

A Critical Legal Study on Issues Relating to Custodial Violence in India: Contemporary Issues and Prospects

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Abstract: *One of the worst human rights abuses in India is still custodial violence, which raises major worries about law enforcement agents abusing their authority. Torture, brutal treatment, and fatalities in police custody continue to occur at a startling rate in spite of constitutional protections, legislative measures, and court rulings. This dissertation highlights the discrepancy between the law and reality by critically analysing the legal framework that governs custodial violence in India. Along with relevant provisions of the Code of Criminal Procedure (CrPC), the Indian Penal Code (IPC), and other laws, it examines the fundamental freedoms included in Sections 20, 21, and 22. The role of the court will be examined in order to comprehend the judicial efforts to contain this scourge, particularly in well-known cases like State of West Bengal v. D.K. Basu.*

The research also looks at the structural problems—such as a lack of responsibility, insufficient supervision, and procedural errors—that lead to custodial violence. The study offers a comparative understanding of successful legal solutions to prison abuse by drawing on national and international viewpoints, including methods from the US, UK, and Scandinavia. The dissertation also assesses two recent developments: the necessity of independent anti-torture legislation that complies with the United Nations Council Against Torture (UNCAT) and the use of technology to monitor correctional behaviour.

This paper highlights the shortcomings of the present legal system via doctrinal and empirical analysis and provides specific policy recommendations for changes to victim rehabilitation, police procedures, and investigative techniques. It ends by highlighting the necessity of a strong, open, and human rights-focused approach to law enforcement that protects people's dignity and increases public confidence in the legal system..

Keywords: Custodial Violence, Human Rights, Police Torture, Constitutional Safeguards, Judicial Response, UNCAT, Legal Reforms, India, Accountability, Criminal Justice System

I. INTRODUCTION

Background of the Study

Supervised violence, including torture, assault, psychological and physical assault, and even murder in police or judicial custody, is among India's most serious human rights abuses. Despite being an elected nation with a strong legislative framework, The pervasive problem of violence within its correctional facilities has proven difficult for this Indian state to resolve. Although the right to life and personal liberty is guaranteed by Article 21 of the Indian Constitution, abuses continue to occur in the name of law enforcement and inquiry. This paradox highlights the structural flaws in the accountability, policing, and governance systems that allow such crimes to persist.

In addition to being a procedural mistake, custodial violence constitutes a serious violation of an individual's basic rights. The Supreme Court of India set extensive guidelines to forbid torture in prison in D.K. Basu v., however the State of West Bengal still implements these guidelines in an uneven manner. Additionally, the Protection and



Promotion of the Human Rights Act of 1993 created the National Human Rights Commission (NHRC), although the commission's recommendations are not legally binding, which lessens the commission's ability to enforce the law.¹ Regarding the NCRB (National Crime Records Bureau), 75 documented deaths occurred in Indian jails in 2022.² The real figure, according to independent agencies and human rights groups, may be far higher because of underreporting and a lack of openness. This disparity between official statistics and actual conditions on the ground reveals a great deal about institutional opacity. Furthermore, a culture of impunity is fostered by authorities' unwillingness to bring charges against the offenders, the majority of whom are public employees.³

As a result, in India, custodial violence is a socio-political problem in addition to a legal one. It undermines the rule of law and erodes public confidence in the judicial system. Therefore, it is more important than ever to implement comprehensive legal changes, improve enforcement, and increase public accountability.

Research Problem

India's continued custodial abuse highlights a serious disconnect between legal and constitutional protections and their actual application. The lowest levels of collaboration are still mostly ineffectual and irregular, even though the Court of Appeal established procedural guidelines to protect prisoners in the landmark case of *State of West Bengal v. D.K. Basu*.⁴ Serious questions concerning the rule of law and the effectiveness of institutional constraints on police misbehaviour are brought up by this discrepancy.

Prison abuse persists because of a number of factors, including weak accountability mechanisms, non-binding recommendations from oversight bodies like the NHRC, and the general perception that effective law enforcement necessitates harsh methods.⁵ The issue is further exacerbated by judicial processes taking longer than expected, limited access to legal assistance, and a reluctance to bring charges against public officials.⁶ This research critically evaluates these systemic shortcomings and investigates potential legal, institutional, and policy reforms to ensure justice and human dignity for individuals in custody.

