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# THE ANATOMY OF IMPUNITY: A COMPARATIVE LEGAL ANALYSIS OF CUSTODIAL TORTURE IN INDIA AND LIBERIA

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## ABSTRACT

Custodial torture remains a pervasive human rights violation in both India and Liberia, characterised by the intentional infliction of severe physical and psychological harm on individuals within state custody. Despite structural constitutional protections such as Article 21 of the Indian Constitution and Article 21(e) of the Liberian Constitution, both nations exhibit a severe dichotomy between normative legal mandates and practical law enforcement. Institutional drivers, including severe prison overcrowding, systemic corruption, outdated colonial-era policing frameworks, and inadequate medical infrastructure, continue to foster an environment of state impunity. Furthermore, socio-economically marginalised populations in India and political dissidents in Liberia bear the disproportionate brunt of police brutality and arbitrary detentions.

This comparative legal analysis examines the domestic legislative gaps, international treaty obligations, and accountability mechanisms governing custodial torture in both jurisdictions. While India maintains a dualist legal framework that limits the domestic enforceability of unratified treaties like the UN Convention Against Torture (UNCAT), Liberia struggles with long-standing reporting delays and a lack of specific anti-torture statutory legislation. Oversight institutions in both nations, such as the National Human Rights Commission (NHRC) in India and the Independent National Commission on Human Rights (INCHR) in Liberia, remain constrained by their non-binding advisory powers and lack of direct prosecutorial authority. The study highlights the urgent necessity of enacting statutory anti-torture legislation, implementing mandatory technological oversight like CCTV and body-worn cameras, and adopting standardised medico-legal documentation tools such as the Istanbul Protocol to curb custodial abuse.

**Keywords:** Liberia, India, Anatomy, Impunity, Custodial, Torture, Police, Law Enforcement

## Introduction

Custodial torture represents one of the most egregious abuses of institutional power, striking at the core of human dignity and the fundamental rule of law. Defined as the deliberate infliction of physical pain, mental suffering, coercion, or degrading treatment by law enforcement authorities upon individuals in judicial custody, its ramifications extend far beyond temporary harm. Physically, victims suffer long-term systemic injuries or death, leaving families in profound mental agony. Psychologically, custodial violence, particularly when involving sexual abuse or severe beatings, erodes the victim's core identity, resulting in chronic depression, severe anxiety, and post-traumatic stress disorder that persist long after their release.

In both India and Liberia, the persistence of custodial torture highlights severe institutional and environmental crises within their respective criminal justice systems. India's custodial landscape is heavily burdened by massive structural overcrowding, where over 511,000 prisoners occupy a national capacity of roughly 453,769 across 1,333 jails, with pretrial detainees comprising approximately 73% of the total inmate population. Similarly, Liberia faces severe prison capacity deficits; its national facilities hold 2,500 to 3,000 inmates against an official capacity of just 1,350. At the Monrovia Central Prison, 1,554 inmates are confined in a facility built for 370, forcing detainees to sleep in shifts or tie themselves to makeshift window hammocks. These resource constraints directly convert basic state detention into cruel, inhuman, and degrading treatment.

This comparative paper analyses the normative, procedural, and institutional frameworks governing custodial abuse in India and Liberia. By evaluating constitutional guarantees, compliance with international treaties, vulnerable demographics, and oversight bodies such as India's NHRC and Liberia's INCHR, this study aims to expose the mechanisms that sustain state impunity. Ultimately, it assesses the legal remedies available to victims and explores how technological interventions such as mandatory audio-visual surveillance and the formal adoption of the UN Istanbul Protocol can bridge the gap between constitutional theory and executive accountability.

## Definition and Scope

Custodial torture simply means<sup>1</sup> the act of intentionally inflicting physical pain, mental

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<sup>1</sup> UNCAT, art. 1

suffering, intimidation, coercion or other degrading and inhumane treatments meted out to an individual who is in judicial custody of law enforcement authorities.

The effects of custodial torture can be both physical and psychological. The physical effects of custodial torture always result in devastating acute injuries and permanent long-term physical damage across multiple biological systems. These injuries sometimes lead to the death of the victims, thereby leaving the family in mental agony.

