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AN ANALYSIS OF CUSTODIAL VIOLENCE IN INDIA LEGAL FRAMEWORK, STATISTICAL TRENDS, AND REFORM IMPERATIVES

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ABSTRACT :

Custodial violence and torture are egregious violations of human rights that contravene the rule of law and democratic governance. This article looks at the problem of torture and violence in Indian prisons by looking at laws, statistics, and problems with institutions. This analysis, utilizing data from the National Crime Records Bureau (NCRB) and the National Human Rights Commission (NHRC), indicates that India saw almost 14,000 custodial deaths from 2016 to 2024, with no convictions resulting. The study looks at constitutional protections as laid out in Articles 21 and 22, laws in the Indian Penal Code, and important Supreme Court decisions, especially D.K. The Basu guidelines and the Nilabati Behera compensation principles, together with the fact that there are still no specific laws against torture. This article talks about systemic flaws such as not having enough accountability systems, not having CCTV cameras, getting medical care too late, targeting poor people, and making violence commonplace in institutions. The research says that to end this humanitarian disaster and fulfil India's constitutional commitment to human dignity, the police need to be reformed, the Prevention of Torture Bill needs to be passed, the UN Convention against Torture has to be ratified, and oversight systems need to be made stronger.

Keywords: Police accountability, constitutional rights, custodial fatalities, criminal justice reform, torture, human rights, and detention brutality

INTRODUCTION

Background and Research Problem

In modern democratic societies, custodial brutality and torture are some of the worst violations of human rights. India is the biggest democracy in the world. It has a robust constitution and a court system that is separate from the government. But violence in custody is still a regular and very worrying concern. The Supreme Court of India said in the important case of D.K. that "Custodial violence, including torture and death in the lock-ups, strikes a blow at the rule of law, which demands that the powers of the executive should not only be derived from the law but also that the same should be limited by it" (AIR 1997 SC 610).

Article 21 of the Indian Constitution safeguards the right to life and personal freedom. The courts have said that this means that people have the right to live with dignity and not be tortured or treated in a cruel, inhuman, or degrading way. Article 22 also says that people can't be detained and held without a good reason. But there is still a wide gap between what the Constitution states and what actually happens. The NHRC claims that between 2016 and 2022, India recorded more than 11,650 deaths in prison. The NHRC said that 2,739 people died in custody in 2024 alone, and 155 of those deaths were directly attributable to police imprisonment (NHRC Annual Report, 2024).

Most of the people who are victims of custodial abuse are from weak groups, like Scheduled Castes, Scheduled Tribes, religious minorities, and groups with low incomes. This shows how caste, class, and human rights violations are all connected. India signed the United Nations Convention against Torture (UNCAT) in 1997, but it has not ratified it. The government has also not passed separate anti-torture laws, even though the Law Commission has suggested them many times. This shows that the government does not want to deal with this problem in a systematic way. The absence of rules, coupled with a culture of impunity evidenced by exceedingly low conviction rates (zero convictions for 1,107 custody deaths from 2011 to 2022, according to NCRB data), perpetuates the cycle of violence.

Objectives of the Study

1. To offer a critical examination of the legal and constitutional framework regulating custodial rights in India, specifically addressing Articles 21, 22, and pertinent sections of the Indian Penal Code, Code of Criminal Procedure, and other relevant statutes.

2. To examine statistical trends and patterns of custodial violence and fatalities in India utilizing data from the NCRB, NHRC, and selected state-level sources for the period 2016–2024.
3. To find the structural issues and institutional factors that let torture and abuse continue in detention, such as weak accountability, poor infrastructure, and the normalization of violence in custody.
4. To suggest policy changes and institutional steps based on evidence that are needed to stop violence in custody, make people more accountable, and protect the basic rights of detainees.
5. To look into how custodial violence in India affects vulnerable and marginalized groups more than others, such as Scheduled Castes, Scheduled Tribes, religious minorities, migrants, and people who are poor.

Research Hypothesis

Despite constitutional and legal safeguards, custodial violence and deaths remain prevalent in India, indicating serious failures in implementation, accountability, and institutional protection.

Scope of the Study:

This paper looks closely at torture and violence in custody in India, focusing on the years 2016 to 2024. The geographical scope encompasses all states and union territories of India, with a specific focus on those states exhibiting the greatest incidence rates, namely Maharashtra, Gujarat, Uttar Pradesh, Rajasthan, Tamil Nadu, and West Bengal. The research examines fatalities happening in police and judicial custody, primarily focusing on torture and violence perpetrated by state actors, including police, correctional officials, and other law enforcement personnel.

Research Methodology

This study uses a mixed-methods approach that combines quantitative statistical analysis with qualitative legal and doctrinal research. The methodology comprises the following components:

Data Sources: The main sources are the Constitution (Articles 21, 22, and 20), statutory law (the Indian Penal Code, the Code of Criminal Procedure, and the Indian Evidence Act), Supreme Court and High Court decisions, NCRB Crime in India reports (2016-2023), NHRC Annual Reports (2016-2024), parliamentary inquiries, debates, and committee reports, and Law Commission of India Report No. 273. Secondary sources consist of academic journals, reports on human rights from national and international organizations, books and articles on criminal justice and human rights, and news articles.

The statistical study includes descriptive statistics on deaths and violence in detention, comparisons between states, trend analysis over the years (2016–2024), and an analysis of conviction rates and inquiry patterns. When you do legal analysis, you look at constitutional provisions and statute legislation from a doctrinal point of view, landmark judgments from a case law point of view, the difference between legal provisions and their execution from a gap analysis point of view, and international human rights standards from a comparative point of view.

Limitations of the Study

Official statistics on custodial violence depend on police and prison authorities reporting what they see, which could lead to underreporting. The NCRB numbers don't include deaths in custody by other security services that follow certain rules, like AFSPA. It's hard to figure out how to classify things because Indian law doesn't have a clear idea of what "torture" is. Even with these problems, the study uses strict methodological frameworks and triangulates several data sources to come to important conclusions about violence against people in custody in India.

