

**“PREVENTIVE AND CORRECTIVE MEASURES OF CUSTODIAL  
TORTURE;A SOCIO LEGAL STUDY**

A Dissertation Submitted in the partial fulfilment for the  
Degree

**of Master of Laws (LLM)**



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## ACRONYMS

AIR	All India Reporter
ALL	Indian Law Reports, Allahabad Series.
A.D.	Anno Domini
B.C..	Before Christ
CAT	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
CBI	Central Bureau Investigation
CEDAW	Convention On the Elimination of All forms of Discrimination against Women
Cr.LJ.	Criminal Law Journal
Cr.PC.	Criminal Procedure Code
CPAED	International Convention on Protection of the Rights of All Persons against Enforced Disappearance
DIG	Deputy Inspector General
FIR	First Information Report
ICCPR	International Covenants on Civil and Political Rights
ICERD	International convention on the Elimination of All Forms of Racial Discrimination
JLSR	Journal on Legal Studies and Research
JILI	Journal of Indian Law Institute
NGOs	Non-Government organization's
NHRC	National Human Rights Commission
PADC	Police Act Drafting Committee
SC	Supreme Court
SSC	Supreme Court Cases
UN	United Nations
UDHR	Universal Declaration of Human Rights
W.P.	Writ Petition

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# 1.

## Introduction

Since ancient times man has tried to take care of his neighbor. These forces are being used to undermine people and drag them into violence and abuse, and child care and abuse has become a global phenomenon. In many parts of the world, women and children are also required to suffer, although in many of these countries the law prohibits the use of violence, and international declarations must be maintained by authorized representatives.

Torture, as one of the most serious crimes, is protected by a wall of silence or denial. Perpetrators deny this, and may take measures to avoid leaving traces of evidence or to prevent victims from talking. Victims are left traumatized, embarrassed and frightened; They are often reluctant to talk about their experience, or grudge against their oppressors. Breaking this silence and giving a voice to the victims is a necessary first step towards reducing the use of torture. Any attempt to eliminate torture, and the trauma it inflicts, by a person who has not experienced it, will naturally be inadequate. The experiences, feelings and thoughts of the survivors of torture cannot in any way be fully and precisely described.

Every part of the state, in a democratic society, must be accountable to the people. And since the police represents the law and order of organized society, it applies more appropriately to the police than to others. In fact, in a democratic set up, the police is not above the law but subordinate to it like every other citizen and every executive action has to be backed by a legal basis when challenged before a court. If the criminals' own conduct is not above board, then how can the police insist on treating them unsurprisingly? Thus the public insistence on law-abiding can be best achieved if the police itself as the country's premier law enforcement agency sets a law-abiding example before the citizens by law-abiding.

Violence in prisons is a global phenomenon that people face, regardless of their age or health. This is a serious human rights violation, and it is a serious and disturbing problem in third world countries like India. Police brutality against suspects/accused prisoners, prison officials, military and other law enforcement agencies is increasing at an alarming rate. The poorest and most disadvantaged sections of the society are the most vulnerable. They were mainly members of organized cabinets, organized tribes, tribal women, migrant workers, landless domestic workers and many others.

The detention of prisoners has been accepted as a standard police investigation procedure

not only by the police and the office but also by the public. The result is that such stories of indecent behavior are only a temporary blow to the society. When something bad happens, there is chaos in the society. Only then does the government take cognizance of custodial torture because the offended public has no other option. Yet the best punishment that the guilty police usually face is a sentence of brief suspension. Once the event is removed from the public's memory, they are returned to service.

Apart from the plea to deal with harsh and professional criminals, it is sometimes justified to deny basic human rights such as freedom from torture on grounds of national security. It has been argued that the government is bound to defeat terrorists, insurgents and arsonists who by their violence and anti-national activities endanger innocent lives and threaten national security. Therefore it has been entrusted with wide powers to deal with such extraordinary situations. In such a situation it is natural to deviate from certain rights and freedoms.

Most human rights abuses occur in law enforcement and law enforcement operations. In India, the history of human rights abuses by the police can be traced back to the British time. Even after 73 years of independence in a democratic country like India, the police almost always hire men and are almost entirely responsible for protecting human rights. violations conducted by them. Although police brutality, death and detention and other forms of human rights violations are more common today in pre-trial prisons, and for people tired of hearing such abuse in custody, no concrete action has been taken yet.

Since the level of conviction is considered a measure of the skill of the investigating officer, each police officer will make some effort to meet the maximum level of conviction in his debt. This certainly adds to the level of police harassment. It is ironic that successive governments have repeatedly refused to investigate newspaper harassment.

Child-custody violence is part of police culture today, and death and imprisonment are common. Although the world of academia and the judiciary are aware of the need to study the causes of human rights abuses at the hands of the police, their introduction into the human rights field has not been tested by any systematic system. In the field of human rights, so far little attention has been paid to a thorough investigation into the causes of human rights violations in police custody from a legal point of view. Harassment means any act in which great pain or suffering, whether physical or mental, is intentionally obtained with the

knowledge or consent of a third party or person, is punished for that act. who or any other third party has done so. or the allegation of coercion, or intimidation or coercion to any third party, or on the basis of discrimination of any kind, in which such pain or suffering is caused by the consent or consent of all, legal or legal person acting Other than any community capacity. It does not include pain or suffering that is caused or expressed only by legal limitations.

The international legal system has a zero tolerance approach to torture. Article 2 of the Convention against Torture states that there are 'no extraordinary circumstances' to justify torture. Under the Human Rights Convention, freedom from torture is recognized as an 'absolute' right, meaning that no interference with the right to freedom from torture can be justified on any grounds, under any circumstances. can.

The prohibition against torture is a fundamental principle of international law. Torture, as well as cruel, inhuman or degrading treatment, is prohibited at all times in all places, including in times of war. No national emergency, however dire it may be, never justifies its use. No one can ever be returned to a place where they have to face torture. Many countries and armed groups still engage in torture.

*“The main object of torture is to destroy the self-esteem of the individual. The torturer seeks to destroy personal integrity in ways that cause maximum physical and mental suffering and ensure the greatest humiliation.”*

However, international rights allow the police to use force in certain circumstances. This is, in fact, very important in the role, and it cannot be denied. It is part of the official police mandate. The police must have public safety in the activities of thieves, robbers, criminals, firefighters and terrorists, and have a safe place to live and work. Hence, the arrest of the gang and the arrest of a non-violent suspect at the time of arrest, etc. There are situations that require a certain amount of retaliation by the police.

But surely the police have no right to harass the helpless; In a democratic environment like India, the people and the law of the country, the nation, the true king, not the police, because the monarchy rests on them. The police was working for the government, the people in charge. So, the police responded to the people.

The illegality and morality of torture are undeniable, but they are common in every region of the world. According to its report, Amnesty International has received reports of harassment by government officials in 141 countries between January 2009 and May 2013.

Senior police officers, government officials and politicians must justify such wrongdoing as a result of increase in crime in the community. However, the other face-off is the police officer as well as Delhi Police Commissioner Vijay Karan, who not only criticizes the public space, but also tries to prevent the emergence of prisoners. But usually the police force laughs at the idea of leaving a third option. They forgive and support its use for the following reasons:

(1) The police force is dealing with the problem of insufficient power in comparison to the rising crime rate. Their job is much more difficult than law enforcement and crime control. They don't have time to investigate properly and find the crime. It is therefore inevitable to adopt a third level approach.

(2) Serious and knowledgeable criminals understand only the language of violence. The third level is the only way to find the truth in them because they cannot express it in any other way.

(3) There is no danger of the use of force against criminals, robbers and arsonists as before.

(4) Do they have? If so, why should the police respect their rights and not the rights of innocent people?

(5) This legal process is very complex, and it always favors criminals. Police must act according to strict legal restrictions.

(6) Many police stations have virtually no buildings for scientific investigation and criminal detection. So the police must rely on third party approach.

(7) Detection of crime and conviction in a court of law is regarded by the public as evidence of the competence of the police.

(8) People want the police to stop and control crime but they are not ready to cooperate. They rarely testify against criminals. Therefore the police must obtain information from the criminal involved in the case which is rarely voluntary.

Lion. Krishna Iyer, J, said that the abuse of child abuse was worse than terrorism because of the latter's state mandate. India is a part of almost every major international human rights organization. This raises the question that why such incidents are still happening?

### **Problem Profile -**

In a democracy everyone is governed by the rule of law. Police obeys the law, does not stand by it, because whoever commits a crime must live according to the law. You can't let the police break the law. It is far more important to protect human rights than to convict others by illegal means.

