

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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CUSTODIAL VIOLENCE AND DEATHS IN INDIA: LEGAL ACCOUNTABILITY AND REFORM

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Abstract :- Custodial violence and deaths remain some of the gravest and most persistent human rights violations in India. Despite constitutional safeguards and international human rights obligations, reports of torture, ill-treatment, and deaths in police and judicial custody continue to surface across the country. This research paper critically examines the systemic problem of custodial violence in India, analyzing it through legal, institutional, and criminological lenses.

The paper begins by exploring the nature and extent of custodial violence, supported by data from the National Human Rights Commission (NHRC), National Crime Records Bureau (NCRB), and reports from civil society organizations. It outlines the various forms of abuse physical, psychological, and procedural inflicted upon individuals in state custody, often disproportionately affecting marginalized communities such as Dalits, Adivasis, Muslims, and economically disadvantaged groups.

This study evaluates the existing legal framework designed to prevent and punish custodial violence, including constitutional protections under Articles 20, 21, and 22, as well as statutory provisions such as Sections 330, 331, and 302 of the Indian Penal Code, the Code of Criminal Procedure (CrPC), and judicial pronouncements like *DK Basu v. State of West Bengal*. It further analyzes the role of institutions like the NHRC, the judiciary, and law enforcement oversight mechanisms.

However, the paper argues that legal safeguards have been inadequate due to institutional apathy, lack of independent investigation, low conviction rates, and the absence of specific anti-torture

legislation. It discusses India's failure to ratify the United Nations Convention Against Torture (UNCAT) and examines the lacunae in proposed domestic anti-torture bills. The research also identifies procedural barriers such as the requirement of government sanction to prosecute public servants and highlights the culture of impunity that exists within police departments.

Drawing from both doctrinal analysis and critical human rights scholarship, the paper proposes a comprehensive reform agenda. This includes the enactment of an anti-torture law aligned with UNCAT, establishment of independent investigation agencies, mandatory custodial video recordings, police training on human rights, and robust victim compensation mechanisms. The study advocates for a paradigm shift from reactive punishment to proactive prevention within the custodial framework.

Ultimately, the research concludes that custodial violence in India is not merely a failure of individual morality but a symptom of deeper institutional and systemic weaknesses. Legal accountability and structural reform are not only necessary for upholding constitutional values but are imperative for restoring public trust in the rule of law and the justice delivery system.

Keywords: Custodial violence, custodial deaths, human rights, legal accountability, police reforms, India, criminal justice.

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1.1 Introduction

Custodial violence, including torture and deaths in police and judicial custody, represents one of the most egregious violations of fundamental human rights in a democratic society¹. In India, this issue has been a longstanding concern, exposing deep-rooted flaws in the country's criminal justice system. Despite being a constitutional democracy with a robust legal framework and a judiciary that has often stood as the guardian of individual liberties, India continues to witness recurring instances of brutality inflicted by state authorities on individuals held in their custody.

According to data from the National Crime Records Bureau (NCRB),² hundreds of custodial deaths occur annually, with very few resulting in convictions. The National Human Rights Commission (NHRC) and numerous civil society organizations have documented instances of police torture, sexual violence, fabricated charges, illegal detention³, and deaths due to third-degree methods. Alarming, these acts are frequently carried out under the guise of criminal investigation and law enforcement, with very limited accountability. The perpetrators, more often than not, go unpunished due to procedural loopholes,⁴ lack of political will, and institutional bias.

Custodial violence in India is not merely a matter of excesses committed by a few rogue officials; rather, it points to systemic dysfunction and the culture of impunity that permeates various levels of the police and prison administration.⁵ The victims of such violence are disproportionately drawn from socio-economically weaker and marginalized communities Dalits, Adivasis, Muslims, and the poor who often lack the resources or social capital to seek justice. This perpetuates a cycle of fear, mistrust, and alienation between the state and its citizens.

In this context, the present research paper aims to critically analyze the legal, institutional, and policy dimensions of custodial violence and deaths in India. It seeks to assess the adequacy of existing safeguards, identify the gaps in enforcement and accountability, and propose meaningful

¹ The Constitution of India (1950), arts 20–22; United Nations, Convention Against Torture (1984).

