

PREVENTING CUSTODIAL CRIMES IN INDIA: EVALUATING THE ROLE AND ACCOUNTABILITY OF STATE INSTITUTIONS

by

Aryan Verma

LLM (CRIMINOLOGY)

GGSIU (FAIRFIELD INSTITUTE OF MANAGEMENT AND
TECHNOLOGY)

ABSTRACT:

Custodial crimes remain one of the gravest violations of human rights within India's criminal justice system. Despite the constitutional guarantee of life and liberty, incidents of torture, custodial deaths, and abuse persist, often shielded by institutional bias and lack of accountability. This study examines the functioning of state institutions—including the police, magistracy, judiciary, and investigative agencies such as the CB-CID—in addressing custodial crimes. Drawing from case studies in Muzaffarnagar District, the paper highlights systemic shortcomings, the defensive attitude of police personnel, procedural lapses in investigations, and judicial delays that weaken justice delivery. The research underscores the urgent need for police reforms, scientific investigation methods, human rights training, and independent oversight. Strengthening transparency and adherence to the rule of law is essential to restore public faith and ensure justice within custodial frameworks.



Indian Journal of Contemporary
Legal and Social Issues

The concept of the Rule of Law constitutes the cornerstone of democratic governance and serves as the fundamental principle guiding the conduct of all public institutions in India, including custodial institutions such as prisons and police establishments.¹ The Rule of Law mandates that every action of the State must be authorized by law and subject to judicial scrutiny. It ensures that the exercise of power by enforcement agencies remains accountable, transparent, and consistent with constitutional guarantees enshrined under Articles 14, 21, and 22 of the Constitution of India, which collectively safeguard the rights to equality, life, and protection against arbitrary arrest and detention.²

In this context, the State is obligated to initiate appropriate legal processes whenever a custodial death or injury occurs. The Code of Criminal Procedure, 1973 (CrPC) provides a statutory framework for such accountability. Section 174 CrPC imposes a mandatory duty on the officer in charge of a police station to immediately inform and report to the nearest Executive Magistrate any case of suicide, death under suspicious circumstances, or death occurring in police custody. This provision ensures prompt investigation and prevents concealment of facts or manipulation of evidence. The Magistrate is further empowered under Section 176 CrPC to conduct an inquest into the cause of such death, either personally or through a subordinate officer, to ascertain whether the death resulted from foul play, negligence, or misconduct by police personnel.

The magisterial inquest functions as an independent mechanism of oversight, serving to check abuse of power and reinforce public trust in the justice system.³ It operates as a preventive and corrective legal tool ensuring that custodial deaths are not treated as routine occurrences but are subject to impartial scrutiny. The Supreme Court of India has repeatedly emphasized the mandatory nature of magisterial inquiries in cases of custodial death and stressed the need for transparency and public accountability in such proceedings.⁴ However, despite these procedural safeguards, implementation gaps persist due to administrative apathy, delayed reporting, and institutional bias, which often undermine the very spirit of the Rule of Law. Strengthening these

¹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed., Macmillan, 1959.

² Constitution of India, Articles 14, 21 & 22

³ National Human Rights Commission of India, *Guidelines for Magisterial Enquiry in Custodial Deaths and Rape Cases*, NHRC Circular, 2010.

⁴ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416

mechanisms through strict compliance, digital documentation, and independent monitoring can significantly enhance accountability and deter future custodial violations.

Attitude of Police

Police response in relation to the cases of custodial crimes was not positive. Initially, the police have shown co-operative attitude but later they tried to avoid, not maintaining eye contact while interacting, neglecting, telling other fellow about research study or researcher, passing misleading or half information or false and sometimes totally denied the information. Sometimes the police were shouting at researcher and sometimes showing aggressive behaviour and rude behaviours, asking the finding of research study, and asking bribe for furnishing the detailed of the case or part of it.⁵

So far as the commission of custodial crimes in police custody is concerned, the local police often hold a distinct and defensive perspective on the issue. According to them, many allegations of misconduct or prolonged detention arise from misunderstandings of practical constraints faced in the field rather than deliberate disregard of the law. The police frequently justify detaining individuals beyond the prescribed twenty-four-hour period, arguing that such extensions are sometimes unavoidable due to the realities of policing in India. They emphasize that the limited duration of police custody, as provided under law, is often insufficient to conduct a thorough investigation, especially in complex cases involving multiple accused, cross-jurisdictional evidence, or serious offences requiring extensive interrogation and verification.

Moreover, officers highlight the immense workload and administrative burden imposed upon the police force. Apart from their primary responsibility of investigating crimes, the police are simultaneously tasked with maintaining law and order, ensuring security during public events, managing VIP protection duties, handling municipal and regulatory enforcement, and responding to emergencies and communal tensions. These overlapping duties often divert time and manpower away from investigative functions. In many districts, the shortage of personnel and lack of adequate technological and forensic resources further compound the problem, leaving officers overburdened and under pressure to deliver quick results.

