

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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“CUSTODIAL DEATHS AS A VIOLATION OF HUMAN RIGHTS: AN INDIAN LEGAL PERSPECTIVE”

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ABSTRACT

Custodial violence and custodial deaths represent one of the gravest failures of constitutional governance in India because they involve the State itself becoming the instrument of violence against persons whose liberty it has already curtailed.

In a constitutional democracy founded on the rule of law, the power to arrest, detain, and interrogate is meant to be exercised strictly within legal boundaries; when these powers are abused through torture, coercion, or unlawful killings, the violation strikes at the core of Articles 21 and 22 of the Constitution, which protect life, personal liberty, and procedural fairness.

The seriousness of custodial abuse lies not only in the physical injury inflicted on the victim, but also in the symbolic collapse of public trust in institutions of justice. A person in custody is under the complete control of the State, and for that reason the legal system imposes a higher duty of care upon police and investigative agencies than in ordinary situations. The Supreme Court in *D.K. Basu v. State of West Bengal* treated custodial violence as a matter of constitutional urgency and laid down mandatory safeguards intended to prevent torture, disappearance, and abuse during arrest and detention.

The issue remains deeply troubling because India possesses a substantial constitutional and procedural framework on paper, yet custodial violence continues to recur with disturbing regularity. Recent public reporting based on data placed before Parliament has shown continuing custodial deaths and a strikingly low level of disciplinary accountability, reinforcing the long-recognized problem that formal rights often fail at the stage of enforcement. This gap between legal promise and ground reality forms the central concern of any serious socio-legal study on the subject.

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INTRODUCTION

India's obligations are not only domestic but also international in character. The constitutional commitment to dignity and due process exists alongside India's engagement with global human rights instruments, and this makes custodial torture more than a local policing problem; it is a sustained human rights challenge with constitutional, criminal law, evidentiary, and institutional dimensions. Within that broader frame, the study of custodial violence must focus on how the law seeks to restrain coercive state power and why those restraints continue to fail in practice.

This research therefore examines the tension between investigative necessity and human dignity. It proceeds on the understanding that the legitimacy of criminal investigation cannot be measured merely by detection or confession, but by the fairness of the means adopted. Where police power is exercised outside constitutional limits, the State cannot justify success in investigation as a defence to the unlawful destruction of bodily integrity, dignity, or life.

1.1. THE PARADOX OF "THIRD-DEGREE" METHODS AND INVESTIGATIVE URGENCY

One of the most disturbing features of custodial violence in India is the continued use of so-called **"third-degree methods."** This phrase is a euphemism for physical beating, psychological intimidation, sleep deprivation, humiliation, threats, and other forms of coercion used to extract confessions or information from an accused person. Although these methods are legally impermissible, they remain deeply embedded in the day-to-day functioning of many police stations. Their persistence reveals a serious contradiction within the criminal justice system: the law rejects torture, but the investigative culture often normalizes it.

The police are expected to solve crimes quickly, recover stolen property, identify suspects, and produce results under intense pressure. This pressure comes from multiple directions. The public expects fast action, politicians demand visible outcomes, the media amplifies sensational cases, and departmental superiors evaluate officers based on perceived efficiency. In such an environment, scientific investigation may be seen as slow and uncertain, while third-degree methods are wrongly viewed as practical and immediate. This creates a dangerous mindset in which brutality is justified as a professional necessity.

1.2 *The Systemic Justification for "Shortcuts"*

The justification for custodial torture usually begins with the idea that the police need quick

answers. Investigations involving forensic science, digital evidence, witness tracing, CCTV analysis, phone records, and chain-of-custody procedures require time, technical skill, and patience. They demand trained personnel, proper laboratories, and institutional discipline. But in many parts of the country, these resources are either insufficient or underused. As a result, some officers fall back on coercion because it seems faster and cheaper.

This is not just a failure of training; it is a failure of institutional imagination. A police force that relies on violence instead of evidence begins to see the body of the accused as a source of information that can be physically forced out. This mindset converts interrogation into punishment. It also reverses the presumption of innocence in practice, because the accused is treated as a guilty person whose body may be disciplined before conviction. The result is a police culture where “solving” a case often matters more than solving it lawfully.

Another reason third-degree methods continue is that they are often hidden from public view. Torture does not usually happen in the open. It happens in enclosed spaces where the victim has little access to outsiders, lawyers, or media. This secrecy gives officers confidence that abuse will remain undetected or unproven. In the absence of immediate accountability, brutality becomes a habit, and habit becomes institutionally accepted.

