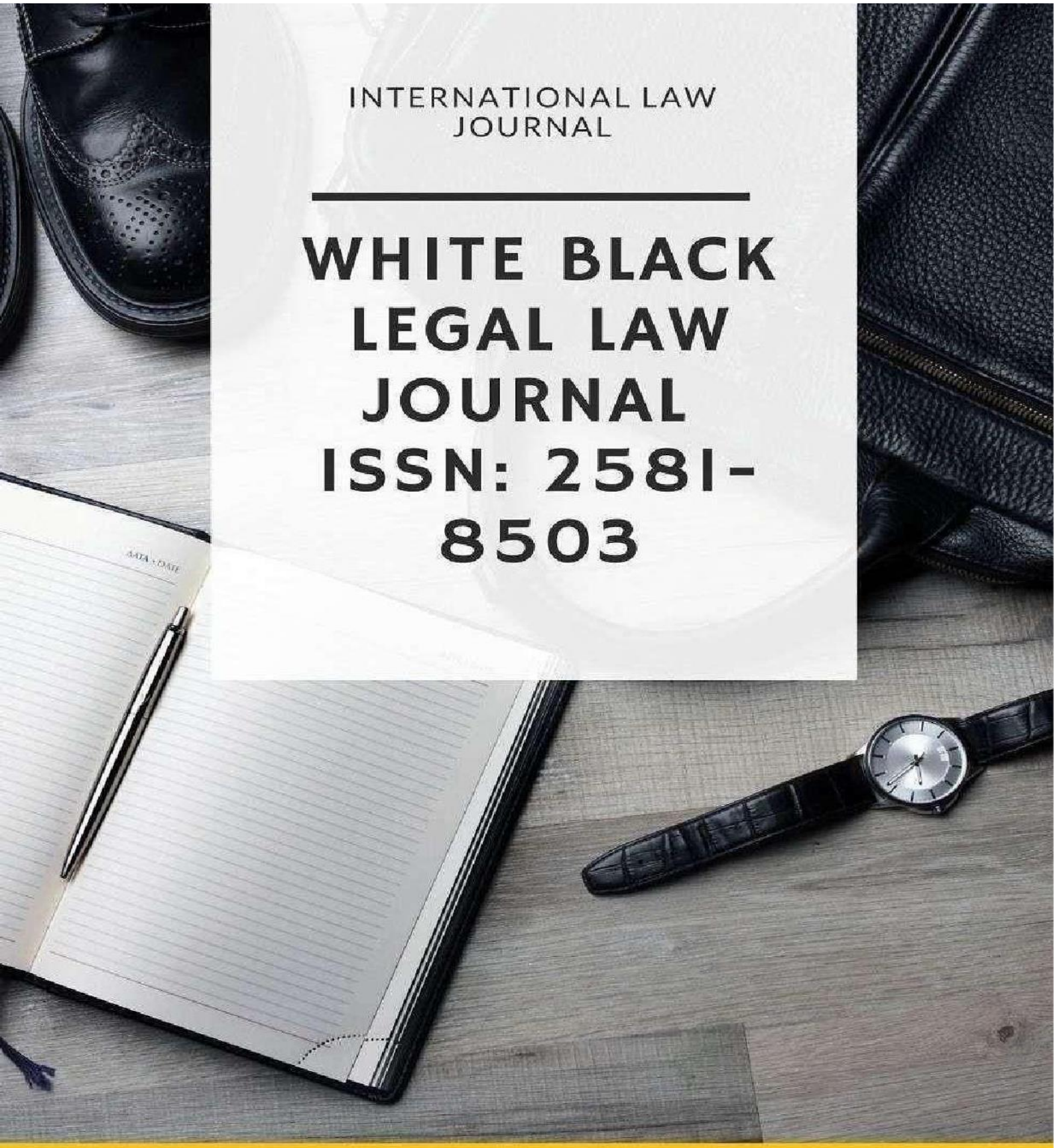


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CUSTODIAL VIOLENCE & ACCOUNTABILITY

AUTHORED BY - BHAWNA DAWAR & DR. CHEENA ABROL

ABSTRACT

Custodial violence continues to be a serious human rights concern within the criminal justice system and poses a direct challenge to the rule of law and constitutional governance. It refers to physical, mental, or emotional harm inflicted by law-enforcement personnel during arrest, interrogation, or detention. Despite the existence of legal safeguards and constitutional protections, cases of custodial torture and deaths in custody continue to occur, highlighting a clear gap between legal provisions and their practical enforcement.

This study examines the nature, causes, and consequences of custodial violence in India, with particular emphasis on the issue of police accountability. The Constitution of India guarantees fundamental rights such as the right to life and personal liberty under Article 21, protection against self-incrimination under Article 20(3), and safeguards against arbitrary arrest and detention under Articles 22(1) and 22(2). However, factors such as misuse of authority, inadequate training, pressure to secure speedy confessions, and weak supervisory mechanisms often result in abuse of power by police officials.

The judiciary has played a significant role in addressing custodial violence through landmark judgments. A notable example is D.K. Basu v. State of West Bengal, where the Supreme Court laid down detailed guidelines to prevent custodial torture and abuse. Despite such judicial interventions, the absence of a comprehensive anti-torture legislation and poor implementation of existing safeguards continue to weaken accountability mechanisms. Departmental inquiries, which are commonly relied upon, often lack transparency and independence, allowing erring officials to escape responsibility.

Police accountability is a vital element of democratic policing. Ensuring accountability helps maintain lawful and ethical conduct while strengthening public trust in law-enforcement institutions. Measures such as independent oversight bodies, mandatory CCTV surveillance in police stations, legal reforms, and regular sensitisation of police personnel are essential to prevent custodial abuse. In conclusion, custodial violence not only violates individual rights but also erodes public confidence in the justice system, making strong accountability mechanisms indispensable for upholding constitutional values of justice and liberty.

Abstract: Custodial violence, fundamental rights, Police accountability, CCTV surveillance, justice and liberty

1. INTRODUCTION

Custodial violence, a grievous violation of human rights, remains one of the most disturbing and persistent problems within the Indian criminal justice system. It encompasses various forms of physical and psychological abuse inflicted on individuals who are in police or judicial custody, including torture, excessive use of force, and unlawful detention. The issue of custodial violence has sparked a wide-ranging debate in India, particularly because it undermines the core principles of justice and human dignity that are enshrined in the Constitution of India. While India has witnessed significant progress in terms of legal and institutional reforms, custodial violence continues to be a challenge, demanding urgent attention and action from all sectors of society, particularly from the judicial system. In this context, the role of the Supreme Court of India becomes indispensable as a guardian of fundamental rights, particularly under Articles 21 and 22 of the Indian Constitution, which guarantee the right to life and personal liberty.[1]

Custodial violence, in its various forms, represents not only a direct assault on the physical integrity of the individual but also an affront to the rule of law and the constitutional principles of justice, fairness, and accountability. This problem is exacerbated by the power imbalance between the police and those in custody, making the victims vulnerable to abuse without the possibility of recourse. Despite the legal protections provided by the Constitution and the statutes of India, the incidence of custodial violence continues to be widespread. This paradox raises questions about the effectiveness of the existing legal mechanisms designed to protect the rights of individuals in police and judicial custody.[2]

India's legal framework has provisions that ostensibly safeguard against custodial abuse. Articles 21 and 22 of the Indian Constitution guarantee the right to life and personal liberty and provide safeguards against arbitrary arrest and detention. These constitutional provisions lay the foundation for protecting individuals from custodial violence. Additionally, several laws, including Bharatiya Nyaya Sanhita, 2023, *Bharatiya Nagarik Suraksha Sanhita, 2023*, and various judicial pronouncements, seek to criminalize acts of torture and inhuman treatment in

[1] Indulia, Bhumika. "Custodial Torture in India: Intersection of Criminal Law and Constitutional Rights." SCC Times, March 23, 2024. https://www.scconline.com/blog/post/2024/03/23/custodial-torture-in-india-intersection-of-criminal-law-and-constitutional-rights/.

