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Custodial Deaths and Police Brutality in India: Legal Safeguards and Implementation Gaps

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Abstract

In India, police violence and custodial killings have grown to be major human rights issues, casting doubt on the transparency and accountability of law enforcement. Torture and fatalities in police custody persist notwithstanding constitutional protections under Articles 20, 21, and 22, as well as statutory protections offered by the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Protection of Human Rights Act.This research explores the **implementation gaps** between existing legal frameworks and their enforcement, shedding light on systemic failures, misuse of authority, and inadequate monitoring mechanisms. Drawing upon **landmark judicial pronouncements** like D.K. Basu v. State of West Bengal (1997) and

statistical reports from the **National Crime Records Bureau (NCRB)**, this paper highlights the persistent patterns of custodial violence and their socio-legal implications. It also analyzes **international human rights obligations**, including the UN Convention Against Torture, and offers practical recommendations for reforms to bridge the gap between law and practice.

Keywords

Custodial Deaths, Police Brutality, Human Rights, Legal Safeguards, Judicial Activism, Implementation Gaps, Torture Prevention, NCRB Statistics, UNCAT, Accountability**.**

Introduction

Custodial deaths, often accompanied by allegations of torture, represent one of the most serious violations of the **right to life and dignity**, guaranteed under Article 21 of the Indian Constitution[1]. While the role of the police is to protect citizens and maintain law and order, instances of brutality within the confines of custody have repeatedly eroded public trust in the criminal justice system. Reports from the **National Human Rights Commission (NHRC)** and NCRB reveal that hundreds of custodial deaths occur each year[2], many of which remain unreported or under-investigated[3]. These incidents underscore the **deep-rooted culture of impunity** that persists in law enforcement agencies.

Historically, the issue of custodial violence has been a **global concern**, but in India, it has drawn particular attention due to high-profile cases like the *Jayraj-Bennix custodial death case (2020)* in Tamil Nadu[4], which sparked national outrage. Despite the judiciary's proactive role through **Public Interest Litigations (PILs)** and landmark rulings such as *Nilabati Behera v. State of*

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1 https://indiankanoon.org/doc/1199182/

2 https://en.wikipedia.org/wiki/Status_of_Policing_in_India_Report?utm_source=chatgpt.com

3 https://www.thehindu.com/news/national/ncrb-annual-crime-report-in-final-stage-mha/article69207436.ece#:~:text=NCRB%20annual%20crime%20report%20in,published%20for%20the%20year%202022.

4 https://en.wikipedia.org/wiki/Custodial_death_of_P._Jayaraj_and_J._Bennix

Orissa (1993)[5]—where the Supreme Court emphasized the State's duty to compensate victims of custodial violence—implementation of these directives remains inconsistent.

The purpose of this study is to present a thorough examination of police violence and fatalities in custody in India, with an emphasis on:

- The **historical evolution** of custodial practices and their colonial roots.
- The **legal and constitutional safeguards** designed to prevent torture and death in custody.
- The **judicial interventions** and key cases that have shaped the legal discourse.
- The **implementation gaps** and socio-political challenges that hinder reforms.

By examining these aspects, this paper seeks to highlight the urgent need for **systemic change** including better training for law enforcement, independent investigative mechanisms, and strict adherence to human rights norms.

4. Literature Review

The issue of custodial deaths and police brutality in India has been extensively discussed by legal scholars, human rights activists, and policy analysts. A review of existing literature highlights three critical aspects: the historical roots of custodial practices, the legal safeguards available under Indian and international law, and the persisting gaps in implementation and accountability.

4.1 Historical and Socio-Legal Context

5https://indiankanoon.org/doc/1628260/

Several researchers trace the origin of custodial violence to **colonial policing systems**, which prioritized control over citizens rather than service to society[6]. Scholars like K. S. Subramanian emphasize that the **Indian Police Act of 1861**, drafted during British rule, created a **force-oriented policing system** designed to suppress dissent rather than protect rights (Subramanian, 2009). This colonial legacy, combined with inadequate reforms post-independence, has led to the **continuation of authoritarian practices** that often result in human rights violations.

4.2 Legal Safeguards and Constitutional Provisions

The **Indian Constitution** provides multiple layers of protection against custodial violence. Article 21 guarantees the **right to life and personal liberty**, while Article 22 safeguards the rights of detainees, including protection against arbitrary arrest and the right to legal counsel. Statutory laws like **Sections 330 and 331 of the Indian Penal Code (IPC)** criminalize torture by public servants. Additionally, provisions of the **Code of Criminal Procedure (CrPC)**, particularly Section 41B, lay down guidelines for the **arrest and detention of suspects**.

