



CUSTODIAL TORTURE AND POLICE ACCOUNTABILITY UNDER THE NEW CRIMINAL LAWS

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ABSTRACT

*People held in police custody are in a position where they depend heavily on the authorities responsible for their detention. Yet allegations of torture and other forms of custodial abuse continue to arise in India. This raises a difficult question about the effectiveness of the legal safeguards that are already available. The introduction of the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023 provides a useful point at which to examine whether the recent changes in criminal law have made any substantial difference to police accountability. This article studies custodial torture from the perspective of constitutional rights, judicial safeguards and the new criminal law framework. It examines Article 21 and the protection of life, personal liberty and human dignity, along with the safeguards developed by the Supreme Court in cases including *D.K. Basu v State of West Bengal* and *Nilabati Behera v State of Orissa*. The article also considers the extent to which the BNS and BNSS deal with the practical difficulties faced in cases of custodial abuse. The analysis suggests that legislative change, by itself, has not removed the main obstacles to accountability. Problems such as ineffective implementation of safeguards, concerns about the independence of investigations involving police personnel and the absence of a comprehensive law specifically addressing torture continue to affect the protection available to persons in custody. The article therefore argues that the effectiveness of criminal law reform should be measured not simply by the introduction of new statutory provisions, but by whether those provisions work effectively in actual police practice.*

Keywords: Custodial Torture, Police Accountability, Criminal Law Reform, Article 21, Custodial Violence.

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INTRODUCTION

Custodial torture remains a serious concern within India's criminal justice system. Constitutional protections, judicial decisions and several recommendations for police reform have provided safeguards against the misuse of custodial power. Yet, incidents involving torture, illegal detention, physical abuse and deaths in police custody continue to come to light.¹ These incidents reveal a troubling difference between the rights guaranteed by the Constitution and the way those rights may be experienced by persons who come under police control. In a constitutional democracy, the police are entrusted with the responsibility of maintaining public order and protecting citizens. That responsibility also places limits on the manner in which police powers may be exercised. When a person in custody is subjected to torture or other forms of abuse, it raises concerns not only about the conduct of individual officers but also about institutional accountability and the protection of fundamental rights. Repeated incidents of custodial violence can further weaken public confidence in the criminal justice system and create fear about the misuse of State power.

The issue has acquired renewed importance following the replacement of the earlier criminal laws by the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).² The new laws were introduced as part of an effort to modernise criminal administration and move away from the colonial-era legal framework. Greater use of technology, electronic procedures, forensic investigation and changes in criminal procedure form important parts of these reforms. However, legislative modernisation raises a more fundamental question: to what extent do the new laws actually improve police accountability and protection against custodial abuse?

This question is important because changes in criminal procedure cannot, by themselves, eliminate custodial torture. Effective protection also depends upon the manner in which police powers are exercised, the independence of investigations, the supervision of custodial facilities and the implementation of existing safeguards. Concerns regarding weak enforcement, limited independent oversight and the absence of comprehensive legislation specifically dealing with

¹ National Human Rights Commission, 'Monthly Salient Statistics of Cases Registered / Disposed by NHRC During February, 2025' (4 March 2025).

² Bharatiya Nyaya Sanhita 2023; Bharatiya Nagarik Suraksha Sanhita 2023.

torture by public officials therefore remain relevant even under the new criminal law framework.³

Custodial torture also has a direct constitutional dimension. Article 21 of the Constitution protects life and personal liberty, and judicial interpretation has recognised that this protection extends to living with dignity and being free from cruel, inhuman and degrading treatment. A person in custody is particularly vulnerable because the State has direct control over his or her movement and immediate access to protection. Any abuse of that position therefore raises serious questions about the constitutional limits of State power and the practical protection available to persons deprived of their liberty.

Against this background, this article examines custodial torture in India in the context of the new criminal laws. It analyses the constitutional and judicial safeguards available to persons in custody, examines the position of police accountability under the BNS and BNSS, and considers statistical trends concerning custodial violence and deaths. It further examines the institutional weaknesses that continue to affect the enforcement of safeguards and assesses whether the present legal framework provides an adequate response to custodial abuse.

MEANING AND NATURE OF CUSTODIAL TORTURE

Custodial torture occurs when a person is subjected to physical or mental abuse while under the control of police or another law-enforcement authority. It may happen at the time of arrest, during questioning, or while the person is being detained. Torture is not limited to beating or causing physical injuries. Threatening a detainee, insulting or humiliating them, keeping them awake for long periods, refusing necessary medical attention, or using fear and intimidation to obtain information can also amount to serious custodial abuse.

