



"Custodial Torture in India Violating Human Rights Principles: An Analysis of the Causes and Preventative Strategies"

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ABSTRACT :

The most basic and unalienable rights that are necessary for existence as a human being are known as human rights. Human rights are a country's true treasure and are necessary for both national development and progress as well as for the rights, freedoms, and capacities of people to be strengthened. Among these is the right to oppose torture as it is the most egregious and blatant violation of human dignity.

People are frequently subjected to torture while in custody, regardless of their age, sex, or condition. In many nations, including India, it is the most severe kind of human rights violation and a major issue. Most victims of torture are often from the economically and socially disadvantaged segments of our society.

Instead of impeding freedom, the police safeguard it in a democracy. When lawmakers start breaking the law, democracy is put in danger. These days, custodial torture is so commonplace that not just the police and bureaucracy, but also the general public, accept it as a standard police interrogation technique.

Custodial fatalities are rather prevalent, and abuse in custody has become ingrained in police culture. Even if the judiciary and academic community have realized how important it is to investigate the reasons behind human rights abuses in police detention, no systematic endeavour has yet to integrate this topic within the field of human rights.

Torture refers to any act in which a person is purposefully subjected to extreme pain or suffering for any of the following reasons: to get information or a confession; to punish him or a third party for an act that he or a third party has committed or is suspected of having committed; to intimidate or coerce him or a third party; or for any other reason based on discrimination of any kind. When such pain or suffering is inflicted by a public official or another individual acting in an official capacity, it is considered torture. Both emotional and bodily anguish are included.

The rise in judicial and custodial violence cases in the nation can be attributed to a number of causes. The following is a discussion of the most frequent causes:

- Lack of Particular Law.
- Requiring Reforms in Prisons.
- An increase in suicide cases.
- Hospital treatment-related deaths.
- Social component.
- Work pressure.
- Failure to adhere to international standards.

The Indian government introduced the 2010 and 2017 Bill for the Prevention of Torture in order to address this grave problem. The 2010 measure defined torture as "grievous hurt to any person or danger to life, limb, or health (whether mental or physical) of any person" committed for the aim of gaining "information or confession," making it a distinct crime punishable by law. If found guilty, the public worker may spend at least ten years behind bars. Additionally, torture committed on the basis of "religion, race, place of birth, residence, language, caste, or community" was made illegal under the Bill. However, when the new administration took office in 2014, the Bill expired after being stalled in the Rajya Sabha after passing the Lok Sabha.

As a result, the 273rd Law Commission Report was published in 2016, after a writ suit filed by Dr. Ashwani Kumar to ascertain the Bill's status in light of rising custodial mortality. A new draft Prevention of Torture Bill (2017) resulted from the report's emphasis on the urgent policy priority to ratify the UNCAT. Only eight states replied to the request for feedback on this new measure, which mostly kept the same provisions as the 2010 bill. This

indicates that governments at all levels are reluctant to address the issue of torture in detention. The Supreme Court rejected Dr. Ashwani Kumar's later plea, arguing that it cannot order the legislature to pass legislation, citing the necessity of implementing the 273rd Law Commission's recommendations and passing the 2017 Bill.

Objective and Scope of study:

- To talk about the history and notion of torture in detention.
- To investigate the variables and reasons that contribute to these types of crimes in India.
- To evaluate the impact of torture on the sufferer and his family.
- To determine what shortcomings exist in the current legal system.
- To recommend corrective actions to enhance our system of delivering justice.

Hypothesis for Research:

- Torture occurs as a result of on-going pressure on the police to conduct a prompt investigation from the media, lawmakers, and bureaucracy.
- Sensitization and awareness of psychological torture are lacking.
- A distinct legislation that addresses the torture of detainees is required.

Statement of problem:

Although laws in practically every nation permit the use of force by police in specific situations, they are by no means permitted to brutalize citizens. In India, police officers are perceived as being violent, tortured, and terrorized, and this seems to be ingrained in their operational procedures. Torture instances result from the extreme pressure to finish the inquiry within a set period of time.

The issue is still quite concerning since people do not know enough about human rights. Police in India lack human rights awareness and a feeling of accountability. Raising awareness of psychological torture is necessary. In order to protect themselves, the police no longer use physical torture; instead, they now use psychological torture, which has the power to completely destroy a person's psyche.

Protecting people's fundamental human rights is more crucial than obtaining a small number of convictions using unlawful tactics. India's institutional shortcomings in preventing psychological torture are a problem of worry. Despite being limited by a lack of specific law as well as a lack of understanding and sensitization to the threat of psychological torture, the Court has established itself as an effective tool against torture.

Significance of the Research:

This thesis attempts to draw attention to a number of characteristics of torture in detention, chief among them being the psychological component. The sources of this evil have been investigated, as have methods for eradicating it from society. Educating the public about these police abuses in India is imperative.

The current study critically evaluates the preventative and remedial strategies while highlighting the origins and effects of torture. It is anticipated that policymakers, administrators, and others would use the work done to create this thesis to strengthen our criminal justice system and put an end to torture in Indian prisons.

Research Methodology:

First and foremost, the study is theoretical and doctrinal in nature. The secondary source material served as the foundation for this investigation. About the sources, the information has been gathered from pertinent books written by different scholars, articles published in periodicals, journals, and newspapers, as well as from files, documents, reports, court decisions, debates, and discussions held on the subject.

Literature review:

This study analyses custodial violence by taking into account the Report of the Committee Against Torture, the European Commission, the Asian Human Rights Commission, the National Crime Record Bureau, national and international NGOs, and other criteria.

From ancient antiquity to the present, the book's seven chapters explore the evolution of laws and practices prohibiting torture in prisons. Protecting women and crazy convicts from violence in custody, preventing rape in custody, preventing false encounters, and preventing custodial death are only a few of the themes covered in detail in this work. It also contains the National Human Rights Commission's recommendations about encounter murders and arrests.

Regarding custody jurisprudence in India, the present work has attempted to address the legal difficulties, enforcement issues, potential remedies, and suggestions. Remedial measures such public interest litigation, bail for outstanding cases, free legal aid for the underprivileged, speedy trials, and restitution for shackling victims are all given careful consideration.

International legal frameworks, local legislation pertaining to prisoners' rights, the study of prison management, the issue of custodial brutality, critical evaluation of relevant Apex Court rulings, recommendations, and procedural remedies and safeguards are all thoroughly discussed in this topic. The examination of several rulings and recommendations has been covered in detail, as well as the necessary actions that must be made to stop torture and offer efficient remedies.

This study's primary goal is to demonstrate the necessity and urgency of a strict and sui generis rule that supports the existing protections. Enacting legislation that forbids torture and custodial violence is urgently needed. Again and again, Supreme Courts and High Courts have stated their desire for legislation that effectively forbids torturing inmates. However, the nation lacked a lasting and functional law for the same goal after gaining its independence.

Additionally, it suggests taking into account the Law Commission of India's 273rd report. In Chapter IV, the Commission has examined the current legal arrangements. The Commission has determined that in order to incorporate provisions pertaining to compensation and the burden of proof, respectively, the Criminal Procedure Code, 1973, and the Indian Evidence Act, 1872, need to be amended.

In his book *Law on Custodial Death and Torture*, R. Chakraborty provides an overview of torture, details the investigative process, details human rights violations, and outlines the reasons for and steps to prevent torture in detention.

The many causes of custodial torture and the required remedial measures have been described in Dr. R. S. Saini's paper, "Custodial Torture under International and Indian Legal Systems." It has deftly covered the reasons for these crimes as well as the many safeguards provided to victims. Throughout the article, emphasis was placed on the concept of torture as established by the UN General Assembly's Convention against Torture. The role of the police as either law enforcers or lawbreakers is critically examined in the book. Additionally, it explains the rights of suspected or accused individuals in accordance with both Indian and international law.

Prison injustice victims, as well as other inmates who are impoverished, defenceless, and unable to pay for legal counsel, have been shielded from torture and harassment, according to Prof. N. V. Paranjape in *Criminology and Penology with Victimology*. By filing a writ petition, a victim of torture in custody can petition the court directly for preservation of their basic rights, particularly the right to life and liberty protected by Article 21 of the Indian Constitution. "Some penologists have argued that those who are condemned and imprisoned in prison cells need to receive spiritual training," he said.

A seminal practical manual for assisting everyone involved in keeping an eye on detention conditions and looking into and stopping torture is Jason Payne-James, et al.'s edited book "Monitoring Detention, Custody, Torture and Ill-treatment: A Practical Approach to Prevention and Documentation." In addition to highlighting how torture and other cruel and inhumane punishments are discovered, investigated, and ought to be avoided, the esteemed team identifies the medical legal and professional frameworks as well as the international instruments that apply to persons who are held.

In his book *The Law of Evidence*, Professor Avtar Singh covered the clauses pertaining to the circumstances surrounding an accused person's arrest by law enforcement. He has provided a detailed account of the court's processes when the accused is brought before it.

Custodial deaths in India are on the rise, according to Amnesty International's 2000 book on *Monitoring and Documenting Human Rights Violations in Africa*. The majority of the victims are from the underprivileged segments of society, including members of the SC and STs, tribal women in the northeast, migrant workers, landless labourers, and other marginalized groups. In order to get a confession or further details regarding the crime, they are tortured. The victim is frequently killed as a result of the cruel torture techniques used on them.

According to data from the National Crime Record Bureau, there have been 1,888 recorded custody deaths in India over the past 20 years, of which 358 people have been charged and 893 complaints have been made against police officers. Only 26 police officers were found guilty over that time, according to official records. Between 2010 and 2015, there were 591 recorded deaths in police and judicial custody, with the causes of death listed as lingering disease, hospitalization-related deaths, and suicide. While NHRC data for the same years showed 117 and at least 83 deaths, the National Crime data Bureau reports that 85 and 76 deaths occurred in police custody in 2019 and 2020, respectively. Maharashtra accounts for more than one-fifth (21.5%) of these fatal cases, with Andhra Pradesh (13%) and Gujarat coming in second and third, respectively, at 11% each. In India, there have been 151 recorded deaths in custody in 2021.