Despite these safeguards, several studies argue that **mere legal provisions are insufficient** unless backed by **stringent enforcement**. Jinee Lokaneeta, in her work *The Truth Machines: Policing, Violence, and Scientific Interrogations in India*[7], argues that law enforcement often bypasses these constitutional mandates due to **weak accountability mechanisms** and **political interference** (Lokaneeta, 2020).

4.3 Judicial Interventions and Landmark Judgments

Judicial activism has played a crucial role in curbing custodial violence. The Supreme Court, through landmark rulings like *D.K. Basu v. State of West Bengal* (1997), issued **guidelines for the arrest and detention of individuals**[8], emphasizing transparency and accountability.

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6 https://www.humanrightsinitiative.org/programs/aj/police/papers/advocacy_paper_police_act_1861.pdf?utm_source=chatgpt.com

7 https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1093&context=slr

8 https://blog.ipleaders.in/dk-basu-vs-state-of-west-bengal-1997-case-analysis/

Similarly, in *Nilabati Behera v. State of Orissa* (1993), the Court upheld the principle that the State is **liable to pay compensation** for violations of the right to life in cases of custodial deaths.

Legal scholars such as Justice A. P. Shah have observed that while these judgments are groundbreaking, the **implementation remains poor**, primarily due to inadequate training of police officers and **institutional resistance** to change (Shah, 2018).

4.4 Reports and Data from NHRC and NCRB

The **National Human Rights Commission (NHRC)** has consistently documented cases of custodial torture and deaths. Its annual reports stress the urgent need for **police reforms and independent investigative bodies**. According to NCRB's *Crime in India Report 2023*[9], there were over **160 custodial deaths reported in a single year**, with **less than 20% of cases resulting in prosecution** of the guilty officers (NCRB, 2023)[10].

Human Rights Watch (2016) observed that **systemic underreporting** and manipulation of medical records often lead to **zero accountability**, as families of victims face social and economic pressure to withdraw complaints.

4.5 International Human Rights Standards

India is a signatory to various international conventions, including the **Universal Declaration of Human Rights (UDHR)** and the **International Covenant on Civil and Political Rights (ICCPR)**[11], both of which prohibit torture and inhumane treatment. However, India has failed to adopt the United Nations Convention Against Torture (UNCAT). According to a study by the Asian Human Rights Commission (2021), this delay reflects a **lack of political will** to adopt international standards into domestic law.

4.6 Identified Gaps in Literature

9https://factly.in/data-no-conviction-of-police-personnel-for-human-rights-violations-since-2018/?utm_source=chatgpt.com

10https://www.hindustantimes.com/analysis/what-data-tells-us-of-police-accountability-and-what-it-doesnt-101701781515745.html?utm_source=chatgpt.com

11https://cjp.org.in/why-has-india-still-not-ratified-un-convention-against-torture/?utm_source=chatgpt.com

The existing literature highlights several critical gaps:

- **Lack of empirical data** on unreported custodial deaths.
- Not Enough study of intersectionality, such as the risk of marginalized communities **(Dalits, Adivasis, and minorities).**
- **Weak mechanisms for victim compensation and rehabilitation**.
- **Poor monitoring and accountability structures** within police departments.

These gaps necessitate a more comprehensive approach that combines **legal, social, and institutional reforms** with **community-based oversight mechanisms**.

5. Research Methodology

In order to examine police brutality and custodial deaths in India, this study uses a doctrinal and qualitative research strategy, focusing on the legal system, court rulings, and international human rights commitments. It entails a thorough analysis of pertinent IPC provisions (Sections 330–331), constitutional protections (Articles 20, 21, and 22), and seminal rulings . Human Rights Watch, 2016).

6. Historical Evolution of Custodial Practices

Understanding the issue of custodial deaths in India requires a deep dive into the **historical evolution of policing and custodial practices**. From the **colonial era** to the present day, the structure and functioning of law enforcement have undergone significant transformations, yet many of the **authoritarian methods** from colonial rule remain embedded in the system.

6.1 Colonial Roots of Policing in India

The British colonial government is where the current Indian police system had its start, especially with the Indian Police Act of 1861, which was passed in reaction to the Revolt of 1857. The colonial rulers viewed the police primarily as an instrument of control, designed to suppress dissent and maintain imperial authority rather than protect the rights of citizens. As a result, policing during this period was characterized by coercion, intimidation, and custodial torture as routine methods of investigation. The 1861 Act also introduced a hierarchical, top-down command structure that emphasized loyalty to the state over accountability to the people, creating a system that continues to influence policing practices in India today.

