. Right to inform relatives.

Police misuse this lack of awareness to exert pressure during investigations.

2.4.3 Social Discrimination

Marginalized communities—including Scheduled Castes, Scheduled Tribes, minorities, migrants, and economically weaker sections—are disproportionately affected by custodial violence.

Discrimination based on caste, religion, gender, and social status often influences police behavior.

2.4.4 Political Pressure

Political influence frequently affects criminal investigations. Police officers often face pressure to:

- i. Solve sensational crimes quickly,
- ii. Arrest suspects immediately,
- iii. Secure confessions,
- iv. Demonstrate efficiency through rapid investigation.

Such pressure may encourage coercive interrogation methods.

2.4.5 Media Pressure

Continuous media scrutiny, especially in high-profile criminal cases, sometimes creates unrealistic expectations regarding quick investigation and prosecution.

Investigating officers may resort to unlawful methods to satisfy public expectations.

2.4.6 Lack of Police Resources

India faces significant shortages of:

- a. Police personnel,
- b. Modern forensic laboratories,
- c. Scientific investigative tools,
- d. Training infrastructure,
- e. Psychological counseling facilities.

Overburdened officers often depend upon outdated investigative techniques.

2.5 Causes of Custodial Torture and Deaths

Custodial violence arises from multiple interconnected causes.

2.5.1 Pressure to Solve Crimes

Police performance is often measured through detection rates rather than quality of investigation. This institutional pressure encourages forced confessions.

2.5.2 Dependence on Confessions

Despite legal safeguards, confession-based investigation remains prevalent. Instead of relying upon scientific evidence, investigators may use physical force to obtain admissions.

2.5.3 Inadequate Training

Human rights education remains insufficient in police training academies. Many officers receive limited instruction regarding:

- a) Constitutional rights,
- b) Human rights law,
- c) Stress management,
- d) Scientific investigation,
- e) Forensic evidence collection.

2.5.4 Lack of Accountability

Departmental inquiries frequently suffer from delay and lack of independence.

Convictions of police personnel for custodial torture remain comparatively rare. This creates a perception of impunity.

2.5.5 Corruption

Corruption within law enforcement contributes to:

- a) Illegal detention,
- b) Fabricated cases,
- c) Extortion,
- d) False implication,
- e) Manipulation of investigations.

2.5.6 Poor Prison Conditions

Overcrowded prisons, inadequate healthcare, poor sanitation, and insufficient supervision contribute to violence within judicial custody. Medical negligence also accounts for several custodial deaths.

2.5.7 Mental Stress among Police Personnel

Long working hours, insufficient leave, occupational stress, and lack of psychological support adversely affect police behaviour. Stress often leads to excessive use of force.

2.5.8 Absence of Independent Investigation

Custodial death investigations conducted by police officers belonging to the same department undermine public confidence and reduce accountability. Independent investigative agencies remain limited.

2.6 Statistical Overview and Recent Trends

Statistical data demonstrates that custodial violence continues to be a significant human rights concern despite constitutional protections and judicial safeguards.

Reports published by the National Crime Records Bureau (NCRB) indicate that numerous custodial deaths are reported annually in India. The National Human Rights Commission (NHRC) also receives hundreds of complaints each year relating to custodial torture, illegal detention, encounter deaths, and prison

violence. Independent studies by civil society organizations have suggested that the actual number of incidents may be higher due to underreporting, reluctance of victims to complain, and procedural deficiencies in recording such cases.

Recent aspects:

1. Continued occurrence of police custodial deaths across several States.
2. Increase in judicial scrutiny of illegal arrests and torture.
3. Mandatory installation of CCTV cameras in police stations following Supreme Court directions.
4. Greater reliance on forensic science, digital evidence, and videography of investigations.
5. Increased compensation awarded by constitutional courts for custodial deaths.
6. Growing emphasis on police accountability and human rights training.
7. Calls for the enactment of a comprehensive anti-torture law in line with international obligations.

Although technological measures such as body-worn cameras, electronic records, and CCTV surveillance have improved transparency in some jurisdictions, implementation remains uneven across the country. Challenges such as inadequate infrastructure, shortage of trained personnel, and inconsistent compliance continue to hinder effective prevention of custodial violence.

CHAPTER 3: LEGAL FRAMEWORK GOVERNING CUSTODIAL VIOLENCE IN INDIA

The Constitution of India guarantees every individual the right to life, personal liberty, equality before law, and protection against arbitrary State action. These guarantees are particularly significant in the context of arrest, detention, interrogation, and imprisonment, where the coercive power of the State is at its highest. Custodial violence, including torture, illegal detention, custodial rape, and custodial deaths, constitutes a direct violation of these constitutional protections and undermines the rule of law.

Although India does not have a separate legislation specifically criminalizing

torture, the legal framework against custodial violence is derived from constitutional provisions, statutory safeguards, judicial precedents, police regulations, prison laws, and international human rights obligations. With the coming into force of the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the Bharatiya Sakshya Adhiniyam, 2023 (BSA) on 1 July 2024, India's criminal justice system has undergone substantial legislative reform. These enactments seek to modernize criminal law while strengthening procedural safeguards, improving transparency, and promoting accountability in criminal investigations.

This chapter critically examines the constitutional and statutory framework governing custodial violence, the rights of arrested persons, compensation jurisprudence developed by constitutional courts, and the influence of international human rights instruments on Indian law.

3.2 Constitutional Provisions

The Constitution of India embodies the ideals of justice, liberty, equality, and human dignity. Fundamental Rights contained in Part III impose limitations upon the exercise of State power and provide constitutional safeguards against arbitrary arrest, detention, torture, and custodial abuse.

Although the Constitution does not expressly use the term "custodial violence," Articles 20, 21, and 22 collectively provide a comprehensive framework for protecting individuals in police and judicial custody. These provisions have been expansively interpreted by the Supreme Court to include protection against torture, cruel, inhuman, and degrading treatment.

3.3 Article 20: Protection in Respect of Conviction for Offences

Article 20 provides safeguards against arbitrary criminal prosecution and punishment. It consists of three clauses that collectively protect individuals accused of criminal offences.

3.3.1 Article 20(1): Protection against Ex Post Facto Laws

Article 20(1) prohibits the retrospective application of criminal laws. No person may be convicted for an act that was not an offence when committed, nor

subjected to a penalty greater than that prescribed at the time of the offence. This provision ensures fairness in criminal justice and prevents arbitrary exercise of legislative power.

3.3.2 Article 20(2): Protection against Double Jeopardy

Article 20(2) incorporates the principle of "Nemo Debet Bis Vexari", meaning that no person shall be prosecuted and punished twice for the same offence. This safeguard protects individuals from repeated criminal proceedings after a lawful conviction or acquittal.

3.3.3 Article 20(3): Protection against Self-Incrimination

Article 20(3) declares: "No person accused of any offence shall be compelled to be a witness against himself."

This is one of the most significant constitutional safeguards against custodial torture. It prohibits investigating agencies from compelling an accused person to confess through force, coercion, intimidation, or torture.

The Supreme Court has consistently held that involuntary confessions obtained through physical or psychological coercion violate Article 20(3).

Important judicial decisions:

- 1) *Nandini Satpathy v. P. L. Dani* (1978), where the Supreme Court held that the right against self-incrimination extends to police interrogation.
- 2) *Selvi v. State of Karnataka* (2010), where involuntary narco - analysis, polygraph tests, and brain mapping were held unconstitutional without the informed consent of the accused.

These decisions reinforce the constitutional principle that investigation must rely on lawful methods rather than coercion.

3.4 Article 21: Protection of Life and Personal Liberty

Article 21 provides: "No person shall be deprived of his life or personal liberty except according to procedure established by law."

Initially interpreted narrowly in *A.K. Gopalan v. State of Madras* (1950), Article 21 acquired an expansive interpretation following the landmark judgment in *Maneka Gandhi v. Union of India* (1978). The Supreme Court held that any procedure depriving a person of liberty must be fair, just, and reasonable, and

not arbitrary, oppressive, or fanciful.

Article 21 has become the constitutional foundation for protection against custodial violence. The Supreme Court has held that Article 21 includes:

- a. Right against torture,
- b. Right to dignity,
- c. Right to legal aid,
- d. Right to medical treatment,
- e. Right to a fair investigation,
- f. Right to speedy trial,
- g. Right to humane prison conditions,
- h. Right against arbitrary arrest,
- i. Right to compensation for violation of fundamental rights.

In *D. K. Basu v. State of West Bengal* (1997), the Court observed that custodial violence is one of the worst crimes in a civilized society governed by the rule of law. It issued mandatory guidelines governing arrest, detention, and interrogation, including preparation of arrest memos, medical examination, notification of relatives, and maintenance of custody records.

