
CUSTODIAL TORTURE IN INDIA: CONSTITUTIONAL GUARANTEES VS. GROUND REALITIES

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ABSTRACT

Custodial violence remains one of the most heinous violations of human rights in India since it is deeply entrenched in the operational ethos and institutional framework of the police system. By focusing on standpoint of law enforcement, this research explores the complex social and institutional factors that facilitate torture. The research further explores how hierarchical constraints, political pressure, insufficient training and performance driven police system contribute to the culture that perceives torture as an accepted practice. The research highlights how institutional instability typically fosters custodial violence instead of individual deviance by relying on perspective of police officers, landmark decisions and certain reports.

It further examines the deficiencies in police training, accountability systems, and working circumstances that create a climate in which abusing certain fundamental rights might go unpunished. At last it provides some reforms that involves better working conditions, strengthening judicial monitoring, strong police public relations and operational freedom. A crucial recommendation is to enact a separate Anti Torture Law that aligns with UNCAT which India has signed but hasn't ratified.

The prevalence of custodial violence is a stark reflection of institutional stillness, harsh police behaviour and the absence of proper laws to safeguard the detainee's rights. A fundamental change in the police culture is required to shift from coercion to professionalism. This critical analysis leads to the conclusion that Custodial torture or mistreatment is a blatant misuse of legitimate power in a cruel manner by the law enforcement authorities most commonly employed against oppressed, destitute, and the uninfluential.

Keywords: Custodial Torture, Violence, Accountability, Constitution, Human Rights

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I. INTRODUCTION

"Torture in custody is an affront to the dignity of man and a violation of the Constitution. It must be eradicated to preserve the sanctity of human rights"

- *Sube Singh v. State of Haryana*²

Constitutional guarantees provided under the Indian Constitution frequently sound hollow in the shadowy recesses of its police stations despite the country's founding ideals of dignity and individual liberty. Detainees are frequently subjected to beatings, threats, and sometimes deadly assaults as part of the grim realities of custodial torture. Although there are legal protections in place to stop this kind of abuse, they are frequently disregarded, improperly applied, or completely evaded in reality. A deeper dilemma is revealed by this discrepancy between the law and reality i.e. *How is it possible for a democratic state committed to maintaining the rule of law to tolerate actions that are so blatantly incompatible with human rights?* The continuation of torture in detention is a reflection of both individual misconduct and systemic shortcomings in law enforcement and accountability. The system still fails to provide victims with justice or prevent abuse, even though courts have established significant rules and legislative protections are in place. This essay aims to critically analyze this discrepancy between experienced reality and legal standards. The article investigates the gap between constitutional guarantees and the ground reality of custodial violence analyzing the various factors responsible for the same.

Even after having protections and laws in places that data related to custodial torture reveals a grim reality. The National Human Rights Commission (NHRC) recently released data showing that there are about 2210 cases of deaths in judicial custody and 259 pending cases of deaths in police custody³. Numerous custodial deaths are reported by the National Crime Records Bureau (NCRB) each year, although these numbers are generally regarded as underestimates because of underreporting, unclear classification, and fear of reprisals⁴. The significance of torture is frequently obscured by attributing fatalities to sickness, suicide, or natural causes. For example, the NHRC recorded more than 2,000 deaths in custody between 2017 and 2022, although only a small number resulted in prosecution or administrative action⁵. This gap is a reflection of a pervasive culture of impunity, where victims' justice is elusive and custodial brutality is accepted. Instead of being anomalies, these incidents point to systemic failure, where institutional bias, protracted procedures, and opaque probes diminish

² Sube Singh v. State of Haryana (1972) 1 SCC 427.

³ National Human Rights Commission, Custodial Death Data (2024).

⁴ National Crime Records Bureau, Crime in India (Annual Reports 2017-2022).

⁵ National Human Rights Commission, Annual Report 2021-22

accountability.

Public confidence in law enforcement has declined as a result of the widespread use of torture in detention and the absence of efficient channels for recourse. For many residents, especially those from underprivileged communities, religious minorities, and oppressed castes, the police are a source of terror rather than safety. The legitimacy of democratic government and state institutions are directly impacted by this impression. The message is apparent in a system that discourages victims from filing complaints, intimidates witnesses, and prolongs legal proceedings: the state frequently provides greater protection to the torturer than to the tormented. In addition to fostering mistrust of the criminal justice system, this alienation feeds the cycle of violence and silence. Because it threatens the fundamental idea of equality before the law and universal access to justice, the legitimacy crisis that the Indian police are currently confronting has legal ramifications in addition to moral and symbolic ones.