LITERATURE REVIEW: CUSTODIAL VIOLENCE IN INDIA AND BEYOND

Evolution of Custodial Violence Discourse in India

Academic and policy discussions on custodial violence in India have evolved from treating such incidents as aberrations to recognizing them as symptoms of structural problems in law enforcement and criminal justice. Early legal scholarship and judicial decisions tended to focus on individual cases of

“excesses” by police officers, with remedies framed primarily in terms of compensation or departmental action. Over time, as data from bodies such as the NHRC and NCRB accumulated, scholars began to emphasize patterns of systemic impunity and institutional normalization of torture.

Human-rights organizations and research collectives have played a crucial role in pushing this shift. Reports by the National Campaign against Torture (NCAT), for example, documented that an average of roughly five custodial deaths per day occurred in India in the late 2010s, highlighting both the scale of the problem and serious gaps in official data. The NHRC’s own Annual Report 2017–18 memorably described custodial torture as “so rampant in India that it has become almost routine,” framing such violence as a manifestation of systemic failure rather than isolated misconduct.

Recent empirical work, such as the *Status of Policing in India Report (SPIR)* 2019 and 2025, adds another dimension by examining police attitudes and everyday practices from within. Surveys of thousands of police personnel across multiple states reveal that a majority of officers justify the use of “tough methods” and physical force against suspects as necessary for effective policing. This internal perspective corroborates the argument that custodial violence is rooted in organizational culture and incentives rather than being simply a legal-compliance issue.

Empirical Studies on Magnitude and Patterns

A growing body of empirical and journalistic work has sought to quantify custodial deaths and analyze their patterns. NCRB data, although limited, suggest that between 2000 and 2022 an average of around 90–100 deaths in police custody occurred each year, with higher peaks in some years. NHRC figures, which capture both police and judicial custody, report over 1,700 custodial death-related cases annually in the last decade, with 2,150 judicial-custody deaths and 155 police-custody deaths in 2021–22 alone.

Multiple independent analyses have converged on two particularly worrying trends. First, there is a strong concentration of deaths within the first 24 hours of police custody, a period when oversight by magistrates is minimal and access to legal counsel and medical care is often restricted. Second, state-wise data show that a small group of states often including Gujarat, Maharashtra, Uttar Pradesh, Tamil Nadu and a few others consistently account for a disproportionate share of police-custody deaths. Gujarat, for instance, recorded the highest number of police-custody deaths in India in at least two successive years according to NCRB data, even as most cases were officially attributed to “illness” or “suicide.”

Studies by journalists and policy research groups, such as Factly and SPRF, have highlighted that despite repeated incidents and public outrage, disciplinary and criminal action against responsible personnel remains extremely rare. Factly’s analysis of NHRC and NCRB data showed that between 2016–17 and 2021–22, disciplinary action was recommended against only 21 officials and prosecution against none, underscoring the argument that impunity is institutional rather than accidental.

Role of NHRC and Other Oversight Bodies in Scholarship

Several legal and socio-legal studies have critically examined the role of the NHRC and state human-rights commissions in addressing custodial violence. These works generally recognize that the NHRC has issued important guidelines such as requiring that custodial deaths be reported within 24 hours, that post-mortems be video-recorded and that magisterial inquiries be conducted but argue that enforcement is weak and largely dependent on state cooperation.

A doctrinal study of NHRC’s custodial-death guidelines published in the late 1990s highlighted how the Commission attempted to fill gaps in statutory law by standardizing reporting obligations and insisting on prompt, transparent investigations. More recent scholarship, however, points out that even when NHRC recommends compensation or disciplinary action, state governments frequently delay or dilute implementation, and NHRC lacks power to enforce its decisions. This has led some authors to characterize NHRC as a “toothless tiger,” symbolically significant but structurally constrained.

SPIR 2025 further documents the perception among police personnel that external oversight by courts, NHRC or civil society is often episodic and focused on high-profile cases, allowing routine lower-level abuse to continue largely unchecked. This perception feeds into a broader climate in which officers learn that the likelihood of serious consequences for custodial violence is exceedingly low.

Comparative and International Perspectives

Internationally, custodial violence and torture have been studied extensively in contexts ranging from Latin America and sub-Saharan Africa to Europe and North America. Comparative research emphasizes that certain risk factors recur across jurisdictions: militarized or colonial legacies of policing, weak internal accountability, socio-economic inequalities and inadequate legal safeguards.

India’s situation is often contrasted with jurisdictions that have adopted strong, independent oversight mechanisms. For example, South Africa’s

Independent Police Investigative Directorate (IPID) and the United Kingdom's Independent Office for Police Conduct (IOPC) offer models of external agencies with statutory powers to investigate deaths in custody and serious police misconduct. While these bodies also face challenges, they are widely regarded as more structurally independent than internal police inquiries or purely advisory commissions.

At the normative level, the absolute prohibition of torture under international law reflected in UNCAT, the ICCPR and customary international law has led many countries to adopt explicit anti-torture statutes, specialized prosecutorial units, and mandatory safeguards such as audio-visual recording of interrogations. India's failure to ratify UNCAT and enact a comprehensive anti-torture law, despite repeated recommendations by the Law Commission and UN bodies, is frequently cited in comparative literature as a major gap in its human-rights framework.

Gaps in the Existing Literature

Although the literature on custodial violence in India is substantial, several gaps remain. First, many studies rely heavily on official data, which as discussed earlier are incomplete and subject to under-reporting and misclassification. There is a relative scarcity of large-scale, systematic qualitative research that documents victims' experiences, family struggles for justice and the micro-dynamics of local police-prison ecosystems across different regions.

Second, there is limited work that explicitly theorizes custodial violence in India using frameworks such as structural violence, critical criminology, or intersectionality, even though empirical data clearly show that caste, religion and class shape risk and outcomes. Third, relatively few studies integrate doctrinal legal analysis with empirical trend analysis and organizational sociology; instead, legal scholarship and data-driven research often proceed in parallel.

This paper attempts to contribute to these gaps by combining doctrinal analysis, empirical trends and institutional critique, while foregrounding the disproportionate impact of custodial violence on marginalized communities.

