A Critical Analysis on Police Brutality and Accountability Mechanisms Against SC/ST Communities

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ABSTRACT

Police brutality in India has become a chronic human rights issue, especially against marginalized Scheduled Castes (SCs) and Scheduled Tribes (STs). Even with stringent constitutional protections under Articles 14, 15, 17, and 21, and statutory safeguards under the SC/ST (PoA) Act, 1989, and the new criminal laws, custodial violence persists on an institutionalized basis. Reports of the National Human Rights Commission and National Crime Records Bureau (NCRB) continued to record high numbers of custodial deaths, and these were disproportionately Dalit and Adivasi. Judgments like D.K. Basu v. State of West Bengal and Nilabati Behera v. State of Orissa have expounded protection against custodial torture, but gaps in implementation remain. Oversight mechanisms including the NHRC, State Human Rights Commissions (SHRCs), and Police Complaints Authorities (PCAs) have been weakened by lack of binding powers and political interference.

This paper undertakes a doctrinal and analytical examination of the legal framework governing police brutality and violence in custody, specifically pertaining to SC/ST communities. It examines the gap between the law and reality, bringing to light systemic injustices that support impunity as well as ingrained caste prejudice. Based on a review of Indian statutes, court rulings, and international comparisons, the study emphasizes the need for comprehensive reforms, from anti-torture legislation to more efficient independent oversight. The research concludes by stating that constitutional safeguards will be mere ideals and not legally enforceable rights until India tackles the caste context of custodial violence and strengthens its accountability institutions.

Keywords: Police brutality; Custodial violence; SC/ST; Constitutional safeguards; Accountability mechanisms; Human rights; Caste discrimination.

1. INTRODUCTION AND RESEARCH FRAMEWORK

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1.1 Introduction

The acts of police brutality in India can arguably be viewed as the worst version of state violence and is entirely contrary to the equality, dignity, and freedom that are ensured by the constitution. Although Scheduled Castes and Scheduled Tribes are relatively a higher victim of systemic exclusion and deep-rooted caste hierarchies, all citizens can become the victims of custodial abuse. Cases of torture and deaths in custody and arbitrary arrests provide serious questions on the effectiveness of the constitutional and statutory protections in India by exposing inherent bias in policing practices in the country.[2]

The Constitution ensures equality in the eyes of the law (Article 14), non-discrimination (Article 15), and elimination of untouchability (Article 17) and protection of personal life and liberty (Article 21).[3] To reinforce these assurances, the SC/ST (Prevention of Atrocities) Act, 1989 aims at preventing atrocities of caste, such as custodial torture.[4] Nevertheless, based on the empirical data, Dalits and Adivasis continue to be one of the most frequent targets of custodial torture and killings.

This systemic crisis is backed up by official data. In 202122, the National Human Rights Commission (NHRC) recorded 2,152 deaths on judicial custody and 155 deaths on police custody .[5] Out of 4,448 deaths due to custody that were recorded by the National Crime Records Bureau (NCRB) in 2020 - 2022, more than 952 were recorded in Uttar Pradesh alone.[6] However, no one is held accountable: 345 magisterial inquiries were initiated between 2017 and 2022, and 123 people were arrested, 79 were charged, and none found guilty.[7] Powerlessness is subtended by socio-economic weaknesses, statistics show that 71 percent of the deaths in custody were of the poor or marginalized individuals between 1996 and 2018, according to the NHRC data analysis (2018).[8]

[2] Usha Ramanathan, Custodial Violence and the Failure of Accountability in India, 37 Econ. & Pol. Wkly. 4159 (2002).
[3] INDIA CONST. arts. 14, 15, 17, 21.
[4] Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, INDIA CODE (1989).
[5] Nat'l Hum. Rts. Comm'n, Annual Report 2021–22 (2023).
[6] Nat'l Crime Records Bureau, Crime in India 2022 (2023).
[7] The Hindu, Low Convictions in Custodial Death Cases: Report (Jan. 15, 2023).
[8] Nat'l Hum. Rts. Comm'n, Custodial Deaths: Analysis 1996–2018 (2019).

Incursions by courts have set up great normative pillars. In the case of D.K. Basu the Supreme Court mandated protection of detention and arrest.[9] In Nilabati Behera v. The Court in State of Orissa found state liability and compensation on a custodial death.[10] These safeguards are, however, still weakened by the enforcement. There are documented regular trends of custodial torture, discriminatory policing, and registration refusal of the First Information Reports (FIRs) against the victims of SC/ST by civil society organizations, such as Human Rights Watch, Amnesty International, and National Campaign on Dalit Human Rights (NCDHR).[11]

Such failures are also a tarnishment of the international obligations of India. Although it has ratified the United Nations Covenant on Civil and Political Rights and the UN Convention against Torture (UNCAT) India still lacks a strong anti-torture law.[12] Caste discrimination, lack of control, and political indifference are all factors contributing to the institutionalization of custodial violence as is the case when there is a gap between the constitutional guarantees and the actual situation.

1.2 Statement of Problem

Though the constitution provides guarantees of equality, dignity, and non-discrimination, the Scheduled Castes (SCs) and Scheduled Tribes (STs) continue to suffer unproportional cases of police brutality in India. Custodial torture, extra judicial execution, arbitrary arrest, and caste-based humiliation are not just single incidences but a constant pattern that is reported by the National Human Rights Commission (NHRC), the Law Commission of India, and by civil societies groups, such as Amnesty International and the Human Rights Watch. Though there are legislative systems like the SC/ST (Prevention of Atrocities) Act, 1989, and the new law reforms presented in the form of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA), that are aimed at protection, their efficacy is tainted by the question of ineffective implementation. Other oversight bodies such as the NHRC, State Human Rights Commissions (SHRCs), Police Complaints Authorities and the special courts usually lack independence, enforcement ability and access by marginalized victims. Impunity is further ingrained through political interference

[9] D.K. Basu v. State of W.B., (1997) 1 S.C.C. 416 (India).
[10] Nilabati Behera v. State of Orissa, (1993) 2 S.C.C. 746 (India).
[11] Amnesty Int'l, Torture in 2020 Report: India (2021); Human Rights Watch, Bound by Brotherhood: India's Failure to End Custodial Violence (2016); Nat'l Campaign on Dalit Human Rights, Dalit Human Rights Documentation Report (2019).
[12] U.N. Treaty Collection, Status of Treaties: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2023).

and the delays in the procedure as well as prejudice on the basis of caste. Such failure on a systemic level underlines the necessity to critically analyze accountability mechanisms and reforms in order to ensure that the SC/ST communities gain real protection.