In order to raise awareness of these violations, civil society actors such as lawyers, human rights advocates, journalists and non-governmental organizations (NGO) have been essential, even as official authorities have found it difficult to confront or even recognize the full scope of torture in detention. Investigative media has frequently uncovered horrifying stories of unlawful detentions, coerced confessions, and fatalities that occur while a person is in custody. These stories are frequently supported by leaked footage or autopsy results. Despite its drawbacks, social media platforms have increased public pressure for action in high-profile instances and amplified voices that might otherwise go unnoticed. Such initiatives highlight the state's unwillingness to take action unless forced by outside criticism, even though they have occasionally resulted in public probes or policy discussions. Even while civil society plays an essential role, the legislative and administrative framework must include institutional accountability measures.

II. UNDERSTANDING OF CUSTODIAL TORTURE

Actions of police torture whether psychological or physical or committed against people in police or judicial custody with the intention of punishing, coercing confessions and/or threatening them are referred to as "custodial torture." Although there isn't a standard definition for the term under Indian law, judicial rulings, constitutional interpretations, and international HR instruments all help in the understanding of its essence.

Torture is defined as *"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of a public official or other"*

*individual acting in an official capacity.*⁶ Pain or suffering that results solely from, is a part of, or is incidental to legal sanctions is not included.

Article 5 of the UDHR expressly condemned torture, making it one of the first acts to be outright forbidden under international human rights legislation⁷. The Indian Constitution is firmly rooted in the core principles expressed in the Declaration of Human Rights, especially the dedication to defending fundamental rights. In international law, the ban on torture is recognized as a *jus cogens* standard, which essentially means that it has a peremptory standing that cannot be broken, not even in emergency situations. This is similar to the absolute ban on slavery. Despite numerous deliberations in Parliament over the years, India has still not ratified the Convention Against Torture, while the majority of nations have done so and passed equivalent domestic laws.

Custodial torture in India has its roots in colonial policing systems that put control over rights first. Following the uprising in 1857, the Police Act of 1861⁸ established a method intended more for upholding imperial authority than for public service. The structural remains of this colonial worldview endure despite post-independence constitutional safeguards, frequently justifying coercive activities under the guise of investigation.

India still hasn't ratified the United Nations Convention Against Torture even though it signed it in 1997. This is mainly because there isn't any comprehensive domestic law that makes torture illegal according to international norms. The Prevention of Torture Bill was introduced in Lok Sabha and was approved in 2010 but was rejected by Rajya Sabha. They then sent the issue to the Select Committee on the Prevention of Torture Bill, who then produced a report in 2010 that identified serious problems with the draft legislation and suggested important changes⁹. In its 273rd Report (2017)¹⁰, the Statute Commission of India made a strong case for an independent anti-torture statute and stressed that India's moral legitimacy to bring up human rights issues in international forums is diminished by its failure to ratify UNCAT. There is a clear gap in the domestic legal system to properly handle custody torture notwithstanding these endorsements and the judiciary's repeated pleas for legislative advancement.

The Constitutional guarantee of the right to life and personal liberty provided under the Indian Constitution¹¹ which courts have correctly interpreted to include the right against torture and cruel, inhuman or degrading treatment does not properly address the issue because India even till date lacks a

⁶ Article 1 of United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

⁷ Article 5 of Universal Declaration of Human Rights (Dec 10, 1948)

⁸ The Police Act, 1861

⁹ The Prevention of Torture Bill, 2010

¹⁰ 273rd Report, Law Commission of India on Implementation of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment Through Legislation (Oct. 2017)

¹¹ Article 21 of Constitution of India, 1950

codified or independent characterisation of custodial torture in domestic law. Regarding the aspects of police/custodial torture Article 20(3) of the Indian Constitution¹² which provides a right against self-incrimination and also Article 22 clause 1¹³ which guarantees the right to have a legal counsel present and protection against any arbitrary arrest, are pertinent when applied broadly.