THE LEGAL AND CONSTITUTIONAL FRAMEWORK AGAINST VIOLENCE IN CUSTODY

Constitutional Protections: Articles 20(3), 21, and 22

Article 21: The Right to Life and Personal Liberty

Article 21 is the most critical factor of keeping custodial rights safe. It declares, "No person shall be deprived of his life or personal liberty except according to procedure established by law." The Supreme Court modified how Article 21 was understood in *Maneka Gandhi v. Union of India* (1978). It held that "procedure established by law" had to be fair, just, and reasonable. Justice Bhagwati observed in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981) that "the right to life includes the right to live with human dignity." This obviously meant that people should not be tortured or treated badly.

D.K. The case of *Basu v. State of West Bengal* (1997) is the most detailed legal statement about violence in detention. The Court set strict rules for all police and law enforcement agencies to follow. These rules included: recording arrests with witness testimony; letting family members know within 8 to 12 hours; keeping a record of all arrests; letting suspects meet with their lawyer during questioning; having a medical exam every 48 hours to document any injuries; and reporting all custodial deaths to the NHRC within 24 hours. But implementation is still very bad, with a lot of police stations not keeping accurate records of arrests, not telling families, or not making sure that medical tests are done.

Article 22: Protection from being detained and held

Article 22 gives clear rules to defend people's rights. For instance, it stipulates that people who are arrested must be told why they were arrested and presented to court within 24 hours. But studies suggest that over 60% of custodial deaths occurred in this 24-hour period, before they can really acquire court protection (*Status of Policing in India Report*, 2025).

Article 20(3): Protects Against Self-Incrimination

Article 20(3) says, "No one accused of a crime shall be forced to testify against himself." This means that it is against the law to torture someone to induce them to confess. But the fact that custodial violence keeps happening illustrates that this constitutional guarantee isn't always respected in real life.

Safeguards in Criminal Law

The Indian Penal Code has these parts:

Section 330 IPC deals with "Voluntarily Causing Hurt to Extort Confession." It specifies that persons can go to jail for up to seven years and pay a fine. Section 331 IPC is about "Voluntarily Causing Grievous Hurt to Extort Confession," which may get you up to ten years in prison and a fine. It is against the law to illegally jail someone to get them to confess, according to Section 348 IPC. The punishment could be up to three years in prison.

These rules don't work as well as they could because: the IPC doesn't fully define "torture"; the maximum sentences of seven to ten years are much lower than what is common around the world; Sections 330 and 331 only apply to cases where pain was caused specifically to get a confession, leaving out torture for other reasons; Section 330 is bailable; and Section 197 CrPC says that the government has to approve the prosecution of police officers, making it very hard to hold them accountable.

Safeguards in the Code of Criminal Procedure

There are many rules in the CrPC that are aimed to stop abuse in custody. For instance, Section 41A says that people who are arrested for crimes that could lead to less than seven years in prison must be told when they will be appearing in court instead of being arrested right away. Section 49 says that "the person arrested shall not be subjected to more restraint than is necessary to prevent his escape"; Section 56 says that arrested people must be brought before a magistrate within 24 hours; Section 57 says that police can only hold someone for 24 hours without a magistrate's permission; Section 167 says that police can only hold someone for 15 days during an investigation; and Section 176(1A) says that a magistrate must investigate custodial deaths.

The Indian Evidence Act's rules

Section 25 stipulates, "No confession made to a police officer shall be proved as against a person accused of any offense." This indicates that police can't use confessions made while someone is in custody. Section 26 strengthens this protection by making it illegal for police to get around Section 25 by having non-police officials record confessions while a subject is in police custody. In theory, these regulations of evidence remove rid of the need for custodial torture by making confessions made while in police custody useless in court.

Important Decisions by the Court

Nilabati Behera v. State of Orissa (1993): Payment for Death in Custody

This key decision made it apparent that constitutional courts can award money damages for violations of essential rights in public law matters under Articles 32 and 226, independent from tort claims. The Supreme Court stated that when someone dies while in police custody, the State has a duty to explain the death in a way that makes sense. The Court ruled that Article 32's compensation for public law issues is a constitutional remedy, not tort damages. It also entirely rejected the idea of sovereign immunity as a defence against violations of basic rights. The Court paid Rs. 1,50,000 as compensation and made crucial regulations about how to prove your case in custodial death cases and how to get compensation as a constitutional remedy.

The U.P. State vs. Joginder Kumar Limitations on Arrest (1994)

This decision limited random arrests as a way to combat crime. The Supreme Court said that a police officer doesn't have to arrest someone who is charged, but they do have to be satisfied that arrest is necessary for the investigation to work. The Court ruled, "No arrest can be made because it is lawful for the police officer to do so. Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person."

What the National Human Rights Commission does

The NHRC became a legal organization in India to protect and promote human rights thanks to the Protection of Human Rights Act of 1993. NHRC can look into allegations of violations on its own or if someone else asks it to. It can also tell people to pay damages, send reports to Parliament every year, and compel investigations. But NHRC doesn't work very well because its suggestions aren't binding and governments generally ignore them. It doesn't have enough investigators or infrastructure, and it depends entirely on state governments working together. NHRC worked on 281 custodial death cases in 2023, but only one of them was successful. This means that its success rate is relatively low (0.35%).

The NHRC reported that between 2016 and 2022, there were 11,650 deaths in custody, but only 1,184 of them (nearly 10%) were able to get compensation. Only 21 cases, or 0.18% of all cases, resulted in punishment. This information illustrates how poorly NHRC works to keep people accountable.

The Legislative Vacuum: There Is No Law Against Torture

There is no specific statute in India that clearly defines torture as a crime, even though the Constitution and the courts defend it. India signed UNCAT on October 14, 1997, however it hasn't ratified it yet. The Indian Law Commission handed the government a detailed report, Report No. 273 (2017). It added that India should quickly ratify UNCAT and pass a thorough Prevention of Torture Bill. The Prevention of Torture Bill was introduced in Lok Sabha on May 6, 2010, however it died when the 15th Lok Sabha was dissolved in 2014.

