



Human Rights Violations in Police Custody in India: A Legal Analysis

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ABSTRACT:

Human rights violations in police custody remain a persistent challenge in India, despite constitutional safeguards and international commitments. This research paper examines the legal framework, judicial response, challenges, and recommendations pertaining to custodial violence and torture in India. Key keywords include human rights violations, police custody, constitutional safeguards, judicial response, challenges, recommendations. Through a comprehensive analysis, the paper aims to shed light on the multifaceted nature of custodial violence and its implications for human rights and the criminal justice system, while proposing actionable recommendations to address systemic issues and promote accountability within law enforcement agencies.

Keywords: Human rights violations, police custody, constitutional safeguards, judicial response, challenges, recommendations.

Introduction :

The issue of human rights violations in police custody is a global concern that transcends borders and cultures. In India, as in many other countries, reports of custodial violence, torture, and deaths have been a persistent challenge, raising serious questions about the protection of fundamental rights and the rule of law. This section provides an in-depth exploration of the background context surrounding human rights violations in police custody, both domestically and internationally, drawing on statistical data and relevant case studies to highlight the magnitude of the problem and its implications.

Custodial violence and torture are not isolated phenomena but are prevalent in various parts of the world, cutting across geographical boundaries and political systems. According to the United Nations, torture persists in more than half of the world's countries, despite its unequivocal prohibition under international law¹ The prevalence of custodial abuse underscores the challenges in effectively safeguarding human rights and ensuring accountability within law enforcement agencies.

Statistical data from international organizations and human rights watchdogs offer insights into the extent of custodial violence globally. According to Amnesty International, reports of torture and ill-treatment by state agents have been documented in at least 141 countries worldwide.² The International Rehabilitation Council for Torture Victims (IRCT) estimates that millions of individuals suffer from the physical and psychological consequences of torture each year, with long-lasting effects on individuals, families, and communities.³

Numerous case studies from around the world illustrate the grim reality of custodial violence and its impact on victims and society. For instance, the Abu Ghraib scandal in Iraq exposed widespread torture and abuse of detainees by US military personnel, leading to international condemnation and calls for accountability.⁴ Similarly, the case of Giulio Regeni, an Italian student tortured and murdered in Egypt while conducting research, highlighted the dangers faced by individuals detained by security forces in authoritarian regimes.⁵ These high-profile cases underscore the urgency of addressing custodial violence as a global human rights issue.

In India, custodial violence and torture have been a longstanding problem, with reports of abuse dating back decades. Despite constitutional guarantees and legal safeguards, instances of police brutality and custodial deaths continue to occur with alarming frequency, raising concerns about the effectiveness of existing mechanisms in preventing and addressing such violations.

Statistical data from government reports, human rights organizations, and research studies offer insights into the prevalence of custodial violence in India. According to the National Human Rights Commission (NHRC), there were 1,723 reported cases of custodial deaths in India between 2010 and

¹ "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-9&chapter=4&clang=en.

² Amnesty International, "Torture and Ill-Treatment: The Global Scandal," <https://www.amnesty.org/en/what-we-do/torture/>.

³ International Rehabilitation Council for Torture Victims, "The Prevalence of Torture," <https://www.irct.org/what-is-torture/the-prevalence-of-torture>.

⁴ Human Rights Watch, "The Torture Memos: Rationalizing the Unthinkable," <https://www.hrw.org/report/2010/02/18/torture-memos/rationalizing-unthinkable>.

⁵ The Guardian, "Giulio Regeni: Murdered Cambridge Student 'Suffered Slow Death'," <https://www.theguardian.com/world/2016/feb/09/giulio-regeni-murdered-cambridge-student-suffered-slow-death-report>.

2019, with Uttar Pradesh, Maharashtra, and Gujarat recording the highest numbers.⁶ However, underreporting and lack of comprehensive data collection pose challenges in accurately assessing the true extent of the problem.