In the historic case of *Shri D.K. Basu v. State of West Bengal*¹⁴ the Supreme Court of India established preventive measures and acknowledged torture as a flagrant breach of human dignity. These recommendations place a strong emphasis on procedural protections against misuse of arrest authority and torture while in custody. They require that the arresting officers be clearly identified that an arrest memo be prepared and witnessed, and that the arrest be promptly communicated to friends or family. Detainees must be made aware of their rights, which include the right to a 48-hour medical evaluation and legal representation. Police control rooms are required to record, report, and keep an eye on arrests. These rules are intended to protect the constitutional rights to life, liberty and dignity as well as to guarantee accountability and openness.

III. FORMS OF TORTURE

Custodial torture can take many various and often violent forms, ranging from overt physical abuse to more covert psychological and sexual approaches. To fully appreciate the scope of violations experienced by detainees in police custody, it is imperative to comprehend these modalities. Such torture is frequently used in India to get confessions, scare individuals, or just demonstrate authority and dominance¹⁵

The most obvious and commonly reported type of torture is still physical torture. Victims are frequently subjected to electric jolts, puts them in stressful positions for extended episodes of time, or assaulted with belts, rods, or wooden clubs. These actions frequently take place behind closed doors, out of sight of the public or the legal system. Torture on a psychological level can be just as crippling. It includes threats along with prolonged verbal abuse, deprivation of sleep, hurting while blindfolding or isolation. Detainees are frequently forced to witness the torturing of other prisoners or put through fake executions¹⁶. In an attempt to instill fear and collaboration, these tactics frequently compel the detainee to make false confessions or admissions under duress. Even when physical injuries have healed, psychological abuse can cause trauma that persists for a long time. Sexual torture is a particularly serious violation, even though it is frequently underreported because of stigma and fear of retaliation.

¹² Article 20(3) Constitution of India, 1950.

¹³ Article 22(1) Constitution of India, 1950.

¹⁴ D.K. Basu vs State of West Bengal, AIR 1997 SC 610

¹⁵ ASIAN HUMAN RIGHTS COMMISSION, Torture in India. Available at <http://www.humanrights.asia/tortures/torture-in-india/>

¹⁶ Meenakshi Ganguly, Broken System, HUMAN RIGHTS WATCH (2009)

Regardless of sexual category, inmates are usually stripped naked, groped or subjected to intrusive and humiliating activities. There are many instances of rape, molestation, or threats of such while in jail, making women and transgender people particularly vulnerable. Deeply ingrained casteist and patriarchal power systems within law enforcement agencies are further reflected in the use of sexualized violence. When taken as a whole, these types of torture show how urgently institutional changes, stronger accountability systems, and strict enforcement of the law are needed to protect the rights and dignity of people detained by the state¹⁷.

IV. GROUND REALITIES OF CUSTODIAL VIOLENCE

The Status of Policing in India Report 2025: Police Torture and (Un)Accountability, co-published by Common Cause and the Lokniti Programme of the Centre for the Study of Developing Societies, contains one of the most thorough analyses of police attitudes toward torture and violence in India¹⁸ which is based on a mixed-method approach that combines qualitative interviews with quantitative surveys. The study explores the institutional, structural and psychological elements that normalize torture in detention within the framework of law enforcement. A survey of more than 8200 police officers from seventeen states and UTs, plus constables and IPS officials, is included in the research. The study provides unique insights into the extent to which violent tactics are ingrained in routine policing. It also takes into account the viewpoints of accountability artists such lawyers, doctors and judges who deals with the detention services adds a crucial dimension to comprehension of routinely abuse.

The results show that a substantial portion of police officers considers using violence to be both essential and justified, which is concerning because it shows how custodial torture has become an integral part of law enforcement rather than a deviation from it. The key findings of the investigation are discussed in this chapter, which also looks at the institutional attitude that permits and maintains torture.

According to the report, 20% of police officers believe that using harsh tactics to instil fear in the public is "very important" while another 35% believe that doing so is "somewhat important."¹⁹ This is a very dangerous trend in and of itself because the principles of due process and rule of law are seriously threatened by the normalization of the use of "tough methods" to inspire distress is endorsed by a substantial percentage of police personnel questioned.

Such views promote extra-legal behaviour, erode the constitutional presumption of innocence, and

¹⁷ INDIA ANNUAL REPORT ON TORTURE 2020, National Campaign Against Torture 2020,

¹⁸Common Cause India, Status of Policing in India Report 2025: Police Torture and (Un)accountability, available at <https://www.commoncause.in/page.php?id=204>

¹⁹ Id

create an atmosphere where coercion is valued more highly than inquiry. This strategy undermines the credibility of the criminal justice system and erodes public confidence in legal institutions. In the long-term, it runs the risk of undermining democratic accountability by turning law enforcement agency into a force of intimidation instead of protection.

