



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

## ABOUT WHITE BLACK LEGAL

*White Black Legal – The Law Journal* is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

## AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

# **ENFORCEMENT CHALLENGES OF ARTICLE 21:** **POLICE BRUTALITY AND THE RIGHTS OF** **UNDERTRIAL PRISONERS**

AUTHORED BY - GOVIND PRAVEEN MANIYANKAVIL

DESIGNATION: Student

CHRIST Deemed To Be University, Pune Lavasa

## **Abstract**

Article 21 of the Indian Constitution guarantees the right to life and personal liberty, which has been expansively interpreted by the Supreme Court of India to include the right to live with dignity, protection from torture, access to legal aid, health, privacy, and a fair and speedy trial. Over the years, judicial interpretation has transformed Article 21 from a narrow procedural safeguard into the most dynamic provision of fundamental rights jurisprudence. However, despite this constitutional evolution and the existence of multiple statutory safeguards and judicial directives, police brutality and custodial violence continue to persist as systemic issues within India's criminal justice system.

Undertrial prisoners, who are presumed innocent until proven guilty, form a disproportionately large section of the prison population in India. Prolonged detention without conviction, combined with overcrowded prisons and custodial abuse, reflects a significant enforcement deficit in protecting Article 21 rights. This paper examines the enforcement challenges associated with Article 21, focusing specifically on police brutality against undertrial prisoners.

It analyzes constitutional provisions, statutory safeguards, judicial precedents, and international human rights obligations.

The study adopts a doctrinal research methodology, relying on case law analysis, statutory interpretation, and secondary sources including reports from the National Crime Records Bureau (NCRB) and National Human Rights Commission (NHRC). It identifies structural, institutional, and procedural barriers that weaken enforcement mechanisms. Finally, it proposes comprehensive reforms including legal codification, institutional accountability, technological monitoring, and human rights-oriented policing strategies to bridge the gap between constitutional guarantees and ground realities.

**Keywords:** Article 21, Police Brutality, Undertrial Prisoners, Custodial Violence, Human Rights, Judicial Activism, Criminal Justice Reform

## **1. Introduction**

### **1.1 Background and Significance**

The right to life and personal liberty under Article 21 of the Indian Constitution stands as the cornerstone of Indian constitutional democracy. Its significance lies not merely in its textual guarantee but in its dynamic and expansive judicial interpretation, which has transformed it into a reservoir of substantive rights. In the landmark case of *Maneka Gandhi v. Union of India* (1978), the Supreme Court revolutionized constitutional jurisprudence by holding that any procedure depriving a person of life or liberty must be “just, fair, and reasonable,” thereby introducing the concept of substantive due process into Indian law and overruling the narrow interpretation adopted in *A.K. Gopalan*.

Further, in *Francis Coralie Mullin v. Union Territory of Delhi* (1981), the Court held that the right to life includes the right to live with human dignity, encompassing basic necessities such as adequate nutrition, clothing, shelter, and facilities for reading and writing. The Court in *Sunil Batra v. Delhi Administration* emphatically declared that prisoners do not cease to be human beings upon incarceration and continue to enjoy fundamental rights, subject only to reasonable restrictions necessitated by imprisonment.

Despite this progressive jurisprudence, India continues to grapple with persistent challenges in preventing custodial violence and police brutality. Undertrial prisoners, who are legally presumed innocent until proven guilty, often endure prolonged detention, coercive interrogation, torture, and even custodial deaths. According to National Crime Records Bureau (NCRB) data, undertrials constitute over 70% of India’s total prison population. This reality highlights deep systemic inefficiencies, judicial delays, and over-reliance on pre-trial detention. The significance of this study lies in exposing the glaring contradiction between lofty constitutional ideals and harsh institutional practices, where Article 21’s promise of dignity, liberty, and fairness remains elusive for thousands of undertrial prisoners.