The psychological effect of custodial torture is even worse because it eats away at the innermost self of the victim. It leads to post-traumatic stress disorder, chronic depression, and profound anxiety. Take, for instance, someone who is in police custody being sexually molested by the very people who should be protecting them. Even if they manage to survive, they will have to live the rest of their lives with the trauma of what happened to them while they were in custody.

Both India and Liberia face challenges in combating custodial torture. India's prisons are often overcrowded. Because of the number of prisoners in a particular cell, proper accountability has become a problem for prison wardens.

Liberia suffers from both overcrowding and under-resourced prison facilities. The resources available at the prison facilities are not sufficient to cater for every prisoner in a cell. At the expense of this, gross neglect of human rights and other atrocities are witnessed in those prisons daily.

## **Conceptual Legal Framework Comparison**

### ***Normative Grounds***

According to parliamentary data presented by the National Human Rights Commission, India recorded a whopping 11,656 custodial deaths between 2016-2017 and 2021-2022. Of the total recorded in the country, Uttar Pradesh accounted for the highest count, with 2,630 cases from that region. This translates to an average of five deaths nationwide per day. With these troubling stats, I'd like to start my discussion with Article 21 of the Indian Constitution.

Article 21 of the Indian Constitution provides the right to <sup>2</sup>life and personal liberty. This is one

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<sup>2</sup> Indian Const. Art. 21

of the most cherished fundamental rights given in the Constitution. The protection of life and personal liberty includes an absolute protection against custodial torture, abuse, or degrading treatment meted out to people in judicial custody. In many Supreme Court decisions, it has been held that a person's human dignity remains intact even in detention. This means that your right to life and humane treatment does not cease while judicial authorities detain you. Any form of third-degree police violence is considered unconstitutional.

Furthermore, in the case of *D.K. Barsu vs. State of West Bengal* (1997)<sup>3</sup>, the Supreme Court introduced mandatory procedural requirements that are to be followed during arrests and interrogations to minimise police brutality and custodial deaths.

Some of the major guidelines issued in the *D.K. Barsu* case indicates that police personnel handling the arrest or interrogation of an accused person must wear an accurate, visible, and clear identification and name tag with their designation. An arrest memo must be prepared at the time of arrest, and the said memo must be attested by at least one witness. The arresting officer is under the obligation to inform at least a friend or a relative of the person who is being arrested about their arrest and which judicial custody they have been taken to. The person arrested should be subjected to medical examination every 48 hours during their time in detention.

All of these guidelines are there to reduce police brutality, but despite all of the guidelines and the explicit nature of Article 21, there are still cases of custodial deaths in India to date. Most recently, in a verdict delivered by the Madras High Court in April 2026, the High Court sentenced nine officers to death, including the inspector, for their part in the Sathankulam custodial deaths, where a father and son were wrongfully detained and tortured overnight.

Another incident of active custodial torture in India is the Meerut Police assault case in August 2026. Some high-ranking police officers allegedly detained two men for 12 hours, causing them severe beatings and casteist slurs. After initial inquiries were conducted, this led to the suspension of the Station House Officer (SHO).

Despite the Supreme Court's interpretation of Article 21 to include an absolute right to be free from torture and cruel treatment, the judicial authorities have always found means to inflict pain on persons in judicial custody. Sometimes, they apply torture methods to extort

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<sup>3</sup> *D.K. Barsu vs. State of West Bengal*, AIR 1997 SC 610

confessions from them, which is very much unconstitutional.

The Constitution of Liberia clearly states that <sup>4</sup>no person who is charged, arrested, restricted, detained or otherwise held in confinement must be subjected to torture or any form of inhumane treatment, despite the explicit mandate given under Article 21(e) of the Constitution of Liberia. Liberia is one of the countries in West Africa that exalts police brutality against arrested personnel, even while they are in custody; this is partly because most of the judicial authorities lack the proper training. Over the past years, there have been reports of extrajudicial killings in the country. According to the U.S Department of State, extrajudicial and arbitrary killings in the country remain a constant challenge. It is mostly characterised by periodic incidents involving law enforcement rather than systematic state-sponsored executions.