A major concern in India is the use of force during police interrogation. Investigating officers may sometimes resort to what are commonly called “third-degree methods” in an attempt to obtain information or secure a confession. Such methods have no place in a lawful investigation. A confession obtained through pressure or violence cannot be treated as a legitimate substitute for proper investigation. Yet allegations of coercive interrogation continue to surface, showing that the legal safeguards available to persons in custody are not always effective on the ground.

³ Constitution of India 1950, art 21; D K Basu v State of West Bengal AIR 1997 SC 610.

The situation becomes more serious once a person is inside police custody. The detainee is dependent upon the authorities for basic needs and may not have immediate contact with a lawyer, family members or an independent medical practitioner. If abuse takes place, reporting it may therefore be difficult. This imbalance of power is one of the main reasons why custodial violence deserves greater scrutiny than an ordinary act of violence.⁴ The consequences are also not necessarily limited to the period of detention. A person who has experienced torture may continue to suffer physical problems, fear, anxiety or psychological distress even after release. Where the incident results in death, the suffering extends to the victim's family, which may also face financial and legal difficulties.

The damage caused by custodial torture extends beyond the victim. Police authorities are expected to enforce the law, and their misuse of that authority can seriously affect public trust. If people begin to associate police custody with violence or intimidation, they may hesitate to approach the police even when they require protection or assistance. This weakens the relationship between citizens and law-enforcement agencies and ultimately affects confidence in the criminal justice system.⁵

There are several reasons why such practices may continue despite existing safeguards. Police personnel may face pressure to produce quick results, while inadequate training and dependence on traditional interrogation methods can encourage coercive practices. Problems such as political influence, weak supervision and inadequate accountability can make the situation worse. None of these factors can justify torture or other forms of custodial abuse, but they show why the problem cannot be solved simply by treating every incident as the fault of one individual officer.

Custodial torture is therefore both a human-rights violation and an institutional problem. Preventing it requires more than provisions contained in criminal law. There must also be effective supervision of police custody, access to legal and medical assistance, proper methods of investigation and an independent response when allegations of abuse are made. Without these practical safeguards, the rights guaranteed to persons in custody may remain largely theoretical.

⁴ D K Basu v State of West Bengal AIR 1997 SC 610.

⁵ Nilabati Behera v State of Orissa AIR 1993 SC 1960

CONSTITUTIONAL AND JUDICIAL SAFEGUARDS AGAINST CUSTODIAL TORTURE

The Constitution of India provides important safeguards to protect individuals from arbitrary use of State power. These protections become particularly significant when a person is arrested or detained, as the individual comes directly under the control of law-enforcement authorities. Custody does not take away a person's fundamental rights, and police powers must always be exercised within constitutional limits.⁶

Article 21 is central to the protection of persons in custody. It guarantees the right to life and personal liberty, which the Supreme Court has interpreted to include the right to live with dignity and protection from cruel, inhuman and degrading treatment. Custodial torture therefore amounts to a serious violation of Article 21 because the abuse is committed against a person who is already under State control.

Article 20(3) protects an accused person from being compelled to become a witness against himself or herself. This provision is particularly relevant during interrogation, where force or intimidation may be used to obtain information or a confession. The constitutional protection makes it clear that investigation cannot be based upon coercion. The police are required to obtain evidence through lawful methods rather than by subjecting an accused person to physical or mental pressure.⁷

Article 22 provides further safeguards at the time of arrest and detention. An arrested person has the right to know the grounds of arrest and the right to consult and be defended by a legal practitioner. These safeguards are intended to reduce arbitrary arrests and provide an arrested person with access to legal protection. Their effective implementation can also act as an important check against custodial abuse.

The Supreme Court has developed these constitutional protections through several important judgments. In *D.K. Basu v. State of West Bengal*, the Court dealt specifically with custodial deaths and torture and laid down detailed requirements to be followed during arrest and detention. This included preparation of an arrest memo, informing a relative or friend about the arrest, medical examination of the detainee and proper maintenance of custody records. The

⁶ Constitution of India 1950, arts 20–22.

⁷ Constitution of India 1950, art 20(3); *Nandini Satpathy v PL Dani* (1978) 2 SCC 424.

purpose of these safeguards is to make police action more transparent and reduce the possibility of abuse remaining hidden.⁸

In *Nilabati Behera v. State of Orissa*, the Supreme Court recognised the responsibility of the State where a person dies in custody and held that compensation could be granted as a public law remedy for violation of fundamental rights. The decision strengthened the principle that the State cannot avoid responsibility merely because the immediate violation was committed by one of its officials.