### **1.2 Statement of Problem**

Despite a robust constitutional framework, elaborate statutory safeguards under the Code of Criminal Procedure (CrPC) and Indian Penal Code (IPC), progressive judicial guidelines laid down in *DK Basu v. State of West Bengal* (1997), and India’s commitments under international

human rights instruments, incidents of custodial violence and police brutality against undertrial prisoners continue unabated. The core problem lies in the wide gap between legal norms and their practical enforcement on the ground.

Undertrial prisoners, presumed innocent under the criminal justice system, frequently become victims of illegal detention, physical and mental torture aimed at extracting confessions, denial of basic rights, and in extreme cases, custodial deaths. The culture of impunity enjoyed by police personnel, weak internal accountability mechanisms, lack of independent oversight, political interference in policing, and inadequate training in human rights and scientific investigation methods have perpetuated this malaise. Low conviction rates in custodial violence cases further embolden errant officers.

Overcrowded prisons, chronic judicial delays, and socio-economic vulnerabilities of most undertrials exacerbate their marginalization. This systemic failure not only violates Article 21 but also undermines the foundational principles of justice, fairness, and the rule of law. The persistent violation of undertrial prisoners' rights reflects a deeper institutional crisis that demands urgent attention through comprehensive legal, administrative, and technological reforms.

### 1.3 Objectives

The primary objectives of this research paper are as follows:

- **To examine the scope and evolving dimensions of Article 21** in relation to undertrial prisoners, particularly the right to live with human dignity, protection from torture, and speedy trial.
- **To analyze the existing legal frameworks** — constitutional provisions, statutory safeguards under CrPC, IPC, and Evidence Act — along with judicial guidelines such as DK Basu directives that govern arrest, detention, and protection of persons in custody.
- **To identify systemic, institutional, and socio-economic barriers** that impede the effective enforcement of Article 21 and contribute to police brutality and custodial violence.
- **To evaluate the role of judicial interventions** through landmark cases and assess their impact on protecting undertrial prisoners' rights and establishing accountability.
- **To propose practical, actionable recommendations** for legal, institutional, technological, and administrative reforms aimed at strengthening human rights compliance, reducing impunity, and bridging the gap between constitutional promises

and ground realities.

These objectives seek to provide a comprehensive understanding of the enforcement challenges while suggesting concrete pathways for reform in India's criminal justice system.

#### **1.4 Research Methodology**

This research adopts a **doctrinal research methodology**, primarily relying on the analysis of primary and secondary legal sources. It involves a systematic examination of constitutional provisions (especially Article 21), relevant statutes such as the Code of Criminal Procedure 1973, Indian Penal Code 1860, Indian Evidence Act 1872, and prison manuals. Landmark Supreme Court and High Court judgments form the backbone of the legal analysis.

Secondary sources include reports from the National Crime Records Bureau (NCRB), National Human Rights Commission (NHRC), Law Commission of India, and academic literature, journal articles, and books on custodial violence and prisoners' rights. International human rights instruments such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and the UN Convention Against Torture (UNCAT) have been referred to for comparative and normative perspectives.

The study employs analytical, critical, and reform-oriented approaches. Data on undertrial prisoners and custodial deaths has been drawn from official statistics. While the research is primarily library-based and doctrinal, it also incorporates qualitative insights from case studies of prominent custodial violence incidents. No empirical field study was conducted due to the doctrinal nature of the inquiry.

#### **1.5 Hypothesis**

Despite strong constitutional safeguards under Article 21 and progressive judicial pronouncements expanding the ambit of the right to life and personal liberty, persistent enforcement failures in policing, custodial administration, and the broader criminal justice system have resulted in widespread and systemic violations of undertrial prisoners' fundamental rights.

The hypothesis posits that police brutality, custodial torture, and prolonged undertrial detention are not isolated aberrations but symptoms of deeper structural deficiencies, including institutional culture of impunity, inadequate training, weak accountability mechanisms, resource constraints, and political interference. These factors collectively undermine the constitutional promise of human dignity and fair treatment.