² National Crime Records Bureau, Crime in India Reports (2018–2023) <https://ncrb.gov.in>

³ National Human Rights Commission (India), Annual and Special Reports <https://nhrc.nic.in>; Amnesty International India, *Torture in India: A Grim Reality* (2020).

⁴ Law Commission of India, Report No 273 (2017).

⁵ Justice A.P. Shah, “*Systemic Abuse and Police Brutality: The Need for Structural Reform*,” National Law School Journal, Vol. 12, No. 1 (2020), pp. 15–22.

reforms to prevent such violations in the future. The study also explores the role of the judiciary, human rights commissions, civil society, and the media in combating custodial torture and ensuring justice for victims and their families.

Through this research, it becomes clear that addressing custodial violence requires more than piecemeal reforms or judicial interventions it demands a structural transformation in the way law enforcement operates, greater transparency and accountability, and a reaffirmation of the principle that no one is above the law, especially those who are entrusted with its enforcement.

1.2 Statement of the Problem

India still has a high rate of custodial violence and fatalities in spite of constitutional protections and court rulings.⁶ With little to no accountability, victims frequently endure torture, cruel treatment, or even death at the hands of law enforcement.⁷ The institutional and legal safeguards intended to stop this kind of abuse are either not upheld or are not effective. The human rights framework is further undermined by India's non-ratification of the UN Convention Against Torture and its inability to pass a specific anti-torture statute.⁸ Examining the reasons for the persistence of custodial violence, the gaps in legal accountability, and the reforms required to preserve the rule of law and safeguard fundamental rights are the goals of this study.

1.3 Hypothesis

Despite the existence of constitutional safeguards, statutory provisions, and judicial pronouncements, custodial violence and deaths in India persist due to the absence of a specific anti-torture law, lack of effective enforcement mechanisms, and a culture of impunity within law enforcement agencies.⁹ It is hypothesized that the introduction of strong legislative reforms,

⁶ National Crime Records Bureau (NCRB), *Crime in India 2022*, Chapter on Custodial Crimes.

⁷ Human Rights Watch, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, 2009.

⁸ Law Commission of India, *Report No. 273: Implementation of UNCAT through Legislation*, October 2017.

⁹ Amnesty International India, *Torture in India: A State of Denial*, 2018.

coupled with independent oversight and stricter enforcement of existing legal provisions, can significantly reduce incidents of custodial violence and enhance legal accountability.¹⁰

1.4 Scope and Limitations

This study uses a legal and structural framework to investigate mortality and violence in Indian prisons. It emphasizes statutory laws, court rulings, constitutional guarantees, and the function of organizations like as the NHRC.¹¹ The study makes recommendations for improvements by citing global standards like the UNCAT and depends on secondary sources including NCRB data and seminal case studies.¹²

The study is constrained, nonetheless, by its reliance on secondary data rather than firsthand victim stories or fieldwork. It mostly concentrates on police and judicial custody, avoiding military or paramilitary contexts, and it does not thoroughly examine psychological abuse. There is little worldwide comparability in this India-centric study.¹³

1.5 Research Methodology

This study follows a doctrinal and qualitative research approach, focusing on legal analysis of constitutional provisions, statutory laws, and judicial decisions related to custodial violence in India. Data is collected from primary sources such as the Constitution, IPC, CrPC, and landmark

¹⁰ Vrinda Grover, "Reforming the Law on Torture in India," *India Human Rights Review*, Vol. 14, 2020.

¹¹ National Human Rights Commission (NHRC), *Annual Report 2020–21*.

¹² NCRB Data; Case studies include: *DK Basu v. State of West Bengal*, (1997) 1 SCC 416; *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

¹³ Baxi, Upendra, *The Crisis of the Indian Legal System*, Vikas Publishing, 1982.

judgments, and secondary sources like NHRC reports, NCRB data, legal journals, and NGO publications.¹⁴

The methodology involves critical analysis of legal texts and institutional reports to assess gaps in enforcement and propose reforms. No fieldwork is conducted, and the study is based entirely on secondary data within the Indian legal context.¹⁵

2. Understanding Custodial Violence

Custodial violence refers to any form of physical, psychological, or sexual abuse inflicted upon a person who is in the custody of law enforcement authorities,¹⁶ such as the police, prison officials, or other state functionaries. This violence may occur at any stage of custody during arrest, police interrogation, judicial custody, or while serving a prison sentence. It includes torture, illegal detention, degrading treatment, enforced disappearances, and ultimately, custodial deaths.¹⁷

While custodial violence is a global concern, it becomes particularly alarming in a democratic country like India,¹⁸ which is constitutionally committed to the protection of human dignity, rule of law, and fundamental rights. The paradox lies in the fact that the state, which is duty-bound to protect the rights of individuals, becomes the very agent of their violation when violence is inflicted upon persons under its control.