In the 113th Report on *Injuries in Police Custody*, the Law Commission suggested that if someone is hurt while in police custody, the court may assume that the individual was hurt by the police officer who was in charge of their care and custody. The recommendation was made to include section 114

B in the Indian Evidence Act of 1872, and it has been done so. In its 180th Report on Article 20(3) of the Indian Constitution and the Right to Silence in India, the Law Commission of India (2002) proposed that the right against self-incrimination is guaranteed by clause (3) of Article 20 and that, following the Maneka Gandhi case, Article 21 mandates that a fair and just process be followed in criminal cases.

An article in the daily newspaper The Hindu titled "Law Against Torture: Being Humane" emphasized the importance of India ratifying the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The article also emphasized the need for an anti-torture law that permits ratification of the Convention against excesses in custody, which would assist India in reducing the threat of custodial torture.

The efficacy of the Supreme Court of India's instructions, particularly in the DK Basu case, is examined in Abhishek Singhvi's article, "The Implementation of DK Basu Judgment Can Protect Against Custodial Torture, Death." Through this article, the author emphasized that our shortcomings lie in operationalizing the spirit of DK Basu, implementing punitive measures, breaking intra-departmental solidarity with errant police officers, and ensuring prompt, effective departmental coercive action and prosecution.

In his book "The Importance of Being Humane," Gopalkrishna Gandhi begins by discussing the historical foundations of torture in various nations, arguing that it is an inherent aspect of human nature and that it stems from the history of power, authority, and control. In addition to discussing the Prevention of Torture Bill, the article highlights the significance and ramifications of India's non-ratification of the international convention that forbids torture in detention.

The current study focuses on the structural, psychological, political, and sociocultural elements that lead to the widespread use of torture in Indian prisons. Furthermore, an effort has been made to evaluate the effects of torture in detention on both victims and society at large, as well as the legal system and how it is used in India. The absence of legal and medical protection suggested that a victim-centered investigation was necessary.

CHAPTER 1 INTRODUCTION

"Everyone agrees that one of the most heinous types of human rights violations is torture when a person is in custody. It is prohibited under the Indian Constitution, the Supreme Court, the National Human Rights Commission (NHRC), and the UN. However, the nation's police force disregards these establishments. Therefore, in order to combat crime with a realistic strategy, it is necessary to establish a balance between social objectives and individual human rights."

The Supreme Court's aforementioned finding in Joginder Kumar v. Union of India emphasizes the necessity of fighting crime with realism and shows how the institutions have not been able to stop torture in detention.

The most essential rights that are necessary for a human being to survive are known as human rights. Every human being has these rights only by virtue of being a person, regardless of their nationality, religion, sex, or other characteristics. It is the true riches of any country, and in order for him to flourish and prosper, his abilities, liberties, and rights must be strengthened. The most severe and frequent violation of human dignity is torture.

Torture in custody is a relatively prevalent situation in which people are exposed to it regardless of their age, sex, or health. It is the most severe kind of human rights violation, and it is becoming a major issue in many nations, including India. Most victims of torture are members of our society who are economically disadvantaged and marginalized. The police are there to safeguard freedom, not to obstruct it, in a democracy. Every branch of government should answer to the people in a democracy.

"Custodial torture is worse than terrorism because the authority of the State is behind it," stated Justice V.R. Krishna Iyer. Every branch of government should answer to the people in a democracy. And since the police are the ones in charge of upholding law and order in organized society, this is more applicable to them than to other groups. Indeed, in an elected system, everyone is subject to the law, just like the rest of the population, and every action taken by the executive branch must be justified in court.

By providing a comprehensive set of guidelines that police must adhere to while making an arrest, the court in D.K. Basu v. State of West Bengal argued for the preservation of the rights of inmates in custody. It recognized the right against torture and death in police custody, established rules to be followed in all arrest and detention situations to guarantee openness and accountability, and shows no signs of having exacerbated attitudes toward the cruel treatment of inmates in detention.

"The government liable for the wrong done by the government officials and the victim's right to compensation," the court said in Rudal Shah v. The State of Bihar. The victim was wrongfully imprisoned for 14 years following the Sessions court's acquittal. The Supreme Court noted that the state must take accountability for the actions of its personnel and granted Rs. 35,000 as compensation. that the Supreme Court's authority to issue orders for release from unlawful detention would negate the significance of Article 21, which guarantees the fundamental right to life and liberty, and that the court would be merely lip service to his fundamental right to liberty if it declined to order compensation.

To completely ban judicial and custodial torture, the appropriate policies must be put in place. Since it would need a careful analysis of colonial laws, practices, and institutions pertaining to the care and treatment of individuals who are arrested, detained, or imprisoned, India should ratify the UN Convention Against Torture. Police personnel must undergo specific training in order to prevent violence of any kind. To conduct interrogations, police stations must construct rooms with CCTV installed. Prison environments must adhere to human rights commitments.

CHAPTER 2

Analyzing the concept of customary torture

2.1 Introduction

Any physical, psychological, or emotional harm done by someone in a position of power is considered custody violence. Acts of violence against someone who is in custody are illegal, and they may persist long after the individual has been placed under custody. There may be numerous cases of unlawful imprisonment, enforced disappearances, and other severe, cruel, and degrading treatment and discipline. Police play a crucial role because they misuse their authority and undermine public trust, which leads to injustice. Police are the main perpetrators of violations of human rights.

Death in captivity is the most severe form of human rights violation. It blatantly transgresses the Indian Constitution's guarantees of life and liberty. People who have been found guilty or accused must have their lives protected by the state.

2.2 Definition

The deliberate inflicting of extreme physical or psychological suffering on another individual as a kind of punishment, to satisfy the desires of the torturer, or to force the victim to do an action is known as torture.

"Custody is defined as the detention of a person under the authority of a legitimate Power or authority," according to the Legal Glossary Dictionary.

"The deliberate, systematic, or wanton infliction of physical or mental suffering by one or more persons, acting alone or on the orders of any authority to force another person to yield information, to make a confession, or for any other reason" is how the World Medical Association defined torture in its Tokyo Declaration of 1975.

"No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment," according to Article 7 of the International Covenant on Civil and Political Rights, 1966. Everyone has the right to personal liberty and security, according to Article 9(1) of the aforementioned covenant. Nobody shall be arbitrarily detained or arrested. Nobody can be deprived of their freedom unless they do so for the reasons and in the way specified by law.

"In case of armed conflict not of an international character, persons taking no active part in the hostilities, including members of armed forces who have laid down their arms, shall in all circumstances be treated humanely," according to Article 3 of the 1949 Geneva Convention.

As stated in Article 99 of the Third Convention on the Treatment of Prisoners of War, "when a person is being questioned, torture is strictly prohibited and the questioning must take place under normal circumstances."

On December 9, 1975, the UN General Assembly adopted the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment, which defined torture as: — Any act in which a public official intentionally causes extreme pain or suffering, whether physical or mental, to a person for purposes such as getting information or a confession from him or a third party, punishing him or a third party for an act he or a third party has committed or is suspected of committing, or intimidating him or others.

Torture is defined as "the wilful infliction of great bodily or mental suffering upon a person in the custody or under the control of the accused; provided, however, that torture shall not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions" in the 1998 Rome Statute of the International Criminal Court.

2.3 Torture and Violations of Human Rights

In a democratic society, the police's primary responsibility is to defend people's rights. Every human being is entitled to a set of fundamental, fundamental, and absolute rights. A right is characterized as the freedom to do or own something, for which there is legal repercussions.

Because of the police's misuse of power, these rights have been denied. When police officers violate individuals' human rights and act contrary to their defined and upheld mission, they do not even acknowledge that they are breaching the law.

Below is a list of some of the horrifying and upsetting police abuses of human rights that have been publicized:

P. Jeyaraj and his son Benicks were arrested in Tamil Nadu for unlawfully maintaining their stores open during a lockdown, which was the most recent example. After being assaulted there, they were taken to the police station and subjected to torture. They both passed away in two days.

Black American George Floyd, who was arrested for allegedly using a counterfeit currency, unfortunately passed away after being restrained by the cops that came to arrest him. His death was not long after that. This led to massive, record-breaking protests in both America and throughout the world.

The constitution guarantees the fundamental human rights of personal liberty and freedom, but when someone is detained, they lose these rights; therefore, it is important to take due care and caution when making an arrest while considering the potential repercussions. It would be a flagrant breach of human rights, thus it shouldn't be done carelessly.

Police abuse of authority and custodial brutality are not unique to our nation; they are commonplace worldwide. The crime persists in spite of the Universal Declaration of Human Rights, 1948, which made the fervent claim that no one will be subjected to torture or cruel, inhuman, or degrading treatment.

The Universal Declaration of Human Rights (UDHR), which was established by the UN general assembly in the wake of World War II, included a clause prohibiting the use of torture in Article 5. The UN General Assembly enacted the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) Convention in 1984 in an attempt to bolster global efforts to combat this practice. The Convention has been ratified by 136 countries. India is among the few countries that signed the 1977 treaty but did not ratify it. In 1977, India also ratified the treaty.

2.4 Traits of Torture

1. When someone is tortured, they feel more alone and cut off from friends, family, and the legal system. It includes secret detention, abductions, and isolations.
2. It encompasses both psychological and physical pain that leads to accusations, humiliations, and other forms of violence.
3. Torturers instill psychological anxiety and give him the sense that they have complete control over him. Because the torturer has all authority over him, the victim is helpless.
4. The victim divulges information to thwart the torture after experiencing protracted and exhausting psychological stress.
5. When under torture strain, the victim only wants the pain to end, and he admits to things he is unaware of.