⁵ Cohen, S. (2002). "Human Rights and Crimes of the State: The Culture of Denial" *Australian and New Zealand Journal of Criminology* 26(2): 97—115

From this standpoint, the police view custodial practices not as a manifestation of abuse of power but as a reflection of systemic inefficiencies and institutional limitations within the criminal justice framework. They argue that in situations where the investigation is time-sensitive and resources are scarce, custodial extensions are sometimes used as a pragmatic, though legally questionable, measure to ensure that offenders do not evade accountability. However, this justification reveals deeper structural issues—such as inadequate staffing, poor infrastructure, and outdated investigative techniques—which contribute to the persistence of custodial malpractices. Addressing these challenges through organizational reform, modernization of investigative processes, and better resource allocation is therefore essential to reconcile the demands of effective policing with the imperatives of human rights and the rule of law. The police also justified the issue of torture in police custody. They believe that the torture is not routine activity but situational. It depends on the fact and circumstances also viewed regarding use of torture due to discovery of fact and material, confessional statements from suspects and accused, disciplining the wrongdoers in society, public faith, society interest as well as structure problems like non-availability of scientific tools (not even single lie detector is available in the district), lack of time, crime and communal sensitive area, false accusation, public protest, low level of tolerance in society to getting quick result, high ups unwritten orders and political interference⁶.

The police personnel frequently argue that incidents of custodial crimes do not always arise as a direct consequence of torture or deliberate physical assault within custody. They maintain that certain custodial deaths may occur due to natural or circumstantial causes such as pre-existing health conditions, weak physique, cardiac arrest, adverse reactions to prescribed or unprescribed medications, or even suicide by detainees under extreme stress or fear of legal consequences. Moreover, several cases reveal that accused persons are often subjected to public beatings or mob violence prior to being handed over to the police. These injuries, when left untreated or aggravated during custody, can result in death, later attributed to custodial circumstances.

From the perspective of the police, the problem of custodial crimes could be effectively addressed through a comprehensive and multi-dimensional approach. First, there is a need for systematic

⁶ Crime in India, 1995-2007. National Crime Records Bureau, New Delhi: Government of India, Ministry of Home Affairs

training and sensitization programs grounded in custodial management curricula emphasizing human rights, interrogation ethics, and legal safeguards under constitutional and statutory provisions. Second, forensic and scientific tools—such as polygraph examinations, DNA profiling, and digital evidence collection—should be employed to reduce dependence on coercive methods of confession. Third, consistent implementation of National Human Rights Commission (NHRC) and Supreme Court guidelines on arrest, detention, and interrogation, particularly those laid down in *D.K. Basu v. State of West Bengal* (1997) 1 SCC 416, should be ensured through periodic refresher courses and workshops for all levels of law enforcement personnel.

Furthermore, the prevention of custodial crimes requires not only institutional reforms but also broader societal measures that foster respect for the rule of law, human dignity, and accountability within the justice system. A society that values human rights must cultivate legal awareness among citizens, promote civic responsibility, and support mechanisms that discourage both police excesses and public apathy towards custodial violence. Strengthening institutional mechanisms—such as independent oversight committees, custodial monitoring bodies, and human rights commissions—is critical for ensuring transparency and external supervision over police functioning. These institutions can serve as impartial watchdogs, reviewing complaints, conducting inspections, and ensuring that each case of custodial death or torture is thoroughly investigated and documented.

At the same time, providing adequate infrastructural and manpower support to law enforcement agencies is equally important. Chronic understaffing, insufficient facilities, and lack of modern investigative tools place significant pressure on officers, which can result in negligence, frustration, and sometimes abusive behavior. Improving working conditions, rationalizing duty hours, and providing regular mental health support can help reduce stress and enhance professionalism among personnel.

It is also essential to recognize and protect the human rights of police officers themselves. The well-being of law enforcement personnel is intrinsically linked to their ability to uphold the rights of others. When officers operate under adverse conditions—long hours, inadequate rest, political interference, and lack of institutional protection—they are more likely to experience burnout and

resort to coercive practices. Addressing these challenges through welfare schemes, counseling, and fair grievance mechanisms can help cultivate a culture of empathy and restraint within the police force.

Finally, the enactment of a new and comprehensive Police Act has become a pressing necessity. The existing Police Act of 1861, a colonial-era legislation, no longer reflects the ethos of a democratic society committed to justice and human rights. A reformed legal framework should clearly define the role, powers, and accountability of the police, establish independent complaint authorities, and embed principles of transparency, professionalism, and public service. Such a reform would mark a decisive step towards creating a humane, accountable, and rights-based policing system in India—one that not only enforces the law but also embodies the spirit of constitutional morality and justice.