2.1 Nature and Forms of Custodial Violence

Physical assaults and beatings are not the only forms of violence that occur in prison. It includes many different forms of coercion, such as:

¹⁴ Jain, M.P., *Indian Constitutional Law*, LexisNexis, 2017.

¹⁵ Pathak, Bhavani, "Doctrinal Legal Research: Characteristics, Methodology, Limitations," *NALSAR Law Review*, 2021.

¹⁶ United Nations Office on Drugs and Crime (UNODC), *Handbook on Police Accountability, Oversight and Integrity*, 2011.

¹⁷ International Commission of Jurists, *Torture in India: A Report on the Status of Implementation of the UNCAT*, 2020.

¹⁸ Justice A.P. Shah, "Custodial Torture in India: Constitutional Contradictions," *India Human Rights Journal*, Vol. 12, 2019.

- **Physical Torture:** Beatings, electric shocks, deprivation of food or water, forced positions, and other third-degree methods intended to extract confessions or information¹⁹.
- **Psychological Torture:** Threats, humiliation, verbal abuse, prolonged solitary confinement, or sleep deprivation designed to break the will or mental resistance of the detainee²⁰.
- **Sexual Violence:** Rape, molestation, and sexual humiliation, which are often inflicted on both male and female detainees, including minors²¹.
- **Illegal Detention:** Holding an individual beyond the permissible time limit without producing them before a magistrate, often without any formal arrest or registration of a case²².
- **Fabrication of Evidence:** Planting of false evidence, forced signing of blank or self-incriminatory documents, and coercion of witnesses or family members²³.

2.2 Who Are the Victims?

The victims of custodial violence are often from vulnerable and marginalized sections of society.

These include:

- **Dalits and Adivasis:** Frequently targeted due to entrenched caste-based discrimination and systemic bias within law enforcement²⁴.
- **Religious Minorities:** Particularly Muslims, who have been disproportionately subjected to illegal detention and communal profiling in various states²⁵.
- **Poor and Illiterate Individuals:** Those who lack the knowledge of their legal rights and access to legal representation²⁶.
- **Political Dissidents and Activists:** Arrested or detained under draconian laws and sometimes subjected to torture to extract information or suppress dissent²⁷.

¹⁹ People's Union for Democratic Rights (PUDR), *Third Degree: Custodial Torture in India*, 2008.

²⁰ Amnesty International, *Mental Torture in Police Custody: A Hidden Form of Abuse*, 2017.

²¹ National Campaign on Dalit Human Rights (NCDHR), *Sexual Violence in Custody: A Study*, 2015.

²² National Human Rights Commission (NHRC), *Annual Report 2021–22*, Chapter on Custodial Justice.

²³ Vrinda Grover, "Fabrication of Evidence and Coerced Confessions in India," *EPW*, Vol. 54, No. 6, 2019.

²⁴ K.S. Subramanian, *Political Violence and the Police in India*, SAGE Publications, 2007.

²⁵ Javed Alam, "Muslims and Police Bias in India," *Economic and Political Weekly*, Vol. 43, No. 24, 2008.

²⁶ CHRI, *Poor, Illiterate, and Abused: Access to Justice in Police Custody*, 2016.