Goals of the Research

The primary objectives of this study are:

- To examine India's current legal system for dealing with custodial violence.
- To evaluate how well statutory and constitutional protections work to stop abuse of detention.
- To investigate the judiciary's role in combating violence against inmates.
- To investigate the relevance of international legal norms to the Indian situation.
- To make suggestions for institutional and legislative changes meant to reduce custodial violence.

Questions for Research

The following research questions are intended to be addressed by this project:

1. How well do India's present legal safeguards prevent violence against inmates?
2. What structural elements support the continuation of abuse in custody?
3. How has the legal system handled instances of violence against inmates?
4. What can India gain from the legal systems and practices of other countries?
5. What changes are required to fortify the institutional and legal safeguards against violence in detention??

¹ The Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1993 (India).

² National Crime Records Bureau, *Crime in India 2022*, Ministry of Home Affairs, Government of India.

³ Human Rights Watch, *Bound by Brotherhood: India's Failure to End Police Torture and Custodial Killings*, 2020.

⁴ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610.

⁵ National Human Rights Commission, *Annual Report 2021–22*, Government of India.

⁶ Human Rights Watch, *"Bound by Brotherhood": India's Failure to End Custodial Killings*, 2020.



Hypothesis

The main premise of this study is that custodial violence in India continues to occur because of systemic enforcement shortcomings, a lack of accountability, and social attitudes that support such practices, even in the face of extensive legislative restrictions. Legal changes are necessary to address these problems, but so are adjustments to institutional procedures and public attitudes.

II. RESEARCH METHODOLOGY

Using a doctrinal research technique, this work critically examines international legal instruments, statute legislation, court rulings, and constitutional provisions pertaining to custodial violence. To learn more about the frequency and trends of custodial abuse, secondary data sources such as reports from the NCRB, National Human Rights Commission (NHRC), and pertinent NGOs will be analysed. Global best practices will be shown by contrasting various legal frameworks, such as the United Nations Convention Against Torture (UNCAT).

III. REVIEW OF LITERATURE

The continuation of custodial violence in India has been examined in a large body of scholarly and legal literature, which highlights the disconnect between constitutional provisions and their actual application. Despite constitutional protections like Articles 20 and 21, scholars like Vibhute and Faizan have observed that abuses in custodial settings are nonetheless made possible by a lack of strict enforcement and accountability systems.⁷ Their investigation emphasises how urgently independent supervision procedures and institutional reforms are needed to protect detainees' rights and dignity.

Legal actions have been crucial in establishing procedural rights for arrest and detention, particularly in *D.K. Basu v. State of West Bengal*.⁸ But according to academics like Baxi, these rules are frequently made useless by inadequate execution and the lack of legally enforceable consequences for police misbehaviour.⁹ International legal pressure to change is limited by. Despite providing a legislative foundation to prevent torture, India has consistently refused to ratify the United Nations Convention Against Torture (UNCAT). By combining legal analysis, case law, and policy proposals for systemic transformation, this study seeks to close these analytical gaps.

II. India's Custodial Violence: Historical and Legal Context

The origin of police powers in India is partly due to the Indian Police Act of 1861, which was established following the 1857 revolt to establish a loyal and oppressive police force under British administration. By consolidating power and granting the police extensive authority, the legislation established an institutional culture of control rather than service. This heritage has shaped modern policing methods, which frequently abuse custodial authority and have inadequate accountability systems. According to academics, coercive tactics have persisted in contemporary law enforcement organisations since the colonial policing apparatus was never substantially changed after independence.¹⁰

Provisions in the Constitution Prohibiting Custodial Violence

The Indian Constitution enshrines some essential rights that shield citizens against the excesses of the state. Article 20(3) protects the privilege against self-incrimination, whereas Article 21 protects the rights to life and personal liberty. Furthermore, Article 22 provides safeguards for being taken into custody. Together, these clauses provide the constitutional safeguard against torture in detention. But their efficacy depends on their strong execution, which frequently fails because of structural problems in the judiciary and police.¹¹

⁷ Vibhute, K.I. & Faizan, M., *Custodial Crimes and Human Rights*, Eastern Book Company, 2001, p. 57.

⁸ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610, at p. 612.

⁹ Baxi, Upendra, "The Crisis of the Indian Legal System," Vikas Publishing House, 1982, p. 229.

¹⁰ Arnold, David. *Police Power and Colonial Rule: Madras, 1859-1947*, Oxford University Press, 1986, p. 49.