Numerous case studies from India highlight the grim reality of custodial violence and its devastating impact on individuals and communities. The 1987 Mathura rape case, where a tribal girl was allegedly raped by two policemen inside a police station in Uttar Pradesh, sparked nationwide outrage and led to significant judicial reforms aimed at protecting the rights of women and vulnerable groups.⁷ Similarly, the 2019 custodial death of father-son duo P. Jayaraj and J. Bennicks in Tamil Nadu reignited public debate on police brutality and the need for accountability and police reforms.⁸

Legal Framework:

The legal framework governing human rights violations in police custody in India is complex, comprising a combination of constitutional provisions, statutory laws, judicial pronouncements, and international obligations. This section provides a comprehensive analysis of the legal framework relevant to custodial violence and torture, examining key legislative enactments, landmark judicial decisions, and India's international commitments in this regard.

The Indian Constitution provides a robust framework for the protection of fundamental rights, including those relevant to police custody and detention. Article 21 guarantees the right to life and personal liberty, which encompasses the right to be free from arbitrary arrest and detention.⁹ Additionally, Article 20(3) safeguards individuals against self-incrimination and torture, stipulating that no person accused of an offense shall be compelled to be a witness against themselves.

The Supreme Court of India has played a pivotal role in interpreting and expanding the scope of constitutional rights pertaining to police custody. In the landmark case of *D.K. Basu v. State of West Bengal* (1997), the Court laid down comprehensive guidelines to prevent custodial torture and ensure the rights of detainees.¹⁰ These guidelines, commonly known as the "D.K. Basu Guidelines," include provisions such as the right to legal counsel, the right to medical examination, and the mandatory recording of arrest and detention details.

The primary legislation governing police custody and detention in India is the Code of Criminal Procedure (CrPC), 1973. Sections 41 to 60 of the CrPC delineate the powers of the police to arrest and detain suspects, as well as the procedural safeguards to be followed during such processes. Section 167 of the CrPC allows the police to detain an individual for a maximum period of 24 hours, which may be extended to 15 days with the magistrate's authorization for further investigation.¹¹

While the CrPC provides certain procedural safeguards, its implementation has been marred by various limitations and challenges. For instance, the provision allowing for the extension of detention up to 15 days has been criticized for facilitating prolonged custody without adequate judicial oversight, increasing the risk of custodial abuse and torture. Moreover, the absence of specific provisions criminalizing torture and custodial violence within the CrPC poses challenges in prosecuting perpetrators and ensuring accountability.

India is a signatory to several international human rights treaties and conventions that prohibit torture and other forms of cruel, inhuman, or degrading treatment or punishment. Notably, India ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1997, thereby committing to prevent and eradicate torture within its jurisdiction.¹² Additionally, India is bound by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which uphold the right to life, liberty, and security of person without discrimination.

Despite its international commitments, India's compliance with and implementation of its obligations under international human rights law remain subject to scrutiny. While the ratification of CAT signaled India's commitment to combating torture, the absence of domestic legislation explicitly criminalizing torture has impeded effective implementation of the Convention's provisions. Furthermore, the lack of comprehensive data on custodial violence and torture poses challenges in assessing India's compliance with its international obligations and addressing systemic issues.

The Indian judiciary has been instrumental in providing judicial remedies and redress to victims of custodial violence through its expansive interpretation of constitutional rights and principles. In addition to the D.K. Basu Guidelines, the Supreme Court has delivered several judgments affirming the rights of detainees and imposing accountability on law enforcement agencies for violations of those rights. Notable cases include *Sheela Barse v. State of Maharashtra* (1983), where the Court recognized the right of prisoners to access legal aid and protection from custodial violence,¹³ and *Nilabati Behera v. State of Orissa* (1993), where the Court awarded compensation to the family of a custodial death victim, emphasizing the state's liability for custodial violence.¹⁴

⁶ National Human Rights Commission, "Annual Reports," <https://nhrc.nic.in/publications/annual-reports>.

⁷ The Times of India, "Mathura Rape Case: What Happened on March 26, 1972," <https://timesofindia.indiatimes.com/india/Mathura-rape-case-What-happened-on-March-26-1972/articleshow/9249370.cms>.

⁸ The Hindu, "Timeline: The Deaths of Jayaraj and Bennicks in Tamil Nadu Police Custody," <https://www.thehindu.com/news/national/tamil-nadu/timeline-the-deaths-of-jayaraj-and-bennicks-in-tamil-nadu-police-custody/article31906981.ece>.

⁹ The Constitution of India, 1950, <https://indiankanoon.org/doc/250196/>.