Drawing a picture of fear and harassment and violence, the Indian police feel that their operation was planned. This is still a matter of great concern as the police lack adequate and systematic training.

Institutional weakness in preventing violence in India is a matter of concern. The court has proven to be a powerful tool in the fight against harassment, but has been hampered by the absence of certain laws, the Code of Criminal Procedure and national security laws, and the general problem of legal delays.

### **Research hypothesis -**

Atrocities in India are part of the legacy that you have inherited. Indian criminal and judicial law and related institutions are found in colonial law. Harassment occurs due to the following reasons-

1. The influence of the police also emerged as an instrument for the police.
2. There is constant pressure on people from all walks of life including police, politicians and administrators to show immediate results.
3. Third, the excessive workload associated with the lack of adequate human rights training and resources by investigators and an inadequate supervisory framework and hindering the ability of the police to deliver the results they require is therefore recommended. short cut.

Although there are many issues in the institutions and operation of the current justice system, the Supreme Court has criticized new methods of dealing with torture and murder cases to obtain compensation for victims of death and torture. And the last rule.

to learn something

The main objectives of the research are-

1. Discuss the concept and history of torture of prisoners.
2. Examine the causes and causes of such cases in India.
3. Evaluate the contribution of Judiciary, NHRC, NGOs, Human Rights Instruments in achieving the objectives laid down in the Constitution with progressive and liberal interpretation of various provisions of the Constitution.
4. To identify the shortcomings in the present legal system.
5. Suggest remedial measures to improve our justice delivery system.

### **How to research**

Basically this study is theoretical and theoretical, from mathematical point of view, the present study is based on primary and secondary material. In respect of the main sources, data to be collected from files, documents, reports, judgments, debates and discussions held by them on the matter. With regard to secondary material, information has been collected from articles published in relevant books, magazines, periodicals and newspapers written by various readers.

### **Learning program**

The study was presented in a systematic manner divided into 4 chapters, the details of which are as follows:

The work begins with the introduction of the topic, its problem profile, object of learning, approach and curriculum.

Chapter 1 discusses the concept of torture and its history in India. It discusses the meaning and meaning of abuse, its causes and its effects.

Chapter 2 discusses the various national security measures enshrined in the Indian Constitution including various legal protections under Indian evidence.

Law and Payment Code of India.

Chapter 3 discusses the various defenses available under various international governments

and conventions.

Chapter 4 examines the various judicial systems in India. Various High Court cases in this regard were also discussed for this purpose.

Chapter 5 discusses the various recommendations made by various commissions and reports.

The work ends with some suggestions on how to improve the legal system and prevent and control such crimes.

## **2 .Chapter 1**

### **Concept of Torture**

The rule of liberty and the recognition of human dignity are the topmost concerns of a democratic government. Living in a time of globalization, a human rights program is one of the most important in the world. On the other hand, expanding the human rights protection zone increases the crime rate and, on the other hand, creates problems for the law enforcement agencies and their actions to achieve equality between them. Human rights protection and pre-trial detention, harassment are in common conflicting situations. Harassment in deprivation of liberty by law enforcement officers, police and police is considered the most serious form of human rights violation. Protection of the protection of human rights can be ensured only by cutting unnecessary and unnecessary. The word "harassment" is not defined in the Indian Constitution or the Code of Conduct. The issue of child custody has been a matter of great concern to the international community and is a global problem. Therefore, economic hardship, suffering and police violence are not only common in the country, but very common. In India, the world's largest democracy, where rights include protection of life and human rights as one of the fundamental rights and freedoms. However, the presence of third-degree cases of torture and abuse in deprivation of liberty, along with suspects, remains an important part of the study. Human rights are important for all because without them a meaningful life is not possible. After World War II it has been amalgamated into a serious legal basis. There are laws to protect human rights because of its importance at the national and international level.

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<sup>1</sup> Komal K. Kapoor & Sarthak Kapila, "Custodial Torture: A Gross Violation of Human Rights", *JLSR* 125(2016)

<sup>2</sup> *Id* at 126



And there are machinery for the enforcement of human rights and the police is one such machinery. Police is entrusted with the duty of protecting the life, liberty and safety of the individual in the state. However, the defenders, at times, become the violators. is a large number. Regarding human rights violations by the police. The lack of proper implementation of the existing law adds to the problem.

Heinous crimes against suspects/suspects and convicts, police, jail authorities, army and other law enforcement agencies are increasing day by day. Not a week has passed when the media does not report on the abuse and death of prisoners. Violence in disadvantaged centers is not limited to this, why do violent people, such as saboteurs, terrorists, dacoits and other criminals, try to think that criminals, including some police officers, even if they are serious criminals, The police have a right to impose fines for performing the role of justice? They are generally members of organized castes and tribes, tribal women, landless and rural migrant workers and many others.

Harassment in prisons is very common these days, and this applies not only to the police and administration, but also to the many people who often work in police investigations. As a result, news of such immorality shocks the public, and for some time, and when something bad happens, there is an uproar in the community. Then, and only when, the government should focus on mental discipline, because public outrage does not allow another option. Yet the convicted cop usually faces the most punishment of a brief suspension. Once the event is removed from the public's memory, they are back in service.

In a democratic society every part of the state should be accountable to the people. And this applies more appropriately to the police than to others as the police represent the law and order of an organized society. The oppression of the weak by the strong is that basic animal system which, despite being called human, some perverted human beings could not resist and has been in existence since time immemorial.

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<sup>3</sup> Abdul Azeez H. ,” Human Rights versus Police-A probe from Human Rights perspective.” , 6 *NULJ* 52(2017)

<sup>4</sup> R.S.Saini “Custodial Torture and Practice with Reference to India” 36 *JILI* 166(2016)

<sup>5</sup> *Id* at 68

One of the key features of the state was the legitimacy and guarantee of its citizens, and this opportunity was given to an institution called the "police". The policeman as an observer of the law has a multifaceted character in the society, viz. Protection of life and property, protection of innocent people against abuse and terrorizing insurgent leanings and to work relentlessly to guarantee peace and request among the general public, where liberty, uniformity and equality are respected beliefs of a policeman to all men . In order to perform these lawful obligations, a wide range of forces of arrest and investigation are vested in the police by law, yet these forces are routinely used by the police to torture suspects either to uncover a crime or In the so-called real name is used for sad pleasures. Which is contrary to the duty of the police.

The term "police" is neither defined in the Code of Criminal Procedure nor the Indian Police Act nor the laws of any state. The Black Law Dictionary defines "police" as, (1) "a government agency responsible for protecting the public peace, promoting public safety, preventing and solving crime", and (2) "as a police service". officer or member". Thus, the term "police" is applied only to the individual or the State. Authority can be defined as a body of persons constituted by it, which is bound and empowered to maintain law and order, prevent and investigate crime.

Custody means "the protected care or guardianship of someone or something." Lawful Bid interprets custody as the point where a person loses his freedom of movement, for example, prior to booking or through deprivation of law enforcement bodies through arrest, prosecution and imprisonment. 10 Mainly the detention in torture by police officers is a direct assault on the life and personal liberty of a one-time.

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<sup>6</sup> Available at [http://shodhganga.inflibnet.ac.in/bitstream/10603/87377/6/06\\_chapter%201.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/87377/6/06_chapter%201.pdf) (last visited on 6th April, 2018)

<sup>7</sup> Sankalp Malik & Alok Saxena, "Custodial Torture: Injustice by the Protectors of Justice" , 3 *JCILI* 1 (2015)

<sup>8</sup> The Black law Dictionary, (8th Ed. 1999)

<sup>9</sup> <http://www.oxforddictionariesom/definition/english/custody>, visited on 25.04.2018

## **1.2 Definition of Torture**

According to The Oxford Dictionary, "the act or practice of causing harm to another person, such as a punishment or an obligation to do so, or to say something." Abuse is a cruel act that affects the body and mind of the victim. It has been very common in the world since ancient times, including sleepless nights, beatings, lightning, side fists, tension, death, violence, sexual assault, but It is not limited to these. Specifically, rape and creating fear, anxiety, forgiveness, empowerment and vengeance. Knowledge of any kind violates a person's right to freedom of choice and to live with dignity without fear.

Amnesty International in its 2001 report highlighted that violence was perpetrated by 140 provinces between 1997 and 2001, and thousands of victims were beaten, raped and killed each year. Continuing in its 2014 report, Amnesty International revealed that 79 signatories to the Torture Convention are still using abusive methods.