There are big gaps because there is no law that defines torture, the punishments aren't harsh enough (IPC penalties of 7–10 years aren't enough compared to international standards), the definition is limited to torture for confession, there are procedural barriers (Section 197 CrPC requires government approval), there is no specialized investigation, and victims don't get any help. The Global Torture Index 2025 claimed that India was a "high risk" country for widespread torture and abuse in jail.

STATISTICAL ANALYSIS AND TRENDS OF CUSTODIAL VIOLENCE IN INDIA

A countrywide look at the number of deaths in custody

The National Human Rights Commission (NHRC) predicts that from 2016 to 2022, India has 11,650 custodial deaths. This is around 1,664 deaths a year or 4.6 deaths a day. The NHRC claimed that 2,739 people died in jail in 2024. Of those deaths, 155 happened while they were in police custody and 2,584 happened while they were in court custody.

From 2021 to 2024, an average of 125 to 155 people died in police detention per year. These murders generally included physical brutality, torture, and not getting medical help. Most of the deaths happen in jails after magistrates send people there. These are called "judicial custody deaths." From 2021 to 2024, there were between 1,995 and 2,584 deaths each year because of overcrowding, bad medical care, violence between convicts, and staff not paying attention.

There are some alarming themes in the data: even if there are rules for the courts and the NHRC is keeping an eye on things, the number of deaths in custody stays high from 2016 to 2024 without a big decline. The NCRB says that in 2021, there were 53% more deaths in custody (88 deaths) than in 2020 (15 deaths). But these statistics are probably lower than they really are.

Distribution by state and trends by location

There are substantial variances in the amount of violence in prisons in different areas. In 2023, the states with the highest deaths in detention are:

Maharashtra had the highest deaths in custody in the country, with 17 deaths, 7 of which were suicides and 10 of which were from illness. It is critical to remember that 13 of these deaths happened before anyone could be brought to court for custody, which implies they happened within 24 hours.

Gujarat: 13 deaths in detention, with 81 deaths in custody reported between 2018 and 2023 (the most in the country during this time).

Seven people died in police detention in Uttar Pradesh in 2023. From 2018 to 2023, Uttar Pradesh recorded the most deaths in custody in the country, with a total of 2,630 deaths (including those in judicial custody).

In Tamil Nadu, five people died in jail in 2023. Between 2016 and 2021, 478 persons died in Tamil Nadu while in jail, and in most cases, the people responsible were not found guilty.

Under West Bengal, four people died while under police custody in 2023. From 2022 to 2023, the number of deaths in police custody went up by 300%.

About 27% of all police custody deaths in India happen in Maharashtra and Gujarat. This suggests that the police don't perform well in these states.

Important 24-Hour Window: Situations and Reasons

The Maharashtra statistics from 2023 shows that 7 of the 17 deaths (41%) were suicides and 10 were due to illness. The Status of Policing in India Report (2025) says that over 60% of fatalities in custody occurred within 24 hours of being taken into custody, before the person is ever produced before a

magistrate. This pattern is particularly essential because the first 24 hours are the most perilous time for persons in jail. During this time, torture during interrogation is at its worst, lawyers and court monitoring are hard to come by, injuries from torture typically go untreated, and deaths within 24 hours strongly reflect direct custodial abuse instead of pre-existing ailments. The 2023 data from Maharashtra supports this: 76% of the 17 deaths occurred prior to the individuals being presented to a magistrate for custody.

Demographic Profile: Exclusion and Violence in Detention

Research shows that custodial violence affects poor populations more than other groups. Tamil Nadu's data shows that Scheduled Castes make up 38.5% of people who are held without charge, even though they only make up 20% of the state's population. This shows that Dalit communities are being unfairly singled out. Tribal communities are more likely to be victims of violence in jail, and there have been stories of tribals sitting in jail without a trial. More Muslims are in jail than people from other groups, and they are more likely to be tortured.

The Status of Policing in India Report (2025) says, "Victims are often poor, Dalits, Adivasis, minorities, or migrants who don't have strong legal or social protection, which makes them easy targets for custodial violence." If you are economically marginalized, you can't afford good legal representation, you don't have much social capital to pressure the authorities, the media doesn't pay much attention to you, and the police are more likely to target you for minor offenses. People who are victims of custodial violence often belong to more than one marginalized group at the same time (for example, poor Dalit Muslim youth), which makes them even more vulnerable.

The Accountability Crisis: No Convictions

The data on accountability may be the most damning evidence of systemic failure. The NCRB reports that from 2011 to 2022, no police officer was found guilty of causing 1,107 deaths while they were in police custody. This means that the conviction rate is 0.00%, which shows that people are no longer held responsible for their actions.

According to NHRC data from 2016 to 2022, there were 11,650 fatalities in detention, 1,184 cases where compensation was offered (10.2%), 21 cases where disciplinary action was taken (0.18%), and no or very few prosecutions that led to convictions.

There were 394 deaths in detention from 2018 to 2022. In 41% of these situations (161), judicial probes were ordered; in 34% of these cases (134), magisterial inquiries were conducted; and in 25% of these cases, there was no inquiry at all. The NHRC looked into 281 deaths that happened while people were in police custody in 2023, but only one of them was freed from torture while they were in jail. This means that only 0.36% of the cases were solved.

There are many reasons why accountability doesn't work. For example, Section 197 of the Criminal Procedure Code says that the government must approve prosecution; police look into cases of custodial abuse; evidence is tampered with; witnesses are scared; justice is delayed; prosecutors are not effective; and judges are not willing to act.

Not Reporting and Missing Data

The figures probably don't reveal how bad violence against custodians truly is. The police have to report their own crimes, which is a conflict of interest. The term "illnesses" for "torture-induced medical conditions" makes the real brutality less obvious. The NCRB's information doesn't include deaths of people who are in the custody of military forces that are following specific laws like AFSPA. Statistics only count deaths, but there are thousands of cases of torture that don't result in death. There is certainly a lot more real custodial violence in states where civil society is weak or the media is shut down than official numbers suggest.

