
CUSTODIAL SAFETY AND STATE ACCOUNTABILITY: A COMPARATIVE STUDY OF LEGAL FRAMEWORK AND PRACTICES IN INDIA, UNITED KINGDOM, NORWAY AND THE UNITED STATES

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ABSTRACT

Custodial safety is one of the basic rights of the rule of law and the State's responsibility for the protection of human dignity. Those who are deprived of their liberty are subjected to the sole control of State authorities, which places a greater responsibility on the State to shield them from torture, custodial abuse, arbitrary treatment, preventable deaths and abuse of any kind. Custodial rights violations persist, despite constitutional protections, statutory measures, judicial decisions and international human rights law addressing the issue. Such violations of custodial rights continue to give rise to serious concerns in different jurisdictions despite constitutional protection, statutory measures, judicial decisions and international human rights law.

This paper conducts a comparative legal analysis of custodial safety and State accountability in the United States, the United Kingdom, Norway and India. It discusses the institutional accountability, investigation of custodial misconduct, judicial remedies, independent oversight, procedural safeguards when arrested or detained, and statutory and constitutional regimes for treatment in custody. The research methodology used in this study is doctrinal and comparative research techniques, which uses legislative materials, judicial decisions, international human rights instruments, the results of the official reports and secondary materials.

The comparative analysis shows that the effectiveness of custodial protection is not solely reliant on formal rights recognition but also on the transparency of the institutions, independent monitoring bodies, effective complaints and complaints procedures, professionalization of the custodial administration and the accountability of violations. The United Kingdom and the United States offer contrasting exemplars of regulatory, judicial, and civil liability, and Norway's correctional philosophy places a strong emphasis on normalization and rehabilitation. India has a wealth of constitutional and judicial protections, but there are still many gaps in implementation,

institutional faults and accountability failures that continue to affect custodial safety.

The paper calls for more robust custodial protection measures based on the principle of context-sensitive implementation of best practices from other countries, strengthening of independent oversight, adopting technology and institutional innovations, better training of custodians and effective mechanisms for State accountability.

Keywords: Custodial Safety, State Accountability, Custodial Violence, Detainee Rights, Human Rights, Comparative Law, Prison Administration, Police Accountability.

1. Introduction

A comparative analysis serves as a crucial methodological tool for examining similarities and differences between two or more subjects under a defined framework. In the context of legal and institutional studies, such an approach enables a deeper understanding of how different systems respond to similar challenges, thereby offering insights into best practices and potential reforms. The practice of comparative analysis is rooted in the recognition that socio-legal phenomena do not exist in a vacuum, but are shaped by diverse political, cultural, and historical influences. It allows researchers to transcend the limitations of a single system and fosters a multidimensional understanding of complex issues such as custodial violence and prison reforms. Comparative methods have long been employed in legal studies to evaluate the efficiency, fairness, and human rights compatibility of legal systems across jurisdictions. By examining how different countries address a particular problem, whether through legislation, institutional mechanisms, or judicial interpretation, one can identify patterns that reflect broader trends or unique departures worthy of closer scrutiny. In the realm of custodial violence and prison reform, comparative analysis is particularly relevant, as it helps to evaluate the effectiveness of safeguards against torture, ill-treatment, and systemic abuse within custodial settings. This section undertakes a comparative analysis to identify convergences and divergences between the Indian legal framework and international standards, as well as selected foreign jurisdictions. The aim is to highlight both the strengths and shortcomings of the Indian system in addressing custodial violence and ensuring prison reform. Such an inquiry not only enhances the normative understanding of justice and accountability but also provides a basis for advocating legal and institutional improvements.

