

## Interrogation vs. Investigation: A Human Rights Analysis of Police Practices in India

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### Abstract

This study paper analyzes Indian police interrogation and investigation practises in light of constitutional safeguards, domestic legislation, and international human rights duties. The study contrasts lawful investigation—a constitutionally allowed use of state power—with forceful questioning, which often leads to torture and custodial brutality. The paper analyzes data from the National Human Rights Commission (NHRC), National Crime Records Bureau (NCRB), Global Torture Index 2024, and US Department of State Country Reports 2024 using doctrinal, empirical, and comparative methods. India had 2,739 custodial fatalities in 2024, up from 2,400 in 2023, with prisons at 131.4% full. Compliance with CCTV installation laws such the D.K. Basu guidelines (1996) and Paramvir Singh Saini order (2020) is low. Despite 345 custodial death investigations, no convictions occurred between 2018 and 2022. Procedures have been streamlined under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), however police custody problems remain. The document advocates ratification of UNCAT, passage of a single anti-torture law, and institutional accountability reform.

**Keywords:** Interrogation, Investigation, Custodial Torture, Human Rights, NHRC, BNSS, Police Accountability, Article 21, D.K. Basu Guidelines, UNCAT.

### 1. Introduction

India's criminal justice system is unusual because it has to find a balance between the state's authority to force people to do things and the rights of its inhabitants. The police system is at the center of this tension, especially the two processes of inquiry and questioning. Investigation is the organized collection of facts, evidence, and information to find out if a crime has been committed and who is to blame. Interrogation, on the other hand, is the targeted questioning of suspects, witnesses, or people who are accused. The two processes are connected, but they are not the same under the law or the Constitution. In principle, both are regulated by a comprehensive system of constitutional guarantees, statutory protections, and Supreme Court directives. In reality, though, there is a lot of strong and well-documented proof that the boundary between legal questioning and custodial torture is often crossed in India. The National Human Rights Commission (NHRC) said that 2,739 people died in custody in 2024, up from about 2,400 in 2023. This is a worrying and steady rise. The World Organization Against Torture (OMCT) published the Global Torture Index 2024, which placed India in the "high risk" category for systemic torture and custodial brutality. India was rated high risk on six of the seven thematic pillars. In 2023, the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinyam (BSA) replaced the Indian Penal Code, the Code of Criminal Procedure, and the Indian Evidence Act. This was a big change in the law. Nonetheless, the efficacy of these measures in addressing human rights violations in correctional environments is subject to rigorous academic examination. This article aims to conduct a thorough human rights analysis of police interrogation and investigation methods in India, scrutinizing the disparity between statutory legislation and its implementation, and suggesting a framework for a rights-oriented, evidence-based policing model.

#### 1.1 Problem Statement

India does not have a comprehensive statute that makes torture a crime, has not joined the United Nations Convention Against Torture (UNCAT), and has a very low conviction rate in incidents of custodial assault. There is a lack of laws, and institutions are not held accountable, and there are not enough ways to keep an eye on things. This makes it possible for forceful questioning to continue without punishment. The issue is exacerbated by the systemic

vulnerabilities of marginalized communities—Dalits, Adivasis, Muslims, and the impoverished—who disproportionately endure custodial abuse.

## 1.2 Objectives

(i) To analytically differentiate between investigation and interrogation within the Indian legal framework; (ii) To evaluate the constitutional and statutory protections for individuals in police custody; (iii) To empirically analyze data regarding custodial deaths, torture, and failures of accountability; (iv) To assess the human rights ramifications of the BNSS 2023.

## 2. Methodology

The current study employs a doctrinal, empirical, and comparative research methodology. The doctrinal aspect is a critical analysis of constitutional provisions, statute enactments, Supreme Court rulings, and international human rights instruments that regulate police authority and custodial rights in India. The empirical part uses secondary data from reliable and verifiable databases like the National Human Rights Commission Annual Reports, the National Crime Records Bureau Prison Statistics, the United States Department of State Country Reports on Human Rights Practices (2024), OMCT's Global Torture Index 2024, and the National Campaign against Torture (NCAT) reports. The comparative aspect evaluates India's policies against global norms and standards set by UNCAT and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988). The study intentionally refrains from duplicating data between parts. All of the tables in Section 5 come from different main datasets and cover different thematic areas of the subject. The article adheres to the UGC-prescribed format for PhD research papers, encompassing organized headings, data tables with source citations, footnoted references, and a comprehensive bibliography.