Similarly, in *Nilabati Behera v. State of Orissa* (1993), the Supreme Court recognized that compensation may be awarded under public law for custodial deaths resulting from violation of Article 21.

3.5 Article 22: Protection against Arbitrary Arrest and Detention

Article 22 specifically safeguards persons arrested or detained. It guarantees:

- a) The right to be informed of the grounds of arrest.
- b) The right to consult and be defended by a legal practitioner of one's choice.
- c) Production before the nearest Magistrate within 24 hours of arrest.
- d) Protection against detention beyond twenty-four hours without judicial authorization.

These safeguards are designed to prevent illegal detention and custodial abuse by ensuring prompt judicial oversight.

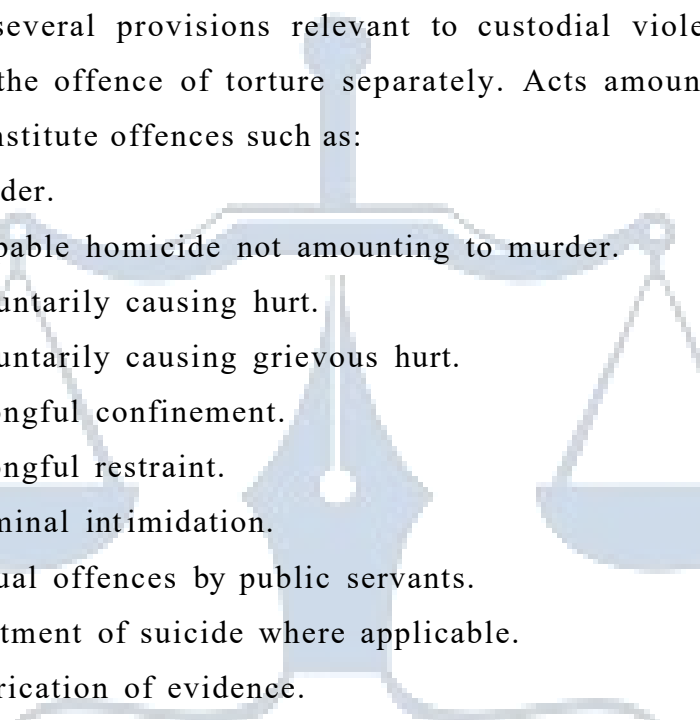
Article 22 also imposes limitations upon preventive detention laws by

prescribing procedural safeguards such as communication of grounds of detention and representation before an advisory board.

The Supreme Court has repeatedly emphasised that non-compliance with Article 22 renders the arrest unlawful and exposes the authorities to constitutional liability.

3.6 Relevant Provisions under the Bharatiya Nyaya Sanhita (BNS), 2023

The Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code, 1860, contains several provisions relevant to custodial violence, although it does not define the offence of torture separately. Acts amounting to custodial violence may constitute offences such as:

- 
- a. Murder.
 - b. Culpable homicide not amounting to murder.
 - c. Voluntarily causing hurt.
 - d. Voluntarily causing grievous hurt.
 - e. Wrongful confinement.
 - f. Wrongful restraint.
 - g. Criminal intimidation.
 - h. Sexual offences by public servants.
 - i. Abetment of suicide where applicable.
 - j. Fabrication of evidence.
 - k. Criminal conspiracy.

Public servants responsible for illegal detention or custodial death may be prosecuted under these provisions depending upon the facts of each case.

The BNS also emphasizes victim-centric justice and enhanced accountability for offences committed by public officials.

3.7 Relevant Provisions under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

The BNSS replaced the Code of Criminal Procedure, 1973, and significantly strengthens procedural safeguards against arbitrary arrest and detention.

Important safeguards include:

3.7.1 Arrest Procedure

Police officers must:

- Inform the accused of the grounds of arrest.
- Prepare an arrest memorandum.
- Inform a relative or friend of the arrest.
- Maintain arrest records.

3.7.2 Medical Examination

Medical examination of arrested persons helps detect injuries sustained during custody and prevents false allegations or concealment of torture.

3.7.3 Production before Magistrate

Every arrested person must be produced before the nearest Magistrate within twenty-four hours. Judicial scrutiny ensures protection against illegal detention.

3.7.4 Legal Representation

The accused has the right to consult and be defended by an advocate throughout criminal proceedings.

3.7.5 Videography and Electronic Records

The BNSS encourages:

- Electronic documentation;
- Digital case diaries;
- Audio-video recording of searches and seizures;
- Use of forensic evidence.

These measures enhance transparency and reduce opportunities for custodial abuse.

3.8 Relevant Provisions under the Bharatiya Sakshya Adhiniyam (BSA), 2023

The Bharatiya Sakshya Adhiniyam replaced the Indian Evidence Act, 1872. Its provisions relating to custodial violence include:

Confessions

Confessions made to police officers remain generally inadmissible as evidence except in circumstances specifically permitted by law. This safeguard discourages torture for extracting confessions.

Electronic Evidence

Recognition of digital evidence reduces dependence upon confession - based investigations.

Burden of Proof

The prosecution continues to bear the burden of proving guilt beyond reasonable doubt. The accused cannot be compelled to furnish evidence against himself. The BSA promotes scientific investigation through greater reliance on documentary, electronic, and forensic evidence.

3.9 Police Acts and Prison Laws

Police administration is governed by:

- a) Police Act, 1861 (in several States)
- b) State Police Acts
- c) Police Manuals
- d) Prison Act, 1894
- e) Model Prison Manual, 2016
- f) State Prison Rules

These enactments regulate:

- a) Arrest procedures,
- b) Custody registers,
- c) Use of force,
- d) Medical examination,
- e) Maintenance of prison discipline,
- f) Welfare of prisoners,
- g) Inspection by judicial authorities.

The Model Prison Manual, 2016 emphasizes:

- a. Human dignity
- b. Medical care

- c. Mental healthcare
- d. Legal aid
- e. Protection against torture
- f. Rehabilitation.

The Supreme Court has repeatedly directed prison authorities to ensure humane treatment of prisoners.

3.10 Rights of Arrested Persons

Indian constitutional jurisprudence recognizes that an arrested person does not lose fundamental rights merely because of detention.

Important rights include:

Constitutional Rights

- a) Right to equality before law.
- b) Right against arbitrary arrest.
- c) Right against self-incrimination.
- d) Right to life and dignity.
- e) Right to legal aid.
- f) Right to fair investigation.

Procedural Rights

- a) Right to know grounds of arrest.
- b) Right to consult an advocate.
- c) Right to inform relatives.
- d) Right to medical examination.
- e) Right to be produced before Magistrate within twenty-four hours.
- f) Right to bail where applicable.
- g) Right against torture.
- h) Right against illegal detention.

These rights have been strengthened through judicial decisions, particularly the guidelines laid down in *D. K. Basu v. State of West Bengal*, which remain mandatory for all investigating agencies.

3.11 Compensation Jurisprudence

One of the most significant developments in Indian constitutional law is the recognition of compensation as a public law remedy for violations of fundamental rights.

Traditionally, compensation could be claimed only through civil suits. However, constitutional courts have evolved an independent remedy under Articles 32 and 226. Important judgments include:

Rudul Sah v. State of Bihar (1983)

The Supreme Court awarded compensation to a person who remained illegally imprisoned even after acquittal.

Sebastian M. Hongray v. Union of India (1984)

Compensation was awarded for illegal disappearance in military custody.

Bhim Singh v. State of Jammu & Kashmir (1985)

Compensation was granted for the unlawful arrest of a legislator.

Nilabati Behera v. State of Orissa (1993)

The court held that compensation is an appropriate constitutional remedy where custodial death results from violation of Article 21.

D.K. Basu v. State of West Bengal (1997)

The Supreme Court reaffirmed that monetary compensation may be awarded for custodial torture and unlawful detention in addition to criminal prosecution and departmental action.

Compensation jurisprudence reflects the constitutional principle that the State bears responsibility for violations committed by its officials while acting in their official capacity.

3.12 International Legal Framework

International human rights law strongly condemns torture and custodial violence.

3.12.1 Universal Declaration of Human Rights (1948)

Article 3 guarantees the right to life, liberty, and security of person.

Article 5 states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

3.12.2 International Covenant on Civil and Political Rights (1966)

Article 7 prohibits torture.

Article 9 guarantees liberty and protection against arbitrary arrest.

Article 10 mandates humane treatment of all persons deprived of liberty.

India is a state party to the ICCPR and is obligated to respect these principles.

3.12.3 United Nations Convention against Torture (UNCAT), 1984

UNCAT defines torture and obligates States to:

- a) Criminalize torture,
- b) Prevent custodial abuse,
- c) Investigate allegations promptly,
- d) Punish offenders,
- e) Provide compensation to victims.

