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## THE LONG ARM OF THE LAW OR THE HEAVY HAND OF POWER?

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### ABSTRACT

This research essay critically examines the persistent tension between police investigative powers and individual human rights within the Indian criminal justice system. Rooted in colonial legal architecture, particularly the Police Act of 1861 and the Criminal Procedure Code, Indian policing continues to privilege control, coercion, and executive discretion over constitutionalism and rights-based governance. Through doctrinal analysis, judicial critique, and empirical data on custodial violence, the study demonstrates how statutory safeguards and constitutional guarantees are routinely undermined by institutional culture, judicial deference, and systemic impunity. Drawing on Supreme Court jurisprudence, human rights reports, NCRB and NHRC data, and illustrative case studies, the essay exposes the structural normalisation of custodial abuse and the symbolic nature of accountability mechanisms. It further interrogates the failure to criminalise custodial torture and the stagnation of police reforms despite international obligations and Law Commission recommendations. Finally, the paper proposes a multi-layered reform framework encompassing independent oversight, technological transparency, and community engagement, arguing that investigative efficiency and human rights are not competing values but mutually reinforcing pillars of democratic policing. The study concludes that unless India reconceptualises policing as a service anchored in dignity, legality, and accountability, the rule of law will remain vulnerable to the very institutions entrusted to protect it.

## Introduction

Investigating crime is a vital function of the state, yet it often brings into tension the powers of the police and the freedoms of individuals. In India, this tension is especially sharp, as rooted in colonial-era laws, the policing system continues to operate with a mindset shaped more by control than by the protection of rights. The Police Act 1861, which is still the spine of Indian policing, was crafted not to safeguard citizens, but rather to maintain order for colonial exploitation, enduring attitudes that reward authoritarianism and discourage rights-based policing.<sup>1</sup> Now, despite huge constitutional promises and international human rights commitments, the actual reforms have been steady, decelerated, and superficial, while the rule of law upholds the supremacy of rights. In practice, the police often operate with troubling impunity, which, as a result, blurs the line between lawful authority and abuse of power.

### **1. Power vs. Protections**

At the heart of the conflict is a simple dilemma that police need powers to investigate and prevent crime, but those powers can easily violate constitutional guarantees. Chandrasekhara Pillai notes that the Criminal Procedure Code (CrPC) was designed to involve both the police and independent magistrates in investigations, “the Indian legislature has meticulously devised a scheme under which both the police and the magistrates have been given an adequate role in the investigation... in the backdrop of human rights and rule of law.”<sup>2</sup> In theory, this means the police may pursue leads “unhampered by the court,” but if rights are endangered, the magistrate must intervene. For instance, CrPC section 154 (now BNSS section 173) requires an FIR copy to be sent to a magistrate, and section 167 (now BNSS section 187), which mandates judicial custody or bail within 24 hours of arrest, such sanctions recognize that arrest and detention, core investigative acts, inherently restrict freedom, so independent oversight is needed.

Moreover, courts have often interpreted these statutes more narrowly, as Pillai criticizes the apex court for failing to examine procedural bars like sanction requirements, in light of their human-rights purposes. In effect, judges have sometimes treated police investigations as sacrosanct, conceding to the perception that “criminal justice is adversarial” and police must

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<sup>1</sup> P. J. Alexander, *Policing India in the New Millennium* (Allied Publishers 2002).

<https://books.google.co.in/books?id=ENqDm1SAPAwC&printsec=frontcover#v=twopage&q&f=false>

<sup>2</sup> K.N. Chandrasekharan Pillai, *Criminal Investigation in India: Human Rights Perspective*, in *Essays on the Indian Penal Code* (Indian Law Institute 2006). Police Governance and Administration - OneDrive

be free from interference. For example, longstanding precedents from *Emperor v. Nazir Ahmad* (1945)<sup>3</sup> to *State of Bihar v. Saleda* <sup>4</sup>(1980) initially shrugged off judicial oversight as minimal, only grudgingly allowing magistrates in “danger of fundamental rights” situations. Pillai argues this notion has “no theoretical foundation,” meaning that the laws do anticipate police checks. This disconnect between the statutory ideal and judicial practice means police often operate in a legal grey zone where rights may be sidelined.