Liberia currently does not have statutory legislation to regulate torture. The legislature has attempted to work on a Bill that will cover torture in the country, but all attempts have been futile. Article 21(e) instructs the legislature to make the act of torture a criminal offence and to prescribe penalties for public and security officials who will be in violation. Sadly, the draft legislation titled “National Anti-Torture Act” has faced prolonged stagnation in the House of Senate and the House of Representatives. This Bill, when passed, aims to comprehensively define what constitutes mental and physical pain inflicted by persons acting with government badges. It will also take away the superior order that currently serves as a legal defence. The only law that Liberia has on torture, along with Article 21 of the Constitution, is an international treaty that was ratified by the country. The United Nations Convention Against Torture and its optional protocols. This law is largely soft because its binding nature is not absolute. Given the lack of explicit legislation on torture in the country, Liberia still has a long way to go in the fight against torture and other inhumane treatments.

### ***International Treaty Status***

India is famous for its practice of the principle of dualism. This principle has limited the applicability of many international treaties. According to Article 253 of the Constitution, an international law cannot be incorporated automatically into Indian domestic law unless an Act of Parliament is passed for the said law. Article 253 puts a veil on the ratification of international law without having domestic legislation passed by Parliament. On this backdrop,

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<sup>4</sup> Const. of the Republic of Liberia (1986), Art 21(e)

the Prevention of Torture Bill 2009 was proposed. The Bill is believed to run concurrently with the UNCAT directives, having only three paragraphs that talk about the definition of Torture, Punishment for those who torture, and limitations for cognisance offences. The Bill is met with stagnation in the House of Parliament. A Bill is only a Bill once it has not been passed by both houses. This singular act by Parliament of not passing the said Bill has made it even more difficult for India to rectify the UNCAT. Blind rectification of the treaty will amount to a violation of Article 253 of the Constitution. One would say that India's reluctance to ratify the UNCAT is primarily based on the fact that there is no active Anti-Torture law in the country. The treaty was evidently signed by the country in 1997, but full ratification is stalled yet.

Liberia over the time has shown a mixed record of commitments, balanced between domestic capacity constraints and implementation delays. In September 2005, Liberia endorsed a total of 103 international treaties over a single sitting at a United Nations event. Most of these 103 treaties endorsed included human rights and trade agreements.

The country's relationship with international treaties, specifically the United Nations Convention Against Torture, is particularly not impressive, as the country faces a significant gap between formal notification and practical local implementation. There is a particular pattern when it comes to international treaty implementation within the country; mostly, there are delays in domestic reporting. Ongoing efforts toward legislative alignment and structural enforcement are all major issues.

Liberia ratified the UNCAT in 2004, but implementing the legal mandates has been extremely slow. According to the UNCAT, all States must submit a periodic report. Liberia's first report was due in 2008; consequently, Liberia did not submit its report for nearly two decades. In early part of 2026, Liberia finally submitted its first report to the convention. This means that it took the country 18 years after it ratified the convention before it could furnish its first report. Article 21(e) of the constitution prohibits torture, but torture is still not classified as a specific crime in the country because there is no domestic law in that regard.

Due to the inefficiency of domestic laws that can give full force to international treaties, Liberia is still at risk of violating human rights laws. The Independent National Commission on Human Rights (INCHR) continues to document systemic issues within law enforcement, including prolonged pretrial detention, severe prison overcrowding, and occasional excessive force by the national police.

## **Institutional and Environmental Drivers**

### ***Root Causes***

India, a former British colony, still practices an outdated form of policing that it inherited from the colonial masters. The Police system operates on the repressive principles of the 1861 Police Act, where methods such as control, coercion and third-degree torture are prioritised over scientific methods of investigation. This form of policing, though effective, does not conform to modern standards of policing. In any case, the consistent use of the said practice will amount to a violation of Human Rights in the form of custodial torture.

In February of 2025,<sup>5</sup> the High Court of Justice in London rejected the extradition request from India for Sanjay Bhadari because custodial torture is imminent in India. Granting Sanjay Bhadari's extradition would breach his human rights.

