
Custodial Violence in India: A Critical Analysis of Police Accountability and Human Rights Violations

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DOI : <https://doi.org/10.5281/zenodo.20623706>

ARTICLE DETAILS

Research Paper

Accepted: 21-05-2026

Published: 10-06-2026

Keywords:

Custodial violence, Police Accountability, Human rights, Article 21, Torture.

ABSTRACT

Custodial violence continues to be a pervasive issue within the Indian criminal justice system, reflecting deep-rooted structural and institutional deficiencies. It involves the use of physical force, psychological coercion, and in extreme cases, custodial deaths, often inflicted by law enforcement authorities to extract confessions or maintain control. This paper critically examines custodial violence in India through the lens of human rights violations and police accountability. It evaluates the constitutional safeguards under Articles 21 and 22, statutory protections, and judicial interventions aimed at curbing such practices. The study further analyses the role of institutions such as the National Human Rights Commission and highlights the gap between legal provisions and their implementation. By incorporating case law analysis, ground realities, and international standards, the paper underscores the urgent need for reform in policing practices. It concludes by suggesting structural, legal, and policy-level reforms to ensure transparency, accountability, and protection of human dignity in custodial environments.

1. Introduction:

Custodial violence in India represents one of the most alarming manifestations of abuse of power by state authorities. It refers to any form of physical or mental harm inflicted upon individuals while they are in the custody of police or other law enforcement agencies. Despite being a democratic nation governed by



the rule of law, India continues to witness numerous instances of custodial torture and deaths, raising serious concerns about the functioning of its criminal justice system.

The Constitution of India guarantees fundamental rights to all individuals, including the right to life and personal liberty under Article 21 and protection against arbitrary arrest under Article 22. However, the persistence of custodial violence indicates a significant gap between legal provisions and their practical enforcement. The problem is further aggravated by factors such as lack of accountability, inadequate training of police personnel, societal acceptance of coercive interrogation methods, and political interference.

Judicial activism has played a vital role in addressing custodial violence, with the Supreme Court laying down guidelines to regulate arrest and detention procedures. Nevertheless, the implementation of these guidelines remains inconsistent. This paper aims to critically analyze custodial violence in India by examining its causes, legal framework, judicial responses, and challenges in ensuring accountability. It also seeks to explore the extent to which human rights are violated in custodial settings and proposes measures for reform.

Furthermore, custodial violence not only affects the victim but also erodes public trust in law enforcement agencies and weakens the credibility of the justice delivery system. It creates fear among citizens and discourages them from seeking legal remedies. Therefore, addressing custodial violence is not merely a legal necessity but also a moral and social obligation in a democratic society.

2. Nature and Forms of Custodial Violence:

Custodial violence is a multifaceted phenomenon that extends beyond mere physical assault and encompasses various forms of abuse inflicted upon individuals while in custody. It represents a serious violation of human dignity and constitutional protections. The nature of custodial violence can be understood through its different forms, which highlight the extent and severity of such practices.

Firstly, physical violence is the most visible form and includes acts such as beating, kicking, use of third-degree methods, electric shocks, and infliction of injuries. These acts are often carried out to extract confessions or information from the accused. Despite legal prohibitions, such practices.

Secondly, psychological violence involves mental harassment, intimidation, threats, and humiliation. This form of abuse aims to break the mental strength of the detainee and force compliance. Unlike physical violence, psychological torture often leaves no visible marks, making it difficult to prove.



Thirdly, sexual violence is another grave aspect of custodial abuse, particularly affecting women and marginalized communities. It includes sexual assault, harassment, and exploitation by police officials, reflecting a gross misuse of authority and power imbalance.

Another critical form is custodial death, which represents the most extreme consequence of custodial violence. Deaths may occur due to severe torture, negligence, or denial of medical care. Such incidents raise serious concerns regarding accountability and transparency within law enforcement agencies.