[2] Drishti IAS. "Custodial Torture and Ethical Concerns." Accessed October 20, 2026. https://www.drishtiias.com/daily-updates/daily-news-analysis/custodial-torture-and-ethical-concerns.

custody. However, despite these provisions, the reality remains starkly different. Reports from human rights organizations, civil society, and media outlets consistently point to the continuing prevalence of custodial torture and deaths in police custody.[3]

The lack of accountability within police forces, coupled with insufficient judicial oversight, exacerbates the problem of custodial violence. In many instances, police officers who are accused of such abuses are either not held accountable or face only minimal consequences. This reflects a broader issue of systemic inefficiencies, corruption, and impunity that plagues India's law enforcement agencies. Moreover, the absence of a robust mechanism to monitor and control custodial practices has created an environment where abuse is often tolerated or overlooked. The situation is further complicated by the entrenched societal belief that law enforcement officers are entitled to use any means necessary to extract confessions, often disregarding the fundamental rights of individuals in custody.[4]

At the forefront of efforts to combat custodial violence in India is the Supreme Court, which has played a pivotal role in shaping the country's legal landscape. Through a series of landmark judgments, the Court has not only highlighted the gravity of custodial abuse but has also provided concrete guidelines aimed at preventing such violations. The most notable case in this regard is the 1997 judgment in *D.K. Basu v. State of West Bengal*, where the Court issued specific directions to the police regarding the procedures to be followed during arrests, detentions, and interrogations to prevent custodial torture. This case, along with others, has led to a body of legal precedents that underscore the importance of protecting the rights of individuals in custody.

The Supreme Court has also been instrumental in setting up guidelines and mechanisms to ensure transparency and accountability in custodial practices. For instance, the Court has mandated the establishment of police complaints authorities at the state and national levels to deal with complaints of police misconduct, including custodial violence. Furthermore, the Court has consistently emphasized the need for prompt judicial intervention in cases of custodial abuse, recognizing the crucial role of the judiciary in upholding human rights and ensuring that police officers are held accountable for their actions. In this regard, the Supreme Court has also played a key role in expanding the scope of public interest litigations (PILs), allowing victims of custodial violence or their families to seek redressal, even if they do not

[3] Manupatra. "Articles – Manupatra." Accessed October 20, 2026. https://articles.manupatra.com/article-details/Right-to-life-And-Custodial-Deaths.

[4] Drishti Judiciary. "Examining Custodial Death: Challenges and Calls for Accountability." Accessed October 20, 2026. https://www.drishtijudiciary.com/blog/examining-custodial-death-challenges-and-calls-for-accountability.

have direct access to legal representation.[5]

1.1. LITERATURE REVIEW

1. **Sharma, G.S. (2011)**[6]. This article by G.S. Sharma explores the issue of custodial violence as a violation of human rights. It discusses the various forms of custodial violence, including torture, abuse, and deaths that occur in custody. The author highlights the legal framework surrounding custodial violence and examines the challenges in addressing this issue. The article provides a comprehensive analysis of the factors contributing to custodial violence and proposes measures for its prevention.
2. **Gopalan, Chitra (2004)**[7]. Chitra Gopalan's article offers an Indian perspective on custodial torture and custodial deaths. It delves into the causes, consequences, and legal aspects of custodial violence in the country. The author emphasizes the need for effective preventive measures and accountability mechanisms to combat this issue. The article provides valuable insights into the socio-legal dimensions of custodial violence and its impact on human rights.
3. **Narula, S.K. (2006)**[8]. S.K. Narula's article focuses on the challenges and opportunities in preventing torture and ill-treatment, including custodial violence. It discusses international human rights standards and their applicability in addressing custodial violence. The author examines the role of law enforcement agencies, judiciary, and civil society in preventing and combating custodial violence. The article presents valuable insights into the complexities surrounding the prevention of torture and ill-treatment.
4. **Jayanthi, K.P., and Srinivas B.V. (2015)**[9]. This study by K.P. Jayanthi and Srinivas B.V. focuses on custodial violence and torture. It examines the nature and extent of the problem, including the socio-economic and political factors contributing to its occurrence. The authors analyze the psychological and physical impact of custodial violence on victims and emphasize the importance of effective legal frameworks and

[5] Sachdeva, Daksh. “The Need for Independent Police Complaints Authorities in India.” Bar and Bench - Indian Legal News, July 29, 2023. https://www.barandbench.com/columns/the-need-for-independent-police-complaints-authorities-in-india.
[6] Sharma, G.S. "Custodial Violence: A Human Rights Violation." Journal of Indian Law Institute, vol. 53, no. 1, 2011, pp. 107-125
[7] Gopalan, Chitra. "Custodial Torture and Custodial Deaths: An Indian Perspective." Journal of the Indian Law Institute, vol. 46, no. 4, 2004, pp. 501-520
[8] Narula, S.K. "Preventing Torture and Ill-Treatment: Challenges and Opportunities." Economic and Political Weekly, vol. 41, no. 14, 2006, pp. 1363-1371
[9] Jayanthi, K.P., and Srinivas B.V. "Custodial Violence and Torture: A Study of the Problem." International Journal of Social Work and Human Services Practice, vol. 3, no. 1, 2015, pp. 25-35

institutional mechanisms for prevention. The study provides a comprehensive understanding of the issue and suggests strategies for addressing it.

5. **Chandrachud, Rohinton F. (1989)**[10]. Rohinton F. Chandrachud's article explores the anatomy of custodial deaths, shedding light on the underlying causes and circumstances surrounding such incidents. The author critically examines the role of law enforcement agencies, judicial processes, and political influences in custodial deaths. The article highlights the need for accountability, transparency, and systemic reforms to prevent custodial deaths and ensure justice for the victims.
6. **Ghosh, N.C. (2008)**[11]. N.C. Ghosh's article focuses on custodial torture as a human rights violation in India. It analyzes the legal framework, international standards, and judicial pronouncements related to custodial torture. The author examines the causes, consequences, and patterns of custodial torture and emphasizes the importance of effective remedies and accountability mechanisms. The article provides a comprehensive understanding of the issue and calls for stronger measures to address custodial torture.
7. **Kumar, Ravinder (2011)**[12]. Ravinder Kumar's article presents a socio-legal analysis of custodial violence in India. It explores the socio-economic and cultural factors that contribute to custodial violence and examines the legal response to address this issue. The author critically evaluates the effectiveness of existing legal provisions and suggests reforms to prevent custodial violence. The article offers valuable insights into the complex dynamics of custodial violence from a socio-legal perspective.
8. **Sharma, G.S. (2013)**[13]. G.S. Sharma's article provides an analysis of legal protections against custodial violence. It examines the constitutional and statutory provisions, as well as international human rights instruments, that safeguard individuals from custodial violence. The author critically evaluates the effectiveness of these legal protections and suggests measures for their improvement. The article offers a comprehensive review of the legal framework and its application in addressing custodial violence.

[10] Chandrachud, Rohinton F. "The Anatomy of Custodial Deaths." Economic and Political Weekly, vol. 24, no. 35, 1989, pp. 1947-1954
[11] Ghosh, N.C. "Custodial Torture in India: A Human Rights Violation." International Journal of Legal Information, vol. 36, no. 2, 2008, pp. 288-298
[12] Kumar, Ravinder. "Custodial Violence in India: A Socio-Legal Analysis." International Journal of Criminal Justice Sciences, vol. 6, no. 1, 2011, pp. 139-153
[13] Sharma, G.S. "Legal Protection Against Custodial Violence: An Analysis." Indian Journal of Law and Human Behavior, vol. 4, no. 2, 2013, pp. 23-42

9. **Kaur, Jaspreet (2015)**[14]. Jaspreet Kaur's article provides a critical appraisal of custodial violence in India. It examines the prevalence and patterns of custodial violence, including torture and abuse, and analyzes the socio-legal factors that contribute to its persistence. The author evaluates the role of law enforcement agencies, judicial processes, and civil society in combating custodial violence. The article offers a comprehensive understanding of the issue and proposes strategies for its prevention.
10. **Jain, Praveen Kumar (2016)**[15]. Praveen Kumar Jain's article explores the threat posed by custodial torture and violence to human rights. It examines the ethical dimensions of custodial violence and analyzes its impact on victims and society. The author emphasizes the need for a human rights-based approach to address custodial violence and suggests measures for its prevention and accountability. The article provides valuable insights into the moral and ethical implications of custodial violence.