Moreover, the “contradiction” is built into the system. The CrPC grants wide leeway to police, but simultaneously a legal duty to safeguard the individual, and reconciling this requires vigilance, but Indian courts and police culture have often been lax on the latter. Indeed, in *State of Karnataka v. Pastor P. Mohan* (2006), the Supreme Court upheld a dubious non-sanction to investigate a religious conversion complaint without reflecting on whether such procedural rules protect suspects’ rights.<sup>5</sup> Pillai laments that the Court “did not properly consider the purpose of legal provisions” or their human-rights rationale. Such critiques suggest that while our laws seem balanced, judicial interpretations and thus police practice have drifted back toward granting police “unfettered” investigation powers in many cases, often at the expense of rights.

## **2. Numbers and Narratives**

Empirical evidence emphasizes the human cost of this power imbalance, as custodial deaths and torture statistics are harrowing. According to Human Rights Watch, at least 591 people died in police custody in India between 2010 and 2015, an average of roughly five per week<sup>6</sup>. In addition to it, in many cases, police boasted about using a “truth-seeking belt” to torture suspects for information. Official NCRB data 2010–2015 list only 6 of 97 reported 2015 custody deaths as due to “physical assault by police,” blaming the rest on suicide, illness, or “natural causes”<sup>7</sup>. In reality, families frequently allege torture, as in the case of Agnelo Valdaris, who died in 2014 after police beat him for a robbery inquiry, his father recalled seeing his son “beaten black and blue” and being told “they beat me with the belt, daddy... they were forcing

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<sup>3</sup> *Emperor v. Nazir Ahmad*, AIR 1945 PC 18.

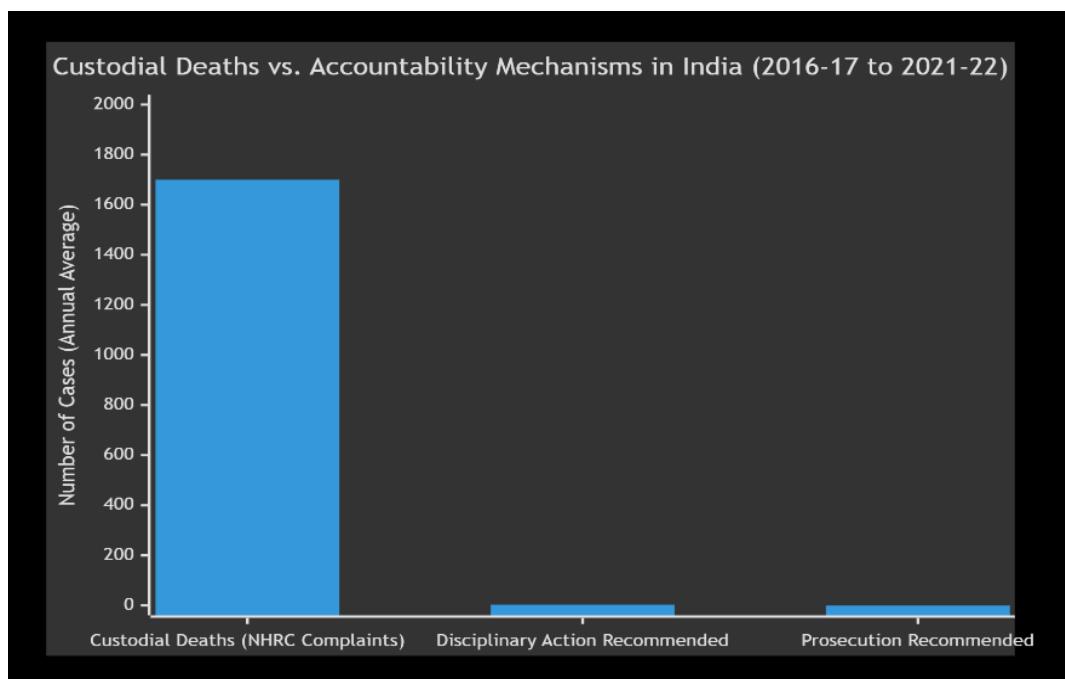
<sup>4</sup> *State of Bihar v. J.A.C. Saldanha*, (1980) 1 SCC 554.