One of the many reasons that keeps giving rise to custodial torture in India is the fact that society has accepted such practice. The public has normalised violence; tough policing through media, combined with political interference from superiors demanding rapid results, creates a permissive environment for abuse.

Most victims of custodial torture in the country are people who find themselves to be economically challenged. They are either from the lower castes or minority communities that lack legal literacy or resources to challenge police excesses. The lack of active Anti-Custodial laws in the country has also given prominence to these human rights violations. Most often, people engage in torturous acts and go away with impunity simply because there are no laws to hamstring them.

Between 1989 and 2003, Liberia experienced two distinct civil wars that claimed the lives of over 200,000 and sent over one million into exile. Since the end of the two civil wars, Liberia has been gradually recovering across all its systems of government. During the early stages after the civil war in 2003, Liberia signed a comprehensive peace agreement in Accra, Ghana. This document gave Liberia a chance to begin peacebuilding and recovery with the presence of the United Nations Mission in Liberia (UNMIL). UNMIL played their part very well, but for the country to continue on a good trajectory of peacebuilding and respect for human rights,

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<sup>5</sup> Oxford Human Rights Hub

its citizens must be at the forefront of it all.

In that behalf, I want us to examine the work of the Police forces in the country and how they have performed since the end of the civil war. No doubt, the Police have been tagged with numerous atrocities in the country, but equally so, they have stood their ground in maintaining peace and order. Often, the Police are referred to as our friends and not our enemies. To show how reliant the country is on the Police force, the number of active Police officers is estimated to be twice the number of the military. One would be tempted to believe that since the number of Police officers is huge, they are doing exactly what is expected of them.

In 2012, a survey was conducted by the Human Rights Crime Watch. According to the survey, Liberians perceived that the most corrupt institution in the country is the National Police. Most recently, a transparent international report on the Global Corruption Barometer noted that the police are the most corrupt institution in the country, and the second most corrupt is the courts. This shows how the citizens have lost faith in the justice system.

“No money, no justice.” “Find my cold water.” “Buy me scratchcard.” Justice in Liberia is dispensed based on status and bribery, and so do police activities. The police's professionalism and their ability to promote human rights and the rule of law have been completely compromised by corruption. Partly, one of the reasons for police corruption in the country is the fact that they are earning extremely low salaries that cannot support themselves and their families. The Police also lack some basic amenities that will enable them to do their jobs efficiently and effectively. Some of the Police lack professional training.

To minimise custodial torture in the country, the government must see to it that the right people are given the job of policing and make sure that the Police academies in the country are, in fact, effective with their training mechanisms. Most importantly, there should be an increase in police salaries. A well-paid officer will perform his duties more diligently than an underpaid officer.

### ***Resource Constraints***

Resource constraints have been one of the enabling factors for the abuse of the human rights of prisoners in India and Liberia. India is a developing nation with a growing population, while Liberia is an underdeveloped country. As of late 2024, India overtook China as the country

with the largest population.

Having a large population also comes with advantages and disadvantages. One of the disadvantages is the fact that there will be a fresh load of cases daily. With the number of cases recorded daily in the country, the judicial system cannot dispose of half of the cases being reported to it; hence the backlog of cases and having to send people to detention facilities while they await trial. According to the National Crime Records Bureau (NCRB) 2024, the prison capacity of India is approximately 453,769 inmates to be distributed across 1,333 jails all over the country. Due to the backlog of cases, there are currently over 511,000 prisoners who are held in these facilities, exceeding the authorised limits. Of the 511,000 prisoners, roughly 73% of them are individuals awaiting trial or adjudication.<sup>6</sup>

Resource constraints in the Indian custodial system, particularly the aspect of prison overcrowding and the lack of proper medical screening for prisoners, affect basic human rights. Article 21 of the Constitution lays the basis for everyone to be treated with dignity, but the lack of resources in these prison facilities, coupled with the prisons being overcrowded, directly converts detentions into a cruel, inhuman and degrading punishment.

Health infrastructure inside Indian custody is deeply under-resourced. This is evident in an overwhelming 43% vacancy rate among prison medical officers and a nationwide shortage of mental health professionals, as it was reported by the *Hindus Times*.

