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CUSTODIAL DEATHS IN INDIA: LEGAL ACCOUNTABILITY MECHANISMS AND SYSTEMIC GAPS

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ABSTRACT

Custodial deaths in India remain not just a systemic but a deeply alarming human rights violations issue. Despite there being constitutional and statutory safeguards, designed to protect the right of the accused and uphold the rule of law, there remain gaps in the system that result in the failure of proper implementation of these safeguards. This paper explores the legal framework governing custodial deaths, the judiciary's response to this, and the landmark judicial pronouncements that have aspired to prevent such deaths. In addition to this, it also examines the gaps and challenges that persist despite these laws and judgements, drawing on recent statistical data and high-profile cases heard by the Supreme Court and High Courts. It highlights the structural deficiencies that lie in investigative mechanisms, the absence of a domestic anti-torture legislation, and India's laid-back attitude in framing one as is required by certain international conventions that India is a signatory to. It also compares India's approach to custodial deaths with other jurisdictions abroad, thereby suggesting valuable lessons and reforms. This study aims to eradicate the gaps between laws and implementation in the context of custodial deaths in India.

Key words – custodial deaths, custodial torture, human rights, systemic gaps.

INTRODUCTION

“Custodial death is perhaps one of the worst crimes in a civilised society governed by the Rule of Law.”¹

¹ D.K. Basu v. State of W.B., (1997) 1 SCC 416 (India).

Custody in this context can be referred to as police or judicial custody. Therefore, custodial death is the death of an individual while they are in police or judicial custody. There can be many reasons for such a death, for example – negligence, torture, or denial of medical aid. This may occur before the trial begins, during the interrogation by police, or even after conviction.² One of the most recent custodial death cases happened in Tamil Nadu in June 2025, where Ajith Kumar, a 27-year-old temporary security guard of the Badrakali Amman Temple at Madapuram village near Thirupuvanam, allegedly died under police custody. He was accused of theft and detained for questioning.³

The National Human Rights Commission (NHRC) recorded an astonishing 2,152 judicial custody deaths during just a one-year period of 2021-2022. An additional 155 in the same year happened under police custody.⁴ However, these numbers can be called a decrease, as between 2016-2022, combined, the total number of such deaths were 11,650, with states like Uttar Pradesh recording 2,630 deaths as the highest overall in India, and Tamil Nadu recording the highest in the southern region of India.⁵ Although if we were to look specifically by years, Gujarat would stand out, recording highest numbers of custodial death consecutively for three years – 2020, 2021, and 2022. However, no convictions were made against 97 reported custodial deaths in Gujarat. This data is alarming, showing that for such gruesome crimes, there are little to no consequences. So, where do the principles of “right to a fair trial” and “innocent until proven guilty” land in such circumstances?

It is not for the lack of legal framework in India that such acts continue to occur, since the Constitution has provisions for the protection of detainees under Articles 20, 21, and 22, but because of the difference between the law and the ground realities. 'Status of Policing in India Report 2025: Police Torture and (Un)Accountability' by the NGO Common Cause and the Lokniti programme of the Centre for the Study of Developing Societies (CSDS), in its report, states that a significant number of police officers ranging from top to bottom ranks in the system, believe that they should be allowed to use brutal torture and violence as the means to

² Custodial Deaths in India, NEXT IAS (July 3, 2025),

<https://www.nextias.com/ca/current-affairs/03-07-2025/custodial-deaths-in-india> (last visited July 20, 2025).

³ S. Vijay Kumar, *Sivaganga custodial death: Special team followed instructions of Manamadurai DSP to interrogate Ajith Kumar 'well'*, THE HINDU, <https://www.thehindu.com/news/national/tamil-nadu/sivaganga-custodial-death-special-team-followed-instructions-of-manamadurai-dsp-to-interrogate-ajith-kumar-well/article69759986.ece> (last visited July 20, 2025).

⁴ Custodial Deaths in India, WIKIPEDIA, https://en.wikipedia.org/wiki/Custodial_deaths_in_India (last visited July 20, 2025).

