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# CUSTODIAL VIOLENCE IN INDIA: A LEGAL AND HUMAN RIGHTS PERSPECTIVE

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## ABSTRACT

The term 'custodial violence' covers a wide range of abuses inflicted on individuals held in custody, whether in police detention, judicial lock-up, or correctional facilities. Custodial Violence is one of the worst types of Human rights violations. Custodial violence constitutes a serious breach of the protections enshrined in the Constitution of India, the Universal Declaration of Human Rights (1948), the Convention Against Torture (1984), the European Convention on Human Rights (1950), and various other international human rights instruments. Violence is often employed to assert dominance and impose one's will over another, reflecting a desire for power and control. Recognizing this, the government has established mechanisms such as the National Human Rights Commission (NHRC) to promptly redress for poor and vulnerable victims. While India has adopted several protective measures through constitutional provisions, statutory laws, and international human rights obligations, the incidence of violence, particularly against inmates in custody, continues to rise at an alarming rate. In India, despite being a democracy, instances of inhumane treatment by police officials reflect a disturbing contradiction to their duty to uphold individual rights. The incidence of custodial sexual abuse against women complainants reflects a troubling misuse of power by police officials. This has prompted the Law Commission and the judiciary to recommend both institutional reforms and the enactment of a distinct law to address the issue more effectively. This research paper examines the prevalence, causes, and consequences of torture and inhumane treatment inflicted upon individuals in police, judicial, and prison custody. The research concludes that while legal protections exist, effective implementation and strict accountability remain the key to curbing custodial violence in India.

**Keywords:** Custodial Violence, Human rights, Constitutional rights, Police Brutality, National Human Rights Commission (NHRC)

## Introduction

The term 'violence' encompasses actions that involve hurting, abusing, or applying physical force with the intent to injure or punish, often seen in custodial situations. As defined in general usage, violence is a behavior characterized by the use of considerable force meant to cause physical or emotional harm, frequently used in custodial environments to extract confessions or penalize detainees. Such acts violate the core constitutional rights of individuals and have no place in a society that claims to be governed by law and justice. In India, custody is of two types: Police Custody and Judicial Custody<sup>1</sup>. The Supreme Court of the United States, in the case of *Miranda v. Arizona*<sup>2</sup>, implies that the word custody means apprehending someone for protective care and depriving them of their liberty. Children are in the custody of parents; patients are in the custody of hospitals, doctors, etc.

The term 'Custodial Violence' all types of physical as well as mental torture inflicted upon a person while in police custody. It is recognized as a crime against humanity and a gross violation of human rights. During the year 2019, it was reported that there was a rise in the number of custodial death cases, as 5 people die each day in custody, and it has become a burning question today.

Custodial violence has emerged as a matter of grave societal concern, especially due to its implications for the human rights of detainees. Articles 20, 21, and 22 of the Indian Constitution ensure vital safeguards for individuals in detention. The Supreme Court has expanded the scope of Article 21 to encompass rights such as freedom from handcuffing, a timely trial, and free legal representation. The Indian legal framework is grappling with the persistent issue of custodial violence. Although the Supreme Court has intervened through landmark rulings and preventive directives, the frequency of custodial deaths remains alarmingly high, undermining public faith in the justice system. In *Gauri Shanker Sharma v. State of U.P.*<sup>3</sup>, "...In incidents of deaths occurring in police custody, it often becomes challenging to obtain concrete evidence against the officers involved, as they maintain control over police station records, which can be easily altered or tampered with, just as was evident in this case...The offence is serious, aggravated by the fact that it was committed by a person whose duty is to protect the citizens and not misuse his authority to assault them while in his

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<sup>1</sup> § 187, Bharatiya Nagarik Suraksha Sanhita, 2023 (India)

<sup>2</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966)

<sup>3</sup> *Gauri Shanker Sharma v. State of U.P.* 1990 AIR 709

*custody. Death in police custody must be seriously viewed, for otherwise, we will help take a stride in the direction of police raj. Such conduct must be firmly addressed through stringent measures. The sanctions imposed should be strong enough to serve as a deterrent to prevent the recurrence of similar acts by others. There can be no room for leniency.”*

## **Research methodology**

This paper is descriptive, and the research is based on secondary sources to explore the issue of custodial violence in India from a socio-legal perspective. The study involves an extensive review of relevant case laws, constitutional provisions, statutory frameworks, and international human rights instruments to analyze the legal safeguards against custodial torture.