2.5 Contextual History

Torture was considered a supernatural practice in the past since it was used to punish someone for their terrible crimes. Torturous methods were used in the practice of many charms and magic's.

Examining historical documents reveals that throughout the fabled era (1400–500 B.C.), government officials tortured prisoners and criminals. Water, fire, and single combat trials were then used.

2.5.1 Ancient World Torture

Greece

The Greeks believed that enslaving someone was a better course of action than putting them to death. This made it easier for them to use them for their services.

Even the captured troops were treated like slaves, subjected to daily torture, and chained like animals by the purchasers. Torture was done in a variety of ways. Common techniques included water torture, stacking boulders, flogging, stretching limbs to dislocate the body's joints, and beating to death.

Rome

Roman law permitted both freemen and slaves to be tortured in order to question suspects and look into crimes. Only slaves were previously subjected to torture as witnesses or accused, and because they lacked guarantees and their notorious personalities greatly harmed them, their testimony was put to the test under the strain of torture. The masters or the owners of the slaves were granted the authority to discipline and torment the slave even for a small fault or infraction.

The Roman era saw the discovery of yet another type of torture called "Gladiator exhibition." Various wild creatures, including bears, wolves, panthers, and leopards, were used in this to battle men to death.

Egypt

Ancient Egypt possessed a first-rate police force that effectively handled the mischievous behaviour of robbers and thieves. The miscreants are tortured by the cops.

One of the well-known tombs depicted how the police used torture in those days.

India

Violence and torture have been used in India since the Vedic period (2000–1400 B.C.). The concept of atonement was common in our Vedic society. After a man receives punished for his error, his standing and reputation in society may be restored. Ordeals using fire, water, poison, etc., were popular throughout the Vedic era.

Chanakya also mentions the system of espionage in the Arthashastra as a means of gathering data and getting confessions. The persistence on the confirmation was favoured since the innocent individual was also trapped in the danger.

During that period, the most heinous and brutal forms of torture were used.

The instance of Sit, who was subjected to a fire trial, illustrates how torture was used in the past.

The Upanishad describes several ways to demonstrate one's innocence, including holding one's head on a flaming axe. Bana describes suffering from fire, poisoned water, etc. at Kadambari.

During the Buddhist period, human values were fervently protected. Thus, respect for and devotion to human principles served as the foundation for the administration of justice. All prisoners got preferential treatment regardless of their gender, age, or dependents, and torture of any kind was strictly prohibited while they were in captivity.

If the accused failed to prove his innocence via proof of evidence, a trial by ordeal was a provision of the Gupta era (A.D. 320–500).

During the Mughals, there was no criminal or civil law, and torture was frequently used to coerce confessions. Several cruel forms of punishment were administered during the Mughal dynasty as part of the retributive idea of retribution. The criminal law was extremely strict throughout the Mohammedan era in order to enable the proper administration of justice. The criminal justice system also failed, despite the fact that Sharia law persisted in India beyond the fall of the Mughal Empire and until the British arrived. Shariat legislation was rejected by the Indian Penal Code of 1860.

The British were law-abiding and fair. However, they advocated violence and the third degree when fighting terrorists and revolutionaries using extralegal tactics and exceptional powers. Many prisoners endured beatings, shackled restraints, and cell confinement. We still vividly remember the "Quit India Movement" of 1942 and the atrocities committed by the army and police at Jallianwalla Bagh, which resulted in the deaths of men, women, and children. To subdue the indigenous people in tribal areas, severe penalties including community burning were used.

Following independence, our Constitution imposed strict restrictions on law enforcement officials' capacity to carry out unlawful actions, like as torturing detainees, and established several protections against torture. Following the adoption of India's constitution, there was hope that law enforcement would try to rebuild public confidence. The fundamental role of the police force was changed by the democratic principles of the Constitution. Ensuring the safety and security of the public's interests became their top priority. Unfortunately, though, the negative connotations associated with term have not been eliminated by the Indian police.

Since the 1980s, when it seems that they are more concerned with their attitude and its violence, the employment of third-degree procedures by the police has become the standard. The growing use of coercive methods and crimes by the police are examples of human rights violations.

2.6 Recent Data

- A total of **146 cases of death in police custody were reported** during 2017-2018,
 - 136 in 2018-2019,
 - 112 in 2019-2020,
 - 100 in 2020-2021,
 - 175 in 2021-2022.
- In the last five years, the highest number of custodial deaths (80) has been reported in Gujarat, followed by Maharashtra (76), Uttar Pradesh (41), Tamil Nadu (40) and Bihar (38).
- [National Human Rights Commission \(NHRC\)](#) has recommended monetary relief in 201 cases, and disciplinary action in one case

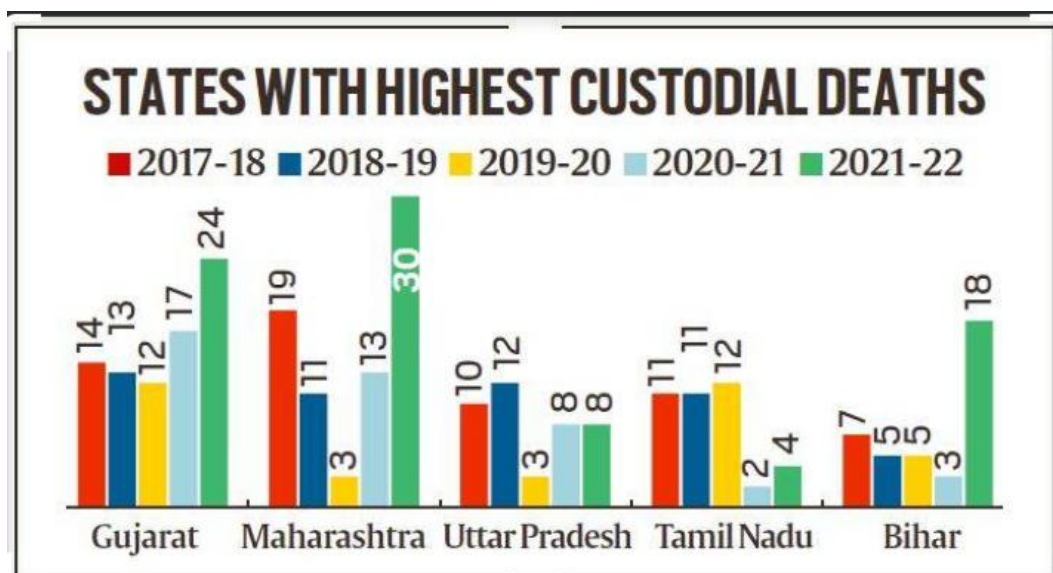
According to the National Human Rights Commission, a total of 1,067 people died in custody in the first five months of 2021. Most fatalities, 263, were recorded in February, while most deaths in police custody were registered in March.

Despite 1,727 confirmed killings in India from 2001 to 2018, just 26 police officers were found guilty of custodial assault, according to statistics from the National Crime Records Bureau (NCRB). In 2018, injuries sustained while in police custody as a result of physical violence by officers accounted for just 4.3% of the 70 recorded deaths. No police officer has ever been found guilty of such a death nationwide, with the exception of Uttar Pradesh, Madhya Pradesh, Chhattisgarh, and Odisha. In addition to deaths that occurred while a person was in custody, between 2000 and 2018, there were over 2,000 cases of police violations of human rights. In those cases, just 344 police officers were found guilty.

Statement Showing State-wise No. of Cases Registered with NHRC in respect of Deaths in Police Custody from 01.04.2017 to 31.03.2022

S No.	State/UT Name	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
1	ANDHRA PRADESH	2	5	3	3	1
2	ARUNACHAL PRADESH	3	2	0	1	0
3	ASSAM	11	5	2	1	9
4	BIHAR	7	5	5	3	18
5	CHHATTISGARH	3	3	3	3	2
6	GOA	0	0	0	0	1
7	GUJARAT	14	13	12	17	24
8	HARYANA	7	7	3	3	4
9	HIMACHAL PRADESH	2	1	4	0	0
10	JHARKHAND	6	3	2	5	5
11	KARNATAKA	4	7	4	5	8
12	KERALA	3	3	2	1	6
13	MADHYA PRADESH	7	12	14	8	8
14	MAHARASHTRA	19	11	3	13	30
15	MANIPUR	1	3	2	0	1
16	MEGHALAYA	2	0	1	2	4
17	MIZORAM	1	1	1	0	1
18	NAGALAND	0	0	0	0	2
19	ODISHA	4	4	6	4	2
20	PUNJAB	10	5	6	2	8
21	RAJASTHAN	3	8	5	3	13
22	SIKKIM	0	0	0	0	1
23	TAMIL NADU	11	11	12	2	4
24	TELANGANA	3	0	0	1	4
25	TRIPURA	1	0	1	0	1
26	UTTAR PRADESH	10	12	3	8	8
27	UTTARAKHAND	0	2	1	1	2
28	WEST BENGAL	5	5	7	8	5
29	ANDAMAN & NICOBAR	0	0	1	0	0
30	CHANDIGARH	0	0	0	0	0
31	DADRA & NAGAR HAVELI	0	0	0	0	0
32	DAMAN & DIU	0	0	0	0	0
33	DELHI	7	8	9	4	1
34	JAMMU & KASHMIR	0	0	0	2	2
35	LADAKH	0	0	0	0	0
36	LAKSHADWEEP	0	0	0	0	0
37	PUDUCHERRY	0	0	0	0	0
	TOTAL	146	136	112	100	175

Source: NHRC



CHAPTER 3

Different Kinds and Methods of Custodial Torture

3.1 Introduction

Since individual liberty and dignity are the most significant and generally protected rights, every democratic state should defend them throughout this era of human rights.