In addition to these, illegal detention and denial of basic rights, such as access to legal counsel and medical assistance, further aggravate the problem. These practices violate procedural safeguards established under law.

Thus, custodial violence is not limited to physical harm but includes a wide range of abuses that collectively undermine the rule of law and fundamental human rights.

3. Causes of Custodial Violence:

Custodial violence in India is deeply rooted in systemic and structural issues within the policing system. It is not merely the result of individual misconduct but reflects broader institutional failures.

One of the primary causes is the pressure on police to solve cases quickly. Law enforcement agencies often face immense expectations to maintain law and order and deliver quick results, leading to the use of coercive methods to extract confessions.

Another significant factor is the lack of modern investigative techniques. Inadequate training and limited access to scientific tools such as forensic analysis compel police officials to rely on traditional and often unlawful methods of interrogation.

The colonial legacy of policing also plays a crucial role. The Indian police system was originally designed to control and suppress the population rather than serve them, and this mindset continues to influence present-day practices.

Political interference further complicates the issue, as police officials may act under pressure from political authorities, compromising their independence and professionalism.

Additionally, there is a lack of accountability mechanisms. Internal disciplinary processes are often biased, and there is limited external oversight, allowing perpetrators to escape punishment.



Poor working conditions, long hours, and stress among police personnel also contribute to aggressive behavior and misconduct. Furthermore, societal attitudes that tolerate or justify custodial violence as a means of maintaining order exacerbate the problem.

Therefore, custodial violence is a complex issue arising from a combination of institutional weaknesses, cultural factors, and systemic inefficiencies.

4. Legal and Constitutional Framework:

India has established a comprehensive legal framework aimed at preventing custodial violence and protecting the rights of individuals in custody. The Constitution of India serves as the foundation of these protections, particularly through the enforcement of fundamental rights.

Article 21 guarantees the right to life and personal liberty, which has been interpreted by the judiciary to include the right to live with dignity and protection against torture. This provision forms the cornerstone of safeguards against custodial abuse.¹

Article 22 provides specific protections against arbitrary arrest and detention, including the right to be informed of the grounds of arrest, the right to consult a legal practitioner, and the requirement to be produced before a magistrate within 24 hours.

In addition to constitutional provisions, statutory laws also address custodial violence. The Indian Penal Code, 1860, criminalizes acts such as causing hurt or grievous hurt to extract confessions, wrongful confinement, and assault. Sections 330 and 331 specifically deal with torture inflicted to obtain information.

The Code of Criminal Procedure, 1973, lays down procedural safeguards during arrest and detention. Sections 41, 50, and 57 ensure that arrests are made lawfully and that the rights of the accused are protected.

The Protection of Human Rights Act, 1993, established the National Human Rights Commission (NHRC), which plays a crucial role in monitoring custodial violence cases and issuing guidelines for their prevention.

Despite the existence of these legal provisions, their implementation remains inadequate. Lack of strict enforcement, delays in judicial processes, and absence of independent oversight mechanisms weaken the effectiveness of these safeguards.



Thus, while the legal framework is robust in theory, its practical application requires significant improvement to effectively prevent custodial violence.

5. Judicial Response:

The Indian judiciary has played a proactive and significant role in addressing the issue of custodial violence and safeguarding human rights. Through various landmark judgments, the courts have emphasized the importance of accountability and adherence to constitutional principles.

One of the most notable cases is *D.K. Basu v. State of West Bengal*, in which the Supreme Court laid down detailed guidelines to regulate arrest and detention procedures. These guidelines include the requirement of preparing arrest memos, informing relatives of the detainee, and conducting medical examinations.

In *Joginder Kumar v. State of Uttar Pradesh*, the Court held that arrest should not be made routinely and must be justified based on necessity. This judgment reinforced the principle that personal liberty cannot be curtailed arbitrarily.