In *Joginder Kumar v. State of Uttar Pradesh*, the Court emphasised that the power to arrest should not be exercised routinely or mechanically. An arrest must have proper justification, since unnecessary deprivation of liberty can expose an individual to further risks while in custody. The judgment therefore placed an important limitation on the arbitrary use of police powers.⁹

The broader issue of police accountability was also considered in *Prakash Singh v. Union of India*, where the Supreme Court issued directions aimed at improving police professionalism, independence and accountability. These reforms are relevant to custodial violence because effective protection cannot depend only on remedies after abuse has occurred. Police institutions must also have systems capable of preventing misconduct and dealing with complaints against their personnel.¹⁰

Despite these constitutional and judicial safeguards, incidents of custodial violence continue to be reported. This indicates that the major difficulty lies not merely in the absence of legal protection but also in its implementation. Weak monitoring, institutional resistance and inadequate accountability can reduce the effectiveness of safeguards already recognised by law.

Therefore, the constitutional framework provides a strong foundation for protecting persons in custody, but its success ultimately depends on enforcement. Independent investigation of allegations, proper supervision of police custody and effective remedies for victims are necessary to ensure that constitutional rights are protected in practice and not merely recognised in law.

⁸ *D K Basu v State of West Bengal* AIR 1997 SC 610

⁹ *Joginder Kumar v State of Uttar Pradesh* (1994) 4 SCC 260

¹⁰ *Prakash Singh v Union of India* (2006) 8 SCC 1.

STATISTICAL PERSPECTIVE ON CUSTODIAL VIOLENCE IN INDIA

The available data shows that custodial violence remains a serious concern in India. Custodial deaths are particularly disturbing because they involve persons who were under the direct control of law enforcement authorities. NCRB data for the period 2010–2019 recorded 1,004 deaths in police custody, while 472 cases were registered against police personnel in connection with custodial deaths.¹¹ This difference raises concerns about whether every custodial death is followed by an investigation that properly examines the responsibility of police officials.

The number of police personnel actually arrested, charge-sheeted and convicted in such cases has also remained comparatively low. This highlights the difficulty of holding law enforcement officials criminally responsible when allegations of custodial abuse arise. At the same time, these figures should not be interpreted to mean that every custodial death was caused by torture, since deaths in custody may have different causes. What the figures do show is the need for careful and independent investigation whenever the circumstances of a death are disputed.

Another difficulty is that official statistics may not capture the full extent of custodial torture. Unlike custodial deaths, many incidents of physical or mental abuse may never be reported. Victims may hesitate to complain because they fear retaliation, lack financial resources or are unaware of the legal remedies available to them. The actual scale of custodial violence may therefore be greater than what is reflected in official records.

The continuing interventions of the National Human Rights Commission and the concerns raised by human rights organisations further demonstrate the need for effective oversight. Ultimately, the issue is not simply the number of custodial deaths recorded each year. The larger concern is whether complaints are independently investigated and whether officials found responsible are actually held accountable. Without transparency and effective oversight, constitutional protections available to persons in custody may remain difficult to enforce in practice.¹²

¹¹ National Crime Records Bureau, Crime in India reports 2010–2019, as analysed in India Spend, ‘How Better Data Could Help Prevent Custodial Deaths’ (2020).

¹² National Human Rights Commission, A Study on Custodial Deaths: Trends and Patterns (2024).

NEW CRIMINAL LAWS AND POLICE ACCOUNTABILITY

The introduction of the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has changed the legal framework governing offences and criminal procedure in India. The new laws replaced the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973, and were presented as part of a broader attempt to modernise the criminal justice system. The reforms place considerable emphasis on technology, forensic investigation and quicker criminal proceedings. However, the introduction of new criminal laws does not by itself resolve the long-standing problem of custodial violence. The more difficult question is whether these changes provide effective safeguards against the misuse of police powers and whether they strengthen accountability when such misuse occurs.

The BNSS contains several provisions that seek to bring criminal procedure in line with technological developments. Electronic communication, electronic records, audio-video methods and forensic investigation have been given greater importance. The law also permits trials, inquiries and other proceedings to be conducted through electronic means. These changes can improve the recording and preservation of evidence and may reduce some of the delays associated with traditional procedures.¹³ The Government has also taken steps towards implementing these provisions through technological platforms for virtual appearances and proceedings. However, technology can improve the procedure only to the extent that the institutions using it are themselves accountable. A CCTV camera, electronic record or forensic report cannot prevent custodial abuse if there is no effective mechanism to act upon evidence of such abuse.