1.2. RESEARCH OBJECTIVES

1. To examine the nature and extent of custodial violence in India.
2. To analyze the legal framework and its effectiveness in preventing custodial violence.
3. To explore the historical context and factors contributing to custodial violence.
4. To analyze international obligations and their impact on custodial violence in India.
5. To assess the role of oversight mechanisms and accountability measures.
6. To propose recommendations for preventing and addressing custodial violence.

1.3. HYPOTHESIS

1. Custodial violence in India are pervasive and diverse, encompassing physical torture, psychological abuse, and unlawful detention, which continue to be widespread despite the legal safeguards in place.
2. The existing legal framework in India, though comprehensive in theory, is largely ineffective in preventing custodial violence due to inadequate enforcement, lack of accountability, and systemic flaws in law enforcement agencies.
3. Custodial violence in India have deep historical roots, shaped by colonial-era practices, systemic corruption, and an entrenched culture of impunity within the police and law

[14] Kaur, Jaspreet. "Custodial Violence in India: A Critical Appraisal." International Journal of Criminal Law and Justice, vol. 5, no. 1, 2015, pp. 1-18
[15] Jain, Praveen Kumar. "Custodial Torture and Violence: A Threat to Human Rights." Journal of Human Values, vol. 22, no. 2, 2016, pp. 113-124

enforcement agencies.

4. International human rights obligations and treaties, such as the United Nations Convention against Torture (UNCAT), have had limited impact on reducing custodial atrocities in India due to the gap between international standards and domestic implementation.
5. Oversight mechanisms, including the judiciary, National Human Rights Commission (NHRC), and police complaints authorities, have proven insufficient in holding perpetrators accountable and ensuring effective redressal for victims of custodial violence.
6. Strengthening legal enforcement, enhancing police reforms, improving judicial oversight, and ensuring accountability through independent and efficient monitoring systems are key recommendations to reduce and prevent custodial violence in India.

1.4. RESEARCH METHODOLOGY

The research methodology employed in this study is primarily doctrinal. Doctrinal research involves an extensive analysis and interpretation of existing legal sources, such as statutes, case law, scholarly articles, and other relevant literature.

In this study, the researcher will undertake a comprehensive review of legal texts, including acts, laws, regulations, and judicial decisions related to custodial atrocities in India. The researcher will examine Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, the Protection of Human Rights Act, the Juvenile Justice Act, and other relevant legislation. Case law from the Supreme Court and high courts will be analyzed to understand judicial interpretations and developments in the legal framework.

The researcher will also conduct an extensive review of scholarly articles, academic publications, reports, and other relevant literature to gather insights into the nature, scope, and impact of custodial atrocities in India. International human rights conventions and treaties ratified by India will be analyzed to assess the country's international obligations and their influence on the legal framework.

The research will involve a critical analysis of the identified legal sources and literature, focusing on identifying gaps, challenges, and areas of improvement in the existing legal framework and its implementation. The researcher will draw upon legal reasoning, comparative analysis, and contextual understanding to critically evaluate the effectiveness of the legal provisions and their impact on preventing custodial atrocities.

While the study primarily adopts a doctrinal approach, it may also draw upon empirical data,

case studies, and qualitative research methods, if available and relevant, to supplement the analysis. The combination of legal analysis, scholarly research, and contextual understanding will provide a comprehensive and critical assessment of custodial atrocities in India and the legal framework surrounding them.

Overall, the doctrinal research methodology will enable a thorough examination and interpretation of existing legal sources, leading to valuable insights and recommendations for addressing custodial atrocities and promoting human rights in India.

2. CAUSES AND FACTORS CONTRIBUTING TO CUSTODIAL ATROCITIES

2.1. ABUSE OF POWER AND AUTHORITY

The issue of custodial atrocities in India is fundamentally rooted in the abuse of power and authority by law enforcement officials. While the majority of police officers and other personnel perform their duties diligently and responsibly, there are cases where the misuse of power occurs, leading to grave violations of human rights. This section will examine the various acts and laws that govern the exercise of authority by law enforcement agencies and explore how these provisions can be exploited or misused, leading to custodial atrocities[16].

The exercise of power and authority by law enforcement officials is primarily governed by the *Bharatiya Nyaya Sanhita* (*BNS*), the *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*), and the Police Act of 1861. These legislations lay down the framework within which law enforcement agencies operate and outline the scope of their powers and responsibilities. However, certain provisions within these acts can be misused, providing opportunities for custodial atrocities to occur[17].

One such provision is Section *43* of the *BNSS*, which allows the police to use necessary force to arrest an individual. While this provision is intended to ensure the effective apprehension of suspects, it is often exploited by unscrupulous officers to justify excessive use of force and physical abuse during the arrest process. The lack of clear guidelines and oversight mechanisms to regulate the use of force creates an environment where custodial atrocities can thrive[18].

[16] "Custodial Violence – Indian Perspective." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/legal/article-55-custodial-violence-indian-perspective.html.

[17] Mahawar, Sneha. "Custodial Deaths." iPleaders, July 22, 2022. *Available at*: https://blog.ipleaders.in/custodial-deaths/.

[18] "Powers Of Police To Arrest Without Warrant Or Without An Order Of Magistrate." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/legal/article-5946-powers-of-police-to-arrest-without-warrant-or-without-an-order-of-magistrate.html.

Furthermore, Section *53* of the *BNSS* empowers the police to conduct medical examinations of arrested individuals. This provision is essential for ensuring the physical well-being of the accused. However, in practice, medical examinations are sometimes conducted in a negligent or degrading manner, leading to further trauma and violation of the individual's dignity. The lack of proper training and sensitization of medical professionals who conduct these examinations contributes to the perpetuation of custodial atrocities.

The Police Act of 1861, a colonial-era legislation still in force, provides wide-ranging powers to the police, including the power to arrest, detain, and use force when necessary. While the act has undergone some amendments over the years, its outdated provisions and lack of accountability mechanisms make it susceptible to misuse. The absence of comprehensive police reforms, despite calls for change, has allowed for the continuation of a system that often prioritizes control and coercion over the protection of human rights[19].

2.2. LACK OF ACCOUNTABILITY AND IMPUNITY

One of the key factors contributing to custodial atrocities in India is the lack of accountability and impunity enjoyed by law enforcement officials. The culture of impunity not only enables the perpetuation of abuse but also erodes public trust in the criminal justice system. This section will examine the existing legal framework and institutional mechanisms that hinder accountability for custodial atrocities and explore potential solutions to address this critical issue[20].

The Constitution of India guarantees the protection of fundamental rights to all individuals, including those in custody. However, the implementation of these rights faces significant challenges. For instance, Article 21 guarantees the right to life and personal liberty, which should provide protection against custodial abuse. However, the interpretation and enforcement of this right are often weakened by procedural complexities, lack of awareness, and inadequate redressal mechanisms.

The *Bharatiya Nyaya Sanhita* (*BNS*) contains provisions that criminalize custodial violence, torture, and abuse. Sections *118* specifically address the offense of causing hurt or grievous hurt to extort a confession or information. Additionally, Section *196* of the *BNS* mandates the

[19] Advocate, Divorce Lawyers and Corporate Consultants in Dwarka. "Police Act 1861 and Model Police Act , 2006; an Analysis." (Last visited on October 19, 2026). http://ssglawfirm.in/police-act-1861-and-model-police-act-2006-an-analysis/.

[20] The Wire. "Custodial Deaths in India Are a Cold-Blooded Play of Power and Class." (Last visited on October 19, 2026). *Available at*: https://thewire.in/rights/custodial-deaths-in-india-are-a-cold-blooded-play-of-power-and-class.

inquiry into custodial deaths. While these provisions exist, their effective implementation remains a challenge due to various factors, including the reluctance of victims to come forward, the influence of law enforcement agencies, and a slow and overburdened criminal justice system[21].

The *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*) establishes procedures for the investigation and prosecution of crimes, including custodial atrocities. However, the lack of proper implementation of these procedures, coupled with delays in trials and inadequate support mechanisms for victims, undermines the accountability of law enforcement officials. Additionally, the provision of bail to accused officers, even in cases involving custodial deaths or severe abuse, further contributes to the culture of impunity[22].