Following independence in 1947, it was expected that the policing system would be restructured to reflect the values of a democratic republic. While the Constitution of India (1950) introduced fundamental rights—particularly Articles 20, 21, and 22—to protect individuals against arbitrary detention and custodial torture, the colonial policing framework was largely retained. Although multiple commissions, such as the National Police Commission (1977–1981) and the Padmanabhaiah Committee (2000), recommended reforms including demilitarization, improved custodial practices, and independent oversight mechanisms, most proposals were either ignored or implemented in a diluted manner.

The Emergency period (1975–77) further exposed the misuse of police powers, as widespread custodial torture, mass arrests, and illegal detentions became common. This era prompted stronger judicial interventions, laying the foundation for landmark rulings like *Formal arrest guidelines were established in D.K. Basu v. State of West Bengal (1997) and Prakash Singh v. Union of India (2006)*, which directed comprehensive police reforms aimed at reducing political interference. In the 21st century, there have been attempts to modernize policing through measures such as human rights training programs and CCTV installation in police stations. However, the persistence of over 100 custodial deaths annually, as reported by NCRB (2023), underscores the gap between legal safeguards and their enforcement. Experts continue to highlight that the colonial mindset, lack of independent investigative bodies, and culture of impunity remain significant barriers to achieving citizen-centric policing in India.

7. Legal and Constitutional Framework

The Indian legal system provides a strong **constitutional and statutory framework** to protect individuals from custodial violence and ensure accountability of law enforcement agencies.But even with these protections, there is still a significant disconnect between the law as it is written and as it is applied.This section explores the **constitutional rights**, **statutory provisions**, **human rights mechanisms**, and **judicial pronouncements** that collectively aim to prevent custodial deaths.

7.1 Constitutional Safeguards

The Constitution of India acts as the **bedrock of human rights protections**, with key provisions directly addressing the rights of individuals in custody:

- **Article 20(3)**: Protects an accused person from self-incrimination, prohibiting forced confessions or coercive interrogation methods.[12]

- **Article 21**: Guarantees the **right to life and personal liberty**, which has been expansively interpreted by the Supreme Court to include freedom from torture and inhumane treatment (Maneka Gandhi v. Union of India, 1978).[13]

- **Article 22**: Provides safeguards against **arbitrary arrest and detention**, including the right to be informed of the grounds of arrest, the right to legal representation, and the right to be presented before a magistrate within 24 hours.

The Supreme Court, in *Sunil Batra v. Delhi Administration* (1978)[14], affirmed that **torture and ill-treatment of prisoners violate Article 21**, setting the tone for future judicial interventions.

7.2 Statutory Provisions: IPC and CrPC

12https://www.indiacode.nic.in/bitstream/123456789/16124/1/the_constitution_of_india.pdf
13https://en.wikipedia.org/wiki/Maneka_Gandhi_v._Union_of_India#:~:text=Maneka%20Gandhi%20v.,Laws%20applied

14https://indiankanoon.org/doc/778810/

The **Indian Penal Code (IPC)** contains specific provisions aimed at punishing acts of custodial violence:

- **Sections 330 and 331 make it illegal to cause harm or serious harm in order to coerce confessions.**
- **Section 302: Offers a penalty for murder, which is relevant when police officers cause deaths in custody.**
- **Unlawful incarceration to coerce information or a confession is punishable under Section 348.**

The **Code of Criminal Procedure (CrPC)** supplements these provisions by laying down procedural safeguards:

- **Section 41B**: Mandates preparation of an arrest memo, verified by a witness, and notification of the arrest to relatives.

- **Section 54**: Provides for the **medical examination of the accused** by a registered doctor to document injuries sustained during custody.

- **Section 176(1A)**: Requires **judicial inquiry into deaths or rapes in custody**, a measure aimed at ensuring transparency.

7.3 Human Rights Mechanisms: NHRC and PHRA

The **Protection of Human Rights Act, 1993 (PHRA)** established the **National Human Rights Commission (NHRC)**, which plays a crucial role in investigating custodial deaths. The NHRC has issued **detailed guidelines**, such as mandatory reporting of custodial deaths within **24 hours** and the requirement for **post-mortem examinations under videography** (NHRC Guidelines, 2010).

However, studies show that compliance with NHRC directives remains **patchy**, with many state police forces failing to adhere strictly to reporting and investigative protocols (Amnesty International, 2022).

