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A Critical Analysis on Custodial Violence in India

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ABSTRACT

Incidents of police brutality frequently dominate news headlines and invite sharp public criticism. Allegations of excessive violence by police forces have emerged from nearly every corner of India. This often leads to the damaging perception that the police force is overrun by individuals who derive satisfaction from inflicting pain and suffering. However, this generalization is misleading. Many police officers carry out their duties with considerable dedication, enduring immense pressure and stress associated with their roles. Despite stringent rules laid down in official police manuals that explicitly prohibit the misuse of power, some officers still resort to extreme and unlawful methods, believing they can evade accountability. The culture of protection by both seniors and subordinates only strengthens this dangerous assumption, resulting in deaths in custody that often generate more controversy than concrete justice.

The 1977 National Police Commission conducted investigations into custodial abuses across nine states and discovered police involvement in a majority of the cases—out of 432 administrative inquiries, police culpability was confirmed in 23 of 37 cases examined by two external agencies and in 11 of 17 administrative probes. The Commission recommended that custodial death cases should not require dual judicial inquiries. This research seeks to examine the issue of custodial violence from multiple dimensions.

Custodial violence includes all forms of abuse that occur or judicial institutions. It encompasses not just physical torture but also custodial rape and unexplained deaths. This issue is not new to the Indian context. Provisions such as are meant to prevent police from using unlawful means during interrogation. Nonetheless, custodial torture continues. The NHRC's 1993 guidelines require every custodial death or rape to be reported within 24 hours. The report must include a post-mortem video recording, autopsy report, and medical details—even in cases of natural death or illness. Apart from torture, deaths occur due to disease, suicide, and inmate-on-inmate violence, with around 20% attributed to medical negligence and poor prison conditions.

Key service deficits—like inadequate healthcare, poor nutrition, and lack of trained personnel worsen the situation. For meaningful reform, proper oversight and accountability within police forces are essential. Human rights training and adequate staffing, especially medical and female officers, are critical. The NHRC has urged that state Human Rights Cells become more proactive in ensuring healthcare and dignity in prison systems. Such incidents of custodial death are not only a national shame democracy. Global awareness and pressure standards are steadily increasing.

INTRODUCTION

“Jails and prisons are designed to break human beings, to convert the population into specimens in a zoo - obedient to our keepers, but dangerous to each other.”

— Angela Davis

This quote reflects the grim transformation of correctional institutions from rehabilitation centers to environments where inmates are dehumanized. Rather than simply punishing wrongdoing, modern prisons often strip individuals of their dignity and identity. Those incarcerated are frequently subject to exploitation by those in positions of power, especially in the absence of oversight and accountability, making custodial settings potentially hazardous.

In early human existence—during the state of nature—life was harsh, lonely, and short. To escape this condition, humans formed social contracts that led to the creation of the State and sovereign authority. The core purpose of this sovereignty was to uphold law, order, and justice, vital for effective governance and social harmony. Among the institutions that emerged, the police became essential in enforcing legal norms. Ironically, those entrusted with upholding the law have at times become its violators, misusing power against the very people they are sworn to protect. The term crimes committed held in custody by public servants. This is one of the gravest abuses of authority by those charged with law enforcement. Such acts erode public faith in the justice system and obstruct due process. Unfortunately, in India, police brutality is often dismissed or normalized. Society frequently perceives it as a functional aspect of law enforcement. This tolerance not only undermines constitutional principles but poses a serious threat to democratic values and human rights.

Historically, mistreatment are deeply entrenched in India's policing culture, tracing back to colonial-era practices. The aim of this study is to examine the concept and historical roots of custodial violence, investigating its persistence in modern law enforcement.

By exploring the causes, forms, and consequences of custodial violence, this research seeks to identify the systemic issues enabling its existence. It also aims to propose effective measures for minimizing such incidents a more equitable custodial system. To effectively address, it is important to have comprehensive and enforceable legislation. A strong legal system is necessary not only to prevent abuse but also to ensure justice is served. This study offers a detailed examination of various constitutional protections, statutory laws, and international agreements that form the legal framework around custodial rights. It will also assess the existing laws' capacity to prevent custodial abuse by analyzing their strengths, loopholes, and application in practice. By critically reviewing legislative intent and actual enforcement, the study identifies key areas where reforms are urgently needed.