The statistical evidence unequivocally demonstrates: a persistent crisis with over 11,650 documented custodial fatalities from 2016 to 2022; a geographical concentration in Maharashtra, Gujarat, Uttar Pradesh, Tamil Nadu, and West Bengal; a crucial 24-hour period during which 60% of deaths occur within the first 24 hours of arrest; a disproportionate emphasis on marginalized communities; a lack of accountability leading to no convictions; and a systemic trait with enduring trends evident across states and years.

PROBLEMS WITH INSTITUTIONS AND FAILURES IN THE SYSTEM

An institutional culture that makes violence seem normal

The Status of Policing in India Report (2025) says that more than 55% of police officers think it is vital to employ "tough methods to create fear among the public." This suggests that many police officers consider that violence is a regular and even good way to do their jobs.

This culture comes from the past when colonists used the Police Act of 1861 to stop rebellions and establish control. It also comes from investigations that focus on confessions instead of evidence, a lack of accountability (the fact that violence has no consequences shows that it is normal), and peer pressure, where junior officers are pressured by seniors to use violent methods.

The NHRC Annual Report 2017-18 unequivocally asserted: "Custodial violence and torture is so rampant in India that it has become almost routine... The Commission regards crimes like rape, molestation, torture, and fake encounters in police custody as manifestations of a systemic failure to protect human rights." This official recognition of custodial violence as "routine" and "rampant" signifies that such violence is not anomalous behaviour but a systemic practice ingrained in institutional operations.

Problems with training and investigation methods

Police still employ torture to get confessions, even if it is against the law, because it seems faster than gathering evidence. They say that torture is required to gather information that will help them find evidence, and that people think the police work quickly when they announce confessions.

Most Indian police personnel don't have much training in forensic science, how to keep a crime scene safe, how to collect evidence, or even how to ask questions in a legal way. They also don't learn anything about human rights or how the law works. The UN says there should be 222 police officers for every 100,000 people, but India only has 144 police officers for every 100,000 people. This means that the police have a lot on their plate. People take shortcuts when they are stressed out with too much work, even if it means getting violent.

Infrastructure and Surveillance Gaps

Former Maharashtra DGP emphasized that "comprehensive modernisation of custodial facilities was essential, but there was little willingness to invest in it." The absence of CCTV surveillance facilitates custodial violence by fostering impunity through invisibility (lack of video recording permits violence to occur without evidence); prevention through deterrence (presence of surveillance diminishes violence); and provision of evidence for justice (video evidence would offer definitive proof, countering police accounts that are often favoured).

Overcrowding (prisons are over 130% full, which makes them dangerous and unsanitary), lack of medical care (medical staff are absent or untrained, and delays in emergency care can be fatal), poor sanitation (which leads to disease), and lack of ventilation (which causes deaths from heat) all contribute to deaths in lock-ups and prisons. When people check into cases, they often find that the appropriate papers are missing, fake, or destroyed.

Failures of mechanisms for holding people accountable

According to Section 197 of the Criminal Procedure Code (CrPC), the government must give consent before public personnel can be charged with a crime. This makes it impossible for state governments to give consent since they perceive it as a betrayal of their institutions, and they put off making choices indefinitely. Courts have also said that "discharge of official duties" might include things like torture that are manifestly against the law.

Police generally look into cases of violence in custody themselves, which is a blatant conflict of interest. Investigating officers don't want to get their co-workers in trouble, and those who do face unofficial punishment. Police manage crime scenes and evidence, which makes it possible to hide things, and investigations are set up to prove people innocent instead of bringing them to justice.

According to Section 176 of the Criminal Procedure Code, there must be a magisterial inquiry after fatalities in prison. However, only 41% of deaths in custody between 2018 and 2022 resulted to judicial inquiries and 34% to magisterial inquiries. This means that there was no inquiry at all into 25% of fatalities in detention. A lot of inquiries are essentially formalities that don't lead to any findings. Magistrates don't always have a lot of experience with forensics, inquiries might take years to finish, and the results don't always lead to prosecution.

Denial of Medical Care and Inadequacies in Documentation

The Status of Policing in India Report (2025) says that "injuries from custodial beatings are under-recorded. The medical treatment is often delayed or is superficial. This often turns preventable harm into fatality." Torture victims are often denied immediate medical care, treatment may be delayed, medical care is often minimal addressing surface injuries while missing internal trauma, and medical records fail to accurately document torture injuries.

Police presence puts pressure on doctors during post-mortem examinations, switching facilities makes it harder to follow the chain of evidence, reports give unclear, vague results, and second autopsies often disagree with the first police-supervised autopsies. D.K. Basu standards say that people should get a medical exam when they are arrested, every 48 hours while they are in jail, and when they are released. However, many people are still arrested without getting a medical exam.

Targeting of Disadvantaged Communities and Political Influences

The unequal representation of SCs (38.5% of detainees vs. 20% of the population in Tamil Nadu) shows that the system targets people based on their caste by assuming they are criminals, not having social capital, being open to false accusations, and not facing consequences for torturing marginalized people. If you are economically vulnerable, you can't afford legal counsel, you can be arrested for small crimes, you can't get bail, and the media doesn't pay as much attention to you. Profiling, torture to elicit information, and prejudice toward Muslims all make it more likely that Muslims will be hurt while in jail.

Police have to deal with political problems, like having to relocate to a new department if they don't obey orders, performance standards that push police use shortcuts like forcing confessions, and political pressure that makes it impossible to undertake thorough investigations. Experts have been calling for changes to the police for decades, yet they still haven't happened. People have not obeyed or just partially observed the Supreme Court's directives in *Prakash Singh v. Union of India* (2006).

The persistent occurrence of custodial violence, despite comprehensive legal protections, is due to systemic inadequacies across multiple institutional dimensions, including cultural normalization, absence of accountability, insufficient infrastructure, investigative deficiencies, discrimination, inadequate political will, and legislative voids. These institutional factors interact to render custodial violence a normative and anticipated outcome.

RESULTS AND DISCUSSIONS

Putting the Results Together and Trying Out the Hypotheses

This in-depth investigation demonstrates that there is a very serious humanitarian disaster happening. The Constitution, laws, and progressive court rulings protect people in India, but more than 2,700 people die in jail each year. The rate of convictions is still 0%.