According to the survey 22 percent of the police officers think that murdering "dangerous criminals" is preferable to providing them with a fair trial. This is another concerning number. The report also makes clear that officers with greater experience and higher levels of subordinates are comparatively less likely to concur with the assertion that exposure and training could contribute to maintaining constitutional values. However, structural problems with police recruitment, training, and accountability are reflected in the extensive support of this trust among low ranking police personnel. It indicates that the police force has failed to instill respect for the rule of law. By obfuscating the distinction between vigilante justice and law enforcement, this kind of thinking also jeopardizes democratic institutions. Such opinions have the potential to further undermine public trust in the legal system if they are permitted to continue.

The fact that thirty percent of the police officers defend the use of "third-degree methods" which frequently involve physical and psychological torture in serious criminal cases and 9 percent even in minor offenses raises serious concerns about the normalization of custodial violence within law enforcement. The rationalization of such acts, on a regular basis and even some IPS officials, exposes a deeply rooted culture of brutality masquerading as effective policing. It is quite concerning that many police officers view torture as a legitimate investigation technique rather than an anomaly. It confuses the truth-seeking purpose of interrogation, undercuts the presumption of innocent, and leads to erroneous convictions. More significantly, it makes policing less effective and more vulnerable to abuse by sustaining a cycle of mistrust and fear between the people and the police.

Critical viewpoints from experts directly involved in the criminal justice system, such as attorneys, judges, and physicians, are also included in the Status of Policing in India Report 2025. These viewpoints identify systemic facilitators of torture in detention and the absence of significant responsibility.

All interviewees agreed that the majority of torture victims are people from marginalized and socioeconomically disadvantaged groups including Adivasis, Dalits, slum dwellers and illiterate people. This demonstrates exactly how police tactics interact with caste, class, and community prejudices, rendering some groups more susceptible to mistreatment. Concerns over the standard of medical examinations performed on arrested individuals were also voiced by doctors. Many noted that due to a severe shortage of qualified forensic specialists, particularly in district and taluk hospitals, such investigations are usually performed by general or unrelated specialists. This weakens the evidential

basis for accountability by causing medical reports to frequently ignore or misidentify indicators of torture. The paper also emphasizes magistrates' passive role in preventing torture in detention. Interviewed attorneys and retired judges voiced substantial hostility to admitting police admissions in court. They stressed that doing so would put accused people's rights and life in great jeopardy by encouraging the use of harsh or forceful interrogation techniques. Overall, these professional observations point to a systemic failure in the legal, medical, and police systems that permits torture in detention and obstructs the administration of justice. In order to protect the most vulnerable segments of society, the findings need immediate reforms like mandatory judicial monitoring, forensic examination training for medical practitioners, and greater legal protections.

YEAR	REPORTED DEATHS	INQUIRY INITIATED	OFFICERS ARRESTED
2018	70	28	0
2019	85	34	6
2020	90	56	7
2021	164	98	10

*Source: Reports of NCRB Crime in India, NHRC Annual Reports, Common Cause*²⁰

The above statistics reveals a very astonishing fact that from 2018 to 2021 there were a total of 409 custodial deaths, but only a small number of policemen convicted. Even before 2018, from the period of 2008 to 2016, there were a total of 300 custodial deaths, but the conviction remains zero. Thereby a question arises, “do police fabricate the shreds of evidence to get away from the hands of the court?” Cases such as *Nilabati Behera v. the State of Orissa*²¹, *State of MP v. Shyamsunder Trivedi*²², etc. are sufficient in order to substantiate the presence of police violence plus the furtherance to this its fabrication with evidence. The graveness of custodial death can be understood by this that even handcuff is recognized as inhuman, subsequently, it violates Article 21 of the Indian Constitution. This view has been upheld by both the Supreme Court as well as the National Human Rights Commission. Right against custodial torture and death in police lockups²³ & Right to cruel and unusual punishment²⁴ is an integral part of article 21 of the Indian constitution and prisoners cannot be barred from such rights, not

²⁰ Figures are indicative and may be subject to underreporting due to inconsistencies in classification and record-keeping across states. The data reflects a significant pattern of custodial violations warranting systemic reform.