2. Practices in Norway, UK and USA

Custodial violence and the need for comprehensive prison reforms have attracted increasing global attention due to their implications on human rights and justice delivery. Different countries have approached this issue with varied strategies, shaped by their legal systems, social values, and political will. Comparative analysis of countries like Norway, the United Kingdom, and the United States reveals a spectrum of approaches, ranging from humane rehabilitation to punitive confinement. These models offer valuable lessons for nations like India striving to balance law enforcement with the dignity and rights of detainees and prisoners. Custodial violence includes any form of torture, ill-treatment, or abuse by state actors during detention, arrest, or imprisonment. It is widely condemned by international instruments such as the United Nations Convention Against Torture (UNCAT) and domestic legal frameworks across democratic nations. Similarly, prison reforms seek to improve prison infrastructure, protect prisoner rights, and create mechanisms for rehabilitation and reintegration into society.

I. Norway: A Human-Centered Prison Model

A. Philosophy and Legal Framework

Norway is often cited as a global leader in prison reform due to its emphasis restorative justice and rehabilitation over retribution. The guiding philosophy is that “punishment is the restriction of liberty nothing more.” This is reflected in the Execution of Sentences Act, 2001, which underscores humane treatment and rehabilitation as the primary objectives of incarceration. Norwegian prisons focus on minimizing the difference between life inside and outside prison, aligning with the “principle of normality.” This approach reduces the psychological impact of incarceration and promotes reintegration into society.

B. Conditions and Infrastructure

The country’s prisons such as the well-known Halden Prison are designed to provide inmates with autonomy, privacy, and opportunities for education and employment. Cells often resemble small studio apartments, and prisoners have access to kitchens, gyms, and outdoor spaces. These facilities are structured to foster mutual respect between inmates and staff.

C. Custodial Violence: Prevention and Monitoring

Custodial violence is virtually nonexistent in Norway, owing to stringent recruitment, training,

and oversight of prison officials. Correctional officers undergo two years of rigorous training at the Correctional Service of Norway Staff Academy (KRUS), which includes conflict resolution, ethics, and human rights education.

Additionally, independent bodies such as the Parliamentary Ombudsman for the Prevention of Torture regularly inspect prisons to ensure compliance with national and international standards.

II. United Kingdom: Legal and Institutional Safeguards Against Custodial Violence

A. Historical Context and Legal Foundations

The United Kingdom has a complex penal history, transitioning from a punitive colonial model to a more rights-based framework. The current legal system governing custodial practices is heavily influenced by international human rights instruments and domestic legislation such as the Human Rights Act, 1998 and the Police and Criminal Evidence Act (PACE), 1984. These laws embed protections against arbitrary detention, torture, and degrading treatment. PACE, in particular, sets clear procedural safeguards during arrest, detention, and interrogation, including the right to legal counsel, recording of interrogations, and limits on detention time. Breaches of these standards can render evidence inadmissible and expose officers to disciplinary and criminal liability.

B. Oversight Mechanisms and Accountability

To combat custodial violence, the UK has developed multi-layered oversight architecture involving:

1. Independent Office for Police Conduct (IOPC) – Investigates complaints and allegations of serious misconduct, including deaths in custody.
2. Her Majesty's Inspectorate of Prisons (HMIP) – Conducts unannounced

Inspections of prison facilities, examining prisoner treatment and human rights compliance.

3. Prison and Probation Ombudsman (PPO) – Investigates complaints from prisoners, as well as deaths in custody. These institutions help ensure transparency and accountability, significantly deterring custodial abuse and enabling redress for victims.

C. Prison Conditions and Reforms

Despite these safeguards, UK prisons face criticism for overcrowding, racial disparities, and the use of solitary confinement. The Prisons and Courts Bill, 2017 (although withdrawn) and the Prison Strategy White Paper, 2021 aim to modernize facilities, invest in rehabilitation, and reduce reoffending rates. One significant reform includes expanding education and skill training programs in prisons, such as through partnerships with Open University and employment-focused NGOs. Additionally, efforts to introduce trauma-informed care for female inmates reflect a shift towards individualized and sensitive correctional practices.

D. Addressing Discrimination and Use of Force

The UK has been particularly active in scrutinizing racial disparities in custody.