According to World Prison Brief, the official prison capacity for Liberia's prisons is approximately 1350 inmates across the country's correctional facilities. The actual occupants are between 2,500 and 3,000, leading to overcrowding. Most of the people caged in the prison facilities are people who have yet to face trial<sup>7</sup>.

The country's central prison suffers severely from overcrowding. According to Liberian TV Network, the central prison currently holds a total of 1554 inmates. This number is far beyond the prison's capacity of 370 inmates. Judicial sources also reported that of the 1554 inmates, 1096 of them are pretrial detainees. With the prisons being overcrowded and a lack of proper medical attention to detainees, the country stands in grave violation of international legal

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<sup>6</sup> Global Torture Index 2025 India Factsheet

<sup>7</sup> Prison Insider

standards in maintaining human rights<sup>8</sup>.

Due to overcrowded prisons, inmates held in these detention facilities are deprived of sleep. The US Department of State and Human Rights reported that due to the poor prison infrastructure, inmates sleep in shifts. Some sleep on the bare concrete floor or tie themselves to a makeshift window hammock, which constitutes cruel, inhuman or degrading treatment<sup>9</sup>.

The neglect of acute medical needs for prisoners is also a major problem leading to violations of human rights. Without the required medical screening tools or medical supplies, inmates are at risk of developing chronic diseases and severe injuries. Inmates only receive external emergency care when their conditions become very critical or life-threatening<sup>10</sup>.

### ***Vulnerable Demographic to Custodial Torture***

Torture in custody is usually rained down on two distinct categories of people in India. This is partly because they do not have as much say in the affairs of the government compared to other groups.

The first of these groups is the poor and socio-economically marginalised communities in the country. This group is divided into two subcategories: Dalits, or the scheduled castes, and the Adivasis, commonly referred to as the scheduled tribes. The economically challenged individuals do experience torture because they cannot afford immediate legal representation or protection against powerful local actors. Their inability to afford the required legal representation leaves them at the mercy of institutional power.

According to reports from the National Human Rights Commission of India in 2026, a total of 165 deaths occurred in police custody across the country, and 2338 deaths occurred in judicial custody during the 2025 calendar year.<sup>11</sup> Most of the victims in this data are either from Scheduled Caste, Scheduled Tribes or Muslims.

The Muslim religion is a target in the country for custodial violence because law enforcement officers often carry deep-seated societal prejudices against religious minorities in the country,

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<sup>8</sup> Karto Mark et al., *Exploring the Link Between Prison Accommodation and the Protection of Inmate Rights in Monrovia Central Prison, Liberia* (2025), <https://zenodo.org/doi/10.5281/zenodo.15763896>.

<sup>9</sup> Liberia 2023 Human Rights Report

<sup>10</sup> National Institutes of Health

<sup>11</sup> The Indian Awaaz

making them an easy target for abuse. Other than caste and religious minority groups in the country, other possible victims are women, migrant workers, homeless persons and the LGBTQ community.

The Liberian Constitution provides that any person who is arrested or detained must be formally charged and presented before a court of competent jurisdiction within 48 hours<sup>12</sup>. The law enforcement officers in Liberia seem not to take this clause of the constitution into serious consideration; hence, a vast majority of individuals in police custody are pretrial detainees. To build a case against an arrested person, police must rely on confessions because of limited forensic and investigative capabilities. Criminal suspects are usually at higher risk of physical abuse because law enforcement officers want to extract confessions from them.

The most vulnerable groups in the country concerning custodial torture are journalists, protesters, and political critics. According to the Independent National Commission on Human Rights, police brutality, unlawful detention, restrictions on protests, and attacks on journalists remain a major human rights concern in the country. The commission further noted that State security services frequently target political dissidents, independent journalists, and civil rights demonstrators. When they are held in police custody or specialised security units, these individuals are exceptionally vulnerable to targeted intimidation, psychological torture, and arbitrary beatings designed to suppress them.

### **Accountability, Remedies and Oversight**

Whenever there is an act of custodial violence in the country, we often, as citizens, want to hold someone accountable for it. In addition to being accountable for their actions, we intend to seek remedies for the victims so that a clear message can be sent out there as a caveat to would-be perpetrators.