Similarly, in *Nilabati Behera v. State of Orissa*, the Supreme Court recognized the principle of compensation for victims of custodial deaths, establishing state liability for violations of fundamental rights.ⁱⁱ

The judiciary has consistently maintained that custodial torture is a violation of Article 21 and cannot be justified under any circumstances. It has also emphasized the need for transparency and accountability in police functioning.

However, despite these progressive judgments, challenges remain in ensuring their effective implementation. Non-compliance with guidelines and lack of monitoring mechanisms limit their impact.

Overall, while the judiciary has made significant contributions toward curbing custodial violence, the responsibility of enforcement lies with the executive and law enforcement agencies.

6. Human Rights Perspective:

Custodial violence constitutes a grave violation of human rights and directly undermines the principles of dignity, equality, and justice that form the foundation of a democratic society. The concept of human rights is rooted in the inherent dignity of every individual, and any form of torture or inhuman treatment



in custody is a direct assault on this dignity. In the Indian context, custodial violence violates not only constitutional guarantees but also universally recognized human rights norms.

The right to life and personal liberty under Article 21 has been interpreted broadly by the judiciary to include the right to live with human dignity and freedom from torture. Custodial violence, therefore, is not merely a statutory violation but a constitutional wrong. It also infringes upon the right to a fair trial, as confessions obtained through coercion undermine the integrity of the judicial process.

From an international perspective, instruments such as the United Nations Convention Against Torture (UNCAT) explicitly prohibit torture and other cruel, inhuman, or degrading treatment. Although India has signed the Convention, it has not yet ratified it, which reflects a gap in its commitment to international human rights standards.

Furthermore, custodial violence disproportionately affects marginalized and vulnerable sections of society, including economically weaker groups, minorities, and women. This highlights issues of inequality and discrimination within the criminal justice system. Therefore, addressing custodial violence is essential not only for protecting individual rights but also for upholding the broader principles of justice and equality.

7. Police Accountability Issues:

Police accountability is a crucial element in addressing custodial violence, yet it remains one of the weakest aspects of the Indian criminal justice system. Despite the existence of legal provisions and judicial guidelines, holding police officials accountable for custodial abuse continues to be a significant challenge.ⁱⁱⁱ

One of the primary issues is the lack of independent investigative mechanisms. In most cases, allegations against police personnel are investigated by the police themselves, leading to bias and lack of impartiality. This internal system of inquiry often results in delayed or diluted accountability.

Another major concern is the low rate of conviction in cases of custodial violence. Procedural delays, lack of evidence, and intimidation of witnesses contribute to the failure of prosecution. Victims and their families often hesitate to pursue legal remedies due to fear of retaliation.

Additionally, departmental protection and solidarity within police forces create an environment where misconduct is overlooked or justified. Political interference further weakens accountability by influencing investigations and shielding offenders.



The absence of effective external oversight bodies, such as independent police complaints authorities, also contributes to the problem. Although such mechanisms have been recommended by the judiciary, their implementation remains inadequate in many states.

Therefore, the issue of police accountability is deeply intertwined with structural and institutional deficiencies, which must be addressed to effectively combat custodial violence.

8. Challenges and Ground Reality:

Despite legal safeguards and judicial interventions, custodial violence continues to persist due to several practical challenges. One of the most significant issues is underreporting. Victims and their families often refrain from filing complaints due to fear of police retaliation, social stigma, and lack of awareness about their rights.

Another major challenge is the delay in the justice delivery system. Even when cases are reported, prolonged investigations and trials discourage victims from seeking justice. The slow pace of legal proceedings often results in denial of timely relief.

The lack of awareness among citizens regarding their legal rights further exacerbates the problem. Many individuals are unaware of the safeguards available to them during arrest and detention, making them more vulnerable to abuse.

Institutional weaknesses, such as inadequate monitoring mechanisms and absence of strict enforcement of guidelines, also contribute to the persistence of custodial violence. In many cases, guidelines laid down by the judiciary are not properly implemented at the ground level.