## 3. Conceptual Difference: Investigation Vs. Interrogation

### 3.1 Investigation: Legal Definition and Scope

The old Code of Criminal Procedure, 1973 (CrPC), Section 2(h) defined "investigation" as all actions taken under the Code to gather evidence by a police officer or anyone else who was given permission by a Magistrate. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) keeps the main idea of this definition while adding digital and forensic improvements. An investigation is an objective, evidence-based process that includes looking at crime sites, taking witness statements under Section 180 BNSS (previously Section 161 CrPC), searching and seizing, and making a charge sheet.

One important part of an investigation is that it doesn't try to induce a suspect to confess. The goal is to collect independent, verified evidence that is strong enough to prove the corpus delicti and the identification of the person who did it. Article 20(3) of the Constitution protects people from being forced to testify against themselves during an investigation. Section 25 of the Indian Evidence Act (now Section 22 of the Bharatiya Sakshya Adhinyam, 2023) makes it clear that any statement made to a police officer cannot be used as evidence in court.

### 3.2 Interrogation: Legal Framework and Human Rights Issues

Interrogation is the organized questioning of a suspect, accused, or person of interest in order to get information that is useful to the investigation. Interrogation is fundamentally coercive, unlike investigation. The person being questioned is in a vulnerable situation because they are physically restricted in a police station, cut off from their family and lawyer, and under the psychological pressure of authority.

Section 180 BNSS (previously Section 161 CrPC) sets the rules for interrogations. It says that everyone who is questioned by the police must tell the truth, although they cannot be forced to answer questions that could lead to criminal charges or penalties. Article 20(3) of the Constitution gives this right. But in real life, inquiry often becomes coercion. In India, recorded methods of third-degree interrogation include beatings, electric shocks, forced stress positions, sleep deprivation, sexual abuse, psychological torture (including simulated executions), and

denial of food, drink, and medical treatment. These actions go against Articles 14, 20(3), and 21 of the Constitution, the D.K. Basu guidelines, the UN Convention against Torture, and the Universal Declaration of Human Rights.

### 3.3 The Coercion Threshold: When Interrogation Turns into Torture

International law defines the line between acceptable questioning and illegal torture by the severity, intent, and purpose of the pain caused. Article 1 of UNCAT states that torture is any action that intentionally causes significant pain or suffering, either physical or mental, to a person in order to get a confession, punish them, scare them, or force them to do something. The Indian Supreme Court mostly accepted this concept in *Selvi v. State of Karnataka* (2010), when a three-judge panel ruled that narco-analysis, brain mapping, and polygraph testing, if done without agreement, break Articles 20(3) and 21.

## 4. Legal and Constitutional Framework

**Provisions in the Constitution** The Indian Constitution has many levels of protection for those who are in police custody. Article 21 protects the right to life and personal freedom. The Supreme Court has said many times that this includes the right to not be tortured and to be treated with respect while in jail. Article 20(3) gives people complete protection against self-incrimination, making forced confessions unconstitutional. Article 22 says that no one can be held in custody without being told why they were arrested, that they can't be refused the right to talk to a lawyer of their choice, and that they must be brought before a Magistrate within 24 hours.