### ***Investigation Mechanisms***

The primary investigative mechanism for human rights violations such as custodial torture in India is the National Human Rights Commission (NHRC). The National Human Rights Commission was established in 1993 to serve as an independent statutory body. It is a product

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<sup>12</sup> Const. of the Republic of Liberia (1986), Art 21(f)

of the Protection of Human Rights Act of 1993 and was amended in 2006. The NHRC serves as the watchdog of human rights violations in the country; it looks over the rights that are related to life, dignity, liberty and equality of the individual<sup>13</sup>.

The commission is divided into two stages for effective functioning. There is a State Human Rights Commission (SHRC) which serves at the State level in the country to promote and protect human rights. This commission's powers extend to matters related to human rights violations specified within the Indian Constitution and international conventions.

The National Human Rights Commission is the central commission that oversees all human rights violations and investigations. This commission takes on cases either *Suo motu* or after a complaint has been filed. The essence of having a commission at the state level and national level is to ensure that people exhaust every remedy available to them before approaching the National Human Rights Commission.

The National Human Rights Commission performs some unique functions. It serves as the leading entity for enquiries into complaints of violations of human rights or negligence in the prevention of such violations by someone acting as a public servant<sup>14</sup>. The commission studies treaties and international instruments on human rights and makes recommendations for their effective implementation.

Despite those unique functions performed by the NHRC, there are still limitations that the commission faces, which are holding back the progress of human rights in the country. The commission is under an obligation to make recommendations to the central government, but these recommendations are not binding in nature. Also, the commission can not investigate violations of human rights committed by private parties. The commission also lacks the power to penalise authorities that do not implement its recommendations.

For the NHRC to perform more effectively, the policymakers in the country have to revisit some of the policies and reduce the limitations that the commission currently faces. The committee should also have the ability to investigate cases that involve private parties being the violators of human rights.

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<sup>13</sup> Sec 2(1), Prevention of Human Rights Act, 1993

<sup>14</sup> Sec 12, Prevention of Human Rights Act, 1993

The Independent National Commission on Human Rights (INCHR) in Liberia operates as an autonomous national institution, but lacks direct prosecutorial power. The commission was created by the Independent Commission on Human Rights Act of 2005, and it became fully operational five years later. The commission has the mandate to operate entirely independent of the executive branch of the government. The commission's primary roles are to promote, protect, and monitor human rights complaints and investigate the abuse thereof by conducting civic education and advising the government on what steps to take to mitigate human rights violations.

The INCHR do not have direct prosecutorial power. It acts as a quasi-judicial authority. In this capacity, it investigates and gives advisory opinions. After it has concluded the investigation, it documents the human rights violations, issues a public statement and makes recommendations to state authorities.

The commission can not directly file criminal charges or prosecute offenders in court. Instead, when the commission uncovers violations or abuses that require criminal accountability, it refers them to the Ministry of Justice or the joint security forces to conduct formal investigations and pursue prosecution.

Just like India, the Independent National Commission of Human Rights in Liberia performs similar functions and has similar limitations. The INCHR can conduct its own independent investigation into a human rights violation or abuse; whatever findings emerge, the commission is directed only to recommend action to state authorities. These recommendations are not binding in nature. Because of their non-binding nature and lack of prosecutorial power, the work of these human rights agencies in both Liberia and India becomes narrow and limited to investigations, without having to come out with final decisions in terms of punishments or penalties.

### ***Judicial Redress***

Victims of custodial torture in India can seek judicial remedy by making use of Article 32(2)<sup>15</sup> and Article 226<sup>16</sup> of the Constitution. These two Articles allow victims to approach either the

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<sup>15</sup> The Supreme Court shall have power to issue directions or orders or writs, including writs like habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate for the enforcement of fundamental rights.

<sup>16</sup> Notwithstanding anything in article 32, every High Court shall have powers, throughout the territories in relation

Supreme Court or the High Courts to enforce their rights and seek compensation for injuries or harm caused to them. These Articles can be invoked by using writ petitions, thereby bypassing the age-old concept of sovereign immunity, which is often used to shield government actors from any kind of liability.