India signed the Convention in 1997 but has not yet ratified it. Consequently, India has not enacted a comprehensive standalone anti-torture legislation, although constitutional and statutory safeguards address many aspects of custodial abuse.

3.12.4 Nelson Mandela Rules (2015)

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the "Nelson Mandela Rules") prescribe internationally accepted standards for:

- a) Humane treatment of prisoners,
- b) Medical care,
- c) Solitary confinement,
- d) Discipline,
- e) Independent inspections,
- f) Protection against torture and ill-treatment.

These rules serve as persuasive standards for prison administration in India.

CHAPTER 4: JUDICIAL RESPONSES AND LANDMARK

CASES

The judiciary has played a transformative role in protecting individuals against custodial violence and strengthening human rights jurisprudence in India. While the Constitution provides fundamental guarantees under Articles 20, 21, and 22, it is through judicial interpretation that these rights have acquired substantive meaning and practical enforceability. The Supreme Court and various High Courts have consistently held that torture, illegal detention, custodial rape, and custodial deaths are incompatible with the constitutional values of dignity, liberty, and the rule of law.

Recognizing the imbalance of power between the State and an individual in custody, the judiciary has expanded the scope of constitutional protections, evolved procedural safeguards, awarded compensation to victims, and issued mandatory guidelines governing arrest, detention, interrogation, and investigation. Through Public Interest Litigation (PIL) and constitutional remedies under Articles 32 and 226, Indian courts have transformed the protection of prisoners' rights from a matter of prison administration into an integral part of fundamental rights jurisprudence.

This chapter examines the judicial response to custodial violence through landmark decisions of the Supreme Court, analyses the contribution of High Courts, discusses the evolution of judicial activism in protecting human rights, and explains the doctrine of compensation as a public law remedy.

4.2 Role of the Supreme Court and High Courts

The Supreme Court of India, as the guardian of the Constitution, has significantly expanded the scope of fundamental rights through liberal interpretation of Article 21. Initially confined to protection against unlawful deprivation of life and liberty, Article 21 has evolved into a comprehensive guarantee of dignity, humane treatment, legal aid, fair investigation, and freedom from torture.

The judiciary has recognized that a person in custody does not cease to be a human being. Even though lawful arrest curtails certain liberties, it does not authorize the State to inflict torture or cruel, inhuman, or degrading treatment. Courts have repeatedly emphasized that the powers of arrest and detention are subject to constitutional limitations and judicial scrutiny.

High Courts, exercising jurisdiction under Article 226, have also played a vital role by:

- a) Ordering independent investigations into custodial deaths.
- b) Awarding compensation for violations of fundamental rights.
- c) Directing disciplinary and criminal proceedings against erring officials.
- d) Monitoring investigations through Special Investigation Teams (SITs).
- e) Ensuring compliance with Supreme Court guidelines regarding arrest and detention.

Judicial intervention has been particularly significant in addressing:

- a) Illegal arrests.
- b) Custodial torture.
- c) Encounter killings.
- d) Custodial rape.
- e) Prison conditions.
- f) Rights of under-trial prisoners.
- g) Compensation for victims of State excesses.

Through continuous judicial monitoring, constitutional courts have sought to balance the legitimate interests of crime investigation with the protection of individual liberty.

4.3. Analysis of Landmark Cases

4.3.1. D.K. Basu v. State of West Bengal (1997) Facts

The case originated from a letter addressed to the Chief Justice of India highlighting increasing incidents of custodial deaths and police torture across the country. Treating the letter as a Public Interest Litigation, the Supreme Court considered whether safeguards were necessary to prevent custodial violence during arrest and detention.

Issues

The principal issue before the Court was whether constitutional safeguards were required to prevent abuse of police powers during arrest and interrogation.

Judgment

The Supreme Court held that custodial torture constitutes one of the gravest violations of human rights and directly infringes Article 21 of the Constitution. It observed that no civilized legal system can tolerate torture as a means of investigation.

The Court laid down eleven mandatory guidelines governing arrest and detention, including:

1. Police personnel must wear clear identification badges.
2. An arrest memo must be prepared at the time of arrest.
3. The arrest memo should be signed by a witness.
4. The arrested person has the right to inform a friend or relative.
5. The police must notify the place of detention.
6. Entries regarding arrest must be made in police records.
7. Medical examination must be conducted every forty-eight hours.
8. Copies of arrest documents should be sent to the Magistrate.
9. The accused should be allowed to consult an advocate during interrogation.
10. Police control rooms should maintain arrest records.
11. Information regarding arrest should be displayed at police headquarters.

Significance

The decision represents the cornerstone of Indian jurisprudence on custodial violence. The guidelines subsequently influenced statutory provisions incorporated into criminal procedure law and continue to regulate arrest practices throughout India.

4.3.2 Nilabati Behera v. State of Orissa (1993) Facts

The petitioner's son was arrested by the police and was later found dead on a railway track with multiple injuries. The State claimed that he had escaped from custody and died accidentally.

Issues

Whether the State was liable to pay compensation for custodial death resulting from violation of fundamental rights?

Judgment

The Supreme Court rejected the State's defence and held that the death occurred while the victim was under police custody. The Court ruled that compensation could be awarded directly under Articles 32 and 226 for violations of fundamental rights.

Justice J.S. Verma observed that constitutional remedies are distinct from private law remedies and serve the purpose of enforcing fundamental rights.

Significance

The judgment established the doctrine of constitutional compensation and affirmed the principle that the State bears responsibility for custodial deaths caused by its officials. It strengthened accountability by recognizing compensation as an effective public law remedy.

4.3.3 Joginder Kumar v. State of Uttar Pradesh (1994) Facts

Joginder Kumar, a young advocate, was called to a police station for questioning but was detained without formal arrest. His family remained unaware of his whereabouts.

Issues

Whether police possess unrestricted powers to arrest individuals merely because such power exists under law?

Judgment

The Supreme Court held that the power to arrest does not imply a duty to arrest in every case. Arrest should be based upon necessity rather than convenience.

The Court held that:

- a) Arrest must be justified.
- b) Family members should be informed immediately.

- c) The arrested person has the right to communicate with relatives.
- d) Police officers must record reasons for arrest.

Significance

This judgment introduced the doctrine of reasonable arrest and significantly curtailed arbitrary police powers. It emphasized that liberty cannot be sacrificed merely to facilitate investigation.

4.3.4 Sheela Barse v. State of Maharashtra (1983) Facts

Journalist Sheela Barse addressed a letter to the Supreme Court alleging custodial torture of women prisoners housed in police lock-ups. The Court treated the letter as a Public Interest Litigation.

Judgment

The Supreme Court directed:

- a) Separate lock-ups for women.
- b) Interrogation of women only in the presence of female police officers.
- c) Immediate legal assistance.
- d) Periodic inspection of prisons.
- e) Medical examination of women detainees.
- f) Protection against custodial abuse.

The Court emphasized that women in custody require special constitutional protection due to their vulnerability.

Significance

The judgment expanded prisoners' rights jurisprudence and recognized the need for gender-sensitive policing and prison administration.

4.3.5 Prakash Singh v. Union of India (2006) Facts

Former Director General of Police Prakash Singh filed a Public Interest Litigation seeking comprehensive police reforms to insulate the police from political interference and improve professionalism.

Judgment

The Supreme Court issued seven landmark directives, including:

- a) Establishment of State Security Commissions.
- b) Fixed tenure for senior police officers.
- c) Separation of investigation from law and order functions.
- d) Police Establishment Boards.
- e) Police Complaints Authorities.
- f) Merit-based appointments.
- g) National Security Commission.

Significance

Although not directly concerning custodial violence, the judgment is highly relevant because police reforms directly influence accountability, professionalism, and prevention of custodial abuse. Implementation of these directives remains incomplete in many States, contributing to continuing institutional deficiencies.

4.4 Judicial Activism and Human Rights Protection

Judicial activism has played a crucial role in expanding the protection of human rights in India. Through liberal interpretation of constitutional provisions, the Supreme Court has transformed Article 21 into a repository of numerous fundamental rights.

In the context of custodial violence, judicial activism has resulted in:

- a) Recognition of torture as a constitutional wrong.
- b) Expansion of prisoners' rights.
- c) Recognition of legal aid as a fundamental right.
- d) Protection against arbitrary arrest.
- e) Judicial monitoring of investigations.
- f) Independent investigation by Special Investigation Teams.
- g) Award of compensation.
- h) Mandatory arrest guidelines.
- i) Prison reforms.
- j) Protection of women and children in custody.

The Court has repeatedly observed that constitutional rights do not end at the

prison gate.

Several Public Interest Litigations have enabled social activists, journalists, and human rights organizations to bring custodial abuses before constitutional courts, thereby expanding access to justice for vulnerable individuals.