Following the death of Stephen Lawrence and subsequent inquiries like the Macpherson Report (1999), the police were urged to combat institutional racism. Use-of-force protocols have since evolved to include mandatory body-camera usage and de-escalation training, particularly in high-risk interactions involving mentally ill detainees.

III. United States: Challenges and Progressive Interventions

A. Overview and Legal Context

The United States criminal justice system is marked by mass incarceration and persistent issues of custodial violence, especially against marginalized racial groups. Despite constitutional protections under the Fourth, Fifth, Eighth, and Fourteenth Amendments, cases of excessive force and inhumane prison conditions are widespread.

Key federal legislations include:

- Prison Rape Elimination Act (PREA), 2003
- Civil Rights of Institutionalized Persons Act (CRIPA), 1980
- Violent Crime Control and Law Enforcement Act, 1994

These laws provide tools for federal oversight and allow the Department of Justice Civil Rights Division to sue local law enforcement and correctional facilities for systemic abuse.

B. Custodial Violence and Racial Inequality

Custodial violence in the U.S. is often intertwined with racial profiling and systemic racism. High-profile cases like George Floyd (2020) and Sandra Bland (2015) highlight police brutality and the deadly consequences of disproportionate force. According to the Mapping Police Violence Project, over 1,000 people die in police custody every year, with Black Americans being nearly three times more likely to be killed by police than White Americans.

C. Reform Movements and Decarceration

In recent years, the U.S. has witnessed a wave of grassroots activism, legal reform, and policy innovation. Some notable efforts include:

1. Consent Decrees – DOJ-imposed reforms on police departments with histories of abuse (e.g., Ferguson, Baltimore).
2. Abolition Movements – Calls to defund police and invest in community-based safety and mental health services.
3. Decarceration Initiatives – Efforts to reduce prison populations through bail reform, decriminalization of low-level offenses, and early release programs.

States like California, New York, and Colorado have pioneered policies that prioritize non-custodial alternatives such as restorative justice circles, community service, and mental health diversion courts.

IV. Comparative Analysis: Norway, United Kingdom, and United States

A. Custodial Philosophy and Approach

Country	Philosophy	Focus	Level of Violence
Norway	Human rights & normality	Rehabilitation	Extremely Low
United Kingdom	Rule of law & oversight	Accountability & Reform	Moderate
United States	Punitive & security driven	Control & Incarceration	High

Norway distinguishes itself with its strong commitment to normalization and humane treatment. UK balances between punitive legacies and rights-based reform, while the US continues to grapple with systemic violence, racism, and mass incarceration.

B. Institutional Safeguards and Oversight

Mechanism	Norway	UK	USA
Independent prison inspection	Yes (Ombudsman, NPM)	Yes (HMIP, PPO, IOPC)	Partial (DOJ, CRIPA)
Officer training in ethics	Extensive (KRUS)	Moderate (College of Policing)	Varies by jurisdiction
Transparency & public reporting	Strong	Strong	Patchy and inconsistent

Norway and the UK have comprehensive oversight structures and strong officer accountability mechanisms. In contrast, the fragmented federal structure in the US often hinders consistent enforcement of rights and independent oversight.

C. Conditions of Detention

Feature	Norway	UK	USA
Overcrowding	No	Yes (chronic)	Yes (severe)
Solitary confinement	Rare	Used in moderation	Widespread, criticized
Access to healthcare	High quality	Moderate	Inadequate in many states

Norway's emphasis on dignity and reintegration stands in stark contrast to the overcrowded, punitive environments prevalent in many UK and US prisons.

3. Best practices and reform models

Custodial violence and prison reforms have been longstanding challenges in many countries, particularly in India. Best practices and reform models play a critical role in reducing custodial violence and improving the prison system. These models focus on rehabilitation, human rights, accountability, and transparency, aiming to prevent abuse and enhance the living conditions of prisoners. This paper explores some of the best practices and reform models employed globally, along with their impact on reducing custodial violence.