**Legal Protections** There are many laws that protect people in police custody and during questioning. Section 36(1) of the BNSS 2023 says that everyone who is arrested must be told why they are being arrested. Section 38 says that you have the right to talk to a lawyer of your choice during questioning. Section 48 says that relatives or friends must be told when someone is arrested. Section 53 gives you the right to ask for a medical exam. Section 56 says that a custody memo must be written up when someone is arrested. Section 58 says that production must happen in front of a Magistrate within 24 hours. Section 120 of the Bharatiya Nyaya Sanhita (BNS) 2023 makes it a crime for a public servant to injure someone on purpose to get a confession. Under Section 22 of the Bharatiya Sakshya Adhinyam (BSA) 2023, any confession made to a police officer is not allowed. Under Section 23, any confession gained by threat, promise, or incentive is also not allowed. When taken collectively, these rules make a strong paper framework, but the main point of this paper is that they aren't being followed.

**D.K. Basu Guidelines (1996)** In *D.K. Basu v. State of West Bengal* (AIR 1997 SC 610), the Supreme Court established eleven obligatory rules for arrest and detention that continue to underpin anti-custodial-torture law. These include rules that say the police must: show visible identification badges when they arrest someone; write down the arrest in a memo that the arrestee and a witness must sign; tell a friend or family member about the arrest; let the arrestee see a doctor every 48 hours; keep records of all arrests in registers at every police station; and let the arrestee's lawyer be there during questioning. If the official doesn't comply, they could be found in contempt of court. The Court told the police to follow these rules in the BNSS period as well in 2015.

**Order of Paramvir Singh Saini (2020)** In the case of *Paramvir Singh Saini v. Baljit Singh* (2020), the Supreme Court ordered that all police stations and offices of central investigating agencies, such as the CBI, NIA, ED, NCB, and DRI, must have CCTV cameras and recording devices. The decree was meant to employ technology to stop custodial mistreatment. The Supreme Court was worried about this in 2024, but compliance with this order is still very low. For example, Rajasthan reported eleven custody fatalities in eight months notwithstanding the ruling.

## 5. Data Analysis and Interpretation

This part shows original data analysis from reliable government and intergovernmental

sources. Each table looks at a different aspect of police accountability, custodial rights, and human rights compliance in India. Data has been meticulously curated to prevent redundancy and facilitate multi-dimensional analysis.

### 5.1 Deaths in Indian custody: Year-by-year trend (2018–2024)

Table 1 shows the number of custodial deaths reported to the NHRC each year, broken down by kind of custody. The data shows that the number of custody deaths has been steadily rising since 2022, with a big 14% jump from 2023 to 2024.

**Table 1: Year-wise Custodial Deaths in India (2018–2024)**

Year	Police Custody Deaths	Judicial Custody Deaths	Total Custodial Deaths	NHRC Compensation Cases
2018–19	112	1,639	1,751	197
2019–20	119	1,584	1,703	203
2020–21	100	1,504	1,604	188
2021–22	125	1,606	1,731	210
2022–23	Approx. 150*	Approx. 2,250*	Approx. 2,400	224
2023–24	160	2,346	2,506	231
2024	155	2,584	2,739	N/A

Source: NHRC Annual Reports; Global Torture Index 2024 (OMCT); Lok Sabha Unstarred Question No. 2116, July 2022. \*Approximate figures based on Ministry of Home Affairs data cited in Lok Sabha. N/A: Annual data not yet published.

### 5.2 State-wise Distribution of Custodial Deaths (2018–2023)

Table 2 shows state-by-state information on deaths in custody that was put together from NHRC reports and Lok Sabha Q&A sessions. Uttar Pradesh always has the most, followed by Maharashtra, West Bengal, and Tamil Nadu. This distribution shows that the problem is widespread and systematic, not just in one area.

**Table 2: State-wise Distribution of Custodial Deaths in India (2018–2023)**

State	Police Custody Deaths (2018–23)	Judicial Custody Deaths (2018–23)	Total	% of National Total
Uttar Pradesh	98	2,187	2,285	18.2%
Maharashtra	72	1,934	2,006	16.0%
West Bengal	89	1,721	1,810	14.4%
Tamil Nadu	61	1,503	1,564	12.5%
Gujarat	44	987	1,031	8.2%
Rajasthan	38	896	934	7.4%
Bihar	32	811	843	6.7%
Madhya Pradesh	29	746	775	6.2%
All Other States	71	2,231	2,302	18.4%

Source: NHRC Reports; Lok Sabha Unstarred Question responses (2022–23); NCAT Annual Report 2023. Note: Data compiled from multiple years may have minor overlaps in reporting periods across states.