<sup>5</sup> *State of Karnataka v. Pastor P. Raju Mohan*, (2006) 6 SCC 728.

<sup>6</sup> Human Rights Watch, *Bound by Brotherhood: India’s Failure to End Killings in Police Custody* (Dec. 2016), <https://www.hrw.org/report/2016/12/19/bound-brotherhood/indias-failure-end-killings-police-custody>.

<sup>7</sup> National Crime Records Bureau (NCRB), *Crime in India* (2015).

me to confess".<sup>8</sup> This gap between official records and alleged realities throws light on deep mistrust.



**Figure 1.1** This graph effectively highlights a massive gap between the high number of custodial deaths reported and the near-total absence of official accountability.

Moreover, I analyzed that custodial violence is endemic, as the NCRB figures indicate an average of 92 custodial deaths per year during 2000–2022, peaking at 128 in 2005.<sup>9</sup> The NHRC, which registers complaints, logged over 1,700 “death-in-custody” cases annually from 2010–11 to 2021–22 – nearly all police custody.<sup>10</sup> Yet the accountability is glaringly absent as between 2016–17 and 2021–22, the NHRC recommended disciplinary action against only 21 officials and prosecution against *none*, now this statistic dolefully suggests that institutional inertia shields perpetrators. Moreover, multiple studies confirm that convictions for police-perpetrated violence are rare. An older analysis of NCRB figures in the mid-1990s found that convictions for custodial deaths fell from 60% in 1995 to 36.4% in 1998, while custodial rape convictions were zero.<sup>11</sup> Now worryingly, these problematic trends persist as non-registration

<sup>8</sup> Human Rights Watch, *Bound by Brotherhood: India's Failure to End Killings in Police Custody* (Dec. 2016), <https://www.hrw.org/report/2016/12/19/bound-brotherhood/indias-failure-end-killings-police-custody>.

<sup>9</sup> National Crime Records Bureau (NCRB), *Crime in India* (various years).

<sup>10</sup> National Human Rights Commission (NHRC), *Annual Reports* (various years).

<sup>11</sup> Asian Legal Resource Centre, *Custodial Death and Police Torture in India* (Mar. 2001), <http://www.alrc.asia>.

of cases is still common for vulnerable groups, and torture complaints over 30,000 annually in the 1990s remain entrenched in the system.

Facing these numbers and questioning whether any reforms have improved the situation, gives us the answer: the Law Commission long ago recommended criminalizing custodial torture, yet India signed but has not ratified the UN Convention Against Torture, so there is still no domestic offence of police torture.<sup>12</sup> In Policing India in the new millennium, it says that “India’s police force is... lacking respect for human rights and the rule of law,” and institutions to hold them accountable are weak.<sup>13</sup> These sobering figures and analyses convinced me that my concern was valid, that investigative powers routinely overshadow the protections they are meant to coexist with, and the “veil” of security has too often cloaked violations.

### **3. Voices Behind the Statistics**

Beyond the numbers, the individual stories and anecdotes reveal how rights can vanish and can be infringed inside interrogation rooms. One notorious case is that of P. Jeyaraj and J. Bennicks (2020), Tamil Nadu civilians who were detained for the trivial offense of keeping their shop open 15 minutes past curfew, yet after allegedly being beaten, sexually assaulted, and tortured in custody, both died four days later and their deaths forced the media and activists to observe and note that *five* people die daily in police custody in India.<sup>14</sup> In Jeyaraj–Bennicks’s case, even the medical and judicial officials failed their duties, as the victims’ lawyer lamented, “if any of the police, medical officers, magistrates, jail authority had done their respective jobs... it could have saved these two lives”.<sup>15</sup> This tragic example lays bare how every ring of the criminal justice system can break down, and how the initial rights of detainees, like timely access to a doctor or fair treatment, are easily ignored.