Abuse often includes intense physical, mental, and emotional abuse aimed at forcing a person to do or say something against their will. It means breaking down in severe physical pain and extreme mental stress. The suspect is being held in a remote area where family, friends and legal aid will not be available; Investigators control everything, even health. For obvious reasons, harassment is not called harassment by perpetrators. This falls under the words "ongoing investigation\*", "inquiry" or "investigation".

In any case, harassment is always the result.

The word torture comes from the Latin word "tortus" which means to twist. The Greeks extend their meaning to identify to test or test to find out whether something or someone is real or real. In the Act, however, it means physical abuse, such as convicting a person or punishing or coercing a person to give evidence in court.

Convention for the Suppression of Hooliganism and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (1984):

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<sup>10</sup> Y S Bansal, Murali G and Dalbir Singh, " Custodial Deaths-An Overview of the Prevailing Healthcare Scenario," 32 *JIASM* 315

<sup>11</sup> Gupta, Raj Kumar, *Human Rights And Custodial Crimes*, 118, (*Human Rights Year Book* (2010))

<sup>12</sup> <http://www.oxforddictionaries.com/definition/english/torture>, visited on 24.3.2018

<sup>13</sup> Amnesty international report, 2001

*Convention for the Suppression of Hooliganism and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (1984) :*

"Nuisance" means any act in which severe pain or suffering, whether physical or mental, is intentionally committed to obtain information or confession to any person, to cause him or her or any third party to do so, or to threaten or to punish for coercion, or subject to discrimination of any kind by a third party, or for any other reason, in which case such pain or suffering may be caused either by incitement or with the consent or with the consent of a Government official or other legal practitioner It does not include any pain or suffering which is caused, which arises or which is accompanied by legal punishment.<sup>14</sup>

*Inter-American to Prevent and Punish Torture Agreement (1975):*

"Harassment shall be understood as an intentional act in which a person is caused to suffer physical or psychological harm or for the purpose of criminal investigation, as a threat, as a personal punishment, as a means of self-defence, as a means of punishment." Harassment shall also be understood as the use of personal means intended to destroy the personality of the victim or reduce the physical or mental capacity, even if it does not cause physical or mental suffering. "

*Prevention of Abuse Bill, 2010*

"Any person, being a public servant or under any public servant or with the consent or acquisition of any public servant, knowingly commits any act from any third party or with the intention of obtaining such information or confession which results in- or ii) endanger the health, bone or health (or mental or physical) of any person considered to be degrading: Provided that nothing in this section applies to any pain, injury or injury as that is previously mentioned act, performed in accordance with any established procedure. by law or by law.

The most questionable and tearful move is to authorize and justify the abuse of prisoners rather than actual torture. Harassment for law enforcement has become an orderly and controlled government.

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<sup>14</sup> Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment, (1984), Art 3

<sup>15</sup> The Inter-American Convention To Prevent And Punish Torture, (1985), Art. 2

Senior police officers, bureaucrats and politicians established it as a necessary evil to prevent the spread of crime in the community. Though there are some enlightened officers like Vijay Karan, former Delhi Police Commissioner, who did not openly condemn him but his best efforts to stop the abuse of detainees but police usually laugh at this idea of leaving third party methods”<sup>16</sup>

The police force is facing a crisis of insufficient power compared to an increase in crime. Their work extends far beyond law enforcement and crime control activities. They don't have time to investigate properly and find the crime. It is therefore inevitable to adopt a third level approach.

Tough and skilled criminals understand only the language of violence. The third level is the only way to find the truth in them because they cannot express it in any other way. There is no danger in using violence against criminals like criminals, dacoits and arsonists as they use it in the society. Do they have rights? If so, why should the police respect their rights and not the rights of innocent people? The legal process is very complex and always favors the criminals. Police must work under serious legal problems. They should without a doubt establish the case in court this somehow leads to "solution" of the matter. Most police stations probably do not have facilities for scientific investigation and crime detection. In such a situation, the police will have to rely on the third method.

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<sup>16</sup> The Prevention Of Torture Bill, (2010), sec. 3

<sup>17</sup> *Supra note 2* at 3

Detection of crime and conviction in court is considered by the society as evidence of the competence of a police officer. People want police to stop and control crime but are not ready to cooperate. They rarely testify against criminals. So the police have to get information about the crime from the criminal concerned which is rarely voluntary.

### **History of Torture**

Throughout human history, torture has most often been committed against people who are not full members or citizens of a society, such as slaves, foreigners, prisoners of war, and members of a racial, ethnic, and religious outside group. Torture is rarely used against full members of a society or citizens. In these cases, torture is used only when other evidence indicates a possible crime, and in cases of extremely serious crimes such as heresy and treason. Torture was illegal in theory and rare in practice in 19th-century Europe, Latin America, and the United States, but increased greatly in Europe and Latin America during the 20th century. There is no accurate and complete data on the prevalence of torture elsewhere in the 19th century world, but it appears that torture was either as common or more common in the 20th century than it was in the 19th century.

Torture as a tool of inquiry is not a new phenomenon. It has been used to obtain information from subjects since at least the first written law codes, and its use, at least several times in the past, has been ubiquitous throughout Europe. The following survey traces its early use in Ancient Greece, follows its development in the Roman Empire, its revival in the 12th and 13th centuries for both secular and religious trials, its restriction as an instrument of legal trials, and finally its revival as an instrument of state power.

#### *Greece: The Torture of Slaves and (Some) Foreigners*

From the 7th to the 5th centuries BCE, the Greeks codified laws to govern disputes between individuals, replacing the old tradition of settling arguments with blood disputes with a system in which the state had a control between the parties. had the power to mediate. The Code of Laws, specifically the set of laws written by Solon for the city of Athens in 594 BC, set out the ways in which the victim of a crime could be re-compensated by the offender - most including murder. The offense\*, was punished as causing damage to the property of another, and by demanding payment of an equal amount from the offender to the victim, was punished accordingly. (For murder, the "pay" was the killer's exile.)

The Greek legal process placed great importance on a citizen's sworn testimony, building his trial process on the idea that a citizen's honor and status would compel him to speak the truth. As an added temptation to tell the truth, citizens who have found themselves wrong can be declared disgraced and banished from the city. However, when the testimony of a non-citizen, such as a \*\*\*\*\* or foreigner, was required, no such compulsion was recognized. Greek law therefore provided a means by which the word of a person without honor could be made admissible as evidence in a trial: torture. This type of judicial torture appears to have never been used on civilians, but there are rare instances where citizens accused of reprehensible crimes have been tortured. For example, in 411, an accomplice in the murder of a member of the elite of the four hundred in Athens was investigated under torture.

*Rome: the torture of all except the mighty*

Around the 5th century BCE, the development of Roman law was strongly influenced by Greek law and its practices, just as Rome adopted Greek gods and philosophy. The Romans also used torture, and like the Greeks, they banned the class of people who could be subjected to torture. First, the law completely prohibited the torture of free citizens, and it provided greater protection to \*\*\*\*\* than Greek laws, allowing only slaves who had been accused of a crime. Furthermore, the torture of slaves was limited to criminal cases rather than civil, again reducing the threat of torture to murder.

However, these protections were gradually removed, first by allowing slaves to torture over monetary disputes, then by allowing freemen of "low estate" to be tortured, and finally by freemen of both the humble and noble class. Permitted to commit atrocities in cases of treason.

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<sup>18</sup> "Ancient Greek law.", Wikipedia.org, [http://en.wikipedia.org/wiki/Ancient\\_Greek\\_law](http://en.wikipedia.org/wiki/Ancient_Greek_law), (visited on 16.04.2018)

### *12th-13th century Europe*

In Western Europe outside the Roman Empire, and in the former Roman regions when they were conquered by Germanic tribes, the formal legal traditions of Roman law were unknown. Rather than presenting evidence of guilt or innocence, at a trial the parties (and their supporters) will testify under oath, for each trial as decided by the quality of the testimony (as measured by the number and reputation of the supporters). with result. Party. For cases in which the offense was heinous enough or the defendant's reputation was so poor, trial could be carried out by trial. In trial by trial, if the accused can accomplish a painful and injurious act, such as walking nine steps while holding a red-hot iron in his hands, without injury (or with rapid healing), he shall be given this principle. But was declared innocent that only divine intervention on the part of an innocent person could make this achievement possible.

### *Roman - Medieval times*

To govern the organization of the Roman Catholic Church and its members, the Church developed its own code of laws, known as Roman canon law or simply canon law. There are many sources for these laws, including the Bible, the doctrine of ecumenical councils, and letters from the Pope. Another important source of canon law is classical Roman law.