## **Review of Literature**

Custodial violence has been a topic of widespread debate in legal literature, judicial rulings, and human rights discussions. Different authors, jurists, and institutions have examined the reasons, legal aspects, and difficulties of torture and abuse in custody.

### **1. Books and Academic Writings:**

Books like those by V.N. Rajan and K.D. Gaur on criminal justice<sup>4</sup> and Human rights have placed their focus on the failure of institutional protection for detainees. The books address the systemic problems that contribute to custodial violence and analyze the remedies provided by Indian law.

### **2. Law Commission Reports:**

The Law Commission of India in its 113<sup>th</sup> and 273<sup>rd</sup> reports, has recognized the increasing custodial deaths with alarming numbers and suggested a stand-alone legislation to stop torture. These reports emphasize the insufficiency of existing procedural safeguards and the absence of a mechanism of accountability for law enforcement officials.

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<sup>4</sup> K.D. Gaur, *Criminal Law: Cases and Materials* (10<sup>th</sup> ed. 2022).

### 3. Judicial Decisions:

The Supreme Court in *DK Basu v. State of West Bengal*<sup>5</sup> also established specific guidelines for arrest and detention to avoid custodial torture. Similarly, in the case of *Sheela Barse v. State of Maharashtra*,<sup>6</sup> the Court emphasized safeguarding prisoners' rights, particularly women and children, against inhuman treatment in custody.

### 4. International Instruments and Reports:

Reports such as the Universal Declaration of Human Rights (1948) and the Convention Against Torture (1984) give international guidelines for the treatment of detainees. India's non-ratification of some conventions, even when it is a signatory, is an issue that has been raised in different international human rights reports.

### 5. NHRC and NCRB Reports:

Reports of the National Human Rights Commission (NHRC) each year and records of the National Crime Records Bureau (NCRB) have repeatedly pointed to increasing custodial death figures, the majority of which are caused by physical torture, neglect, or failure to provide proper medical attention. Such reports favour the contention that the problems lie in the implementation, not the law.

Despite the quantity of literature, there is still a wide difference between judicial instructions, statutory protection, and their enforcement on the ground. This study tries to close the gap by analyzing the effectiveness of the present laws and proposing reformative steps for enhanced accountability and compliance with human rights.

## Types of Custodial Violence

### 1. Physical Violence:

This refers to the use of force and physical assault inflicted upon detainees, often during interrogation, with the intent to extract information or obtain confessions. Physical torture can take numerous brutal forms, including hitting, slapping, severe beatings,

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<sup>5</sup> *DK Basu v. State of West Bengal* (1997) 1 SCC 416

<sup>6</sup> *Sheela Barse v. State of Maharashtra* 1983 AIR 378

forced postures, limb hyperextension, suspension from the body, restriction of mobility, burning with cigarettes or corrosive agents, infliction of cuts with sharp objects, application of electric shocks, mutilation, exposure of wounds to harmful chemicals, dental abuse, and starvation.<sup>7</sup>

## **2. Sexual Violence:**

Custodial sexual abuse may include not only physical acts but also inappropriate or offensive verbal remarks made by law enforcement officials. Such conduct violates human dignity and can have severe psychological consequences on the victims. Custodial rape represents one of the gravest violations of human dignity, occurring within the confines of state-run institutions such as prisons and detention centers. It involves sexual assault committed by officials entrusted with authority and care. Beyond rape, victims may also endure other forms of sexual abuse, including harassment, coerced pregnancies, and invasive practices like virginity testing—each leaving deep psychological and emotional scars. These acts not only breach fundamental human rights but also reflect a severe abuse of power and trust.<sup>8</sup>

## **3. Psychological Violence:**

Mental harassment in custody may involve intimidation, threats, humiliation, or deliberate denial of essential information or rights. These practices can deeply affect the emotional and psychological well-being of detainees and may lead to long-term trauma.