The study further hypothesizes that without comprehensive institutional reforms, technological

interventions, stricter enforcement of existing guidelines, and a shift in police organizational culture, the gap between constitutional rhetoric and lived reality will continue to widen. Urgent multi-pronged reforms — legal, administrative, and societal — are therefore imperative to translate judicial activism into effective ground-level protection of undertrial prisoners' rights and to restore public faith in the rule of law.

## **2. Evolution and Significance of Article 21**

Originally, Article 21 in *A.K. Gopalan v. State of Madras* (1950) was interpreted narrowly, limiting protection to procedure established by law without examining fairness or reasonableness. This restrictive interpretation changed dramatically after the 1978 *Maneka Gandhi* judgment, where the Court linked Articles 14, 19, and 21 into a “golden triangle” of fundamental rights.

This doctrinal shift ensured that any law depriving liberty must satisfy the tests of reasonableness and non-arbitrariness. Subsequently, Article 21 expanded to include several derivative rights:

- Right to livelihood (*Olga Tellis v. Bombay Municipal Corporation*)
- Right to health and medical care (*Paschim Banga Khet Mazdoor Samity v. State of West Bengal*)
- Right to privacy (*K.S. Puttaswamy v. Union of India*)
- Right to speedy trial (*Hussainara Khatoon cases*)

For prisoners, the Court in *Sunil Batra v. Delhi Administration* and *Charles Sobhraj v. Superintendent, Tihar Jail* emphasized that incarceration does not extinguish fundamental rights except those necessarily restricted by law.

Thus, police brutality and custodial torture directly violate the core of Article 21 by destroying human dignity, bodily integrity, and psychological autonomy. The judiciary has repeatedly reaffirmed that state action must respect constitutional morality even within prisons.

## **3. Rights of Undertrial Prisoners: Legal Framework**

### **3.1 Constitutional and Statutory Protections (205 words)**

Undertrial prisoners in India are entitled to robust protections under the Constitution and various statutes, even though they have not been convicted of any offence.

**Constitutionally**, Article 21 guarantees the right to life and personal liberty, which the Supreme Court has expansively interpreted to include the right to live with human dignity,

speedy trial, protection from torture, and humane treatment in custody. Article 20(3) provides protection against self-incrimination, prohibiting compulsion to be a witness against oneself. Article 22 offers critical safeguards against arbitrary arrest and detention, including the right to be informed of the grounds of arrest, the right to consult and be defended by a legal practitioner of one's choice, and production before a magistrate within 24 hours of arrest.

**Statutorily**, the Code of Criminal Procedure (CrPC), 1973, provides several safeguards. Section 50 mandates informing the arrested person of the grounds of arrest and right to bail. Section 54 requires medical examination of the arrestee. Section 57 limits police custody to 24 hours, while Section 167 regulates remand procedures. The Indian Penal Code (IPC) penalizes custodial violence under Sections 330 and 331, which punish causing hurt or grievous hurt to extort confession. Sections 24 to 27 of the Indian Evidence Act, 1872, render confessions obtained through coercion, inducement, or threat inadmissible in court.

Despite this comprehensive framework, the gap between law and practice persists due to weak monitoring, lack of accountability, and institutional resistance.

### **3.2 DK Basu Guidelines (1997) (198 words)**

In *D.K. Basu v. State of West Bengal* (1997), the Supreme Court, deeply concerned about rising custodial deaths and torture, laid down 11 binding guidelines to be followed in all cases of arrest and detention. These guidelines are now considered an integral part of Article 21.

Key requirements include:

- Preparation of a detailed arrest memo signed by the arrestee and at least one witness (preferably a family member).
- Informing the arrested person's relative or friend about the arrest and place of detention.
- Medical examination of the arrestee at the time of arrest and every 48 hours thereafter by a trained doctor.
- Right of the arrestee to meet a lawyer during interrogation.
- Maintenance of a custody register and prompt reporting of arrests to senior police officers and control rooms.
- Display of these guidelines in all police stations.