1.3 *The Illusion of Truth*

The use of torture is also sustained by a false belief that pain produces truth. In reality, torture does not reliably reveal facts. A person under extreme physical pain may say anything simply to stop the suffering. That means torture is not a truthful method of investigation; it is a method of desperation. It destroys reliability instead of producing it.

Indian evidence law further complicates the issue. A confession made to police is generally inadmissible under the law, yet Section 27 of the Evidence Act allows a limited exception for information leading to the discovery of a fact. This creates a loophole that encourages abusive behavior. An officer may believe that if torture leads to the recovery of a weapon, stolen property, or other material object, then the brutality will be indirectly rewarded by evidentiary value. This is deeply dangerous because it creates an incentive to use unlawful pressure in the hope of obtaining admissible discovery.

The problem is not merely legal but moral. Once police begin to believe that violence can be justified if it produces a result, constitutional safeguards lose their meaning. The body of the accused becomes a tool for the investigation rather than a person protected by dignity. This is precisely why courts have repeatedly condemned the culture of third-degree methods. The criminal justice system must be based on proof, not pain. A state committed to the rule of law

cannot allow torture to become an unofficial investigative technique.

2.1 INVISIBILITY OF THE MARGINALIZED: CLASS AND CASTE DISPARITIES IN POLICE CUSTODY

Custodial violence in India does not affect all citizens equally. It is not distributed in a neutral manner. Instead, it is intensely selective and deeply shaped by class, caste, gender, religion, and social power. Those with wealth, influence, political connections, or legal literacy are far less likely to be tortured than those who are poor, socially marginalized, or institutionally invisible. This makes custodial violence not only a legal issue but also a sociological one.

2.2 The Intersection of Poverty and Police Power

For people with financial resources, arrest rarely unfolds in complete isolation. They often have access to lawyers, personal networks, public visibility, and the ability to approach higher authorities quickly. If such a person is mistreated, the consequences may be immediate and severe for the police officer involved. Complaints can be filed, media attention can follow, and legal remedies can be activated. Because of this, police officers are usually more cautious when dealing with privileged individuals.

For the poor, the situation is entirely different. A daily wage worker, street vendor, migrant laborer, homeless person, or unemployed youth may lack the resources to challenge police action. Such individuals may not even understand the procedural rights available to them. They may not know how to contact a lawyer, how to file a complaint, or how to document abuse. Their vulnerability makes them easy targets for illegal detention, extortion, and coercive questioning.

This inequality creates a system where the police tend to act most harshly against those least able to resist. The poor are not only easier to detain but also easier to discredit.

Their complaints may be dismissed, their injuries ignored, and their testimony treated with suspicion. The social distance between the police and the marginalized accused therefore becomes a fertile ground for abuse.

2.3 The Stigmatization of "Habitual Offenders"

Caste and historical stigma also play a major role in custodial violence. Certain communities have long been labeled suspicious, criminal, or socially dangerous. The legacy of colonial policing still influences present-day attitudes, especially toward denotified tribes, Dalits, Adivasis, and other historically oppressed groups. These communities are often treated by

police not as rights-bearing citizens but as natural suspects.

This prejudice shapes the way cases are investigated. When a local crime occurs, people from marginalized communities may be picked up first for questioning, even when there is little evidence against them. “Informal questioning” can then become a cover for illegal detention or physical coercion. Since these individuals usually lack influential advocates, they can be held, beaten, threatened, or humiliated with little immediate fear of exposure.

The stigma of being considered a “habitual offender” has devastating consequences. It creates a self-reinforcing cycle in which the police assume guilt in advance, and the accused is forced to bear the burden of disproving a social stereotype. This is not policing in a democratic sense; it is policing through inherited prejudice. In such cases, the constitutional promise of equality and dignity is undermined by everyday institutional bias.

3.1 THE FAILURE OF THE GRIEVANCE REDRESSAL AND ACCOUNTABILITY MECHANISMS

The persistence of custodial violence raises a central question: if the law prohibits torture, why do police officers still commit it? The answer lies in the weakness of accountability structures. India has laws, guidelines, and institutions meant to prevent abuse, but many of these mechanisms fail when they are most needed. The problem is not only the existence of misconduct, but the ease with which misconduct is concealed, rationalized, or delayed in the justice system.