Victims of custodial violence often endure not only physical harm but also profound psychological distress. True justice demands more than punishing the perpetrator—it also requires tangible efforts to restore the victim's dignity and well-being. Therefore, compensation should take into account the emotional, social, and financial consequences suffered by victims. This study will explore the difficulties victims face in pursuing compensation and emphasize the need for effective legal and institutional support systems. The research will highlight the

importance of implementing clear and victim-centered policies to facilitate meaningful redress. A major challenge in prosecuting custodial violence is the lack of direct evidence. Since such abuses often occur within closed institutional settings, offenders frequently escape accountability. One proposed solution is the widespread use of surveillance technology, such as CCTV cameras in police stations. These systems could serve as both preventive tools and as mechanisms for transparency and accountability. This research will evaluate how technological tools can contribute to building safer and more transparent custodial environments. It will also discuss the practical obstacles to deploying surveillance effectively in India's law enforcement system. This aims to unpack the intricate realities of custodial abuse by examining its historical context, evaluating current legal and policy mechanisms, investigating victim compensation, and exploring the role of technology in preventing such abuses.

Ultimately, the objective is to enrich scholarly dialogue and contribute practical recommendations that promote justice and institutional accountability. When custodial violence personnel, they represent a grave threat to justice, civil liberties, and the rule of law. Such incidents occur regularly and often go unnoticed or unpunished. Some recent and well-known examples include:

- The Sathankulam incident (Tamil Nadu): for allegedly violating lockdown rules. They were subjected to brutal

torture, including sexual assault, resulting in over thirty injuries and their deaths within three days of arrest.

- Father Stan Swamy: arrested under the UAPA in connection with the

Bhima Koregaon violence. Suffering adequate medical care and bail while imprisoned. He contracted COVID-19 in jail and passed away after nine months in custody as an undertrial.

- Ankit Gujar (Tihar Jail): Allegedly murdered by police personnel for failing to pay a bribe. Surveillance footage was manipulated, and due to lack of evidence, no one was held accountable.

- Hira Bajan (Gujarat): A marginalized man accused of theft, detained and subjected to stripping, beatings, and sexual torture. He later died due to police brutality. His social background, being from a community historically labeled as "criminal" during British rule, made him especially vulnerable.

Other instances include:

- Resham Singh: Brutally assaulted in custody.
- Faisal Hussain (Unnao, UP): A teenage vendor killed during a lockdown enforcement drive.
- Agra sanitation worker: Died while being interrogated for theft.
- Moinul Haque (Assam): Killed during an eviction attempt.
- Extrajudicial killing of rape accused: Police used illegal force under the guise of public justice.
- In Tamil Nadu alone, multiple cases demonstrate the systemic nature of custodial abuse:
- Vignesh: Arrested for marijuana possession, later found with 13 wounds on his body.
- Murugesan: A vendor fatally beaten by a police officer.
- Gokul Shree: A 17-year-old who died in juvenile detention, with 98 injuries recorded.
- Karthik: Accused of chain-snatching, died in custody.
- Andhra Pradesh red sander case: 20 Tamilians shot dead in an alleged encounter.
- Balveer Singh case: An IPS officer used pliers to break detainees' teeth.

Despite the gravity of these cases, only 344 officers have been convicted for such misconduct. This number is alarmingly low, considering the scale of violations. Many deaths remain Unreported due to pressure on witnesses, settlement deals, and systemic neglect.

According to the NCRB 2022 report, while 75 custodial deaths were documented, only 19 FIRs were registered, and no officer was formally charged. Out of 2614 custodial violence cases, just 843 were charge-sheeted, and only 12 led to convictions, while 282 resulted in acquittals.

These statistics underline two critical concerns. First, custodial violence has become institutionalized, regularly used to suppress dissent or intimidate suspects. Second, the lack of consequences perpetuates a culture of impunity. Deaths in custody are often dismissed as side effects of interrogation, ignoring the systemic rot that enables such violence. These patterns demand urgent reform to promote accountability, safeguard rights, and uphold justice.

HISTORICAL OVERVIEW

Torture as a form of coercion and investigation has existed in the Indian subcontinent for centuries. One of the earliest recorded acknowledgments of this practice is found in the Madras Torture Commission Report of 1865, which confirmed that methods involving pain and force had long been used by officials to extract confessions or information.