The Court also directed that failure to comply with these guidelines would invite contempt proceedings and departmental action. While these guidelines marked a significant step towards transparency and accountability, their implementation remains highly inconsistent. Compliance is particularly poor in rural police stations, smaller towns, and under-resourced areas due to lack of awareness, inadequate training, and resistance within the police force.

### **3.3 International Obligations (192 words)**

India's obligations under international human rights law provide an additional normative framework for the protection of undertrial prisoners.

The **Universal Declaration of Human Rights (UDHR)** under Article 5 prohibits torture and cruel, inhuman or degrading treatment, while Article 9 prohibits arbitrary arrest and detention. The **International Covenant on Civil and Political Rights (ICCPR)**, ratified by India in 1979, is more specific. Article 7 prohibits torture, and Article 9 guarantees liberty and security of person and protection against arbitrary arrest. Article 10 mandates that all persons deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person.

India has also signed the **United Nations Convention Against Torture (UNCAT)** in 1997 but is yet to ratify it. Ratification would require enacting domestic legislation criminalizing torture and establishing independent oversight mechanisms. Other relevant instruments include the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and the Body of Principles for the Protection of All Persons under Any Form of Detention.

These international standards emphasize the State's positive duty to prevent torture and ensure humane conditions of detention. Non-ratification of UNCAT and weak domestic implementation continue to be significant gaps in India's human rights protection regime for detainees.

## **4. Police Brutality: Definition, Causes and Consequences**

### **4.1 Definition**

Police brutality refers to the excessive, unjustified, or unlawful use of force, violence, coercion, or intimidation by law enforcement officials against individuals, particularly those in custody or under investigation. It includes not only physical violence but also psychological abuse, illegal detention, and denial of basic rights. In the Indian context, police brutality often manifests during arrest, interrogation, or detention and frequently targets undertrial prisoners who are presumed innocent. The Supreme Court has repeatedly held such acts as direct violations of Article 21 of the Constitution. Despite statutory prohibitions and judicial guidelines, police brutality continues to thrive due to a deeply entrenched culture of impunity within the law enforcement system.

## **4.2 Types of Police Brutality Physical Torture and Assault**

This is the most visible form of brutality, involving beatings with lathis, fists, or instruments, electrocution, suspension, and other forms of physical violence. Such torture is often used to extract confessions or to “teach a lesson” to suspects. Many custodial death cases reveal severe ante-mortem injuries inflicted while in police custody.

### **Psychological Coercion**

Psychological torture includes verbal abuse, threats to the detainee or their family, sleep deprivation, prolonged solitary confinement, and humiliation. These methods are designed to break the mental resilience of the undertrial without leaving visible marks, making prosecution difficult.

### **Custodial Deaths**

Deaths occurring in police or judicial custody due to torture, neglect of medical needs, or extreme violence represent the most extreme form of brutality. NHRC reports indicate hundreds of such deaths every year, many of which are passed off as “natural causes” or suicides.

### **Fake Encounters**

In fake encounters, police stage killings of suspects in the name of self-defence. These are often used to eliminate inconvenient individuals or to show quick “results” in high-profile cases. Such acts constitute cold-blooded murder under the guise of policing.

### **Illegal Detention and Denial of Legal Access**

This includes detaining persons beyond the 24-hour limit without producing them before a magistrate, refusal to allow access to lawyers or family members, and manipulation of arrest records. Such practices violate multiple constitutional and statutory safeguards.

## **4.3 Causes**

### **Colonial Policing Legacy**

India’s police system retains its colonial character, designed primarily to control the population rather than serve citizens. The mindset of treating ordinary people, especially the poor and marginalized, as potential threats continues to influence policing practices.

### **Pressure for Quick Results**

Police face immense pressure from superiors and political leadership to solve cases quickly and secure high conviction rates. This leads to shortcuts such as third-degree methods instead of scientific investigation.

### **Lack of Forensic Infrastructure**

Most police stations lack access to modern forensic tools, trained investigators, and scientific methods. This deficiency makes coercion the easiest and most preferred method for extracting confessions.