Although we may observe that crime rates are growing, torture is a concern that has to be controlled and restricted as human rights are developed. As a result, the existing legal enforcement mechanisms struggle to strike a compromise between the two.

To counteract crime and chaos in society, the police had to be established. As a vital component of the criminal justice system, the concept of public welfare serves as the foundation for police presence. Despite a lot of work, bureaucrats regularly exploit others unfairly. Torture in various forms is used as a low-cost and straightforward investigation method. When officials are under intense pressure to solve a case from superiors, the government, or even the media, they may resort to crimes like torture.

The torture is divided into a number of categories. It is considered that the sufferer has not experienced psychological torture as it does not leave scars, but physical torture is evident since it does. However, the victims also need medical attention since their minds and souls are impacted. Physical torture is both psychological and physical, even if psychological anguish may not necessarily show out as physical. Because psychological torture affects a person's entire personality as well as his interactions with others in the community, it interferes with society's capacity to operate regularly and so requires greater attention.

Psychological torture can take many forms, but the most common ones include prolonged isolation without light exposure, fear and humiliation, solitary confinement, and sleep deprivation. Delusions, headaches, extreme sadness, memory loss, and speech impairment are among the serious health consequences of psychological torture. The victim's mind and spirit are always affected by psychological assault. Psychological torture affects the victim's entire mentality and spirit. Since mental health is a crucial component of human dignity, it should not be utilized. It is imperative that the state and mental health professionals identify and prevent psychological torture.

3.2 Various forms of custodial torture

1. Physical Abuse:

- **Beating or Striking:** When detainees are physically abused with fists, batons, or other items, it frequently results in internal injuries, fractured bones, or bruises.
- **Waterboarding** is a type of drowning simulation in which a detainee's face and breathing passages are covered with water to mimic drowning or asphyxia.
- **Electric shocks:** When electrical currents are given to sensitive portions of the body, including the tongue or genitalia, they can cause discomfort.
- **Suspension:** The victim is held or hanged in a manner that results in severe agony or discomfort, frequently keeping them there for long stretches of time.
- **Burning:** The process of burning skin or other bodily parts with hot things like irons or heated metal.
- **Sexual violence or abuse** encompasses forced sexual actions as a form of torture, rape, and genital mutilation.
- **Forced Stress postures:** Inmates are made to remain in uncomfortable or awkward postures for extended periods of time, which frequently results in discomfort, damage to their muscles, or irreversible harm.

2. Psychological Torture:

- **Sensory Deprivation:** To cause confusion, tension, and anxiety, the victim is deprived of sight, hearing, or other sensory inputs.
- **Isolation:** Prolonged solitary confinement or social isolation can cause psychosis, mental illness, and anxiety.
- **Threats to Family Members or Loved Ones:** As a kind of psychological coercion, detainees may be threatened with injury or death to themselves or their loved ones.
- **Mock executions:** The inmate is made to feel as though they are about to be put to death, which causes them to become extremely anxious and afraid.
- **Humiliation:** Putting prisoners through humiliating treatment, such verbal abuse, forced nudity, or insults.
- **Deliberately keeping someone up** for extended periods of time without sleep causes confusion, hallucinations, and extreme mental stress.
- **Forced Confessions:** Using a variety of tactics, the detainee is coerced into confessing to crimes, whether or not they are really committed. This might entail a mix of psychological and physical strategies.

3. Environmental Torture:

- **Excessive Temperatures:** Torturing captives by subjecting them to excessive heat or cold in cramped quarters, which frequently results in hypothermia, heatstroke, or dehydration.
- **Overcrowding:** When cells are purposefully packed too closely together, it becomes impossible for inmates to move, sleep, or practice basic personal hygiene.
- **Unsanitary or foul conditions:** denying prisoners access to food, clean water, or sanitary facilities; or subjecting them to dirt and unsanitary conditions, which can cause health issues.

4. Medical Torture:

- **Drugs or forced injections:** In order to confuse, hurt, or change a detainee's state of consciousness, drugs or chemicals may be administered to them.
- **Invasive Medical treatments:** The use of coercive or unneeded medical treatments, such as operations or exams, without permission, as a form of torture or punishment.
- **Manipulation of Medical Conditions:** Withholding required medical attention or medicines to inflict undue pain or injury.

5. Torture Based on Culture or Identity:

- Forcing prisoners to forsake their faith, commit acts of blasphemy, or engage in religious activities against their convictions is known as religious persecution.
- racist or ethnic abuse refers to the exploitation of a detainee's race or ethnicity as a means of dehumanization, including targeted assault, racist epithets, or physical abuse.
- Torturing someone because of their gender, such as through rape, forced nudity, or other violent acts intended to diminish their gender identity, is known as gender-based violence.

6. Coercion and Psychological Manipulation:

- **Playing on concerns or Phobias:** In order to cause severe psychological suffering, torturers may take advantage of the detainee's own concerns, such as spiders, cramped areas, or heights.
- **Creating False Hope:** Making fictitious claims that the detainee will be released or get better treatment if they confess or cooperate, only to keep the mistreatment going after breaking those claims.

7. Sexual torture:

There are several types of sexual torture, which may be divided into three categories:

1. physical attack;
2. violence against the sexual organs; and
3. mental sexual assault.

3.3 Narco-analysis Test

Narcoanalysis is a brand-new investigative technique that has just been used in high-profile criminal cases in India. Due to the Supreme Court's lack of opinion, narco-analysis—which has been marketed as an alternative to "third degree" interrogation techniques—has sparked a number of ethical and legal questions. When the defendant is questioned during criminal proceedings, these tests may be used to compel them to tell the truth.

The premise of the test is that a narco-analysis test, which creates a semi-conscious state in which it is believed that the subject cannot fabricate a lie because everything he says is true and comes naturally to him, will neutralize the imagination of someone who uses it to lie. It is believed that the subject's suppressed feelings, ideas, or memories will facilitate questioning when they are in this semi-conscious condition.

Since the test can have a major negative impact on a person's health, social activists have resisted and condemned it. Because it depends on the subject's mental attitude and willpower, the usual dosage of the chemical used during testing has not been determined. Errors in dosage calculations might lead to unconsciousness, death, or even legal issues.

The fact that it is not entirely true is another critique. The individual could pollute the reactions by failing to distinguish between reality and his imagination.

Since the police provide the media with the tape and continually show it on television, the narco-analysis test in India causes severe mental stress long after the test is over, causing the accused to suffer from mental anguish as a result of societal disgrace. Police tests conducted as part of their investigation have no legal value since the results are not acceptable in court.

Article 23(3) protects the accused from being exploited against them. It is forbidden to have someone testify against themselves.

In **Nandini Satpathy case**, The Supreme Court greatly broadened the use of clause (3) of Article 20. The Court held that the restrictive reach of Article 20(3) was earlier since police interrogation did not begin in court. It discourages him from willingly sharing and involves him. Abusive psychological tactics employed during interrogation may potentially be a part of forced testimony. Coercion and physical abuse are not the only ways that testimony may be forced.

In **Selvi v. State of Karnataka**, The Supreme Court ruled that the narco-analysis test was illegal and useless.

The Gujarat High Court ruled in **Santokben Sharma Bhai Ladeja v. State of Gujarat** that the narco-analysis test has a minimal danger because it is monitored by medical experts, appropriate safety measures are applied, and the accused's condition is monitored. It is impossible to criticize the challenged test just on the grounds that risk is a part of life and penetrates most human endeavours.

Narcoanalysis must be used in accordance with a set of stringent guidelines to ensure that it is used correctly and legally.

According to the following criteria, we support applying the National Human Rights Commission's recommendations for lie detector tests to the narcoanalysis process:

1. The suspect should be informed of the test's potential physical, psychological, and legal consequences.
2. The accused should be made aware that any comments he makes during the examination will not be taken into consideration in a court of law. He ought to be informed of the relevant legal clauses in the Criminal Procedure Code and the Constitution that shield him from such acts in this case.

Guidelines for the use of various scientific techniques have been produced by several commissions and committees. According to the Indian judiciary, these standards can generally be applied to find the truth in certain situations. It is actually necessary to amend a number of criminal justice system regulations in order to apply scientific research techniques for the good of society at large and to create a crime-free society.

State-wise No. of Inmates suffering from mental illness in jails of India

States/UTs	Convicts	Undertrials	Detenues	Others	Total
Andaman & Nicobar Islands	5	6	0	0	11
Andhra Pradesh	144	100	0	0	244
Arunachal Pradesh	6	4	0	0	10
Assam	106	116	0	1	223
Bihar	73	145	0	0	218
Chandigarh	1	1	0	0	2
Chhattisgarh	244	74	0	0	318
Dadra and Nagar Haveli and Daman and Diu	0	0	0	0	0
Delhi	81	549	7	0	637
Goa	16	90	0	0	106
Gujarat	151	218	1	0	370
Haryana	4	1	0	0	5
Himachal Pradesh	43	66	0	0	109
Jammu & Kashmir	3	62	3	0	68
Jharkhand	85	98	0	0	183
Karnataka	139	304	0	0	443
Kerala	207	614	32	1	854
Ladakh	0	1	0	0	1
Lakshadweep	0	0	0	0	0
Madhya Pradesh	461	161	0	0	622
Maharashtra	207	254	0	0	461
Manipur	23	58	0	0	81
Meghalaya	10	26	0	0	36
Mizoram	0	1	0	0	1

Nagaland	1	2	0	0	3
Odisha	282	538	0	0	820
Puduchery	1	0	0	0	1
Punjab	28	76	0	7	111
Rajasthan	173	193	0	0	366
Sikkim	0	0	0	0	0
Tamil Nadu	10	13	0	0	23
Telangana	75	72	0	0	147
Tripura	0	0	0	0	0
Uttar Pradesh	501	1558	11	43	2113
Uttarakhand	25	21	0	0	46
West Bengal	141	307	0	3	451
India	3246	5729	54	55	9084