²¹ *Nilabati Behera vs State of Orissa* (1993) 2 SCC 746.

²² *State of Madhya Pradesh v. Shyamsunder Trivedi* AIR 2001 SC 2793.

²³ *Shri D.K. Basu, Ashok K. Johri v State Of West Bengal, State Of UP.*, AIR 1997SC 610.

²⁴ *Jagmohan Singh v. The State of U. P.*, 1973 AIR 947.

even under the state of emergency.

The recurring incidents of custodial deaths across India between 2020 and 2025 reflect a continuing failure of state institutions to enforce accountability and uphold the constitutional promise of the Rule of Law. Despite successive judicial pronouncements and administrative reforms, these cases reveal that custodial torture has transformed from an individual act of misconduct into an entrenched institutional practice sustained by systemic inertia and political complicity.

One of the most prominent examples is the 2020 *Sathankulam case in Tamil Nadu*²⁵ where a father–son duo, Jayaraj and Bennicks, were tortured to death while in police custody. The brutality of the incident, which sparked nationwide protests, led to arrests of police personnel and judicial monitoring by the Madras High Court. Yet, the incident underscored how accountability in such cases often emerges only after intense public and media scrutiny, rather than as a function of institutional responsiveness. The episode demonstrated that even after decades of judicial guidelines from *D.K Basu v. State of West Bengal*²⁶ to *Paramvir Singh Saini v. Baljit Singh*²⁷ the preventive and supervisory mechanisms within the police remain largely cosmetic.

Three years later, in the *Ambasamudram case*²⁸ (2023, Tamil Nadu), an Indian Police Service (IPS) officer was accused of brutally torturing several youths in custody. The officer was suspended only after media reports and public outrage exposed the incident. Although departmental proceedings were initiated, the officer's eventual reinstatement illustrated how disciplinary mechanisms operate more to preserve institutional image than to deliver justice. Similarly, in the 2023 *Sheikh Shadat case in Delhi*,²⁹ the death of a detainee in custody was initially dismissed by authorities until a leaked video and post-mortem report confirmed foul play. Only then was an FIR registered and the National Human Rights Commission (NHRC) prompted to intervene. These incidents reaffirm that reactive accountability, dependent on external triggers, has replaced preventive institutional vigilance.

The following year witnessed further instances that exposed deep-seated structural failures. In the *Tribal Youth case at Guna in Madhya Pradesh in 2024*³⁰, a young man from the Pardhi community died in custody on his wedding day, leading to statewide protests. The case highlighted the vulnerability of marginalized and tribal groups, who remain disproportionately subjected to custodial violence and

²⁵ Suo Motu W.P. (MD) No. 7042 of 2020

²⁶ Supra note 22

²⁷ *Paramvir Singh Saini v. Baljit Singh*, (2020) 3 SCC 502.

²⁸ The News Minute. *Ambasamudram custody torture accused will face trial in October* (2025, September 15).

²⁹ Times of India. *Delhi court orders FIR on custodial death complaint*. (2025, June 10).

³⁰ The Indian Express, *SC transfers custody death probe to CBI in Madhya Pradesh tribal youth case*. The Indian Express. (2025).

denied timely justice. Also in the *Somnath Suryawanshi case*³¹ (Maharashtra, 2024), a law student died in judicial custody under suspicious circumstances, compelling the Bombay High Court to order a Special Investigation Team (SIT) probe. While such judicial interventions signal the judiciary's continuing concern, the absence of institutional reforms following these inquiries reflects the ephemeral nature of judicial oversight in the absence of executive cooperation.

More recent incidents continue to underscore the depth of the crisis. The *Narinderdeep Singh case*³² (Punjab, 2025) involved allegations of custodial torture after a detainee died in police lock-up. Although the family demanded a Central Bureau of Investigation (CBI) probe, state authorities initially delayed action, demonstrating how political discretion continues to dictate accountability. In the *Ajith Kumar case*³³ (Tamil Nadu, 2025), a temple guard died following a police assault, prompting the Chief Minister to order a CBI investigation. While the swift response reflected growing public intolerance toward such violence, it also revealed that political will rather than institutional obligation often determines whether justice is pursued.

Taken together, these cases portray a consistent pattern: custodial torture persists not due to a lack of laws or judicial concern but because of institutional and procedural complicity. Investigations are often delayed, evidence tampered with, and inquiries restricted to internal reviews that rarely result in conviction. The dependence of accountability mechanisms on media exposure and political discretion reveals a deeper structural malaise—where legality is subordinated to administrative convenience.