Torture during Ancient India

Among the ancient Hindu lawgivers, Manu is considered one of the earliest authorities. He categorized punishment into four types:

Vak Danda (verbal warnings),⁵ Dhik Danda (reproach),

Dhana Danda (fines), and

Bandha Danda (physical penalties, including death).

The last category included beatings, amputation, scarring, execution, and even scalding with boiling oil. Justice systems at the time heavily relied on ordeals, caste hierarchy, and public punishments. The Vedas and Upanishads also describe trial methods involving divine judgment or painful tests in cases lacking eyewitnesses.

For example, some accused individuals were made to hold hot iron rods or submerge in water to prove innocence. Classical Greek accounts also mention unusual tests, such as drinking from a mystical fountain that would allegedly force confessions. Ancient texts like the Mahabharata, Arthashastra by Kautilya, and the Laws of Manu all emphasized that “danda,” or punishment, must be used carefully by the sovereign to maintain justice and order.

Torture under Mughal Rule

From the 13th to 18th century, the Indian subcontinent was under Islamic rule. While rulers often upheld Islamic values of fairness and justice, harsh punishments were commonly imposed for serious crimes like theft or murder. Executions were public, typically involving elephants trampling the accused to create fear among citizens. Prisons were overcrowded and inhumane, and there was no standardized penal code. The Sharia law was largely followed. Justice rested with the ruler, and torture was used for both interrogation and punishment. The state combined monarchic authority with strict discipline, often targeting certain communities more harshly.

Torture and Legislation during British Rule

During the early British occupation of India, there was no well-developed criminal justice system. Both the police and tax collectors engaged in torture to extort confessions or extract revenue. In 1854, the British Parliament was informed about these abuses, prompting public outrage in England.

As a result, the Madras government formed a three-member commission that spent seven months investigating custodial torture. Their findings, compiled in 1855, confirmed widespread brutality in the Madras Presidency. This led to recommendations for creating a formal police force and improved legal procedures, eventually resulting in the Police Act of 1861 and establishment of the Indian Police Service. Subsequent reports, like the 1905 Police Commission under Lord Curzon, revealed how innocent civilians were threatened, coerced, or beaten for information, showing that colonial policing had institutionalized torture under the pretense of law enforcement.

NATURE OF CUSTODIAL VIOLENCE

Custodial violence includes multiple forms of abuse inflicted upon individuals in detention. The international definition of torture generally describes it as the intentional infliction of severe

pain—either physical or mental—by or at the direction of state actors, often to extract information, punish, intimidate, or discriminate.

The three broad categories of custodial torture include:

Physical Torture

This includes acts such as:

- Beating, slapping, punching

- Suspension by limbs or forced posture
- Stretching or twisting of joints
- Electric shocks or burns
- Starvation or deprivation of water
- Cuts, lacerations, and exposure to harmful chemicals
- Invasive dental or bodily harm

Psychological Torture

Mental abuse may include:

- Threats to harm the detainee or their family
- Forcing the victim to watch others being tortured
- Religious insults or forced desecration
- Prolonged isolation or humiliation
- Such practices cause long-term trauma and may break the victim's spirit.

Sexual Torture

- Sexual abuse in custody is one of the most heinous forms of violence. This includes:
- Custodial rape by jail officials or police
- Sexual harassment, molestation, or groping
- Forced virginity testing
- Sexual threats or degrading strip searches
- Sexual torture often goes unreported due to stigma, fear, and lack of support structures.

CONCEPT OF CUSTODIAL VIOLENCE

Indian law does not offer a formal legal definition of "custodial violence." The concept merges two components—"custody" and "violence."

"Violence" denotes aggressive or extreme force, often applied without justification, aimed at inflicting injury or asserting dominance. It includes physical and psychological harm and can also involve damage to property.

"Custody" involves exercising control or authority over an individual. In legal terminology, it refers to a state of detention, arrest, or imprisonment, typically under the control of police or judiciary. Although custody implies protection or legal responsibility, in practice, it often becomes a tool for misuse. For example, being in police custody means being under law enforcement supervision not necessarily physical detention, but within legal control.

This broader understanding was emphasized in cases such as Chhotey Lal where the court acknowledged that surveillance or restriction of movement amounts to custody. Similarly, in Bibachha Baitharu the court recognized limiting a person's liberty qualifies as custody.