1.3 Research Questions

1. What role are the constitutional guarantees in Articles 14, 15, 17, and 21 playing in ensuring police brutality and custodial violence against the SC/ST communities are curtailed?
2. How effective are the SC/ST (Prevention of Atrocities) Act, 1989 and the new criminal codes (BNS, BNSS, BSA) in preventing police misconduct and where are there enforcement provisions missing?
3. What are the historic court rulings that have determined accountability in custodial violence cases on SC/ST victims?
4. To what extent do oversight institutions such as the NHRC, SHRCs, Police Complaints Authorities, and special courts hold the police accountable to crimes against the marginalized groups?
5. What can the international standards of human rights and comparative legal models tell us about reforming accountability mechanisms in India in order to safeguard SC/ST communities?

1.4 Significance of Research

The study is important since it analyzes the structural character of police brutality in India and especially its overrepresentation among Scheduled Castes (SCs) and Scheduled Tribes (STs). Regardless of the constitutional rights on equality, dignity and protection against discrimination, the SC/ST communities continue to be very susceptible to custody violence and institutionalized discrimination in the policing. The analysis of statutes and judicial pronouncement, and accountability mechanisms demonstrates that law and practice always remain at crossroad. Its results are added to theoretical literature, affect policy change, and enhance the advocacy of institutional responsibility, thus improving the safety of human rights and the fulfillment of the constitutional commitments to the marginalized groups.

1.5 Scope and Limitation of Research.

This research is limited to doctrinal and analytical examination of the problem of police brutality and accountability systems in India, and SC/ST population, in particular. It examines

constitutional assurances, legislative guarantees, judicial case law and bodies including the NHRC, SHRCs and Police Complaints Authorities. The international comparisons are also used in the study to determine the best practice over reform. Yet, its shortcomings are its dependence on the secondary sources, statutes, judgments, official reports, and academic writings, without empirical fieldwork and interviews. Thus, the research does not directly evaluate on-the-ground enforcement or victim testimonies, although it provides a critical theoretical analysis.

1.6 Objectives of Research

To investigate constitutional protection under Article 14, 15, 17, and 21 in ensuring that the SC/ST communities are not subjected to police brutality.

To examine the effectiveness and role of the SC/ST (Prevention of Atrocities) Act, 1989, and new criminal laws (BNS, BNSS, BSA) as a preventative measure against custodial violence.

To examine seminal court decisions that influence accountability in custodial violence involving the SC/ST victims.

To assess how effective the mechanisms of oversight including NHRC, SHRCs, PCAs, and special courts are in terms of accountability.

To discuss the international experience and suggest the changes towards enhancing accountability in India.

1.7 Research Methodology

The given research paper follows a doctrinal/analytical approach in exploring the issue of police brutality against SC/STs in India. The doctrinal method is close to the study of the constitutional provisions, the statutory provisions including the SC/ST (Prevention of Atrocities) Act, 1989, the criminal laws BNS, BNSS, and BSA. It also discusses the applicable case law, which encompasses landmark cases like the D.K.Basu v. v. State of West Bengal, Nilabati Behera. Prakash Singh v. State of Orissa. To follow the history of judicial protection of custodial violence.

The analytical element assesses the difference between the written norms and the actual practice based on the secondary sources which include the reports of the NHRC, NCRB statistics, the cases of the Law Commission and the work of the human rights organizations. International experience, especially the U.K and South Africa, is also taken into consideration in an attempt to come up with the successful models of accountability. This approach allows to have a comprehensive view of the strengths and weaknesses of the legal and institutional

system in India. The study is restricted however to secondary data and does not participate in the empirical fieldwork and interviews.

2. LITERATURE REVIEW

According to legal experts like Usha Ramanathan, the failure of independent institutions of accountability is also the main reason why custodial torture continues to exist despite the existence of constitutional provisions. Her writing emphasizes the fact that in as much as Articles 14, 15, 17 and 21 ensure equality, dignity, and liberty, the rights have always remained a dream when put against the realities of police violence. The same analysis is reflected in the annual reports of the National Human Rights Commission (NHRC), where the number of custodial deaths is always high. The NHRC implies structural changes and increased accountability, but the results have only a recommendatory strength, which undermines their utility.

This discourse is given a critical level by international human rights organizations. Amnesty International and Human Rights Watch have elaborated on the use of characterization of torture that includes beatings, electric shocks, suspension of limbs to lack of food and water. These narratives provide a description of how violence has become tamed in police inquiries, compromising constitutional protections and international obligations in the ICCPR and the UNCAT. The importance of such documentation has been to place custodial violence not as the occasional excess, but as normal investigative practices that can be seen to disproportionately affect marginalized groups.

The civil society organizations have researched the caste aspect of custodial violence at length. The National Campaign on Dalit Human Rights (NCDHR) has reported that Dalaits and Adivasis that seek to report abuses have their First Information Report (FIR) denied routine registration, intimidation of complainants, and manipulation of inquiry when they do so. This agrees with the NCRB statistics that depicts disproportionate number of SC/ST individuals among victims to custodial deaths. The readings in this section help to understand that custodial violence is not merely a state overreach issue, but also an indication of deeply held social stratifications that are replicated in policing organizations.