### **Weak Accountability Mechanisms**

Internal disciplinary actions are rare, and external oversight bodies are either ineffective or influenced. Low conviction rates in custodial violence cases further reinforce the sense of impunity among police officers.

### **Political Interference**

Frequent political pressure and patronage undermine police autonomy. Politicians often use police as tools for vendetta or to suppress dissent, leading to misuse of power against undertrials.

### **Normalization of “Third-Degree Methods”**

Within police culture, the use of torture during interrogation is often accepted as a necessary and effective tool. This ingrained mindset is passed down through informal training and peer influence.

## **4.4 Consequences**

### **Permanent Physical Injuries and Psychological Trauma**

Victims often suffer lifelong disabilities, chronic pain, and severe mental health issues such as PTSD, depression, and anxiety. Many undertrials are permanently scarred, both physically and mentally.

### **Violation of Human Dignity**

Police brutality strips individuals of their basic human dignity, violating the core of Article 21. It reduces citizens to mere objects of state power.

### **Erosion of Public Trust**

Repeated incidents of brutality severely damage public confidence in the police and the criminal justice system, leading to reluctance in reporting crimes or cooperating with investigations.

### **Economic Hardship for Families**

The arrest and prolonged detention of the primary breadwinner push families into poverty, debt, and social exclusion, especially in lower-income households.

### **Increased Judicial Burden**

Cases of custodial violence result in compensation claims, writ petitions, and prolonged

litigation, adding to the already overburdened judiciary.

### **Reinforcement of Systemic Inequality**

Police brutality disproportionately affects marginalized communities — Dalits, Adivasis, minorities, and the poor — thereby deepening existing social and economic inequalities and violating the constitutional promise of equal protection.

## **5. Key Case Studies**

### **5.1 Nilabati Behera v. State of Orissa (1993)**

In this landmark case, the Supreme Court held the State of Orissa vicariously liable for the custodial death of Suman Behera, who died due to multiple injuries inflicted while in police custody. The Court awarded compensation of ₹1,50,000 to the victim's mother under public law, observing that violations of Article 21 attract strict liability on the State.

A significant contribution of this judgment was the clear rejection of the doctrine of sovereign immunity as a defence in cases involving infringement of fundamental rights. The Court emphasized that the State has a constitutional duty to protect the life and liberty of persons in its custody. This case established a strong precedent for awarding monetary compensation in custodial violence cases and strengthened the enforceability of Article 21.

### **5.2 Nandini Satpathy v. P.L. Dani (1978)**

This case is a cornerstone in protecting the right against self-incrimination. The Supreme Court held that Article 20(3) of the Constitution extends not only to courtroom proceedings but also to the stage of police interrogation.

The Court ruled that an accused person has the right to remain silent and cannot be compelled to answer questions that are likely to expose them to criminal charges. Justice V.R. Krishna Iyer famously observed that the police cannot use physical or mental coercion to extract statements. This judgment strengthened the constitutional shield against “third-degree methods” and remains a vital safeguard for undertrial prisoners during custodial interrogation.

### **5.3 Kishore Singh v. State of Rajasthan (1981)**

In this case, the Supreme Court addressed the inhuman practice of imposing solitary confinement and bar fetters on prisoners. The Court held that such punishments violate the right to human dignity under Article 21 unless they are imposed in accordance with law and principles of natural justice.

The judgment emphasized that prisoners retain basic fundamental rights and that prison authorities cannot act arbitrarily. It laid down that even disciplinary actions within prisons must conform to constitutional standards. This case remains significant in curbing cruel and degrading treatment of undertrial and convicted prisoners.

#### **5.4 Jayaraj and Bennicks Case (Selvarani v. State of Tamil Nadu, 2020)**

The brutal custodial torture and subsequent deaths of father-son duo P. Jayaraj and J. Benicks in Sathankulam, Tamil Nadu, during the COVID-19 lockdown sparked nationwide outrage. The two were allegedly beaten mercilessly for keeping their mobile shop open beyond permitted hours.