Although "custody" and "arrest" are often used interchangeably, they differ legally. An arrest typically involves forcibly taking a person into custody by police under Section 46 of (CrPC). However, custody without being arrested—for instance, by voluntarily appearing before a magistrate. In *Niranjan Singh v. Prabhakar Rajaram Kharote*, Justice Krishna Iyer emphasized that custody extends to situations where the accused surrenders voluntarily to a judicial authority.

The CrPC Section 167 defines.

The individual remains at the police station, subject to interrogation, for a maximum of 15 days.

Judicial Custody: Ordered by a magistrate, where in jail. The police may access the accused only with the court's permission. Once an arrest is made, must hours. Any detention beyond that must follow Section 167 provisions. Further custody beyond 15 days can only occur under judicial orders when necessary for investigation. The phrase generally brutality carried out by police legal custody. It reflects a misuse of power, often stemming from a desire to demonstrate control over the helpless. of India defines it as acts officials persons in their custody. Scholars like Dr. S. Subramanian also include the use of threats, coercion, and mental pressure. Justice B.P. Jeevan Reddy described it as ranging from torture and assault to custodial death and rape. Justice Krishna Iyer stressed that such conduct by state agents seriously undermines constitutional principles Victims typically experience

torture—defined as extract information, or coerce compliance. Efforts to address this include, which proposed penalizing acts that cause severe harm or pose threats to life and health while in custody.

Types and Manifestation

Custodial violence in India is a widespread and deeply entrenched issue, taking multiple disturbing forms. While most people are familiar with images of police using batons on the streets in the name of maintaining order, these visible forms are just the surface. Inside police stations and prisons, such violence often intensifies, particularly due to overcrowded cells, poor sanitation, lack of nutrition, and inadequate medical care.

The term “custodial violence” includes a range of abuses that fall into the following categories:

Physical Abuse

This refers to direct bodily harm inflicted on detainees, which may include:

- Severe beatings, use of sticks or rods,
- Electric shocks, whippings,
- Sexual assault by officers in power.

Such abuse frequently causes serious injuries and even deaths. One of the gravest concerns is when victims are sexually assaulted while in custody, which involves both rape and molestation committed by officials entrusted with protecting the detainees.

Verbal Abuse

Verbal maltreatment in custody often includes:

- Use of insulting language and humiliation,
- Issuing threats to victims or their families,
- Ethnic, caste-based, or gender-based slurs.

These verbal attacks are psychologically damaging and contribute to long-lasting trauma. Humiliating language reinforces social divisions and deepens the power imbalance between detainees and law enforcement personnel.

Unauthorized Arrest and Detention This occurs when individuals are:

- Detained without valid legal authority,
- Held without being produced before a magistrate,
- Arrested without due cause or proof.

Often, people are confined for days without formal charges being framed, which violates basic legal safeguards and exposes them to abuse.

Forced Confessions

In many cases, suspects are pressured into confessing, regardless of actual guilt. These confessions are obtained through:

- Physical torture,
- Prolonged psychological intimidation,
- Threats and manipulation during interrogation.

Victims may admit to crimes they didn't commit just to end their suffering. This results in miscarriages of justice, while the actual perpetrators remain free.

Other Forms of Torture

Additional custodial practices include:

- Sleep deprivation, starvation, and denial of drinking water,
- Fabrication of evidence, making victims appear guilty,
- Restrictions on access to lawyers, medical care, or family,
- Withholding basic rights and necessities, such as food or clothing.

A particularly notorious form is the “third-degree treatment”, which includes extreme torture methods designed to leave minimal visible injuries. These include the infamous “roller treatment” and electric shocks, especially on sensitive areas like the genitals. A 1976 report submitted to the US House of Representatives described India's torture practices in graphic detail. Among the methods were:

- Caning the soles of feet,
- Kicking the spine or using rifles to hit backs,
- Pouring hot substances on bare skin,
- Stretching victims in painful positions,
- Forced ingestion of feces,
- Parading naked in public.

These methods served not only to inflict pain but to completely break a person’s dignity and willpower.

The 2019 NCAT Report (National Campaign Against Torture) also highlighted horrific practices, including:

- Beating with iron rods and applying electric current to private parts,
- Use of chemical powders in genital areas,
- Suspension by ropes and denial of sleep,
- Starvation and compelling victims to perform degrading acts.