4.5 Compensation and Public Law Remedy

One of the most important developments in Indian constitutional jurisprudence is the recognition of compensation as an effective remedy for violations of fundamental rights.

Traditionally, victims of police misconduct were required to institute civil suits for damages, which often involved prolonged litigation. The Supreme Court gradually developed the doctrine of constitutional compensation under Articles 32 and 226.

Evolution of Compensation Jurisprudence Rudul Sah v. State of Bihar (1983)

The petitioner remained imprisoned for several years despite acquittal. The Supreme Court awarded compensation, holding that constitutional courts possess inherent authority to compensate victims of unlawful detention.

Sebastian M. Hongray v. Union of India (1984)

Compensation was awarded to the families of persons who disappeared in military custody.

Bhim Singh v. State of Jammu & Kashmir (1985)

The Court awarded compensation for illegal arrest and wrongful detention of an elected legislator.

Nilabati Behera v. State of Orissa (1993)

The Court firmly established constitutional compensation as a public law remedy distinct from private civil damages.

D.K. Basu v. State of West Bengal (1997)

The Court reaffirmed that compensation serves not merely as monetary relief but also as an instrument of constitutional accountability for violations committed

by State officials.

Principles Governing Constitutional Compensation

The Supreme Court has laid down the following principles:

- a) Compensation may be awarded where fundamental rights are violated.
- b) Public law compensation does not bar criminal prosecution or civil suits.
- c) The State is vicariously liable for wrongful acts of its officials committed in the course of official duties.
- d) Compensation aims to vindicate constitutional rights rather than merely reimburse financial loss.
- e) Quantum of compensation depends upon the gravity of the violation, nature of injury, and surrounding circumstances.

The recognition of constitutional compensation has significantly strengthened the enforcement of human rights by ensuring that victims receive immediate and effective relief.

4.6 Critical Analysis

The Indian judiciary has undoubtedly played a pioneering role in combating custodial violence. Judicial creativity has compensated for legislative gaps by expanding constitutional protections, issuing procedural safeguards, and holding public authorities accountable. Decisions such as *D. K. Basu*, *Nilabati Behera*, *Joginder Kumar*, *Sheela Barse*, and *Prakash Singh* have become foundational precedents shaping police conduct and protecting the dignity of persons in custody.

However, challenges remain. Compliance with judicial directions is uneven across States. Police reforms directed in *Prakash Singh* have not been fully implemented, and instances of non-observance of the *D. K. Basu* guidelines continue to be reported. Investigations into custodial deaths are often delayed, independent oversight mechanisms remain weak, and convictions of police personnel are relatively rare. The absence of a comprehensive anti-torture statute further limits the deterrent effect of the existing legal framework.

Thus, while judicial intervention has substantially advanced the protection of

human rights, its effectiveness ultimately depends on faithful implementation by the executive, institutional reforms, and continued legislative support.

CHAPTER 5: ROLE OF INSTITUTIONS AND CONTEMPORARY DEVELOPMENTS

The protection of human rights against custodial violence extends beyond constitutional guarantees and judicial intervention. It requires the active involvement of independent institutions, effective oversight mechanisms, accountable police administration, transparent investigation procedures, technological innovations, legislative reforms, and public participation. Recognizing that custodial violence often results from systemic failures rather than isolated misconduct, several institutional mechanisms have been established in India to monitor police functioning, investigate allegations of human rights violations, recommend reforms, and ensure accountability.

Among these institutions, the National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs) occupy a central position in safeguarding the rights of persons in custody. In addition, various Police Reform Committees have recommended structural changes to enhance police professionalism, reduce political interference, and strengthen public accountability. Recent judicial directions mandating CCTV surveillance, the use of digital technologies, scientific investigation, and standardized reporting of custodial deaths have further contributed to improving transparency in law enforcement.

The role of the media and civil society organizations has also become increasingly significant in exposing incidents of custodial violence, supporting victims, and advocating legislative reforms. This chapter critically examines these institutional mechanisms and contemporary developments that seek to prevent custodial violence and strengthen the protection of human rights in India.

5.2 National Human Rights Commission (NHRC)

5.2.1 Establishment and Composition

The National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act, 1993, as an independent statutory body entrusted with the promotion and protection of human rights. The Commission acts as the principal national institution responsible for monitoring human rights violations committed by public authorities, including cases of custodial torture, illegal detention, encounter deaths, and custodial deaths.

The Commission consists of a Chairperson, who is a former Chief Justice of India or a former Judge of the Supreme Court, along with other members possessing expertise in law, human rights, public administration, and social justice. The NHRC functions independently of the executive and submits annual reports to the Central Government.

5.2.2 Powers and Functions

The NHRC possesses wide-ranging powers to investigate violations of human rights. Its principal functions include:

- a) Inquiring into complaints of custodial violence and deaths.
- b) Taking suo motu cognizance of human rights violations.
- c) Visiting prisons, detention centres, and correctional institutions.
- d) Reviewing constitutional and legal safeguards.
- e) Recommending payment of compensation to victims.
- f) Advising governments on policy reforms.
- g) Promoting human rights education and awareness.
- h) Conducting research and publishing reports on human rights issues.

Although the recommendations of the NHRC are advisory rather than binding, they carry considerable persuasive value and have influenced both judicial decisions and governmental policies.

5.2.3 NHRC Guidelines on Custodial Deaths

Recognizing the seriousness of custodial violence, the NHRC has issued comprehensive guidelines for reporting custodial deaths. These guidelines require:

- a. Intimation of every custodial death within twenty-four hours.
- b. Immediate registration of a criminal case where necessary.
- c. Independent magisterial inquiry.
- d. Post-mortem examination with videography.
- e. Preservation of medical and forensic evidence.
- f. Submission of inquiry reports to the Commission.
- g. Compensation where human rights violations are established.

These guidelines aim to ensure transparency, accountability, and independent scrutiny of deaths occurring in police and judicial custody.

5.2.4 Achievements

The NHRC has significantly contributed to the protection of human rights by:

- a) Developing standardized procedures for investigating custodial deaths.
- b) Increasing public awareness regarding custodial torture.
- c) Encouraging State Governments to improve prison conditions.
- d) Recommending compensation in numerous cases.
- e) Promoting police training in human rights.

5.2.5 Limitations

Despite its important role, the NHRC faces several challenges:

- a) Its recommendations are not legally enforceable.
- b) Delays occur in receiving reports from State authorities.
- c) Limited investigative staff affects efficiency.
- d) Armed forces cases are subject to restricted jurisdiction under the Protection of Human Rights Act.
- e) Compliance with recommendations varies among States.

These limitations reduce the Commission's effectiveness in ensuring accountability for custodial violence.

5.3 State Human Rights Commissions (SHRCs)

5.3.1 Establishment

The Protection of Human Rights Act, 1993, also provides for the establishment of State Human Rights Commissions. These bodies perform functions similar to the NHRC but operate within their respective States.

Their jurisdiction includes investigation of complaints concerning:

- a) Police torture.
- b) Illegal detention.
- c) Custodial deaths.
- d) Prison conditions.
- e) Human rights violations by State authorities.

5.3.2 Functions

State Human Rights Commissions perform several important functions:

- a) Inquiry into complaints received from individuals.
- b) Suo motu investigations.
- c) Inspection of prisons and detention centers.
- d) Recommendations for disciplinary action.
- e) Human rights awareness programmes.
- f) Monitoring implementation of constitutional safeguards.

5.3.3 Challenges

Many SHRCs face institutional difficulties such as:

- 1) Shortage of members.
- 2) Financial constraints.
- 3) Delay in appointments.
- 4) Inadequate staff.
- 5) Lack of independent investigative agencies.
- 6) Poor implementation of recommendations.

As a result, the effectiveness of SHRCs varies significantly across different States.

5.4 Police Reform Committees

Recognizing persistent deficiencies in police administration, several committees have recommended comprehensive reforms.

5.4.1 National Police Commission (1977–1981)

The National Police Commission was the first major body to recommend structural reforms. Its important recommendations included:

- a) Functional autonomy of police.
- b) Accountability mechanisms.
- c) Transparent recruitment.
- d) Improved training.
- e) Separation of investigation from law and order.
- f) Independent complaints authorities.

Many recommendations remain only partially implemented.

5.4.2 Ribeiro Committee (1998)

The Ribeiro Committee emphasized implementation of police reforms directed toward:

- a) Professional independence.
- b) Reduction of political interference.
- c) Merit-based appointments.
- d) Police accountability.

5.4.3 Padmanabhaiah Committee (2000)

This Committee recommended:

- a) Modernization of police.
- b) Better forensic facilities.
- c) Improved infrastructure.
- d) Human rights training.
- e) Community policing.