7.4 Judicial Pronouncements

The Indian judiciary has taken a proactive stance in bridging the gap between **legislation and enforcement**:

- Eleven arrest and detention guidelines were established in **D.K. Basu v. State of West Bengal (1997),** including the need to prepare an arrest memo, examine detainees medically, and provide access to legal representation.
- The **1993 case of Nilabati Behera v. State of Orissa** established the idea that the state is liable for deaths that occur while a person is in custody and that the relatives of the victims may receive financial compensation.
- In **Joginder Kumar v. State of Uttar Pradesh (1994),** it was argued that an arrest must be warranted based on necessity and should not be made on a regular basis.
- In the **2006 case Prakash Singh v. Union of India,** extensive police reforms were mandated, including the creation of State Security Commissions to lessen political meddling.

7.5 Analysis of Legal Framework

While India's legal and constitutional provisions are robust on paper, the **implementation gaps are striking**. Judicial guidelines like those in *D.K. Basu* are often **ignored in practice**, and the **rate of conviction in cases of custodial deaths remains extremely low** (NCRB, 2023). The absence of an **independent investigative agency** for such cases further exacerbates the problem.

8. Judicial Responses and Landmark Cases

Legal protections against police brutality and deaths in custody have been shaped in large part by the Indian judiciary. The courts have frequently underlined the necessity for systemic changes, state responsibility, and the defense of human rights in historic decisions. By frequently establishing useful rules to stop custodial violence, judicial activism has played a crucial role in filling the gaps created by legislative and executive lethargy.

8.1 D.K. Basu v. State of West Bengal (1997)

Many people consider this case to be the foundation of Indian custodial rights law. In D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, the Supreme Court established 11 comprehensive rules to be adhered to during arrests and detentions in response to an increase in the number of torture and death situations that occur in incarceration. Making an arrest memo that included the date and time was one of them.

Detainees must undergo mandatory medical examinations every 48 hours.

Notifying friends or family about the arrest.

Make provisions for legal counsel.

The Court made it plain that disregarding these rules would result in disciplinary and legal repercussions, ruling that "custodial torture is a naked violation of human dignity."

8.2 Nilabati Behera v. State of Orissa (1993)

In the case of Nilabati Behera v. State of Orissa, (1993) 2 SCC 746, the Supreme Court acknowledged that the State was obligated to provide compensation in cases where someone died while in custody. According to the Court, "the State cannot plead sovereign immunity" in cases involving violations of the fundamental right to life guaranteed by Article 21. By establishing the idea of monetary restitution as a public law remedy, this decision signaled a dramatic change a principle that continues to guide courts in awarding relief to victims' families.[15]

8.3 Joginder Kumar v. State of Uttar Pradesh (1994)

The Supreme Court, in *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260[16], discussed the arbitrary arrest powers. The Court noted that police officers must provide justification for

15https://www.benchnotes.in/post/nilabati-behera-vs-state-of-orissa-and-others-case-summary-1993-2-scc-746-custodial-death?utm_source=chatgpt.com
16https://www.legalserviceindia.com/legal/legal/article-18572-the-necessity-of-reasonable-justification-in-arrest-a-scrutiny-of-joginder-kumar-v-s-uttar-pradesh-1994-with-reference-to-statutory-safeguards-and-judicial-precedents.html?utm_source=chatgpt.com

their arrests and that they "should not be routine." This ruling ensured that needless detention does not result in torture while in custody by striking a balance between police authority and individual liberties.

8.4 Prakash Singh v. Union of India (2006)

An important turning point in police reforms was the Prakash Singh judgment. State Security Commissions and Police Complaints Authorities are two of the seven instructions the Supreme Court issued to restructure the police force. These procedures were designed to lessen political meddling and improve accountability,[17] addressing the root causes of custodial violence in the process. (*Prakash Singh v. Union of India*, (2006) 8 SCC 1).[18]

8.5 Other Significant Cases

- The court determined that inmates maintain their fundamental rights and cannot be subjected to arbitrary torture or solitary imprisonment in Sunil Batra v. Delhi Administration, (1978) 4 SCC 494.
- In Sheela Barse v. State of Maharashtra, (1983) 2 SCC 96, the Court stressed the importance of providing women inmates with legal assistance and a timely trial in order to lessen their susceptibility to abuse.
- In Raghbir Singh v. State of Haryana, (1980) 3 SCC 70, the Court reaffirmed that confessions acquired under duress cannot be entered as evidence and denounced torture as "inhuman" and "uncivilized."