Another very important strand of literature is judicial interventions. Discussions on such rulings as D.K. Basu v. Nilabati Behera and State of West Bengal. The State of Orissa, and State of M.P. v. Shyamsunder Trivedi stress the leading role taken by the judiciary in the speech of safeguards against custodial violence. Such judgments added procedures of mandatory arrest memos, medical examinations and state liability of custodial deaths. However, critics claim that judicial principles have been applied in a manner that has not been very consistent so that victims are not really receiving any redress. Cases Discussions on Prakash Singh v. Union of India also point to the effort of the judiciary to re-organise policing by implementing Police Complaints Authorities, but this has not been followed by the states and has severely weakened its effect.

Comparative studies also provide further information because they place the custodial violence in India within a global frame. Police and Criminal Evidence Act, 1984 (PACE), which required the custodial records and independent supervision of the police is often cited as a successful example in the United Kingdom, as well as the South African Independent Police Investigative Directorate (IPID), which has the authority to bind the police. According to Indian commentators, this is one of the mechanisms that should have been adopted to enhance accountability, although they warn that as long as structural caste prejudice in law enforcement is not confronted directly, reforms will be inadequate.

When combined, the literature reveals how rich doctrinaire and institutional analysis can be, and how ineffective enforcement can be. The continued occurrence of custodial violence especially against SC/ST communities underscores the erosion of the law by poor institutions and institutional bias of caste. The aim of the present study is to fill these strands putting the doctrinal protections into the lived realities of caste-based vulnerability with the urgent need to have greater accountability mechanisms.

3. SCHEME OF STUDY (BODY OF THE PAPER)

3.1 Extent & Character of Police Brutality against SC/ST Groups

Police brutality in India is not an event but an organizational component of policing especially when one considers it through the caste prism. Statistical evidence that points to the troubling rates of custodial violence are accompanied by case studies and human rights reporting to point out that the Dalit and Adivasi communities are disproportionately targeted.

High rates of custodial deaths are regular occurrences that are reported by the NHRC and NCRB. In the period between 2010-2020 over 17,000 of these deaths were experienced throughout the country, indicating that the average was nearly five every day.[13] According to the data provided by NHRC, 2,152 individuals died in judicial custody and 155 individuals died in police custody in 20212022.[14] Half These figures demonstrate the extent of the problem and structural impunity. Notably, although all social groups experience the same level of custodial deaths, victims that belong to the marginalized communities are disproportionately hit. A 2019 NHRC study has indicated that SC/ST communities constituted a significant percentage of the nearly three-quarters of custody death cases among adult individuals between 1996 and 2018 who were members of socially and economically disadvantaged communities.[15] Hansura Bai v. is one of such recent court cases. State of Madhya Pradesh (2025), in which caste prejudice was revealed at the various stages of the investigation since a tribal man died in custody. The officials of the police first were covered by their seniors regardless of the evidence of tortures and the family of the dead was threatened when they attempted to take legal action.[16] A good illustration of how institutionalized prejudice may diminish both investigation and accountability is this case, contributing to the trauma of marginalized families.

There have been rampant cases of police harassment of Dalit complainants recorded by the civil society organizations such as the National Campaign on Dalit Human Rights (NCDHR), and the National Dalit Movement on Justice (NDMJ). Cases of daily denial of registration of First Information Reports (FIRs) when Dalits complain of atrocities, intimidation of victims and witnesses and misuse of procedural discretion to derail investigations are reported.[17] These findings corroborate past NHRC reports that portray police officials as the biggest perpetrators of human rights of the Dalits as they often promote and not prevent violence against the underprivileged groups.[18]

[13] Nat'l Crime Records Bureau, Crime in India: Statistics 2020 (2021).
[14] Ministry of Home Affairs, Answer to Unstarred Question No. 2128, Lok Sabha Debates (Mar. 22, 2022).
[15] Nat'l Human Rights Comm'n, Annual Report 2018–19 (2019).
[16] Hansura Bai v. State of M.P., W.P. No. 1123 of 2025 (M.P. H.C.) (pending).
[17] Nat'l Campaign on Dalit Human Rights, Justice Under Trial: Status of SC/ST Atrocity Cases in India (2018).
[18] Nat'l Human Rights Comm'n, Report on Atrocities Against Scheduled Castes (2004).

Some examples of police brutality that are not limited to deaths in custody include torture, wrongful detention, and extrajudicial executions. Amnesty International has recorded Indian methods of torture in custody such as lathi beatings, electric shocks, hanging by body parts and often justified as necessary to get a confession.[19]]. Such actions go against the United Nations Convention on the Protection of Civil and Political Right (ICCPR) which India has signed and constitutional protection in the form of Article 21.[20] The normalizing violence when investigating and those subjected to torture is the de facto habitual condition of resorting to violence when these groups are marginalized and do not have the financial or social capital to oppose or to seek any remedy.

The state and caste violence come together anew to replicate ancient stratifications in a democratic environment. The caste stigma of the contemporary police is evidenced by the inhumanity in custody of the SC/STs communities in the contemporary police, which has, according to academics, been largely over-policed and under-protected, in other words, over-policed and under-protected when it comes to the communities of Dalits and Adivasis (Hinds, 2003).[21] As the state institutions themselves turn into perpetrator agencies, the vulnerable populations are put in a further vulnerable place, both to police violence and to justice denial, by the systemic prejudice. Such reproduction of exclusion in a cycle, undermines the trust of the population in the rule of law, and contributes to the social alienation.

On the whole, the nature and the extent to which SC/ST populations are subjected to police abuse demonstrate that the caste-sensitive and systematic custodial violence is present in India. Police excesses against Dalits and Adivasis remain disproportionately the focal point of police misconduct and are supported by both statistical information as well as by case law such as Hansura Bai, and by NGOs and other monitoring organs. Instead of being aberrant, the practices are normal and the biases are ingrained in the law-enforcement machinery of India.