State-wise Crimes Committed by Prison Staff against Prisoners in India

States/UTs	No. of Incidents Reported	No. of Prison Staff Involved in the Reported Incidents	Action Taken by Prison Department			
			No. of Incidents in which Preliminary Enquiry Held	No. of Prison Staff against whom Charges were ramed	No. of Prison Staff to whom Major Punishment Awarded	whom Minor Punishment Awarded
Andaman & Nicobar Islands ¹	1	5	1	5	0	0
Andhra Pradesh	0	0	0	0	0	0
Arunachal Pradesh	0	0	0	0	0	0
Assam	0	0	0	0	0	0
Bihar	0	0	0	0	0	0
Chandigarh	0	0	0	0	0	0
Chhattisgarh	0	0	0	0	0	0
Delhi ²	1	2	0	2	0	0
Dadra and Nagar Haveli and Daman and Diu	0	0	0	0	0	0
Goa	0	0	0	0	0	0
Gujarat	0	0	0	0	0	0
Haryana ¹	1	1	1	1	0	0
Himachal Pradesh	0	0	0	0	0	0
Jammu & Kashmir	0	0	0	0	0	0
Jharkhand	0	0	0	0	0	0
Karnataka ^{1,2}	2	19	2	19	0	18
Kerala	0	0	0	0	0	0
Ladakh	0	0	0	0	0	0
Lakshadweep	0	0	0	0	0	0

Madhya Pradesh ³	2	5	2	5	0	0
Maharashtra	0	0	0	0	0	0
Manipur	0	0	0	0	0	0
Meghalaya	0	0	0	0	0	0
Mizoram	0	0	0	0	0	0
Nagaland	0	0	0	0	0	0
Odisha ^{2,3}	2	2	2	2	1	0
Puducherry	0	0	0	0	0	0
Punjab	0	0	0	0	0	0
Rajasthan	0	0	0	0	0	0
Sikkim	0	0	0	0	0	0
Tamil Nadu	0	0	0	0	0	0
Telangana	0	0	0	0	0	0
Tripura	0	0	0	0	0	0
Uttar Pradesh	0	0	0	0	0	0
Uttarakhand	0	0	0	0	0	0
West Bengal	0	0	0	0	0	0
India	9	34	8	34	1	18

Chapter 4 REASONS FOR INDIA'S CUSTODIAL TORTURE

4.1 Introduction

To fulfil his sentence, a prisoner is detained by the police. The appropriate court administers the punishment. As a result, no amount of torture while in captivity should ever be accepted. Torturing them or treating them like animals has no justification. Prisoners shouldn't be denied their fundamental rights. They also have the right to fundamental human rights since they are people.

Since they are in charge of upholding the law and maintaining social order, the police are an essential part of the state. Since peace and order are essential to the functioning of society, neither political structures nor civil society can function without them. Therefore, in order to maintain society and ensure its correct operation, it is imperative that the Police Act be amended.

The police stayed the same even after independence, and until recently, the government felt no need to reinterpret and modify their duties and culpability for their actions. The police force must be devoted and effective for a nation to be better administered.

The executive branch's authority should be constrained, governed by, and derived from the law, according to the rule of law. Unfortunately, the rule of law is threatened by crimes like maltreatment in prison, which includes death in detention facilities. The widespread occurrence of custodial violence is an increasing worry as individuals lose faith in the legal system when those in charge begin torturing them rather than defending them or society. Protecting individuals against potential abuse and torture at the hands of law enforcement and the police is crucial in a free society.

It is necessary to examine the main reasons why the police torture people, but before doing so, it is crucial to find out who the real victims of torture are. Does it merely affect the marginalized and weak, or does it also affect the powerful? It would become evident why these tortures are carried out by evaluating the actual victims. In most cases, it is evident that the weaker members of the society are the targets of these crimes. The straightforward explanation is that they are unable to speak out against these acts.

4.2 Reasons of Torture

The following categories can be used to group the reasons why custodial violence is committed:

4.2.1 Retaliation

The primary cause of the torture in detention is the aspect of revenge. People still hold into the archaic notions of eye for an eye and tooth for tooth vengeance. It is regarded as the most effective way to torture someone.

4.2.2 Psychology of Hatred

There is a connection between hate and power display. There has always been an undertone of animosity toward one another. The dejected and inferior are the targets of hateful expressions from the powerful. When hate and power are combined, cruelty and torture are the results.

4.2.3 Torture's Anthropological Foundation

The idea that only a few number of human species are able to endure extreme pain to a remarkable extent. They are so well-built that cruel torture has no effect on them during questioning. Compared to other people, they are able to endure extreme physical torment.

As a result, the police think that the only way to question these infamous criminals is to use unpleasant techniques.

4.2.4 Work Pressure

The police in India are tasked with difficult and delicate tasks. The weapons and explosives used by criminals are modern, and dealing with terrorists and insurgent groups is different from dealing with regular criminals. There are many serious types of crimes in society, such as riots, corruption, tax evasion, rising terrorist activity, smuggling, and money laundering, among others. These kinds of criminals are becoming more prevalent in society, and their methods and tools leave no trace.

The police are therefore under tremendous pressure to apprehend these perpetrators. They may easily elude the police, and due to inadequate infrastructure, the police are left defenceless and disabled. It puts pressure on both the government and the output that is produced. Criminals such as them find it simple to destroy the proof. The cops have a hard time proving their case in court. The processing of medical and legal data takes a long time, and the police are under constant pressure to provide useful results right away. These police officers use tactics like torture when under pressure, and occasionally they even frame people to relieve the strain.

4.2.5 Money-Grubbing

The need for money is the most heinous justification for torturing someone while they are in custody. Police officers don't get particularly high pay. Under the guise of their uniform, their avarice allowed them to perform a few things. They breach an agreement with the dacoits and divide the profits among themselves in situations such as dacoity. They will occasionally demand money from unsuspecting people.

4.2.6 Harsh Violence

Criminals, especially those who have done heinous crimes like rapes and murders, are thought to be deserving of abuse. Due to the fact that they are the only ones who can comprehend that language, some police officers think that the only effective approach to deal with recalcitrant criminals is to use third-degree torture. They contend that the jails' deterrent power has been diminished.

4.2.7 Enforcement that is constructive

There is a lot of pressure to produce results quickly. The cops use devious torture techniques and shortcuts to get results quickly. Even high-ranking police officers resort to unethical tactics in order to achieve quick results.

Regardless of whether legal measures were used or not, the relief that follows a prompt outcome is frequently appreciated. The supervisors also pardon all of the police officers' transgressions after the outcome is known.

The ongoing use of third-degree torture when it is effective is one of the main reasons why police officers act aggressively toward detainees. Police violence is thus positively reinforced since it yields results faster than other possibilities.

4.2.8 Law Enforcement Subculture

Torturing people is part of the police subculture. The police operate in a unique way that is specific to them. Their working environment differs from how others might respond in a comparable circumstance. Third-degree approaches are used in the subculture. Nonetheless, they discover community camaraderie, which gives them a sense of protection against all the risks and perils associated with his line of work. As a result, a culture forms between them and an environment is established where they collaborate and work together. The culture that emerges can alter them and begin torturing them even if they come from a good family. It is among the main reasons why torture is inflicted. One important function is played by the police subculture.

4.2.9 Insufficient Training

The primary reason why police torture occurs is because they are not properly trained. They exhibit behaviour that is completely uncivilized due to a lack of appropriate instruction. It leads to the application of third-degree techniques.

4.2.10 Interference of Politics

Torture is a result of the increasing political meddling. The cops turn into the dominant political party's operative and puppet. The police use all necessary steps to restrict opponents and safeguard the interests of politicians' supporters. The police are then protected and enriched by the politicians. In exchange, the politicians offer them security if there is a chance that they will be discovered. At all costs, the police must produce immediate results

if the political bosses are interested. The spirit of real and honest police officers is also tempered by the politicians' unjustified meddling in police operations.

Politicians therefore put pressure on the police to provide findings quickly, which leads to the observation of torture. Sometimes, pressure from both sides leads to torture in an attempt to frame an innocent person as well.

4.2.11 Unfavourable Working Environment

One of the main causes of torture in detention is unfavourable working conditions. It causes the cops to get dissatisfied. Lower-ranking police personnel operate in deplorable, unpleasant, and harassing circumstances. It has a significant impact on the police officers who live in such an environment.

4.2.12 Police Officer Immunity

The most significant factor, aside from the others, is the perception of police officers' impunity. Police believe they are exempt from criminal culpability because of this. They believe they will not be held responsible for their actions. Torture in detention rises as a result of this.

4.2.13 Insufficient Lock-Up Supervision

The government is required to adhere to international standards for police station monitoring. Torture cases in police custody are caused by a number of circumstances, including a lack of supervision and a failure to keep up with these requirements.

An unbiased inspection of the prison is essential to guaranteeing that the inmates' human rights are being upheld.

4.2.14 Tension and Stress

The cops have too many duties to handle. Among their many responsibilities include upholding law and order, deterring crime, and safeguarding people's lives and property. They are constantly busy. Their personal and familial lives are also impacted by this workload. They experience strain and stress on a different plane. As a result, they vent their annoyance on the individual who has been detained or arrested.

As a result, they find it difficult to concentrate on a single task well, and the demand from all sides tends to increase their workload. As a result, there has been an increase in instances of torture in detention.

4.2.15 Insufficient Judicial Monitoring

The growing number of cases of torture in police custody is largely attributable to the slow delivery of justice. In situations where the right to life—which include the right to be free from torture—is infringed, there is no quick fix.