Another illustrative story is from Mumbai in 2013, Julfar Shaikh, a criminal suspect, was allegedly killed with torture methods like the “truth-seeking belt.” An investigating officer’s confession made public in court chillingly admitted to using it to “get information” from

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<sup>12</sup> Asian Legal Resource Centre, *Custodial Death and Police Torture in India* (Mar. 2001), <http://www.alrc.asia>.

<sup>13</sup> P.J. Alexander, *Policing India in the New Millennium* (Allied Publishers 2002).

<sup>14</sup> Pallavi Kumar, *Tuticorin Custodial Deaths: Father-Son Duo Brutally Tortured, Made to Clean Their Own Blood, Says Forensic Report*, *India Today* (Oct. 27, 2020), <https://www.indiatoday.in/india/story/tuticorin-custodial-deaths-father-son-jayaraj-benniks-brutally-tortured-blood-walls-cbi-forensic-report-1735390-2020-10-27>.

<sup>15</sup> James Oaten & Som Patidar, *Jeyaraj and Beniks: Indian Deaths in Custody Spark National Debate About Police Brutality*, ABC News (July 2, 2020), updated July 3, 2020, <https://www.abc.net.au/news/2020-07-03/jeyaraj-beniks-death-in-custody-spark-debate-about-indian-police/12414742>.

Shaikh.<sup>16</sup> Despite visible wounds, authorities dragged their feet for months. Eventually, a public outcry and court pressure led to charges against the involved policemen. Moreover, this case also mirrors routine brutality, triggering sporadic accountability only after extreme publicity or legal intervention

Even many Bollywood films echo these themes, *Talvar* (2015), for instance, which dramatizes how biases and haste can derail police investigations<sup>17</sup>, and *Article 15* (2019), which shows caste-based police indifference.<sup>18</sup> Though cinema, such stories rest on real patterns, for instance, the widely reported Dalit youth custodial death cases, or the infamous Nitish Kumar case (2004), where a cash-for-death scheme was allegedly run by police.<sup>19</sup> In each, the right to life, to legal process, and to be treated as innocent until proven guilty are eviscerated by the very force meant to uphold them. Therefore, these cases and narratives have shown me that violations are not an anomaly but structural, as they illuminate how the lofty principles fail on the ground, especially for the weak and marginalised.

#### **4. Legal Landscape**

Given these problems, does the law provide any remedies for it? India has indeed developed legal safeguards, for instance, hon'ble Supreme Court's rulings like *Joginder Kumar v. UP* (1994)<sup>20</sup> and *DK Basu v. West Bengal* (1997)<sup>21</sup> have laid down certain requirements for arrest and detention, like officers must bear name tags, produce arrestees before magistrates within 24 hours, and allow family and lawyer contacts, and magistrates are required to physically examine detainees. The Courts also emphasize that torture and assault are abhorrent, even if not explicitly criminalized, yet enforcement of these guidelines is uneven, many police simply ignore them, knowing that convictions are rare.<sup>22</sup>

Scholars point out that part of the problem is systemic corruption and apathy, for example, the National Police Commission reported that about 60% of all arrests made were unnecessary and

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<sup>16</sup> Human Rights Watch, *Bound by Brotherhood: India's Failure to End Killings in Police Custody* (Dec. 2016), <https://www.hrw.org/report/2016/12/19/bound-brotherhood/indias-failure-end-killings-police-custody>.

<sup>17</sup> *Talvar* (Junglee Pictures 2015).

<sup>18</sup> *Article 15* (Zee Studios 2019).