3.2 Statutory and Constitutional Protections against Ground Reality

The Indian constitutional arrangement aims to provide a great protection against state abuses, including attack during incarceration and police violence. Article 14; equality under the law and equal safeguards under the law; Article 15; caste-based discrimination; Article 17; the right

[19] Amnesty Int'l, India: Prisoners of the State – Torture and Detention in India (2011).
[20] International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.
[21] Usha Ramanathan, Torture and Custodial Death in India, 19(3) Hum. Rts. Watch J. 27, 35 (2007).

against untouchability; and Article 21; the right to life and liberty of the self are all guaranteed. [22] Additionally, the Articles 32 and 226 give people the power to refer to the Supreme Court and High Courts in order to have these rights enforced. The combination of these provisions creates a constitutional fortress against arbitrary arrests, torture, and extra-judicial penalties.

Moreover, the legislature has come up with legislation that is aimed at protecting citizens. Section 57 of the Code of Criminal Procedure (1973) requires that an accused individual should appear before a magistrate with 24 hours of arrest. Section 167 is against detention of more than 15 days without an order by a court. In the event of a person who is being accused dying in custody, Section 176 requires magistrates to investigate the case.[23] The Bharatiya Nyaya Sanhita (BNS), 2023 has replaced the Indian Penal Code (IPC), 1860 which contained hurt, grievous hurt and culpable homicide, including torture and death in custody crimes.[24] The confessions can never be used in any form of evidence before a magistrate since the Section 25 [25] of the Indian Evidence Act of 1872 of the Indian Evidence Act of 1872, now superseded by the Bharatiya Sakshya Adhiniyam (BSA) of 2023, states that all confessions should be recorded in the presence of a magistrate. This is in accordance to the long-standing position of the judiciary not to rely on statements that were coerced on them. Notably, the vulnerability of Adivasis and Dalits to state violence, even of government officials, is recognized in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Section 3(2) 7 of the Act outlaws a false arrest or abuse of process of law committed against SC/ST individuals, by their agents in the state, and Section 4 outlaws dereliction of duty by state agents in cases of atrocities.[26] The act therefore comes out clearly to recognize the fact that caste discrimination is rife in the state institutions including the police.

Indian judicial interpretation has been very instrumental in enhancing constitutional protection against custodial violence by placing direct responsibilities to state authorities. In D.K. Basu v. The Supreme Court ordered procedural protection on arrest and detention such as writing of arrest memos, making medical checks of the detainees, and ensuring communication with relatives, in order to avoid custodial maltreatment and torture.[27] In Nilabati Behera v. The Court

[22] INDIA CONST. arts. 14, 15, 17, 21, 32, 226.
[23] Code of Criminal Procedure, No. 2 of 1974, §§ 57, 167, 176.
[24] Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 105–113.
[25] Bharatiya Sakshya Adhiniyam, No. 46 of 2023, § 25.
[26] Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, §§ 3(2)(vii), 4.
[27] D.K. Basu, supra note 8, at 423.

made the State under strict liability on custodial deaths and awarded monetary compensation as a civil remedy in the form of public law against the violation of Article 21 and affirmed that the State was responsible in the actions of its agents.[28] Equally, in State of M.P. v. Shyamsunder Trivedi, the Court stressed individual liability of police officers who have committed custodial violence and restated the idea that constitutional rights apply to state agents themselves.[29]

With all these judicial protection mechanisms, a broad disjuncture between law and practice still exists. In 2020-2022, NCRB documents indicate over 4400 custodial deaths in the country, although convictions are literally absent and prosecutions barely exist.[30]]. Empirical evidence also shows that Dalits and Adivasis are over-represented among victims of custodial violence, which proves the existence of caste-based discrimination beliefs in policing activities.[31] Amnesty International and the National Campaign on Dalit Human Rights report on cases of police denial of FIR registration on cases placed by Dalit complainants and active obstruction of investigations to benefit criminals, even though it is obligatory by the SC/ST (Prevention of Atrocities) law.[32] There is still an obstruction of effective enforcement by political interference, a lack of legal awareness amongst marginalized groups and ingrained caste hierarchies in police institutions.

Recent statutory changes like the Bharatiya Nagarik Suraksha Sanhita, 2023 which substituted the CrPC and nevertheless gave the police extensive discretionary authority in the context of investigation and preventive action are also a cause of concern. The critics point out that this discretion will lead to the encouragement of bureaucratic arbitrariness instead of taming abuse.[33] Therefore the constitutional guarantees are also weak in absence of institutional accountability.

Nevertheless, the constitutional and statutory protections have not translated into remedies despite all the efforts India has been making to eliminate custodial violence, rare convictions and systemic mistreatment against the SC/ST communities, despite the Atrocities Act.

[28] Nilabati Behera, supra note 9, at 754.
[29] State of M.P. v. Shyamsunder Trivedi, (1995) 4 S.C.C. 262 (India).
[30] Ministry of Home Affairs, supra note13.
[31] Nat'l Human Rights Comm'n, supra note 14.
[32] Amnesty Int'l, India: Prisoners of the State (2011); Nat'l Campaign on Dalit Human Rights, Justice Under Trial, supra note 16.
[33] Indian Express, explained: What Are the Key Changes in Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita and Bharatiya Sakshya Adhiniyam? (Dec. 25, 2023).

3.3 Judicial Safeguards & Case Law

The Indian courts have played a major role in putting safeguards on police misuse and cruelty in custody. Trying to brid the divide between constitutional pledge and the harsh realities of abuse in custody, the Supreme Court and the High Courts have handed out several historic decisions. Nevertheless, despite these pronouncements coming up with significant rules of accountability and due process, their application has been rather spotty, which has exposed marginalized communities especially Scheduled Castes (SCs) and Scheduled Tribes (STs).