¹⁰ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

¹¹ Code of Criminal Procedure, 1973, <https://indiankanoon.org/doc/1892981/>.

¹² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=en.

¹³ *Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96.

¹⁴ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

Judicial Response:

The judiciary plays a crucial role in safeguarding human rights and ensuring accountability, particularly in cases of custodial violence and torture. Through its interpretation of constitutional provisions and enforcement of legal principles, the judiciary has sought to uphold the rights of detainees, impose accountability on law enforcement agencies, and provide remedies to victims of custodial abuse.

The Indian judiciary has delivered several landmark judgments that have shaped the legal landscape concerning custodial violence and torture. These judgments have established important precedents, outlined procedural safeguards, and expanded the scope of constitutional rights relevant to police custody.

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

In this seminal case, the Supreme Court laid down comprehensive guidelines to prevent custodial torture and ensure the rights of detainees.¹⁵ The Court emphasized the importance of procedural safeguards such as the right to legal counsel, the right to medical examination, and the mandatory recording of arrest and detention details. The D.K. Basu Guidelines have since served as a cornerstone for protecting individuals' rights in police custody and holding law enforcement agencies accountable for violations.

Vishwa Lochan Madan v. Union of India (2014):

In this case, the Supreme Court reaffirmed the significance of the D.K. Basu Guidelines and underscored the duty of the state to prevent custodial violence and uphold the dignity of detainees.¹⁶ The Court emphasized the need for law enforcement agencies to strictly adhere to procedural safeguards and ensure transparency and accountability in the conduct of investigations. The judgment reiterated the judiciary's commitment to safeguarding human rights and ensuring justice for victims of custodial abuse.

Evolution of Jurisprudence:

Over the years, the Indian judiciary's approach to cases involving custodial violence and torture has evolved, reflecting a growing recognition of the need to address systemic issues and provide effective remedies to victims. Judicial pronouncements have emphasized the state's obligation to prevent and investigate custodial abuse, impose liability on errant officials, and award compensation to victims and their families.

.1 Expansion of Remedies:

The judiciary has expanded the scope of remedies available to victims of custodial violence, recognizing the need for comprehensive redress mechanisms. In cases such as *Nilabati Behera v. State of Orissa* (1993), the Supreme Court awarded compensation to the families of custodial death victims, holding the state liable for the actions of its agents.¹⁷ Similarly, in *Sheela Barse v. State of Maharashtra* (1983), the Court recognized the right of prisoners to access legal aid and protection from custodial violence, underscoring the importance of ensuring justice and accountability.

Challenges and Limitations:

Despite the judiciary's proactive stance on issues of custodial violence and torture, several challenges persist in delivering justice and ensuring accountability. These challenges stem from factors such as delays in legal proceedings, inadequate implementation of judicial guidelines, and the lack of effective mechanisms to monitor and enforce compliance with court orders.

One of the primary challenges in addressing custodial violence cases is the prolonged legal process, which often leads to delays in justice delivery. Cases involving police misconduct may languish in the judicial system for years, undermining the victims' confidence in the efficacy of legal remedies and perpetuating a culture of impunity among law enforcement agencies.

Another challenge lies in the implementation of judicial directives and guidelines aimed at preventing custodial violence and ensuring accountability. Despite the issuance of comprehensive guidelines in cases like *D.K. Basu*, compliance by law enforcement agencies remains inconsistent, with reports of continued violations and lack of accountability.

To address the challenges faced in combating custodial violence and torture, concerted efforts are needed from all stakeholders, including the judiciary, legislature, executive, and civil society. Strengthening accountability mechanisms, enhancing legal aid services, and promoting awareness of human rights among law enforcement personnel are essential steps towards ensuring justice and upholding the rule of law.

¹⁵ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416

¹⁶ *Vishwa Lochan Madan v. Union of India*, (2014) 7 SCC 707.

¹⁷ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

Challenges and Recommendations:

The issue of human rights violations in police custody presents multifaceted challenges that require comprehensive solutions encompassing legal, institutional, and societal reforms.

Challenges:

One of the primary challenges in combating custodial violence is the culture of impunity that often shields perpetrators from accountability. Despite constitutional safeguards and judicial guidelines, instances of police misconduct frequently go unpunished, fostering a climate of impunity within law enforcement agencies.