⁵ Amal Chandra, *Custodial Deaths: The Police Line We Need to Cross*, THE NEW INDIAN EXPRESS (July 23, 2025), <https://www.newindianexpress.com/opinions/2025/Jul/23/custodial-deaths-the-police-line-we-need-to-cross> (last visited July 20, 2025).

control the situation during the course of their duties. 26 per cent of such police personnel strongly agreed that they should be allowed to do so without any fear of punishment, with 45 per cent somewhat agreeing.⁶

This paper aims to explore this major issue of custodial deaths in India through a legal and systemic lens. It analyses the protections under existing constitutional and statutory framework, while also examining the judicial responses to such cases and explores the landmark judgements by the judiciary. The paper further analyses the comparative international responses in matters of custodial deaths in different nations. It raises the fundamental questions in light of these prevailing issues – how long can a democracy tolerate such killings of accused persons before they are convicted in the eyes of the law and what changes must be made to restore justice and prevent these unjustified deaths in the guise of law enforcement?

CONSTITUTIONAL AND LEGAL FRAMEWORK IN INDIA

There are various constitutional and statutory provisions that protect individuals from abuse, torture, and death. These were framed to prevent instances such as unjustified custodial deaths, and even though they have only been impactful to a certain extent, it is important that we explore them before moving forward and examining the gaps and challenges in this context.

Article 20(3) of the Constitution ensures that an accused must not be coerced to be a witness against themselves thereby protecting them from coercive interrogation.⁷ In *Maneka Gandhi v. Union of India*, the Supreme Court, referring to custody of detainees, observed that if a procedure is to deprive a person of their fundamental right to personal liberty, then that procedure must be just, fair, and reasonable.⁸ The purpose of such a procedure must be to avoid any unjustified torture and death, and in service of justice. If not, it shall be deemed violative of the constitution. Article 22(1) secures an individual's right to information by making it mandatory that the accused be informed of the grounds and charges on which they are being arrested.⁹ Similarly, Article 22(2) ensures that an accused must be presented before a magistrate within 24 hours of their arrest, and prohibits their detention beyond that period without the magistrate's consent.¹⁰

⁶ *Over 25 Percent Indian Cops Feel Mob Violence Acceptable in Certain Cases: Status of Policing Report*, NATIONAL HERALD (July 2025), <https://www.nationalheraldindia.com/national/over-25-percent-indian-cops-feel-mob-violence-acceptable-in-certain-cases-status-of-policing-report> (last visited July 20, 2025).

⁷ INDIA CONST. art. 20, cl. 3.

⁸ INDIA CONST. art. 21.

⁹ INDIA CONST. art. 22, cl. 1.

¹⁰ INDIA CONST. art. 22, cl. 2.

There are certain provisions against custodial torture and death in some statutory legislations as well, such as under the Bharatiya Nyaya Sanhita (BNS), 2023. Section 112 lays down the punishment for voluntarily causing hurt or grievous hurt in order to extort confession or information from an accused during interrogation.¹¹ It is considered a criminal offence because it could lead to false co-operating statements by the accused made in the interest of their own safety and protection, but will eventually lead to wrong convictions. Other sections that relate to murder¹² and culpable homicide not amounting to murder¹³ also cover custodial deaths, and punishment can range from life imprisonment to the death penalty.

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, under Section 35, makes it necessary for there to be reasonable grounds of suspicion thereby prohibiting arbitrary arrests.¹⁴ Section 43 ensures that the manner of arrests is justifiable and only permits using lethal force during arrests when the accused is charged with a serious offence and/or is trying to flee or resist the arrest violently.¹⁵ An important section is 198(3) which lays down that any case of death, disappearance, or rape of an accused while in custody, must be investigated by a magistrate.¹⁶

These steps to avoid custodial deaths are further cemented through various governmental and judicial guidelines. The National Human Rights Commission (NHRC), although being a recommendatory body, has always intervened in the matters of custodial torture and deaths, as these acts are against the basic principle of human rights that the Commission is established upon. It releases regular reports on the statistics of custodial deaths, the FIRs filed against these deaths, and actions taken against authorities that exercise their powers arbitrarily. Not only this but in 1993, it also issued detailed procedural guidelines that must be followed in the event of a custodial death. The NHRC mandates the reporting of custodial deaths to the Commission within 24 hours of the death, while also mandating the submission of the post-mortem report, the magisterial inquisition, and the videography of the autopsy.¹⁷

India has also been a signatory of the United Nations Convention against Torture since 1997, though it has yet to ratify it as of date.