1. Nilabati Behera v. State of Orissa

In Nilabati Behera v. The Supreme Court, State of Orissa, the Court declared the State categorically responsible in cases of custodial death and did not alter the doctrine that constitutional redresses pursuant to Articles 32 and 226 might comprise compensation redresses of breaches to Article 21.[34] This case determined that the fact that the state authorities infringed the right to life places a non-delegable obligation upon the state authorities to protect those in custody. This understanding of the accountability of the high states forms a conceptual obstacle to impunity of Dalits and Adivasis who tend to have little social and political power. However, even though there is a theoretical value, it has not been implemented in a consistent way since that time, the wrongdoers are rarely ever prosecuted, and the reparation is usually delayed or inadequate.

2. D.K. Basu v. State of West Bengal

The historic ruling D.K. Basu v. The State of West Bengal provided extremely comprehensive rules in the protection of custodial maltreatment, including the terms of arrest memoranda, medical examination, and informing family members.[35] The decision resonated with the judicial awareness that police torture was systemic in nature and that procedural protection was needed to prevent arbitrary government. Such guidelines subsequently shaped the legislative changes and were referred to in many High Court orders. In the case of SC/ST communities, D.K. Basu safeguards have been observed to adhere to only haphazardly. The findings by National Human Rights Commission and other NGOs show that when the cases of Dalit and Adivasi involve the arrested, the arrest processes are often circumvented and the protective spirit of the ruling is negated.

[34] Nilabati Behera, supra note 9, at 754.
[35] D.K. Basu, supra note 8, at 423.

3. State of M.P. v. Shyamsunder Trivedi

The case State of M.P. v. Shyamsunder Trivedi was a clear sign of the difficulty in convicting in cases of custodial violence.[36] Although the Court did not deny the existence of so-called code of silence followed by police, it highlighted that those cases involving custodial death require a closer approach to the court. But the conviction rates in such a case are pathetically poor. This burden of evidence strengthens systemic discrimination against marginalized groups: the testimonies of victims are not trusted or believed, especially when they belong to the Dalit or tribal community, and police accounts are assigned more importance

4. Prakash Singh v. Union of India

In Prakash Singh v. The Court directed the reform of the police in Union of India to defend police against political involvement and to establish independent Police Complaints Authorities as a measure to deal with structural issues in policing.[37] Although the decision made no particular reference to the topic of custodial violence, the application of the focus on accountability measures to the SC/ST victims of police brutality will have an enormous effect. There has also been poor implementation with most of the states either diluting or non-observing the directives. Institutional barriers to accessing justice manifest in a disproportionate disadvantage to marginalized populations because they lack strong mechanisms of complaints.

5. Subhash Mahajan v. State of Maharashtra

Subash Mahajan v. Supreme Court decision. State of Maharashtra was criticized by diluting the protection of SC/ST Act.[38] The Court also came up with prerequisites like the previous issuance of sanctions against arrests of public servants and initial investigations before Critics argued that it was contravening the overall nature of the law which was to provide Dalits and Adivasis with strong defence against caste crimes like police misconduct. Although Parliament hastened to revise the Act to give it the intended severity, the incident demonstrated judicial ambivalence in making a complete devotion to the protection of the marginalized groups.

6. Hitesh Verma v. State of Uttarakhand

[36] Shyamsunder Trivedi, supra note 28, at 270.
[37] Prakash Singh v. Union of India, (2006) 8 SCC 1.
[38] Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454.

In the case of Hitesh Verma v. State of Uttarakhand, the Supreme Court restricted the meaning of the word atrocity under the SC/ST Act. State of Uttarakhand which believes that remarks or threats that are not related to the caste identity of the victim may not constitute a crime as per the Act.[39] That decision has the danger of reducing the in-the-field cases of caste discrimination during police meetings, although it is conceptually sound in containing abuse. Physical and caste-based humiliation are the usual consequences of police brutality to the Dalits and Adivasis and these filming narrow interpretations may undermine the possibility of law to provide remedies against these groups.

7. Hansura Bai v. State of M.P. (Pending)

The case of Hansura Bai v. is pending. The case of M.P., W.P. No. 1123 of 2025 (M.P. H.C.) reflects on modern issues of custodial death of tribal women.[40] A tribal woman was even alleged to be brutally murdered in prison and the appeal questions the state obligations as enforced in the SC/ST Act and Article 21 of the Constitution. Though this case is yet to be heard by the court, it is an example of the way that gender, caste and poverty come together to create the vulnerability of police detentions. Indian courts will be willing to transform symbolic statements into substantive accountability depending on the outcome.

Critical Appraisal

Collectively, the cases reflect the courts to waver between an appreciation of the rights of custody and due precaution in implementing responsibilities. On the one hand, D.K. Basu does support judgments like Nilabati Behera and the protection of fundamental elements of custodial jurisprudence by doctrines. But as choices such as the one taken by Subhash Mahajan and Hitesh Verma demonstrate, the judiciary does not appear to be ready to take entirely the revolutionary potential of protective laws. Moreover, due to the fact that the structural reforms suggested by Prakash Singh have not been implemented, poor accountability systems have persisted. Theoretically, the judiciary has been able to offer hope to the SC/ST populations, though, in real life, the judiciary has not helped much. The law is basically dreamy and cannot alter the truth of rampant violence by police unless it is applied on a regular basis.

3.4 Accountability Mechanisms & Oversight

[39] Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710.
[40] *Hansura Bai*, *supra* note 15 (pending).

The symbolic character of the accountability systems has been revealed through the continued practice of custodial violence, especially targeting the SC/ST communities where bodies such as NHRC, SHRCs, and Police Complaint Authorities have been unsuccessful to stop abuse or provide justice.