One significant impediment to accountability is the ineffective and sluggish internal disciplinary mechanisms within law enforcement agencies. The disciplinary provisions of the Police Act of 1861 and the respective Police Acts of various states are often insufficient to address custodial atrocities effectively. The lack of independent oversight bodies and the dependence on internal inquiries conducted by the police themselves raise concerns about bias and impartiality in the investigation process.

2.3. STRUCTURAL AND SYSTEMIC ISSUES

Custodial atrocities in India are not isolated incidents but are often rooted in structural and systemic issues within the criminal justice system. These issues create an enabling environment for abuse, perpetuating a cycle of violence and human rights violations. This section will examine the structural and systemic factors contributing to custodial atrocities and explore relevant acts and laws that either exacerbate or have the potential to address these issues[23].

One of the significant structural issues is the prevalence of overcrowded and understaffed prisons. The prison system in India is burdened with a high number of inmates, far exceeding the capacity of the facilities. This overcrowding leads to poor living conditions, lack of proper healthcare, and increased tension among inmates, creating an environment prone to violence and abuse. The lack of adequate resources and infrastructure within the prisons undermines the ability to ensure the safety and well-being of inmates, making them vulnerable to custodial

[21] "Live Law." Live Law, January 12, 2023). *Available at*: https://www.livelaw.in/columns/custodial-death-constitution-article-21-indian-penal-code-torture-nhrc-218757.
[22] "Justice And Morality: Custodial Deaths And CrPc." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/legal/article-5160-justice-and-morality-custodial-deaths-and-crpc.html.
[23] "Custodial Deaths." iPleaders, July 22, 2022. *Available at*: https://blog.ipleaders.in/custodial-deaths/.

atrocities[24].

The prison system is governed by the Prison Act of 1894, which primarily focuses on the administration and management of prisons. While the act provides certain provisions for the welfare and rights of prisoners, its outdated nature and limited scope hinder effective reform. Efforts should be made to update and strengthen the legislation to align with international standards, emphasizing the protection of human rights and the rehabilitation of inmates.

Another systemic issue is the use of prolonged and arbitrary detention. The practice of detaining individuals without proper legal justification or due process not only violates their fundamental rights but also increases the risk of custodial abuse. The colonial-era legislation, the Maintenance of Internal Security Act (MISA), and the Unlawful Activities (Prevention) Act (UAPA) provide broad discretionary powers to the authorities for preventive detention. These acts have been criticized for their misuse, leading to wrongful arrests and custodial abuse. It is essential to revisit and amend these laws to ensure strict adherence to due process rights and prevent the arbitrary detention of individuals[25].

3. HUMAN RIGHTS PERSPECTIVE

3.1. RIGHT TO LIFE AND PHYSICAL INTEGRITY

The right to life and physical integrity is a fundamental human right enshrined in various international human rights instruments and domestic laws. It serves as the cornerstone for the protection of individuals from custodial atrocities and other forms of violence. This section will examine the right to life and physical integrity in the context of custodial atrocities in India, and explore relevant acts and laws that safeguard these rights.

International Human Rights Instruments: India is a party to several international human rights instruments that recognize and protect the right to life and physical integrity. The Universal Declaration of Human Rights (UDHR) proclaims the inherent right to life and prohibits torture, cruel, inhuman, or degrading treatment or punishment. The International Covenant on Civil and Political Rights (ICCPR) further affirms the right to life and prohibits torture, cruel, inhuman, or degrading treatment or punishment[26].

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[24] Times of India Blog. "Major Problems of Prison System in India," January 1, 2022. *Available at*: https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/.

[25] Australian Human Rights Commission. "Right to Security of the Person and Freedom from Arbitrary Detention." (Last visited on October 19, 2026). *Available at*: https://humanrights.gov.au/our-work/rights-and-freedoms/right-security-person-and-freedom-arbitrary-detention.

[26] Nations, United. "Universal Declaration of Human Rights." United Nations. (Last visited on October 19, 2026). *Available at*: https://www.un.org/en/about-us/universal-declaration-of-human-rights.

India's obligations under these international instruments are reflected in its domestic legislation and judicial pronouncements. The Constitution of India guarantees the right to life and personal liberty under Article 21, which has been interpreted by the Supreme Court of India to include the right to live with dignity and free from torture or cruel, inhuman, or degrading treatment[27]. Domestic Laws and Acts: a. *Bharatiya Nyaya Sanhita* (*BNS*): The *Bharatiya Nyaya Sanhita* (*BNS*) contains provisions that protect the right to life and physical integrity. Section *98* of the *BNS* defines culpable homicide, while Section *99* deals with murder. These provisions ensure that acts causing the death of another person are subject to legal scrutiny and punishment.

Additionally, Section *103* of the *BNS* deals with culpable homicide not amounting to murder, while Section *104* pertains to causing death by negligence. These sections are relevant in cases where custodial deaths occur due to negligence or lack of proper care.

b. *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*): The *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*) governs the procedural aspects of criminal justice in India. It provides safeguards for the protection of the rights of individuals in custody. Section *35* of the *BNSS* mandates that arrests should be made in accordance with prescribed procedures, and Section *43* prohibits the use of excessive force during arrest[28].

3.2. PROHIBITION OF TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

The prohibition of torture and cruel, inhuman, or degrading treatment is a fundamental principle of human rights law. It serves as a cornerstone in the protection of individuals from custodial atrocities and other forms of abuse. This section will examine the prohibition of torture and cruel, inhuman, or degrading treatment in the context of custodial atrocities in India and explore relevant acts and laws that safeguard these rights[29].

International Human Rights Instruments: India is a signatory to various international human rights instruments that prohibit torture and cruel, inhuman, or degrading treatment. The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) explicitly condemn torture and cruel, inhuman, or degrading treatment or punishment.

[27] Asthana, Subodh. "Article 21: Explanation of Ambit and Scope of Article 21 under Constitution." iPleaders, August 29, 2019. *Available at*: https://blog.ipleaders.in/article-21-constitution/.

[28] glmain. "Criminal Procedure Code (CrPC): Complying Principles of Natural Justice - Getlegal India." My WordPress, September 16, 2021. *Available at*: https://getlegalindia.com/crpc-bare-act/.

[29] "Custodial Violence: An Infringement of Human Rights." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/legal/article-6254-custodial-violence-an-infringement-of-human-rights.html.

India's obligations under these international instruments are reflected in its domestic legislation and judicial pronouncements. The Constitution of India guarantees the right to life and personal liberty under Article 21, which has been interpreted by the Supreme Court of India to include the right to live with dignity, free from torture, or cruel, inhuman, or degrading treatment.

Domestic Laws and Acts: a. *Bharatiya Nyaya Sanhita* (*BNS*): The *Bharatiya Nyaya Sanhita* (*BNS*) contains provisions that criminalize torture and cruel, inhuman, or degrading treatment. Section *118* defines the offense of voluntarily causing hurt to extort a confession or information, while Section *118* deals with voluntarily causing grievous hurt for the same purpose. These sections are applicable in cases where custodial authorities use physical force to extract information or confessions[30].

Additionally, Section *125* of the *BNS* deals with wrongful confinement, which prohibits the unlawful detention or confinement of individuals. This provision is relevant in cases where detainees are subjected to arbitrary and prolonged custody without legal justification.

b. Protection of Human Rights Act, 1993: The Protection of Human Rights Act, 1993, establishes the National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs) to protect and promote human rights in India. These bodies have the authority to investigate complaints of custodial atrocities, including torture and cruel, inhuman, or degrading treatment, and recommend appropriate actions and remedies[31].

c. *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*): The *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*) provides procedural safeguards to protect individuals from torture and cruel, inhuman, or degrading treatment. Section *196* mandates a judicial inquiry into custodial deaths, and Section 197 requires prior sanction for the prosecution of public servants for acts committed in the discharge of official duties. These provisions aim to ensure accountability and deter custodial atrocities.

d. Juvenile Justice (Care and Protection of Children) Act, 2015: The Juvenile Justice Act, 2015, prohibits torture, cruel, inhuman, or degrading treatment of children in conflict with the law. It emphasizes the need for the humane treatment and rehabilitation of juveniles in custody.