This becomes particularly important in relation to the absence of a dedicated anti-torture law. India signed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 14 October 1997, but has not ratified the Convention. Parliamentary material has repeatedly acknowledged the need for domestic legislation before ratification. The failure to enact a comprehensive law specifically addressing torture by public officials has therefore remained a significant gap in India's legal framework.

The BNS and BNSS have not filled this entire gap. This does not mean that persons subjected to custodial violence are left without legal protection. Constitutional safeguards, criminal provisions, judicial remedies and established Supreme Court guidelines continue to operate.

¹³ Bharatiya Nagarik Suraksha Sanhita 2023, ss 105, 173, 176 and 530.

Nevertheless, the absence of a separate and comprehensive statutory framework dealing specifically with torture makes accountability more difficult. The problem is not simply that a particular offence is missing from a statute. It also concerns the absence of a clear institutional structure for investigating allegations, protecting victims and ensuring that public officials cannot escape responsibility by relying upon their official position.

The investigation of complaints against police personnel raises another serious concern. When allegations of custodial torture are investigated by officers belonging to the same police establishment, questions regarding independence can naturally arise. This concern is not merely theoretical. In a recent Supreme Court judgment concerning allegations of custodial torture, the Court criticised the handling of the complaint and emphasised the importance of proper registration and investigation of cognizable offences. The Court also considered the need for transferring the investigation where the circumstances raised serious concerns about the fairness of the local investigation.

The Supreme Court has also continued to emphasise the wider problem of police accountability in custodial cases. In a 2024 judgment, the Court noted the continuing need for institutional mechanisms capable of detecting, prosecuting and punishing misconduct within the police system. It also referred to the longstanding concern that recommendations for stronger accountability mechanisms have not always been effectively implemented. This demonstrates that the difficulty cannot be attributed entirely to the old criminal laws. Even with a new procedural framework, accountability will remain weak if allegations of abuse are investigated without sufficient independence.¹⁴

At the same time, the BNSS gives police authorities substantial powers during investigation and criminal procedure. Such powers are necessary for effective law enforcement, but they must operate within constitutional limitations. The existence of procedural safeguards is meaningful only when those safeguards are actually followed. Where supervision is weak, or compliance is inconsistent, the same investigative powers that are necessary for policing can become vulnerable to misuse. This is particularly serious in custodial situations because a person in police custody is dependent upon the authorities for basic protection and has limited ability to independently document or challenge abuse.

¹⁴ Manik v State of Maharashtra 2024 INSC 734.

The experience of custodial violence therefore shows the difference between legal reform and institutional reform. Replacing the IPC and CrPC with new legislation may modernise criminal procedure, but it does not automatically change police practices or the institutional conditions in which abuse occurs. The effectiveness of the BNS and BNSS in this area must consequently be assessed not only by the number of new procedural provisions they contain, but also by whether those provisions operate alongside independent investigation, effective supervision and meaningful consequences for violations.

The new criminal laws are therefore an important development, but they should not be treated as a complete answer to the problem of custodial torture. Modern investigation techniques and electronic procedures can strengthen the criminal justice system, but they cannot substitute for institutional accountability. A more effective response would require the existing safeguards to be implemented consistently, serious allegations against police personnel to be investigated independently, and a comprehensive legal framework against torture to be considered. Without these measures, there remains a risk that changes in the wording of criminal legislation may have limited impact on the underlying practices that allow custodial violence to continue.

STRUCTURAL FAILURES IN ADDRESSING CUSTODIAL TORTURE

The continued occurrence of custodial torture in India reveals serious weaknesses in the functioning of the criminal justice system. Although individual incidents are sometimes viewed as cases of misconduct by particular police officers, the repeated occurrence of custodial violence indicates that the problem has a wider institutional dimension. Weak accountability, delays in investigation and difficulties faced by victims in obtaining effective remedies continue to create an environment in which custodial abuse can persist.

One of the major concerns is the limited prosecution and conviction of police personnel accused of custodial violence. Investigations may be delayed, while accused officers can sometimes benefit from institutional support and procedural difficulties. For victims and their families, seeking justice can itself become a difficult process. Financial constraints, fear of intimidation, and inadequate access to legal assistance may prevent victims from effectively pursuing their claims. As a result, the existence of legal remedies does not always translate into meaningful access to justice.¹⁵

¹⁵ Law Commission of India, Implementation of 'United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment' Through Legislation, Report No 273 (2017).