Police inquiry:

Police Inquiry of custodial commission of crime is always suspected by the victim's family members and community at large. It is because the people alleged that police was covering up incidents as if nothing happened within the four walls of custody. First, the police hardly ever accept the incident of custodial crimes⁷. That is the reason for non-registration of the case of custodial crimes easily (Chitwala case which was not registered by police despite ordered by high ups). If it is registered, local police are keeping all the records in secret, avoiding outsiders being secretive about the information of cases, providing misleading or false information and destroy the evidences too. In case of Arope-wala, the police were hurriedly buried his body in the evening time without post mortem and submitted the final report in court mentioned "lack of evidence." In this case, the local police have not revealed even the date of post-mortem despite several efforts made by researcher. Even the case is registered against police alleged custodial crime under the provision of Indian Penal Code. The police know that how to manage victims and witness to weaken the case at this stage for submission of final report to close it. 6 out of 9 cases were handed over to the police inquiry. In 3 cases, the local police have submitted final report to the court due to non-availability of evidence of police highhandedness to close the files (Machine-wala, Dava-wala and Arope-wala). Remaining three cases are pending under investigation to the district

⁷ Darrebdorf, R. 1959. *Class and Class Conflict in Industrial Society*: California: Stanford University Press

Muzaffarnagar Police. This final report of police inquiry works as a shield within department fellow for accused police personnel.

CB-CID Investigation

Investigation by the Crime Branch of Criminal Investigation Department (CBCID) is generally ordered by either court or the government under political and public pressures. The present study found that 2 cases have been handed over to the CBCID, sector office, Meerut, Uttar Pradesh. In both the cases charge sheets have been filed by CBCID against local police personnel of custodial death and disappearances in police custody⁸.

Role of Court

The institution of judiciary at the lower level e.g. District Court plays a vital role in justice delivery system to the victims of crime in general and victims of custodial crimes in particular. Six out of ten cases related with custodial commission of crime in police custody have reached to the different courts in the judicial system of the District Muzaffarnagar since 1999 to 2006.

In two of the cases of custodial deaths, the police had submitted final reports to the honourable Chief Judicial Magistrate Court, District Muzaffarnagar in 2005 and 2006 respectively. However, the victims were not aware of it. They were not even asked by court to raise objections on final reports for further review and revision it to meet justice to the grievance parties (victim's families). The remaining three cases of custodial deaths were pending in the Magisterial and Session courts. Machine-wala case was pending in the court of Chief Judicial Magistrate since 1999, it was only in 2007, the Court rejected the final report of police inquiry and sent it to CBCID for re-investigation of the matter. In case of driver-wala which was investigated and charge sheeted by the CBCID in 2004, the honourable Court could serve only summons to the accused party several times however the compliance of the summons not done properly by authorities concerned. Consequently, all accused have not made their presence in the court of law for session trial. The same situation can be seen in case of Jewellery-wala. The matter was charge sheeted by the Crime Branch Criminal Investigation Department in 2000. Nevertheless, the court committed the matter for trail but the accused have not come in the court of law. The advocate of Jewellery-wala expressed his anguish over dealing o custodial abuse cases by the district judiciary, "Despite a few times the summons from the court have been sent to the accused but no compliance because of kith and kin within the system of justice. And it is happening in a case of Sub-Inspector (accessed),

⁸ Jewellery-wala, 2000 and Deriver-wala, 2004

if it would be in case of DIG/IG, imagine what would happen? Further he said the poor litigants are being revictimized by so called protector of legal justice delivery system. That is why the people are losing faith in the justice system in the country.”⁹

CITED SOURCES

1. I.A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed., Macmillan, 1959.
2. Constitution of India, Articles 14, 21 & 22
3. National Human Rights Commission of India, *Guidelines for Magisterial Enquiry in Custodial Deaths and Rape Cases*, NHRC Circular, 2010.
4. *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416
5. Cohen, S. (2002). "Human Rights and Crimes of the State: The Culture of Denial" *Australian and New Zealand Journal of Criminology* 26(2): 97—115
6. ¹ Crime in India, 1995-2007. National Crime Records Bureau, New Delhi: Government of India, Ministry of Home Affairs
7. Darrebdorf, R. 1959. *Class and Class Conflict in Industrial Society*: California: Stanford University Press
8. Jewellery-wala, 2000 and Deriver-wala, 2004
9. Desai, A.R. 1986(ed.). *Violation of Democratic Rights in India*, Bombay : Popular Dhavan, Rajeev.2001. *Strengthening capabilities: reflecting on the NHRC fifth report (1997-98)*, *Journal of Indian Law Institute* 43(4),.469-99

Indian Journal of Contemporary
Legal and Social Issues

⁹ Desai, A.R. 1986(ed.). *Violation of Democratic Rights in India*, Bombay : Popular Dhavan, Rajeev.2001. *Strengthening capabilities: reflecting on the NHRC fifth report (1997-98)*, *Journal of Indian Law Institute* 43(4),.469-99



Indian Journal of Contemporary
Legal and Social Issues