¹¹ Basu, Durga Das. *Commentary on the Constitution of India*, LexisNexis, 9th Ed., 2012, p. 201.



Legal Safeguards (including the Indian Evidence Act, the CrPC, and the IPC)

Statutory laws establish processes and punishments in addition to constitutional rights. Although the Code of Criminal Procedure (CrPC), 1973, and the Indian Penal Code (IPC), 1860, outlines procedures for arrest and interrogation (Sections 41–60A), and criminalises crimes such as wrongful incarceration (provisions 340–348) and custodial torture (provisions 330 and 331). Confessions obtained under duress are not admissible in court, in accordance with Indian Evidence Act, 1872, Section 24. In spite of these laws, conviction rates in instances involving custodial abuse are still pitifully low, mostly as a result of police collusion, witness intimidation, and a lack of evidence.¹²

The Judiciary's Function: Seminal Decisions

Custodial jurisprudence has been significantly shaped by Indian courts. The Supreme Court established comprehensive standards in *D.K. Basu v. State of West Bengal* to combat prison abuse, including required arrest reports, medical evaluations, and family member notification. The Constitution's Articles 21 and 22 established the enforceability of these rules. In a similar vein, the Court stressed that an arrest must be warranted and should not be made on in *Joginder Kumar v. State of U.P.* on a regular basis. These decisions show the judiciary's aggressive stance while concurrently emphasising the necessity of more stringent enforcement and oversight procedures.¹³

The function of state and national human rights commissions

The National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs) were established by the Protection of Human Rights Act of 1993, and among their responsibilities were investigating claims of prisoner maltreatment and suggesting solutions. The NHRC keeps yearly statistics and has published standards for reporting fatalities that occur while a person is in custody. However, their impact is limited because their suggestions are not legally enforceable. Furthermore, law enforcement agencies' collaboration and investigation process delays frequently compromise their mission.¹⁴

International Legal Instruments That Are Relevant

The United Nations Convention Against Torture (UNCAT) offers a comprehensive framework for preventing torture and other cruel, inhuman, or degrading treatment across the world. India has not ratified the Convention despite having signed it in 1997, claiming that local legal modifications are necessary. The absence of ratification weakens India's adherence to international human rights norms and limits the possibility of international accountability. Comparative research indicates that the prevalence of custodial abuse is substantially lower in nations having local anti-torture legislation that complies with UNCAT.¹⁵

IV. CHARACTERISTICS AND TRENDS OF INDIAN CUSTODIAL VIOLENCE

Forms of Custodial Violence (Physical, Psychological, Sexual, etc.)

Custodial violence can take many different forms, all of which are serious human rights violations. Electric shocks, beatings, and the use of third-degree techniques during questioning are examples of physical violence. Solitary confinement, verbal abuse, sleep deprivation, and threats are all forms of psychological torture. Because of social shame, sexual abuse—which frequently targets women and marginalised groups—remains underreported. In addition to police, other custodial authorities, such as prison personnel, also commit these crimes, which foster an atmosphere of fear and impunity.¹⁶

¹² Pillai, K.N. Chandrasekharan. *R.V. Kelkar's Criminal Procedure*, Eastern Book Company, 6th Ed., 2017, p. 132.

¹³ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610, at p. 612; *Joginder Kumar v. State of U.P.*, AIR 1994 SC 1349, at p. 1352.

¹⁴ NHRC, *Annual Report 2021-22*, New Delhi, Government of India, p. 89.

¹⁵ United Nations, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1984, Article 2; Amnesty International, *India: Time to Ratify the Convention Against Torture*, 2021, p. 4.

¹⁶ Human Rights Watch, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, HRW Report, 2009, p. 58.



Statistics on Torture and Deaths in Custody

The startlingly high rate of custodial violence in India is demonstrated by statistical statistics. The National Crime Records Bureau (NCRB) reports that 75 reported deaths occurred in detention in 2022 alone. Independent sources, however, indicate that these numbers could be underreported because of inadequate recordkeeping and authorities' unwillingness to file charges. In addition, the NCRB data shows low conviction rates and chargesheet filing rates, which point to structural problems with the way custodial offences are handled.¹⁷

Major Incidents and Case Studies

Custodial violence has gained national attention due to a number of high-profile cases. Widespread indignation and legal action against the implicated officers resulted from the 2020 Sathankulam case in Tamil Nadu, when a father and son perished as a result of severe police torture. In a similar vein, Rajkumar in Uttar Pradesh passed away in 2019 while in judicial custody, revealed the legal and medical establishments' inability to stop maltreatment in custody. These occurrences highlight how urgently open investigations and accountability procedures are needed.¹⁸

