

## “Concept of Custodial Violence and Human Rights”

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### ABSTRACT

Custodial violence remains one of the most critical human rights concerns, reflecting deep-rooted structural issues within law enforcement and criminal justice systems. It refers to the use of physical or psychological force, intimidation, torture, or abuse inflicted on individuals while in police or judicial custody. This phenomenon persists despite legal safeguards, constitutional protections, and international conventions prohibiting torture and inhumane treatment. Custodial violence often stems from systemic issues such as lack of accountability mechanisms, inadequate training of personnel, institutional biases, and societal acceptance of coercive methods for extracting information or confessions. Victims frequently belong to marginalized or economically vulnerable sections of society, making them more susceptible to wrongful detention, harassment, and abuse with limited access to legal recourse. The consequences of custodial violence are severe, ranging from physical injury and psychological trauma to custodial deaths, which represent the gravest violation of human dignity. While various reforms—such as mandatory arrest guidelines, CCTV surveillance in police stations, judicial monitoring, and human rights sensitization—have been introduced, implementation gaps continue to hinder progress. The reluctance to prosecute law enforcement personnel, fear among victims, and procedural delays further perpetuate a culture of impunity. Strengthening oversight bodies, promoting transparency, ensuring independent investigations, and fostering community-based policing are essential to addressing this issue comprehensively. Ultimately, eliminating custodial violence requires not only legal and institutional reforms but also a shift in attitudes toward humane policing and respect for human rights. This abstract highlights the urgency of addressing custodial violence as a societal and institutional challenge that demands sustained commitment, accountability, and systemic transformation to protect citizens' fundamental rights and restore trust in the justice system.

### 1. Introduction

Regardless of viewpoint, no one contests the value of the criminal justice system to society. People are finally shielded from all significant harm caused to them by human acts by this law.

The main objective of criminal law is to maintain security and stability. Safety, in Bentham's view, is the main objective of the legal system. Law is necessary for security, and equality and material prosperity cannot be upheld in the absence of security. The criminal justice system,

however, differs from other divisions of the law in that it imposes stigmatising punishments on violators of its laws, and convictions are counted as convictions.

The "huge stick" of punishment is used to enforce these standards and secure compliance in order to represent the fundamental societal norms that serve as the foundation of our lives. Only the traditional goals of the state were thought to be acceptable due to the police state ideology that is no longer in effect. The criminal code of today safeguards a person's fundamental rights from any deliberate interference by others.

## **2. Meaning And Definition Of Police, Custody, Custodial Violence And Human Rights**

Pre-trial custody, often known as pre-conviction detention, typically has a legal and police component. Any additional detention must be authorised by a judge and cannot last longer than 15 days overall. Suspects are held in judicial detention in prisons apart from police jails and are permitted entry by a judge while the matter is being looked into or tried. On the basis of a specific court order, only investigative agencies are given access to such offenders who are being held in judicial custody.

In all other situations, the police and other law enforcement organisations like the Narcotics Control Board, the Enforcement Department, the Central Authority for Excise and Customs, and if the offence resulted in death, must file the indictment within 60 days. If so, it needs to be delivered in 90 days. If an indictment is not delivered within the specified time frame, detainees have the right to be released.

Pretrial imprisonment can extend for months or even years, although in some cases, if charges are made in a timely manner, trials must be quick. If the offender is given at least half of the maximum punishment for the offence being tried, bail may be granted under Section 436A of the Criminal Procedure Code. Post-conviction detention, however, necessitates incarceration for the entirety of the term.

### **2.1 Dictionary Meanings**

The terms "cruelty," "brutality," and "injury" are used to characterise the purposeful inflicting of severe bodily or mental suffering in order to punish, collect data, or elicit a confession. Torture and other types of common forms of torture are also included in this category. According to the definition, violence is any action that uses a lot of force or energy while inflicting physical hurt or harm. To torture someone is to subject them to severe suffering as punishment or to coerce them into saying or doing anything. Death follows acts of violence and suffering.

Torture is not defined by the Indian Constitution or any other criminal legislation, nevertheless. The purpose of torture is to inflict pain on the weak in order to make them bow to the strong's will. Society is negatively impacted by it. This crime ranks among the worst ever committed in a nation where the rule of law is upheld, and it poses a significant threat to societal order.

Today, the most repulsive feature of human society is what we refer to as "torture." When a judge gives the criminal justice system custody of an offender, he or she acknowledges that the system has authority over the offender and must use that authority to advance the offender's health. The phrase "custody" implies that protection and surveillance are required. The unpleasant signs of violence while in captivity are not even mentioned when it is used to indicate arrest or imprisonment. Even if it means being detained or arrested, there are no foreboding indicators of violence being captured.