From a constitutional standpoint, these incidents expose an alarming erosion of the Rule of Law. The repeated failure of institutions to act independently and effectively against custodial abuse signifies a breakdown of the duty of state to protect life and dignity under Article 21. Each unpunished death weakens the moral authority of the justice system and normalizes state violence as an acceptable tool of governance. As such, custodial torture in contemporary India represents not an isolated violation but a symptom of systemic decay, where the Rule of Law survives in principle but collapses in practice.

V. THE RATIONALE BEHIND THE USE OF TORTURE: POLICE PERSPECTIVE

Understanding the perspective of police is vital in systematically focusing on the issue of violence and torture by police officials as it provides clear perception into the intersection of institutional compressions, cultural tradition and attitude of each and every officer. Recognising the view point of

³¹ The Indian Express. Parbhani custodial death: Man died due to 'shock following multiple injuries. The Indian Express. (2024, December 16).

³² Times of India. 4 Bathinda cops booked in 'custodial death' case after victim's family refused cremation. Times of India. (2025, May 26).

³³ The Indian Express, Ajithkumar custodial murder exposes systemic brutality and impunity in Tamil Nadu police. The Indian Express. (2025, July 4).

police officers fosters a balanced and humane perception enabling interventions based on respect for the complexities behind violations.

- 1. Poor working conditions:** Poor working conditions coupled with low salary and lack of proper and necessary training before holding the position under Indian police is one of the prime reasons for using force against suspects. It's a general perception that torture would lead to faster confession and hence their records would get better and subsequently they would be promoted and will be awarded. The Supreme Court in the case of *R.P. Kapur v. State of Punjab* stated, "*The duty of investigating officer is to bring out the real unvarnished truth and not to bolster up a prosecution case with such false shreds of evidence as may enable the court to record a conviction.*"³⁴
- 2. Excessive interference of political parties:** Political influence in many spheres of police including their recruitment results in the use of torture. Many times, the political leader itself orders the police to use torture where there's a huge outcry amongst the public for justice. The prevention of torture is merely on paper can be seen by an incident of a rape case where the then CM Uma Bharti commanded the officials to torture the rape suspect.⁶ Even upon being told by the police that such action will lead to gross violation of human rights but in counter she told "human rights are for humans, but these are demons. Their head should be dismembered like Ravan's," she said, adding that she would have the lady watch the rapist being tortured "so she could get peace".
- 3. Institutional and Hierarchical Pressure:** Police officers usually operate in a system surrounded that usually promotes results and efficiency at the cost of ethical solutions. For police agencies, the rank-and-file dynamic is important to how officers act and think. For instance many officers are promoted from within, which means a captain and upper management have a lot of say about what happens down the line. If rank and file officers think someone is breathing down their neck to perform their job correctly in a highly policed area, it suggests or explicitly states what is expected, which can skew intention. These expectations may include keeping high arrest rates, solving cases swiftly and obtaining forced confessions to wrap up the case. The urgency to prove allegiance to superiors and display effectiveness can many a times result in officers to rationalize unethical or unlawful practices. This pressure-cooker environment can spread a cycle of abuse will leads to subordinate officers being encouraged to prioritise results over ethics and also to for the higher officials to acknowledge their actions even if those actions are

³⁴ R.P. Kapur vs State of Punjab 1960 AIR 862, 1960 SCR (3) 311

detrimental or illegal³⁵.

4. **Political Influence and Normalisation of Torture:** Failure to provide results can often lead in transfers, career stagnations or public humiliation at the hands of high-ranking officials. Majority of the time police officials are working under political and public pressure to solve particular cases³⁶. Therefore, torture turns into a coping mechanism and a means of achieving professional targets and a means of pleasing superior officers. The lack of effective control and a culture which inherently accepts the use of force and torture as long as it yields results worsens this dynamic. Torture is no longer an aberration but now it's more of an unofficial tactic due to the normalization of this practice. Thus custodial torture reflects a deeper systemic flaw that can not be tackled only by disciplinary measures.
5. **Deficiencies in Police Training:** The perspective of police on the prevalence of torture and custodial violence can significantly be influenced by inadequate training and systemic weaknesses within the policing system. Md. Imran Wahab, IPS, Inspector General of Police West Bengal, has conducted research on a number of important topics that contribute to torture and fatalities in prison. The study emphasizes how Indian police training has failed to provide officers with the skills and information needed to deal with challenging circumstances. When there is a tremendous deal of pressure to solve cases swiftly, police may turn to illegal tactics like third-degree tactics due to insufficient training and out-of-date training methods. The inadequacy of police training programs to include contemporary, moral law enforcement techniques is a major problem noted in the article. Instead of emphasizing critical thinking, legal knowledge, and human rights awareness, officers are frequently educated with an emphasis on physical power and obedience. Because of this, police officers could not completely comprehend the moral and legal ramifications of their acts, which could lead them to defend torture as a vital weapon for their survival in the workplace³⁷.