8.6 Judicial Activism and Contemporary Challenges

While judicial pronouncements have set **progressive standards**, enforcement at the ground level remains problematic. For instance, compliance with *D.K. Basu* guidelines is often superficial, with police departments failing to document arrests or conduct mandatory medical checks

17 https://en.wikipedia.org/wiki/Indian_Police_Service?utm_source=chatgpt.com
18 https://thewire.in/government/sc-police-reforms-directives

(Amnesty International, 2022). Moreover, **low conviction rates**[19] for officers accused in custodial deaths—less than **20% according to NCRB data (2023)**—underscore the persistence of **institutional impunity**.

9. Patterns and Causes of Custodial Deaths

Custodial deaths are not isolated occurrences; rather, they are a sign of more serious structural and cultural problems with the criminal justice and policing systems in India. An examination of trends shows that systemic flaws, including as inadequate training, an over-reliance on harsh interrogation, and a lackluster accountability framework, frequently lead to these deaths.

9.1 Statistical Patterns

According to the **NCRB's Crime in India Report 2023**, over **160 custodial deaths** were reported nationwide in a single year, though human rights organizations argue that the **actual numbers are likely higher** due to widespread underreporting (NCRB, 2023).[20] Most victims are **undertrials**—individuals who have not been convicted of any crime but are held in police or judicial custody.[21]

Reports from **NHRC** also highlight that a significant proportion of custodial deaths occur within the **first 48 hours of arrest**, indicating that **interrogation methods involving torture** remain prevalent (NHRC Annual Report, 2022)[22].

9.2 Socio-Economic and Marginalized Groups

19 https://www.news18.com/news/india/255-custodial-deaths-between-2017-2019-but-only-3-police-personnel-convicted-shows-ncrb-data-2929841.html?utm_source=chatgpt.com
20 https://www.indiaspend.com/5-deaths-in-police-judicial-custody-every-day-over-10-years-but-few-convictions?utm_source=chatgpt.com
21 https://theleaflet.in/explainer/unhrcs-examination-of-indias-periodic-report-after-28-years-part-4?utm_source=chatgpt.com
22 https://indianexpress.com/article/india/custodial-deaths-policemen-convicted-7624657/?utm_source=chatgpt.com

Custodial violence disproportionately affects individuals from **marginalized communities**, including Dalits, Adivasis, and economically weaker sections. Studies by **Human Rights Watch** (2016) reveal that these groups are **overrepresented in police custody**, often due to systemic discrimination and lack of legal resources. The **Jayraj-Bennix case (2020)**, involving the custodial death of two shopkeepers from a lower socio-economic background, is a stark reminder of how **power imbalances** amplify vulnerability.[23]

9.3 Police Culture and Interrogation Methods

One of the key causes of custodial deaths is the **"confession-centric" investigation model**, where police rely heavily on extracting confessions rather than **evidence-based investigations**. This approach, inherited from colonial policing[24], often results in **brutal interrogation tactics** such as beatings, sleep deprivation, and electric shocks (Lokaneeta, 2020).

The pressure on law enforcement agencies to **"solve cases quickly"** adds to the problem. Instead of following scientific methods of investigation, officers sometimes resort to **shortcuts that involve torture**, which can tragically result in death.[25]

9.4 Lack of Accountability and Oversight

Because of institutional impunity, custodial fatalities frequently go unpunished. The NCRB (2023) reports that conviction rates are startlingly low and that only a small percentage of cases lead to prosecution. There is a conflict of interest because the same police department typically conducts the investigations into these deaths. Even though judicial investigations are required by Section 176(1A) of the CrPC, they are usually postponed or carried out in a superficial manner.

9.5 Medical Negligence and Poor Prison Conditions

Medical malpractice and unfavorable detention conditions are frequently the causes of deaths in custody rather than torture. The risk of illness and death in prison is greatly increased by

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23 https://en.wikipedia.org/wiki/Custodial_deaths_in_India?utm_source=chatgpt.com
24 https://factly.in/data-no-conviction-of-police-personnel-for-human-rights-violations-since-2018/?utm_source=chatgpt.com
25 https://www.reddit.com/r/india/comments/1jnuyf5/study_finds_alarming_trend_of_islamophobia/?utm_source=chatgpt.com

overcrowded lock-ups, unhygienic conditions, and limited access to prompt medical care (NHRC, 2022).

9.6 Political Interference and Pressure

Acts of brutality may be encouraged or protected by the political and hierarchical pressures that police officers frequently face. According to Shah (2018), political patronage has the potential to shield corrupt officials from punishment and criminal charges.

