

## **Custodial Torture in India: Legal Framework, Judicial Oversight, and Pathways to Reform**

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### **Abstract:**

**Keywords:** Custodial torture, human rights, Indian judiciary, legal framework, police reforms, accountability

**Introduction:** Custodial torture, characterized by the infliction of physical or mental suffering by law enforcement authorities on individuals in their custody, poses a significant threat to the rule of law and diminishes public trust in the justice system. Despite constitutional safeguards and judicial interventions, incidents of custodial violence persist in India. This paper aims to analyze the existing legal framework, highlight the judiciary's role, identify ongoing challenges, and suggest reforms to address this critical issue.

### **Research Objectives**

1. To examine the existing legal framework addressing custodial torture in India.
2. To assess the role of the judiciary in preventing and addressing custodial torture.
3. To identify the ongoing challenges and limitations in preventing custodial torture.
4. To propose comprehensive reforms to ensure accountability and uphold human dignity within the Indian justice system.

### **Research Questions**

1. What are the existing legal provisions and mechanism addressing custodial torture in India?
2. How effective has the judiciary been in preventing and addressing custodial torture?
3. What are the ongoing challenges and limitations in preventing custodial torture in India?
4. What reforms are necessary to ensure accountability and uphold human dignity within the Indian justice system?

## Hypothesis

This study hypothesizes that the existing legal framework and judicial oversight mechanisms are insufficient to prevent custodial torture in India, and that comprehensive reforms are necessary to ensure accountability and uphold human dignity within the Indian justice system.

**Constitutional and Legal Framework:** The Indian Constitution guarantees the right to life and personal liberty under Article 21, which encompasses protection against torture and inhuman treatment. Article 22 provides specific rights to arrest individuals, including being informed of the grounds of arrest and the right to consult legal practitioners. The Bhartiya Nyaya Sanhita criminalizes acts causing hurt or grievous hurt by public servants, aiming to deter custodial misconduct.

**Role of the Judiciary:** The Indian judiciary has played a pivotal role in addressing custodial torture through landmark judgements and guidelines:

- **D. K. Basu vs. State of West Bengal (1997):** The Supreme Court issued directives to prevent custodial violence, including mandatory arrest memos with witness signatures, timely information to a relative or friend about the arrest, conducting medical examinations of the detainee every 48 hours by a qualified doctor, and ensuring the arrestee's access to legal representation during interrogation.
- **Arnesh Kumar vs. State of Bihar (2014):** The Supreme Court has issued guidelines to curb unnecessary arrests and detentions by police officers and Magistrates. In cases involving cognizable offences, the police officer must serve a notice to the accused, directing them to appear before the Magistrate, the officer is required to submit a checklist outlining the reasons for the arrest. The Magistrate shall examine the checklist, and only if satisfied with the jurisdiction provided, may order the detention of the accused.

The Indian Judiciary has actively addressed custodial torture through above landmark judgements and guidelines aimed at curbing such practices. Despite these efforts, recent international cases have highlighted ongoing concerns regarding custodial torture in India.

- For instance, in February 2025, the London High Court ruled against the extradition of Indian businessman Sanjay Bhandari to India, citing the risk of torture or other

mistreatment in Indian custody. The court's decision underscored systematic issues within the Indian justice system, including the use of torture to obtain confessions and the prevalence of violence and extortion in prisons, particularly at New Delhi's Tihar Jail.

- Similarly, the case of Jagtar Singh Johal, a British citizen detained in India since 2017, has drawn international attention. Johal alleges that he was subjected to torture and forced to sign blank confession statements. Despite a UN panel his detention arbitrary in 2022, he continues to face multiple charges that could result in the death penalty.

**Persistent Challenges: Despite constitutional provisions and judicial guidelines, custodial torture continues due to several factors:**

- **Lack of Accountability:** There is often a reluctance to prosecute law enforcement officials accused of misconduct, leading to a culture of impunity.
- **Inadequate Oversight:** Mechanisms to monitor police conduct are either weak or underutilized, failing to deter potential abusers.
- **Public Perception:** A segment of society views harsh police methods as necessary for crime control, indirectly endorsing such practices.

**Recommendations for Reform:** To effectively combat custodial torture, a multifaceted approach is essential:

- **Strengthening Oversight Mechanisms:** Establish independent bodies to investigate allegations of custodial misconduct promptly and impartially.
- **Police Training:** Implement comprehensive training programs emphasizing human rights and ethical interrogation techniques.
- **Legal Reforms:** Enact specific legislation criminalizing torture, aligning domestic laws with international human rights standards.
- **Public Awareness:** Educate citizens about their rights during detention and encourage reporting of abuses without fear of retaliation.

**Conclusion:** Custodial torture is a grave violation of human rights that erodes public confidence in law enforcement agencies. While India's legal framework provides safeguards against such

practices, effective implementation and enforcement remain challenges. Addressing this issue requires a concerted effort from the government, judiciary, law enforcement agencies, and civil society to ensure accountability, uphold human dignity, and strengthen the rule of law.

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