2.3 Causes of Custodial Violence

Understanding custodial violence also involves examining the root causes that enable and perpetuate such abuses within the system. These include:

- **Institutional Culture of Impunity:** Police officials and prison authorities often operate with the belief that their actions will go unchecked or unpunished, especially due to weak internal accountability mechanisms²⁸.
- **Lack of Training and Human Rights Sensitization:** Many law enforcement personnel lack training in ethical investigation techniques and human rights standards, leading to a reliance on coercive methods²⁹.
- **Pressure to Solve Cases Quickly:** Police are often under pressure from political superiors or media scrutiny to deliver fast results, which leads to the use of torture to extract confessions³⁰.
- **Weak Oversight and Monitoring:** Inadequate supervision of custodial environments and absence of independent monitoring bodies contributes to the unchecked use of force³¹.
- **Judicial Apathy and Procedural Delays:** Long-winded legal procedures, poor legal aid, and reluctance to register or pursue cases against police officers add to the culture of impunity.³²

2.4 Custodial Deaths as the Ultimate Form of Violence

The most severe outcome of custodial violence is custodial deaths. These could be the consequence of:

- Direct torture leading to organ failure or internal injuries.
- Denial of medical attention to already ailing detainees.
- Suicides under duress or psychological torture.

²⁷ Human Rights Watch, *Criminalizing Dissent, Entrenching Impunity: Human Rights in India*, 2019.

²⁸ Commonwealth Human Rights Initiative (CHRI), *Impunity in Custody: Police and Prison Accountability*, 2020.

²⁹ NHRC, *Training Manual on Human Rights for Police*, 2017.

³⁰ Prakash Singh, *Police Reforms in India: Slow Pace, Grave Consequences*, Indian Police Foundation, 2020.

³¹ Law Commission of India, *Report No. 273: Implementation of the UNCAT*, 2017.

³² Upendra Baxi, *The Crisis of the Indian Legal System*, Vikas Publishing, 1982.

- Falsified accounts of “accidental” deaths or deaths during “escape attempts³³.”

In many cases, authorities fabricate stories, manipulate post-mortem reports, and intimidate witnesses to evade responsibility. The NCRB's own data though considered underreported points to hundreds of custodial deaths every year³⁴, yet only a handful lead to convictions.

2.5 The Impact of Custodial Violence

The consequences of custodial violence extend far beyond the individual victim:

- It weakens public confidence in the legal system and law enforcement³⁵.
- It creates a culture of fear in society, especially among marginalized communities.
- It undermines constitutional values and India’s international human rights obligations³⁶.
- It leads to psychological trauma, long-term health issues, and intergenerational impacts on victims’ families³⁷.

3. Legal Framework Against Custodial Violence in India

India’s legal framework to address custodial violence is built upon a combination of constitutional provisions, statutory laws, judicial pronouncements, and international obligations³⁸. However, while the normative structure appears robust on paper, its implementation has been largely inconsistent and ineffective³⁹. This section explores the key components of the legal apparatus intended to prevent and punish custodial violence and evaluates their strengths and limitations.

³³ ACHR, *Torture in India: 2021 Status Report*, Asian Centre for Human Rights, 2021.

³⁴ NCRB, *Crime in India 2022*, Chapter on Custodial Crimes.

³⁵ Ajay Gudavarthy, “State Violence and the Crisis of Legitimacy,” *India Forum*, 2020.

³⁶ UN Human Rights Council, *Universal Periodic Review: India, 2022*, Office of the High Commissioner for Human Rights (OHCHR).

³⁷ Centre for Mental Health Law & Policy, *Psychological Impact of Torture and Custodial Violence in India*, 2019.

³⁸ Law Commission of India, *Report No. 273: Implementation of the UN Convention Against Torture*, 2017.

³⁹ Human Rights Watch, “*Bound by Brotherhood: India’s Failure to End Police Torture and Custodial Deaths*”, 2016.

3.1 Constitutional Provisions

The Constitution of India lays down a strong foundation for the protection of individual rights and liberties. Several articles directly or indirectly aim to prevent custodial torture and abuse:

- **Article 20(3):** Provides protection against self-incrimination. This means no person accused of an offence shall be compelled to be a witness against himself an essential safeguard against coercive interrogation practices⁴⁰.
- **Article 21:** Ensures individual freedom and the right to life. The Supreme Court gave the right to live with dignity a broad interpretation of Article 21 in *Maneka Gandhi v. Union of India* (1978). In the 1997 case of *DK Basu v. State of West Bengal*, it was decided that torture in custody violated Article 21⁴¹.
- **Article 22:** Protects those who have been arrested. It guarantees that no one who is arrested will be held in custody without being told why they were arrested and that they would have the opportunity to speak with and be represented by the attorney of their choosing. Additionally, it requires production to a magistrate within twenty-four hours of the arrest⁴².