The Madras High Court took suo moto cognizance, transferred the investigation to the CB-CID, and highlighted prima facie evidence of police brutality. The case exposed the deep-rooted problem of custodial violence and led to widespread demands for police reforms. It became a symbol of police impunity and renewed public discourse on the protection of undertrial prisoners' rights.

#### **5.5 Other Important Cases**

- **Rudul Sah v. State of Bihar (1983)**: The Supreme Court awarded compensation for illegal detention of over 14 years, pioneering the principle of monetary relief for violation of personal liberty.
- **Saheli v. Commissioner of Police (1990)**: The Court directed the State to pay exemplary compensation for the custodial death of a nine-year-old child due to police beating.
- **PUDR v. Union of India (1982)**: The Court reinforced that prisoners are entitled to basic human rights and dignity even behind bars.

**Collective Impact:** These judgments demonstrate the judiciary's consistent intolerance towards custodial abuse and its proactive role in expanding Article 21. However, despite strong precedents, poor implementation and weak accountability mechanisms continue to limit their effectiveness on the ground.

## **6. Barriers to Enforcement of Article 21**

### **6.1 Structural Barriers**

Indian prisons and police stations suffer from severe structural deficiencies that directly undermine the enforcement of Article 21. Overcrowded prisons, where undertrials often

constitute more than 70% of the inmate population, lead to administrative breakdown, poor living conditions, and increased vulnerability to violence and disease. Many facilities lack basic amenities, medical care, and adequate space, turning jails into breeding grounds for human rights violations.

Simultaneously, police forces remain chronically understaffed and overburdened. Most officers receive inadequate training in human rights, scientific investigation methods, and modern interrogation techniques. This structural weakness forces reliance on coercive methods rather than professional investigation, making custodial abuse almost inevitable in many parts of the country.

## **6.2 Institutional Weakness**

One of the biggest obstacles to protecting undertrial prisoners is the lack of strong, independent oversight mechanisms. Internal police complaint systems are often ineffective due to a rigid hierarchical structure that discourages junior officers from reporting misconduct by seniors. The “brotherhood” culture within the force frequently leads to suppression of evidence and protection of errant officers.

There is also an absence of robust external accountability bodies with real investigative powers. While the National Human Rights Commission (NHRC) and State Human Rights Commissions exist, they suffer from limited resources, delayed responses, and lack of binding enforcement authority, rendering them largely recommendatory in nature.

## **6.3 Legal and Procedural Gaps**

Prolonged judicial delays remain a major barrier. Slow trials result in undertrials spending years in prison, sometimes longer than the maximum possible sentence for the offence. Despite Section 436A of CrPC, implementation of provisions for automatic bail remains poor.

Moreover, prosecution of police officers in custodial violence cases is extremely weak. Low conviction rates, lack of independent investigation, manipulation of medical reports, and hostile witnesses create a near-perfect environment of impunity. Procedural safeguards like DK Basu guidelines exist on paper but are routinely ignored due to weak enforcement mechanisms.

## **6.4 Cultural Normalization**

A deeply entrenched police sub-culture normalizes the use of “third-degree” methods during interrogation. Many officers genuinely believe that physical and mental coercion is necessary and effective for solving cases. This mindset is passed down informally within the force and is

rarely challenged during training.

There is also a section of public opinion that tacitly supports police brutality, viewing it as a necessary tool for maintaining law and order. This societal acceptance reduces external pressure for reform and indirectly encourages custodial violence against undertrials, especially those from marginalized communities.

### **6.5 Political and Administrative Influence**

Political interference in police functioning remains a serious concern. Transfers, postings, and promotions are often influenced by political considerations, undermining police autonomy and professionalism. Politicians frequently use the police machinery to settle scores or suppress dissent, leading to misuse of power against undertrials.