I. International Best Practices

1. The Norwegian Prison Model Norway is often cited as a global leader in prison reform due to its rehabilitative and humane approach. The key features of the Norwegian prison model include:

- **Focus on Rehabilitation:** Prisons are designed as institutions for rehabilitation, not punishment. Inmates are provided with education, vocational training, and psychological support.

Humane Conditions: Prisons like Halden offer inmates comfortable living conditions, including private cells, access to communal spaces, and opportunities for physical exercise.

- **Low Recidivism Rate:** Norway has one of the lowest recidivism rates in the world, with approximately 20% of inmates re-offending within five years of release, compared to higher rates in other countries.

2. The United Kingdom's Prison Reform Act The UK has made significant strides in reducing custodial violence through legislative reform and better management of prisons:

- **Legislation for Human Rights:** The 1952 Prison Act and subsequent reforms emphasize humane treatment, with clear guidelines on prisoner treatment, access to legal rights, and health services.
- **Independent Monitoring and Oversight:** The UK has independent monitoring bodies that oversee the conditions within prisons, including the Prison and Probation Ombudsman, which investigates deaths in custody and other complaints.

- **Prisoner Rehabilitation Programs:** A strong focus on rehabilitating offenders, including educational programs and mental health support, aims to reintegrate prisoners into society successfully.

II. Indian Prison Reform Models

1. **Supreme Court Guidelines (DK Basu v. State of West Bengal)** In India, the Supreme Court's decision in the case of DK Basu v. State of West Bengal (1997) has set important precedents for preventing custodial violence. The ruling provided specific guidelines for the treatment of detainees and prisoners, such as:

- **Mandatory Police Identification:** Police must inform detainees of their rights, including their right to consult a lawyer.
- **Medical Examinations:** Custodial deaths and torture must be investigated, and medical examinations should be conducted at the time of arrest.
- **Human Rights Protection:** The guidelines stress that human rights are paramount, even for those in custody.

2. **Prison Reforms under the Justice Mulla Committee Report** The Justice Mulla Committee (1983) report on prison reforms called for several measures to improve prison conditions, such as:

- **Improvement in Living Conditions:** The report recommended improving the infrastructure of prisons, including better sanitation and healthcare facilities.
- **Focus on Rehabilitation:** The report emphasized the importance of vocational training, education, and the provision of work opportunities for prisoners.
- **Separation of Offenders:** Prisoners should be classified into categories based on the nature of their offenses, ensuring that under-trial prisoners are separated from convicted ones.

III. Innovative Prison Reform Models

1. **Restorative Justice Models** Restorative justice involves engaging offenders, victims, and communities in the rehabilitation process. The model focuses on restoring the harm caused

by crime rather than solely punishing the offender. In countries like New Zealand and Canada, restorative justice has led to reduced recidivism rates and greater satisfaction among victims.

- **Community-Based Rehabilitation:** Offenders are encouraged to participate in dialogue with victims and the community to understand the impact of their actions.
- **Victim-Offender Dialogue:** Programs allow victims and offenders to meet and discuss the harm caused, promoting healing and understanding.

2. **Technology-Driven Reforms** The use of technology in prison management can significantly reduce custodial violence. Innovative models like the introduction of digital systems to track prisoner activities, and the use of body cameras by prison officers, can reduce incidents of abuse and ensure transparency.

- **Electronic Monitoring:** The use of electronic monitoring devices for low-risk offenders allows for alternative forms of punishment without imprisonment, reducing overcrowding.
- **Data Analytics for Prison Management:** Data systems help in tracking inmate behavior, improving the allocation of resources, and enhancing overall management practices.

4. Lessons India Can Learn from International Practices on Custodial Violence and Prison Reforms

India's prison system continues to face persistent structural and institutional challenges, including overcrowding, inadequate healthcare, poor sanitation, prolonged detention of undertrial prisoners, custodial violence, and insufficient mechanisms of accountability. Despite constitutional safeguards, legislative measures, judicial interventions, and various governmental initiatives aimed at protecting the rights and dignity of persons in custody, the gap between legal guarantees and their effective implementation remains significant. Addressing these systemic deficiencies requires not only strengthening domestic legal and institutional frameworks but also drawing lessons from comparative international experiences.