The principle of strict liability, as established in the landmark case of *Nilabati Behara vs. State of Orissa*, lifts the veil on sovereign immunity when fundamental rights are breached by agents of the state. There are also other remedies available to victims in the form of holding the state liable and accountable for the actions of its employees. Vicarious liability is the first of many forms of state liability that come to mind. This form of liability holds the state responsible for the safety of individuals in custody. The state can not escape liability even in cases of custodial suicide or an unexplained injury in custody.

Also, public servants face severe penalties under Section 120<sup>17</sup> of the *Bharatiya Nyaya Sanhita* (BNS) and procedures in the *Bharatiya Nagarik Suraksha Sanhita* (BNSS) for causing injuries to a person in custody to extract a confession from them. In any case, evidence or confession obtained through a coerced manner by public servants is not admissible as evidence in a court of law according to Section 23<sup>18</sup> of the *Bharatiya Sakshya Adhiniyan* (BSA).

When it comes to compensation to victims of custodial torture, there is no fixed amount. The compensation may vary from case to case. In many rulings delivered by various High Courts in the country, there have been substantial amounts given to victims, usually between four hundred thousand rupees and three million rupees.

The Constitution of Liberia prohibits any form of torture, but victims of custodial torture in the country face significant challenges in securing public law remedies and state liability due to weak judicial independence and the country's culture of impunity. Liberia has an international obligation to provide remedies and reparations to victims of inhumane treatment. This obligation arose courtesy of the agreement the country entered into by ratifying the United Nations Convention Against Torture (UNCAT) in 2004. Despite the explicit mandates given

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to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs like habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the fundamental rights.

<sup>17</sup> Voluntarily causing hurt or grievous hurt to extort confession, or to compel restoration of property.

<sup>18</sup> No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate, shall be proved against him

in the convention documents, Liberia has always fallen short of the expected threshold in providing remedies for victims.

Just like India, victims or family members of victims of torture in Liberia can seek a public law remedy by filing a writ of Habeas Corpus or seeking judicial review to challenge their unlawful or arbitrary detention. This process is not a walk in the park. Enforcement has been hampered by severe judicial backlogs and corruption.

Other major gaps also exist in state liability. The state has a fundamental duty to protect individuals who are in custody. However, applying vicarious liability for financial compensation against the state is very rare. The system is often met with the sovereign immunity doctrine and institutional corruption. The country also lacks an active national program for victims' reparation, medical care, or specialised rehabilitation for abuses committed by state security agents.

### ***Technological and Procedural Fixes***

Technology would serve as a cutting-edge tool to safeguard against custodial torture and custodial deaths in India and Liberia. One of the leading technologies that can help in that direction is the mandatory installation of CCTV cameras in every police station. If there are functional CCTV cameras at every entry and exit point of police stations, there will be a reduced number of cases of custodial violence in these countries. Every officer on duty will know that they are under surveillance. The reporting system will be much easier for victims of custodial abuse.

The Supreme Court of India has mandated every police station to have CCTV cameras installed and every interrogation room to have audio-visual cameras installed in them to prevent police brutality in extracting confessions. Most police stations in India have implemented the installation of the cameras, but what is yet to be seen is the functionality of these cameras. Most of the installed cameras are either intentionally turned off by some police stations, or the lack of internet connectivity has made the functioning of these cameras rather impossible.

Liberia, on the other hand, has yet to make CCTV camera installation a mandatory duty for every police station. In the absence of these cameras, most, if not all, custodial violence cases will go unnoticed in the country because there will be no one to authenticate the claims of the

victims of custodial torture.

Another technology that is used in the Western world is body-worn cameras. Equipping arresting and investigating officers with body-worn cameras ensures real-time accountability during public interactions and initial detentions. This technology has yet to be implemented in India or Liberia.

In addition to upgrading technologies for effective policing and crime reporting in each of these countries, it is also important that some procedures be amended that will help mitigate custodial violence. The strict adherence to the Miranda doctrine and the enforcement of the DK Barsu guideline will be key contributory factors. The prison facilities should also have frequent medical checkups for every inmate. The magistrates must actively examine the physical condition of the accused at the first production rather than casually granting police remand.