## **Protection Offered to Prisoners Under Indian Constitution**

### **Article 14- Equality Before Law:**

This provision ensures that every individual, including an accused person, is entitled to equal protection under the law. It imposes a constitutional obligation on the State, as the guardian of the law, to treat all persons equally and not to deny legal equality to anyone within its

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<sup>7</sup> Nithya Ramakrishnan, *In custody: Law, Impunity and Prisoner Abuse in South Asia* 5 (Sage Publication Ltd., 2013).

<sup>8</sup> *Ibid.*

jurisdiction.

### **Article 19 –Freedom of Speech as a Protected Civil Liberty:**

This Article gives every citizen the right to freedom of speech and expression. However, in custodial settings, this right is often curtailed by authorities, denying detainees their constitutional liberty to express grievances or seek redress.

### **Article 20 – Safeguards Against Unlawful Conviction:**

It provides protection in respect of conviction for offences under sub-sections (1), (2) & (3) of article 20. In *A.K. Gopalan v. State of Madras*<sup>9</sup> The court ruled that the right to counsel is a statutory safeguard that cannot be weakened through legislation.

### **Article 21 – Right to Life and Personal Liberty:**

The right to be protected from torture is deeply rooted in Article 21 of the Indian Constitution. This Article affirms that every individual has the inherent right to life and personal liberty, and no one can be deprived of these rights except through a procedure that is fair, just, and established by law. The procedure isn't limited to statutory law; it also includes fundamental notions of justice that ensure fair treatment.<sup>10</sup> In *Sunil Batra (II) v. Delhi Administration*<sup>11</sup>, court stated that handcuffs and irons violate human dignity. In *Kadra Pahadia v. State of Bihar*<sup>12</sup> The Supreme Court held that the right to a speedy trial is an important component of Article 21 of the Indian Constitution. The right to life now encompasses the right to live with dignity, including the right to be free from torture by governmental officials.

### **Article 22 – Protection Against Arbitrary Arrest and Detention:**

Article 22(1) of the Constitution provides vital protections for individuals in cases of arrest. It mandates that no person who is arrested shall be denied the right to consult and be defended by a legal practitioner of their choice and must be informed of the grounds of their arrest. These safeguards aim to prevent unlawful detention and uphold the dignity and rights of the accused.

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<sup>9</sup> *A.K. Gopalan v. State of Madras* AIR 1950 SC 27

<sup>10</sup> D.D. Basu, *Constitution of India* 168 (18th ed. 1999)

<sup>11</sup> *Sunil Batra (II) v. Delhi Administration* AIR 1980 SC 1579.

<sup>12</sup> *Kadra Pahadia v. State of Bihar* AIR 1997 SC 3750

## Statutory provisions protecting against custodial violence

### Bharatiya Nyaya Sanhita, 2023

Section 196 of the Bharatiya Nyaya Sanhita (BNS) prescribes punishment for public officials who willfully violate legal provisions, resulting in harm to others. Such misconduct may lead to imprisonment for up to one year, a monetary penalty, or both.

Section 199 of the BNS addresses situations where public servants deliberately create or manipulate false documents with the intent to cause harm or injury to another individual, and provides for appropriate penal consequences.

Section 256 of the new criminal code (BNS) replaces Section 220 IPC, providing that any official who knowingly misuses their legal powers may face stringent punishment, including jail time of up to seven years and a fine. In *D. K. Basu v. State of West Bengal*<sup>13</sup> The court clarified that this clause protects against police misuse of authority. Detaining someone on suspicion of an offense is illegal, even if done by legitimate authorities. This action constitutes a criminal offense under Section 256, indicating malice.<sup>14</sup>

Section 118 of the Bharatiya Nyaya Sanhita (formerly Sections 330 and 331 of the IPC) criminalizes acts of custodial violence, particularly those involving intentional harm inflicted to extract confessions or information from individuals in custody. This legal provision corresponds with Article 20(3) of the Indian Constitution, which ensures that no person can be forced to confess guilt against their will. In the case of *Public Prosecutor v. Sheikh Ibrahim*,<sup>15</sup> the Andhra Pradesh High Court strongly criticized the police for causing the death of a suspect through torture in an attempt to extract information. Likewise, in *Kashmeri Devi v. Delhi Administration*,<sup>16</sup> the court condemned the use of custodial torture, highlighting its damaging effect on the public's confidence in the justice system.