<sup>19</sup> *Custodial Death: Division Bench of Telangana High Court Expresses Concern*, *Telangana Today* (July 7, 2023), <https://telanganatoday.com/custodial-death-division-bench-of-telangana-high-court-expresses-concern>.

<sup>20</sup> *Joginder Kumar v. State of U.P.*, (1994) 4 SCC 260.

<sup>21</sup> *D.K. Basu v. State of W.B.*, (1997) 1 SCC 416.

<sup>22</sup> Asian Legal Resource Centre, *Custodial Death and Police Torture in India* (Mar. 2001), <http://www.alrc.asia>.

unjustified,” a figure that suggests arbitrary detention is rampant.<sup>23</sup> Interviews with police in Uttar Pradesh and Karnataka reveal that transfers, bribes, and equipment shortages create a culture where malfeasance goes unchecked.<sup>24</sup> Even Dr. Chandrasekharan Pillai’s analytical piece remarks that many courts have not even interpreted procedural law from a rights perspective and technicalities like sanction requirements are often contested in ways that ignore the detainee’s plight.<sup>25</sup>

Furthermore, the Indian legal framework is internally inconsistent, as on one hand, the CrPC empowers police investigation to be considered “unhampered by the court”, on the other, it envisions judicial checks, e.g. Sections 167, 202. Now in practice, magistrates often rubber-stamp police requests, and internal accountability is weak. In addition to this, legislative inertia compounds this as the Law Commission’s 62nd Report (1971)<sup>26</sup> had proposed outlawing custodial violence, but no enactment followed. Worsley, the ratification of international norms has stalled as India signed but never ratified the UN Torture Convention, meaning custodial torture is still not a defined offence. Therefore, each of these legal lacunas reinforced my sense of thought and reflection that rights protections remain fragile, dependent on exceptional judges or activists rather than embedded in routine day-to-day policing.

## **5. Towards Humane and Accountable Criminal Investigations**

Additionally, as safeguards against police abuse, institutional reform, technology, and community engagement must work together, and there is an urgent need for independent oversight bodies, robust training, transparent digital systems, and informed citizens to create checks on power.

### **a) Institutional Reform**

Reflecting on oversight, I’m struck by examples like the UK’s Independent Office for Police Conduct (IOPC), an arm’s-length agency that investigates serious misconduct<sup>27</sup>. An Indian

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<sup>23</sup> National Police Commission, 3rd Report (1980).

<sup>24</sup> Human Rights Watch, *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police* (Aug. 2009), <https://www.hrw.org/report/2009/08/04/broken-system/dysfunction-abuse-and-impunity-indian-police>.

<sup>25</sup> K.N. Chandrasekharan Pillai, *Criminal Investigation in India: Human Rights Perspective*, in *Essays on the Indian Penal Code* (Indian Law Institute 2006).

<sup>26</sup> Law Commission of India, 62nd Report on the Indian Penal Code (1974).

<sup>27</sup> Independent Office for Police Conduct, *About Us*, <https://www.policeconduct.gov.uk/about-us>

analogue could be strengthened Police Complaints Authorities (PCAs) in Prakash Singh<sup>28</sup> the Supreme Court directed PCAs in every state and district as independent forums for citizen grievances. Such boards would let victims and civil society monitor police. Likewise, Ferguson's consent decree in the US created a Civilian Review Board to punish abuse and review policies<sup>29</sup>, a model of independent citizen oversight. Crucially, oversight must go hand-in-hand with training. In Scandinavia, police education emphasises service without coercion; Norway's three-year program stresses a community service ethos; and Sweden trains officers on human rights and hate-crime sensitivity.<sup>30</sup> These approaches help build trust. In India, reforming curricula to emphasize human rights, de-escalation and accountability as in Norway would make officers less "warrior"-minded and more guardians of rights.