Thus, the gap between legal provisions and their practical enforcement remains a major obstacle in eliminating custodial violence in India.

9. Reforms and Recommendations:

Addressing custodial violence requires comprehensive reforms at legal, institutional, and policy levels. One of the most important steps is the implementation of police reforms, particularly those recommended by the Supreme Court to ensure greater accountability and transparency.

The establishment of independent police complaints authorities at the state and district levels is essential to ensure impartial investigation of allegations against police personnel. Such bodies can help reduce bias and increase public trust in the system.



The installation of CCTV cameras in police stations and lock-ups is another effective measure to prevent abuse and ensure transparency. Regular monitoring and maintenance of these systems are necessary for their effectiveness.

Training and sensitization of police personnel on human rights and ethical conduct is also crucial. This includes promoting the use of scientific investigation techniques instead of coercive methods.

Strict legal provisions should be enforced to ensure punishment for offenders, and cases of custodial violence should be dealt with promptly to deter future misconduct.

Finally, India should ratify the United Nations Convention Against Torture (UNCAT) to strengthen its commitment to international human rights standards and incorporate its provisions into domestic law.

10. Conclusion:

Custodial violence continues to be a matter of serious concern within India's criminal justice framework. The persistence of such incidents highlights the gap between the protections guaranteed by law and their practical enforcement. Although the Constitution, statutory laws, and judicial pronouncements provide safeguards against abuse in custody, violations still occur and adversely affect public confidence in the justice delivery system.

Addressing custodial violence requires more than legal provisions alone. It demands institutional reforms, greater transparency in policing, and a stronger commitment to the protection of human rights. Effective monitoring mechanisms, strict accountability for misconduct, and regular training of law enforcement personnel can play a crucial role in preventing custodial abuse.

The judiciary has made valuable contributions by recognizing the rights of detainees and establishing safeguards against torture and ill-treatment. However, the effectiveness of these measures depends largely on their consistent implementation by administrative and investigative authorities. Incorporating internationally accepted human rights standards and modern investigative methods can further strengthen efforts to eliminate such practices.

In a democratic society governed by the rule of law, respect for human dignity and personal liberty must remain paramount. Therefore, preventing custodial violence is essential not only for protecting individual rights but also for ensuring fairness, justice, and public trust in legal institutions. Continuous cooperation among the government, judiciary, law enforcement agencies, and civil society is necessary to bring about lasting change.



ⁱ Second Administrative Reforms Commission, Fifth Report on Public Order (2007); National Crime Records Bureau, Crime in India Report, 2022.

ⁱⁱ 4. D.K. Basu v. State of West Bengal, (1997) 1 SCC 416; Joginder Kumar v. State of U.P., (1994) 4 SCC 260; Nilabati Behera v. State of Orissa, (1993) 2 SCC 746.

ⁱⁱⁱ Constitution of India, 1950, art. 21; Universal Declaration of Human Rights, 1948; United Nations Convention Against Torture (UNCAT), 1984; Law Commission of India, Report No. 273: Implementation of United Nations Convention Against Torture (2017).

REFERENCES:

- Constitution of India. (1950). Government of India.
- Commonwealth Human Rights Initiative. (2018). Police Accountability in India.
- Law Commission of India. (2017). Report No. 273: Implementation of United Nations Convention Against Torture.
- Ministry of Home Affairs. (2006). Model Police Act. Government of India.
- National Crime Records Bureau. (2022). Crime in India Report. Ministry of Home Affairs.
- National Human Rights Commission. (2022). Annual Report. Government of India.
- Second Administrative Reforms Commission. (2007). Fifth Report on Public Order.
- United Nations. (1948). Universal Declaration of Human Rights.
- United Nations. (1966). International Covenant on Civil and Political Rights.
- United Nations. (1984). Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.
- Joginder Kumar v. State of U.P., (1994) 4 SCC 260.
- Nilabati Behera v. State of Orissa, (1993) 2 SCC 746.