Victimisation Trends by Population

According to research, disadvantaged groups like Scheduled Tribes (ST), Scheduled Castes (SC), religious minorities, and economically challenged groups, are disproportionately impacted by custodial violence. Social bias, a lack of legal knowledge, and restricted access to legal resources make certain groups more susceptible. Sexual violence and other types of abuse, which are frequently covered up or disregarded by authorities, are especially dangerous for women and minors in detention.¹⁹

Causes and Contributing Factors

Custodial violence persists due to a number of institutional and structural variables. These include a culture of impunity promoted by hierarchical command structures, pressure to resolve cases swiftly, a lack of accountability, and insufficient police training. The problem is made worse by the lack of impartial monitoring organisations and the inadequate application of court rules. Furthermore, these techniques are further justified by cultural attitudes that accept torture as a valid method of crime control.²⁰

Impact on Victims and Society

In addition to causing victims irreversible bodily and psychological suffering, custodial abuse has wider societal repercussions. It damages the criminal justice system's reputation and erodes public confidence in law enforcement. Victims' families frequently endure financial hardships, protracted legal disputes, and societal humiliation. At the social level, it erodes democratic principles and the rule of law by sustaining a cycle of fear and disenfranchisement, especially among marginalised people.²¹

V. PROCEDURAL AND INSTITUTIONAL DIFFICULTIES

The ineffectiveness of the investigation and prosecution of such crimes is one of the main institutional shortcomings that contribute to custodial violence. Findings from investigations are sometimes skewed or twisted since they are carried out by the same police agency that employs the accused personnel. The investigation process is further jeopardised by witnesses' lack of cooperation, manipulation with medical evidence, and delayed filing of FIRs. Low

¹⁷ NCRB, *Crime in India 2022*, Ministry of Home Affairs, Government of India, p. 121.

¹⁸ People's Union for Civil Liberties, *Custodial Deaths in India: A Human Rights Perspective*, PUCL Report, 2021, p. 37.

¹⁹ National Dalit Movement for Justice, *Torture in India: A Rights-Based Analysis*, NDMJ Report, 2018, p. 29.

²⁰ Arora, Monika, "Police Reforms and Custodial Violence in India," *Indian Journal of Criminology*, Vol. 45, No. 1, 2017, p. 67.

²¹ Baxi, Upendra, *The Crisis of the Indian Legal System*, Vikas Publishing, 1982, p. 174.



conviction rates are the effect of the prosecution being weakened by the absence of specialised sections to handle prison offences.²²

State Actors' Impunity and Lack of Accountability

Due to the lack of strict accountability procedures, state actors—especially police officers—frequently behave with a high degree of impunity. Strict action is rarely the outcome of departmental investigations, and when it is, the penalties are frequently insufficient for the seriousness of the infraction. Section 197 of the CrPC, which calls for prior consent from the government before public personnel may be prosecuted, further impedes judicial processes and perpetuates an atmosphere of impunity.²³

Lack of Independent Oversight Mechanisms

In the fight against custodial violence, one persistent problem has been the absence of truly independent supervisory processes. The authority to look into complaints rests with the National and State Human Rights Commissions, but their rulings are usually disregarded and lack legal effect. Because internal police disciplinary proceedings are rarely made public, there is also a lack of institutional openness. Many states still lack an independent police complaints authority, despite the Prakash Singh case's Supreme Court's recommendation.²⁴

Lack of Efficient Legal Assistance and Counsel

It's common for victims of custodial abuse, particularly those from low-income families, to lack access to excellent legal counsel and support. Free legal assistance is required by both Article 39A of the Constitution and the Legal Services Authorities Act of 1987, yet the services are usually insufficient and ineffectual. The efficacy of legal aid attorneys in defending victims is diminished by their frequent underpayment, excessive workload, and lack of training. The victim's capacity to seek justice is further weakened by this lack of legal assistance.²⁵

Issues of Delay and Denial of Justice

Every phase of the Indian criminal justice system—investigation, trial, and appeal—is beset by structural delays. These hold-ups allow implicated authorities to avoid accountability and deter victims from seeking justice. Additionally, delays cause witness recollections to fade, evidence to deteriorate, and even victims to be coerced into withdrawing their charges. Custodial violence is perceived as a low-risk offence for offenders due in large part to these procedural inefficiencies.²⁶