5.4.4 Malimath Committee (2003)

The Committee on Reforms of the Criminal Justice System recommended:

- a) Greater use of scientific investigation.
- b) Witness protection.
- c) Speedy investigation.
- d) Improved prosecution.

It emphasized reducing dependence upon confession-based investigations.

5.4.5 Supreme Court Directions in Prakash Singh Case

The Supreme Court incorporated several recommendations into binding directions,

including:

- a) State Security Commission.
- b) Police Establishment Board.
- c) Police Complaints Authority.
- d) Fixed tenure for senior officers.
- e) Separation of investigation from law and order.
- f) National Security Commission.

Implementation remains inconsistent across States

5.5 CCTV Surveillance and Technology

Technology has emerged as an important tool for preventing custodial violence and increasing transparency.

5.5.1 CCTV Cameras in Police Stations

In *Paramvir Singh Saini v. Baljit Singh* (2020), the Supreme Court directed all States and Union Territories to install CCTV cameras with audio and video recording facilities in:

- a. Police stations.
- b. Investigation rooms.
- c. Lock-ups.
- d. Entry and exit points.
- e. Corridors.
- f. Reception areas.

The Court observed that electronic surveillance would deter custodial torture and improve accountability.

5.5.2 Body-Worn Cameras

Body cameras worn by police officers help:

- a) Record arrests.
- b) Document police-public interaction.
- c) Prevent false allegations.
- d) Improve transparency.
- e) Strengthen evidence collection.

Although introduced in some States, nationwide implementation remains limited.

5.5.3 Digital Investigation

Recent criminal law reforms encourage:

- a) Electronic case diaries.
- b) Digital arrest records.
- c) Audio-video recording of searches.
- d) Electronic documentation.
- e) Digital forensic evidence.

These innovations reduce dependence on oral confessions and improve investigative accuracy.

5.5.4 Forensic Science

Modern forensic techniques include:

- a. DNA profiling.
- b. Fingerprint analysis.
- c. Cyber forensics.
- d. Ballistics.
- e. Digital evidence.
- f. Artificial intelligence-assisted investigation.

Scientific investigation minimizes reliance upon coercive interrogation methods.

5.6 Custodial Death Reporting Mechanism

Proper reporting of custodial deaths is essential for accountability. The present mechanism includes:

Immediate Reporting

Every custodial death must be reported promptly to:

- a) National Human Rights Commission.
- b) State Human Rights Commission (where applicable).
- c) Judicial Magistrate.
- d) State Government.

Magisterial Inquiry

A mandatory judicial or executive inquiry investigates:

- a) Cause of death.

- b) Medical evidence.
- c) Police conduct.
- d) Witness statements.

Post-Mortem Examination

Post-mortem examinations should:

- a) Be conducted by qualified medical experts.
- b) Be videographed.
- c) Preserve forensic evidence.
- d) Identify injuries accurately.

Independent Investigation

Where allegations involve police misconduct, investigation should preferably be conducted by an independent agency to avoid conflicts of interest.

Judicial Oversight

Courts frequently monitor investigations in sensitive custodial death cases to ensure impartiality.

Despite these safeguards, delays, inadequate forensic facilities, and procedural irregularities continue to affect effective investigation.

5.7 Recent Legislative and Policy Developments

Recent reforms have attempted to modernize criminal justice administration.

5.7.1 Bharatiya Nagarik Suraksha Sanhita, 2023

The BNSS strengthens procedural safeguards through:

- a) Electronic records,
- b) Scientific investigation,
- c) Improved arrest procedures,
- d) Greater judicial supervision,
- e) Enhanced use of forensic evidence.

5.7.2 Bharatiya Sakshya Adhiniyam, 2023

Recognition of electronic evidence reduces dependence upon confession-based

investigation and promotes objective evidence collection.

5.7.3 Modernization of Police Forces

Government initiatives include:

1. Smart policing.
2. Cybercrime investigation.
3. Digital police stations.
4. Modern forensic laboratories.
5. Crime and Criminal Tracking Network & Systems (CCTNS).
6. Inter-operable Criminal Justice System (ICJS). These initiatives improve efficiency and transparency.

5.7.4 Human Rights Training

Police academies increasingly include modules relating to:

1. Human rights.
2. Gender sensitivity.
3. Juvenile justice.
4. Investigation ethics.
5. Stress management.

Continuous training remains essential for behavioral change.

5.8 Media and Civil Society

The media and civil society organizations play an indispensable role in exposing custodial violence and ensuring public accountability.

5.8.1 Investigative Journalism

Independent journalism has brought numerous incidents of custodial torture and deaths to public attention.

Media reports often lead to:

- a) Judicial intervention.
- b) NHRC inquiries.
- c) Criminal investigations.
- d) Compensation.
- e) Administrative reforms.

Responsible journalism also promotes public awareness of constitutional rights and legal remedies.

5.8.2 Civil Society Organizations

Human rights organizations provide:

- a) Legal assistance.
- b) Documentation of violations.
- c) Fact-finding missions.
- d) Public advocacy.
- e) Victim rehabilitation.
- f) Policy recommendations.

Organizations such as the People's Union for Civil Liberties (PUCL), People's Union for Democratic Rights (PUDR), Commonwealth Human Rights Initiative (CHRI), and Amnesty International have consistently highlighted concerns relating to custodial violence.

5.8.3 Public Interest Litigation

Public Interest Litigation has enabled journalists, lawyers, academics, and activists to approach constitutional courts on behalf of victims unable to seek justice independently.

Many landmark judgments concerning custodial violence have originated through PILs.

5.8.4 Social Media

Digital platforms have transformed public discourse by:

- a) Disseminating information rapidly.
- b) Recording incidents through mobile devices.
- c) Facilitating public scrutiny.
- d) Mobilizing support for victims.

However, misinformation, sensationalism, and media trials must be avoided to preserve the fairness of criminal investigations and judicial proceedings.

5.9 Critical Analysis

Institutional mechanisms established in India demonstrate a growing

commitment to preventing custodial violence. The NHRC and SHRCs have improved oversight through investigations, prison inspections, and recommendations for compensation. Police reform committees have consistently emphasized professionalism, independence, and accountability, while judicial directions have accelerated reforms such as CCTV surveillance, scientific investigation, and standardized reporting of custodial deaths. Technological innovations—including digital case management, body-worn cameras, forensic science, and electronic records—offer significant potential to reduce coercive interrogation and enhance transparency.

Nevertheless, several challenges persist. The advisory nature of NHRC recommendations, uneven implementation of police reforms, inadequate funding and staffing of human rights institutions, delays in investigating custodial deaths, and incomplete technological infrastructure continue to limit the effectiveness of these measures. Media and civil society play a vital watchdog role, but sustained institutional commitment is necessary to translate legal safeguards into practical protection.

CHAPTER 6: COMPARATIVE ANALYSIS AND INTERNATIONAL PRACTICES

Custodial violence is a global human rights concern that affects both developed and developing nations. Although the extent and nature of custodial abuse vary across jurisdictions, democratic societies have increasingly recognized that torture, illegal detention, excessive use of force, and custodial deaths undermine the rule of law and erode public confidence in the criminal justice system. Consequently, many countries have enacted comprehensive legislative frameworks, established independent oversight institutions, introduced scientific methods of criminal investigation, and strengthened judicial supervision to prevent abuse of State power.

Comparative legal analysis serves as an important tool for identifying best practices and evaluating the effectiveness of domestic legal systems. Countries such as the United Kingdom, United States, and Canada have developed

sophisticated institutional mechanisms aimed at protecting the rights of persons in custody while ensuring effective law enforcement. Although these jurisdictions continue to face challenges relating to police misconduct, they have adopted significant reforms in areas such as police accountability, independent investigations, body-worn cameras, legal representation, forensic investigation, and civilian oversight.

This chapter examines the legal framework governing custodial violence in other countries, identifies internationally accepted best practices, and evaluates their applicability within the Indian criminal justice system.

6.2 United Kingdom

6.2.1 Historical Development

The modern police system in the United Kingdom traces its origin to the establishment of the Metropolitan Police Service in London by Sir Robert Peel through the Metropolitan Police Act, 1829. Unlike the colonial policing model introduced in India, British policing gradually evolved upon the principle of "policing by consent," emphasizing public confidence, minimum use of force, and accountability to the community.

The Peelian Principles continue to guide police administration. They stress that the legitimacy of policing depends upon public approval and voluntary cooperation rather than fear or coercion.

6.2.2 Legal Safeguards

The United Kingdom has enacted several statutes protecting persons in police custody.

(a) Police and Criminal Evidence Act, 1984 (PACE)

PACE constitutes the principal legislation regulating arrest, detention, search, interrogation, and investigation.