### 5.3 Accountability Metrics: Inquiries, Arrests, Chargesheets, and Convictions

Table 3 presents the most significant data point for understanding the systemic nature of custodial torture in India: the criminal justice system's near-complete failure to prosecute officials responsible for custodial violence. The data demonstrates that while hundreds of inquiries are initiated, the funnel of accountability narrows dramatically at each stage, culminating in effectively zero convictions over a five-year period.

**Table 3: Accountability Metrics for Custodial Deaths in India (2017–2022)**

Stage of Accountability	Number (2017–2022)	% of Reported Cases	Observations
Custodial Deaths Reported (Total)	4,484*	100%	Includes judicial & police custody
Judicial Inquiries Ordered	345	7.7%	Under Sec. 176(1A) CrPC
FIRs/Cases Registered	~200	4.5%	Many cases not registered
Arrests of Police Officers	123	2.7%	Often released on bail quickly
Chargesheets Filed	79	1.8%	Many cases go unchargesheeted
Trials Completed	~25	0.56%	Prolonged trial delays common
Convictions Secured	0	0%	Zero convictions in this period
NHRC Compensation Recommended	201	4.5%	Advisory, not binding
Disciplinary Action Taken	1	0.02%	Only 1 disciplinary action in 5 years

Source: Drishti IAS (citing NHRC & MHA data); OMCT Statement on Daud Seikh (May 2024); PRS Legislative Research; \*4,484 figure from Lok Sabha MHA response (July 2022) for FY 2020–2022.

### 5.4 Constitutional and Statutory Safeguards: Law vs. Practice

Table 4 presents a compliance audit of key constitutional and statutory safeguards against custodial abuse, comparing the legal mandate with documented practice and compliance levels based on field reports, NHRC findings, and independent research.

**Table 4: Constitutional Safeguards vs. Implementation: A Compliance Audit**

Safeguard / Right	Legal Source	Mandate	Compliance Level	Key Gaps Identified
Inform grounds of arrest	Art. 22(1), S.36 BNSS	Mandatory, at arrest	Partial	Often delayed or vague
Produce before Magistrate within 24 hrs	Art. 22(2), S.58 BNSS	Mandatory	Moderate	Informal pre-FIR detention common

Safeguard / Right	Legal Source	Mandate	Compliance Level	Key Gaps Identified
Right to legal counsel during interrogation	S.38 BNSS, Art.22(1)	Mandatory	Low	Rarely ensured; indigent accused denied
Arrest memo with witness signature	D.K. Basu Guidelines	Mandatory	Low	Frequently skipped or backdated
Notify family of arrest	S.48 BNSS	Mandatory	Low-Moderate	Often delayed, especially for migrants
CCTV in all police stations	Paramvir Singh Saini (2020)	SC Mandatory Order	Very Low	Many states non-compliant (2024)
Medical examination every 48 hours	D.K. Basu, S.53 BNSS	Mandatory	Low	Perfunctory or absent in many stations
Prohibition of forced confession	Art.20(3), S.22 BSA	Constitutional Absolute	Partial	Forced confessions widely reported
Registration of FIR against police	Sec. 154 CrPC/BNSS	Mandatory on complaint	Very Low	Systemic reluctance to register FIRs against police

Source: Compiled from NHRC recommendations; OMCT Global Torture Index 2024; US State Department Country Report on Human Rights – India (2024); Supreme Court orders; independent field reports by MASUM and People's Watch.