### **b) Technological Interventions**

As we imagine a digital future, technology promises transparency, for instance, India's Crime and Criminal Tracking Network & Systems (CCTNS) aims to centralize FIR records nationwide. Today's e-FIR portals even let citizens lodge complaints online, including "Zero FIRs" for cyber frauds, ensuring reports aren't lost by geography or bias.<sup>31</sup> A secure digital FIR pipeline, as sketched below, would log every complaint with time stamps, making it harder for rights to be ignored. Moreover, cameras are another tool; the Supreme Court has ordered CCTV installation in every police station and interrogation room, so abuse during custody can be recorded.<sup>32</sup> Similarly, Ferguson mandated body-worn cameras and supervisor review of footage.<sup>33</sup> These measures deter violence and provide evidence. Of course, technology is not a

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<sup>28</sup> *Prakash Singh v. Union of India*, (2006) 8 S.C.C. 1 (India).

<sup>29</sup> Consent Decree, United States v. City of Ferguson, No. 4:16-cv-000180 (E.D. Mo. Apr. 19, 2016) Civil Rights Division | United States v. City of Ferguson - Consent Decree | United States Department of Justice

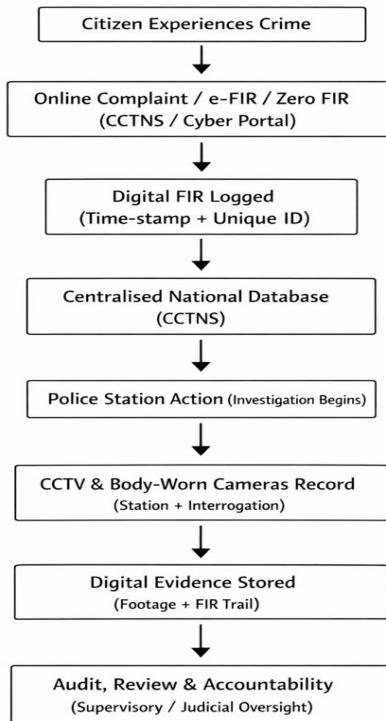
<sup>30</sup> Södertörn University, *Police Studies*, Södertörn University (Swed.), <https://www.sh.se/english/sodertorn-university/meet-sodertorn-university/this-is-sodertorn-university/organisation/police-studies>

<sup>31</sup> Hitachi Systems Micro Clinic, *Enabling Transformation of Police Functioning via Digitization: Hitachi in India*, Hitachi, <https://www.hitachi.com/en-in/insights/articles/transformation-of-police/#:~:text=However%20the%20lack%20of%20a,up%20investigations%20and%20related%20processes>

<sup>32</sup> Aishwarya Mohanty & Neetika Vishwanath, *Comprehensive Reforms, Not Just CCTVs, Can End Custodial Torture*, Project 39A, <https://www.project39a.com/writings/comprehensive-reforms-not-just-cctvs-can-end-custodial-torture>

<sup>33</sup> U.S. Dep't of Justice, *Justice Department and City of Ferguson, Missouri, Resolve Lawsuit with Agreement to Reform Ferguson Police Department*, <https://www.justice.gov/archives/opa/pr/justice-department-and-city-ferguson-missouri-resolve-lawsuit-agreement-reform-ferguson>

magic bullet, cameras must be backed by audits and accountability, but they create a record that bureaucrats cannot easily erase.<sup>34</sup>



**Figure 1.2** This diagram highlights technological intervention at every stage of police investigation to ensure transparency.

### c) Community Measures

Finally, public engagement closes the loop as civil society and legal literacy empower victims to speak up, for example, India's National Legal Services Authority ran massive outreach legal aid camps and door-to-door campaigns reaching over 7.5 million people in one drive.<sup>35</sup> Similar campaigns can teach citizens their rights during police encounters and how to report abuse. Local community-police partnerships like Kerala's Janamaithri Suraksha project give citizens direct input into policing and build trust. At the national level, helplines or grievance portals could channel complaints to independent bodies. We see the value in formal civilian bodies,

<sup>34</sup> Aishwarya Mohanty & Neetika Vishwanath, *Comprehensive Reforms, Not Just CCTVs, Can End Custodial Torture*, Project 39A, <https://www.project39a.com/writings/comprehensive-reforms-not-just-cctvs-can-end-custodial-torture>

<sup>35</sup> Press Information Bureau, *Campaigns for Legal Awareness in Rural Areas*, <https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1943713>

the US decree even created an empowered Civilian Review Board to investigate misconduct.<sup>36</sup> Moreover, India already envisions PCAs and State Security Commissions. Now, if these bodies were fully staffed and transparent, and coupled with vigilant media and NGOs, the communities would hold the police accountable.