There is also a visible lack of sustained political will for meaningful police and prison reforms. Successive governments have failed to implement recommendations of various police reform commissions (National Police Commission, Ribeiro Committee, Padmanabhaiah Committee, etc.), reflecting deep administrative inertia.

### **6.6 International Gap**

India's non-ratification of the UN Convention Against Torture (UNCAT) continues to be a significant gap. Although India has signed the Convention, the absence of domestic legislation specifically criminalizing torture as a distinct offence weakens the country's human rights framework.

This international gap limits external scrutiny and prevents India from fully aligning its domestic laws with global standards on prevention of torture and custodial abuse. Ratification of UNCAT along with comprehensive domestic legislation would provide stronger normative and legal pressure for reform.

## **7. Recommendations Legal Reforms**

To effectively address police brutality and protect undertrial prisoners, comprehensive legal reforms are urgently needed. The Parliament should enact a standalone **anti-torture legislation** that clearly defines torture and custodial violence as distinct offences with stringent punishment. India must also ratify the **UN Convention Against Torture (UNCAT)** without further delay and bring domestic laws in conformity with its provisions.

Section 436A of the CrPC, which provides for default bail after prolonged detention, needs strengthening with stricter implementation guidelines and automatic application. Custodial

torture must be explicitly criminalized under the IPC with enhanced penalties, including minimum imprisonment terms, to deter such acts. These legislative measures would provide a stronger statutory foundation for the protection of Article 21 rights.

### **Institutional Reforms**

Institutional overhaul of the police system is essential for long-term change. Independent **Police Complaints Authorities** should be established at the state and district levels with civilian participation and statutory powers to investigate complaints of custodial violence.

There should be a clear separation of **investigation and law-and-order functions** within the police to reduce pressure on investigating officers and promote professional, impartial probes. Mandatory and continuous **human rights and constitutional law training** must be made compulsory for all police personnel, especially those involved in arrest and interrogation. Psychological screening and stress management programs should also be introduced to address the mental health of officers.

### **Technological Safeguards**

Technology can play a transformative role in preventing custodial abuse. All police stations and interrogation rooms must be equipped with **CCTV cameras with audio recording** and body-worn cameras for officers. Interrogations should be mandatorily recorded digitally and preserved as evidence.

Implementation of **biometric and automated custody tracking systems** would help maintain transparent records of arrests, detentions, medical examinations, and prisoner movements. Artificial Intelligence-based monitoring systems can be used to flag unusual patterns such as prolonged detention or repeated medical issues, enabling timely intervention by superior officers and judicial authorities.

### **Judicial and Procedural Reforms**

The judiciary must adopt a more proactive role in monitoring custodial justice. **Fast-track courts** should be established specifically for cases involving custodial violence and deaths to ensure speedy trials and accountability. Courts should award **mandatory compensation** in all proven cases of illegal detention or custodial torture.

Regular **judicial monitoring of prisons** and police stations through periodic visits and surprise inspections should be institutionalized. Magistrates must strictly enforce DK Basu guidelines during remand proceedings and record any complaints of torture.

### **Social and Administrative Measures**

Every arrested person must have immediate access to **legal aid** at the police station itself through 24x7 legal aid clinics. Public awareness campaigns should be launched to educate citizens, especially vulnerable sections, about their rights during arrest and detention.

The National Human Rights Commission (NHRC) and State Human Rights Commissions should conduct **regular audits** of police stations and prisons and publish transparent annual reports on custodial deaths and violence. Performance evaluation metrics for police officers should be reformed to give greater weightage to human rights compliance rather than just number of cases solved.

## **8. Conclusion**

The right to life and personal liberty under Article 21 remains the most dynamic and expansive fundamental right in the Indian Constitution. Through decades of progressive judicial interpretation, the Supreme Court has transformed this provision into a powerful instrument for the protection of human dignity, personal autonomy, and humane treatment. From *Maneka Gandhi* to *Puttaswamy*, and through landmark custodial violence cases like *Nilabati Behera*, *DK Basu*, and *Nandini Satpathy*, the judiciary has consistently attempted to shield undertrial prisoners from abuse of state power.