### 5.5 India's Prison Conditions and Overcrowding Data (2019–2022)

**Table 5: India's Prison Conditions and Overcrowding: Key Statistics (2019–2022)**

Indicator	2019	2020	2021	2022
Total Prison Population	4,78,600	4,88,511	5,54,034	5,73,220
Sanctioned Capacity	4,03,739	4,03,739	4,25,609	4,36,266
Occupancy Rate (%)	118.5%	121.0%	130.2%	131.4%
Deaths in Judicial Custody	1,775	1,740	1,604	1,995
Unnatural Deaths in Custody	135	128	112	159
Undertrial Prisoners (% of total)	69.1%	75.6%	76.1%	75.8%
Prisoners per Medical Officer	N/A	N/A	N/A	~650:1

Source: National Crime Records Bureau, Prison Statistics India (2019, 2020, 2021, 2022); Global Torture Index 2024.

### 5.6 International Comparison: India vs. Selected Democracies on Anti-Torture Framework

Table 6 compares India's anti-torture law to chosen countries to highlight its international commitments and legislative inadequacies.

**Table 6: Comparative Analysis: Anti-Torture Framework – India vs. Selected Democracies**

Country	UNCAT Ratified?	Standalone Torture Law?	Independent Police Oversight?	Avg. Conviction Rate (Custodial)	Global Torture Index 2024 Risk
India	Signed 1997, Not Ratified	No	Weak/Advisory (NHRC)	~0%	High Risk
United Kingdom	Yes (1988)	Yes (Criminal Justice Act)	IOPC (Independent)	Moderate	Low Risk
Germany	Yes (1990)	Yes (S.340 StGB)	Independent Prosecutors	Moderate-High	Low Risk
South Africa	Yes (1998)	Yes (Prevention of Torture Act)	IPID (Statutory)	Low-Moderate	Medium Risk
Brazil	Yes (1989)	Yes (Lei 9.455/1997)	Limited Oversight	Very Low	High Risk
Australia	Yes (1989)	Yes (Criminal Code)	ACLEI (Statutory)	Moderate	Low Risk

Source: UN Treaty Collection; OMCT Global Torture Index 2024; Amnesty International Reports; Law Commission of India 273rd Report (2017). IOPC: Independent Office for Police Conduct; IPID: Independent Police Investigative Directorate; ACLEI: Australian Commission for Law Enforcement Integrity.

### 5.7 Complaints against Police: NHRC Data and Disposal Rates (2020–2024)

In Table 7, the NHRC's number and disposition of police conduct human rights complaints show the huge gap between complaints filed and substantive remedies given.

**Table 7: NHRC: Complaints Against Police and Disposal (2020–2024)**

Year	Complaints Received (Police)	Cases Taken Up	Cases Disposed	Compensation Awarded (Rs. Crore)	Cases Forwarded to State Govt.
2020–21	82,765	12,134	11,980	5.84	9,240
2021–22	87,402	13,291	12,894	6.12	10,102
2022–23	90,813	14,019	13,721	6.89	10,891
2023–24	93,146	15,217	14,803	7.21	11,342

Source: NHRC Annual Reports 2020–21 to 2023–24. Note: 'Complaints Received (Police)' includes all human rights violation complaints against police, not exclusively custodial deaths.

## 6. Case Laws and Judicial Pronouncements

**Foundational Cases:** Nilabati Behera v. State of Orissa (AIR 1993 SC 1960): The Supreme Court awarded Rs. 1,50,000 for a custodial death, creating an Article 32 constitutional remedy separate from the tortious claim under private law. The Court found the state strictly liable for officer fundamental rights violations. This case established compensatory custodial death law. D.K. Basu v. State of West Bengal (AIR 1997 SC 610): This historic decision established

mandatory procedural safeguards upon arrest and detention. Custodial violence is one of the greatest human rights breaches, and the Court imposed eleven mandatory standards that constitute contempt of court. The rules were meant to operationalize constitutional rights in police work. *Selvi v. State of Karnataka* (2010) 7 SCC 263: A constitutional bench unanimously found involuntary narco-analysis, BEOSP/brain mapping, and polygraph testing violate Article 20(3) and Article 21. The case established that the right against self-incrimination applies to all involuntary extraction of material from the accused's thinking, not just statements. The Supreme Court mandated CCTV installation in all police stations and investigating agencies to deter custodial torture. The Court mandated quarterly compliance reports and High Court committee monitoring.

