

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

CUSTODIAL INTERROGATION AND PERSONAL LIBERTY: JUDICIAL SAFEGUARDS IN GRANTING POLICE CUSTODY

AUTHORED BY - ADV.NAVAMI P S
LLM (CRIMINAL LAW) STUDENT

Bharata Mata School of Legal Studies Aluva, Ernakulam, Kerala, India

ABSTRACT

The criminal justice system of India always seeks to regulate a balance between effective investigation of offences and the protection of individual liberty. One of the most controversial aspects of criminal procedural system is custodial interrogation, police detain the accused for the purpose of investigation. For the effectiveness of investigation custodial interrogation is necessary, at the same time it raises serious concerns about the protection of personal liberty and the mere abuse of powers of police. The legal framework of India attempts to maintain the balance through code of criminal procedure 1973, which governs arrest, detention and police custody during the investigation.

Article 21 of Indian Constitution guarantee personal liberty. Interpretation through Judiciary strengthens the safeguards by ensuring that police custody is not granted mechanically and that the rights of the accused are adequately protected Supreme Court of India highlighted the power of arrest and detention through Landmark judgments it must be exercised prudently and in accordance with the established the Legal procedures Despite the existence of statutory and constitutional safeguards, instances of custodial violence and the forceful interrogation raise the concerns regarding the misuse of police custody. Through the decisions of the cases courts have developed several guidelines. This is to ensure transparency, accountability and protection of Human Rights during custodial interrogation. The aim of the Judiciary is to safeguard arbitrary detention prevention while still allowing investigating Agencies to perform their function effectively.

The article examines the legal Framework that governs the police custody under the code of criminal procedure and analyzes the approach of Judiciary to balancing the investigative necessity with the protection of personal liberty. Also evaluate the role of judiciary oversight

in preventing custodial abuse and safeguarding the fundamental rights of the accused. The study highlights the continuing importance of judicial vigilance in ensuring that criminal investigation does not conflict with the constitutional commitment to personal liberty.

Keywords: Custodial Interrogation, Personal Liberty, Police Custody, Criminal Procedure, Judicial Safeguards, Article 21

INTRODUCTION

The criminal justice system in India constantly maintains the balance between effective investigation of offences and the protection of individual rights. The most debated aspect of this process is custodial interrogation, this is for the purpose of questioning where an accused person is placed in police custody. Custodial interrogation is the tool that extracts vital information and resolves crimes. Custodial interrogation arises serious concerns relating to personal liberty and the dignity of the individual.

Article 21¹ of the Indian Constitution guarantees the right to life and personal liberty. The scope of Article 21 widened through judicial; it extends the protection of individuals from arbitrary arrest, unlawful detention, and custodial violence. Any restriction on personal liberty must be based on fair, just, and reasonable. As a result, the powers of the police in matters of arrest and detention are limited but are controlled by legal safeguards.

In India custodial interrogation is regulated by Code of criminal procedure, 1973. The law ensures that police custody is not unlimited and it is strictly managed through judicial supervision.² Under the code, there is a 24-hour limit of police custody for an arrested person. Within 24 hours the arrested person must be produced before the magistrate.³ This is to ensure that the arrest is made through just and fair procedure. After that magistrate determines whether police custody is necessary for the purpose of investigation or if the accused should instead be sent to judicial custody.

This legal protection is designed to protect individuals, even with these legal protections, cases of custodial violence and forceful interrogation are still frequently reported. This highlights the

¹ Constitution of India, art. 21.

² Code of Criminal Procedure, 1973, s. 167

³ Code of Criminal Procedure, 1973, s. 57.

misuse of the power of police. Due to these risks, judiciary has taken step in protecting the rights of the accused. Judiciary have made it clear that Police custody does not become a default setting, it must be justified for proper reasons.

This article examines the legal provisions relating to custodial interrogation and police custody under the Code of Criminal Procedure, 1973. This look into the role of the judiciary in balancing the need for investigation with the protection of personal liberty and highlights the importance of safeguards against custodial abuse.