¹¹ Bharatiya Nyaya Sanhita (BNS), 2023, § 112, No. 45, Acts of Parliament, 2023 (India).

¹² Bharatiya Nyaya Sanhita (BNS), 2023, § 103, No. 45, Acts of Parliament, 2023 (India).

¹³ Bharatiya Nyaya Sanhita (BNS), 2023, § 105, No. 45, Acts of Parliament, 2023 (India).

¹⁴ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, § 35, No. 46, Acts of Parliament, 2023 (India).

¹⁵ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, § 43, No. 46, Acts of Parliament, 2023 (India).

¹⁶ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, § 198(3), No. 46, Acts of Parliament, 2023 (India).

¹⁷ *NHRC Issues Fresh Guidelines Regarding Intimation of Custodial Death*, NATIONAL HUMAN RIGHTS COMMISSION (2024), <https://nhrc.nic.in/press-release/nhrc-issues-fresh-guidelines-regarding-intimation-custodial-death> (last visited July 21, 2025).

Despite all these provisions and guidelines, India still faces a concerning number of custodial deaths at present, which indicates a failure of the systemic methods adopted to prevent these deaths. This gap between laws and their implementation makes not only legal reform necessary, but also guides us to reconstruct the institutional structure.

JUDICIAL RESPONSE AND LANDMARK CASE LAWS

Since this has been an ever-prevailing issue, the Indian judiciary has played a crucial role in addressing it over the years. The legal frameworks have their standing in this context, but it is judicial activism that recognizes custodial deaths as violations of constitutional fundamental rights of the people of India. To understand what judiciary's response has been, we must examine not only the landmark judgements in custodial deaths but also the expansive ways in which the courts have interpreted the already existing legal framework.

D.K. Basu v. State of West Bengal (1997) is considered the most landmark ruling on custodial deaths, because it was in this judgement that the supreme Court first acknowledged the torture that accused persons go through in custody and stated it to be a violation of their fundamental right to life and personal liberty.¹⁸ It held 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 law but also that the same should be limited by law.*"¹⁹ This case brought forward 11 mandatory guidelines²⁰ issued by the court to be followed during arrest and detention, including –

- Preparation of arrest memo which must be signed by a witness during arrest.
- Notifying a family member or a friend of the accused immediately after the arrest.
- Medical examinations must be done every 48 hours to ensure the well-being of the arrested.
- Right to consult a lawyer during the interrogation period.

In Nilabati Behera v. State of Orissa, the Supreme Court awarding monetary compensation to the mother of a young man who had died in police custody, held that the State must not be given an arbitrary opportunity to absolve itself of liability in such matters where its agents

¹⁸ D.K. Basu v. State of West Bengal (1997) 1 SCC 416

¹⁹ Sanchita Kadam, *Revisiting DK Basu: The Most Relevant Judgment of All Time*, CITIZENS FOR JUSTICE AND PEACE, <https://cjp.org.in/revisiting-dk-basu-the-most-relevant-judgment-of-all-time/> (last visited July 22, 2025).

²⁰ *DK Basu Guidelines – English*, COMMONWEALTH HUMAN RIGHTS INITIATIVE, <https://www.humanrightsinitiative.org/download/1589358673DK%20Basu%20guidelines%20English.pdf> (last visited July 22, 2025).

resort to violations of fundamental rights of accused persons.²¹ It shows the court's steadfast stand to uphold the principles of justice by providing every accused a fair chance at a trial. This case reinforced that right to life under Article 21 is absolute and cannot be denied even behind bars. Similarly, in *State of Andhra Pradesh v. Challa Ramkrishna Reddy*, the court reiterated the liability of the state in custodial deaths and held that the state cannot find relief by arguing sovereign immunity as a defence where fundamental rights are violated.²²

The Supreme Court took a staunch stance against custodial deaths in *Prakash Kadam v. Ramprasad Vishwanath Gupta*. It was specifically relevant to 'encounter' killings that the police turn to as an extension of the authoritative power allotted to them as servants of the society.²³ Instead of looking at the actions of these officials as police duty, they must be held accountable as individuals. It held that when "police personnel commit murder in the name of 'encounter,' they must be considered as nothing but cold-blooded murderers and given the death penalty."²⁴