**Recent Developments (2022–2024):** In 2024, the Supreme Court voiced worry over the Paramvir Singh Saini order's improper implementation, citing eleven Rajasthan custodial fatalities in eight months. In 2024, the Court reiterated the *Selvi* verdict on DNA evidence collection, ruling that invasive procedures without consent are still prohibited. The Poonch incident (2024), in which three civilians were tortured to death by army soldiers in Jammu and Kashmir, and the subsequent court of inquiry showed that security forces have impunity under AFSPA.

## 7. International Human Rights Framework

### UN Convention against Torture (UNCAT)

Despite the Law Commission of India's 273rd Report (2017) and 31 countries' calls for ratification during India's Universal Periodic Review in 2023, India has not ratified UNCAT since 14 October 1997. Non-ratification implies India is not legally bound by UNCAT's duties to criminalize torture, establish jurisdiction over perpetrators, compensate victims, and subject to monitoring. India's poor custodial rights record is used by various countries to refuse extradition, generating international law enforcement cooperation issues.

### International Covenant on Civil and Political Rights (ICCPR)

ICCPR ratification by India in 1979. The ICCPR outlaws torture and inhumane treatment or punishment in Article 7. Article 9 protects personal liberty and prevents arbitrary arrest. Article 14 assures a fair trial. Custodial torture, forced confessions, protracted pre-trial detention (75.8% of prisoners were undertrials in 2022), and legal assistance refusal hinder India's compliance with these responsibilities.

### UN Detention Principles, 1988

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment sets basic detainee treatment standards. Key principles are Principle 21, forbidding extended incommunicado confinement, Principle 23, ensuring family communication, and Principle 31, permitting inspector visits. The systematic use of incommunicado detention in police custody in various states shows India's insufficient compliance with these norms.

### GTI 2024 Assessment

The OMCT's Global Torture Index 2024, based on 2023 and 2024 data, rated India 'high risk' on six of its seven thematic pillars. The index found systematic targeting of Dalits, Adivasis, Muslims, LGBTQIA+ people, and migrant workers. It highlighted India's failure to pass anti-torture legislation, UAPA's detention of human rights defenders, and police and paramilitary forces' institutional impunity. In March 2024, the Global Alliance of National Human Rights Institutions (GANHRI) proposed lowering India's NHRC from 'A' to 'B' due to limited independence and police participation in investigations.

## 8. Critical Analysis: BNSS 2023 and Human Rights Implications

### Progressive Provisions

Several sections in the Bharatiya Nagarik Suraksha Sanhita 2023 could improve custodial rights protection. These include mandatory video recording of arrests under Section 56,

electronic intimation to family under Section 48, mandatory forensic investigation for offences carrying seven years or more imprisonment, the right of female officers to record statements of female accused or victims under Section 180(3), expanded immunity from compulsory police station attendance for elderly, women, disabled, and acutely ill persons, and enhanced investigative timelines.

### Issues and Criticism

Despite these gains, numerous BNSS laws have been criticized for violating human rights. Sections 187–190 authorize up to 15 days of police custody in instalments over 40 to 60 days, extending custodial powers outside the CrPC framework and increasing the danger of occasional abuse without court monitoring. Handcuffs are allowed in economic offenses, organized crime, and some categories under Section 43(3), despite Supreme Court rulings against regular handcuffing. Anticipatory bail is limited compared to CrPC, reducing pre-arrest protection for custodial abuse victims.

The BNSS fails to address the most important legislative gap—the lack of a torture law. BNS Section 120's provision for intentional infliction of hurt to extort confessions is a step forward, but it does not criminalize torture and cruel, inhuman, and degrading treatment as provided by international law or establish independent mechanisms for investigation, prosecution, or compensation.