Judicial Pronouncements: The Supreme Court of India has played a crucial role in interpreting and upholding the prohibition of torture and cruel, inhuman, or degrading treatment. In

[30] Chakma, Suhas. "The Indispensability of Adding Offences of Torture in Indian Penal Code." National Campaign Against Torture, August 18, 2020. http://www.uncat.org/resources/the-indispensability-of-adding-offences-of-torture-in-indian-penal-code/.

[31] Drishti IAS. "75 Years: Laws That Shaped India." (Last visited on October 19, 2026). *Available at*: https://www.drishtiias.com/loksabha-rajyasabha-discussions/75-years-laws-that-shaped-india-the-protection-of-human-rights-act-1993.

landmark judgments such as DK Basu v. State of West Bengal (1997) and Niranjan Singh v. State of Uttar Pradesh (2010), the Court has laid down guidelines to prevent custodial torture and ensure the rights of detainees[32].

These guidelines include the right to be informed of the grounds of arrest, the right to legal representation, the right to be produced before a magistrate within 24 hours, the prohibition of third-degree methods, and the obligation of the state to provide compensation to victims of custodial violence. The Court's proactive approach in safeguarding against torture and cruel, inhuman, or degrading treatment has been crucial in curbing custodial atrocities.

The Prevention of Torture Bill, 2017: In an effort to strengthen the legal framework against torture, the Prevention of Torture Bill was introduced in 2017. The bill aimed to align domestic legislation with the provisions of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which India is a signatory. The bill proposed stringent measures to prevent and punish acts of torture, including custodial torture. However, as of the knowledge cutoff in September 2021, the bill is yet to be enacted[33].

3.3. RIGHT TO A FAIR TRIAL AND DUE PROCESS

The right to a fair trial and due process is a fundamental principle of justice and is essential for the protection of individuals' rights in any legal system. In the context of custodial atrocities in India, ensuring the right to a fair trial and due process is of utmost importance to prevent miscarriage of justice and to safeguard the rights of the accused. This section will examine the right to a fair trial and due process in India, and explore relevant acts and laws that uphold these rights[34].

1. Constitution of India: The Constitution of India guarantees the right to a fair trial and due process under Article 21, which protects the right to life and personal liberty. The Supreme Court of India has interpreted Article 21 expansively to include various components of a fair trial, such as the right to legal representation, the presumption of innocence, the right to a speedy trial, the right to produce witnesses, and the right to cross-examination[35].

[32] Editor, CJP. "The Last Leg of the DK Basu Judgement: An Analysis." CJP, August 25, 2020. *Available at*: https://cjp.org.in/the-last-leg-of-the-dk-basu-judgement-an-analysis/.

[33] PRS Legislative Research. "The Prevention of Torture Bill, 2010." (Last visited on October 19, 2026). *Available at*: https://prsindia.org/billtrack/the-prevention-of-torture-bill-2010.

[34] "Custodial Death and Anti-Torture Law." iPleaders, January 3, 2021. *Available at*: https://blog.ipleaders.in/custodial-death-anti-torture-law/.

[35] "Article 21 of the Constitution of India: Understanding Right to Life and Personal Liberty from Case Laws - Academike." Laxmikant Bhumkar, August 12, 2021. *Available at*: https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/.

2. *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*): The *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*) is a comprehensive legislation that governs the procedural aspects of criminal trials in India. It provides safeguards to ensure a fair trial and due process for all individuals accused of crimes. Some of the key provisions that uphold the right to a fair trial and due process include:

a. Arrest and Detention:

- Section *35* requires that arrests should be made in accordance with prescribed procedures and only when necessary.
- Section *47* mandates that the person arrested should be informed of the grounds of arrest and the right to bail.
- Section *58* ensures that an arrested person should be produced before a magistrate within 24 hours.

b. Investigation:

- Section *171* ensures that the police must register First Information Reports (FIRs) upon receipt of information about the commission of a cognizable offense[36].
- Section *180* protects the accused from self-incrimination and prohibits the use of statements made to the police during the investigation against the accused.

c. Trial:

- Section *230* ensures that copies of police reports and other documents relevant to the case are provided to the accused[37].
- Section *250* empowers the court to discharge the accused if the court finds that there is no sufficient ground for proceeding against the accused.
- Section *343* mandates that trials should be conducted in a speedy manner to ensure the right to a speedy trial.

d. Evidence:

- Section *158* provides for the examination and cross-examination of witnesses during trial[38].
- Section *185* allows the court to summon and examine any person as a witness, if necessary.

[36] "Section 154 CrPC." iPleaders, August 17, 2022. *Available at*: https://blog.ipleaders.in/section-154-crpc/.

[37] Roots Resource. "Supply of Documents: Section 207 Cr.P.C.," May 1, 2020. *Available at*: https://www.rootsresource.in/portfolio/supply-of-documents-section-207-crpc/.

[38] Singh, Anand Pratap. "Re-Examination Of A Witness – The Notion & Its Necessity." S&A Law Offices, October 16, 2021. *Available at*: https://www.mondaq.com/india/trials-amp-appeals-amp-compensation/1119500/re-examination-of-a-witness--the-notion--its-necessity.

- Section *351* grants the accused the right to be heard and explain circumstances appearing against them.

e. Appeals:

- Section *413* ensures the right of appeal to a higher court against a conviction or sentence.
- Section *435* allows the appellate court to review the evidence and examine witnesses to determine the correctness of the judgment.

3. Judicial Pronouncements: The Supreme Court of India has been instrumental in interpreting and safeguarding the right to a fair trial and due process. In landmark judgments such as Zahira Habibullah Sheikh v. State of Gujarat (2004) and Hussainara Khatoon v. Home Secretary, State of Bihar (1980), the Court has emphasized the importance of fair trials and has laid down guidelines to protect the rights of the accused.

These guidelines include the right to legal representation, the right to cross-examination of witnesses, the prohibition of coerced confessions, the right to be informed of charges, the right to a speedy trial, and the right to fair and impartial judges.

4. Legal Services Authorities Act, 1987: The Legal Services Authorities Act, 1987, aims to provide free legal aid and services to the marginalized sections of society, including the accused who cannot afford legal representation. The act ensures that the right to a fair trial and due process is accessible to all, regardless of their economic background[39].
5. Right to Information Act, 2005: The Right to Information Act, 2005, empowers citizens to access information from public authorities, including the police and judicial bodies. This act promotes transparency and accountability in the functioning of the criminal justice system and contributes to ensuring a fair trial and due process[40].

The right to a fair trial and due process is a fundamental principle enshrined in the Constitution of India and is supported by various acts and laws. The *Bharatiya Nagarik Suraksha Sanhita* provides procedural safeguards to protect the rights of the accused, while judicial pronouncements have further clarified and reinforced these rights. Acts such as the Legal Services Authorities Act and the Right to Information Act contribute to promoting access to justice and transparency. Efforts should continue to strengthen the implementation of these

[39] "Legal Services Authorities Act, 1987, Legal Aid Law in India, Lok Adalat." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/articles/legaut.htm.

[40] Rai, Diva. "Analysis of the Right To Information Act, 2005." iPleaders, *July 22*, 2019. *Available at*: https://blog.ipleaders.in/analysis-of-the-right-to-information-act-2005/.

laws, raise awareness about the right to a fair trial and due process, and ensure that individuals accused of crimes are treated in accordance with the principles of justice, fairness, and equity.

4. LEGAL FRAMEWORK

4.1. CONSTITUTIONAL PROVISIONS AND FUNDAMENTAL RIGHTS

The Constitution of India serves as the supreme law of the land and provides a framework for protecting and promoting fundamental rights. These rights are essential for ensuring the dignity, equality, and liberty of every individual. This section will examine the constitutional provisions and fundamental rights enshrined in the Constitution of India and explore relevant acts and laws that uphold and reinforce these rights[41].

Preamble: The Preamble to the Constitution sets out the guiding principles and objectives of the Indian state, including justice, equality, liberty, and fraternity. It reflects the commitment of the Indian Constitution to protect and promote fundamental rights.