Section 125(8) of the Bharatiya Nyaya Sanhita (BNS) safeguards individuals from being unjustly detained or confined. It recognizes that restricting someone's freedom without a lawful cause, especially to force a confession, is not only illegal but deeply inhumane. This provision

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<sup>13</sup> *D. K. Basu v. State of West Bengal* 1997 6 SCC 642.

<sup>14</sup> *Afzalaur Rahman v. Emperor*, AIR 1943 FC 18.

<sup>15</sup> *Public Prosecutor v. Sheikh Ibrahim* AIR 1964 AP 548.

<sup>16</sup> *Kashmeri Devi v. Delhi Administration* AIR 1988 SC 1323.

punishes such wrongful confinement with up to one year of imprisonment or a fine, and if the confinement is used to pressure someone into giving information or confessing, the penalty may extend up to three years in jail.

Provision 64(2) reflects the legal system's growing awareness of the vulnerability of women in custody. It offers protection in cases of custodial rape or sexual abuse, ensuring that any official responsible for a woman's custody can be held accountable for such violations. Similarly, Section 68<sup>17</sup> addresses the serious issue of sexual exploitation by those in positions of authority, such as police officers, prison superintendents, or hospital staff who abuse their power to take advantage of women.

These legal provisions underscore a critical principle: that power should never be used to violate dignity, and that the justice system must be a space of protection, not persecution, especially for those already in its custody. In *Sheela Barse v. State of Maharashtra*<sup>18</sup> This case provides guidelines for arrested women regarding the rights of detained persons. The court states that magistrates have to inform their rights to arrested person

### **Bharatiya Sakshya Adhiniyam, 2023**

When a person accused of a crime accepts or hints at their participation in it, it is referred to as a confession. The Bharatiya Sakshya Adhiniyam 2023, through Sections 15 to 24, outlines the rules about when such confessions can be used in court.

Importantly, Section 22 makes it clear that if a confession is obtained through pressure, fear, or threats by someone in authority, no matter how well-intentioned, it cannot be used as evidence. Similarly, Section 23 protects individuals by declaring that anything said directly to the police is not automatically admissible in court, especially if the person was under pressure or not informed of their rights.

These safeguards exist for a reason to ensure that no one is forced to confess through fear, pain, or manipulation. They reflect a deeper principle that justice must be rooted in truth, not in fear,

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<sup>17</sup> Bharatiya Nyaya Sanhita, No. 45 of 2023 (India)

<sup>18</sup> *Sheela Barse v. State of Maharashtra* 1983 AIR 378



and that every individual, even someone accused, deserves to be treated with fairness and dignity.

### **Protection of Human Rights Act, 1993**

This legislation was enacted by the Indian Parliament in response to growing concerns, both within the country and internationally, about the need for legal safeguards to uphold human rights. As society evolves and the nature of crime becomes more complex, it becomes essential to adopt a more accountable and transparent system that delivers justice while respecting human dignity.<sup>19</sup>

### **National Human Rights Commission (NHRC)**

Established in New Delhi, the NHRC has issued clear guidelines covering all stages of arrest before, during, and after. These guidelines aim to prevent abuse of power and ensure the humane treatment of individuals in custody. The Commission also plays an active role in helping enforce these protocols, and states across the country have been urged to follow its recommendations to promote justice and protect basic rights.

### **Indian Police Act, 1861**

Sections 7 and 29 of this historic law still hold significance today. They allow for the dismissal, suspension, or penalization of police officers who act negligently or are unfit to carry out their responsibilities. These provisions serve as a check on the misuse of authority, particularly when officers violate constitutional or legal protections intended to safeguard the public.