In numerous significant instances of police-initiated fatalities in custody, the judiciary's swift response has consistently been lacking.

The Gujarat High Court ruled in *State of Gujarat v. Swami Amar Jyoti Shyam* that the arrested individual must typically be brought before the magistrate within twenty-four hours after their arrest. To preserve the rights and human dignity of the person who has been arrested, the police must closely abide by it, which grants the magistrate the power to supervise the police investigation. However, there are a number of examples that show it is not followed.

4.2.16 Additional Elements

Depending on the circumstances that officials face, there are a variety of reasons why torture occurs in detention. Some of the subtle but significant causes of suffering include sadism, sexual weakness, etc. Their sense of inferiority tends to make them cruel, and they use torture as one of the numerous ways they exact revenge on others.

In addition to the reasons listed above, lust could be a contributing factor in sexual torture. Male police officers employ force, commit rape, and engage in sexual exploitation of prisoners of the opposite sex in order to satiate their lust. They take advantage of their position and use terror to get agreement.

Social issues may also contribute to custodial violence. As a result, in a society where the public does not care about the use of force against other citizens, police personnel obtain what could be regarded as social support for their illegal activities.

Chapter 5

Provisions under the Indian Constitution and Other Statutes as Preventive Measures

5.1 Introduction

The Indian Constitution's preamble declares that the primary objective of social justice is to grant all of its residents equality, freedom, and justice. The concept of punishment has drastically changed from being based on deterrent to reformative philosophy. There is no civilized society that can condone torture as it degrades human dignity.

According to the rule of law, everyone's equality and freedom must be upheld at all costs. In the eyes of the law, everyone must be treated equally, and the law must be utilized to limit someone's freedom. The law must be followed and everyone must behave in a way that complies with its rules, including the government and its officials.

The primary duty of the police is to maintain peace and order, which can only be done by protecting the fundamental human rights of the populace. In addition to maintaining law and order, the police officers' primary duties include apprehending criminals, safeguarding law-abiding citizens, and preventing crime from occurring. This can only be achieved by protecting citizens' fundamental human rights.

5.2 Clauses in the Indian Constitution

5.2.1 Individual Liberty and the Right to Life

According to Article 21 of the Constitution, no one may be deprived of their life or personal freedom unless it is done so in compliance with the legal process. However, Article 21 has no explicit prohibition against torture. Article 21 of the Constitution enumerates the implicit right against torture.

The application of Article 21 was expanded in the **Maneka Gandhi case**, and it was determined that the procedure must respect the principles of natural justice and be reasonable, equitable, and fair rather than capricious or arbitrary.

According to the court's ruling in **Sunil Batra v. Delhi Administration**, Section 30 of the Prison Act forbids placing a prisoner facing a death sentence in solitary confinement. Article 21 of the Indian Constitution is violated when, without a good reason, a prisoner's freedom to travel, communicate, and interact with other inmates is severely curtailed.

5.2.2 The prohibition of handcuffing

The Supreme Court ruled in **Prem Shankar v. Delhi Administration** that handcuffing seemed to be both irrational and cruel. It is harsh and capricious. It would not be fair for the accompanying authority to shackle a prisoner without first providing an explanation, even in the most dire circumstances. Handcuffing should only be used when there is a "clear and present risk of escape" and there is hard proof, not just speculation.

The court ruled in **Citizen for Democracy v. State of Assam** that the patient-prisoners were shackled with ropes before being placed in the hospital. The court claims that it is against the Constitution and both national and international human rights legislation.

5.2.3 The prohibition of cruel treatment

In the case of **Kishore Singh v. State of Rajasthan**, Krishna Iyer, J., noted that the use of torture violates Article 21. The court issued safety and security guidelines for police detention centres along with an order to train personnel to treat individuals with respect.

5.2.4 The right to an expedited trial

In **Sheela Barse v. State of Maharashtra**, the Supreme Court ruled that jail regulations that beyond what the Court's ruling allowed and amounted to torture, coercion, or other types of injury were unconstitutional. Physical or mental restriction that is not warranted by the court's penalty, that is disproportionate for upholding prisoner discipline, or that would otherwise degrade the individual should not be allowed for inmates who are either awaiting trial or who have already been found guilty.

In **Mohan Lal Sharma v. State of Uttar Pradesh**, the Court determined that the right to be free from torture and physical abuse while in police custody is a well-established one under Article 21. Under article 21, the victim would be entitled to financial compensation if the detained had been mistreated by the authorities.

5.2.5 Defence of the Indian Constitution's Article 20 against ex post facto law

Article 20's first clause emphasizes that a person can only be convicted of violating the law that was in force at the time of the alleged crime.

If an act was not illegal at the time it was committed, it cannot become illegal after it has been completed.

A person may only face prosecution and punishment for a particular offense once, per Article 20(2) of the Indian Constitution. This is the double jeopardy doctrine. This expression is based on the common law precept of "nemo debet bis vexari," which holds that just one vexation has to take place if a court finds that two are happening for the same cause. In order to avoid harassment.

"No person accused of any offence shall be compelled to be a witness against himself," according to Article 20(3) of the Indian Constitution. This provision is based on the idea that unless the opposite is demonstrated, an accused person should be believed innocent. In criminal law, it is the fundamental standard. The prosecution is responsible for establishing the offense.

The Supreme Court emphasized the following fundamentals of the aforementioned privilege in **M.P. Sharma v. Satish Chandra**:

1. It pertains to an individual who is facing criminal charges.
2. It provides protection against being forced to testify.
3. He is protected from testifying against himself.

According to article 20(3), the former Orissa chief minister who was charged with corruption in the **Nandini Sathpathy case** refused to respond to inquiries during the inquiry. She was charged under section 179 of the I.P.C. The Court noted that police investigations, rather than just court proceedings, are where the restrictive sweep of Article 20(3) of the Indian Constitution starts.

5.2.6 Protections Against Unjustified Detention and Arrest

Protections against arrest and custody are outlined in Article 22 (1) of the Indian Constitution. "Any individual who is arrested shall not be held in custody without being promptly informed of the reasons for the arrest, nor shall he be denied the opportunity to consult with and be represented by a lawyer of his choosing," it states. Everyone who is arrested has to show up before the closest magistrate within twenty-four hours after the arrest, except the time needed to travel from the arrest location to the magistrate's court.

5.3 Sections of the Criminal Procedure Code

The Criminal Procedure Code's Section 41 permits police to conduct arrests without a warrant. Sections 41A through 41D were added by the 2008 Amendment Act. They provide a safety net for procedures. It is the duty of police officers to notify the individual, draft an arrest note, keep control rooms in each district, and let the individual to meet with an advocate of his choosing.

Handcuffs and other unnecessary measures are prohibited by Section 49. It is prohibited and in opposition to human rights ideals.

"The person arrested shall be informed of the grounds of arrest and of the right to bail," according to Section 50 of the 1973 Code of Criminal Procedure.

"Any friends, family members, or other individuals the arrested person may disclose or nominate for the purpose of receiving such information shall be promptly provided with information regarding the arrest and the location where the arrested person is being held," according to Section 50A of the Code of Criminal Procedure, 1973.

Section 55A of the Code of Criminal Procedure, 1973 specifies that, taking appropriate care of the accused's health and safety is the obligation of whoever is in charge of them.

"The arrestee must be informed of the details of the warrant's execution by the police officer or other person carrying it out, and if necessary, they must also show him the warrant," according to Section 75 of the Code of Criminal Procedure, 1973.

Any person arrested without a warrant may not be detained by a police officer for more than is reasonable under the circumstances of the case, and absent a special order from a magistrate under section 167, that period may not exceed twenty-four hours, not including the time required to travel from the place of arrest to the magistrate's court, according to Section 57 of the Code of Criminal Procedure, 1973.

When a woman is to be arrested, her submission to custody upon an oral notification of arrest shall be presumed unless the circumstances indicate otherwise, according to Section 46(1) of the Code of Criminal Procedure, 1973. Additionally, the police officer shall not touch the woman's person in order to make the arrest, unless the officer is a female.

According to Section 46(4) of the 1973 Code of Criminal Procedure, unless there are special circumstances, no woman may be arrested between nightfall and daybreak. In some cases, the female police officer must either make the arrest via a written report or have the prior consent of the Judicial Magistrate first class, whose local jurisdiction the offense was committed.

One of the significant turning points in the history of the formulation of legislation pertaining to the sexual repression of women was the **Mathura Rape case** in 1972. The entire judicial system's patriarchal and Victorian prejudices were mirrored in it in various ways. According to the suggestion, this tribal woman had probably consented to sexual activity in the police station since she had a premarital sexual connection with the man she eloped with and was a woman of loose morals. Following this, a number of well-known lawyers from Delhi addressed the president of India an open letter of complaint, and various women's organizations vigorously campaigned for a revised definition of "consent" to a sexual act.

The court has issued several directives in the Sheela Barse case to guarantee that women held by law enforcement be shielded from torture and other types of mistreatment.

According to the Court in *Hussainara Khatoon (IV) v. State of Bihar*³², protective custody is basically the same as incarceration, which is against Article 21. For the purpose of caring for women and children who have been abandoned, the government must set up welfare or rescue houses.

The CrPC's Section 436 permits the accused to get bail. The conditions under which bail may be granted for non-bailable offenses are outlined in Section 437. According to Section 167(2) of the Code of Criminal Procedure, 1973, the accused must initially appear in person before the magistrate and then each time after that, as long as he is still under police custody. However, the magistrate has the power to order additional judicial custody detention if the offender shows up in person or via electronic video connecting.

5.4 The 1860 Indian Police Act

Police officers who fail to execute their responsibilities or are deemed unsuitable to do so may be dismissed and subject to further sanctions under Sections 7 and 29.