### 9. Findings and Discussion

The data and analysis presented in this paper support the following key findings:

- 1: India demonstrates a persistent and worsening pattern of custodial deaths. With 2,739 custodial deaths in 2024—a 14.1% increase over 2023—and over 11,650 such deaths between 2016 and 2022, the data confirms that custodial violence is not aberrational but systemic.
- 2: The accountability deficit is total and structurally embedded. Zero convictions were secured between 2017 and 2022 despite 4,484 reported custodial deaths. Only 1 disciplinary action was taken—representing a 0.02% accountability rate. This is not a matter of isolated institutional failure but reflects a deeply embedded 'brotherhood' culture and the absence of independent, empowered oversight.
- 3: Marginalised communities bear a disproportionate burden of custodial violence. Dalits, Adivasis, Muslims, and the poor, who are overrepresented among undertrials (constituting 75.8% of the prison population), face the highest risk of custodial abuse. This reflects structural discrimination in the exercise of police powers.
- 4: Prison overcrowding amplifies custodial rights violations. With Indian prisons operating at 131.4% capacity as of 2022, and 159 unnatural deaths in judicial custody in that year alone, overcrowding creates conditions that directly contribute to custodial mortality and torture.
- 5: The NHRC, constrained by advisory-only powers and susceptibility to police interference, cannot serve as an effective accountability mechanism. The GANHRI recommendation to downgrade NHRC status reflects this institutional inadequacy at the global level.
- 6: India's non-ratification of UNCAT represents a significant international human rights compliance gap. It creates legal and practical barriers to extradition and shields perpetrators from international scrutiny. Combined with the absence of a standalone torture law, it generates a legislative vacuum that sustains impunity.

### 10. Recommendations

**Legislative Reforms:** Immediately ratify UNCAT and pass a thorough Prevention of Torture Act that meets international standards. The Law Commission's 273rd Report (2017) provides a legislative framework. (ii) Define 'torture' and 'custodial violence' in statute, and provide mandatory prosecution for custodial fatalities. (iii) Amend BNSS to limit police custody extensions (15 days in instalments over 60–90 days) and need more judicial scrutiny. (iv) Strengthen anticipatory bail to protect pre-arrest custodial abuse victims.

**Institutional Reforms** (i) Authorize NHRC and SHRCs to prosecute offenders and execute

reparation orders. (ii) Create a nationwide Independent Police Accountability Commission (IPAC) with investigation and prosecution powers, staffed by retired judges and independent civil society representatives. (iii) Require CCTV installation to comply with the Paramvir Singh Saini ruling within a set timeframe with severe penalties. (iv) Establish a required, publicly accessible, real-time digital register of arrests and custodial fatalities updated every six hours.

### **Training and Procedure Reforms**

Require police officers to get human rights training, emphasizing scientific inquiry methods over forceful interrogation. (ii) Establish state-level custodial rights monitors to visit police stations and prison institutions unannounced. (iii) Create fast-track courts for custodial violence with deadlines for investigations and trials. (iv) Create and implement a rights-based questioning protocol based on the UK PEACE model and HIG research standards.

**Community/Victim Support:** (i) Create a comprehensive Victim and Witness Protection Law that provides relocation, financial help, and legal aid to custodial abuse victims. Establish civil society-represented district community monitoring committees. (ii) Expand legal help for Dalits, Adivasis, Muslims, and the poor, who are especially vulnerable to custodial mistreatment.

### **11. Conclusion**

This article shows how institutional culture, legislative loopholes, and accountability weaknesses impair the constitutional promise of dignity, liberty, and protection against torture in the criminal justice system. The gap between India's strong constitution and custodial violence is a human rights concern. The statistics is clear: 2,739 custodial deaths in 2024, zero convictions for custodial violence between 2017 and 2022, 131.4% jail capacity, and 'high risk' on six of seven Global Torture Index 2024 pillars. These numbers depict the deaths, suffering, and broken lives of real people, mostly from marginalized Indian society. The BNSS 2023 modernizes procedures but does not address the structural causes of custodial torture: the lack of an anti-torture statute, UNCAT's non-ratification, the NHRC's advisory-only powers, and police impunity. A thorough reform must include legislation, institutions, training, community oversight, and victim support. India's democracy and goal of being a global rule-of-law model rest on its capacity to protect the rights of all police detainees. The route forward is well-mapped—only political will is needed.

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