Its safeguards include:

- a) Lawful grounds for arrest.
- b) Written custody records.
- c) Right to legal advice.

- d) Right to inform family members.
- e) Medical examination.
- f) Judicial oversight of detention.
- g) Audio and video recording of police interviews.
- h) Codes of Practice governing police conduct.

The Codes of Practice issued under PACE are legally enforceable and regulate every stage of police investigation.

(b) Human Rights Act, 1998

The Human Rights Act incorporates the European Convention on Human Rights (ECHR) into domestic law.

Relevant provisions include:

- a) Right to life.
- b) Freedom from torture.
- c) Right to liberty.
- d) Right to fair trial.
- e) Right to respect for private life.

Police authorities are legally obligated to comply with these rights.

6.2.3 Independent Oversight

One of the strongest features of the British system is independent police accountability.

The Independent Office for Police Conduct (IOPC) investigates:

- a) Custodial deaths.
- b) Serious police misconduct.
- c) Complaints against police officers.
- d) Use of excessive force.

The IOPC operates independently from police departments, thereby increasing public confidence in investigations.

6.2.4 Technology and Investigation

Police interviews are routinely audio and video recorded. Body-worn cameras are extensively used.

Scientific investigation relies upon:

- a) DNA analysis.
- b) Digital evidence.
- c) Fingerprints.
- d) CCTV footage.
- e) Forensic laboratories.

These measures reduce dependence upon confession-based investigation.

6.2.5 Lessons from the United Kingdom

The United Kingdom demonstrates the importance of:

- a) Independent investigation of police misconduct.
- b) Comprehensive statutory safeguards.
- c) Electronic recording of interrogations.
- d) Transparent custody records.
- e) Community policing.
- f) Strong civilian oversight.

6.3 United States

6.3.1 Constitutional Protection

The United States Constitution provides extensive protections against police abuse through:

- a) Fourth Amendment (Protection against unreasonable searches and seizures)
- b) Fifth Amendment (Protection against self-incrimination)
- c) Sixth Amendment (Right to legal counsel)
- d) Eighth Amendment (Protection against cruel and unusual punishment)
- e) Fourteenth Amendment (Due Process and Equal Protection)

These constitutional safeguards significantly influence custodial rights.

6.3.2 Miranda Rights

One of the most significant judicial developments is *Miranda v. Arizona* (1966). The United States Supreme Court held that every arrested person must be informed of constitutional rights before custodial interrogation.

These include:

- a) Right to remain silent.
- b) Anything said may be used as evidence.

- c) Right to consult an attorney.
- d) Right to free legal counsel if unable to afford one.

Failure to administer Miranda warnings may render subsequent statements inadmissible.

6.3.3 Civilian Oversight

Many American cities have established:

- a) Civilian Review Boards,
- b) Police Accountability Offices,
- c) Independent Inspectors General.

These bodies investigate police misconduct independently of police departments.

6.3.4 Federal Oversight

The United States Department of Justice may investigate police departments demonstrating patterns of unconstitutional policing.

Federal courts also exercise significant oversight through constitutional litigation.

6.3.5 Technology

Police departments increasingly employ:

- a) Body-worn cameras.
- b) Dashboard cameras.
- c) Electronic evidence management.
- d) Digital forensic laboratories.

These technologies improve transparency and reduce allegations of police misconduct.

6.3.6 Challenges

Despite constitutional safeguards, the United States continues to face concerns regarding:

- a) Excessive use of force.
- b) Racial discrimination.
- c) Police shootings.
- d) Qualified immunity debates.
- e) Over-policing of vulnerable communities.

These challenges demonstrate that legal safeguards alone cannot eliminate custodial abuse without institutional accountability.

6.4 Canada

6.4.1 Constitutional Framework

Canada protects individual rights through the Canadian Charter of Rights and Freedoms (1982).

Relevant provisions include:

- a) Right to life, liberty, and security.
- b) Protection against arbitrary detention.
- c) Right to legal counsel.
- d) Protection against unreasonable search and seizure.
- e) Right to fair trial.

6.4.2 Independent Police Oversight

Canadian provinces have established independent agencies to investigate serious police misconduct. Examples include:

- 1) Special Investigations Unit (Ontario).
- 2) Independent Investigations Office (British Columbia).
- 3) Bureau des equates independents (Quebec).

These agencies investigate:

- 1) Custodial deaths.
- 2) Serious injuries.
- 3) Police shootings.
- 4) Allegations of excessive force.

Importantly, police officers are not permitted to investigate themselves in serious misconduct cases.

6.4.3 Community Policing

Canadian policing strongly emphasizes:

- 1) Community participation.
- 2) Public consultation.
- 3) Transparency.

- 4) Respect for Indigenous communities.
- 5) Cultural sensitivity.

Community engagement improves trust and reduces confrontation.

6.4.4 Prison Standards

Correctional institutions focus upon:

- 1) Rehabilitation.
- 2) Mental healthcare.
- 3) Medical treatment.
- 4) Human dignity.
- 5) Independent inspections.

Correctional authorities are subject to judicial and administrative review.

6.4.5 Human Rights Education

Police officers receive regular training relating to:

- 1) Human rights.
- 2) Cultural diversity.
- 3) Conflict resolution.
- 4) Mental health.
- 5) Crisis intervention.

Continuous education contributes to professional policing.

6.5 Best International Practices

Comparative analysis reveals several practices that effectively reduce custodial violence.

6.5.1 Independent Investigation

Allegations of custodial violence should be investigated by agencies independent of police departments.

Independent investigation enhances credibility and eliminates conflicts of interest.

6.5.2 Mandatory Video Recording

Electronic recording of:

- 1) Arrests.
- 2) Police interrogation.
- 3) Search operations.
- 4) Medical examinations, provides objective evidence and discourages torture.

6.5.3 Body-Worn Cameras

Body cameras increase transparency by recording police interactions with suspects and members of the public. They protect both police officers and detainees.

6.5.4 Scientific Investigation

Reliance upon:

- 1) DNA evidence.
- 2) Fingerprints.
- 3) Cyber forensics.
- 4) Digital evidence.
- 5) Artificial intelligence.
- 6) Crime scene reconstruction, Reduces dependence upon confession-based investigation.

6.5.5 Community Policing

Close cooperation between police and local communities promotes trust and voluntary compliance with law. Community policing reduces confrontational methods.

6.5.6 Strong Civilian Oversight

Independent complaint authorities improve:

- a) Accountability.
- b) Transparency.
- c) Public confidence.
- d) Timely investigation.

6.5.7 Human Rights Training

Regular professional education should include:

- a) Constitutional rights.
- b) International human rights law.
- c) Gender sensitivity.
- d) Child protection.
- e) Stress management.
- f) Ethical policing.

6.5.8 Compensation and Victim Support

Victims of custodial violence should receive:

- a) Prompt compensation.
- b) Medical treatment.
- c) Psychological counselling.
- d) Rehabilitation.
- e) Witness protection.

6.6 Applicability in India

India has already adopted several measures consistent with international standards, including constitutional protections under Articles 20, 21, and 22, the mandatory arrest guidelines laid down in *D. K. Basu v. State of West Bengal*, the reforms introduced through the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the *Bharatiya Sakshya Adhiniyam, 2023*, and judicial directives requiring CCTV surveillance in police stations. Nevertheless, significant gaps remain between the law and its implementation.

Drawing upon comparative experience, the following measures are particularly relevant to India:

6.6.1 Establishment of Independent Investigative Agencies

Serious allegations involving custodial torture or death should be investigated by independent bodies separate from the police hierarchy to ensure impartiality and public confidence.

6.6.2 Comprehensive Anti-Torture Legislation

India may consider enacting a dedicated anti-torture statute aligned with the

principles of the United Nations Convention against Torture. Such legislation should clearly define torture, prescribe effective penalties, provide victim compensation, and establish independent mechanisms for investigation and prosecution.

6.6.3 Universal Audio-Video Recording

Electronic recording of arrests, interrogations, and searches should be mandatory in all police stations and detention facilities. This would strengthen evidentiary reliability and deter custodial abuse.

6.6.4 Strengthening Police Complaints Authorities

The Police Complaints Authorities recommended in *Prakash Singh v. Union of India* should be fully operational, adequately staffed, and functionally independent in every State.

6.6.5 Expansion of Scientific Investigation

Greater investment is needed in forensic laboratories, digital evidence management, cyber forensics, and investigator training so that criminal investigations rely on objective evidence rather than confessions.

6.6.6 Human Rights-Based Police Training

Training curricula should emphasize constitutional values, ethical policing, stress management, gender sensitivity, and the rights of vulnerable groups.

Continuous professional development can foster a culture of accountability and respect for human dignity.