Part III: Fundamental Rights: Part III of the Constitution of India guarantees certain fundamental rights to all citizens. These rights are enforceable by the courts and include:

a. Right to Equality (Articles 14-18): The right to equality ensures that all individuals are equal before the law and are protected against discrimination. It prohibits discrimination based on race, religion, caste, sex, or place of birth[42].

b. Right to Freedom (Articles 19-22): The right to freedom encompasses various freedoms, such as freedom of speech and expression, freedom of assembly, freedom to form associations, freedom to practice any profession or occupation, and the right to move freely throughout the territory of India.

c. Right against Exploitation (Articles 23-24): These articles prohibit trafficking, forced labor, and other forms of exploitation. They also prohibit the employment of children in hazardous occupations.

d. Right to Freedom of Religion (Articles 25-28): The right to freedom of religion guarantees individuals the freedom to profess, practice, and propagate any religion of their choice. It also protects religious institutions and grants individuals the right to manage their religious affairs[43].

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[41] Contributors to Wikimedia projects. "Fundamental Rights in India." Wikipedia, June 4, 2023). *Available at*: https://en.wikipedia.org/wiki/Fundamental_rights_in_India.

[42] Manupatra. "Articles – Manupatra." (Last visited on October 19, 2026). *Available at*: https://articles.manupatra.com/article-details/Article-14-Equality-Before-Law-and-Equality-protection-of-the-law.

[43] "Freedom of Religion Under Indian Constitution: Whether Freedom of Religion or Freedom From Religion." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/legal/article-731-freedom-of-religion-under-indian-constitution-whether-freedom-of-religion-or-freedom-from-religion.html.

e. Cultural and Educational Rights (Articles 29-30): These articles protect the rights of minorities to conserve their language, script, and culture. They also guarantee the right of minorities to establish and administer educational institutions of their choice[44].

f. Right to Constitutional Remedies (Article 32): Article 32 provides individuals with the right to move the Supreme Court for the enforcement of their fundamental rights. It is considered the cornerstone of the Constitution and ensures that the rights enshrined in Part III are not merely paper rights but can be effectively enforced.

4.2. CRIMINAL LAW AND PROCEDURAL SAFEGUARDS

Criminal law and procedural safeguards are essential components of a just and fair legal system. They provide protections to individuals accused of crimes, ensuring their rights are respected during investigation, trial, and punishment. This section will examine the relevant acts and laws in India that govern criminal law and procedural safeguards, ensuring fairness and justice in the criminal justice system.

1. *Bharatiya Nyaya Sanhita* (*BNS*): The *Bharatiya Nyaya Sanhita*, enacted in *2023*, is the primary criminal code in India. It defines various criminal offenses and prescribes punishments for them. The *BNS* ensures that criminal acts are clearly defined and establishes the principle of legality, which states that no person can be punished for an act that is not an offense under the law.
2. *Bharatiya Nagarik Suraksha Sanhita* (*BNSS*): The *Bharatiya Nagarik Suraksha Sanhita, 2023*, lays down the procedures to be followed by the police, courts, and other stakeholders in the criminal justice system. It governs the investigation, inquiry, and trial of criminal offenses. The *BNSS* provides safeguards to accused persons, such as the right to legal representation, the presumption of innocence until proven guilty, and protection against self-incrimination[45].
3. *Bharatiya Sakshya Adhiniyam*: The *Bharatiya Sakshya Adhiniyam, 2023*, regulates the admissibility of evidence in criminal trials. It sets out rules for the examination and cross-examination of witnesses, the relevance and admissibility of evidence, and the

[44] Paliwala, Mariya. "Cultural and Educational Rights: Articles 29-30 Under Indian Constitution." iPleaders, October 9, 2022. *Available at*: https://blog.ipleaders.in/cultural-and-educational-rights/.

[45] Team, ClearIAS. "Code of Criminal Procedure." ClearIAS, February 27, 2023). *Available at*: https://www.clearias.com/code-of-criminal-procedure/.

burden of proof. The Act ensures that evidence presented in court is reliable, relevant, and obtained through lawful means[46].

4. Juvenile Justice (Care and Protection of Children) Act: The Juvenile Justice Act, 2015, provides a separate legal framework for dealing with children in conflict with the law. It focuses on the rehabilitation and reintegration of juvenile offenders, recognizing their special needs and vulnerabilities. The Act establishes juvenile justice boards, which handle cases involving juvenile offenders, and emphasizes restorative justice approaches[47].
5. Protection of Children from Sexual Offenses (POCSO) Act: The POCSO Act, 2012, addresses the sexual abuse and exploitation of children. It provides for the establishment of special courts for the speedy trial of offenses against children and incorporates child-friendly procedures to ensure the protection and well-being of child victims and witnesses.
6. Criminal Law (Amendment) Act, 2013: The Criminal Law (Amendment) Act, 2013, was enacted in response to the widespread protests following the Nirbhaya rape case. It introduced significant changes to the criminal law, including enhanced punishments for sexual offenses, expanded definitions of sexual offenses, and the recognition of new offenses such as acid attacks and voyeurism[48].

5. CHALLENGES AND IMPEDIMENTS IN COMBATING CUSTODIAL ATROCITIES

5.1. IMPUNITY AND LACK OF ACCOUNTABILITY

One of the significant challenges in combating custodial atrocities is the issue of impunity and the lack of accountability. Impunity refers to the failure to hold individuals or institutions accountable for human rights violations. This section explores the challenges and impediments related to impunity and the lack of accountability in addressing custodial atrocities, along with relevant acts and laws[49].

[46] Admin. "The Indian Evidence Act: A Comprehensive Guide to Evidence In.." The Law Communicants, May 21, 2023). *Available at*: https://thelawcommunicants.com/understanding-the-indian-evidence-act-a-comprehensive-guide-to-evidence-in-indian-courts/.
[47] "Juvenile Justice (Care and Protection of Children) Act, 2015." (Last visited on October 19, 2026). *Available at*: https://samistilegal.in/juvenile-justice-care-and-protection-of-children-act-2015/.
[48] kanchi. "Criminal Law (Amendment) Act, 2013: Sexual Offences - Academike." Laxmikant Bhumkar, April 8, 2015. *Available at*: https://www.lawctopus.com/academike/criminal-law-amendment/.
[49] "Why Conviction Is Low in Custodial Crimes: Problems and Suggestions." (Last visited on October 19, 2026). *Available at*: https://legalserviceindia.com/legal/article-9671-why-conviction-is-low-in-custodial-crimes-problems-and-suggestions.html.

Inadequate Legal Frameworks: One of the primary challenges is the existence of inadequate legal frameworks that fail to effectively address custodial atrocities and hold perpetrators accountable. This can include:

a. Ambiguities in Laws: Ambiguities or gaps in legislation can create loopholes that allow perpetrators to escape accountability. For example, vague definitions of torture or ill-treatment may hinder effective prosecution and conviction[50].

b. Insufficient Penalties: Inadequate penalties for custodial atrocities can undermine deterrence and send a message that such acts will not be met with severe consequences. This can contribute to a culture of impunity.

c. Lack of Implementation: Even when laws exist, their effective implementation may be lacking. This can be due to limited resources, insufficient training of law enforcement personnel and judiciary, or corruption, which hampers the accountability process[51].

Weak Investigative Mechanisms: The lack of independent and effective investigative mechanisms is a significant impediment to combating custodial atrocities. Some key challenges include:

a. Bias and Lack of Independence: Investigative bodies, such as internal affairs units or police complaint commissions, may lack independence or face bias towards law enforcement agencies, which can compromise the integrity of investigations[52].

b. Inadequate Resources and Expertise: Limited resources, including financial and human resources, can hamper the ability of investigative bodies to conduct thorough and impartial investigations. Additionally, the lack of specialized expertise in investigating custodial atrocities, such as forensic investigation techniques, can impede the gathering of evidence[53].

c. Intimidation and Threats: Investigators and witnesses involved in custodial atrocity cases may face intimidation, threats, or even violence, which undermines the integrity of investigations and impedes accountability.

Weak Judicial Processes: The weaknesses in the judicial processes contribute to the challenges

[50] OHCHR. "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." (Last visited on October 19, 2026). *Available at*: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading.