In the matter of **Dr. Mehmood Nayyar Azam v. State of Chhattisgarh and Others**, the appellant was forced to carry a board with disparaging words on it while they were being held in detention. In a public photo, he was carrying the aforementioned sign. It was claimed that mental suffering and humiliation rob people of the essence of life guaranteed by Article 21, and the court mandated that a departmental inquiry be carried out against all of the irresponsible police.

5.5 The Indian Evidence Act's provisions

Section 24 of the Indian Evidence Act of 1872 states that an accused person's confession is irrelevant in a criminal proceeding if the court finds that the confession was obtained through any inducement, threat, or promise related to the charge against the accused person, coming from a person in authority, and that it is sufficient, in the accused person's opinion, to give him grounds that would lead him to reasonably believe that by providing it, he would gain any advantage.

According to Section 25 of the Act, an accused person's confessional statement to a police officer is not admissible as evidence and cannot be utilized by the prosecution to get a conviction.

5.6 The Indian Penal Code's provisions

Anyone in a position of authority over another person that allows them to detain or try them for ruthlessly breaching the law faces consequences under Section 220 of the IPC.

Public servants who coerce confessions may be punished under Section 330 of the IPC.

To prevent a woman from being tortured while in detention, the Criminal Law Amendment Act of 2013 raised the punishment and modified the definition of rape. "Anyone who, -

a) is a police officer and conducts rapes within the confines of the police station to which they are appointed, on the grounds of any station house, on a woman in their care, or in the care of a police officer under their command; or

b) commits rape while acting in the capacity of a public servant on a woman or in the care of another public servant beneath them," according to Section 376(2) of the Indian Penal Code, 1860;or

c) committing rape while serving in the armed forces stationed in a region by the federal government or a state government;

d) raping any inmate in a jail, remand home, place, or institution while managing or working at a jail, remand home, place of custody, or facility established by or in accordance with any currently enacted statute; or

e) raping a female patient in a hospital will result in a minimum sentence of ten years in prison, with the possibility of life imprisonment, in which case the individual would be incarcerated for the remainder of their natural life. A fine would also be imposed on them.

5.7 The 2022 Torture Prevention Bill

The 2022 bill was introduced in parliament with the goals of outlawing torture and guaranteeing that victims receive fair compensation. The most crucial clause concerns how the relative will be informed of the arrest and how such notification may be given, whether over the phone or in another way.

The severity of the injuries, the victim's mental anguish, their earning potential, the costs of treatment and the prosecution, and other factors must all be taken into account when determining the appropriate amount of compensation.

The following criteria must be used to determine the amount of compensation: if the victim dies, the amount should be calculated by multiplying their yearly income by the number of years they were incarcerated; if they suffer physical harm, the amount should be two lacs; and if they suffer severe injuries, the amount should be ten lacs, contingent on the court's ruling.

CHAPTER 6

The Conventions and International Treaties Prohibiting Torture and Inhuman Treatment

Numerous international agreements and treaties have addressed these heinous behaviours. The UNCAT is the most crucial of them all. India has not yet ratified it, although having signed it. Although these are positive efforts, the bills to prohibit torture in 2010 and 2018 have not yet been voted into law. This article aims to provide light on certain international rules and agreements and the extent to which India supports them.

6.1 1948's Universal Declaration of Human Rights

"No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment," according to Article 5 of the Universal Declaration of Human Rights¹².

The definition given is rather straightforward and understandable. The ban is mandatory and unchangeable.

The description of torture in the UDHR is reiterated in Article 7 of the International Covenant on Civil and Political Rights, which also specifically forbids torture and all types of cruel and inhuman treatment.

6.2 The Geneva Convention

Regarding torture and brutal treatment, one of the most revered conventions is the Geneva Convention. Civilians, women, children, and those who are ill or injured are protected against cruel treatment under the four Conventions.

The use of force to gather information is prohibited by Article 31 of the Geneva Convention for the Protection of Civilians in Times of War. It forbids both military and non-combatant agents from using any kind of cruelty, including moral or physical compulsion.

6.3 1977's Standard Minimum Guidelines for the Treatment of Inmates

This regulation, which was initially accepted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, is generally accepted as the minimal need for prison management and inmate care. It has greatly influenced the development of laws, rules, and practices pertaining to prisons. According to Rule 33, handcuffs, chains, irons, and straitjackets are examples of restraining devices that should never be used as a form of punishment. Irons or chains are also not permitted to be used as restraints.

6.4 The 1984 United Nations Convention on the Prohibition of Torture and Other Cruel, Inhuman, or Degrading Treatment

The United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment was approved by the General Assembly on December 10, 1984, by resolution 39/46. It became operative on June 26, 1987. Article 1 of UNCAT provides an internationally recognized definition of torture and ill-treatment.

Under the UNCAT, state parties are subject to a number of duties. The definition of torture provided in UNCAT article 1 must be provided by the state parties and incorporated into their national laws, according to Article 4. ²¹ According to Article 5, the parties must take the appropriate operational steps to establish their geographical authority. Similarly, any confession or statement produced as a result of torture or other cruel treatment is not admissible as evidence, according to article 15.

The Optional Protocol to the Convention against Torture (OPCAT) was approved by the General Assembly on December 18, 2002, and it became operative on June 22, 2006. It is advised that independent national and international organizations set up a system of regular inspections to locations where people are tortured in order to stop torture and other types of cruel, inhuman, or degrading treatment or punishment.

6.5 The 1993 Vienna Declaration and Action Plan

The Vienna World Conference on Human Rights approved the statement on June 25, 1993, which asserts that torture degrades a person's dignity.

This claim states that the protection from torture, which is the most fundamental right, must always be respected. Medical ethics and medical personnel should get special attention when it comes to protecting prisoners from such harsh and degrading treatment.

6.6 The 1950 European Convention for the Protection of Fundamental Freedom and Human Rights (ECHR)

"No one shall be subjected to torture or inhuman or degrading treatment or punishment," states Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1953.

6.7 The UN System's 1999 Istanbul Protocol

Even though it is not legally obligatory, regional courts and commissions are already taking it into account. It contains detailed instructions on how to guarantee that investigations are timely, efficient, unbiased, and independent.

Within a broader context of human rights legislation, the Istanbul Protocol protects prisoners against torture and other abuses starting at the moment of custody. In addition to protection from some forms of punishment, the Nelson Mandela Rules give prisoners access to medical treatment and legal counsel while they are being held in jail. Medical personnel can evaluate detainees for signs of torture and bring charges against those who engage in it thanks to the Istanbul Protocol.

CHAPTER 7

The Law Commission of India's Reports and Judicial Proclamations

The Supreme Court stated in **Prem Shankar Shukla v. Delhi Administration** that handcuffing someone during a trial constituted torture and is prohibited under Article 21. The court referenced both Article 10 of the Covenant on Civil and Political Rights and Article 5 of the Universal Declaration of Human Rights.

Section 43 of the BNSS, which deals with how an arrest should be made, was amended after the criminal procedure code was changed in *Bhartiya Nagrik Suraksha Sanhita*. This section allows police to handcuff suspects in cases involving serious crimes like rape, acid attacks, murder, sexual offenses against minors, drug-related offenses, and others. This section states that if a person is a habitual or repeat offender, has escaped from custody, has committed organized crime, terrorism, drug-related crimes, illegal possession of weapons and ammunition, murder, rape, acid attack, counterfeit coins and currency notes, human trafficking, sexual offenses against minors, or has committed other serious crimes, a police officer has the right to use handcuffs when making an arrest or bringing them before a court.

When assessing the arrestee's incarceration for almost seven days without legal permission, the Supreme Court noted in **Joginder Kumar v. State of Uttar Pradesh** that "no arrest can be made because it is lawful for the police officer to do so." A person's reputation and self-esteem might suffer irreparable harm if they are arrested and placed in a police lockup. A routine arrest cannot be initiated based only on a person being accused of committing an offense.

The aspects of dealing with a death in prison were established in the case of **D.K. Basu v. State of West Bengal**, along with a list of the rights of an accused or detainee. The Supreme Court has ruled that custodial death is unquestionably one of the greatest crimes in a civilized society. Article 21 of the Indian Constitution forbids torture of any type, including cruel, inhuman, or degrading treatment, whether it occurs during an investigation, interrogation, or another procedure. The Supreme Court has issued following guidelines in this case:

- a) When making an arrest and questioning the individual who has been arrested, police officers should identify themselves by making their names and positions obvious.
- b) When making an arrest, police officers are required to draft an arrest document that is countersigned by the arrestee and attested by two witnesses. The memo must then be sent to the magistrate.
- c) Within eight to twelve hours following the arrest, the local police station and the district's legal aid organization should be contacted telegraphically.
- d) When the arrested individual is taken to the police station, the officer is required to advise him of his rights.
- e) A note on the arrest must be put in the journal, together with the names and details of the police officers holding the arrestee and the name of the next friend who has been notified of the arrest.
- f) The arrested person must be examined for both serious and minor injuries at the moment of arrest.
- g) While the arrestee is in custody, medical assistance should be given to him every 48 hours. The Director of Health Services in the relevant State or Union Territory will nominate a physician to the panel of authorized physicians.
- h) For the Ilaqa Magistrate's records, copies of the aforementioned crucial papers, including the arrest memo, should be supplied.
- i) The arrestee might be permitted to speak with his attorney while being questioned, but not all the time.
- j) Within 12 hours of making the arrest, the police responsible for the arrest must notify the arrestee of the time of the arrest and the location of their custody. This information should be posted on a prominent notice board.

Guidelines for arrests in general and women in particular were established in **Sheela Barse v. The State of Maharashtra**

- (1). Only female suspects should be detained in police lock-ups that are carefully selected in reasonably good localities and are supervised by female constables.
- (2) Police lock-ups where male suspects are being held should not house female suspects.
- (3) Only female police officers or constables should be present while questioning female suspects.
- (4) Police are required to notify the closest legal aid committee if they arrest a suspect and take them to police detention facilities.