The Court, in *Mehmood Nayyar Azam v. State of Chhattisgarh*, awarded compensation for mental torture and harassment to an individual who was mistreated in police custody and reiterated that it is non-negotiable to rip an arrested person of their dignity and treat them inhumanely.²⁵

In another petition made in light of a series of alleged fake encounters in the state of Maharashtra in 2014, *People's Union for Civil Liberties (PUCL) v. State of Maharashtra*, the Supreme Court issued specific guidelines for the investigation of encounter deaths committed by police personnel. These included – mandatory filing of FIRs, independent investigation by the Criminal Investigation Department (CID) or another police team, inquiry by a magistrate, and filing of charge sheet in case the existing evidence warrants it.²⁶

Between 2016-2017, a suo moto case, *Re-Inhuman Conditions in 1382 Prisons*, came into view where the Supreme Court took note of inhumane conditions including custodial violence

²¹ *Nilabati Behera v. State of Orissa* (1993) 2 SCC 746.

²² *State of Andhra Pradesh v. Challa Ramkrishna Reddy* (2000) 5 SCC 712.

²³ *Prakash Kadam v. Ramprasad Vishwanath Gupta* (2011) 6 SCC 189.

²⁴ *Cops Convicted in Fake Encounter Cases Must Get Death Penalty: SC*, TIMES OF INDIA (May 15, 2011), <https://timesofindia.indiatimes.com/india/cops-convicted-in-fake-encounter-cases-must-get-death-penalty-sc/articleshow/8308799.cms> (last visited July 22, 2025).

²⁵ *Mehmood Nayyar Azam v. State of Chhattisgarh* (2012) 8 SCC 1.

²⁶ *People's Union for Civil Liberties (PUCL) v. State of Maharashtra* (2014) 10 SCC 635.

against prisoners in around 1382 prisons in India. It issued guidelines for the improvement of such prisoners and set standards on their treatment, promoting medical facilities for them.²⁷

One of the more recent cases was in 2020 – Yashwant Sinha v. CBI, pertaining to the custodial death of two individuals, a father and son, P. Jeyaraj and his son Bennix, who were arrested in Sathankulam, Tamil Nadu, for allegedly violating COVID-19 lockdown norms. The Supreme Court directed CBI (Central Bureau of Investigation) to take over the investigation, stating that matters of custodial deaths must have impartial investigations, free of any influence.²⁸

Several High Courts have also contributed to this narrative, following the lead of the Supreme Court and upheld the rule of law in recent judgements. For instance, in the June 2025 Tamil Nadu case involving the custodial death of one Ajith Kumar, as discussed above, the Madras High Court awarded 25 lakh rupees as interim compensation, holding that the prima facie evidence was a proof of police misconduct.²⁹ The deceased was found with 44 external injuries, along with internal damage and blunt force trauma.³⁰

Despite these strong, influential takes by courts on custodial deaths, structural and operational hurdles often impose a negative effect and contribute to the challenges against prevention of such unjustified outcomes. Trials are delayed as state data is often biased and with the non-compliance of guidelines by ground level force, it becomes harder to eradicate this issue.

SYSTEMIC GAPS AND CHALLENGES

This section of the paper highlights the actual challenges and gaps due to which the issue of custodial death still prevails in India –

1. Lack of Independent Oversight

When the police department that was implicated in a custodial death is the same one that is given the authority to investigate the incident, the results are bound to be biased and insufficient. The National Human Rights Commission (NHRC) as a recommendatory body has

²⁷ In Re: Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700.

²⁸ Yashwant Sinha v. CBI 2020 (2) SCC 338.

²⁹ Kaushik Kanan, *Tamil Nadu Custodial Death Case: Madras HC Orders ₹25 Lakh Interim Compensation to Temple Guard Ajith Kumar's Family, Directs Witness Protection Steps*, TIMES OF INDIA (July 19, 2025), <https://timesofindia.indiatimes.com/city/chennai/tamil-nadu-custodial-death-case-madras-hc-orders-rs-25-lakh-interim-compensation-to-temple-guard-ajith-kumars-family-directs-witness-protection-steps/articleshow/122832550.cms> (last visited July 22, 2025).