### *History of torture in India*

Ancient India was not a safe place to live. Several groups of thieves were already present at the time of Buddha (6<sup>o</sup> century BCE). They were outlaws from generation to generation, robbing and killing their victims like thugs. This professional outlaw race, but not only them, had a significant problem: the punishments for crimes and crimes were harsh then,

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<sup>19</sup> "Trial by ordeal.", Wikipedia.org, [http://en.wikipedia.org/wiki/Trial\\_by\\_ordeal](http://en.wikipedia.org/wiki/Trial_by_ordeal), (visited on 25.04.2018)



Written in the 4th century BC by Kautilya, the minister of King Chandragupta Maurya, "Arthashastra" is a treatise on the art of ruling and one of the main Indian books ever written. It recommends: amputating the right hand for pickpocketing or theft; nose cut for theft; chopping a hand for a false dice player; To cut off the nose and ears for incitement to theft and fornication; chopping off an arm and a leg to kick preachers and use royal coaches; To blind with poisonous ointments for Shudras who pretend to be Brahmins or slander the king; amputate an arm or leg in order to free criminals, forgery, or for the sale of human flesh; Biting of tongue for blaming the gurus, parents and king and desecrating the Brahmin's kitchen. There were also different forms of death: death with torture for \*\*\*\*\* in a fight; Death by crucifixion for theft of royal animals; Death by burning of hands and skin for treason; Death by drowning for women who break dams or reservoirs, poison or poison themselves; Death by tearing off the limbs of criminals for women who poisoned or set houses on fire; Death by burning to set fire. There were also crimes for which the offender was executed without any torture. In addition, slavery was reduced on men and women in cases of adultery.

In practice, many mutilations and capital punishments (except for the reason of treason) were reduced to fines, resulting in a substantial influx to the royal treasury. Except for sedition, Brahmins (already the highest class in India) were free from capital punishment. Being privileged, Brahmin criminals were generally somewhat condemned. In the case of theft, a dog figure (in traditional India, dogs are misunderstood, considered unclean.) were branded on their foreheads; In the case of \*\*\*\*\*, the shape of a human trunk. And in some cases, the alternative was to expel the Brahmin from the state.<sup>20</sup>

The basic concepts of governance in ancient India were that of dharma and punishment. 'Dandneeti' was an essential component of the state craft. In the Dharma Sutras, the proper conduct of 'Dand' was considered an important duty of the king. The basic unit of policing was the village; A village is a group of families with their land and pastures surrounding the village. Each village had its own local court consisting of the headman and village elders. The courts decided petty criminal cases such as petty theft as well as civil disputes. There is a mention of Gramadhipati in Mahabharata and Grambhojaka is mentioned in Buddhist Jatakas. Nagarguthka was responsible for arresting and killing the robbers

The Buddhist period (320 BC-300 AD) was an era of great humanism and the administration of justice was influenced by humanistic ideals. Custodial torture in any form was strictly

forbidden and special favors were accorded to prisoners who were women, the elderly or had many dependents.

In the Gupta period (320A.D.-500 A.D.) four types of examinations were resorted to if the facts against a prisoner were not clearly established by evidence. Testing by examinations was fairly general.

650. During the six and a half centuries between Harsha's death in Eddy. Until the rise of Mohammedan power, not much information is available about the criminal justice system. In general, a mixture of small Hindu kingdoms with varying boundaries were constantly engaged in dynastic wars. Sharia law was applied on crimes during the Mohammedan period. Eye for eye, tooth for tooth, limb amputation and torture for making confessions spread widely. A thief's hands were to be cut off and the adulterer and the adulterer were to \*\*\*\*\* put to death. No other form of compensation was admissible to the next of kin or the aggrieved person himself. 'Danda' was held to be an important duty of the king. The basic unit of policing was the village; a village being an aggregation of families together with their land and pastures surrounding the village. Every village had its local court which was composed of the headman and the elders of the village. The courts decided minor criminal cases such as petty thefts as well as civil disputes. The Mahabharata mentions Gramadhipati and the Buddhist Jatakas speak of Grambhojaka. Nagaraguthka was responsible for arresting and executing robbers<sup>21</sup>

Under Mughal rule, no criminal or civil code existed. Sharia law was in force. Custodial torture for demanding extortion in confession was widespread. But the quality of justice given by the later emperors was by no means the same. Akbar certainly tried to avoid harsh treatment of the prisoners by his officers. In Jahangir's judicial system, discussions characterized by Akbar's punishment were absent. Under Jahangir, trials were quick and so

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<sup>21</sup> *Encyclopedia of Police in India* (1993)

<sup>22</sup> S.K. Ghosh, *Torture and Rape in Police Custody: An Analysis*, 15(1993).

were carried out by hanging, hanging, beheading, crucifixion, beating with daggers, elephants, serpents etc. Shah Jahan was capable of even greater cruelty and brutality than Jahangir and took a brutal pleasure in watching the execution of the sentence. that he had decreed. Aurangzeb, on the other hand, erred in the opposite direction in his attempts to achieve the ideal of a strict Muslim and to follow the law and traditions of Islam in every detail of his administration and personal conduct. His administration was brutal and he made a distinction between Hindus and Muslims in the administration of criminal justice. Hindus were subjected to more torture and more severe punishment than Muslims for the same crime.

There were many types of tortures in the Maratha Empire. Amputation of hands and feet, ears and nose, pouring molten lead into the throat, crushing bones of hands and feet with axes, driving iron nails into hands, feet and bosom. These and many similar tortures were practiced to establish the guilt of the person caught.

With the fall of the Mughal Empire and the advent of British rule in India, the criminal justice system did not exist. In the early years of their rule, the British found gangs of professional and hereditary robbers and murderers, known as 'thugs', who expanded to far flung parts. Residents were indiscriminately arrested on false charges and held in prisons for years before they were brought to trial, and many of them died in prisons. Atrocities by officers including the Kotwals were widely prevalent resulting in deaths sooner or later. The British developed order out of anarchy and destroyed the organization of thugs and abolished barbaric social customs and created judiciary, police and prisons and codified law.

The British Raj was also notorious for its police excesses. The police were agents of royal brutality and earned the reputation of being anti-people. Men, women and children were caught and beaten and tortured for confessing to crimes they did or did not commit. They wanted a police system to be developed to instil a sense of fear among the general public so that they would not threaten them to continue with their rule, exploitation and recovery of maximum revenue from the country. Administration of justice was not his main concern. The atrocities during this period were mainly done by the revenue collectors to collect the revenue. Political activists were also picked up for questioning and tortured if they did not give the kind of answers the police wanted. Primitive police, oppressive police and 30 threatening police can only bring justice to the wounded in India..

## **Types of torture**

The modes of abuse are different physically, psychologically and sexually.

A. Physical abuse: Methods that cause pain, discomfort and dysfunction in various parts of the body. The abuser also makes sure that the abused victim is not exposed to a simple test.

Methods may include the following:

a. Hitting and hitting: Various blows are very common and can cause common symptoms such as bruising, scratches and bruising. Special weapons/objects can leave special patterns, for example, strikes/strikes with a stick or thong often cause similar tramline damage. When the skin is torn, the remaining scar will provide evidence of damage. Hitting sites also vary. The head, back, buttocks, perineum, and larynx (phalanges) are the most prone areas of stroke.

b. Earache: The victim's ear can be twisted or pulled until the outer ear is ruptured. One victim may be asked to abuse another in this manner. Deafness can be treated by using both the ears together, which is known as a phone number. This can rupture the eardrum, causing severe pain, bleeding, or hearing loss.

c. Fingerprint: A pencil or similar object is placed between the fingers, and then pressed firmly against the object. Similarly, fingers can be twisted to cause intense pain.

d. Hair abuse: The victim is dragged by the hair. The hair can be cut or the scalp can be completely repaired. Hair can also be forcibly removed.