Together, these provisions form the constitutional shield against arbitrary state action, including custodial violence. However, the gap between constitutional rights and ground realities remains wide.

3.2 Judicial Pronouncements

The Indian judiciary has played a pivotal role in recognizing and addressing custodial violence through progressive jurisprudence:

- **DK Basu v. State of West Bengal (1997):** Laid down 11 specific guidelines for arrest and detention, including preparation of arrest memo, informing relatives, and conducting medical examinations⁴³.

⁴⁰ The Constitution of India, Article 20(3).

⁴¹ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597; *DK Basu v. State of West Bengal*, AIR 1997 SC 610.

⁴² The Constitution of India, Article 22.

⁴³ *DK Basu v. State of West Bengal*, AIR 1997 SC 610.

- **Nilabati Behera v. State of Orissa (1993)**: Established that the State has a strict liability for custodial death and awarded compensation to the victim's family, reinforcing the principle of public law remedy for violation of fundamental rights⁴⁴.
- **Joginder Kumar v. State of U.P. (1994)**: Held that arrests must not be made routinely and without justification⁴⁵.

Despite such landmark decisions, enforcement remains a major challenge. Courts have often failed to consistently uphold these principles, especially in lower judiciary⁴⁶.

3.3 Role of the National Human Rights Commission (NHRC) and State

Human Rights Commissions (SHRCs)

- The National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs) play a critical role in monitoring custodial violence, recommending investigations, and awarding compensation⁴⁷.
- NHRC guidelines require that every custodial death be reported within 24 hours, and autopsy be conducted in a standardised manner⁴⁸.

However, the NHRC has only recommendatory powers and lacks independent prosecutorial authority, making it ineffective in enforcing accountability⁴⁹.

3.4 International Legal Framework and India's Commitments

- India is a signatory to the United Nations Convention Against Torture (UNCAT) but has not ratified it. Ratification would require enacting domestic legislation criminalizing torture explicitly⁵⁰.

⁴⁴ Nilabati Behera v. State of Orissa, AIR 1993 SC 1960.

⁴⁵ Joginder Kumar v. State of Uttar Pradesh, AIR 1994 SC 1349.

⁴⁶ Vrinda Grover, "Judicial Apathy in Cases of Custodial Torture," EPW, Vol. 50, No. 28, 2015.

⁴⁷ National Human Rights Commission (NHRC), *Functions and Powers*, www.nhrc.nic.in

⁴⁸ NHRC, *Guidelines/Instructions Regarding Custodial Deaths/Rapes*, 1993.

⁴⁹ ACHR, *Torture in India: 2021 Status Report*, Asian Centre for Human Rights, 2021.

⁵⁰ United Nations Treaty Collection, *Status of the Convention Against Torture and Other Cruel, Inhuman or*

- The Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR) both binding on India prohibit torture and cruel, inhuman, or degrading treatment⁵¹.
- India's reluctance to ratify UNCAT and enact anti-torture legislation remains a major gap in its legal framework⁵².

4. Judicial Pronouncements

The Indian judiciary has played a crucial role in shaping the legal response to custodial violence through its interpretation of constitutional rights, procedural protections, and institutional duties⁵³. While the legislative framework may be insufficient or poorly enforced, the judiciary particularly the Supreme Court and various High Courts has stepped in to fill the gaps by issuing guidelines, directing investigations, awarding compensation, and developing public law remedies⁵⁴.

Through a series of landmark judgments, Indian courts have not only recognized the gravity of custodial violence but have also attempted to institutionalize safeguards against it⁵⁵. This section explores some of the most significant judicial pronouncements that have helped evolve the jurisprudence related to custodial torture and deaths in India.

4.1 DK Basu v. State of West Bengal (1997)

Citation: (1997) 1 SCC 416

Degrading Treatment or Punishment.

⁵¹ International Covenant on Civil and Political Rights (ICCPR), Article 7; Universal Declaration of Human Rights (UDHR), Article 5.

⁵² Amnesty International India, "*India: Failing to Combat Torture*", 2019.

⁵³ R. Basu, "*Custodial Crimes and Judicial Response in India*", *Journal of Constitutional Law and Jurisprudence*, Vol. 12, 2019.