Several jurisdictions, including Norway, the United Kingdom, and the United States, have adopted distinct legal, institutional, and correctional approaches to custodial safety, prison

administration, rehabilitation, and accountability for custodial misconduct. While these models operate within different constitutional, social, and criminal justice systems and cannot be transplanted directly into the Indian context, their experiences provide valuable insights into independent oversight mechanisms, professionalization of correctional services, rehabilitation-oriented prison administration, technological safeguards, transparency, and effective mechanisms for investigating custodial abuse.

This paper examines selected practices and institutional mechanisms adopted in Norway, the United Kingdom, and the United States to identify reforms that may be suitably adapted to the Indian criminal justice system. Through a comparative analysis, the paper seeks to propose context-sensitive legal, administrative, and institutional measures capable of reducing custodial violence, strengthening accountability, protecting the human rights and dignity of persons in custody, and promoting meaningful and sustainable prison reform in India.

1. Norway's Emphasis on Rehabilitation over Punishment

One of the most effective lessons India can learn is from Norway's approach to prison reform, particularly its focus on rehabilitation over punishment. Norway is widely regarded for its progressive prison system, which emphasizes humane treatment, rehabilitation, and the reintegration of prisoners into society. The country's maximum security prison, Halden, is known for its humane environment that mirrors life outside prison. Prisoners in Halden have access to quality healthcare, education, vocational training, and even recreational facilities, including a music room, a gym, and art classes. The Norwegian model reduces recidivism by focusing on rehabilitation rather than retribution. In comparison, India's prisons often prioritize punishment, contributing to a cycle of crime and violence within the system. Recommendation for India: India can adopt Norway's rehabilitation-focused prison system by ensuring that prisoners have access to education, vocational training, and psychological support. Moreover, providing post-release rehabilitation programs can help reduce recidivism and encourage reintegration into society.

2. United Kingdom's Independent Oversight and Accountability Mechanisms

The United Kingdom has established effective mechanisms for ensuring oversight and accountability within its prison system. The Independent Monitoring Boards (IMBs) are responsible for overseeing the welfare of prisoners and ensuring compliance with legal

standards. These boards are composed of volunteer members who inspect prisons, ensuring transparency and preventing abuses of power.

UK's use of independent prison inspectors and annual reports provides an additional layer of accountability. The role of these inspectors is crucial in investigating complaints of custodial violence and recommending improvements. Recommendation for India: India could benefit from strengthening the role of independent oversight bodies, such as the National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs). Increasing transparency through regular, independent inspections of prisons can help identify systemic issues and hold authorities accountable for custodial abuses.

3. The United States' Use of Body Cameras to Prevent Abuse

In recent years, some US states have adopted the use of body cameras by law enforcement officers, including those in prisons, to prevent and document instances of custodial violence. The presence of cameras ensures that all interactions between prisoners and guards are recorded, providing evidence in cases of abuse. This practice has proven effective in reducing the occurrence of violence, as guards and prisoners are aware that their actions are being monitored. Recommendation for India: India can learn from this by introducing body cameras or similar technology in police stations and prisons. The use of cameras would not only deter custodial violence but also provide valuable evidence in legal proceedings, ensuring accountability for those responsible for abuses.

4. Finland's Approach to Reducing Overcrowding

Overcrowding is a significant issue in Indian prisons, often leading to poor conditions and custodial violence. Finland has made notable progress in reducing overcrowding through a combination of sentencing reforms and the decriminalization of certain offenses. Finnish authorities emphasize alternatives to imprisonment for minor offenses, such as community service or electronic monitoring, which helps reduce the number of individuals incarcerated. Recommendation for India: India can adopt similar alternatives to imprisonment for non-violent offenders, such as communitybased punishments and electronic monitoring. Moreover, the implementation of sentencing reforms and parole mechanisms could help alleviate overcrowding and prevent the human rights violations associated with it.