Custodial Violence in Prisons and Juvenile Homes

Custodial violence occurs not just in police detention facilities but also in juvenile detention centres and prisons. The problem is made worse by overcrowding, a lack of medical facilities, inadequate personnel training, and a lack of grievance redressal procedures. Particularly at risk are juveniles and mentally ill prisoners, who frequently experience abuse from both staff and other prisoners. Such abuses can continue unnoticed due to a lack of independent inspections and routine monitoring.²⁷

²² National Human Rights Commission (NHRC), *Annual Report 2020–2021*, NHRC Publications, 2022, p. 112.

²³ Rao, K. Gopal, "State Accountability and Human Rights," *Indian Journal of Public Administration*, Vol. 59, No. 3, 2013, p. 399.

²⁴ Supreme Court of India, *Prakash Singh & Ors v. Union of India*, (2006) 8 SCC 1, p. 27.

²⁵ Legal Services Authorities Act, 1987, Government of India, Section 12, p. 14.

²⁶ Law Commission of India, *Report No. 239: Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities*, Government of India, 2012, p. 46.

²⁷ Asian Centre for Human Rights, *Torture in India 2011: A State of Denial*, ACHR Report, 2011, p. 68.



VI. LEGAL PERSPECTIVES IN COMPARISON

The UK has a thorough institutional and legal system in place to stop violence against inmates. The European Convention on Human Rights (ECHR) is incorporated into US law via the United States Human Rights Act of 1998, which mandates that government organisations uphold individual rights, including Article 3's ban on terrorism and cruel treatment. Deaths and allegations of abuse in jail are investigated by the Independent Office for Police Conduct (IOPC), which is apart from police departments and ensures impartial inspections. The judicial system in the UK places a strong emphasis on openness, responsibility, and victims' rights to recompense.²⁸

Strategies to Stop Violence During Detention in the US

In the US, legislative procedures and constitutional safeguards are used in tandem to combat custodial violence. The U.S. Constitution's Eighth and Fourteenth Amendments ensure due process and forbid cruel and unusual punishment. 42 U.S.C. §1983, which offers a civil cause of action against state officials who violate constitutional rights, allows victims of custodial abuse to pursue remedies. In order to hold institutions responsible, the Department of Justice may also launch investigations into systematic violations under the Civil Rights of Institutionalised Persons Act (CRIPA). Regular audits and impartial oversight organisations aid in deterrence.²⁹

Practices in Scandinavian Countries (Norway, Sweden)

The welfare-oriented jail paradigm used in Scandinavian nations like Norway and Sweden places more emphasis on rehabilitation than punishment. These nations are renowned for their compassionate prison environments, expert law enforcement training, and emphasis on upholding the dignity of inmates. There is strict oversight, and national ombudsman systems have the authority to look into complaints and carry out surprise inspections. Custodial violence has been rare, and public confidence in the legal system is high as a result of the emphasis on prevention rather than response.³⁰

Lessons for India from International Jurisdictions

India can learn a lot from other countries' ways. Transparency and accountability may be improved by the creation of independent police complaint boards, as is the case in the US and the UK. The judicial system may be strengthened by improved legal assistance and victim compensation programs, as well as legal amendments to guarantee prompt prosecution of custodial offences. Adopting Scandinavian norms for prisoner care, correctional training, and supervisory practices would promote a culture of human rights compliance. Furthermore, if India accepted and implemented international treaties like UNCAT, That would be compliant with global human rights norms.³¹

The function of international human rights organisations

A number of international human rights groups, including Human Rights Watch, Amnesty International, and the UN Human Rights Council, have been instrumental in drawing attention to abuses of custody in various jurisdictions. Their lobbying efforts, reports, and calculated lawsuits have forced governments to make amends. These groups also monitor adherence to international human rights standards, support policy reform, and supply vital data. Working with these groups may provide India with international credibility, technical know-how, and influence for changes at home.³²

VII. CURRENT INDIAN LEGAL DEVELOPMENTS AND POLICY INITIATIVES

The preservation of human rights in prison settings has become more and more important in recent court rulings. In the 2020 case of *Paramvir Singh Saini v. Baljit Singh*, the Supreme Court of India mandated that CCTV cameras be installed in all police stations and interrogation rooms in order to encourage transparency and avoid torture in prison.