Another ignored, but effective, procedure is the Istanbul Protocol for documenting torture. The Istanbul Protocol was endorsed by the United Nations in 1999 and recently revised in 2022 to meet the standards of the current global justice system. The protocol sets out guidelines for documenting and reporting cases of torture. The protocol sets global rules that give doctors, lawyers, and human rights workers a shared and reliable method to examine survivors.

The application of the Istanbul Protocol is very limited in India. India has not formally adopted the protocol in its medico-legal and criminal justice system, partly because the country is yet to ratify the United Nations Convention Against Torture (UNCAT), which was signed in 1997.

In Liberia, the Istanbul Protocol is applicable. Independent medical examinations based on the UN-mandated Istanbul Protocol have been utilised in many cases to investigate and document allegations of torture and ill-treatment among detainees in state custody.

## **Conclusion**

The comparative analysis of India and Liberia reveals that formal constitutional prohibitions against custodial torture are insufficient to dismantle entrenched systems of state impunity. Although Article 21 of the Indian Constitution and Article 21(e) of the Liberian Constitution explicitly guarantee the right to life, dignity, and freedom from inhumane treatment, law enforcement personnel in both nations routinely bypass these protections. In India, despite judicial attempts to curb third-degree violence through landmark rulings like *D.K. Basu v. State*

*of West Bengal*, custodial deaths remain alarmingly prevalent, as demonstrated by the 11,656 custodial deaths recorded between 2016 and 2022, as well as recent extrajudicial abuses in Sathankulam and Meerut. In Liberia, the persistent lack of specific domestic statutory legislation defining torture as a distinct criminal offence, combined with prolonged legislative stagnation surrounding the draft "National Anti-Torture Act," leaves public officers shielded from meaningful criminal liability.

A central driver of this culture of abuse is the reliance on outdated operational paradigms, socio-economic prejudices, and structural resource deficits. India's law enforcement apparatus continues to suffer from colonial-era repressive policing models under the 1861 Police Act, which prioritise coercion over scientific investigation. This structural flaw disproportionately impacts economically disadvantaged groups, Scheduled Castes, Scheduled Tribes, and religious minorities who lack the financial resources or legal literacy to combat police excesses. Conversely, Liberia's post-conflict judicial architecture is severely compromised by endemic corruption, low police salaries, and inadequate forensic capabilities, driving officers to rely on physical torture to extract forced confessions from pretrial detainees. Furthermore, state security services in Liberia frequently turn custodial violence against political critics, independent journalists, and civil rights demonstrators to suppress dissent.

International human rights commitments have similarly failed to bridge the enforcement gap due to legal dualism and administrative delays. India's dualist framework under Article 253 of its Constitution prevents the full domestic integration and formal ratification of the United Nations Convention Against Torture (UNCAT), which it signed in 1997, due to the stagnation of domestic enabling bills like the Prevention of Torture Bill 2009. While Liberia ratified the UNCAT in 2004, its failure to submit a periodic report for 18 years until early 2026 illustrates a profound gap between formal treaty endorsement and practical implementation. Furthermore, primary human rights monitoring agencies such as India's National Human Rights Commission (NHRC) and Liberia's Independent National Commission on Human Rights (INCHR) are structurally weakened by their inability to issue binding directives or directly prosecute offending officers, reducing their role to non-enforceable advisory recommendations.

To eliminate custodial torture and restore public trust in the rule of law, both nations must execute comprehensive legislative, procedural, and technological reforms. Legislatively, India

and Liberia must enact standalone anti-torture statutes that criminalise state-sponsored violence, remove superior order defences, and establish strict vicarious liability and mandatory compensation programs for victims. Procedurally, the judicial system must enforce strict compliance with arrest protocols, mandate initial physical examinations by magistrates, and fully integrate independent medico-legal reporting frameworks like the UN Istanbul Protocol. Finally, modern technological safeguards including the universal, uninterrupted operation of CCTV systems in interrogation rooms and the deployment of body-worn cameras for arresting officers must be rigorously enforced. Without binding legal accountability and structural reform, the right to personal liberty will remain an unfulfilled constitutional promise for the most vulnerable detainees.

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