[51] Naher, Nahitun, Roksana Hoque, Muhammad Shaikh Hassan, Dina Balabanova, Alayne M. Adams, and Syed Masud Ahmed. "The Influence of Corruption and Governance in the Delivery of Frontline Health Care Services in the Public Sector: A Scoping Review of Current and Future Prospects in Low and Middle-Income Countries of South and South-East Asia." BMC Public Health 20, no. 1 (June 8, 2020): 1–16. *Available at*: https://doi.org/10.1186/s12889-020-08975-0.

[52] "Internal Affairs (Law Enforcement)." Wikipedia, May 8, 2023). *Available at*: https://en.wikipedia.org/wiki/Internal_affairs_(law_enforcement).

[53] Stan, Cristian Adrian. "Forensic Standardizations in Torture and Death in Custody." Interventional Medicine & Applied Science 4, no. 4 (December 1, 2012). *Available at*: https://doi.org/10.1556/IMAS.4.2012.4.6.

in combating custodial atrocities. Some key issues include:

a. Delayed Justice: Lengthy court proceedings, adjournments, and backlog of cases can result in significant delays in providing justice to victims of custodial atrocities. Such delays not only deny justice to the victims but also contribute to the erosion of public trust in the justice system[54].

b. Inadequate Protection of Victims and Witnesses: Victims and witnesses in custodial atrocity cases may face threats, harassment, or fear of retaliation, which can discourage their participation in legal proceedings. The lack of effective witness protection programs can further impede accountability.

5.2. INADEQUATE LEGAL FRAMEWORK

The inadequacy of the legal framework is a significant challenge in effectively combating custodial atrocities. A robust legal framework is essential to provide clear definitions, establish strong safeguards, and ensure accountability for custodial abuses. This section explores the challenges and impediments related to the inadequate legal framework and relevant acts and laws.

Ambiguities in Laws: One of the primary challenges is the presence of ambiguities in laws that fail to provide clear definitions of custodial atrocities or establish specific provisions to address such abuses. Ambiguities can lead to varying interpretations and hinder effective prosecution and accountability. Some key issues include:

a. Vague Definitions: Laws may lack precise definitions of custodial atrocities, such as torture, ill-treatment, or excessive use of force. Vagueness allows room for interpretation, which can weaken efforts to hold perpetrators accountable[55].

b. Lack of Specific Offenses: The absence of specific offenses related to custodial atrocities in the legal framework can make it difficult to prosecute and punish offenders. For example, if a jurisdiction lacks a specific offense for custodial sexual abuse, perpetrators may be charged with a lesser offense that does not adequately reflect the gravity of the crime[56].

c. Failure to Criminalize Acts of Omission: Some legal frameworks focus primarily on acts of

[54] Indulia, Bhumika. "Justice Delivery - Some Challenges and Solutions." SCC Blog, October 15, 2022. *Available at*: https://www.scconline.com/blog/post/2022/10/15/justice-delivery-some-challenges-and-solutions/.

[55] "Custodial Torture and Reforms in Police Administration." (Last visited on October 19, 2026). *Available at*: https://www.legalserviceindia.com/legal/article-3120-custodial-torture-and-reforms-in-police-administration.html.

[56] OHCHR. "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power." (Last visited on October 19, 2026). *Available at*: https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse.

commission (direct acts of abuse) and fail to address acts of omission (failure to prevent or intervene in custodial atrocities). This omission can hinder accountability for individuals who are complicit in the abuse or fail to fulfill their duty to protect detainees[57].

Insufficient Penalties: Another challenge in the legal framework is the presence of insufficient penalties for custodial atrocities. Inadequate penalties fail to deter such abuses effectively and may not provide a sufficient deterrent effect. Key issues include:

a. Lenient Sentencing: Sentences imposed for custodial atrocities may not adequately reflect the gravity of the offense or the harm caused to the victim. Lenient sentences can undermine public trust in the justice system and perpetuate a culture of impunity.

b. Lack of Gradation in Penalties: The absence of a gradation of penalties based on the severity of custodial atrocities can lead to inconsistencies and disproportionate punishments. Differentiating between various degrees of abuse can contribute to more accurate and just sentencing.

c. Absence of Mandatory Minimum Sentences: Without mandatory minimum sentences for custodial atrocities, judges may have discretion in determining penalties, leading to inconsistent outcomes. Mandatory minimum sentences can provide a baseline for accountability and ensure that custodial abuses are treated seriously[58].

Inadequate Safeguards: The legal framework may lack sufficient safeguards to prevent custodial atrocities and protect the rights of detainees. Inadequate safeguards can leave individuals vulnerable to abuse and impede accountability. Some key challenges include:

5.3. LACK OF AWARENESS AND REPORTING

The lack of awareness and underreporting of custodial atrocities pose significant challenges in effectively combating such abuses. This section explores the factors contributing to the lack of awareness and reporting, and the relevant acts and laws that can help address these challenges.

Lack of Knowledge and Understanding: One of the key factors contributing to the lack of awareness is the limited knowledge and understanding of custodial atrocities among the general public, detainees, and even some law enforcement officials. This lack of knowledge can be attributed to:

a. Lack of Information Dissemination: Inadequate efforts to disseminate information about

[57] (Last visited on October 19, 2026). *Available at*: https://academic.oup.com/hrlr/article/21/2/329/6129925.

[58] The Criminal Law Blog. "Mandatory Minimum Sentences: Over Criminalization?," December 1, 2018. *Available at*: https://criminallawstudiesnluj.wordpress.com/2018/12/01/mandatory-minimum-sentences-over-criminalization/.

custodial atrocities, their consequences, and the rights of detainees can contribute to a lack of awareness. Governments, civil society organizations, and human rights institutions should prioritize awareness campaigns to educate the public about custodial abuses[59].

b. Insufficient Education and Training: The absence of comprehensive education and training programs on human rights, including custodial rights, within educational institutions, law enforcement agencies, and legal professions can perpetuate the lack of awareness. Integrating human rights education into school curricula and providing targeted training for relevant stakeholders can address this gap[60].

c. Stigmatization and Fear of Retaliation: Stigmatization of individuals who have experienced custodial atrocities or fear of retaliation from authorities can discourage victims and witnesses from coming forward. Creating safe spaces for reporting, protecting the identity of complainants, and ensuring their safety are crucial to encourage reporting.

6. JUDICIAL PRONOUNCEMENTS

1. Amar Singh v. State of Rajasthan[61]

In this landmark case, the Supreme Court of India addressed the issue of custodial violence and police misconduct. The petitioner, Amar Singh, alleged that he was subjected to torture and abuse while in police custody in Rajasthan. The Court, in its judgment, emphasized the fundamental rights guaranteed under the Constitution and the duty of the state to protect individuals from arbitrary actions by law enforcement agencies. This case laid down important precedents regarding the prohibition of torture and the accountability of state authorities in preventing custodial violence.

2. Avinash Kumar v. State of Madhya Pradesh[62]

The Avinash Kumar case marked a significant development in the jurisprudence surrounding custodial violence. Avinash Kumar, the petitioner, challenged the impunity enjoyed by police officers accused of custodial torture in Madhya Pradesh. The Supreme Court, in its judgment, reiterated the obligation of the state to uphold human rights and ensure accountability for abuses committed by law enforcement personnel. This case underscored the need for effective mechanisms to investigate allegations of custodial violence and prosecute perpetrators, setting

[59] "A Human Rights Perspective On Custodial Violence And How The Lives Of SC/ST Do Not Matter." (Last visited on October 19, 2026). *Available at*: https://legalserviceindia.com/legal/article-7421-a-human-rights-perspective-on-custodial-violence-and-how-the-lives-of-sc-st-do-not-matter.html.

[60] Unesco. "Gender Equality through School: Providing a Safe and Inclusive Learning Environment," March 7, 2018. *Available at*: https://gem-report-2017.unesco.org/en/chapter/gender_accountability_through_school/.

[61] Amar Singh v. State of Rajasthan AIR 1957 SC 369

[62] Avinash Kumar v. State of Madhya Pradesh (2016) 8 SCC 629

a precedent for judicial intervention in cases of police misconduct.