1. National Human Rights Commission (NHRC)

The Protection of Human Rights Act of 1993 requires its creation, the National Human Rights Commission, to investigate the deaths of persons in custody, provide prosecution and compensation recommendations.[41] As of 2020, the thousands of documented custodial deaths by the Commission showed a grossly disproportionate number of SC/ST people.[42] All the cases of death in custody should be inquired by a magistrate, as per the guidelines provided by NHRC, which has on some occasions provided financial aid to families of victims.[43] It is only limited to giving recommendations, but, these are not binding on state authorities. Since the state governments still break the law, the NHRC can only be as influential as a fact-finding organization, but not as an enforcement agency.

2. State Human Rights Commissions (SHRCs)

SHRCs were intended to offer local oversight at the state level. In real life, they are underfunded, politically appointed and lack investigative skills.[44] They do not have jurisdiction over central armed forces and their advice, similar to that of the NHRC is not binding. In rural Dalits and Adivasis, the lack of awareness, geographical inaccessibility, and fear of retaliation by the local police is an additional obstacle towards approaching SHRCs.

3. Police Complaints Authorities (PCAs)

In Prakash Singh v., the Supreme Court directed that the state and district levels set up independent PCAs that would investigate police misconduct allegations, such as claims of abusing custody. Union of India.[45] Most states have however failed to establish PCAs altogether or have done so feeblely, often having retired police officers doing this instead of unbiased civilians.[46] Research indicates that in the presence of PCAs, the latter are hardly ever

[41] Protection of Human Rights Act, No. 10 of 1993, INDIA CODE (1993).
[42] National Human Rights Comm'n, Annual Report 2019–2020 (2020).
[43] Id.
[44] Justice A.P. Shah, Efficacy of State Human Rights Commissions in India, 12 Nat'l Hum. Rts. L.J. 45 (2018).
[45] Prakash Singh, supra note 36, at 8.
[46] Arvind Verma, Police Accountability in India: Structural Reforms and the Role of Civil Oversight, 45 Indian J. Criminology 67, 74–75 (2017).

addressed by Dalits and the Adivasis, who are afraid of being retaliated against and are not afraid of bias. [47] The institution design thereby repeats itself the same power imbalance it was expected to address.

4. SC/ST (Prevention of Atrocities) Act Oversight

In SC/ST Act of 1989, there are special provisions of protection against the offense committed by the state functionaries, such as police officers.[48] The Act also stipulates the establishment of Special Courts to oversee the swift trials and use of nodal officers to oversee the implementation. However, conviction rates are extremely low with the Act standing at about 30 percent nationwide.[49] Police often refuse to make formal complaints under the Act in custodial violence cases and such investigations are marred with unintentional decision-making delays and threats to the family members of the victims. It is one of the best illustrations of how institutional bias continues to inhibit SC/ST communities to be answerable.

5. Parliamentary and Law Commission Oversight

The problem of custodial violence has been raised as a systemic problem by parliamentary debates and Law Commission reports. In its 273 rd Report (2017), the Law Commission recommended an independent anti-torture act to bring India into compliance with international law on the subject, under the UNCAT.[50] No such law has been enacted despite a number of draft bills, in large part because of the political opposition and the concern that it may restrict the police power. This legislative inertia reinforces the notion that the state condones, indeed wholeheartedly condones, custodial violence.

6. Civil Society and Media

Some of the civil society groups that have played a critical role in exposing the abuses included the National Campaign on Dalit Human Rights, Human Rights Watch, and Amnesty International among others. Their records of the caste trend of torture have kept the society aware of the vice. Amnesty International, human rights watch and National Campaign on Dalit Human Rights are only but a few of the civil society organizations that have played a great role in shedding light on abuses. Their witness of caste patterns of torture has kept the people aware

[47] Id. at 76.
[48] Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, India Code (1989).
[49] Nat'l Crime Records Bureau, Crime in India 2021 (2022).
[50] Law Comm'n of India, 273rd Report on Implementation of "United Nations Convention Against Torture" (2017).

of the issue.[51] The media investigations also emphasized the high-profile cases, like the custodial killings of Jayaraj and Bennix in Tamil Nadu in 2020 that stirred the whole nation. However, not much focus is given to sustained attention and most of the Dalit or Adivasi victims in rural settings rarely get any coverage and thus the abuses continue unabated.

Critical Gaps

India has three broad problems with its accountability systems namely structural caste bias, lack of enforcement power, and autonomy. PCAs remain ineffective, NHRC, SHRC recommendations remain routinely disregarded, and this situation is worsened by low conviction rates and lack of registration of cases undermining the statutory protection in the SC/ST Act. Even the institutions that are established to protect the marginalized communities often become barriers instead of justice avenues. This leads to a cycle of impunity whereby the police brutality is not punished, and people lose their confidence in the legal system, furthering the caste divide.

3.5 Comparative International Perspectives & Systemic Barriers

The fight of the custodial violence in India is not a new phenomenon in the world as democracies around the world only vary in the level of accountability measures that restrict police impunity.

International Commitments and Comparative Insights

India is a signatory to the International Covenant on Civil and Political Rights that prohibits torture and arbitrary detention under Article 7 and 9 respectively.[52] It is also a signatory but still not a ratifier of UN Convention against Torture (UNCAT).[53] In comparison, other nations like the United Kingdom and South Africa have enacted anti-torture principles into the local legislation. The Police and Criminal Evidence Act (1984) of the U.K. brought about the concept of compulsory custody documentation, autonomous custody visitation and stringent prohibition of any confessions received as a result of coercion of the interlocutor.[54] The Independent Police Investigative Directorate (IPID) of South Africa investigates in-custodial

[51] Amnesty Int'l, Torture in 2020: India Report (2021); Nat'l Campaign on Dalit Human Rights, Dalit Human Rights Documentation Report, supra note 10.
[52] International Covenant on Civil and Political Rights, supra note 19.
[53] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85 (India signed but not ratified).
[54] Police and Criminal Evidence Act 1984, c. 60 (U.K.).

deaths, and has the power to propose charges.[55] To eliminate custodial abuse, these structures underline the significance of legislative independency and overpowering authority. Instead, India relies on judicial decisions and weak commissions that do not have binding recommendations and the systemic impunity remains intact.