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<sup>24</sup> Available at <https://lawschoolnotes.wordpress.com/2016/09/13/laws-on-custodial-torture-in-india/> (visited on 25.04.2018)

e. Suspension: The victim is restrained with a leg or arm or hair. Suspensions are often associated with other forms of abuse such as severe beatings, lightning, hammer, heat or cold torture.

f. Forced position: The victim may be simultaneously forced to be in awkward or stressful position for hours and exposed to kicking, hitting etc. In some cases, the victim may be arrested in a number of ways and then kept in that position. several hours.

g. Electronic abuse: This is very painful and is often used because it leaves very little lasting signal.

h. Nudity: This can be used to demean a person and make them feel exposed and therefore insecure.

i. Torture: This is specifically referred to as a 'wet submarine'. The victim's head is forced underwater and contaminated with feces, human feces or blood. In 'dry dipping' the head and face of the victim are covered with plastic wrap or something similar. Covering the victim's mouth and nose with an empty object or hand can also cause dementia.

j. Heat or heat: Anger can be caused by anything that burns or burns, for example, cigarettes, hot irons, molten rubber, etc.

k. Cold Abuse: The victim is exposed to different levels of cold in different ways. He can be forced to lie down in the wet when it is too cold, naked.

i. Psychological Abuse: This type of abuse may involve several stages, the following:

1. Depression: Victims are denied a variety of needs in order to suffer psychological trauma. These methods may include 'emotional deprivation', in which the victim is deprived of various sensations such as light, sound, etc. The victim may be blindfolded or kept in a darkened room, etc. 'Loss of consciousness', in which the victim is deprived of thoughts of confusion and confusion, for example, repeated transfer of the victim from one place to another blindfolded, frequent sleep disturbances, etc. 'Social deprivation', where victims are denied access to visitors or confined to a single room. 'Deprived of basic necessities', where victims are deprived of basic necessities like food, water, medical facilities, clothing, luxuries, communication etc.

2. Harassment of Witnesses: Victims are forced to witness the abuse of another

inmate or family member.

3. Threats and Insults: They may commit acts of violence such as urinating on the victim. Sometimes the victims are also threatened with death.

4. Drug Methods: A variety of drugs can be used to mislead the victim, to facilitate the abuse, to hide the consequences of the abuse, and also to self-disclosure as abusers

ii. Adult (sex) Harassment (sexual Harassment): Most investigators have, until recently, described sexual as follows:

a. Violence against sexual organs such as electric shock, external genital mutilation or genital mutilation.

b. Sexual oppression, such as forcible rape by a tyrant or victim, etc.

c. Mental sexual Harassment, such as forcible nakedness, sexual harassment, forced witness sex.

d. Any mixture above ,

### **Factors responsible for custodial torture**

#### *a) Psychological reasons -*

These reasons include lack of proper motivation, excessive enthusiasm of the investigating officers to ensure the detection of cases by obtaining confessions from the arrested person. The use of scientific methods of investigation to find out a case requires tremendous patience, perseverance and professional expertise. Investigating officers lack proper orientation in scientific methods and resort to third-degree recourse to gain confessions and unravel the mystery or motive behind the uproar of the crime. with officials. Victims of low morale and a sense of deprivation may at times resort to custodial violence to obtain tragic pleasure.

#### *b) Lack of infrastructural facilities-*

Unfortunate incidents happen in police station due to lack of basic facilities. Due to the absence of separate women lockers in many police stations, they have become unsafe for those women who have been detained in the police station after their arrest. In the absence of sufficient number of women police officers in the police station, the problem is further compounded. Most of the cases of harassment and sexual cases happen in such situation.

#### *c) Administrative reasons-*

In the absence of proper monitoring of the functioning of the officers in the police station, there is a ruckus of custodial torture. The officials feel that their activities are not being monitored by the supervisors. Sudden visits by senior officers to the police station can help in reducing such reckless tendencies on the part of the officers.

### **Cause of torture in custody**

Despite the fact that all sections of the society are concerned about child custody, they have not been satisfied for years. It is increasing every year even though the level of education has increased and people are now aware of their rights and responsibilities. The main branch of the criminal justice system is the police. Therefore, it will be necessary to find out the diseases controlled by this agency, which have resulted in misuse of the people kept by them. This section attempts to determine the root cause of the problem of child custody. For this you need to know about the working conditions of the police and find out how they interact with suspects. The reasons for child custody can be divided into the following categories:-

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<sup>25</sup> R.K.Ray, "Custodial Crime : Causes and Remedies", *CBI Bulletin* (1996)

<sup>26</sup> Puppul Srivastava, "Custodial Crime in India : A Grave violation of Human Rights" 225 *Cri.LJ* (2005)

*A. Working pressure*

Indian Police is facing chaos and disorder, riots, political violence, student violence, terrorist activities, increased bribery, corruption, tax evasion, money laundering, money laundering and money laundering. Organized criminal gangs take root in the society. Sometimes they use modern weapons, explosives and many other devices to commit crimes without leaving any evidence of their crimes. Similarly, dealing with insurgent groups and terrorists is also quite different from dealing with ordinary criminals. This category of criminals is well trained, strong and well equipped with modern weapons. An ordinary cop who has a small pistol or even a commonly offered pistol is certainly beyond comparison. In fact, the shrewd criminal can avoid legal action almost permanently. The Indian Police today finds itself failing not in its numerical strength but in inadequate infrastructure such as modern weapons and equipment, transport and communication networks and most importantly in the in-service training required to make it a more efficient and effective tool. . very important. enforcement by law.

One of the most important reasons for police brutality to continue is pressure. The sources of pressure are many, but they are mainly related to performance or output beyond the limited extent of the police role, although there are barriers to the effective functioning of the role. The police should deal with crime and harassment not on paper but directly. This creates a lot of pressure from the public and the government. In addition to system issues there are also issues arising from its own implementation. As a result of the efforts of the police, they distort the evidence and thus reduce the chances of conviction in a court of law. Medical and legal reports are usually received very late. The TIP (Test Identification Parade) is usually delayed significantly before the defendant is granted bail, thus defeating the purpose of holding such a show. In our prosecution system, a person is presumed innocent until proven guilty as well as, the level of evidence required by the prosecution to prove his guilt. Yes, in extreme cases, it is more. Therefore, the odds of being convicted in a case may be one in four. But the result must be received as soon as possible otherwise the officer will be transferred. So a shortcut is needed for them to get the result again, UPP Police 1970-71 observed,

“The accused or accused can be kept in police custody for a period not exceeding 24 hours as per law. Meanwhile, more details will be available from the suspect, especially in property matters, the recovery of which largely depends on the success of the prosecution. Whenever



the investigating officer finds that it is possible, he registers an arrest after a few days of unregistered and illegal detention. So the pressure of finding high-profile information over time means using shortcuts for the investigator. "

### *B. Greed*

It is one of the most disgusting causes of torture in prisons and seems to be on the rise. Many police officers at the police station level use cruelty to extort money from suspects and innocent people. The legal nature and nature of the evidence helps in making the SHO more powerful and in the process of completing what he does, which gives the unfinished power to seek money and evade the corrective redressal process. Courts pay close attention to the motto and what type of motto is written depending on the police officer on duty. While investigating a dacoit case, he can always threaten to prosecute a trusted person, even beat or hang him in the police station unless they give him money. Unika. Vigilance takes place behind the scenes and may attempt to punish the police officer involved, but it is not uncommon for him to overturn mishandled, damaged evidence. Everyone puts money first, they need money anyway, and that is our old state of mind in a high society. For him, the chains from the minister to the police were made according to the police system. Nowadays the police system has become a source of income for the police and ministers. All police stations have a price, if there are police officers who are willing to pay that amount, they get a post from that place.

### *C. Punishment violence*

There are honest but lost police officers who believe that they will not let criminals go with them. In fact, it is believed that there is no other way to control the criminals other than the noise. The UP Police Commission 1970- 71 said, "The reason for the use of the third level is the birth of misconceptions. Criminals. They often live there, especially when the conditions inside prisons outweigh the external conditions and the things they Afraid to beat the police. The whole system of justice is punishable, so its system that works for the people will not work. Due to systemic constraints, police work is also often punishable, and many police officers view their brutality in addition to the role of a punitive organization.

#### *D. Good review*

No matter how many challenges there are, results have to be created. As things stand, a police officer said, the inspector of a young, ruthless, short-sighted and dishonest staff gave the results. Giving results reduces the pressure on his masters, for the benefit of all, leading to the forgiveness of all his sins. At the right time and sometimes earlier, such a policeman rises in his royal court. This reinforces the use of third party methods not only in their vision but also in the views of their peer group and subordinates. Sometimes a third party police expert is so overrated that a police officer, facing a difficult situation or case, seeks his help. Then he becomes the main producer who 'works' with the suspect and collects the profits, recovering the profits. This continuous strengthening of the third level approach is a very important factor in delivering results.

In case of police custody violence. Therefore, police violence has a positive effect because it produces consequences and produces them at least at a faster rate than others.