⁵⁴ Vrinda Grover, "*Judicial Interventions in Cases of Custodial Torture*", *EPW*, Vol. 50, No. 28, 2015.

⁵⁵ Law Commission of India, *Report No. 273: Implementation of the UN Convention Against Torture*, 2017.

This is perhaps the most influential judgment in the realm of custodial violence⁵⁶. The Supreme Court, in this case, laid down to be followed during arrest and detention to prevent torture and abuse in custody. These include:

- The police are required to prepare an arrest memo that is countersigned by the arrestee and witnessed.
- The person who was arrested has the right to tell a family member or friend about it.
- Medical examination must be conducted at regular intervals during custody.
- Within 24 hours, the person must be appeared in front of judge.
- Inspection memos and station diaries must record all custody details.

The Court ruled that torture in custody is a violation of Article 21 of the Constitution and that, even in cases where criminal guilt has not yet been established, courts may still award compensation as a public law remedy⁵⁷. This case continues to be a pillar of custodial violence prevention jurisprudence.

4.2 Nilabati Behera v. State of Orissa (1993)

Citation: (1993) 2 SCC 746

In this case, the petitioner's son was taken into police custody and later found dead on a railway track. The Supreme Court ruled that the State is vicariously liable for custodial deaths and awarded monetary compensation to the victim's mother⁵⁸.

This case reaffirmed that the right to life includes the right to be free from torture and inhuman treatment, and that public law compensation is a necessary tool for ensuring justice when the State fails in its constitutional obligations.

⁵⁶ *DK Basu v. State of West Bengal*, (1997) 1 SCC 416

⁵⁷ *Ibid.*, at para 35–40.

⁵⁸ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

4.3 Joginder Kumar v. State of U.P. (1994)

Citation: (1994) 4 SCC 260

This case addressed the arbitrary exercise of arrest powers. The Court held that arrest should not be made routinely and must be justified with reasons recorded in writing⁵⁹. It stated that "no arrest can be made because it is lawful to do so. The existence of power to arrest is one thing. The justification for the exercise of it is quite another."

This judgment recognized that arbitrary and unwarranted arrests are often the starting point for custodial abuse, and called for accountability at the pre-custodial stage.

4.4 People's Union for Civil Liberties (PUCL) v. State of Maharashtra (2014)

Citation: (2014) 10 SCC 635

This case dealt with fake encounter killings, where police claimed self-defense in custodial deaths. The Supreme Court issued detailed guidelines for investigating such cases, including⁶⁰:

- Mandatory registration of FIR.
- Independent investigation by a different police station or agency.
- Magisterial inquiry under Section 176 CrPC.
- Autopsy by a team of doctors.
- Involvement of the NHRC in appropriate cases.

This judgment highlighted that custodial violence can take the form of extrajudicial killings, and stressed on independent, fair investigations to prevent impunity.

⁵⁹ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260.

⁶⁰ *PUCL v. State of Maharashtra*, (2014) 10 SCC 635.

4.5 Mehmood Nayyar Azam v. State of Chhattisgarh (2012)

Citation: (2012) 8 SCC 1

In this case, a lawyer was illegally detained and subjected to verbal and physical abuse by police. The Supreme Court awarded him Rs. 5 lakhs in compensation, reinforcing the idea that public law remedies must be provided when State power is abused⁶¹.

The Court emphasized that dignity of individuals under custody must be respected, and that constitutional remedies must go beyond token compensation.

4.6 Munshi Singh Gautam v. State of M.P. (2005)

Citation: (2005) 9 SCC 631

The Court acknowledged the challenges in proving custodial torture, especially when there is no direct evidence and the victim is dead. It stressed the need for circumstantial evidence to be carefully considered and stated that delay in registering FIRs against police officials must be looked at critically⁶².

5. Challenges in Addressing Custodial Violence

- Lack of independent investigation agencies⁶³.
- Police impunity and institutional protection⁶⁴.

⁶¹ *Mehmood Nayyar Azam v. State of Chhattisgarh*, (2012) 8 SCC 1.

⁶² *Munshi Singh Gautam v. State of M.P.*, (2005) 9 SCC 631.

⁶³ Human Rights Watch, *“Broken System: Dysfunction, Abuse and Impunity in the Indian Police”*, 2009.