VI. RECOMMENDATIONS TO OVERCOME THIS PROBLEM

Reforms in the law enforcement agencies are necessary to overcome systemic issues like torture and corruption that happens in custody. Strengthening of judicial control and enforcing stricter mechanisms, for review of police actions, particularly in cases of custodial violence, are vital to limit torture and improve condition of police. Employing independent bodies like the NHRC to monitor police conduct

³⁵ Hendra Wirawan, Toetik Koesbardiati & Sutinah, Institutional and Social Pressure in Violating the Police Code of Ethics, 18 JURNAL ILMU KEPOLISIAN 331 (2024).

³⁶ New study finds 72% of India's police officers have felt political pressure during probes, available at <https://theprint.in/india/new-study-finds-72-of-indias-police-officers-have-felt-political-pressure-during-probes/283050/>

³⁷ Imran Wahab, Police Training in India: Navigating the Challenges and Forging the Future (IJFMR) 2024.

and promote better conditions and community to build trust are also crucial steps. Key reforms include applying the reforms suggested in the case of *Prakash Singh v. Union of India*³⁸ which promoted for restructuring organizations of police to ensure, accountability, and transparency and autonomy. The ruling was a significant step toward reforming the Indian police force, with an emphasis on implementing changes by 2006, which had to be extended to 2007. The modifications have not been sufficiently and suitably implemented, despite the Supreme Court's several committees, such as the Justice Thomas and Justice Verma Committee. The lack of compliance by States, and the non-implementation of the Model Police Act indicates the problems and indifference towards police reforms. To put it succinctly, India's police system is still in a difficult state of transformation³⁹.

1. **High time to ratify UNCAT Convention and amend the existing statutes:** Even after spending more than 24 years, we failed to ratify the convention. If we successfully approve it, it will be an open invitation to the state and individuals to complain about their grievances. Also, the draft of the law commission on the Anti-Torture Bill should be considered. Similarly, though India's existing laws and statutes are strong enough to ensure fair justice to citizens, victims of torture remain to it, hence need to amend the specific provision of BNSS and to BSA. It will ensure the burden of proof will shift upon the concerned authorities if injury sustains to any person the under custody, compensation must be awarded to the victim, and they shall be liable to answer it further.
2. **Operational flexibility against accountability to the political executive:** Police at both the center and state force, comes under the supervision of political executive. On this, Second Administrative Reforms Commission (2007) observed that this control has been abused in the past to disproportionately influence police personnel and have made them serve their personal/political interests. This results in biases in the performance of their duty. On this, the Second Administrative Reforms Commission (2007) recommended that this power restricted to promoting professional efficiency and ensuring that police are acting in accordance with the law. On the other hand, the National Police Commission (1977-81) that this power of superintendence must be defined in law to exclude commands that violates the mandate of due process of law, or that influence operational decisions. The apex court, in this matter, in the case of *Prakash Singh v. UOI*⁴⁰ (2006) ordered the center and states to establish authorities to lay down guidelines to evaluate police performance and police functioning.
3. **Independent Complaint Authority:** The ARC in its second report and the Hon'ble Supreme

³⁸ *Prakash Singh & Ors vs Union of India and Ors*, (2006) 8 SCC 1

³⁹ Dr Sugato Mukherjee, POLICE REFORMS IN INDIA AN OVERVIEW, *The Haryana Police Journal*, Vol. 3, 2020.

⁴⁰ *Ibid* 38

Court has observed that there's a need for independent complaint mechanism to inquire about cases against police authority.⁴¹ This will make police accountable for their actions, and no political biases can be shown in any investigation. The cue can be taken from the United Kingdom and New York where there is an independent complaint authority to probe the police misconduct. India has some such independent authorities such as NHRC/SHRC (for the human rights violation, Lokayukta (for corruption). But there's the absence of authorities which especially addresses police misconduct and also which are easily accessible.