3. Bhagalpur Blinding Case (Bhagalpur Riot Victims v. State of Bihar)[63]

The Bhagalpur Blinding Case, also known as Bhagalpur Riot Victims v. State of Bihar, exposed egregious human rights violations perpetrated by law enforcement officials during the Bhagalpur riots in Bihar. The Supreme Court, in its judgment, condemned the brutal acts of blinding carried out by the police as a form of custodial violence. The case prompted widespread outrage and led to calls for accountability and justice for the victims. The Court's intervention in this case served as a catalyst for reforms in policing practices and underscored the importance of upholding the rule of law even in times of social unrest.

4. D.K. Basu v. State of West Bengal[64]

D.K. Basu v. State of West Bengal is a landmark case that laid down guidelines to prevent custodial violence and ensure the protection of fundamental rights. The petitioner, D.K. Basu, highlighted instances of custodial torture and deaths in West Bengal, calling for judicial intervention to safeguard the rights of detainees. The Supreme Court, in its historic judgment, issued directives known as the "D.K. Basu guidelines," which mandated various safeguards such as the mandatory recording of arrests, informing relatives of the detainee, and conducting medical examinations. This case set a precedent for judicial activism in safeguarding human rights and preventing custodial abuses across India.

5. Dilawar v. State of Delhi[65]

Dilawar v. State of Delhi brought attention to the issue of custodial violence and deaths in the context of the criminal justice system. The petitioner, Dilawar, was a victim of custodial torture that resulted in his death while in police custody in Delhi. The Supreme Court, in its judgment, emphasized the need for accountability and transparency in cases of custodial deaths, directing stringent measures to prevent such incidents in the future. This case underscored the importance of judicial oversight and the obligation of the state to protect the rights and dignity of individuals in custody.

6. Francis Coralie Mullin v. Administrator, Union Territory of Delhi[66]

In the Francis Coralie Mullin case, the Supreme Court addressed the issue of custodial violence in the context of the right to life and personal liberty guaranteed under the Constitution. The petitioner, Francis Coralie Mullin, challenged the validity of certain laws that authorized the

[63] Bhagalpur Blinding Case (Bhagalpur Riot Victims v. State of Bihar) AIR 1984 SC 911
[64] D.K. Basu v. State of West Bengal (1997) 1 SCC 416
[65] Dilawar v. State of Delhi (2007) 12 SCC 641
[66] Francis Coralie Mullin v. Administrator, Union Territory of Delhi AIR 1981 SC 746

detention and interrogation of individuals without adequate safeguards. The Court, in its judgment, affirmed the primacy of human dignity and the prohibition of torture, ruling that any form of custodial violence violates fundamental rights. This case reaffirmed the judiciary's role as a guardian of constitutional values and set a precedent for protecting the rights of detainees in India.

7. ***Kishore Singh Ravinder Dev v. State of Rajasthan***[67]

In the Kishore Singh Ravinder Dev case, the Supreme Court addressed the issue of custodial violence and the use of torture by law enforcement officials in Rajasthan. The petitioner, Kishore Singh Ravinder Dev, alleged that he was subjected to torture and ill-treatment while in police custody. The Court, in its judgment, condemned the use of torture as a violation of human dignity and directed the state to take measures to prevent such abuses. This case highlighted the need for effective legal remedies and accountability mechanisms to address custodial violence and ensure justice for victims.

8. ***Kumar v. State of Haryana***[68]

Kumar v. State of Haryana is a significant case that addressed the issue of custodial violence and the rights of detainees in the state of Haryana. The petitioner, Kumar, alleged that he was subjected to torture and abuse while in police custody, leading to grievous injuries. The Supreme Court, in its judgment, emphasized the obligation of the state to protect individuals from custodial violence and uphold their fundamental rights. This case underscored the importance of judicial scrutiny and accountability in cases of police misconduct, setting a precedent for ensuring justice for victims of custodial abuse.

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7. CONCLUSION AND SUGGESTIONS

7.1. CONCLUSION

Custodial atrocities in India are a grave violation of human rights and pose significant challenges to the criminal justice system. This critical analysis has examined various aspects related to custodial atrocities, including the abuse of power and authority, lack of accountability and impunity, structural and systemic issues, institutional culture and practices, socio-political factors, inadequate training and resources, overcrowding and understaffing, lack of public awareness and advocacy, violations of fundamental rights, and obligations under international human rights law.

[67] Kishore Singh Ravinder Dev v. State of Rajasthan AIR 1981 SC 625
[68] Kumar v. State of Haryana (1992) 4 SCC 107

Throughout this analysis, it has become evident that custodial atrocities are a complex issue deeply rooted in systemic failures, societal attitudes, and institutional shortcomings. The abuse of power and authority by law enforcement personnel, often fueled by impunity and a lack of accountability, contributes to a culture of violence and human rights violations. Structural and systemic issues, such as the over-reliance on confessions, the use of torture, and the slow judicial process, further exacerbate the problem.

Institutional culture and practices within law enforcement agencies play a significant role in perpetuating custodial atrocities. The prevalence of outdated and discriminatory practices, coupled with a lack of transparency and oversight, undermines the trust between law enforcement and the public. Socio-political factors, including political interference, powerful interest groups, media influence, and public opinion, also impact the prevention and addressing of custodial atrocities.

Inadequate training and resources for law enforcement personnel contribute to a lack of professionalism and adherence to human rights standards. Overcrowding and understaffing in detention facilities create an environment conducive to abuse and neglect. The lack of public awareness and advocacy further hampers efforts to combat custodial atrocities, as it limits the pressure on authorities to take decisive action.

The analysis also explored the violation of various fundamental rights, including the right to life and physical integrity, the prohibition of torture and cruel, inhuman, or degrading treatment, the right to a fair trial and due process, the protection against arbitrary arrest and detention, the right to freedom from discrimination, the right to access to justice and remedies, and the right to humane treatment and prison conditions. Acts and laws related to each of these rights were examined to identify the legal framework in place to address custodial atrocities.

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7.2. SUGGESTIONS

In light of the critical analysis presented in this study on custodial atrocities in India, several suggestions can be proposed to address the challenges and impediments identified. These suggestions aim to strengthen the legal framework, improve institutional mechanisms, promote awareness and reporting, address cultural acceptance of violence, enhance victim support and rehabilitation, combat corruption, and mitigate socio-political influences. By implementing these suggestions, India can work towards preventing and addressing custodial atrocities more effectively.

1. Strengthening the Legal Framework:

- Amend existing acts and laws to explicitly define custodial atrocities, including acts of torture, ill-treatment, and other human rights violations perpetrated by law enforcement officials.
- Establish strict liability for perpetrators of custodial atrocities, ensuring that they cannot evade accountability by claiming obedience to superior orders or lack of knowledge.

2. Improving Institutional Mechanisms:

- Strengthen the independence and capacity of oversight bodies, such as human rights commissions and ombudsman offices, to effectively receive complaints, conduct investigations, and recommend appropriate actions.
- Ensure the impartiality and integrity of internal disciplinary mechanisms within law enforcement agencies to address misconduct and abuse.

3. Promoting Awareness and Reporting:

- Launch public awareness campaigns to educate individuals about their rights, avenues for reporting custodial atrocities, and the importance of speaking out against abuses.
- Establish confidential and secure reporting mechanisms, including hotlines and online platforms, to facilitate reporting while ensuring the safety and protection of whistleblowers.

4. Addressing Cultural Acceptance of Violence:

- Implement targeted initiatives to challenge cultural norms that tolerate or condone violence, particularly within law enforcement agencies.
- Foster community engagement and dialogue to promote non-violent conflict resolution, empathy, and respect for human rights.

5. Enhancing Victim Support and Rehabilitation:

- Establish specialized support units within law enforcement agencies to provide immediate medical care, legal assistance, psychological support, and rehabilitation services to victims of custodial atrocities.
- Ensure victims have access to independent legal aid and representation throughout the legal process.

It is important to note that these suggestions should be implemented in a holistic and coordinated manner, considering the interplay between legal, institutional, societal, and cultural factors. Additionally, continuous monitoring, evaluation, and feedback from affected communities, civil society organizations, and independent monitoring bodies are crucial to assessing the effectiveness of these measures and making necessary adjustments.

By adopting these suggestions, India can make significant strides in combating custodial

atrocities, ensuring the protection of human rights, and establishing a criminal justice system that upholds the principles of fairness, justice, and accountability.

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