3.2 *The "Conspiracy of Silence" and Institutional Solidarity*

One of the greatest obstacles to accountability is the internal solidarity of police institutions. Officers often protect one another because they see themselves as part of a common professional fraternity. This creates what is often described as a conspiracy of silence. When a custodial death or torture allegation arises, records may be altered, arrest memos may be backdated, station diaries may be manipulated, and false explanations may be prepared.

This solidarity is not always overtly malicious; sometimes it emerges from a culture in which admitting wrongdoing is seen as betrayal of the force. Yet the effect is the same: truth is suppressed. The result is that the victim’s family must fight not just one officer but an entire institutional structure inclined to defend itself. The evidentiary burden becomes extremely difficult because the most important witnesses are often the very people accused of wrongdoing.

The concealment of facts often begins immediately after the custodial incident. The police may

try to record the injury as self-inflicted, accidental, or caused by a medical condition. This early narrative framing is important because once an official version is created, it becomes harder for the victim's family to challenge it. In this way, the first cover-up often determines the outcome of the case.

3.3 The Complicity of the Medical and Judicial Fraternity

Custodial accountability depends not only on police conduct but also on the integrity of doctors and Magistrates. These two institutions are supposed to act as neutral checks on police power. Unfortunately, in practice, they sometimes fail to do so.

Medical officers are expected to examine detainees independently and honestly. A pre-remand medical check-up should identify injuries, assess fitness, and document any signs of abuse. But when doctors work in close daily association with the police, they may come under subtle or direct pressure to minimize injuries or issue misleading fitness certificates. This defeats the evidentiary value of the medical examination and allows torture to go undocumented.

Similarly, post-mortem examinations in custodial death cases may be manipulated. A report may emphasize a superficial cause of death while ignoring serious anti-mortem injuries. Such omissions can radically distort the case. When the medical record is compromised, it becomes much easier for perpetrators to claim that the death was natural, accidental, or unrelated to police action.

The role of the Magistrate is equally important. A Magistrate is not supposed to mechanically endorse police requests. The law expects judicial scrutiny, inquiry, and physical assessment. However, heavy caseloads, routine functioning, and institutional deference often reduce magistracy to a formality. If the accused is produced before the Magistrate with visible injuries and the court does not inquire carefully, the safeguard loses its constitutional force. The remand process then becomes a ritual rather than a real check on abuse.

3.4 Section 197 of the CrPC: The Ultimate Shield

Even when evidence of custodial abuse exists, prosecution of police officers can be delayed by procedural shields. Section 197 of the CrPC requires prior government sanction for prosecution of public servants for acts allegedly committed in discharge of official duty. This provision is intended to protect honest officials from frivolous litigation, but in custodial violence cases it is often used as a delay tactic.

The defense of official duty is problematic when applied to torture, because beating a detainee is not a lawful function of policing. Nevertheless, sanction requests can stall prosecution for

years. This delay benefits the accused officers, weakens witness memory, exhausts the victim's family, and lowers the practical likelihood of conviction. Bureaucratic delay becomes a form of indirect impunity.

In this way, accountability mechanisms fail not only through outright refusal, but also through procedural procrastination. Justice delayed in custodial violence cases is often justice denied altogether.

4.1 PSYCHOLOGICAL AND PHYSICAL IMPACT ON THE VICTIM'S FAMILY

Custodial violence does not end with the victim's injury or death. It creates a continuing crisis for the family. The pain experienced by relatives is not only emotional but also social, legal, and economic. Families become secondary victims of the same system that harmed their loved one. They must grieve, survive, and fight at the same time.

4.2 *Intimidation and the Weaponization of the Law*

When a family decides to seek justice against the police, it often enters a hostile environment. The same machinery that is supposed to investigate wrongdoing may become a source of threat. Counter-cases may be filed against family members. They may be accused of rioting, obstructing officers, assaulting public servants, or trying to influence evidence. Such tactics serve to pressure the family into silence.

This is one of the cruelest features of custodial violence. The family is not simply denied justice; it is punished for demanding justice. Constant visits to police stations, repeated summons, threats, social pressure, and fear of retaliation can force families to withdraw complaints or settle privately. The law, in such moments, becomes a tool of intimidation rather than protection.

The weaponization of law also produces psychological exhaustion. Families often feel trapped between grief and fear. They may know that filing a complaint is necessary, but they may also fear that further action will bring more harassment. This emotional conflict weakens the pursuit of justice and allows impunity to continue.

4.3 *Economic Ruin and Generational Trauma*

Custodial victims often come from economically vulnerable families. The deceased or injured person may have been the sole or primary earning member. When that person is lost, the family may suddenly lose its income, savings, and livelihood. Bills, children's education, rent, food, and medical needs continue, but the household's financial base disappears.