The absence of sufficiently independent mechanisms for investigating allegations against police personnel is another significant concern. When allegations of custodial violence are investigated within the same police establishment, questions regarding the independence and impartiality of the investigation may arise. This situation can create a conflict of interest and weaken public confidence in the outcome of the inquiry. An effective accountability system therefore requires investigations to be conducted in a manner that is independent of the officers or institution against whom allegations have been made.

The institutional culture within the police system also deserves attention. Police officers may face pressure to solve cases within a short period, while inadequate training, shortage of resources and reliance on traditional investigative practices can contribute to the use of coercive methods. Political interference and excessive pressure for quick results may further affect professional policing. None of these factors can justify torture or other forms of custodial abuse, but they demonstrate why preventing such practices requires reforms within the police system rather than merely punishing individual offenders after an incident occurs.

Public attitudes towards custodial violence can further complicate the problem. In certain circumstances, the use of force by police officers is viewed as an acceptable means of obtaining information or securing a confession. Such perceptions are fundamentally inconsistent with the principles of a fair criminal justice system. A confession obtained through coercion not only violates the dignity and rights of the person in custody but also undermines the reliability and fairness of the investigation. Where society begins to regard custodial violence as an acceptable method of policing, demands for institutional accountability are inevitably weakened.

There is also a considerable gap between judicial safeguards and their implementation in practice. The Supreme Court has repeatedly emphasised transparency and accountability in matters concerning arrest and detention and has issued directions concerning measures such as CCTV surveillance in police stations. However, the effectiveness of such safeguards ultimately depends upon consistent compliance by the authorities concerned. A safeguard that exists only on paper cannot provide meaningful protection to a person in custody. Effective implementation, regular monitoring and consequences for non-compliance are therefore essential.

The problem also has a strong social dimension. Persons from economically weaker and socially vulnerable sections may face greater difficulties in challenging unlawful police

conduct because of limited legal awareness, financial constraints and inadequate access to legal assistance. Where a victim lacks the resources to approach courts or obtain effective representation, the possibility of securing accountability becomes considerably more difficult. This makes institutional safeguards particularly important for individuals who may not have the social or economic resources necessary to protect their rights independently.

Custodial torture, therefore, cannot be understood merely as an isolated act of misconduct committed by an individual police officer. Its persistence reflects a combination of institutional weaknesses, inadequate accountability, investigative shortcomings and social attitudes towards the use of force in custody. Addressing the problem requires more than the existence of constitutional and statutory protections. It requires independent investigation, effective police oversight, proper training, transparent custodial procedures and meaningful consequences for violations. Only when these safeguards operate effectively in practice can the constitutional promise of dignity and protection against abuse become a genuine reality for persons in custody.

ROLE OF MEDIA, CIVIL SOCIETY AND HUMAN RIGHTS ORGANISATIONS

Media and civil society organisations have played an important role in bringing cases of custodial violence to public attention. In some instances, sustained media reporting has been instrumental in placing pressure on authorities to investigate allegations against police officials. The Sathankulam custodial deaths of P. Jayaraj and J. Bennix in Tamil Nadu are a significant example. Allegations of torture while the two men were in police custody generated considerable public concern and resulted in demands for accountability and an independent investigation.

Civil society organisations have also contributed to this process by documenting alleged instances of custodial violence and drawing attention to shortcomings in the existing accountability framework. Organisations such as the National Campaign Against Torture, Human Rights Watch and Amnesty International have reported on custodial violence and broader human-rights concerns in India. Such documentation is particularly relevant where official investigations do not provide sufficient information to the public.

At the same time, reliance on media coverage cannot be treated as an effective substitute for institutional safeguards. Public attention is not equally available to every victim. Incidents occurring in rural areas or involving persons from economically disadvantaged backgrounds

may receive little or no sustained coverage. The absence of media attention should not determine whether an allegation of custodial violence receives serious scrutiny. This makes independent investigation, effective police oversight and enforceable accountability mechanisms essential to preventing custodial abuse.