³⁰ *44 Injuries on Sivaganga Custodial Death Case Victim, Says Post-Mortem Report*, ECONOMIC TIMES (July 4, 2025), <https://economictimes.indiatimes.com/news/india/44-injuries-on-sivaganga-custodial-death-case-victim-says-post-mortem-report/articleshow/122240527.cms> (last visited July 22, 2025).

limited legal authority in such matters and often resorts to awarding compensation in the unquantifiable events of deaths of persons who might very well have been innocent of the charges they were accused of. On top of this, the NHRC sometimes has done this even in cases with prima facie evidence against the police departments.³¹ The NHRC report of 2023 stated that there was no independent investigation conducted apart from the police inquiry in over 75 per cent of custodial death cases in India.³²

There have been establishments of Police Complaints Authorities (PCAs), but operating in only 12 out of 28 states in India and that too mostly as mere advisory bodies due to the lack of resources and staff, it barely makes a difference on a larger scale.³³ This proves that the inter-departmental investigations are the root cause of the problem.

2. Poor Implementation of Legal Guidelines

The guidelines introduced in DK Basu case are often ignored in real practice. Even after the Supreme Court clearly directs that CCTV footage is a mandate in all interrogation rooms, 60 per cent of police stations lacked in it during the reports of several custodial deaths. According to the Status of Policing in India Report (SPIR), 2025, when inquired, only 41 per cent of police officers admitted that arrest rules are always followed, while 24 per cent stated that they are seldom or never followed. Regionally differences are huge, for instance, Karnataka has 70 per cent non compliance reports, while Kerala shows 94 per cent compliance.³⁴

3. Understaffing and Inadequate Training

The United Nations recommends that there be 222 police officers per 1,00,000 people, while India currently has around 152.80 police officers per 1,00,000 people.³⁵ This is a notable difference. There still remain 21 per cent vacancy rates in the police department in India, with some states like Bihar and West Bengal facing some 35-39 per cent rates.³⁶

³¹ *Bound by Brotherhood: India's Failure to End Killings in Police Custody*, HUMAN RIGHTS WATCH (Dec. 19, 2016), <https://www.hrw.org/report/2016/12/19/bound-brotherhood/indias-failure-end-killings-police-custody> (last visited July 23, 2025).

³² NATIONAL HUMAN RIGHTS COMMISSION, *Annual Report 2022–2023*, at https://nhrc.nic.in/sites/default/files/AR_2022-2023_EN.pdf (last visited July 23, 2025).

³³ *Police Complaints Authority (India)*, WIKIPEDIA, https://en.wikipedia.org/wiki/Police_Complaints_Authority_%28India%29 (last visited July 23, 2025).

³⁴ COMMON CAUSE, *Status of Policing in India Report 2025*, https://www.commoncause.in/wotadmin/upload/SPIR_2025.pdf (last visited July 23, 2025).

³⁵ *Police Reforms in India*, PRS LEGISLATIVE RESEARCH, <https://prsindia.org/policy/analytical-reports/police-reforms-india> (last visited July 23, 2025).

³⁶ *Revamping India's Police System*, DRISHTI IAS (Mar. 18, 2025), <https://www.drishtiias.com/daily-updates/daily-news-editorials/revamping-india-s-police-system> (last visited July 23, 2025).

4. Accountability and Convictions Failures

Conviction rates in cases of the reporting of custodial deaths are concerningly low. Gujarat, between 2017-2022 reported zero convictions in custodial deaths, even though there were more than enough custodial deaths during those years. In 2022, only 88 deaths were reported and only 2 of them resulted in convictions, which proves not only conviction rate is low but the reporting rate as well.³⁷

5. Data Discrepancies and Under-reporting

The inaccuracy in data is also a major issue. For example, in 2020, credible sources like NCRB, NHRC, and NCAT, recorded different numbers of custodial deaths – 76, 90, and 111, respectively. This can be a result of manipulation, corruption, and concealment of the truth.³⁸

6. Socio-cultural and Political Barriers

The marginalized communities suffer the most when it comes to custodial torture and deaths. Communities like dalits, adivasis, schedules castes and tribes, and the economically weaker sections, are often targeted due their inability to safeguard themselves which is a consequence of low literacy rates, being poor, and lack of information of their rights. In 2022, 41 per cent of the total custodial violence victims were from the SC/ST/OBC community.³⁹ Some police officials might engage in the killing of suspects before a proper trial in order to please or satisfy political leaders and eliminate any threats they have, and since they do the bidding of such powerful and influential leaders, they do not get into any trouble for it and often walk free.