Violence committed when a person is in custody is referred to as "violence in custody," regardless of whether it is legal or not. Subtle or severe types of violence might include beatings, rape, emotional or physical abuse, or even death.

## **2.2 Definition Under Custodial Crimes (Prevention, Protection And Compensation) Bill, 2006**

The Custodial Crimes (Prevention, Protection and Compensation) Bill, 2006 defines custody crimes as "an offence committed against any arrested person or person in custody while that person was in the custody of a police officer or a public servant who has the authority under any law to arrest and detain a person in custody during that period."

## **2.3 The Prevention Of Torture Bill, 2010**

In order to ratify the 1975 United Nations Convention Against Torture, a measure was filed in Parliament (CAT). By defining torture as "severe injury" or a threat to life, limb, or health, the measure seeks to make acts of torture committed while a person is being held in custody unlawful. The bill's definition of "torture" restricts the use of force during interrogation to get a confession, differing from the Criminal Arrest and Torture Act (CAT).

## **2.4 Special Rapporteur On Torture**

Sexual attacks against women in detention include rape, threats of rape, genital groping, nudity stripping, intrusive dressing room searches, and sexual assault, according to the UN Special Rapporteur on Torture (2008). There are frequently other types of sexual assault included as well, such insults. Many governments and societal institutions use harsh beatings and mental torture on people to achieve a variety of objectives, including humiliation.

Violence, which can take three various forms of her: physical, mental, and emotional, is the most frequent technique used to tear and bend an inmate. The majority of individuals reflexively consider some therapies to be improper. Culture may have an impact on others. International processes require proof, not just an opinion, that the incident qualifies as assault or abuse in the context of a prison.

## **2.5 Types Of Cutodial Violence**

To achieve their objectives, the government authorities employ a number of methods to instigate or carry out acts of custodial violence.

## Psychology Torture

The victim's self-assurance and spirits are lowered using the following techniques:

- a) Disinformation and torturous communication techniques that are used on purpose.
- b) By coercion or threats, in which the victim is forced or intimidated into engaging in or witnessing behaviours that cause emotional distress. The sufferer is forced to pick between two terrible possibilities that are physically and mentally agonising, causing the victim to break societal taboos, making them see other victims' pain, etc.
- c) By depriving the victim of basics including food, water, sleep, and access to the bathroom, which results in confusion and disorientation. Sensory deprivation of light and sound, social deprivation brought on by prohibiting visitors from gathering, religious ceremonies from being observed, and imprisonment in solitary confinement, among other things, all affect a victim's sense of time and location.
- d) Pharmacological methods, such as utilising various drugs to aid in torturing a victim, cover up the torment's effects, or both.
- e) Threats and humiliations directed at those who are being held, their family members, or friends.

## Physical Violence

Techniques that result in pain, discomfort, and dysfunction throughout the body are considered physical torture. Not killing the victim is the aim of torture. Additionally, the tormentor makes sure the prisoner is concealed during a routine inspection. The torturers, however, cannot be trained to do their crimes in a way that makes it hard to identify them. Despite precautions, physical abuse always leaves a trace that is eventually found. Because of breakthroughs in medical knowledge, internal damage can still be discovered years after a torture happens.

The common methods used to physically injure or torture captives include the following:

- a) Causing weariness and deformity.
- b) Suffering excruciating pain that causes the afflicted to dread instant death.
- c) Setting the mattresses of the sufferers on a wet floor.
- d) Making the children stand in the heat or in the sun when they are entirely naked.
- e) Cuts and scratches are made on numerous body parts using sharp objects.
- f) Hitting him with anything sharp or forcing him to walk barefoot on a glass or uneven floor.
- g) Twisting or striking the joint might rip its ligaments, causing agonising agony.
- h) Supporting oneself by holding the victim's wrists, feet, or hair. The most frequent hybridizations involve species like falanga, electric shock, heat, and cold.
- i) Twisting or pricking fingers, ears, or hair; ripping out nails; and impairing hearing by simultaneously striking both ears with both hands.
- j) Apply irritants to sensitive areas and open wounds, such as table salt, chilli pepper, etc.

## Sexual Violence

Sexual assault victims face serious social and psychological repercussions. It starts with sexual assault and degrading comments that go against the victim's common sense. It results in rape and sodomy.

## 3. Human Rights

Neither the Indian Constitution nor any UN declarations or treaties provide an official definition of the word "human rights." But these liberties, which we cannot survive without, are typically regarded as being basic to us as humans. These rights are granted to us just for being human. These fundamental human rights have been acknowledged for as long as human civilization has existed.