## Conclusion

This study lays bare a hard truth that can no longer be swept under the carpet, as Indian policing continues to walk a tightrope between authority and accountability, and too often, it loses its balance on the side of power. The colonial scaffolding on which modern policing still rests has cast a long shadow, one in which coercion becomes routine and constitutional restraint is treated as an afterthought. In this sense, the law has remained frozen in time, vindicating Roscoe Pound's warning that while law must be stable, it must never be allowed to ossify.<sup>37</sup> A legal system that refuses to evolve risks becoming a blunt instrument rather than a scalpel of justice.

Justice V. R. Krishna Iyer consistently reminded us that constitutionalism is not a ceremonial promise but a living discipline.<sup>38</sup> His insistence that the Constitution must be read with a human face resonates sharply with the findings of this research. When arrest becomes the first resort rather than the last, when custody becomes a pressure chamber rather than a place of lawful inquiry, and when oversight is reduced to a rubber stamp, the thin line between investigation and intimidation is quietly crossed. What is legally sanctioned on paper then becomes morally indefensible in practice.

The empirical record examined here makes it clear that custodial violence is not an occasional slip through the cracks, but a symptom of a system where accountability is more honoured in the breach than in the observance. Procedural safeguards exist, yet they are frequently observed in the same spirit as ritual formalities, performed, but not believed in. Therefore, a criminal process that values order over justice ultimately cuts the branch on which the rule of law sits

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<sup>36</sup> U.S. Dep't of Justice, *Justice Department and City of Ferguson, Missouri, Resolve Lawsuit with Agreement to Reform Ferguson Police Department*, <https://www.justice.gov/archives/opa/pr/justice-department-and-city-ferguson-missouri-resolve-lawsuit-agreement-reform-ferguson>

<sup>37</sup> Roscoe Pound, *Interpretations of Legal History* (Harvard University Press 1923) 1.

<sup>38</sup> *Maneka Gandhi v Union of India* (1978) 1 SCC 248 (Krishna Iyer J).

and the power, when left to run on autopilot, tends to write its own rules.<sup>39</sup>

The law does not suffer from a poverty of principles; it suffers from a deficit of enforcement and imagination. Oversight mechanisms, technological transparency, and community participation are not silver bullets, but they are necessary guardrails. If properly implemented, they can turn the tide from a culture of silence to a culture of scrutiny. Such reforms echo law as a tool of social engineering, one meant to balance competing interests rather than allow one to bulldoze the other.

In the final analysis, human rights in policing are not ornamental ideals to be trotted out in judgments and forgotten in police stations. They are the load-bearing walls of a constitutional democracy, however, when state power forgets its moral compass, legality becomes hollow, and justice rings false. If India is to move from the letter of the law to its spirit, policing must shed its colonial skin and grow into a constitutional conscience.

The message, then, is unmistakable that justice cannot be built on fear, and order cannot be sustained by force alone. The arm of the law must not strike so hard that it forgets whom it is meant to protect.

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<sup>39</sup> Shailesh Kumar, 'Justice V. R. Krishna Iyer and Expansive Interpretation of Fundamental Rights' in *Human Rights, Constitutionalism and Rule of Law: Contemporary Issues and Challenges* (eds Azimkhan B. Pathan and Deepak Kumar Srivastava, 1st edn, Satyam Law International 2017) ch 5  
<https://pure.royalholloway.ac.uk/en/publications/justice-v-r-krishna-iyer-and-expansive-interpretation-of-fundamen>