### **The Model Prisons Act, 2023**

The law takes a comprehensive approach to prison reform, addressing issues such as gang-related violence, safety assessments, and the rehabilitation of inmates. It introduces provisions to separate individuals who may be a danger to themselves or others and emphasizes the need for effective grievance redressal systems. To strengthen accountability, it proposes the creation of a Prison Development Board to oversee implementation and progress. Recognizing the

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<sup>19</sup> Udai Yashvir Singh & Smita Singh, *Right to Compensation for Wrongful Prosecution, Incarceration, and Conviction: A Necessity of the Contemporary Indian Socio-Legal Framework*, 4 Int'l J. Legal & Mgmt. Human. 452, 452–54 (2021) (India).

importance of dignity and fairness, the statute calls for gender-sensitive facilities and the use of modern tools like video conferencing and electronic surveillance to improve efficiency and security. It also outlines different categories of prisons based on need. Inmates are entitled to legal aid and may benefit from provisions such as parole, furlough, or early release, depending on eligibility and conduct. Although the law offers a progressive framework, it serves as a model guideline rather than a binding mandate for states. Its ultimate aim is to ensure that incarceration focuses not just on punishment but also on rehabilitation and reintegration, fostering a more humane and constructive prison environment.<sup>20</sup>

Under Indian law, it is the duty of a magistrate to conduct an inquiry whenever a death occurs while a person is in police or judicial custody.<sup>21</sup> Once a First Information Report (FIR) is registered, the investigation must be carried out by a different police station or agency, not the one involved in the alleged incident. It is mandatory to inform the NHRC about all custodial fatalities

To ensure transparency and accountability, the police must submit both the post-mortem report and the findings of the magistrate's inquiry to the NHRC. According to NHRC guidelines, autopsies must be video recorded, and reports must be submitted in a standard format to avoid discrepancies or manipulation.

In cases where custodial violence is committed against a person belonging to a Scheduled Caste (SC) or Scheduled Tribe (ST), stronger legal protections apply. Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, allows for criminal charges to be filed against any public official involved. Specifically, Section 3(2)(vii) mandates a minimum punishment of one year, which can extend up to the maximum punishment allowed for the offense. Section 4 of the same Act also provides penalties for public servants who willfully neglect their responsibilities, with jail terms ranging from six months to one year.<sup>22</sup>

These provisions are crucial for ensuring that vulnerable communities are not denied justice, especially in cases involving abuse of power by law enforcement authorities.

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<sup>20</sup> Since it is Entry 4, List II of the Indian Constitution, the Union Government has no authority in this matter.

<sup>21</sup> Bharatiya Nagarik Suraksha Sanhita, No. 45 of 2023, § 196 (India)

<sup>22</sup> Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, § 3(2)(vii), India Code (1990).

## Statistics of Custodial Deaths in India

During the period of 2021–2022 (up to February 28), the National Human Rights Commission (NHRC) recorded 2,152 instances of deaths in judicial custody and 155 deaths in police custody, as per data shared by the Ministry of Home Affairs in the Lok Sabha. Minister of State for Home Affairs, Mr. Nityanand Rai, informed that the largest number of judicial custodial deaths occurred in Uttar Pradesh with 448 cases, and Maharashtra recorded the highest police custodial deaths at 29. In terms of compensation, the NHRC awarded a total of ₹4.53 crore in 137 cases during 2021–22, which was slightly less than the ₹4.88 crore awarded in 161 cases in the previous year. Alarming, over the past five years, disciplinary measures were undertaken in only 21 cases concerning custodial deaths, and no orders for prosecution were issued in any of these instances.<sup>23</sup>

As per NHRC data shared by the Ministry of Home Affairs,<sup>24</sup>

Year	Judicial Custody Deaths	Police Custody Deaths
2020-21	1840	100
2019-20	1584	112
2018-19	1797	136
2017-18	1636	146
2016-17	1616	145

<sup>23</sup> Bharti Jain, *MHA to Lok Sabha: 2152 cases of deaths in Judicial Custody, 155 in police Custody*, The Times of India (Mar. 22, 2022 IST)

<https://timesofindia.indiatimes.com/india/mha-to-lok-sabha-2152-cases%20of%20deaths-in-judicial%20custody-155-In-police-custody/articleshow/90380779.cms>

<sup>24</sup> Ibid.