CONCEPT OF CUSTODIAL INTERROGATION

Custodial interrogation means the police practice of questioning an accused person, while that person is in the police custody. It is an important tool in criminal investigation, as it helps the police to uncover the truth, gather information, verify facts, and find evidence related to the offence. Effective interrogation helps in solving crimes and track down other persons connected to the offence.

However, custodial interrogation is deeply tied to the concerns relating to misuse of power and violation of human rights. When an individual is placed in police custody, he becomes isolated from their support network such as family or legal assistance. This creates a high-pressure environment and there is a possibility of coercion, intimidation, or even physical-mental abuse during interrogation. Torture and forceful confession have been frequently reported during interrogation it is a serious issue within the criminal justice system.

The legal system limits the power of police, during custodial interrogation. According to Criminal Procedure Code, 1973 police custody is not an automatic right, and it can only be granted by a magistrate. Judicial oversight is an important tool to ensure that custody is not misused for arbitrary or oppressive purposes. The main difference between police custody and judicial custody is that the judicial custody places the accused under the supervision of the court, thereby reducing the risk of abuse.

Even if there is a judicial safeguard, custodial interrogation continues to be a controversial practice. Many studies and reports point out that torture is often justified by law enforcement authorities, especially in cases where there is a pressure to solve that case quickly. at the same time, these tactics undermine the rule of law and human dignity.

As per the legal system custodial interrogation is a necessary tool but limited the power. Solving a crime is important at the same time it cannot override the fundamental rights of the accused. Therefore, interrogation must be lie within the framework of law, without crossing the lawful methods.

PERSONAL LIBERTY UNDER ARTICLE 21

Indian Constitution guarantees right to personal liberty under Article 21. Through the years, judiciary widened the scope of Article 21, by including various protections against arbitrary state action, especially when it comes to context of arrest, detention, and custodial practices.

The Supreme Court has clearly stressed that the procedure established by law must be fair, just, and reasonable, and not arbitrary or oppressive. This judicial shift has breathed new life into Article 21, also this ensured that without proper legal justification personal liberty cannot be curtailed. When it comes to custodial interrogation, this means that the powers of the police are subject to constitutional limitations and within the strict boundaries of legal accountability. Article 21 also includes the right to live with dignity. When an individual is subjected to custodial violence or coercive interrogation it means that it is fundamentally breaking the promise of Article 21. The Courts have made it crystal clear; torture, inhuman treatment, or forced confessions are incompatible with the constitutional guarantee of dignity and freedom. Beyond that Article 22 adds another layer of protection. It safeguards the arrested persons, 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. Ultimately these protections are intended to prevent arbitrary detention and ensure judicial oversight over police actions. Judicial decisions have been a driving force in strengthening these protections. courts have held that arrest should not be made in a routine manner⁴ and must be justified by necessity. Similarly, detention must not be used as a pre-trial conviction. Personal liberty cannot be sacrificed in the name of investigation.

Thus, the Article 21 acts as a double check method that ensures the police interrogation is within the legal framework and in the constitutional safeguards. It ensures that while the state has the authority to investigate offences, such power must be respect the dignity and rights of the individual.

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

POLICE CUSTODY UNDER SECTION 167 CRPC

The mechanism of police custody is governed under the Section 167 of the CrPC 1973, while that framework has now shifted to the new BNSS provisions. This section comes into operation when the investigation cannot be completed within 24-hours of arrest, as required under the law. In such situations, the accused must be produced before a magistrate, who is empowered to authorize further detention.

The need for investigation and the protection of Personal liberty is balanced through the Section 167 of CrPC. It allows investigating agency to seek police custody for the purpose of interrogation, but this is not an absolute power, also it operates under judicial supervision. The magistrate is required to apply his mind before granting such custody and must be satisfied that it is necessary for the investigation.