7. Delay in the Justice

The justice system in India, catering to its massive population, is significantly slower. In 2022, there were 1 crore cases pending before the judiciary for over 5 years, and 76 per cent of prisoners were undertrial.⁴⁰ This gives certain police officials ample time to exert their violence and brutality on prisoners and commit acts of torture and fake encounters.

³⁷ NATIONAL CRIME RECORDS BUREAU, *Crime in India 2022*, <https://ncrb.gov.in/en/crime-india-2022> (last visited July 23, 2025).

³⁸ UNHRC's *Examination of India's Periodic Report After 28 Years (Part 4)*, HUMAN RIGHTS DEFENCE CENTRE, <https://hrdc.net/unhrcs-examination-of-indias-periodic-report-after-28-years-part-4> (last visited July 23, 2025).

³⁹ *DSP Challenges Custodial Violence Order*, TIMES OF INDIA (Mar. 10, 2024), <https://timesofindia.indiatimes.com/city/kolkata/dsp-challenges-custodial-violence-order/articleshow/121761720.cms> (last visited July 24, 2025).

⁴⁰ Pratap Vardhan, *Data | Justice Delayed: Over 1 Crore Cases Pending for More Than 5 Years, 76% Prisoners Are Undertrial*, THE HINDU (July 14, 2022), <https://www.thehindu.com/data/data-justice-delayed-1-crore-cases-pending-for-over-5-years-76-prisoners-are-undertrial/article65635435.ece> (last visited July 24, 2025).

These failures in implementing the legal framework designed to protect the rights and promote the well-being of accused persons, sustains a system of impunity.

COMPARATIVE & INTERNATIONAL PERSPECTIVE

Custodial deaths is not an Indian problem, it prevails globally. Therefore, to make substantial changes in India's reforms for custodial deaths, we must take a look at how other jurisdictions in different countries respond to this issue.

1. United Nations Standards

The United Nations, being an organisation established in the name of peace, has set some standards in the context of this argument. Instruments like Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) have been the voice for the humane treatment and prohibition of torture of all individuals. In 1979, India ratified Article 7 of the ICCPR, which states that – “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*”⁴¹ However, India is yet to ratify the UN Convention Against Torture (UNCAT), for which it must pass domestic legislation explicitly punishing torture and providing grievance mechanisms.

2. United Kingdom

The European Convention on Human Rights (ECHR) also prohibits use of torture⁴² which is enforced by the European Court of Human Rights in its landmark cases such as *El-Masri v. The Former Yugoslav Republic of Macedonia* (2012).⁴³

The United Kingdom has also established a body to investigate police misconduct and custodial deaths which is called Independent Office for Police Conduct (IOPC). It is a body which works free of the police department and has the authority to recommend criminal charges against police personnel or departments if misconduct is found.

United States

The United States has given the authority to investigate custodial deaths to both state and federal agencies. For example – the Civil Rights Division of the Department of Justice has authority to charge police departments for misconduct, where lethal force is used

⁴¹ International Covenant on Civil and Political Rights, art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.

⁴² European Convention on Human Rights, art. 3, Nov. 4, 1950, 213 U.N.T.S. 221.

⁴³ *El-Masri v. The Former Yugoslav Republic of Macedonia*, App. No. 39630/09, Eur. Ct. H.R. (2012).

unjustifiably.⁴⁴ Section 1983 of the Civil Rights Act also allows for compensation to be awarded to families of the victims.⁴⁵

The landmark case of *Tennessee v. Garner* (1985), helped establish guidelines for limited use of police force during arrests introduced accountability measures.⁴⁶ More recent cases like the George Floyd case of 2020, which gained popularity over social media and re-awakened the “Black Lives Matter” movement which started in 2013, also led to police reform bills in the States.⁴⁷

RECOMMENDATIONS AND WAY FORWARD

India must engage in moving forward and introducing required reforms in the context of custodial deaths in order to put a stop to this brutal and sadistic practice of torture and deaths of people in custody.