6.6.7 Community Policing

Adopting community-oriented policing practices can improve trust between law enforcement agencies and citizens, encourage cooperation in investigations, and reduce reliance on coercive methods.

6.6.8 Strengthening Institutional Oversight

The National Human Rights Commission, State Human Rights Commissions, and

Police Complaints Authorities should be provided with greater financial resources, independent investigative capacity, and mechanisms to ensure timely compliance with their recommendations.

6.6.9 Technological Modernization

Nationwide implementation of body-worn cameras, integrated digital custody records, biometric documentation, and secure evidence management systems would significantly enhance transparency and accountability.

6.6.10 Balanced Adaptation

While international practices provide valuable guidance, reforms in India must account for its federal structure, socio-economic diversity, population size, and administrative realities. Comparative models should therefore be adapted to Indian constitutional principles and local institutional capacities rather than adopted without modification.

6.7 Critical Analysis

A comparative examination demonstrates that the United Kingdom, the United States, and Canada have developed stronger mechanisms of police accountability, independent oversight, technological transparency, and evidence-based investigation than those presently available in India. Common features across these jurisdictions include independent investigations of custodial deaths, routine audio-video recording of interrogations, civilian review mechanisms, and extensive use of forensic science. Although none of these systems is free from challenges, they collectively illustrate that sustained institutional reform, transparency, and public accountability can substantially reduce the risk of custodial violence.

India has made notable progress through constitutional jurisprudence, judicial guidelines, criminal law reforms, and technological initiatives. However, persistent implementation deficits, uneven adoption of reforms across States,

limited resources, and institutional resistance continue to hinder effective protection. Comparative experience suggests that legal safeguards must be

complemented by independent institutions, professional policing, scientific investigation, and a culture that prioritizes human dignity and the rule of law.

CHAPTER 7: SUGGESTIONS AND CONCLUSION

Custodial violence represents one of the most serious violations of human rights in a constitutional democracy governed by the rule of law. It reflects the misuse of State authority against individuals who are under the protection and control of public authorities. Although the Constitution of India guarantees the right to life, liberty, dignity, and protection against arbitrary arrest and detention, instances of custodial torture, illegal detention, custodial rape, fake encounters, and custodial deaths continue to undermine public confidence in the criminal justice system.

The preceding chapters have examined the historical evolution of police administration, constitutional and statutory safeguards, judicial responses, institutional mechanisms, comparative international practices, and recent developments in criminal law. The analysis demonstrates that India possesses a comprehensive legal framework for the protection of persons in custody. However, the persistence of custodial violence reveals significant shortcomings in implementation, accountability, institutional capacity, and police culture.

This concluding chapter summarizes the major findings of the study, identifies the legal and institutional deficiencies that contribute to custodial violence, and proposes recommendations aimed at strengthening the protection of human rights and ensuring greater accountability within the criminal justice system.

7.2 Major Findings

The present study has led to several important findings regarding custodial violence in India.

7.2.1 Custodial Violence Remains a Serious Human Rights Concern Despite constitutional guarantees and judicial safeguards, custodial violence continues to occur in various forms, including physical torture, psychological abuse, illegal

detention, custodial rape, encounter killings, and custodial deaths. Such incidents violate the fundamental rights guaranteed under Articles 14, 20, 21, and 22 of the Constitution and weaken public faith in the administration of justice.

7.2.2 Colonial Legacy Continues to Influence Police Administration

The study reveals that many structural characteristics of Indian policing originate from the colonial Police Act of 1861. The emphasis on maintaining public order through centralized executive control, hierarchical command structures, and confession-oriented investigations has continued to influence policing practices even after Independence.

Although democratic governance has introduced constitutional limitations upon police powers, several colonial attitudes remain embedded within institutional culture.

7.2.3 Constitutional Framework is Comprehensive

The Constitution of India provides extensive safeguards against custodial violence.

Article 20 protects individuals against self-incrimination.

Article 21 guarantees the right to life, dignity, and fair procedure.

Article 22 provides procedural safeguards relating to arrest and detention.

Judicial interpretation has significantly expanded these provisions to include protection against torture, legal aid, compensation, humane treatment, and speedy investigation.

7.2.4 Judicial Activism has Strengthened Human Rights Protection

The Supreme Court has played an extraordinary role in expanding constitutional protections through landmark judgments.

Cases such as:

- a) D.K. Basu v. State of West Bengal
- b) Nilabati Behera v. State of Orissa
- c) Joginder Kumar v. State of Uttar Pradesh
- d) Sheela Barse v. State of Maharashtra
- e) Prakash Singh v. Union of India

The established mandatory safeguards governing arrest, detention, police

accountability, compensation, and police reforms. Judicial creativity has substantially compensated for legislative shortcomings.

7.2.5 Existing Criminal Laws Provide Important Safeguards

The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam have modernized India's criminal justice framework. These enactments emphasize:

- a) Procedural fairness,
- b) Electronic documentation,
- c) Scientific investigation,
- d) Digital evidence,
- e) Improved arrest procedures,
- f) Greater judicial supervision.

However, none of these statutes specifically criminalizes torture as an independent offence.

7.2.6 Institutional Mechanisms Need Strengthening

The National Human Rights Commission and State Human Rights Commissions have contributed significantly toward investigating custodial violence and recommending compensation.

However, their effectiveness remains limited due to:

- a) Advisory nature of recommendations,
- b) Resource constraints,
- c) Delays in investigations,
- d) Lack of independent enforcement powers.

7.2.7 Police Reforms Remain Incomplete

Although the Supreme Court issued comprehensive directions in Prakash Singh, implementation across States remains inconsistent.

Political interference, inadequate staffing, poor infrastructure, and excessive workload continue to affect police professionalism.

7.2.8 Technology has Improved Transparency

The introduction of:

- a) CCTV cameras,
- b) Digital case diaries,
- c) Electronic evidence,
- d) Forensic science,
- e) Body-worn cameras (in selected jurisdictions), has strengthened transparency.

However, implementation remains uneven due to financial and administrative constraints.

7.2.9 International Standards Offer Valuable Guidance

Comparative analysis demonstrates that countries such as the United Kingdom, the United States, and Canada have developed stronger institutional safeguards, independent oversight bodies, civilian complaint mechanisms, and scientific investigative practices.

India can benefit from adapting these practices while respecting its constitutional framework and socio-economic conditions.

7.3 Legal and Institutional Gaps

Although India possesses an extensive legal framework, several deficiencies continue to facilitate custodial violence.

7.3.1 Absence of a Comprehensive Anti-Torture Law

India has signed but not ratified the United Nations Convention against Torture (UNCAT). There is no standalone legislation defining torture, prescribing penalties, or establishing specialized procedures for investigation and prosecution.

7.3.2 Weak Accountability Mechanisms

Investigations into custodial deaths are frequently conducted by the same police department whose officials are accused of misconduct. Such practices undermine public confidence and compromise impartiality.

7.3.3 Delayed Investigation and Trial

Criminal proceedings involving custodial violence often suffer from prolonged delays, resulting in:

- a) Loss of evidence,
- b) Witness intimidation,
- c) Reduced conviction rates,
- d) Denial of timely justice.

7.3.4 Inadequate Police Training

Police officers frequently receive insufficient training regarding:

- 1) Human rights,
- 2) Constitutional law,
- 3) Gender sensitivity,
- 4) Stress management,
- 5) Scientific investigation,
- 6) Ethical policing.

7.3.5 Political Interference

Transfers, promotions, and disciplinary proceedings remain vulnerable to executive influence, affecting professional independence.

7.3.6 Poor Forensic Infrastructure

Many police stations continue to lack adequate access to forensic laboratories and modern investigative equipment. Consequently, investigators often rely excessively upon oral confessions.

7.3.7 Limited Resources of Human Rights Institutions

NHRC and SHRCs often face the following:

- a) Staff shortages
- b) Financial constraints
- c) Delay in appointments
- d) Non-compliance with recommendations.

7.3.8 Incomplete Implementation of Police Reforms

Several recommendations of the National Police Commission and the directives in Prakash Singh remain only partially implemented.

7.3.9 Inadequate Prison Conditions

Overcrowding, shortage of medical facilities, poor sanitation, and lack of psychological counseling continue to affect prisoners' welfare.

7.4 Suggestions and Recommendations

To effectively eliminate custodial violence, comprehensive reforms are required at legislative, institutional, administrative, and societal levels.

7.4.1 Enactment of a Comprehensive Anti-Torture Law

Parliament should enact a dedicated anti-torture statute that:

- 1) Clearly defines torture.
- 2) Criminalizes custodial torture.
- 3) Prescribes stringent punishment.
- 4) Provides victim compensation.
- 5) Protects witnesses.
- 6) Establishes independent investigative procedures.