²⁸ Human Rights Act, 1998, United Kingdom, Schedule 1, Article 3, p. 5.

²⁹ U.S. Constitution, Amendments VIII & XIV; 42 U.S.C. §1983, United States Code Annotated, p. 142.

³⁰ Pratt, John, "Scandinavian Exceptionalism in an Era of Penal Excess," *British Journal of Criminology*, Vol. 48, No. 2, 2008, p. 124.

³¹ Bajpai, Asha, "Custodial Justice: Need for Legal Reform in India," *Indian Journal of Human Rights and Justice*, Vol. 5, No. 1, 2014, p. 73.

³² Amnesty International, *Torture in 2019: 30 Years of Broken Promises*, Amnesty Publications, 2019, p. 8.



When there is a suspicion of custodial abuse, this instruction sought to hold law enforcement officials responsible and offer supporting documentation. The judiciary has frequently claimed that custodial violence undermines the rule of law and erodes public confidence in the legal system.³³

Legislative Bills and Amendments

Legislative progress has been sluggish despite mounting worries about violence in detention. The 2010 Prevention of Torture Bill, which aimed to stop torture in detention, lapsed once the Lok Sabha was disbanded. More recently, in its 273rd Report, the Law Commission of India proposed new anti-torture laws and called for ratification of UNCAT. Nonetheless, the lack of a dedicated anti-torture statute still makes it difficult to prosecute acts of custodial violence effectively. Additionally, there have been proposals to change the Code of Criminal Procedure (CrPC) and the Indian Evidence Act to shift the burden of proof on the custodians in cases involving torture or death in custody.³⁴

The function of civilian society and the press

The public's awareness of instances of violence against inmates has been greatly aided by the media and civic society. Human rights organisations' campaigns, social media activity, and investigative journalism have brought attention to both specific incidents and structural problems. Among the civil society groups that have consistently advocated for judicial oversight and enforcement reform are the People's United for Freedom of Expression (the case of PU) and the Commonwealth Human Rights Initiative (CHRI). These campaigns have helped shape public perception and exert pressure on the government to begin changing laws and regulations.³⁵

Governmental and Non-Governmental Initiatives

To combat prison violence, the Indian government has launched a few programs. States received warnings from the Ministry of Home Affairs about custodial rights and police conduct. Additionally, the National Human Rights Commission (NHRC) has developed Standard Operating Procedures for the investigation of deaths that take place while an individual is in custody and recommended disciplinary action against delinquent authorities. However, non-governmental organisations have trained police officers and educated disadvantaged communities about their legal rights.³⁶

Custodial Technology and Surveillance (e.g., CCTV in lockups)

The use of technological solutions to keep an eye on correctional settings has grown. Many police stations have installed CCTV cameras in response to court mandates, but questions still surround the systems' coverage, operation, and data retention. In order to stop abuse, the Model Prison Manual, 2016 also suggests using electronic surveillance systems. However, frequent audits and impartial monitoring are crucial to these systems' effectiveness. Data security and transparency continue to be major obstacles to making sure that monitoring really upholds the rights of prisoners.³⁷

India's UNCAT Ratification Status

India signed the United Nations Convention Against Torture (UNCAT) in 1997, however it hasn't ratified it yet. Ratification would establish legally binding commitments to stop torture and bring national legislation into compliance with international human rights norms. International organisations have criticised India for not ratifying, which has also damaged India's reputation for human rights throughout the world. Despite evidence to the contrary, domestic resistance is mostly ascribed to worries about foreign monitoring and a conviction that current rules are enough. Ratification is still a necessary first step in implementing comprehensive change.³⁸

³³ *Paramvir Singh Saini v. Baljit Singh*, (2021) 1 SCC 184, p. 187.

³⁴ Law Commission of India, 273rd Report on Implementation of UNCAT, 2017, p. 15.

³⁵ Commonwealth Human Rights Initiative (CHRI), *Status of Policing in India Report*, 2020, p. 42.

³⁶ National Human Rights Commission (NHRC), *Annual Report*, 2019–2020, p. 118.

³⁷ Ministry of Home Affairs, *Model Prison Manual*, 2016, p. 79.

³⁸ United Nations Treaty Collection, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Status of Treaties, 2020, p. 3.