In one case, a pregnant woman was reportedly kicked in the stomach. Other reported abuses included urination into victims’ mouths, burning with hot metal rods, and stripping detainees before beating them in public.

Law enforcement officers today are trained to use techniques that avoid visible injuries, making prosecution harder. These include:

- Stretching limbs in painful directions,
- Rolling wooden logs over the thighs,
- Applying low-voltage shocks to sensitive body parts.

According to the 2022 NCRB report, many custodial deaths were labeled as suicides (31 cases) or natural causes like illness (32 cases). These numbers suggest systemic failures, such as:

- Poor mental health support,
- Inadequate healthcare in detention centers,
- High stress and neglect in custody.

In some instances, officials withhold food, water, or medical aid, further exacerbating the suffering. Extortion is also prevalent, where officers exploit detainees or their families for bribes under threat of torture. These incidents demonstrate how custodial violence isn’t limited to physical harm—it encompasses a broad spectrum of abuse that traumatizes individuals and erodes public trust.

CONSTITUTIONAL PROVISIONS ON CUSTODIAL VIOLENCE

The Indian Constitution is fundamentally built on the value of human dignity. Its Preamble affirms the commitment to justice—social, economic, and political—alongside safeguarding the dignity of the individual. These principles are echoed and reinforced through the Fundamental Rights and the Directive Principles of State Policy.

Article 21 secures every person's right to life and personal liberty. In the landmark judgment of *Maneka Gandhi v. Union of India*, the Supreme Court interpreted this to encompass the right to live with dignity. In *Sunil Batra v. Delhi Administration*, the Court denounced the use of chains and shackles on prisoners, declaring such practices as a breach of Article 21. Likewise, in *Kadra Pahadia v. State of Bihar*, the judiciary upheld the right to a speedy trial as an essential aspect of personal liberty under this article.

Over time, this constitutional safeguard has evolved to include protection against torture and inhuman or degrading treatment, especially when such acts are carried out by state officials or law enforcement agencies.

- Article 14 ensures which includes the rights of accused individuals and convicts.
- Article 20(1) prohibits retrospective
- Article 20(2) prevents double jeopardy.

- Article 20(3) guards, especially in coercive situations.
- Article 22(1) provides for the right to be informed of the grounds of arrest and the right to consult a legal practitioner.
- Article 22(2) ensures that any arrested individual must be produced before a magistrate within 24 hours to prevent arbitrary detention.

Together, these provisions form the constitutional foundation against custodial violence, although their real-world application often falls short due to procedural gaps and enforcement issues.

CONCLUSION

Custodial Violence is also regarded as one of the crucial issue that still cannot be controlled. In accordance with recent comments by former Indian Chief Justice N.V. Ramana, "the police station impart the biggest threat to human rights. In our society, complaints such as torture in detention and other police brutalities continue to exist. Despite proclamations and protective measures contained within the constitution, arrested or detained persons suffer immensely from the lack of competent legal counsel at police stations.

The disproportionate effect on marginalized groups indicates the intensely rooted prejudice. Solidarity among members of the police force creates major hurdles in collecting evidence against police perpetrators of custodial violence. This impunity and self-protection among law enforcement officials makes it very hard to bring the guilty accountable for their abuses. Victims' families that are looking for justice for those killed in custody face serious threats and intimidation, adding to their difficulties in trying to bring people accountable. Quick closure of cases by putting pressure can result in the application of torture as coercion, which proves systemic flaws within the culture and practices of the police. This pressure tends to lead to a dependence on torture and coercion to obtain confessions, instead of rigorous and legal investigative procedures. Lack of training in non-coercive interrogation techniques and human rights norms Most law enforcement officers are not adequately trained to interrogate without using violence or coercion. This lack of training merely indicates a systemic problem throughout the law enforcement body, whereby human rights tend to be underpinned and implemented insufficiently. The totalized effect is therefore a criminal justice system poorly enabled to avoid custodial violence as well as sanction perpetrators of torture. Absent particular legislation, wide-ranging reform, and enforcement of standards pertaining torture will continue to haunt India's justice system. The imperative for legislative reform, enhanced transparency, enhanced training of law enforcement officials, and increased support for marginalized groups is immediate. Only through such holistic steps can India aspire to end the scourge of custodial violence and meet its obligations under international human rights treaties.

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