India has a complete constitutional and legal system to protect custodial rights, but it has several serious problems: there is no clear definition of torture, the consequences are not strong enough, there are no criteria for prosecution, and there is no special statute against torture. An empirical analysis suggests that there were more than 11,650 deaths in custody between 2016 and 2022, with 60% of these dying within 24 hours of arrest. A lot of these deaths happened in Tamil Nadu, Gujarat, Uttar Pradesh, and Maharashtra. There were no convictions for 1,107 jail fatalities between 2011 and 2022, and marginalized populations were hit the hardest.

Root cause analysis shows that there are many systemic problems that are connected to each other. For example, over 55% of police officers support "tough methods," and the culture of the institution normalizes violence. Other problems include confession-centered investigative practices, a lack of CCTV, a lack of accountability due to Section 197 CrPC and police self-investigation, the targeting of marginalized communities, the denial of medical care, and the political reluctance to make changes.

These results confirm all hypotheses: (H1) custodial violence persists at significantly elevated levels despite legal safeguards, reflecting systemic implementation failures; (H2) the accountability deficit is pronounced, as indicated by the absence of convictions; and (H3) marginalized communities are disproportionately victimized.

5.2 Responsibilities for Human Rights Globally

In 1979, India signed the ICCPR. Article 7 adds, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." India's custody rules are against what this treaty mandates. India signed CAT in 1997, which meant that the country had to follow the treaty's goals and purposes until it was ratified. If you keep torturing people in custody, you are breaking this temporary obligation. As a result of customary international law, the ban against torture has established a jus cogens (peremptory norm), which means that all governments must observe it, even if they haven't signed a treaty.

Changes to the legislation: a complete law against torture

Quick Approval of CAT:

India needs to sign the UN Convention Against Torture immediately soon. Ratification would show that India is politically committed, provide the CAT Committee access to its expertise, make it easier for countries to work together, and bring India in step with the international human rights community.

The bill to stop torture was passed:

The Law Commission's 273rd Report (2017) presents a complete basis for the law. The following should be included in the Prevention of Torture Bill:

1. A full definition that encompasses physical torture, psychological torture, sexual abuse, torture through a third party, deprivation of basic needs, being forced to live in deplorable conditions, and torture for whatever reason.
2. Adequate Penalties: Torture should get at least 5 years in prison, and if it leads to death or permanent handicap, the individual should get an extra 5 years. People who are found guilty should also lose their jobs.
3. Taking away immunity: a clear statement that torture can't be justified by higher orders; getting rid of the penalty criterion in Section 197 of the CrPC; and no immunity based on "official capacity."
4. Burden of Proof Reversal: Once prima facie torture is shown, the accused has to prove that it didn't happen. When someone dies or becomes gravely harmed while in detention, it is assumed that they were tortured.
5. Independent inquiry: The inquiry must be done by an independent agency that is not part of the police hierarchy. There are strict timelines (90 days), a forensic examination is required, and whistle blowers and witnesses must be safeguarded.
6. Victim Rights: The legislation provides that victims have the right to state-funded medical care, rehabilitation, and compensation. They also have the right to free legal help and temporary money while the investigation is going on.
7. All lock-ups, interrogation rooms, and custody areas must have CCTV cameras. All interrogations must be documented on audio and video. After an arrest, a medical test must be done, and all interrogations must enable a lawyer to be present.
8. Accountability Mechanisms: Each department must hold an inquiry within 30 days, and the person being investigated must be suspended until the inquiry is over. There must also be a swift trial in special tribunals with a 6-month deadline and a public database of torture cases.

Changes to infrastructure and institutions

Changes to hiring and training:

Human rights education should be a part of all police training programs. Police officers also need to learn how to question people without using force. Psychological testing must be done during the recruiting process to find those who are violent. There also need to be rules for diversity to make sure that groups that aren't well-represented are. Finally, performance measures need to shift from looking at conviction rates to looking at the quality of investigations.

Updating the infrastructure:

There must be centralized surveillance and independent civilian oversight at all police stations, lock-ups, and interrogation rooms. People who are out on bail or on trial should be let out of prison less often. There must always be qualified doctors on staff in medical facilities. Arrest records, custody records, and medical exams must all be digitized and kept up to date in real time. You have to utilize GPS tracking to keep track of custody transfers.

Making Responsibility Stronger:

Setting up separate state-level agencies to look into custodial violence that isn't under police control, with their own budgets; requiring all custodial death and serious injury cases to be reported; imposing a sanction after 60 days of no response; creating fast-track special courts for custodial violence cases; giving the NHRC more power to conduct independent investigations and award compensation; and a full witness protection program.

How to Handle Being Marginalized:

Better legal protections for SC/ST, minorities, juveniles, women, and people with mental illness; free legal help from the moment of arrest; social workers present during questioning of vulnerable people; specific training to deal with caste-based, religious, and socio-economic biases; and keeping an eye on arrest patterns to look for discriminatory trends.

Make a plan on how to carry out the plan and what will happen.

Phase 1 (Immediate - 0–6 months): The government agrees to ratify the CAT; the Prevention of Torture Bill is introduced in Parliament; all major police stations must have CCTV; and independent investigation units are established up in states with a lot of torture.

Phase 2 (Short-term: 6–18 months): The CAT was approved, the Prevention of Torture Act was passed, CCTV coverage was expanded to all facilities, specialized tribunals were set up, and police training programs were initiated.

Phase 3 (Medium-term - 18–36 months): Infrastructure modernization accomplished; independent investigation agencies fully functioning; digital transformation put into place; performance metrics altered; custodial deaths drastically decreased.

Expected Outcomes: A 70% drop in deaths in custody within 5 years; an increase in the conviction rate from 0% to at least 25% within 3 years; a move away from confession-based investigations toward evidence-based ones; India's compliance with international human rights standards; more trust in the criminal justice system; and the promise of life with dignity for all in Article 21 being kept.