The data provided by the National Human Rights Commission (NHRC), as shared by the Ministry of Home Affairs, reveals a disturbing and persistent trend of custodial deaths in India over the past five years. Between 2016–17 and 2020–21, a consistently high number of deaths occurred in judicial custody, with the highest being **1,840** cases reported in **2020–21**. This reflects a sharp rise from **1,584** in **2019–20**, highlighting concerns over the living conditions, medical care, and systemic neglect within prisons. Similarly, deaths in police custody—often linked with allegations of torture or ill-treatment also remained worryingly steady, ranging from **100 to 146** cases annually during the same period. These figures raise serious questions about custodial accountability and the effectiveness of existing safeguards meant to protect the fundamental rights and dignity of individuals in state custody.

### **Foundational Judicial Determination**

In the case of *M. Kalithai v. State of Tamil Nadu*<sup>25</sup> The court took a firm stand against custodial misconduct by directing the state government to pay ₹2 lakh in compensation to the family of an individual who passed away during police detention. The tragedy occurred at a police station where, notably, the arrest of the deceased was never officially recorded in the station's register. This critical lapse led the court to hold the police inspector accountable. Although the government argued that the death was a case of suicide and denied responsibility, the court rejected this defense. Highlighting the need for greater transparency and responsibility, the court cited the *D.K. Basu* guidelines.<sup>26</sup> On custodial rights and stated that the failure to document the arrest itself was a clear violation of constitutional safeguards, warranting compensation for the breach of human rights.

In the landmark case of *Nilabati Behera v. State of Orissa*,<sup>27</sup> the Supreme Court firmly asserted that even individuals in custody are entitled to the fundamental rights guaranteed under Article 21 of the Indian Constitution. The judgment highlighted that police and prison officials must protect the life and dignity of those in their custody, and any violation of these rights cannot be overlooked. In this particular case, the Court held the state accountable for the custodial death of the petitioner's son and awarded a compensation of ₹1.5 lakh to the grieving mother. Emphasizing the importance of accountability, the Court reiterated that anyone who suffers an

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<sup>25</sup> *M. Kalithai v. State of Tamil Nadu* (2009) 3 MLJ 702.

<sup>26</sup> *D. K. Basu v. State of West Bengal* 1997 6 SCC 642.

<sup>27</sup> *Nilabati Behera v. State of Orissa* AIR (1993) 2 SCC 746.

illegal arrest or wrongful detention must have access to an enforceable right to compensation.

Similarly, in *Mehboob Batch v. State*<sup>28</sup> on suspicion of theft, the police officers wrongfully confined a person and heinously gang-raped his wife. “The court was shocked after seeing the police officer’s actions and observed that the police officers must learn how to behave as public servants to ordinary citizens in a democratic country, and officers must not act as oppressors of society.”

In the landmark case of *Sheela Barse v. State of Maharashtra*<sup>29</sup> The Supreme Court took a significant step toward protecting the rights and dignity of women in custody. Responding to the plea of a concerned journalist who exposed the plight of female detainees, the Court held that the Constitution's guarantees under Articles 21 and 22 must extend meaningfully to individuals deprived of liberty. It directed that women should not be interrogated without the presence of female officers, must have timely access to legal counsel, and should undergo medical examinations to prevent abuse. This judgment marked an early yet crucial judicial acknowledgment of the systemic vulnerabilities faced by women in detention, reinforcing the State's duty to uphold human dignity, even behind bars.

In the landmark judgment of *D.K. Basu v. State of West Bengal*<sup>30</sup> The Supreme Court of India responded to a public interest letter from the Executive Chairman of Legal Aid Services, a registered non-political organization. Highlighting the alarming issue of rising custodial deaths, including the incident involving Mahesh Bihari in Aligarh, the letter was taken up by the Supreme Court as a writ petition. The petitioner raised serious concerns about the unchecked powers of the police and the growing instances of human rights violations during arrests and detentions.