#### *E. Police Sub-culture*

Police culture on the social side of a single currency. This means that a police officer reacts in the same situation as a police officer and is therefore different and recognized in a way that others may react in the same situation. Our police culture includes the use of third party methods. Police culture is reinforced by isolation, apathy, an understanding of the rule of law in the community, certain inefficiencies, conflicting police needs, decisions inconsistent with their work, forcing everyone to corner. In this case the police officer finds support among others in his community identity, which leads to group unity, which also provides a sense of security from the dangers and self-destruction of his work. Respectful mannerisms and few social interactions despite their unusual working hours. So it develops a group culture that wants to be more obedient to threats, harassment rather than rules, regulations, orders etc. Although one can explain the fact that a young man from a good family, well trained, starts behaving. Few years especially if he is in a position to act brutally as sub inspector. From, certainly in the case of your work in general and positions in particular.

#### *F. Lack of proper training*

Lack of proper police training; Often this is the result of using third-party methods. Inadequate training by the police, neglect of the need for self-restraint, respect for civility and society, to avoid cruelty or unnecessary sharpness are the factors leading to violence. The Korea Committee on Police Training (1972) was of the view that one of the aims of this training should be to create a positive environment for the community, not forgetting that public servants are employees and not masters of the community. Unfortunately, however, the police have not yet been given adequate training for the purpose. Police should be given proper training which should include a separate curriculum to inform them about human rights and are here to protect human rights and not to violate them..

#### *G. Other Factors*

Apart from the reasons mentioned above, other reasons for custodial torture may be weakness, etc. Male police personnel may have the opposite sex tendency towards prisoner attraction. to the satisfaction of this he may use force and commit rape into custody or he may to obtain consent to use his official position. An amendment has been made in the IPC, 1860 to provide for stringent punishment for those officers who obtain the consent of a female prisoner in custody to keep use their official position. with them. Third degree methods are also applied for 'teaching a lesson' or 'taking out anger'. This is the stage where the professional competence of the individual policeman surrenders to a situation and then he is almost out of his mind. This can be avoided if the policeman can keep himself calm, not carried away or torn by emotion, maintain philosophical separation and, as a parallel requirement, have sufficient professional skills.

There are some other factors which show that the police forces are dissatisfied and therefore commit custodial violence for the following reasons:-

i. They work under brief conditions such that they can be called on duty anytime and anywhere. This duty is troubling and unpleasant.

Second, their salary is mere, living conditions are not good and they indulge in corruption to meet their needs.

iii. Undue influence by politician in police work also adversely affects the spirit of honest and upright police person.

iv. The police investigation process is overloaded which leads to delays. There is no transparency in police inquiries which can hamper the criminal justice system of the country.

### 3. Chapter 2

## Constitutional and Legislative Safeguards

Rule of law means that no one shall be deprived of his liberty without the authority of law and all persons shall be equal before the law. This means that the government and its agents will also have to act according to the law and within its limits.

In a democracy and under the Indian Constitution, the police, as the representative of a state whose sovereignty is vested in the Indian people, are public servants and the police station is a public property. The conduct within it must be in conformity with the law, basic human freedoms need to be respected to ensure a basic trust between the people of a city, state or region and the wing of the state, the law and order machinery, i.e. the police. Custodial torture, inhuman treatment, handcuffing, third degree methods which are often used and practiced by police officers in the course of their official duties, are against the norms of civilized nations and are barbaric in violation of the rule of law and principles of human Dignity. There are activities. The main purpose of police is to apprehend criminals, protect law abiding citizens, prevent crimes and maintain law and order. 1 Atrocities have often been committed in India regardless of the government in power. Atrocities are committed on a regular basis by enforcement officers during criminal investigations. According to the International Council for Rehabilitation for Victims of Torture, the most likely perpetrators to engage in torture and other forms of abuse are: police, military, paramilitary forces, state controlled forces, government officials, health professionals and co-prisoners with approval or government officials. On Order 3. The main perpetrators of torture in India are police officers and other law enforcement officers, such as paramilitary forces, and officers who have the power to detain and interrogate individuals.

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<sup>1</sup> H.H. Singh, "Importance of judicial activism in preventing custodial violence" 16 *CILQ* 431 (2003)

In a third police report, the Commission suggested that the arrest during the course of the investigation, knowing the facts, may be allowed in one of the following situations:-

- In cases involving serious matters like homelessness, etc., you have to arrest the accused and suspend his/her job in order to increase the confidence of the victims of the terrorist regime.

\* The defendant may abscond from the legal process.

- The suspect shows misconduct, and may commit a new offense if his activities are not permitted.

- The defendant is a stubborn offender, and if he is not arrested, he is likely to commit the same offense again.

It would be desirable to insist through departmental instructions that the police officer making the arrest should also record the reasons for the arrest in the case diary so that their conformity with the specified guidelines is clear. The National Police Commission in its third report cited the quality of arrests by the police in India as one of the main sources of police corruption. The report suggested that, overall, about 60% of arrests were either unnecessary or unreasonable and that such unfair police action accounted for 43.3% of the cost of prisons. The said Commission observed that a large proportion of the arrests were related to very small cases and, therefore, cannot be considered quite necessary from the point of view of prevention of crime. The continued detention in jail of the persons thus arrested also means avoidable expenditure on their maintenance. In the above period it was estimated that 43.2% of the expenditure in the attached prisons was only on such prisoners who did not need to be arrested in the final analysis.

### **Provisions under the Indian Constitution**

Article 20 of the Constitution of India provides protection in respect of conviction for offences. Article 20(1) of the Constitution of India provides that no person charged as an

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<sup>2</sup> 3rd Report of National Police Commission of India, (1980)

offense shall be convicted of any offense other than the contravention of the law in force at the time of the commission of the Act, nor of any will be subject to penalty. which may have been imposed under the law in force at the time of the commission of the offense.

Article 20(1) deals with the general principle of evidence which provides that "ignorance of law is no excuse." This means that a person cannot solicit as a defense his ignorance of the law to which he is subject. Every person is charged with knowledge of the laws that apply to him. However, it is only the knowledge of the laws that are in force at the time a person commits an act that is made punishable by law. Thus, knowledge of future laws cannot be imposed on any person. No one knows what laws will be made in the future. No one knows which act or omission will be declared punishable in future.<sup>3</sup>

The expression "applicable law" in Article 20(1) denotes the de facto existence of the law at the relevant time and it excludes the retrospective operation of any subsequent law. This means that an act which was not an offense at the time it was committed cannot be an offense at a date after its commission, so far as that person is concerned.

double jeopardy

Article 20(2) of the Constitution of India provides that "No person shall be prosecuted and punished for the same offense more than once." This is the principle of double jeopardy. The purpose is to avoid harassment, which must be caused by successive criminal proceedings, where the individual has committed only one crime. Article 20(2) is based on maxims *nemo debet bis vexari*, which means that no one should be troubled twice if it is for the same reason as the court thinks.

The following conditions are necessary under Article 20 clause (2):-

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<sup>3</sup> Prof. Narendra Kumar, *Constitutional Law of India*, 278 (Allahabad Law Agency, Faridabad, 7th edn. 2008).

<sup>4</sup> *Chief Inspector of Mines v. K.C. Thappar*, AIR 1961 SC 838

1. There must be previous proceedings before a court of law or a judicial tribunal of competent jurisdiction; and
2. That person has been 'prosecuted' in the previous proceeding.
3. There should be not only prosecution, but also punishment in the first instance acting as a bar for the second prosecution and the punishment for the same offence.
4. The application of benefit is for an offense and only in a judicial proceeding.
5. Benefit does not accrue in case of departmental action based on similar facts

In *Maqbool Hussain v State of Bombay*, 6 appellant, citizen of India, brought from a foreign country, some gold without making a declaration. The Customs officers proceeded against him under Section 167 of the Maritime Customs Act, 1878 and confiscated the gold. Thereafter, he was charged under Section 8 of the Foreign Exchange Regulation Act, 1947 and was prosecuted under the said law. A Constitution Bench under the Supreme Court held that the Maritime Customs Authority was not a court or judicial tribunal and a decision of confiscation under the Maritime Customs Act, 1878 did not constitute a decision or order of a court or judicial tribunal. For the purpose of supporting the double jeopardy petition. Proceedings taken before maritime customs authorities, therefore, do not constitute a punishment imposed by a court or judicial tribunal for prosecuting the appellant or ordering seizure. Therefore, it was held that the prosecution under the Foreign Exchange Regulation Act, 1947 was the first prosecution which was not barred by Article 20(2).

In *Om Prakash v State of Uttar Pradesh*, 1948, giving bribe was not an offense. Section 3 of the Criminal Law (Amendment) Act, 1952 incorporated section 165A in the Indian Penal Code, 1860, which made the offer of bribe punishable. It was held that the accused cannot be punished under section 165A for offering bribe in 1948.