1. Enactment of a Standalone Anti-Torture Law

First and foremost, India must ratify the UN Convention Against Torture (UNCAT) to which it has been a signatory since 1997; and in doing so, it must enact an anti-torture domestic legislation of its own that specifically prevents such acts. One such framework “The Prevention of Torture Bill” was introduced in 2010 and then lapsed in Parliament. Since then, multiple efforts have been made in this state of affairs, only to be politically neglected. This must be remedied.

2. Mandatory Implementation of the Guidelines in *D.K. Basu*

The guidelines issues following the DK Basu judgement must be implemented. These guidelines are often eluded on the ground level and unapproved methods are used during arrests which is the very root cause of custodial violence. Instead of just being guidelines, these rules must be codified into statutory law so as to make it more serious in the eyes of the police officials and make them understand the necessity of their compliance. In case of non-compliance, strict measures must be taken against such individuals and they must be held accountable.

⁴⁴ 34 U.S.C. § 12601 (2018).

⁴⁵ 42 U.S.C. § 1983 (Civil Rights Act of 1871).

⁴⁶ *Tennessee v. Garner*, 471 U.S. 1 (1985).

⁴⁷ Jason Silverstein, *The global impact of George Floyd: How Black Lives Matter protests shaped movements around the world*, CBS NEWS (June 3, 2021), <https://www.cbsnews.com/news/george-floyd-black-lives-matter-impact> (last visited July 24, 2025).

3. Strengthening of the NHRC and SHRCs

The National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs), instead of just being recommendatory bodies, shall be given a more effective position where they can supervise investigation in cases of custodial violence and deaths. They must be given the authority to direct rather than recommend compliance to the police departments within a reasonable window of time.

4. Police Complaint Authority (PCA)

PCAs shall be established in all states and not just as under-staffed advisory bodies, but strong investigating units looking into the misconduct by police departments and misbehaviour of police personnel of all ranks, high and low, in cases of custodial violence, torture, rape, and deaths; thereby catering to the grievances of victims and their families.⁴⁸

5. Reforming Media Narratives

Media acts as a powerful link between citizens and the government, and in this age of social media spreading all information across the globe, it is necessary that the media takes the true and neutral narrative of custodial deaths, instead of its traditional way of showcasing it as sensational and insensitive. The media, in such matters, sometimes ends up making the viewers question the judiciary and overlooking any human rights violations in the name of sweet and poetic justice at the hands of police officials.⁴⁹ Every person is entitled to due process under the rule of law and must be given access to fair trial before condemning them to be criminals in the eyes of the people. That is the foundation of our justice system.

CONCLUSION

Custodial deaths represent one of the gravest fundamental and human rights violations in a democracy like India. India has constitutional and statutory legal framework to deal with this issue, with defined provisions preventing arbitrary exertion of police powers and prohibiting custodial violence. These despite being backed by international human rights guidelines, are evidently not enough in bringing a halt to this barbaric practice since the statistics, as discussed above, clearly indicate otherwise. The persistence of custodial deaths is a direct reminder that the implementation of these laws and guidelines has resulted in failure.

⁴⁸ Piyush Khandelwal, *Custodial Death in India: Misuse of Power*, 2 INDIAN J. INTEGRATED RSCH. L. 1, pg – 12-13, (November-December 2022).

⁴⁹ Garima Somani & Seerat Khara, *Custodial Deaths: No More Saviors in the Nation*, 4 INT'L J.L. MGMT. & HUMAN. 321, pg – 329, (2021).

This paper has coherently examined exactly where the gaps lie between the legislations and the practical execution of these laws in reality. Due to substantial drawbacks, such as – lack of independent oversight, poor police accountability, weak enforcement of guidelines, and institutional resistance to reform, the issue remains active. Only through significant and steadfast reforms, and learning from other international jurisdictions and their response to custodial violence and deaths in their respective nations, can India strive to do better and bring about finer changes in its system. We must go beyond compensatory mechanisms and rhetorical condemnations as are prescribed by the NHRC currently, due to its lack of authority. Structural reforms, strict in nature and punitive are crucial at this stage, which demands independent monitoring mechanisms and a victim-centric approach to justice.

This fight cannot be done only at the legislative level. The change has to be ethical and constitutional; and must be contributed to by all individuals, doing their own part in the situation and upholding the rule of law and the principles of justice, as is the duty of every citizen.