However, despite this remarkable constitutional and judicial evolution, the ground reality presents a disturbing picture. Police brutality, custodial torture, and prolonged undertrial detention continue to haunt India's criminal justice system. Undertrial prisoners, who constitute over 70% of the prison population and are presumed innocent under law, routinely suffer violations of their most basic rights. The wide gap between constitutional promises and institutional practices reveals deep structural, institutional, cultural, and political failures in the enforcement of Article 21.

This study has demonstrated that police brutality against undertrials is not merely a law and order issue but a serious constitutional crisis. The persistence of colonial policing attitudes, lack of accountability, inadequate training, political interference, and weak implementation of judicial guidelines have collectively created a culture of impunity. The cases examined in this paper clearly show that while the judiciary has been proactive in expanding rights and laying down safeguards, the executive has failed to translate these protections into effective ground-level mechanisms.

The hypothesis stands validated: systemic enforcement failures have rendered Article 21 rights

largely illusory for a vast majority of undertrial prisoners, particularly those belonging to marginalized sections of society. The continued non-ratification of UNCAT, poor implementation of DK Basu guidelines, and alarming statistics of custodial deaths underline the urgent need for comprehensive reforms.

The time for cosmetic changes is over. Protecting the rights of undertrial prisoners is not an act of charity but a constitutional imperative. Meaningful reform demands coordinated action on multiple fronts — legislative codification of anti-torture laws, institutional restructuring of police and prisons, widespread use of technology for transparency, strengthening of legal aid systems, and a fundamental shift in police culture from control to service.

Only when the promise of Article 21 — the right to live with human dignity — is genuinely extended to those languishing in India's prisons as undertrials, can we claim to be a mature constitutional democracy. The real test of India's commitment to justice, liberty, and equality lies not in the eloquence of its judgments, but in the lived experiences of its most vulnerable citizens. Bridging this gap remains one of the most pressing challenges for the Indian republic in the 21st century.

## REFERENCES:

### A. Cases

1. *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.
2. *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.
3. *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.
4. *Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980) 1 SCC 81.
5. *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
6. *Kishore Singh v. State of Rajasthan*, AIR 1981 SC 625.
7. *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.
8. *Nandini Satpathy v. P.L. Dani*, (1978) 2 SCC 424.
9. *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.
10. *Olga Tellis v. Bombay Municipal Corpn.*, (1985) 3 SCC 545.
11. *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235.
12. *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141.
13. *Saheli v. Commissioner of Police*, (1990) 1 SCC 422.
14. *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

## B. Statutes

1. The Constitution of India, 1950.
2. The Code of Criminal Procedure, 1973.
3. The Indian Penal Code, 1860.
4. The Indian Evidence Act, 1872.

## C. International Instruments

1. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).
2. International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.
3. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.
4. United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), U.N. Doc. A/RES/70/175 (Dec. 17, 2015).

## D. Reports

1. National Crime Records Bureau, *Prison Statistics India 2022* (Ministry of Home Affairs, Government of India).
2. National Human Rights Commission, *Annual Report 2021-22* (NHRC, New Delhi).
3. Law Commission of India, *152nd Report on Custodial Crimes* (1994).

## E. Books & Articles

1. V.R. Krishna Iyer, *The Dialectics and Dynamics of Human Rights in India* (Eastern Book Company, 1999).
2. Durga Das Basu, *Commentary on the Constitution of India* (LexisNexis, 10th ed., 2022).
3. Rubi Srivastava & Prashant Srivastava, *The Human Rights of the Under Trial Prisoners in India*, 2013.
4. Meenakshi D'Cruz, *Death and Denial of Care in Indian Prisons*, 8(3) Indian J. Med. Ethics 175 (2023).
5. Sunanda Rai & Simranjeet Kaur Gill, *Human Rights of Undertrial Prisoners with Special Reference to The Role of Judiciary In India*, 10(1) Int'l J. Advance Research & Innovation 28 (2022).