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<sup>5</sup> *Supra note 5* at 6

<sup>6</sup> AIR 1953 SC 325

<sup>7</sup> *Supra note 6* at 7

<sup>8</sup> AIR 1957 All 388.



The second part of clause (1) of article 20 prohibits the punishment or subsequent enhancement of the punishment. It provides that "no person shall be subjected to a punishment greater than that which could have been imposed under the law in force at the time of the commission of the offence."

In *Kedar Nath v State of West Bengal*<sup>9</sup>, the Prevention of Corruption Act, 1947 provided for the punishment of imprisonment as well as fine for offenses committed under the Acts. The accused, the managing agents of a company, committed an offense in 1947. Subsequently, in 1949, the Criminal Law (Special Courts) Amendment Act, 1949 amended the Prevention of Corruption Act. The amended law increased the punishment for offenses committed under the Act from an additional fine equal to "amount obtained by way of offense committed by the offender". It was held that the enhanced punishment prescribed by the amended law which came into force in 1949, could not be imposed on the accused for the offense committed in 1947, as the prohibition contained in the second part of clause (1) of the Article. 20.

right not to be a witness against himself

Article 20(3) of the Constitution of India provides: "No person accused of any offense shall be compelled to be a witness against him." This section is based on *Maxime nemo tenet ur prodere acusare seipsum*, which means "no man is obliged to accuse himself". An accused must be presumed innocent until the contrary is proved.

In the *Nandini Satpathy*<sup>11</sup> case, a former Chief Minister of Orissa was directed to appear before the Investigating Officer in connection with a criminal case registered against her. During the investigation he was questioned with a long series of questions given in writing. He declined to answer questions on the plea that he was protected against self-incrimination. For failure to answer the questions asked by him, he was charged under Section 179 of the Indian Penal Code. The court observed that Section 161 of the Code of

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<sup>9</sup> AIR 1953 SC 404.

<sup>10</sup> *Supra note 6 at 8*

<sup>11</sup> IR 1978 SC 1025.

Criminal Procedure, 1973 enables the police to interrogate the accused during the course of investigation. The prohibitory effect of Article 20(3) of the Constitution of India goes back to the stage of police investigation, and not just beginning in court. As far as police investigation is concerned, both the provisions largely cover the same area. The phrase 'forced testimony' should be read as evidence derived not only from physical threats or violence, but also of mental torture, atmospheric pressure, environmental pressure, the proximity of exhausting interrogation, domineering and intimidating methods, and legal punishment for violations. Therefore, the legal perils arising from refusal to answer or refusing to answer truthfully cannot be construed as an obligation within the meaning of Article 20(3). On the other hand, if there is any coercion, subtle or crude, mental or physical, direct or indirect but sufficiently sufficient, which is applied by the policeman to obtain convincing information of the offense from an accused, it may constitute 'coercive testimony'. ' is a violation of Article 20(3).

### **Right to Life and Personal Liberty**

Article 21 of the Constitution of India provides that "no person shall be deprived of life or personal liberty except according to procedure established by law". Article 21 does not make any explicit provision against torture or custodial offences. The expression 'life or personal liberty' being in the Article has been interpreted to include a constitutional guarantee against torture, or injury against any person.

In Maneka Gandhi's case<sup>12</sup>, the judiciary has expanded the scope and scope of Article 21 of the Constitution. The right to life under Article 21 is not limited to physical existence but also includes the right to live with human dignity. In *Indrajit State of Uttar Pradesh*<sup>13</sup>, the Supreme Court held that punishment which contains an element of torture, is unconstitutional. Apart from Article 21, the court also struck down the practice of solitary confinement of prisoners sentenced to death under Article 20(2).

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<sup>12</sup> AIR 1978 SC 597

<sup>13</sup> AIR 1975 SC 1867

Under the death penalty, a person is kept in the custody of a prison, so that when the time comes, he may be available for the execution of the death sentence. No punitive detention can be imposed on him by the jail authorities except for prison offences. He should not be kept in solitary confinement as it would amount to punishment more than once for the same offense which would be violative of Article 20(2).

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*I. State of Uttar Pradesh*<sup>13</sup>, the Supreme Court held that punishment which contains an element of torture, is unconstitutional. Apart from Article 21, the court also struck down the practice of solitary confinement of prisoners sentenced to death under Article 20(2). Under the death penalty, a person is kept in the custody of a prison, so that when the time comes, he may be available for the execution of the death sentence. No punitive detention can be imposed on him by the jail authorities except for prison offences. He should not be kept in solitary confinement as it would amount to punishment more than once for the same offense which would be violative of Article 20(2)

*Inder Singh v State (Delhi Administration)*<sup>14</sup>, the Supreme Court issued certain directions regarding the treatment of two youths convicted of \*\*\*\*\* and sentenced them to life imprisonment with a view to rectify them. Article 21 of the Constitution is the jurisdiction of this legal liberalism.

In *Jolly George Varghese v Bank of Cochin*, Article 21 read with Article 14 and Article 19, the high value of human dignity and the value of the human person obliges the State to imprison it under law, which is just, just and proper. is the procedural essence

In *Raghubir Singh v. Haryana*<sup>15</sup>, the Supreme Court observed, "We are deeply disturbed by the diabolical repetition of police torture, which results in terrifying scars in the minds of ordinary citizens that their life and liberty are in a new peril as the custodians of the law violate human rights. destroy."

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<sup>14</sup> AIR 1978 SC 1091

<sup>15</sup> AIR 1980 SC 1087

<sup>16</sup> AIR 1980 SC 1535

In *Prem Shankar Shukla v. Delhi Administration*<sup>16</sup>, the Supreme Court held that handcuffs are prima facie inhuman, unfair, and arbitrary without due process and objective monitoring in the first instance. The court recognized the need to secure the prisoner from escape but insisted that it did not necessarily require handcuffs. There are guidelines laid down by the Court that handcuffs should be used only when a person is :-

- a) has previously been convicted of an offence, involving serious non-bailable offences; and/or
- b) Is violent, disorderly or obstructive of a desperate character; and/or
- c) is likely to commit suicide; and/or
- d) There is a possibility of an attempt to escape.

The reasons for handcuffing should be clearly recorded in the daily diary of the police to ease discretion. During arrest or for exercising restraint on a prisoner, the police must first obtain judicial permission. On the first production of an arrested person, the magistrate should investigate whether handcuffs or shackles were used, and if so, demand an explanation.

In *Sunil Batra (II) v. Administration of Delhi*, the Court reiterated that "handcuffs and shackles represent barbarism against human dignity and our goal of social justice". Krishna Iyer, J in *Kishor Singh v State of Rajasthan* has observed, "There is nothing more cowardly and unconscious than the thrashing of a person in police custody and nothing inflicts a deep wound on our constitutional culture, which is a state It is going on regardless of the authority. Human Rights".

Condemning cruelty or torture, the Supreme Court in *Francis Coralie Mullin v. Union Territory of Delhi*<sup>18</sup>, held that it was a violation of Article 21, saying that "torture or cruel, inhuman or degrading treatment of any kind shall be degrading to human dignity and of a in this right to live on the street and it shall, on this point of view, be prohibited by Article 21 unless it is in accordance with the procedure laid down by law. The Supreme Court in *Sheela Barse v. State of Maharashtra* asserted that torture Jail ban for coercion or torture

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<sup>17</sup> AIR 1980 SC 1579

<sup>18</sup> AIR 1981 SC 746

and going beyond a court order was unconstitutional. An undertrial or convicted prisoner may not be subjected to physical or mental restraint not warranted by a sentence imposed by the court or to a prisoner who or which amounted to human depravity. In *Mohan Lal Sharma v. State of Uttar Pradesh*, the Supreme Court has ruled that it is a well recognized right under Article 21 that a person should be legally prosecuted by the police. has been taken into custody and legally Custody does not mean that he can be tortured or beaten. If it is found that the police have misbehaved with a detainee, he shall be entitled to monetary compensation under Article 21.

In *D.K. Basu v State of West Bengal*, 19, the Supreme Court observed, "including custodial violence, torture and death in lock-up, which attacks the rule of law, which demands that the powers of the executive should not derive from law alone. But, it also that it should be limited by law."

Fundamental rights hold a place of pride in the Indian Constitution. No civilized citizen can allow this to happen. Does a citizen give up his fundamental right to life the moment a policeman arrests him? Can a citizen's right to life be suspended on his arrest? These questions touch the backbone of human rights jurisprudence, the answer really should be an emphatic 'no'. The valuable right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, undertrials, prisoners and other prisoners in custody, in accordance with procedure established by law, by imposing reasonable restrictions permitted by law.