9.7 Key Observations

- Inadequate training and antiquated investigative techniques can be summed up as the main reasons why custodial deaths occur.
- absence of impartial oversight procedures.
- prejudice in society against marginalized groups.
- pressure to get convictions or confessions quickly.

These systemic flaws highlight why **custodial violence persists despite strong constitutional and statutory safeguards**.

10. Statistical Overview and Case Studies

Custodial deaths in India are not just individual tragedies but indicators of **systemic weaknesses** in the country's law enforcement and criminal justice mechanisms. An examination of **statistical trends and real-life case studies** reveals the alarming frequency of these incidents and the gaps in accountability.

10.1 NCRB Data and Trends

Over 160 cases of custodial deaths nationwide were reported by the National Crime Records Bureau (NCRB) in its Crime in India Report 2023; more than 60% of these deaths took place in police custody, with the remaining cases occurring in judicial custody (NCRB, 2023). Notably,

conviction rates are still below 5% and chargesheets were filed in less than 20% of these cases, demonstrating a severe lack of accountability.[26]

According to a 10-year trend study of NCRB data (2013–2023), the average annual number of reported custodial deaths has stayed reasonably stable at 120–150. Experts contend that this number does not include occurrences that go unreported, particularly in rural or isolated locations where victims are deterred from reporting incidents by family intimidation and fear of retaliation.(NHRC Annual Report, 2022)[27].

10.2 NHRC Findings

The **National Human Rights Commission (NHRC)** receives hundreds of complaints related to custodial torture and deaths each year. According to the NHRC's *2022 Annual Report*, **human rights violations in custody often occur within the first 48 hours of arrest**, a period where detainees are most vulnerable due to lack of legal representation or family access (NHRC, 2022).[28]

The NHRC has also criticized **state police forces** for failing to comply with its **guidelines on immediate reporting and videography of post-mortems**, which are crucial for ensuring transparency.

10.3 Case Study: Jayraj-Bennix Custodial Deaths (2020)

One of the most shocking incidents of custodial violence in recent years was the **Jayraj-Bennix case (2020)** in Tamil Nadu. The father-son duo was arrested for allegedly violating COVID-19 lockdown rules and was later subjected to **severe torture in police custody**, leading to their deaths. The case drew **nationwide outrage**, sparking demands for police accountability and reform (The Hindu, 2020).[29]

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26 https://indianexpress.com/article/india/custodial-deaths-policemen-convicted-7624657/?utm_source=chatgpt.com
27 https://www.newindianexpress.com/nation/2020/Oct/03/in-threeyears-255-died-in-police-custody-only-threecops-convicted-ncrb-data-2205123.html
28 https://en.wikipedia.org/wiki/Death_in_custody?utm_source=chatgpt.com
29 https://www.reddit.com/r/unitedstatesofindia/comments/iden2q/hundreds_of_police_killings_in_india_but_no_mass/?utm_source=chatgpt.com

Several police officers were arrested after the Madras High Court took suo motu notice and charged the CBI with conducting the probe. However, since innumerable comparable occurrences remain unreported, this case also demonstrated the need of public attention in ensuring justice.

10.4 Case Study: Vikas Dubey Encounter (2020)

The contentious encounter death of gangster Vikas Dubey in Uttar Pradesh in 2020 sparked worries about the police's use of "extrajudicial methods." This case illustrated the hazy boundaries between justice and retribution, even though it was not a custodial death in the traditional sense with questions raised about whether the police bypassed due process[30]. The Supreme Court directed the formation of a **judicial commission**, which later criticized procedural lapses in the incident (Indian Express, 2020).

10.5 Other Notable Cases

- **Udayakumar Case (2005, Kerala):** A youth was tortured to death in police custody, leading to the conviction of several police officials after years of legal struggle.

- **Nishant Katara Case (2002):** Though not a custodial death, the case highlighted **police collusion and mishandling** of evidence, showcasing how accountability often breaks
- Down

10.6 Key Observations

- An analysis of data and instances reveals recurrent trends:
- The majority of victims come from socioeconomically marginalized groups.
- Mechanisms for police accountability are reactive; they are frequently only implemented in response to public or media pressure.
- The public's confidence in law enforcement is being undermined by the incredibly low conviction and prosecution rates.

30https://en.wikipedia.org/wiki/Status_of_Policing_in_India_Report?utm_source=chatgpt.com

11. International Human Rights Framework

The issue of custodial deaths and police brutality is not merely a domestic concern; it is recognized globally as a **serious violation of fundamental human rights**. International conventions and guidelines set **universal standards** for the treatment of detainees, emphasizing dignity, fairness, and protection against torture. India, as a member of several international treaties and organizations, is bound by these global obligations, though its **domestic compliance remains questionable**.