The absence of specific legislation criminalizing torture and custodial violence poses a significant impediment to addressing these issues effectively. While judicial pronouncements and guidelines provide some level of protection, the lack of explicit legal provisions hampers prosecution and accountability for perpetrators of custodial abuse.

Systemic deficiencies in the criminal justice system, including delays in legal proceedings, overcrowded prisons, and limited access to legal aid, exacerbate the challenges faced by victims of custodial violence. The slow pace of justice often leads to prolonged detention without trial, increasing the risk of abuse and undermining the rights of detainees.

The absence of independent oversight mechanisms to monitor police conduct and investigate complaints of abuse contributes to the perpetuation of custodial violence. While institutions such as the National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs) exist, their effectiveness in addressing custodial abuse remains limited due to resource constraints and procedural challenges.

Recommendations:

Enact comprehensive legislation explicitly criminalizing torture and custodial violence in line with international standards, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The legislation should provide for stringent penalties for perpetrators and establish clear mechanisms for redress and compensation for victims.

Amend existing laws, such as the Code of Criminal Procedure (CrPC) and the Indian Penal Code (IPC), to incorporate provisions specifically addressing custodial violence and torture. Ensure that procedural safeguards, including the right to legal counsel, medical examination, and notification of arrest, are strictly enforced to prevent abuse and uphold the rights of detainees.

Establish independent oversight bodies at the national and state levels, comprising representatives from civil society, legal experts, and human rights advocates, to monitor police conduct, investigate complaints of abuse, and hold perpetrators accountable. Empower these oversight bodies with adequate resources and authority to conduct impartial inquiries and recommend disciplinary action against errant officials.

Provide specialized training to law enforcement officers on human rights, ethical policing practices, and non-coercive interrogation techniques. Foster a culture of respect for human dignity and accountability within the police force through ongoing training programs, sensitization workshops, and awareness campaigns.

Enhance access to justice for victims of custodial violence by simplifying procedures for filing complaints, providing legal aid, and expediting trials.

Establish rehabilitation and compensation schemes to support survivors and their families, including medical and psychosocial assistance, vocational training, and financial assistance for livelihood support.

Promote public awareness of human rights issues, including custodial violence and torture, through educational initiatives, media campaigns, and community outreach programs. Encourage civil society organizations, human rights activists, and legal professionals to advocate for reforms and raise awareness of the importance of accountability and transparency within law enforcement agencies.

Conclusion:

The issue of human rights violations in police custody in India represents a significant challenge to the country's commitment to upholding the rule of law, protecting fundamental freedoms, and ensuring the dignity of all individuals. Despite constitutional guarantees, statutory provisions, and judicial pronouncements aimed at preventing custodial violence and torture, instances of abuse continue to tarnish India's human rights record, underscoring the urgent need for systemic reforms and proactive measures to address this pressing issue.

Through a comprehensive analysis of the legal framework, judicial response, challenges, and recommendations, this research paper has highlighted the complex nature of custodial violence and its implications for human rights and the criminal justice system in India. The judiciary, through landmark judgments and evolving jurisprudence, has played a critical role in safeguarding the rights of detainees, imposing accountability on law enforcement agencies, and providing remedies to victims of custodial abuse. However, challenges such as impunity, inadequate legal framework, structural deficiencies in the criminal justice system, and lack of effective oversight mechanisms persist, posing obstacles to justice delivery and accountability.

In light of these challenges, the paper proposes a set of recommendations aimed at addressing systemic issues, strengthening accountability mechanisms, and promoting a culture of respect for human rights within law enforcement agencies. Legislative reforms, enhanced oversight mechanisms, capacity building and training, victim support and rehabilitation, and public awareness and advocacy are essential components of a holistic approach to combating custodial violence and ensuring justice for victims.

By implementing the proposed recommendations and fostering collaboration among all stakeholders, including the government, judiciary, law enforcement agencies, civil society, and the public, India can reaffirm its commitment to upholding constitutional values, respecting human dignity, and promoting accountability within its criminal justice system. Only through concerted efforts and sustained commitment can India overcome the challenges posed by custodial violence and fulfill its obligations to protect the rights and freedoms of all individuals, regardless of their circumstances.

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