Pursuing justice is itself expensive. Legal fees, travel costs, missed workdays, and repeated court appearances create additional burdens. Since the criminal process in India is often slow, families may wait years for any real relief. Compensation, if granted, usually comes late and rarely matches the depth of the loss.

The trauma is also generational. Children who witness a parent being tortured, killed, or humiliated by the State may grow up with fear and distrust toward law enforcement. The family's relationship with the democratic state changes permanently. Instead of seeing the State as a protector, they begin to see it as unpredictable, violent, and unsafe. This produces a deep and lasting psychological scar that extends far beyond the original incident.

5.1 REAL-LIFE CONTEXTS: THE GAP BETWEEN WRITTEN LAW AND POLICE STATION REALITY

The gap between law and reality becomes clearest when one examines real custodial death cases. These incidents show that legal safeguards can fail simultaneously at multiple levels: arrest, medical examination, remand, supervision, and investigation.

They also reveal how local institutions may work together, whether actively or through neglect, to produce deadly outcomes. The Sathankulam custodial death case remains one of the starkest illustrations of this breakdown.

5.2 *The Sathankulam Tragedy: A Case Study in Systemic Failure*

The Sathankulam case exposed the terrifying reality of custodial brutality in modern India. In 2020, P. Jeyaraj and J. Bennicks were arrested by the Sathankulam police in Tamil Nadu in connection with allegations related to keeping their shop open beyond lockdown restrictions. What followed was not lawful investigation but catastrophic abuse. The case became nationally significant because it demonstrated how a minor alleged offense could lead to lethal police violence.

The case revealed the collapse of nearly every protective mechanism. The arrest itself was disproportionate to the alleged violation. The medical process failed because visible injuries were either ignored or grossly understated. The remand stage also failed because judicial oversight did not prevent the men from being sent into custody despite their obvious vulnerability. The official narrative initially attempted to portray the injuries as self-inflicted or accidental, showing how quickly police narratives can be used to conceal abuse.

What made this case especially alarming was not only the violence, but the institutional responses that followed. It took intense public outrage, media attention, and intervention by the

higher judiciary to prevent evidence from being destroyed or manipulated. The case became a powerful example of how lower-level institutions can fail completely when confronted with police misconduct. It also showed why custodial violence cannot be understood as isolated misconduct by a few rogue officers. It is often supported by broader systemic weakness.

5.3 The Ultimate Reality Check

The Sathankulam case serves as a reality check for the entire legal system. It demonstrates that the existence of legal safeguards does not automatically ensure their operation. A law may require arrest memos, medical checks, Magistrate scrutiny, CCTV coverage, and post-mortem documentation, yet all of these can become ineffective if officers, doctors, and local officials act without independence or fear of consequence.

This case also revealed the weakness of trust at the local level. In theory, the police station is supposed to be the first point of lawful intervention. In practice, it can become a site of fear, where the person in custody is at the mercy of officers who control the narrative, the body, and the records. The local criminal justice structure can therefore function like an enclosed power zone, especially when outside oversight is delayed.

The greater lesson is that custodial violence persists not because the Constitution is silent, but because institutional behavior often defeats constitutional intent. The law may recognize dignity, but dignity is not protected unless it is enforced in the daily conduct of police, doctors, and Magistrates. The real battle, therefore, is not merely legal but institutional and social.

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- D.K. Basu v. State of West Bengal (mandatory safeguards such as arrest memo, medical inspection, and documentation). Paramvir Singh Saini v. Baljit Singh (direction for installation of CCTV cameras in police stations).

CONCLUSION AND SUGGESTIONS

CONCLUSION

The journey of the Indian criminal justice system, evaluated through the lens of custodial jurisprudence, reveals a profound and unsettling paradox. On paper, India possesses one of the most robust, rights-based legal frameworks in the world. The transition from the draconian, regime-protecting colonial Police Act of 1861 to the transformative constitutional guarantees of Article 21 and Article 22 signifies a monumental shift. The Supreme Court of India has tirelessly expanded the horizons of the Right to Life, ensuring that human dignity is not left behind at the gates of a police station.

Through landmark judgments like *Nilabati Behera* and *D.K. Basu*, the judiciary has stripped the State of its archaic defense of sovereign immunity, established strict liability for custodial violence, and laid down meticulous procedural guidelines governing arrests. Furthermore, the legislative incorporation of magisterial inquiries under Section 176(1A) of the CrPC (now Section 196 of the BNSS, 2023) and the establishment of the National Human Rights Commission (NHRC) demonstrate a clear statutory intent to eradicate the systemic abuse of power.