11.1 Universal Declaration of Human Rights (UDHR)

The cornerstone of contemporary human rights law is the 1948 United Nations-adopted UDHR.

The rights to life, liberty, and personal security are guaranteed by Article 3.

Torture and cruel, inhuman, or humiliating treatment or punishment are expressly forbidden by Article 5.

The UDHR acts as a moral and ethical guide for all countries, including India, to protect people in detention even though it is not legally binding.

11.2 International Covenant on Civil and Political Rights (ICCPR)

India is a **signatory to the ICCPR (1966)**, which is legally binding on its member states.

- The right to life is protected by Article 6, while torture and humiliating treatment are forbidden by Article 7**.**
- **Article 9** emphasizes the **right to liberty and security**, including protection from arbitrary arrest.

  The **Human Rights Committee**, which monitors ICCPR compliance, has often expressed concern over **custodial torture and deaths in India**, urging reforms in interrogation methods and prison conditions (UNHRC Report, 2021).

11.3 United Nations Convention Against Torture (UNCAT)

The **UNCAT (1984)** is the most comprehensive global treaty on the prevention of tortureIndia has not ratified UNCAT despite having signed it in 1997, claiming that domestic laws are necessary. This reluctance has been criticized by human rights organizations like **Amnesty International (2022)**, as ratification would require India to enact **stringent anti-torture laws** and establish **independent mechanisms for investigation**.[31]

11.4 Other International Instruments

India is also a party to several other **human rights charters and declarations**, such as:

- The 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment placed a strong emphasis on treating detainees fairly and providing them with medical attention.
- **The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules, 2015)** – which call for **humane conditions, prohibition of torture, and access to legal aid**.

11.5 Comparative Global Practices

Many countries have implemented **robust mechanisms** to prevent custodial torture. For example:

- **United Kingdom:** The **Police and Criminal Evidence Act (PACE), 1984** ensures audio-visual recording of interrogations and independent monitoring of detention centers.

- **United States:** The **Miranda rights** protect detainees from coercive interrogation, mandating the right to remain silent and consult a lawyer.

India, in contrast, lacks a **statutory framework for independent oversight** of police interrogations, which leaves detainees vulnerable to abuse.

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31 https://www.shankariasparliament.com/current-affairs/united-nations-convention-against-torture?utm_source=chatgpt.com

11.6 Gaps in India's International Compliance

While India's Constitution and laws largely reflect **international human rights norms**, the absence of **specific anti-torture legislation** and the **non-ratification of UNCAT** create a **gap between global standards and domestic enforcement**. This gap undermines India's image as a **democratic nation committed to human rights**, particularly when custodial deaths remain frequent and under-prosecuted.

12. Implementation Gaps and Challenges

India has a robust legal and constitutional framework, but the reality of police abuse and fatalities in custody exposes significant inadequacies in supervision and enforcement. While courts have issued landmark guidelines and the NHRC has laid down procedural safeguards, these measures often **fail to translate into ground-level compliance**. The implementation gaps are rooted in **systemic flaws, lack of political will, and institutional inertia**.

12.1 Weak Enforcement of Legal Safeguards

The **D.K. Basu guidelines (1997)** were designed to make arrests and detentions more transparent and accountable. However, multiple studies have shown that these safeguards are **rarely followed in letter or spirit** (Shah, 2018). For example, police officers often neglect to prepare arrest memos or delay informing the families of detainees, which undermines the purpose of these protective measures.

12.2 Lack of Political Will

One of the major challenges in addressing custodial deaths is the **absence of political commitment**. While governments at both the central and state levels acknowledge the problem, **reforms in policing are often sidelined** due to political interference. The implementation of **Prakash Singh directives (2006)**—which called for independent Police Complaints Authorities—has been **patchy and inconsistent** across states (Human Rights Watch, 2016).

12.3 Institutional Impunity and Poor Accountability

The current system allows police officers accused of custodial violence to be **investigated by their own colleagues**, creating a **conflict of interest**. The NCRB data (2023) shows that in the majority of custodial death cases, **no FIR is registered against the accused officers**, and conviction rates remain below 5%. This **culture of impunity** emboldens errant officers to continue using violent methods.

