



DAILY EDITORIAL ANALYSIS

TOPIC

**CUSTODIAL BRUTALITY IN INDIA
AND CRIMINAL JUSTICE REFORM**

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CUSTODIAL BRUTALITY IN INDIA AND CRIMINAL JUSTICE REFORM

Context

- The **recent surge in custodial deaths** across various Indian states has brought the spotlight back on a dark and persistent issue: the **abuse of power by law enforcement authorities** and the systemic failure of India's criminal justice system.

Custodial Brutality: A Grim Reality

- India is classified as a "high risk" country for systemic torture and custodial brutality, according to the Global Torture Index 2025. Custodial violence—including torture, extrajudicial killings, and unlawful detentions—remains widespread and disproportionately affects marginalized communities.
- In **2024** alone, the **National Human Rights Commission (NHRC)** reported 2,739 custodial deaths, a steep rise from 2,400 in 2023. Over 75% of India's prisoners are under-trials, and prison overcrowding stands at 131.4%.
- The **bedrock of Article 21** is eroded when a citizen in state custody dies due to torture. Custodial deaths reflect a dereliction of the duty of care owed by the state.

Legal and Institutional Gaps: Why Police Torture Persists in India?

- Normalisation of Violence:** These deaths are not aberrations but the result of a system where force is routine and accountability is rare. The police, often under pressure and lacking support, resort to violence as a tool of control rather than justice.
- Misplaced Priorities in Policing:** Despite massive annual budgets for policing, investment in welfare, training, and psychological care for officers is negligible.
- Outdated Training:** Police training curricula remain rooted in pre-liberalisation models, lacking focus on ethics, human rights, trauma-informed investigation, and community policing.
- No Specific Law on Torture:** India lacks a national law explicitly criminalizing torture or cruel, inhuman, or degrading treatment or punishment (CIDTP).
- International Obligations:** India has not ratified the UN Convention Against Torture (UNCAT) or its Optional Protocol.
- Impunity and Weak Accountability:** State Police Complaint Authorities, mandated by the **Prakash Singh judgment (2006)**, remain weak or non-existent in most states.
- Ineffective Oversight:** Supreme Court-mandated installation of CCTV cameras in police stations is poorly implemented, with most cameras either absent or not meeting required standards.
- Lack of Victim Protection:** There are inadequate victim and witness protection laws, discouraging reporting and redressal.

Constitutional and Legal Protections

- Constitutional & Legal Protections:**
 - Article 21:** Right to life and personal liberty.
 - Article 22:** Protection against arbitrary arrest and detention.
 - Custodial Torture** is governed by legal provisions under the **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**. It defines the framework for detaining individuals during investigations while balancing individual liberty and effective law enforcement.
 - The **Indian Evidence Act, 1872** excludes confessions obtained through coercion.
- Judicial Interventions:**
 - D.K. Basu Guidelines (1996):** Supreme Court laid down **11 mandatory procedures** for arrest and detention, including medical checks, arrest memos, and informing relatives.
 - Nilabati Behera vs. State of Orissa (1993):** Landmark case where the Court awarded compensation for custodial death, reinforcing accountability under Article 21.
 - PUCL vs. Union of India (2005):** Directed installation of CCTV cameras in police lockups to ensure transparency.

- **NHRC Guidelines (2025 Update):** It mandated that all custodial deaths be reported within 24 hours, with post-mortem and inquiry reports submitted within two months.
- **Smart Policing Initiatives:** Government platforms outline efforts to modernize policing, including digital surveillance and training reforms.

Path Forward: Reforms Needed

- **Reallocate Resources:** Dedicate at least 5% of the policing budget to mental health units, regular counselling, and sensitisation courses.
 - ♦ Institutionalise mental wellness as an essential, not optional, part of law enforcement.
- **Transform Police Training:** Revamp the curriculum to include ethics, human rights, trauma-informed methods, and community engagement.
 - ♦ Make refresher courses and sensitisation mandatory.
- **Legislative Clarity and Accountability:** Enact a comprehensive anti-custodial violence law with:
 - ♦ Time-bound investigations,
 - ♦ Mandatory video recording of interrogations,
 - ♦ Independent oversight by civil society.
- **Leverage Technology for Transparency:** Ensure all custody areas have operational, tamper-proof CCTV cameras with real-time audits.
 - ♦ Use digital systems to monitor and prevent abuse, not just record it.
- **Reimagine the Police Role:** Shift the image of the police from authority enforcers to public servants, upholding empathy, restraint, and responsibility.

Source: TH

Mains Practice Question

[Q] In what ways does custodial brutality reflect broader systemic failures within India's criminal justice framework, and how might meaningful reform restore public trust and institutional integrity?