One of the key features of this provision is that police custody can be granted only for a limited period⁵, which is generally restricted to the initial fifteen days from the date of arrest this is in the view of CrPC, but Bharatiya Nagarik Suraksha Sanhita 2023 which replaced the CrPC has introduced a major shift in how and when this time can be used under Section 187 of the BNSS police custody is no longer strictly restricted to the initial 15 days from the date of arrest. Instead of continuous block, the 15-day police custody can now be granted in whole or in parts at any point during a much longer window. First 60 days for serious offences punishable by death, life imprisonment or at least 10 years. First 40 days for all other lesser offences, despite being spread out the cumulative total of police custody still cannot exceed 15 days. Judicial custody starts after this period. This restriction is necessary, as it aims to prevent long-term police control of the accused and reduce the risk of custodial abuse.

The distinction between police custody and judicial custody is the best way to see how law actually protects individuals. In police custody, the accused remains under the direct control of the investigating agency, whereas in judicial custody, the accused is placed under the supervision of the court and kept in jail.

In addition, Section 167 of CrPC (section187 (3) of BNSS) also introduces the concept of default bail, which becomes applicable when the investigation is not completed within the

⁵ *CBI v. Anupam J. Kulkarni*, (1992) 3 SCC 141.

prescribed time limits. This provision ensures that an investigation cannot be used as a tool for indefinite incarceration. If the police fail to file a complete chargesheet within the strictly defined legal window, the accused acquires an indefeasible right to be released on bail. There is a 90-day window and 60-day window are available. In the case of 90-day window it is applicable to serious offences punishable by death or life imprisonment or a prison term of 10 years or more and in 60-day window it is applicable to all other lesser offenses. In special laws like NDPS act or UAPA allow for extended investigation period of up to 180 days before default bail can be sought. This provision acts as an additional layer of protection against indefinite detention and strengthens the importance of timely investigation.

JUDICIAL SAFEGUARDS

The Indian judiciary acted as a shield to prevent custodial abuse and protect the fundamental rights of accused persons. Through a series of landmark rulings, courts have recognized that custodial violence and torture constitute serious violations of human rights and undermine the rule of law. Judicial intervention becomes the ultimate filter for police power. without their Intervention powers of arrest and detention must go beyond the limits prescribed by law and constitutional principles. Courts have frequently stressed that individuals in custody retain their right to dignity and humane treatment. In a civilized justice system, treating the prisoner with basic rights isn't optional. They must be protected from physical or psychological abuse; it is a fundamental right not just a policy.

The judiciary highlighted that custodial violence is not an isolated phenomenon it is a continuing challenge in the administration of justice. Reports and studies paint a troubling picture of custodial torture and deaths showing that the legal system is still struggling to bridge the gap between human rights theory and actual police conduct, despite the existence of statutory and constitutional protections in place. These reports raise serious concerns about the accountability and transparency within law enforcement authorities. Consequently, courts highlighted the need for strict compliance with procedural safeguards and effective monitoring mechanisms during arrest and detention.

In the landmark case of *DK Basu v. State of West Bengal*,⁶ 1997 the Supreme Court of India established a set of 11 mandatory guidelines regulating arrest and detention procedures. These

⁶ (1997) 1 SCC 416

guidelines mandate the police officers to prepare an arrest memo, inform the relatives of the arrested person, provide medical examination, and produce the accused before a magistrate within 24-hours. These measures aim to prevent arbitrary detention and ensure transparency in police custody. Implementation of these guidelines has established minimum standards for the treatment of person under custody.

Beyond the judicial guidelines, courts have stressed the importance of independent investigation and accountability in cases of custodial deaths. The requirement of magisterial inquiry and through proper documentation of custodial incidents serves as a safeguard against abuse of power. By enforcing these guidelines, the law ensures that law enforcement authorities remain accountable for their actions and the victims of custodial violence receive justice.

The Indian judiciary repeatedly stated that custodial torture cannot be glorified as a “necessary evil” for crime control or national security. During interrogation custodial abuse and torture violates constitutional guarantees and disturbs the public confidence in the criminal justice system. Custodial torture has been described as a serious and alarming human rights problem, This issue particularly affects socially and economically marginalised and disadvantaged sections of society.