⁶⁴ Commonwealth Human Rights Initiative (CHRI), *“Police Accountability in India”*, 2020.

- Delays in judicial processes⁶⁵.
- Intimidation of victims and witnesses⁶⁶.
- A lack of CCTV monitoring and inadequate adherence to regulations⁶⁷.

6. Recommendations and Reforms

- Ratification and implementation of UNCAT⁶⁸.
- Enactment of a standalone anti-torture law⁶⁹.
- Strengthening of NHRC and SHRCs with binding powers⁷⁰.
- Establishment of independent custodial death investigation units⁷¹.
- Mandatory forensic and medical examination of detainees⁷².
- Installation and monitoring of CCTV in all custodial areas⁷³.
- Police reforms and sensitization training on human rights⁷⁴.

7. Conclusion

Custodial violence and deaths represent one of the most severe violations of human rights and the rule of law in India⁷⁵. Despite constitutional guarantees under Articles 20, 21, and 22, numerous statutory provisions, and repeated judicial pronouncements, incidents of torture, abuse, and death in police and judicial custody continue to occur at an alarming rate. This ongoing crisis reflects not just individual acts of brutality, but a deeper systemic failure in legal enforcement, institutional accountability, and political will⁷⁶.

The study reveals that the existing legal framework though well-intentioned is inadequately implemented. Mechanisms for redress, such as internal police inquiries, judicial proceedings, and

⁶⁵ National Crime Records Bureau (NCRB), *Crime in India 2021: Custodial Deaths Chapter*.

⁶⁶ Asian Centre for Human Rights, “*Torture Update India*”, 2019.

⁶⁷ Supreme Court of India, *Paramvir Singh Saini v. Baljit Singh*, (2020) 11 SCC 439.

⁶⁸ United Nations Human Rights Council, *Universal Periodic Review: India*, 2017.

⁶⁹ Law Commission of India, *Report No. 273: Implementation of the UN Convention Against Torture*, 2017.

⁷⁰ National Human Rights Commission, *Annual Report 2020–2021*.

⁷¹ Justice A.P. Shah, *Independent Panel Report on Police Reforms*, 2018.

⁷² Guidelines under *DK Basu v. State of West Bengal*, (1997) 1 SCC 416.

⁷³ *Paramvir Singh Saini v. Baljit Singh*, (2020) 11 SCC 439.

⁷⁴ K.S. Subramanian, “*Political Violence and the Police in India*”, Sage Publications, 2007.

⁷⁵ Vrinda Grover, “*Custodial Torture and Human Rights*”, *Economic and Political Weekly*, Vol. 50, No. 28, 2015.

⁷⁶ Amnesty International India, “*Justice Denied: Torture and Custodial Deaths in India*”, 2018.

NHRC investigations, are often ineffective due to institutional bias, procedural delays, and lack of independent oversight. The culture of impunity that surrounds law enforcement in custodial settings further worsens the problem, making it difficult for victims and their families to access justice.

Judicial interventions have played a critical role in shaping protective guidelines (e.g., *D.K. Basu v. State of West Bengal*), yet these have largely remained declaratory in nature and have not translated into consistent practice at the ground level⁷⁷. Furthermore, India's failure to enact a dedicated anti-torture law and to ratify the UN Convention Against Torture (UNCAT) demonstrates a serious gap between its international human rights commitments and domestic action⁷⁸.

Legislative reform by itself is obviously insufficient. What is desperately needed is a multifaceted strategy that includes:

- The enactment of a comprehensive anti-torture law
- Strengthening of independent oversight bodies
- Sensitization and training of police and prison personnel
- Greater public transparency and judicial accountability

Only when the rule of law prevails over arbitrary power, and justice becomes accessible and enforceable, can the Indian custodial system be brought in line with democratic and constitutional values⁷⁹. The fight against custodial violence is, therefore, not only a legal obligation but a moral and civilizational imperative in a constitutional democracy like India.

⁷⁷ R. Basu, "Custodial Crimes and Judicial Response in India", *Journal of Constitutional Law and Jurisprudence*, Vol. 12, 2019.

⁷⁸ UN Committee Against Torture, *Concluding Observations on the Initial Report of India*, 2008.

⁷⁹ Justice J.S. Verma Committee Report on Criminal Law Amendments, 2013.

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