REFORM IMPERATIVES: LEGAL, INSTITUTIONAL AND POLICY RESPONSES
Aligning Domestic Law with International Human-Rights Obligations

India's obligations under the ICCPR and its signature of UNCAT require it to prevent torture, investigate allegations effectively, punish perpetrators and provide redress to victims. The continued prevalence of custodial torture and deaths, coupled with the absence of a comprehensive anti-torture statute, puts India at odds with these international commitments.

Prompt ratification of UNCAT, as recommended by the Law Commission, would signal political commitment and enable engagement with the UN Committee Against Torture's monitoring and advisory mechanisms. Ratification alone is insufficient, but it can catalyse domestic legal reforms and provide a framework for civil society and courts to hold the State accountable to international standards.

Enacting a Comprehensive Anti-Torture Law

A dedicated Prevention of Torture statute should incorporate key elements proposed in Law Commission Report No. 273 and subsequent commentary:

- **Broad, precise definition of torture:** covering physical, psychological and sexual violence, deprivation of basic needs, exposure to degrading conditions and acts committed for any purpose confession, punishment, intimidation, discrimination or coercion.
- **Appropriately stringent penalties:** including higher minimum sentences for torture by public officials and enhanced penalties where torture results in death or permanent disability, along with automatic dismissal from service upon conviction.
- **Removal or narrowing of sanction requirements:** by amending Section 197 CrPC to ensure that prior government sanction is not required for prosecuting torture by public servants, or by carving out explicit exceptions for custodial violence.
- **Reversal of evidentiary presumptions in limited contexts:** allowing courts to presume, in the absence of convincing explanation, that injuries or deaths occurring in custody are attributable to torture, subject to safeguards against misuse.

- **Victim-centred remedies:** including state-funded medical care, rehabilitation, compensation, legal aid and protection for victims and witnesses.

Such a statute would not by itself end torture, but it would close some of the legal loopholes that currently enable impunity and would provide clearer tools for investigators, prosecutors and courts.

Strengthening Oversight and Independent Investigations

Legal reform must be complemented by robust institutional mechanisms. Independent investigative units dedicated to probing custodial deaths and torture, separate from the regular police chain of command, are crucial to overcoming conflicts of interest in self-investigation. These bodies should have their own budgets, trained staff, forensic resources and statutory authority to access records, seize evidence and summon officials.

Magisterial and judicial inquiries into custodial deaths must be mandatory, time-bound and transparent. Non-compliance with inquiry requirements should attract sanctions for responsible officials. Police Complaints Authorities at state and district levels, as envisaged in Prakash Singh, should be fully operationalized, with clear mandates, adequate staffing and public reporting obligations.

Technological and Infrastructural Reforms

Universal, continuous CCTV coverage of police stations, lock-ups, interrogation rooms and prison common areas is now technologically feasible and has been recommended by the Supreme Court and NHRC. To be effective, CCTV systems must have adequate storage, tamper-proofing and independent oversight of access to footage. Destroying or manipulating CCTV records in cases of alleged torture should itself constitute a serious offence.

Prison and lock-up infrastructure requires systematic modernization. Reducing overcrowding through bail reform, decriminalization of minor offences and alternatives to pre-trial detention is essential. Every custodial facility should have functional medical units staffed by qualified professionals, with protocols for immediate emergency response and independent documentation of injuries. Digitization of arrest records, custody registers, medical reports and transfer logs linked to secure, auditable databases can reduce opportunities for manipulation and facilitate oversight.

Human-Rights-Oriented Policing and Training

Sustainable reduction in custodial violence requires changes in organizational culture and training. Human-rights education should be integrated into police and prison training curricula, not as a token module but as a core component linked to performance assessments and promotions. Training in non-coercive interviewing techniques, forensic evidence collection and community-oriented policing can offer credible alternatives to confession-driven methods.

Psychological screening and periodic evaluation of police personnel could help identify those prone to abusive behaviour, while diversity initiatives within police recruitment can gradually change internal culture. Performance metrics should shift away from simplistic indicators such as number of arrests or confession-based “case closures” and towards measures of investigative quality, rights compliance and community trust.

Protecting Marginalized Groups and Enhancing Access to Justice

Targeted measures are needed to protect groups that are particularly vulnerable to custodial abuse. These include:^{[5][2]}

- Ensuring early and continuous access to free legal aid for detainees who are poor, SC/ST, religious minorities, women, juveniles or persons with mental illness.
- Mandating the presence of legal aid lawyers or trained social workers during interrogation of vulnerable detainees, particularly juveniles and persons with disabilities.
- Establishing protocols for recording and monitoring arrests disaggregated by caste, religion, gender and socio-economic status to detect discriminatory patterns.
- Strengthening witness-protection schemes to encourage reporting of custodial abuse by victims, families, medical staff and other detainees.

By addressing both structural discrimination and procedural vulnerabilities, such measures can reduce the disproportionate burden of custodial violence on marginalized communities.

CONCLUSION

Custodial violence in India represents a profound failure of constitutional governance and democratic accountability. The evidence reviewed in this paper shows that, despite clear guarantees in Articles 20(3), 21 and 22, judicial guidelines in cases such as D.K. Basu and Nilabati Behera, and the existence of multiple statutory safeguards, thousands of people have died in custody between 2016 and 2024, with almost no instances of criminal conviction of responsible officials.

The persistence of this crisis cannot be explained by a few isolated incidents or “bad apples.” It is rooted in systemic factors: a policing culture that normalizes coercion, investigative practices that rely on confessions rather than evidence, infrastructural deficits, legal and procedural barriers to accountability, weak oversight institutions and entrenched social hierarchies that make some lives more disposable than others. The data also demonstrate that custodial violence disproportionately affects SCs, STs, religious minorities and the poor, revealing how caste, class and religion intersect with law enforcement to produce patterns of structural violence.

Addressing custodial violence therefore requires more than incremental reforms or occasional judicial interventions. It calls for a multi-layered transformation: aligning domestic law with international human-rights obligations through UNCAT ratification and a robust anti-torture statute; strengthening independent investigative and oversight mechanisms; modernizing custodial infrastructure and surveillance; re-orienting police training and performance metrics; and adopting targeted protections for marginalized communities.