Thus, maintaining the balance between the effective investigation and the protection of personal liberty is guided by judiciary and its oversight. The legal framework governing police custody and the principle of dignity and rights of individual is Strengthened by courts through judicial decisions and procedural guidelines.

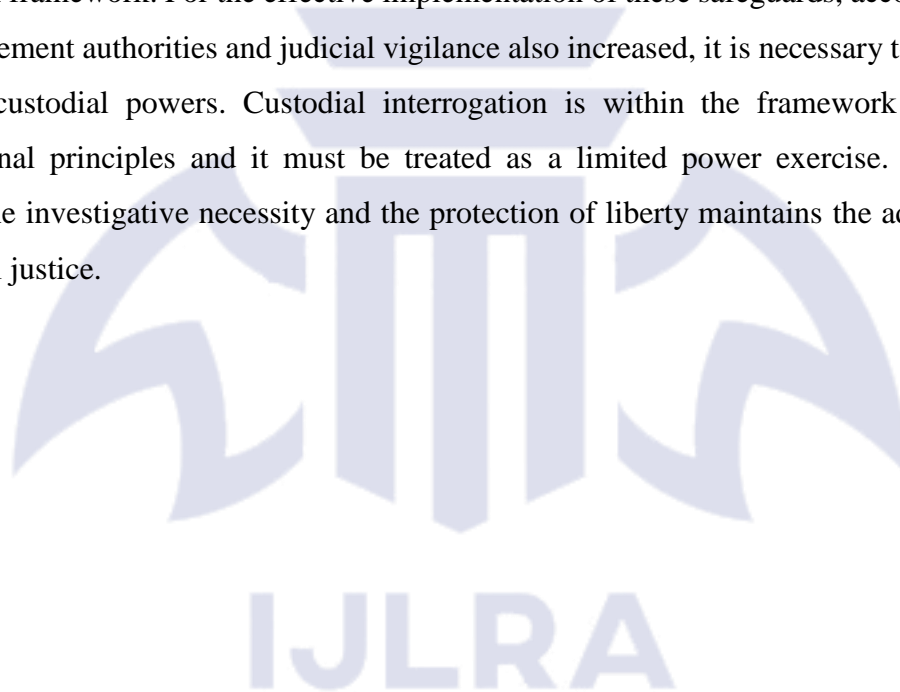
CONCLUSION

As a part of criminal investigation custodial interrogation is necessary for the effective criminal justice enforcement. It helps law enforcement authorities to gather information and ensure effective administration of justice. While exercising such powers the authorities must balance the protection of personal liberty and human dignity. For the convenience of effective investigation does not compromise the right of the accused person. Personal liberty is guaranteed under Article 21 of Indian constitution it also protects the individuals from arbitrary arrest, unlawful detention and custodial abuse.

The Code of Criminal Procedure 1973 establishes procedural safeguards to regulate police

custody and ensure judicial supervision over detention,⁷ the Code of Criminal Procedure 1973 shifted to Bharatiya Nagarik Suraksha Sanhita, 2023. Magistrate's role in authorising police custody and monitoring the conduct of investigation is indispensable. Beyond the laws on papers, the judicial decision strengthened these safeguards by laying down crystal clear guidelines governing arrest and detention procedures.

Even though there are judicial safeguards and statutory guidelines, the custodial violence and coercive interrogation continue to be reported in various parts of the country. These incidents disturb the public confidence in criminal justice system, and it also strikes the point that there is a need for more restricted enforcement of existing legal protection that means there is a gap in the legal framework. For the effective implementation of these safeguards, accountability of law enforcement authorities and judicial vigilance also increased, it is necessary to prevent the abuse of custodial powers. Custodial interrogation is within the framework of law and constitutional principles and it must be treated as a limited power exercise. The balance between the investigative necessity and the protection of liberty maintains the administration of criminal justice.



⁷ *Hussainara Khaton v. State of Bihar*, (1980) 1 SCC 81.