The Supreme Court acknowledged that custodial torture and deaths are blatant violations of human dignity and directly infringe on the fundamental rights enshrined in Articles 21 and 22 of the Constitution. The Court underscored the need for accountability and transparency in police conduct and laid down a comprehensive set of mandatory guidelines to prevent abuse in custody:

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<sup>28</sup> *Mehboob Batch v. State* AIR (2011) 7 SCC 45

<sup>29</sup> *Sheela Barse v. State of Maharashtra* AIR 1983 SC 378

<sup>30</sup> *D.K. Basu v. State of West Bengal* 1997 (1) SCC 416.

1. Arresting officers must record all relevant details of the detainee and maintain proper identification of the officers involved.
2. A memo of arrest should be signed by a witness, preferably a family member or a respectable person from the locality, along with the signature of the arrested person and the date and time of arrest.
3. It is essential that the arresting officer communicates the arrest details immediately to a known contact of the detainee. If they live in another city, the information should be conveyed through the local legal aid office within 8–12 hours.
4. The detainee must be informed of their legal rights, including the reason for arrest and access to legal representation.
5. Medical examinations of the detainee must be conducted every 48 hours by a qualified doctor designated by the State or Union's Director of Health Services.
6. A detailed record of the arrest, including the names of the officers and the detainee's contact person, should be maintained in a case diary.
7. Every district and state police headquarters must establish a control room where arrest details and the detainee's location are communicated within 12 hours and made publicly accessible on a notice board.

Through this judgment, the Court made it clear that mere procedural safeguards are not enough unless implemented earnestly. These directions aimed to reinforce the constitutional protection of individual liberty and dignity, while also holding the police accountable for misuse of power.

### **Suggestions & Conclusion**

Custodial violence is not just a violation of the law; it is a denial of human dignity. In a country like India, which prides itself on being a democratic and constitutional republic, the occurrence of such inhumane practices within police custody is deeply disturbing. Despite the presence of constitutional safeguards and landmark judgments like *D.K. Basu v. State of West Bengal*<sup>31</sup> The

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<sup>31</sup> *D.K. Basu v. State of West Bengal* 1997 (1) SCC 416.

continued reports of abuse, mistreatment, and deaths in custody highlight a serious gap between law and practice.

To move toward a more just and accountable system, the Supreme Court's guidelines in the D.K. Basu case must be strictly implemented across all states and monitored for compliance. These directives are not merely procedural; they are essential to preserving the fundamental rights to life and liberty guaranteed under Articles 21 and 22 of the Indian Constitution.

Furthermore, there is an urgent need to pass the Prevention of Torture Bill, 2010, which remains a crucial yet pending piece of legislation. This law must include clear provisions for compensation to victims and empower independent authorities to investigate complaints of torture. The **273rd Law Commission Report**<sup>32</sup> Also makes valuable recommendations, particularly, the shifting of the burden of proof onto police officials in cases of injury during custody. Adopting these measures would serve as a strong deterrent and hold perpetrators accountable.

The NHRC has established a set of clear and structured guidelines to ensure fair treatment of individuals during arrest and while in detention. These should be uniformly adopted and enforced by every state to ensure consistency and accountability.

Most importantly, meaningful police reform is the need of the hour. It is essential to train law enforcement officials in understanding the mental and social aspects associated with their duties. Regular human rights training and counselling can go a long way in changing institutional attitudes and fostering a culture of empathy and professionalism within the police force.

In conclusion, ending custodial violence is not merely about punishing wrongdoers; it is about reaffirming our commitment to the rule of law, justice, and humanity. It is the responsibility of both the state and society to ensure that every person in custody is treated with the respect and dignity they are entitled to, because justice must never come at the cost of human suffering.

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<sup>32</sup> Law Commission of India, *Implementation of 'United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment Punishment' through Legislation*, Report No. 273 at 28 (2017) <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081620.pdf>