5. Australia's Prison Reform Focus on Mental Health Care

Australia has made substantial strides in addressing mental health issues within the prison system. A large percentage of incarcerated individuals in Australia suffer from mental health disorders. To address this, the Australian government has integrated mental health care into its prison system, ensuring that prisoners have access to mental health services, including counseling and treatment for substance abuse. Recommendation for India: India must prioritize mental health care in its prison system. Many prisoners in India experience untreated mental health issues, which can contribute to violence and self-harm. Establishing dedicated mental health professionals within prisons and providing regular psychological evaluations for inmates can go a long way in reducing custodial violence.

REFERENCES

1. Indian Constitution
2. The Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023).
3. The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, INDIA CODE (2023).
4. The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, INDIA CODE (2023).
5. The Protection of Human Rights Act, No. 10 of 1994, INDIA CODE (1994).
6. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature Dec. 10, 1984, 1465 U.N.T.S. 85.
7. D.K. Basu v. State of West Bengal, (1997) 1 S.C.C. 416 (India).
8. Prakash Singh v. Union of India, (2006) 8 S.C.C. 1 (India).
9. Joginder Kumar v. State of Uttar Pradesh, (1994) 4 S.C.C. 260 (India).
10. Nilabati Behera v. State of Orissa, (1993) 2 S.C.C. 746 (India).
11. Rudul Sah v. State of Bihar, (1983) 4 S.C.C. 141 (India).
12. Sheela Barse v. State of Maharashtra, (1983) 2 S.C.C. 96 (India).
13. Sunil Batra v. Delhi Administration, (1978) 4 S.C.C. 494 (India).
14. UPENDRA BAXI, THE CRISIS OF THE INDIAN LEGAL SYSTEM (Vikas Publishing House 1982).
15. KIRAN BEDI, IT'S ALWAYS POSSIBLE: ONE WOMAN'S TRANSFORMATION OF TIHAR PRISON (Sterling Publishers 1998).
16. D.N. GAUTAM, CRIME AND POLICE IN INDIA (Ashish Publishing House 1993).
17. S.N. RAJKHOWA, CUSTODIAL CRIMES (Eastern Law House 2004).
18. M.P. SINGH, OUTLINES OF INDIAN LEGAL AND CONSTITUTIONAL HISTORY (LexisNexis 2019)
19. LAW COMMISSION OF INDIA, REPORT NO. 113, INJURIES IN POLICE CUSTODY (1985).

20. LAW COMMISSION OF INDIA, REPORT NO. 273, IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT THROUGH LEGISLATION (2017).
21. NATIONAL CRIME RECORDS BUREAU, MINISTRY OF HOME AFFAIRS, CRIME IN INDIA (various years).
22. NATIONAL HUMAN RIGHTS COMM'N, ANNUAL REPORTS (various years).
23. ALL INDIA COMM. ON JAIL REFORMS, REPORT OF THE ALL INDIA COMMITTEE ON JAIL REFORMS (1980–1983).
24. GOV'T OF INDIA, REPORT OF THE NATIONAL EXPERT COMMITTEE ON WOMEN PRISONERS (1987).
25. Arvind Narrain, Torture and the Law: India's Failure to Protect, 44 ECON. & POL. WKLY. 11 (2009).
26. K.I. Vibhute, Custodial Deaths and Human Rights in India: A Critical Appraisal, 45 J. INDIAN L. INST. 40 (2003).
27. Arvind Sharma, Prison Reforms in India: An Overview, 8 INT'L J. RSCH. SOC. SCI. (2018).
28. National Human Rights Commission, India, <https://nhrc.nic.in/>.
29. Office of the United Nations High Commissioner for Human Rights, <https://www.ohchr.org/en>.
30. Amnesty International India, <https://amnesty.org.in/>.
31. Commonwealth Human Rights Initiative, <https://www.humanrightsinitiative.org/>.
32. Ministry of Home Affairs, Government of India, <https://www.mha.gov.in/>