Ultimately, the way a democracy treats people in its custody is a test of its moral and constitutional integrity. So long as custodial torture and deaths continue with near-total impunity, India’s claims to uphold the rule of law and human dignity will remain fundamentally compromised. Confronting and ending custodial violence is therefore not merely a matter of criminal-justice reform; it is central to the project of realizing the Constitution’s promise of life and liberty with dignity for all.

DIRECTIONS FOR FUTURE EMPIRICAL RESEARCH

This study, like much of the existing literature, relies heavily on data from NHRC, NCRB and secondary reports. Future research could:

- Conduct **multi-site qualitative studies** across different states to capture local variations in custodial practices, including interviews with survivors, families, lawyers, doctors and police officers.
- Use **longitudinal designs** to track the impact of specific reforms (such as expanded CCTV coverage or the creation of state-level police complaints authorities) on custodial-violence indicators over time.¹
- Undertake **intersectional analyses** that explicitly examine how caste, religion, gender, sexuality and disability interact to shape experiences of custody and access to remedies.¹

Such research would deepen understanding of how national-level legal and policy frameworks play out in diverse local contexts and could inform more targeted interventions.

Policy Implications: From Incrementalism to Structural Change

Policy debates in India often oscillate between calls for stricter laws and calls for better implementation of existing safeguards. The evidence reviewed here suggests that both are necessary but neither is sufficient on its own. Incremental measures such as issuing new circulars or guidelines are unlikely to be transformative unless they are embedded within broader structural changes that alter incentives, organizational culture and power relations.

Key policy implications include:

- **Embedding independent oversight and investigation** as a non-negotiable aspect of custodial-death inquiries, with statutory guarantees of autonomy and resources.
- **Revisiting colonial-era policing and prison statutes** to align them with contemporary constitutional and international human-rights standards.
- **Strengthening parliamentary and judicial scrutiny** of custodial-violence trends, including mandatory annual reporting, public hearings and follow-up on NHRC recommendations.
- **Investing in research, training and public education** to shift societal attitudes away from seeing torture as an acceptable or necessary tool of

criminal justice.

Ultimately, reducing custodial violence will require sustained political will and public pressure, combined with technical reforms and institutional redesign.

REFERENCES

1. Barnala Police. (n.d.). *D.K. Basu case guidelines on arrest*.
2. Common Cause, & Lokniti–Centre for the Study of Developing Societies. (2019). *Status of policing in India report 2019: Police adequacy and working conditions*.
3. Common Cause, & Lokniti–Centre for the Study of Developing Societies. (2025). *Status of policing in India report 2025: Police torture and (un)accountability*.lokniti
4. Central for Justice, Peace and Constitution. (2017). *Ratify convention against torture, enact prevention of torture bill 2017*
5. Drishti IAS. (2025, April 10). *Custodial torture and need for police reforms*.
6. Drishti IAS. (2025, July 30). *Justice behind bars: Reforming custodial norms*
7. Drishti IAS. (2025, November 26). *Custodial violence in India*.
8. Factly. (2025, July 3). *The trend in custodial deaths in India*.
9. GKToday. (2017, December 17). *Prevention of torture bill, 2017*.
10. InsightsonIndia. (2025, July 2). *Custodial deaths in India*.
11. International Journal of Law Research and Analytics. (1998). *NHRC's role in prevention of custodial death or death during the course of police action*.
12. International Journal of Multidisciplinary Research and Review. (2024). *Alarming increase in custodial deaths in India*.
13. Law Commission of India. (2017). *Report No. 273: Implementation of the UN Convention Against Torture through legislation*. Government of India.prsindia
14. Law Commission of India. (2017). *Report No. 273: Implementation of the UN Convention against Torture and other cruel, inhuman and degrading treatment or punishment through legislation*. Government of India.
15. Lokniti. (n.d.). *Police studies*.
16. National Campaign Against Torture. (2020). *India: annual report on torture 2019*.
17. National Crime Records Bureau. (n.d.). *Crime in India*. Government of India.
18. National Human Rights Commission. (2017–2018). *Annual report*. Government of India.
19. National Human Rights Commission. (n.d.). *Annual reports and data on custodial deaths, 2016–2024*. Government of India. Nayalegal. (2024, October 1). *D.K. Basu v. State of West Bengal*.
20. NextIAS. (2025, July 2). *Custodial deaths in India*.ruralindiaonline+1
21. PRS Legislative Research. (2017). *Law Commission report summary: Torture convention*.
22. Prakash Singh v. Union of India, (2006) 8 S.C.C. 1.
23. Rural India Online. (2025, March 19). *Status of policing in India report 2025: Police torture and (un)accountability*.ruralindiaonline+2
24. Saxena, A. (2020). *Analyses of custodial torture and conviction rates*. In *SPRF brief on custodial torture and police reforms*.
25. Social and Political Research Foundation. (2024). *Custodial torture and the need for comprehensive police reforms*.
26. Scribbr. (2024, September 4). *APA formatting and citation (7th ed.)*.
27. Supreme Court of India. (1993). *Nilabati Behera v. State of Orissa*, AIR 1993 SC 1960.
28. Supreme Court of India. (1994). *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 S.C.C. 260.
29. Supreme Court of India. (1997). *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610.gktoday
30. The Quint. (2022, August 29). *88 custodial deaths in India, highest in Gujarat for 2nd year*.thequint
31. The Wire. (2026, March 24). *Custodial deaths at 170 this year, accountability nearly absent: Govt data*.thewire
32. United Nations. (1966). *International Covenant on Civil and Political Rights*.barnala.punjabpolice
33. United Nations. (1984). *Convention against torture and other cruel, inhuman or degrading treatment or punishment*.instagram
34. Wikipedia. (2022). *Custodial deaths in India*.
35. *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610.insightsonindia
36. *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 S.C.C. 260.
37. *Nilabati Behera v. State of Orissa*, AIR 1993 SC 1960.
38. *Prakash Singh v. Union of India*, (2006) 8 S.C