However, as this research has systematically explored, the socio-legal reality at the grassroots level tells a grimly different story. The theoretical protections are frequently neutralized by a lethal combination of administrative apathy, an entrenched "conspiracy of silence" among police ranks, and the systemic pressure to produce rapid investigative results. The reliance on "third-degree" methods is not merely an aberration committed by a few rogue officers; it is an institutionalized shortcut compensating for a lack of scientific and forensic training.

The socio-legal friction is most glaringly visible in how custodial violence disproportionately targets the marginalized, the poor, and the voiceless—those who lack the social capital to demand their constitutional rights. When the very guardians of the law—the police, the medical examiners, and occasionally the lower judiciary—fail to exercise their independent constitutional duties, the safeguards collapse.

The compensatory jurisprudence evolved by the Supreme Court, while providing necessary relief to destitute families, remains a post-facto remedy. Compensating the dead cannot be the primary strategy for protecting the living. The recent failures to implement the Supreme Court's mandate on CCTV installations (*Paramvir Singh Saini* case) expose a deliberate resistance within the executive to subject itself to transparency.

In conclusion, custodial death is not merely a failure of law enforcement; it is a profound betrayal of the social contract. The Constitution of India envisions the State as a protector (*parens patriae*), not a persecutor. While the constitutional courts have acted as fierce judicial guardians, true eradication of custodial violence requires a monumental shift in police culture. Until the law enforcement apparatus is structurally insulated from political pressure, trained in modern forensic methodologies, and held unconditionally accountable for its transgressions, the fundamental right to life and dignity in police custody will remain a fragile, contested promise.

SUGGESTIONS

To bridge the chasm between the constitutional mandate and the ground reality, the following systemic, legislative, and administrative reforms are urgently suggested:

1. Ratification of UNCAT and Enactment of a Standalone Anti-Torture Law: India must urgently ratify the United Nations Convention Against Torture (UNCAT), which it signed in 1997 but has yet to ratify. Furthermore, the Parliament must enact a standalone, comprehensive "Prevention of Torture Act," as strongly recommended by the 273rd Report of the Law Commission of India. This specialized legislation is necessary to define torture explicitly, criminalize it severely, and establish distinct procedures for the swift prosecution of offending state actors.

2. Statutory Presumption of Guilt (Amendment to Evidence Laws): The "conspiracy of silence" can only be broken by shifting the evidentiary burden. The legislature must incorporate the spirit of the 113th Law Commission Report into the new Bharatiya Sakshya Adhiniyam, 2023 (BSA). A specific section (equivalent to the proposed Section 114B of the IEA) must be inserted, mandating a rebuttable presumption that any injuries sustained by a person while in police custody were inflicted by the police officers in charge, compelling them to prove otherwise.

3. Strict Enforcement of the CCTV Mandate: The Supreme Court's directives in *Paramvir Singh Saini v. Baljit Singh* must be enforced with zero tolerance.

- Any malfunctioning of CCTV cameras in a police station during the period a suspect is in custody should legally attract an adverse inference against the police.
- An independent, centralized server at the district level should store the footage to prevent local tampering.
- Station House Officers (SHOs) must be held personally liable for contempt of court if cameras are found "non-functional" without a prior, documented maintenance request.

4. Creation of an Independent Investigative Agency: The paradigm of "police investigating the police" is inherently flawed. A specialized, independent investigative body—distinct from the regular state police and the CID—must be established at the state level. This agency should be exclusively mandated to investigate allegations of custodial violence, fake encounters, and severe police misconduct, functioning under the direct administrative control of the High Court to ensure absolute impartiality.

5. Separation of Investigation from Law and Order: To reduce the overwhelming pressure

on local police forces, the investigative wing must be completely separated from the law-and-order wing, as recommended by the Prakash Singh guidelines (2006) for Police Reforms. This will allow specialized officers to focus purely on scientific evidence gathering without the distractions of VIP security or crowd control.

6. Mandatory Forensic and Sensitization Training: The institutional reliance on physical coercion must be replaced by scientific capability. There must be massive state investment in upgrading forensic laboratories and training investigating officers in cyber-forensics, psychological profiling, and advanced interrogation techniques that do not rely on physical force. Regular human rights sensitization programs must be made a mandatory prerequisite for promotions within the police department.