The Universal Declaration of Human Rights was decisively ratified and proclaimed by the United Nations General Assembly on December 10th, 1948. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights both come into force on January 3, 1976, and on March 23, 1976, respectively, providing the Articles a legal framework. India joined two international treaties on April 10, 1979, after depositing its documents of accession and signing the Universal Declaration of Human Rights.

## 4. Police

Even in the event of natural or man-made calamities, the police can keep the calm of the community by working day and night. The formal and official functions and obligations of the police are set forth through laws and executive orders. The public, however, owes the police a bigger duty. The police, who are the most noticeable part of the government, are available all year and have various responsibilities that are not required by the law. Police battle crime and uphold order using their authority.

Only if they behave morally, legally, and compassionately will they be able to carry out their duties successfully with the assistance and collaboration of the general public. People don't want to engage with the police because of the general perception that they frequently travel abroad to uphold the law. a breach of human rights. When someone is arrested, they have less freedom.

## 5. International Convention On Torture

The scope of the definition is broad as it takes into account both the physical and mental pain or suffering of the victim. However, "pain or suffering merely resulting from inherent or supplemental lawful sanctions" is expressly excluded from the definition.

Under the Convention, "torture" can continue where and within the limits of local law. This means that "legal" torture can continue in countries that have ratified the Convention. Violence committed in custody is a deliberate violation of human dignity. There are many reasons for the increase in violence in prisons of all kinds. When someone is caught and put in jail, they

are treated cruelly to force them to tell the truth. This type of treatment lowers self-esteem, and when the suffering becomes unbearable, prisoners may commit suicide.

Under the pretence of upholding law and order, guardians or guards frequently murder prisoners. This cruel treatment causes the majority of convicts to pass away. Especially if individuals pass away while being held in prison, the police are solely to blame for these tragedies. Prisoners who have been detained or kept in facilities or facilities under the control of law enforcement or prison officials frequently die.

## **6. Custodial Violence: A Human Rights Approach**

Many questions are raised by the idea that deaths and violence committed in institutions are among the worst crimes ever done in human history. Unjustified deaths and other atrocities committed while in detention have an effect on law and order, calm, and community ways of life. Public perceptions of society's safety are impacted by police violence and other crimes.

When horrible crimes are committed frequently, people are more affected. Torturing suspects has been deemed inhumane, demeaning, and cruel by law enforcement, and defendants' human rights have been maintained by courts all around the world. All laws that affect courts should be prohibited. These crimes are conducted within the confines of a police station, prison, or jail when the victim is utterly defenceless under the pretences of "power" and "unity."

A nation's level of civilisation can be determined by the methods utilised to carry out its criminal laws. In recent police investigations, third-degree torture and custodial fatalities have occupied increasing space, and the harm done to individuals in prison is frequently severe.

For inmates, all fundamental rights are upholdable but are constrained by incarceration. A someone dies while they are in the care of the police, a court, or another agency, which is known as a "custodial death." Police personnel who violate someone's human rights can be held accountable because they are a part of the legal system and not above it.

India has a clear history of violating human rights on all fronts. It is absolutely shocking that a state whose responsibility it is to uphold and defend human rights has turned into the main perpetrator. Human rights activists and civil rights organisations have often criticised the federal and state administrations for failing to uphold fundamental rights and human dignity. Nevertheless, despite all of these initiatives, there are still more human rights breaches and more state-sponsored violence, which puts people's lives and liberties in peril.

There is nothing new about police and other legally designated authority breaking the law. Nevertheless, despite all of these initiatives, there are still more human rights breaches and more state-sponsored violence, which puts people's lives and liberties in peril. Police have a lengthy history of breaching the law in our situation. Their success story of not completely honouring human rights carries on to this day. Basic rights and dignity are violated when violence is done when an individual is in detention.

When police go above and above and abuse suspects, inmates, and detainees while they are awaiting trial, the reputation of a civilised nation is damaged. The "khaki" man appears to be above the law as a result of these deeds, and occasionally even appears to be the law itself. The very foundations are being threatened, and entire civilizations risk experiencing consequences that could lead to their near extinction.

The electronic media also raises awareness of these concerns so that the greatest number of people can think about and react to such situations. This puts pressure on the governments and concerned officials to punish the guilty and close any gaps in the law's application that may exist.

Inhumane and unlawful actions, as well as violence in detention, continue to be a concern despite several rules, public awareness of the issue, advancements in education, and major societal gains over time. If every person is to be granted liberty or rights in the genuine spirit of the Constitution, this brutal reality must be removed from our reality. The unalienable rights of all citizens should be respected by everyone, whether they are civil servants or not, and they should never be infringed.

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