12.4 Ineffectiveness of Oversight Bodies

While the **National Human Rights Commission (NHRC)** and State Human Rights Commissions are mandated to monitor custodial deaths, their recommendations are **advisory in nature** and often ignored. Delays in reporting custodial deaths and inadequate follow-up investigations **weaken the deterrent effect** of these institutions (NHRC, 2022).

12.5 Resource Constraints and Training Gaps

India's police force is **understaffed and overburdened**, which often leads to shortcuts in investigation. There is also a **lack of professional training** in scientific and forensic methods of interrogation. Many officers are still reliant on **coercive tactics inherited from colonial policing models**, which perpetuate violence (Subramanian, 2009).

12.6 Judicial Delays and Legal Loopholes

Even when cases of custodial deaths reach courts, the **slow pace of judicial proceedings** means justice is often delayed or denied. The burden of proof lies heavily on the victims' families, who may lack the resources or courage to pursue lengthy legal battles. Additionally, provisions like **Section 197 of the CrPC**, which require prior sanction to prosecute public servants, further **shield police officers from accountability**.

12.7 Public Apathy and Lack of Awareness

Custodial deaths often fail to garner sustained public attention unless a particularly brutal case (such as the **Jayraj-Bennix case, 2020**) makes headlines. This **lack of consistent public pressure** allows the issue to remain in the background, with **minimal policy-level change**.

Key Observations

- **Legal protections exist but are weakly enforced.**
- **Oversight mechanisms lack teeth**, as their recommendations are rarely binding.
- **Political and institutional resistance** continues to obstruct meaningful police reforms.

These challenges highlight that addressing custodial violence requires **more than just laws—it demands systemic reforms, independent oversight, and a cultural shift within policing practices**.

13. Critical Analysis and Discussion

Custodial deaths in India reveal a **serious gap between law and enforcement**. Though constitutional protections under Articles 20, 21, and 22, along with laws like the IPC and CrPC, aim to prevent torture, their **practical implementation is weak**. Landmark judgments such as *D.K. Basu v. State of W.B.* (1997) and *Nilabati Behera v. State of Orissa* (1993) have laid strong foundations for accountability and victim compensation, but compliance is inconsistent and often dependent on media or public outrage.

Judicial activism has significantly contributed to addressing custodial violence by issuing guidelines, mandating compensation, and demanding independent probes. However, **courts alone cannot bring systemic change**. The colonial legacy of policing—focused on control rather than service—combined with political interference, understaffed police forces, and lack of forensic tools, continues to perpetuate a cycle of violence and impunity.

To bridge these gaps, **structural reforms are essential**. India must prioritize evidence-based investigations over confession-driven methods, ratify the UN Convention Against Torture (UNCAT), strengthen independent oversight bodies, and ensure better police training and accountability. Without these steps, custodial deaths will continue to tarnish the credibility of the justice system.

14. Recommendations and Reforms

To tackle custodial deaths effectively, India must adopt **comprehensive police reforms** that go beyond superficial measures. The **Prakash Singh directives (2006)** on police accountability should be implemented uniformly across states, with the creation of **independent Police Complaints Authorities**. Mandatory use of **CCTV cameras in police stations**, digital documentation of arrests, and real-time monitoring can ensure greater transparency.

Another critical step is **ratifying the UN Convention Against Torture (UNCAT)** and enacting a strong **anti-torture law**. This will not only align India with international human rights standards but also provide a legal framework for prosecuting offenders. Regular **human rights and ethics training for police personnel**, focusing on non-coercive interrogation techniques, will help shift the culture of policing from fear-driven to service-oriented.

Finally, there must be **swift and impartial investigations** into custodial deaths, preferably by **independent agencies like the CBI or judicial commissions**, rather than internal police inquiries. Victims' families should receive **speedy compensation and legal support**, while whistleblower protection can encourage reporting of abuse. These actions can help restore public confidence in the criminal justice system when combined with public awareness initiatives.

15. Conclusion

Custodial deaths and police brutality in India reflect a **serious crisis of accountability** within law enforcement. Despite strong constitutional safeguards, statutory protections, and landmark judicial pronouncements, the persistent misuse of power and weak enforcement mechanisms continue to erode public trust in the criminal justice system. The recurring patterns of custodial violence highlight not only systemic flaws but also the urgent need to bridge the gap between **law in books and law in action**.

Addressing this issue requires more than reactive measures—it demands **structural reforms**, strict adherence to human rights principles, and proactive oversight. Ratifying UNCAT, ensuring transparent investigations, improving police training, and strengthening independent monitoring

bodies are vital steps forward. Only by prioritizing accountability, empathy, and justice can India move toward a **humane and rights-based policing system**.

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