INDIA AND THE UNITED NATIONS CONVENTION AGAINST TORTURE

India's Position on Anti-Torture Legislation: India signed the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1997. The Convention seeks to protect individuals from torture and other forms of cruel or degrading treatment, particularly when such acts are committed by or with the involvement of public authorities. However, India has not ratified the Convention and has not enacted a separate comprehensive law dealing specifically with torture by public officials.¹⁶

The absence of a specific anti-torture law has remained a concern for human rights bodies, scholars and other observers of India's criminal justice system. The Law Commission of India, in its 273rd Report, recommended the introduction of legislation dealing specifically with torture and custodial violence. Such legislation could provide a clearer definition of torture, prescribe appropriate punishment, establish procedures for investigating allegations against public officials and provide better protection and remedies for victims.

The issue becomes particularly significant following the introduction of the BNS and BNSS. Although the new criminal laws introduce several changes to substantive criminal law and criminal procedure, they do not create a comprehensive statutory framework specifically addressing custodial torture. This can be viewed as a missed opportunity to address one of the longstanding concerns surrounding police accountability in India. A dedicated anti-torture framework, supported by independent investigation and effective safeguards for persons in custody, could strengthen accountability and provide victims with clearer legal remedies.

NEED FOR POLICE REFORMS AND ACCOUNTABILITY

Addressing custodial torture requires changes not only in criminal law but also in the way police institutions function. New procedures and technological measures can be useful, but

¹⁶ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85; United Nations Treaty Collection, 'Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', status as at 2026.

they will have limited value if the system does not ensure accountability when police powers are misused. The focus of police reform should therefore be on preventing abuse as well as responding effectively when it occurs.

One important step would be to ensure independent investigation of custodial violence. When allegations against police officers are examined by the same establishment to which they belong, doubts about impartiality can arise. An independent mechanism would make investigations more credible and could also improve public confidence in the process.

Technology can provide another layer of protection. CCTV cameras in police stations and lock-ups, together with properly maintained digital custody records, can help establish what happened during detention. Regular and properly documented medical examinations of detainees should also be conducted, particularly where allegations of physical abuse are made. These safeguards are useful only when there is proper monitoring and consequences for non-compliance.

Police training also needs greater attention. Officers should be trained in constitutional rights, human-rights standards and scientific methods of investigation. Reliance on force or intimidation cannot replace proper evidence collection. Better training can help shift investigative practices towards methods that are both effective and consistent with the rule of law.

Finally, allegations of custodial violence should not remain pending for years. Time-bound investigation and prosecution, where appropriate, can reduce delays and make accountability more meaningful. Police reform should therefore not be measured only by efficiency or crime-control outcomes. Its success should also be judged by how effectively it protects the dignity and fundamental rights of people who come under police custody.

CONCLUSION

Custodial torture remains a serious challenge to the rule of law in India. The constitutional framework and decisions of the Supreme Court have created important safeguards for persons in custody, but the continued occurrence of custodial violence shows that having safeguards in law is not enough. The real difficulty lies in ensuring that these safeguards are followed when a person is actually under police control.

The Introduction of the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has brought important changes to India's criminal justice system. Greater use of technology, electronic procedures and forensic investigation can improve the way investigations are conducted. However, these changes do not by themselves solve the problem of custodial torture. The new criminal laws have not created a comprehensive statutory framework specifically dealing with torture by public officials, nor have they completely addressed concerns relating to independent investigation of allegations against police personnel.

The Constitutional safeguards under Articles 20(3), 21 and 22, along with judicial decisions such as D.K. Basu, Nilabati Behera, Joginder Kumar and Prakash Singh, provide a strong foundation for protecting persons from misuse of police power. Yet, the gap between these legal protections and their implementation remains a major concern. Delayed investigations, weak monitoring, institutional pressure and lack of effective accountability can make even well-established safeguards ineffective in practice.

The available data on custodial deaths further demonstrates why accountability cannot be treated as a secondary issue. At the same time, the role of the media, civil society organisations and human rights bodies shows that public scrutiny can help bring cases of custodial abuse to light. Such attention, however, cannot replace independent institutions capable of investigating complaints regardless of the victim's social or economic position.

Therefore, addressing custodial torture requires a broader approach. Independent investigation of allegations against police personnel, proper implementation of CCTV and custody-record requirements, regular medical examination of detainees, improved police training and timely prosecution should form part of a stronger accountability system. India should also seriously consider a comprehensive anti-torture law that clearly defines custodial torture, establishes responsibility and provides effective remedies for victims.

Ultimately, the success of the new criminal laws should not be judged only by how different they are from the laws they replaced. Their real value will depend on whether they make the criminal justice system more accountable to the people it serves. A person does not lose the protection of constitutional rights merely because he or she enters police custody. Until that principle is reflected consistently in police practice, legislative reform alone will remain insufficient to prevent custodial torture.