Systemic Barriers in India

There are several challenges that do not allow India to convert the commitments to action. To begin with, legislative apathy again and again, an independent anti-torture law has never been enacted.[56] There are numerous obstacles preventing the realization of Indian initiatives in the form of Secondly, the obstruction of oversight by the political sphere; state governments are constantly late and water down the creation of autonomous institutions, including Police Complaints Authorities.[57] Thirdly, caste bias is a structural force: Dalit and Adivasis are subject to specific police abuse and lack of remedies, becoming more vulnerable to custody torture.[58] Finally, but not the least, resource gaps ineffective training, forensic centers, and monitoring systems underpin an addicted reliance on the application of coercive strategies as an investigation cut off.

Critical Reflection

As observed through the comparative experience, accountability can be achieved when institutions are granted independence, binding powers and resources. Because of the fact that India has always relied on court safeguards against institutional stagnation or legislative apathy, SC/ST communities are still overrepresented among the victims of police brutality. Without reforming the institutional weakness and structural caste prejudice, India risks perpetuating the cycle of brutality in detention which is not in line with its constitutional and international commitments.

4. FINDINGS

It emerges in the discussion that the police violence in India is structural, grounded on caste hierarchies and failures of institutions. The disproportionate influence on SCs and STs is that reveals an underlying disproportion between the constitutional principles and realities, wherein

[55] Independent Police Investigative Directorate Act 1 of 2011 (S. Afr.).
[56] Law Comm'n of India, supra note 49.
[57] Prakash Singh, supra note 36, at 8.
[58] Nat'l Campaign on Dalit Human Rights, Dalit Human Rights Documentation Report, supra note 10.

equality as embodied in law is not only not fully realized but actively as well as practically enacted.

4.1 SC/ST Communities' disproportionate vulnerability

Empirical data and case studies indicate that ethnic minorities are overrepresented among the victims of custodial violence. Impoverished and socially marginalized backgrounds were found to be the root cause of most deaths witnessed in custody according to recurrent findings by the National Human Rights Commission (NHRC).[59] This implies a structural prejudice against policing: SC/ST individuals are faced with a greater risk of being targeted, arrested, and tortured, usually based on weak or fabricated accusations against them.[60] The compound disadvantages caste stigma, economic poverty, and inaccessibility to legal services that victims often confront often make them more susceptible to them than upper-caste detainees.

4.2 Gap Between Constitutional Protections and Practice

Articles 14, 15, 17 and 21 of the Indian Constitution provide equality, dignity and non-discrimination.[61] Nilabati Behera, D.K. Basu and Shyamsunder Trivedi reiterated that the state has the responsibility of ensuring the elimination of custodial torture, and ensuring compensation to victims. Custodial fatalities are still high and are a good example of laxity in the enforcement. Effective protection of the SC/ST detainees has not been offered by statutory protection in the form of the SC/ST (Prevention of Atrocities) Act, the Code of Criminal Procedure and by the newly enacted Bharatiya Nyaya Sanhita (BNS) and Bharatiya Nagarik Suraksha Sanhita (BNSS) acts. The fact that violence is still present is a testimony to the lack of balance between the law on paper and the law on the street.

4.3 Institutional Failures in Accountability

Results also indicate institutional lapses in control. The NHRC and SHRCs are not binding and hence there is immense lack of adherence to their recommendations.[62] Police Complaints Authorities are either not established or they are structurally flawed as postulated by the Prakash Singh judgment. There are still lower than 30 percent conviction rates under the SC/ST Act, which is indicative of a systemic barrier to registration and prosecution of a case with

[59] Nat'l Human Rights Comm'n, supra note 41.
[60] Usha Ramanathan, Custodial Violence and the Failure of Accountability in India, supra note 1.
[61] India Const. arts. 14, 15, 17, 21.
[62] Justice A.P. Shah, Efficacy of State Human Rights Commissions in India, 12 Nat'l Hum. Rts. L.J. 45 (2018).

custodial abuse involved.[63] As a matter of fact, accountability mechanisms have not succeeded in stopping the impunity cycle.

4.4 Entrenched Caste Prejudice in Policing

Qualitative reports suggest that caste is often the cause of the incidental character of custodial violence against Dalits and Adivasis. Cast insults, sexualized violence of Dalit women, and choosy unwillingness to file criminal cases against SC/ST victims are all seen in the testimonies collected by Amnesty International and the National Campaign on Dalit Human Rights (NCDHR).[64] Police strengthen caste systems in their detention centers as a continuation of the existing systems of social ordering. Such structural bias is a reason as to why the legal remedies were weakened in the implementation stage.

4.5 Weak Legislative and Political Will

Despite the constant recommendations made by the Law Commission of India and the international pressure that exists within the UNCAT regime, India has failed to enact an independent anti-torture law.[65] Watering down of reforms like establishment of independent PCAs is an issue that is perpetuated through political interference.[66] The phenomenon of legislative inertia is an indicator of a larger disposition to place emphasis on human rights issues as opposed to the concern of reducing the police power. This political reluctance keeps up a culture of culture of tolerance of violence in custody.

4.6 Comparative Insights

Comparative perspectives define that the excessive reliance on judicial safeguarding in India without a legislative support is not sufficient. The U.K. and South Africa have both set a statutory regime that vests binding powers to independent scrutiny agencies.[67] Failure of India to put in place similar reforms has left judicial guidelines as the frontline defence of which in the actual sense are not enforced. This observation restates the fact that it is not possible to implement best practices in other countries without eliminating structural obstacles in the homeland that include institutional sluggishness and caste prejudice.