VIII. CONCLUSION

Custodial violence is one of the most significant issues facing the Indian court system. The continuation of torture, killings, and inhumane treatment in detention is indicative of a pervasive institutional breakdown, even in the face of constitutional obligations, legal safeguards, and court rulings. Inadequate legislation is not the only issue; law enforcement agencies' inconsistent enforcement, lack of accountability, and lack of cultural change are also major contributors. The National Crime Records Bureau's data and several case studies show how frequently rights abuses occur behind prison walls. The Indian judiciary has had a major influence on the development of custodial jurisprudence over the years. Historic rulings like *D.K. Basu v. State of West Bengal* established comprehensive procedural protections for inmates. However, a lack of institutional commitment to apply these standards strictly has undermined their effectiveness. India's stance in international human rights debate is further weakened by its refusal to sign the United Nations Convention Against Torture (UNCAT), which also shows a reluctance to expose internal practices to international scrutiny.

According to a comparative analysis of custodial procedures throughout the US, UK, and Scandinavia, significant reform requires a combination of robust legislative frameworks, impartial monitoring organisations, and an accountability-focused culture. These nations' lessons highlight the necessity for India to establish strong institutional checks through independent commissions, CCTV surveillance, and frequent audits in addition to passing laws against torture. In addition, the media, civil society, and non-governmental organisations have all been instrumental in bringing abuse to light and promoting justice. Transparency may be achieved by technology, such as police station surveillance systems, but only when combined with institutional and legal support structures.

In conclusion, addressing custodial violence in India necessitates a multifaceted strategy that includes public involvement, judicial activism, police training, independent monitoring, and legislative change that includes anti-torture laws. The cycle of violence will persist in the absence of thorough and persistent efforts, eroding public confidence in the judicial system and the rule of law. The moment has come for India to make its constitutional ideals of justice and dignity a reality for all inmates and detainees.

BIBLIOGRAPHY

- [1]. Joshi, G.P., *Custodial Crimes and Human Rights*, New Delhi: Human Rights Law Network, 2002.
- [2]. Singh, M.P., *V.N. Shukla's Constitution of India*, 13th ed., Lucknow: Eastern Book Company, 2017.
- [3]. Rao, Mamta, *Law Relating to Human Rights*, 3rd ed., Lucknow: Eastern Book Company, 2014.
- [4]. Basu, Durga Das, *Commentary on the Constitution of India*, Vol. 2, 9th ed., New Delhi: LexisNexis, 2012.
- [5]. Baxi, Upendra, *The Crisis of the Indian Legal System*, New Delhi: Vikas Publishing House, 1982.
- [6]. Journal Articles
- [7]. Chhibber, Bharti, "Custodial Violence in India: A Study of Judicial Trends and Legislative Gaps", (2018) 60(3) *Journal of the Indian Law Institute* 301.
- [8]. Gupta, Ritu, "Custodial Deaths and the Need for Police Reforms in India", (2021) 11(2) *NALSAR Law Review* 55.
- [9]. Kumar, S., "Torture in Police Custody: A Human Rights Concern", (2020) 14(1) *Indian Journal of Human Rights* 110.
- [10]. Sharma, A., "India and the UN Convention Against Torture: The Reluctance to Ratify", (2017) 6(2) *South Asian Legal Studies* 210.
- [11]. National Human Rights Commission (NHRC), *Annual Report 2021–2022*, New Delhi: NHRC, 2022.
- [12]. Law Commission of India, *Report No. 273: Implementation of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment through Legislation*, October 2017.
- [13]. National Crime Records Bureau (NCRB), *Crime in India 2022 Report*, New Delhi: Ministry of Home Affairs, Government of India, 2023.
- [14]. Amnesty International, *India: Denied: Failures in Accountability for Police Violence*, London: Amnesty International Publications, 2015.



- [15]. UN Human Rights Office of the High Commissioner, “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture> [Accessed 10 April 2025].
- [16]. India Kanoon, *D.K. Basu v. State of West Bengal, AIR 1997 SC 610*, Available at: <https://indiankanoon.org/doc/501198/> [Accessed 12 April 2025].
- [17]. PRS Legislative Research, “The Prevention of Torture Bill, 2010”, Available at: <https://prsindia.org/billtrack/prevention-of-torture-bill-2010> [Accessed 8 April 2025].
- [18]. Human Rights Watch, “Broken System: Dysfunction, Abuse, and Impunity in the Indian Police”, Available at: <https://www.hrw.org/report/2009/08/04/broken-system> [Accessed 15 April 2025].