The Supreme Court stated in **Babu Singh v. State of Uttar Pradesh** that denying bail results in the loss of an individual's personal freedom. It is too valuable for our Constitution's Article 21 to recognize. Because the authority is discretionary, it must be exercised sparingly and carefully, taking into account the costs to the community and the person.

Many inmates seeking a trial were unable to provide a sufficient financial guarantee for their appearance, which raised the issue of the accused's release on personal bond, free from any financial obligations or sureties, in the historic ruling of **Hussainara Khatoon and Others v. Home Secretary, State of Bihar**. The assessment of the accused's community ties is the most important factor in this case since it will reveal the likelihood that the accused will avoid prosecution, which is the primary justification for requiring sureties and other financial guarantees. This article also highlighted some factors that should be taken into account when doing so.

The court ruled in **Arnesh Kumar v. State of Bihar** that state governments are required to provide police personnel with training on how to avoid making routine arrests when a charge is filed under section 498-A of the Indian Penal Code. According to Section 41-A of the Code of Criminal Procedure, the accused person must receive a notice of appearance within two weeks of the case starting. The High Court may initiate departmental processes against judicial judges who authorize detention without offering a rationale. When presenting the accused before the court for further detention, the police officer must show the checklist and any supporting paperwork justifying the arrest.

7.1 Law Commission of India Reports

7.1.1 Injuries in Police Custody, 113th Report (1985)

The Law Commission suggested in its 113th Report that the Indian Evidence Act, 1872, be amended by adding section 114B, which states that in cases of custodial injuries, the court may assume that the injury was caused by the police who were in the person's custody at the time if there is proof. The police authorities have the burden of proving otherwise.

7.1.2 Custodial Crimes, 152nd Report (1994)

The Commission addressed the problems of arrests and official abuse of power while citing all constitutional and legislative regulations, such as Articles 20, 21, and 22, which must be strictly adhered to because they deal with people's lives and liberties. Sections 166 and 167 (public officers disobeying the law), 220 (confining someone for corrupt and malicious reasons), 330 and 331 (illegal restraint and bodily harm), sections 340–348 (wrongful restraint and wrongful confinement), 376(2) (aggravated form of rape committed by police officers, etc.), 376B–376D (custodial sexual offences), and sections 503 and 506 (criminal intimidation) were also taken into account.

The Commission's primary suggestion was to alter the IPC by adding a new clause that would penalize violations of section 160 of the Cr.PC. Additionally, it suggested amending the Cr.PC. to include section 41(1A) for documenting the reasons for arrest and section 50A for notifying family members, among other things. The Commission reaffirmed the 113th Report's recommendation to add a new provision, section 114B, to the Indian Evidence Act.

7.1.3 "Law Relating to Arrest," the 177th Report of the Law Commission (2001).

In its 177th Report, the Law Commission of India recommended that section 55A be added to the Cr.PC., which would read, "Health and Safety of the Arrested Persons: It shall be the duty of the person having custody of an accused to take reasonable care of the accused's health and safety."

7.1.4 268th Report (2017): 1973 Code of Criminal Procedure Amendments: Bail Provisions

The Commission suggested in its 268th Report that section 41(1A) be added to the Cr. PC and that 41B be amended to require the police officer to inform the arrested person of their rights in order to grant bail and to liberalize the bail procedure.

7.2 Malimath Committee on Criminal Justice System Reforms (2003)

Among other things, the Committee had carefully examined the fundamental ideas that guide the functioning of the criminal justice system, such as the rights of the accused, the presumption of innocence, the burden of proof, and the provision of justice to victims of crime. The Committee recommended that legislation be put in place that would permit the audio and video recording of confessions, witness testimonies, and deathbed pronouncements and testimony. In this case, the Supreme Court considered a writ petition submitted by two retired police officers and a nongovernmental group calling for the implementation of the National Police Commission recommendations.

In 2006, the Apex Court rendered a landmark decision regarding police reforms. referred to as the *Union of India v. Prakash Singh* case. The ruling addresses three distinct facets of policing: autonomy, accountability, and efficiency.

Conclusion and Recommendations for Improvement

The police continue to regularly employ torture to coerce information and confessions or simply to victimize marginalized groups in society, according to a study published by the National Campaign against Torture, a platform for NGOs working on torture in India.

The Supreme Court has ruled that "custodial torture" is a heinous violation of human dignity and a demeaning practice that essentially obliterates a person's individuality. The first step is to make torture in captivity illegal. This might be put into effect by a special law.

Second, many cases of torture in detention might be prevented if law enforcement officials followed the rules pertaining to arrest and imprisonment. The Supreme Court's rules must be adhered to without exception, even though they are not a perfect answer. Anyone who disobeys will be subject to legal repercussions.

Thirdly, the public and especially concerned professional groups, including rights groups and the media, need to keep a close eye on police practices to make sure the government keeps its pledges. The political opposition must also make sure that the Director General of Police looks into and reports to the legislative assembly any cases of torture or death in detention. Fourth, the national government ought to ratify the United Nations Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment.

In order to fight the evil of custodial crime and advance transparency and accountability, the Hon. Supreme Court set the guidelines that must be followed in every arrest or detention scenario in the case of DK Basu. Nevertheless, much of the guidance occasionally provided by respectable courts or other NGOs is only partially and loosely adhered to.

In addition, the police frequently torture, unlawfully detain, harass, and arrest people. Nonetheless, it is noteworthy how the national and state human rights commissioners have defended and advanced human rights by taking swift action and making appropriate and firm recommendations to the appropriate governments about inept police officers.

It's important to keep in mind that the commission requested that all states and union territories notify it right away of any rape or death that occurs while a person is in police custody within 24 hours of the occurrence; failure to do so will be interpreted as factual concealment.

India has not yet ratified the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, despite having signed it 20 years ago. In India, there is no clear legislation that forbids torture carried out in detention, and there is no trustworthy protocol to prevent such attacks.

The Indian Law Commission argued for the need to reverse the burden of proof in cases involving a prisoner's death or bodily harm while in police custody and suggested shifting the burden to the police in a report advocating the addition of section 114-A to the Indian Evidence Act. Assessing the problem of prison torture requires an understanding of the difficulties police officers encounter. The following problems seem to be difficult for the Indian Police, the country's premier law enforcement agency: a large task with insufficient staff and subpar service conditions; low capability as a result of the lower cadre's education; antiquated and inadequate training; insufficient compensation and service facilities; a poor information and communication network; excessive pressure and interference from those in positions of authority; and a poor information and communication network.

Some Recommendation:

- Instruction and practice in respect for human rights It should be mandatory for law enforcement and security officers at all levels to complete a course on human rights and the Constitution.
- To fully outlaw judicial and custodial violence, appropriate reforms must be put in place through the enactment of certain legislation.
- According to the 2017 Prevention of Torture Bill, the term "torture" should be properly defined by law, and its scope should encompass mental torture.
- Psychological torture must be denounced, and inmates' behaviour must be evaluated to determine their mental health, which would assist lower the number of suicides.
- In order for victims to be able to reintegrate into society, their rehabilitation should be appropriately evaluated.
- Every 48 hours after being arrested, inmates are entitled to a medical examination, and their weekly report should be posted online so that their family may learn about their health.
- Since Section 187 of the Bhartiya Nagrik Suraksha Sanhita, 2024 permits police detention for 15 days in whole or in part at any point during the first 40 to 60 days and is prone to abuse, it should be changed.
- As it offers a methodical review of colonial methods, practices, and arrangements for the custody and treatment of persons subject to arrest, detention, or imprisonment, India should also ratify the UN Convention Against Torture.
- Police officials must receive special training that prohibits the use of violence in any situation.
- For the purpose of questioning, police stations must have separate rooms with CCTV cameras installed and kept operational at all times.
- It is important to support the police's use of scientific equipment in their investigations, such as computers, lie detectors, forensic science labs, etc. The psychology of criminals should inform the questioning techniques, and psychologists should be hired to complete the required duties.
- The administrative rules of criminal practice should mandate that when the accused is brought before the magistrate for remand to additional custody, the magistrate specifically ask about any claims of torture or other mistreatment by the police, and document the magistrate's

response. This aligns with the suggestion made by the National Police Commission. If the accused or suspect has been tortured, the magistrate should send them to judicial custody rather than continuing to remand them to police custody.

- The Law Commission was right to propose amending the Evidence Act to include a new section 114B, which would establish a rebuttable presumption that any harm sustained by an individual in police custody was caused by the department's officer in charge. It will be his responsibility to prove his innocence. Once implemented, it will compel law enforcement to treat suspects and others in their custody in a more humane and compliant way.
- The government should enact a suitable central law to ensure the protection of the suspect or accused while they are being detained at the police station. Among other things, the law may mandate that the accused undergo a medical examination both before and after being placed under police remand, permit legal representation during questioning, designate senior officers to guard the accused's safety, enforce stringent accountability at all levels, and compensate the victim's family in the event that the victim dies while under police remand.

Taking into account everything said above, the following actions are crucial:

1. First, torture in captivity should be illegal. This might be put into effect by a special law.
2. Second, many cases of torture in detention might be prevented if law enforcement agencies followed the rules governing arrest and detention.
3. Ratification and promotion of the United Nations Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment are necessary. The government has refused to sign the agreement on the flimsy pretext that existing laws provide sufficient protection against torture in detention, which is obviously incorrect. In spite of innumerable complaints and rulings from Indian courts sixty years after independence, torture would not be permitted as it is now if it were true.
4. Only by increasing awareness and implementing strict court magistrate supervision throughout the accused's production can the issue be rectified.
5. To terminate the online complaint systems that allow people to lodge complaints against torture in custody.

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