Such legislation should be consistent with the United Nations Convention against Torture.

7.4.2 Ratification of UNCAT

India should ratify the United Nations Convention against Torture and harmonize domestic laws with international human rights standards.

Ratification would strengthen India's global commitment toward the eradication of torture.

7.4.3 Independent Investigation of Custodial Deaths

Serious allegations involving custodial torture or deaths should be investigated by:

- a) Independent investigative agencies,
- b) Special Investigation Teams,
- c) Judicial authorities; rather than officers belonging to the same police department.

7.4.4 Effective Implementation of Supreme Court Guidelines

All police departments must strictly implement:

- a) D.K. Basu guidelines,
- b) Joginder Kumar safeguards,
- c) Prakash Singh reforms,
- d) Directions relating to CCTV surveillance.

Non-compliance should attract disciplinary and criminal consequences.

7.4.5 Strengthening Police Complaints Authorities

Police complaints authorities should be established in every state with the following:

- a. Independent membership,
- b. Financial autonomy,
- c. Investigative staff,
- d. Statutory powers.

7.4.6 Scientific Investigation

Government should strengthen:

- a) Forensic laboratories,
- b) DNA facilities,
- c) Cyber forensic units,
- d) Digital evidence management,
- e) Artificial intelligence-assisted investigation.

Scientific investigation reduces dependence upon confession-based policing.

7.4.7 Universal CCTV Coverage

All police stations, interrogation rooms, lock-ups, prisons, and detention centres should have:

- a. High-quality CCTV cameras,

- b. Continuous recording,
- c. Secure digital storage,
- d. Periodic inspection.

7.4.8 Body-Worn Cameras

Police personnel engaged in arrest and investigation should wear body cameras to:

- a. Prevent misuse of force,
- b. Protect officers from false allegations,
- c. Improve transparency.

7.4.9 Human Rights Education

Police academies should provide compulsory training on:

- a) Constitutional rights,
- b) Human rights law,
- c) Gender justice,
- d) Juvenile justice,
- e) Ethical investigation,
- f) Mental health.

Refresher courses should be conducted periodically.

7.4.10 Community Policing

Community policing initiatives should be expanded to strengthen trust between citizens and law enforcement agencies.

Public cooperation reduces hostility and promotes voluntary compliance with law.

7.4.11 Strengthening NHRC and SHRCs

Human rights commissions should be provided with:

- a. Greater financial resources,
- b. Independent investigators,
- c. Better infrastructure,
- d. Time-bound compliance mechanisms.

7.4.12 Speedy Trial

Special courts may be established for:

- a) Custodial deaths,
- b) Police torture,
- c) Human rights violations.

Expeditious disposal would improve accountability.

7.4.13 Prison Reforms

Government should improve:

- a) Medical facilities,
- b) Mental healthcare,
- c) Sanitation,
- d) Legal aid,
- e) Rehabilitation programmes,
- f) Independent prison inspections.

7.4.14 Victim Compensation and Rehabilitation

Victims of custodial violence should receive:

- a) Prompt compensation,
- b) Free medical treatment,
- c) Psychological counseling,
- d) Legal assistance,
- e) Rehabilitation support

7.4.15 Public Awareness

Government, universities, bar associations, and civil society organizations should organize awareness programmes relating to:

- a) Constitutional rights,
- b) Arrest procedures,
- c) Human rights protections,
- d) Legal remedies.

7.5 Conclusion

The subject of **custodial violence in India** has drawn my particular attention because of the disturbing and deeply consequential **Sathankulam custodial deaths case involving P. Jeyaraj and his son J. Bennix** during the COVID- 19 lockdown in 2020. The father and son were taken into custody after their mobile phone shop was allegedly kept open beyond the permitted lockdown hours. They subsequently died after being subjected to custodial violence, resulting in widespread public outrage and raising serious questions concerning police accountability, protection of fundamental rights, and the safeguards available to persons in custody. The Madurai Bench of the Madras High Court took suo motu cognisance of the matter at the initial stage and issued directions concerning the investigation and inquiry into the deaths.

The case particularly attracted my attention because it demonstrates how an ordinary interaction between citizens and law-enforcement authorities can, in the absence of effective safeguards and accountability, develop into a grave violation of human dignity and the right to life. The circumstances of the Sathankulam incident raise fundamental constitutional questions under **Articles 14, 20, 21 and 22 of the Constitution of India**, particularly regarding the protection of arrested and detained persons from torture, coercion, illegal detention and custodial abuse.

The recent judicial developments in the case have further strengthened my interest in undertaking this research. In March 2026, the Madurai court convicted nine surviving police personnel in connection with the custodial deaths, holding them responsible for the deaths of Jeyaraj and Bennix. In April 2026, the court imposed the death penalty on all nine convicted police personnel. The case has therefore become an important contemporary example for examining whether existing legal and institutional mechanisms are capable of ensuring accountability for custodial violence.

The Sathankulam case also demonstrates that the problem of custodial violence cannot be examined merely as an issue of individual police misconduct. It raises

wider concerns relating to **police powers, arrest and detention procedures, medical examination of detainees, judicial oversight, evidentiary difficulties, institutional accountability, compensation, investigation of custodial deaths, and the effectiveness of human-rights institutions.** The case therefore provides a practical context for critically examining the gap between the legal safeguards available on paper and their actual implementation.

The present research has consequently been undertaken with the objective of examining whether the existing legal framework in India provides adequate protection to persons in custody and whether judicial intervention has been sufficiently effective in preventing custodial violence. The study also seeks to understand the role of the **Supreme Court, High Courts, National Human Rights Commission, State Human Rights Commissions, police reform mechanisms and other institutions** in protecting the rights of persons deprived of their liberty.

The Sathankulam tragedy serves as a reminder that **custody of a person by the State does not mean surrender of that person's fundamental human rights.** The State assumes a heightened duty to protect the life, dignity and bodily integrity of every person in its custody. The recent judicial developments in the case demonstrate the importance of accountability, but they also invite a deeper question: whether justice after a custodial death is sufficient, or whether the legal and institutional system must be strengthened to prevent such deaths from occurring in the first place.

Custodial violence is fundamentally incompatible with the constitutional vision of India as a democratic republic governed by the rule of law. The authority vested in police officers and prison officials exists to protect society and enforce the law, not to inflict unlawful punishment or violate the dignity of those in custody. Every individual, irrespective of the nature of the accusation or offence, retains the fundamental rights guaranteed by the Constitution. The deprivation of personal liberty through lawful arrest does not extinguish the right to life, dignity, equality, and humane treatment.

This study has demonstrated that India possesses a strong constitutional and legal framework for protecting individuals in custody. Articles 20, 21, and 22 of the Constitution, together with the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, the Bharatiya Sakshya Adhiniyam, and the progressive jurisprudence of the Supreme Court, provide substantial safeguards against arbitrary arrest, torture, and custodial deaths. Landmark judgments such as D.K. Basu, Nilabati Behera, Joginder Kumar, Sheela Barse, and Prakash Singh have significantly expanded constitutional protections and established enduring principles of police accountability, procedural fairness, and public law compensation.

Nevertheless, the persistence of custodial violence indicates that the principal challenge lies not in the absence of legal norms but in their inconsistent implementation. Structural issues such as political interference, inadequate police training, weak accountability mechanisms, limited forensic capacity, poor prison conditions, and delayed investigations continue to impede effective enforcement. Human rights institutions and technological innovations have strengthened oversight, yet their impact depends upon adequate resources, institutional independence, and sustained governmental commitment.

Comparative analysis with jurisdictions such as the United Kingdom, the United States, and Canada illustrates that independent investigation of police misconduct, transparent custody procedures, scientific investigation, civilian oversight, and comprehensive human rights training are essential components of an effective system for preventing custodial abuse. India can adapt these practices in a manner consistent with its constitutional framework, federal structure, and socio-economic realities.

The eradication of custodial violence requires a holistic approach that combines legal reform, institutional accountability, professional policing, technological modernization, judicial vigilance, and public participation. Enacting a comprehensive anti-torture law, strengthening independent oversight mechanisms, fully implementing the Supreme Court's directives, investing in scientific investigation, and fostering a culture of respect for human dignity are

indispensable steps toward this objective.

Ultimately, the true measure of a constitutional democracy lies in the manner in which it treats those who are most vulnerable and deprived of liberty. Ensuring that every person in custody is treated with fairness, dignity, and humanity is not merely a legal obligation but a moral imperative flowing from the Constitution of India and universally recognized principles of human rights. The effective prevention of custodial violence will strengthen the rule of law, reinforce public confidence in the criminal justice system, and uphold the constitutional promise of justice, liberty, equality, and dignity for all.

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