4. **Police-Public Relation:** For prevention of crime, there's a stringent requirement of cooperation, confidence and support by the community towards the police (as police highly rely on witnesses and informers any criminal investigation). The Second ARC (2007) suggests, police-public relation is undesirable and unsatisfactorily state as people perceive the police as inefficient, corrupt, unresponsive and politically partisan. The cue can be taken from Community policing from Kerala (Janamaithri Suraksha) and Assam (Meira Paibi).
5. **Reducing pressure leading to Torture:** In order to reduce instances of torture in detention, it is critical to lessen the tremendous pressure officers have to settle cases as quickly as possible or to get confessions under duress. This is because high performance expectations often lead the officers to resort to violence or illegal tactics. Furthermore adopting modern techniques of investigation such as data analytics, forensic technology and non-coercive interrogation along with strengthening of cooperation & information sharing can eliminate measures that force officers to use torture.
6. **Installation of CCTV cameras:** Recently in May 2022 the Delhi High Court pointed out the apex court directive for the installing of CCTV's in all police stations and the case of *Paramvir Singh Saini v. Baljit Singh & Others*⁴² held that "the State and Union Territory Governments should ensure that CCTV cameras are installed in each and every Police Station functioning in the respective State and/or Union Territory. Further, in order to ensure that no part of a Police Station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points; the main gate of the police station; all lock-ups; all corridors; lobby/the reception area; all verandas/outhouses, Inspector's room; Sub- Inspector's room; areas outside the lock-up room; station hall; in front of the police station compound; outside (not inside) washrooms/toilets; Duty Officers room; the back part of the police station, etc. the CCTV systems had to be equipped with night vision and must necessarily consist of audio as well as

⁴¹ Aishwarya Padmanabhanae, Prakash Singh v. Union of India: An Analysis of Police Reform, Supreme Court Cases, available at:

https://www.supremecourtcases.com/index2.php?option=com_content&itemid=135&do_pdf=1&id=21218.

⁴² AIR (2021) 1 SCC 184

video footage.” “These directions are given by the court in furtherance of the fundamental rights of each citizen of India guaranteed under Article 21 of the Constitution of India”, but no substantial action has been taken by the state government. Hence all the state governments and Union territories should pay heed to it in furtherance to implementation of the court directive and ensure the protection from custodial violence and remind the police officers that they are protectors, not oppressors and it is the constitutional duty and mandate to protect the rights of every individual.

VII. CONCLUSION

From the above disquisition, it can be very well said that Indian police have been using torture as a medium to take out a confession from suspects. Many times, poor working conditions and excessive political interference are the reason behind the use of torture. International law has kept torture under the umbrella of jus cogens which shows the global concern for the same. Such activities of police degrade the confidence of the general public from the Criminal Justice system much more than those incidents involving private individuals. Therefore, in the case of *Yashwant v. State of Maharashtra* (2018), while enhancing the punishment, the top court said that “*Since it was the police who are the violators of law, proportionately stringent punishment must be mandated to have a deterrent effect and instill confidence in the society.*” Beating up a person is way too a cowardly act, and this imposes a great wound on our constitutional culture than a state official running frenzied despite having human rights. Upon observing such incidents apex court in the case of *Kishore Singh v. the State of Rajasthan* (1953) said that “*the State must re-educate the constabulary out of their sadistic arts and inculcate a respect for the human person.*” These expectations remain deeply unmet which can be clearly seen by looking at the various reports of custodial violence and by various cases of torture that occur every year. There is a clear difference between the constitutional guarantees and ground realities which reveals a systematic failure requiring urgent reforms. To overcome the issue of custodial brutality and violence the law needs to undergo comprehensive reforms including institutional, cultural and legal changes. An anti-torture specifically for the issue of torture should be enacted to provide enhanced protection to detainee plus providing officers with proper training along with better working conditions so that they are not overwhelmed with working too much are some of the necessary reforms. Without such changes the cycle of police brutality will persist, perpetuating injustices and weakening the Rule of Law. As Justice Krishna Iyer observed “*If the police breaks the law, there is little hope for law to protect its citizens.*” Addressing police brutality requires not only legal safeguards but also a cultural shift within law enforcement and society at large, ensuring constitutional guarantees are a lived reality for all citizens.