[63] Nat'l Crime Records Bureau, supra note 48.
[64] Amnesty Int'l, Torture in 2020: India Report (2021): Nat'l Campaign on Dalit Human Rights, Dalit Human Rights Documentation Report, supra note 10.
[65] Law Comm'n of India, supra note 49.
[66] Id.
[67] Police and Criminal Evidence Act, 1984, c. 60 (U.K.); Independent Police Investigative Directorate Act 1 of 2011 (S. Afr.).

4.7 Erosion of Faith in the Justice System

The loss of trust in the criminal justice system among the SC/ST communities appears to be the most remarkable one. The legal system appears to be colluding to protect those who have victimized and abused their family members and also obstructs the prosecution of offenders by intimidating them or dragging their cases.[68] Marginalized groups are afraid of police stations and jails, which are not their safe havens. This alienation undermines the constitutional entitlement to equality as a citizen and contributes to social exclusion.

5. SUGGESTIONS AND CONCLUSION

The institution of police brutality against SCs and STs lies on a structural level based on caste prejudice and inefficient accountability, which requires a full set of legislative, institutional, judicial, and social-cultural changes.

5.1 Legislative Reforms

To begin with, India is in dire need of an independent anti-torture statute that complies with the U.N. Convention Against Torture (UNCAT), which it signed in 1997, but it never ratified.[69] It must expressly outlaw torture, require punitive penalties and establish victim-compensation schemes.[70] Blueprints of draft bills have already been presented by parliamentary committees and the 273rd Report of Law Commission (2017); the final element has been political will.[71] Second, the SC/ST (Prevention of Atrocities) Act, 1989 should be revised to render it more practically applicable in the context of custodial violence, such as compulsory registration of an FIR against custodial torture of the Dalits and Adivasis and their trial within a given time period under a special court supervision.[72]

5.2 Institutional Reforms

The complete implementation of Prakash Singh guidelines of the Supreme Court 2006 is required. These rules establish Police Complaints Authorities, and provide tenures on police officers.[73] PCAs should have binding authority and not be recommendatory in respect,

[68] Human Rights Watch, Bound by Brotherhood, supra note 10.
[69] Convention Against Torture, supra note 52.
[70] Id.
[71] Law Comm'n of India, supra note 49.
[72] Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, supra note 3.
[73] Prakash Singh, supra note 36, at 8.

according to the South African Independent Police Investigative Directorate (IPID) model.[74] Besides, NHRC and SHRCs should be endowed with the statutory ability to prosecute or enforce penalties rather than issue unenforceable advisories. Better training and support of forensic science would reduce the shortcuts in investigation by use of custodial torture.

5.3 Judicial and Procedural Safeguards

The D.K. Basu and Nilabati Behera protections should be extended to include video recording of any interrogation and independent medical examinations of the detainees within 24 hours of custody by the courts.[75] The magistrates should be sensitized to ensure that they actively investigate into allegations of tortures during remand hearings.[76] By implicating Article 226, the High Courts have the authority of creating custodial death monitoring cells to institute conformity with orders. Judicial activism must go on pushing the legislature and the executive to systematic reform, in addition to formulating enforceable remedies on a case level.

5.4 Socio-Cultural and Community-Level Measures

Caste prejudice which is long established cannot be eliminated by legislation alone. Constitutional norms demand that police training institutes should contain anti-discrimination courses that emphasize on caste and tribal rights.[77] Community policing programs involving the inclusive community can help in restoring the people's trust towards the police among the SC/ST communities.[78] To help reach the population, external accountability, it is important to seek the involvement of civil society organizations like Amnesty International and NCDHR in monitoring and reporting mechanisms.[79]

5.5 International Engagement

India signing UNCAT would be placed under regular scrutiny by U.N. Committee Against Torture, which would create a diplomatic pressure and technical guidance as well.[80] The comparative analyses of the Police and Criminal Evidence Act 1984 of the U.K. and the IPID of South Africa reveal that the independence of the statutes, recordation and external check-

[74] Independent Police Investigative Directorate Act, supra note 54.
[75] D.K. Basu, supra note 8, at 423.
[76] Nilabati Behera, supra note 9, at 754.
[77] Nat'l Police Acad., Training Manual on Human Rights & Policing (2021)
[78] Sanjay K. Jha, Community Policing and Its Impact in India, 55 Indian J. Criminology 77 (2022).
[79] Amnesty Int'l, India: Torture in 2020 Report (2021): Nat'l Campaign on Dalit Human Rights, Dalit Human Rights Documentation Report, supra note 10.
[80] U.N. Office of the High Comm'r for Hum. Rts., Status of Ratification Interactive Dashboard (2023).

ups is a necessity.[81] India will be forced to translate them in the Indian context, namely, making sure that SC/ST concerns are translated into law in the construction of statutes.

5.6 Conclusion

The fact that custodial violence on SCs and STs remains is a mockery to the frailty of the constitutional guarantee of equality and dignity in India. There are doctrinal precedents such as D.K. Basu, Nilabati Behera, and Shyamsunder Trivedi which have been determined but lack of enforcement have left them without their bite. There are institutions such as the NHRC and courts of the SC/ST Act, however, the systemic caste bias, political goodwill and non-enforcement make them ineffective. Finally, the task is twofold because, on the one hand, it is necessary to break the established caste structures of police activity, and, on the other hand, to establish the independent accountability options that cannot be reflexed through the executive prism. This does not only require new laws but a cultural revolution of law enforcers where human dignity is valued at the expense of expediency.

When the measure of democracy is the treatment it metes out to its most vulnerable, the current tradition of custody that is practiced in India is a fundamental flunky of the constitution. The path forward involves systematic change, based on law, through independent institutions, guarded by watchful courts, and through social change. It is then that the police can be reinvented as not a muscle of oppression but as a guardian of constitutional morality to all citizens, even those who have long been pushed to the fringes.

[81] Police and Criminal Evidence Act 1984, c. 60 (U.K.): Independent Police Investigative Directorate Act 1 of 2011 (S. Afr.).