In *R Dinesh Kumar v. State et al.* 20, the Supreme Court interpreted the scope of the provision by observing that the provision of section 132 of the Evidence Act is a necessary consequence of the principle enshrined under Article 20(3) of the Constitution. India which provides a fundamental right that "A person accused of any offense shall not be compelled to be a witness against himself". Although such a fundamental right is available only to a person who is accused of an offence, the provision of section 132 of the Evidence Act creates a statutory defense in favor of a witness who is in any trial or in the process of giving evidence in any civil or criminal proceeding makes a statement that criminalizes itself is worthy of the most liberal construction. Without such immunity, a witness who is giving evidence before the court to help the court reach a just conclusion (and thus aid the process of law) is in a worse position than an accused in a criminal case. Will happen. Therefore, no suit can be initiated against Producer of a statement falling within the purview of section 132 of the

Evidence Act on the basis of the "answer" given by the person making the statement as a "witness" before a court.

### **Security measures against arbitrary arrest and detention**

Article 22(1) of the Constitution of India provides that no person arrested shall be detained, nor shall he be deprived of the right of consultation and Will go Can be defended by a legal practitioner of your choice.

Article 22(2) of the Constitution of India provides that every person arrested and detained shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest, excluding the time required for the journey from that place. is. Arrest in a Magistrate's court and no such person shall be detained in custody beyond the said period without the authority of the Magistrate.

### **Provisions under the Criminal Procedure Code**

Section 164(4) of the Code of Criminal Procedure, 1973 provides that, any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and signed by the person making the confession. will go; and the Magistrate shall make a memorandum of such record below to the following effect:- "I have explained to (name) that he is not bound to make a confession and that if he does so, he may make any confession thereof. can be used as evidence against and I believe that the confession was made voluntarily. It was taken in my presence and hearing, and read to the person making it and accepted by him to be correct was made, and therein is a complete and correct account of the statements made by them.

Section 49 of the Code of Criminal Procedure, 1973<sup>22</sup> provides that the arrested person shall not be subjected to more restraint than is necessary to prevent his escape.

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<sup>21</sup> The Code of Criminal Procedure, 1973, sec. 164(4)

<sup>22</sup> The Code of Criminal Procedure, 1973, sec. 49

*Section 50 of the Code of Criminal Procedure, 1973 provides that the person arrested must be informed of the grounds of arrest and the right to bail.*

- (1) Every police officer or other person arresting any person without warrant shall give him full particulars of the offense for which he has been arrested or the other grounds for such arrest.*
- (2) Where a police officer arrests a person other than a person accused of a non-bailable offence, without warrant, he shall inform the arrested person that he is entitled to be released on bail and that he may arrange bail on his behalf. Can do..*

*Article 50A of the Criminal Code 1973 states*

- (1) Every police officer or other person detained under this Code shall immediately notify you of such arrest and shall, before providing such information, be terminated at the place where that person is a friend, family member or other person. or may be designated as captive. The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.*
- (2) An entry of the fact to whom the arrest of such person has been given shall be made in a book to be kept in the police station in such form as may be prescribed by the State Government in this behalf.*
- (3) It shall be the duty of the Magistrate before whom such arrested person is produced to satisfy himself that the requirements of sub-section (2) and sub-section (3) are complied with in relation to such arrested person. Has been done..*

*Section 55A of the Code of Criminal Procedure, 1973 provides that it shall be the duty of the person having custody of the accused to take proper care of the health and safety of the accused.*

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<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> Inserted by *The Code of Criminal Procedure (Amendment) Act, 2008.*

*Section 75 of the Code of Criminal Procedure, 1973* provides that the police officer or other person executing a warrant of arrest shall inform the person to be arrested the substance thereof, and, if necessary, show him the warrant.

*Section 41D of the Code of Criminal Procedure, 1972* provides that when a person is arrested and interrogated by the police, he shall be entitled to be met by a lawyer of his choice during interrogation, though not during interrogation.

*Section 56 of the Code of Criminal Procedure, 1973* provides that the person arrested shall be taken before the Magistrate of the officer-in-charge of the police station. A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions contained herein as to bail, take or send the arrested person before a Magistrate having jurisdiction in the case or before the officer-in-charge of the police station . .

*Article 57 of the Code of Criminal Procedure 1973 provides that no police officer shall, under all circumstances, detain a prisoner for a period exceeding a reasonable period and that time does not exist, section 167, and without delay Do not exceed 24 hours. From the detention center to the magistrate's court is required on the part of the judge.*

*Section 58 of the Code of Criminal Procedure, 1973* provides that the officer-in-charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-Divisional Magistrate the cases of all persons arrested without warrant. will report. , with the limits of their respective stations, whether such persons are admitted for bail or otherwise.

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<sup>26</sup> The Code of Criminal Procedure, 1973, sec. 75

<sup>27</sup> The Code of Criminal Procedure, 1973, sec. 41D

<sup>28</sup> The Code of Criminal Procedure, 1973, sec. 56

<sup>29</sup> The Code of Criminal Procedure, 1973, sec. 57

<sup>30</sup> The Code of Criminal Procedure, 1973, sec. 58



*Section 76 of the Code of Criminal Procedure, 1973* provides that a police officer or other person executing a warrant of arrest (subject to the provisions of section 71 as a safeguard) shall, without unnecessary delay, bring the arrested person before the court for which He is required by law to produce such person before him: Provided that such delay shall, in no case, exceed twenty-four hours excluding the time required for the journey from the place of arrest to the Magistrate's Court.

Section 167(2) of the Code of Criminal Procedure, 1973 provides that,

b) No Magistrate shall authorize the detention of an accused in the custody of the police under this section unless the accused is produced personally before him for the first time and every subsequent time until the accused remains in custody, but the magistrate may extend further custody to judicial custody if the accused is produced in person or through electronic video linkage.

Section 167 of the Code of Criminal Procedure, 1973 provides that,

Explanation II.—If any question arises whether any accused person was produced before a Magistrate as required under clause (b), on an order authorizing the production custody of the accused person or under his signature by an order certified by a Magistrate can be proved. To produce the accused person through electronic video linkage, as the case may be.

Section 164(4) of the Code of Criminal Procedure, 1973<sup>34</sup> provides that, any such confession shall be recorded in the manner provided in section 281 for recording the examination of the accused person and shall be signed by the person making the confession. ; and the Magistrate shall make a memorandum of such record below to the following effect:- "I have explained to (name) that he is not bound to make a confession and that if he does so, he may make any confession thereof. can be used as evidence against and I believe that the confession was made voluntarily.

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<sup>31</sup> The Code of Criminal Procedure, 1973, sec. 76

<sup>32</sup> Substituted by *The Code of Criminal Procedure (Amendment) Act, 2008*

<sup>33</sup> *Ibid.*

<sup>34</sup> The Code of Criminal Procedure, 1973, sec. 164(4)

It was taken in my presence and hearing, and read to the person making it and accepted by him to be correct was made, and therein is a complete and correct account of the statements made by them

### **Provisions under the Indian Evidence Act**

Section 24 of the Indian Evidence Act, 1872<sup>35</sup> provides that, a confession made by an accused person is irrelevant in a criminal proceeding, if the confession is due to any inducement, threat or promise to the court, with reference to the accused person. for the charge against, a person in authority to proceed with and sufficient, in the opinion of the Court, to give grounds to the accused person to believe that he would derive any benefit from making it, or any evil of a temporary nature in respect of the proceedings against him shall be avoided.

It provides that any confession obtained from an accused by inducement, threat or promise or to avoid any evil of temporary nature shall not be relevant in a criminal proceeding. If in the opinion of the Court the confession made by an accused becomes irrelevant in the criminal trial; It is caused by inducement, threat or promise with reference to the charge against the accused.

Section 25 of the Indian Evidence Act, 1872 provides that no confession made before a police officer against a person accused of any offense shall be proved. Section 25 of the Act provides that the confessional statement of an accused before a police officer is not admissible in evidence and cannot be brought on record by the prosecution to obtain a conviction. In *Aghanu Nagesia v State* 38, the Supreme Court held that "if a first information report by the accused is given to a police officer and amounts to a confessional statement, the proof of confession is prohibited by section 25."

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<sup>35</sup> Indian Evidence Act, 1872, sec.24

<sup>36</sup> *Supra note 5 at 6*

<sup>37</sup> *Ram Singh v. Central Bureau of Narcotics*, AIR 2011 SC 2490

<sup>38</sup> AIR 1966 SC 119

Section 26 of the Indian Evidence Act, 1872 provides that, any confession made by any person while in the custody of a police officer, unless it is made in the immediate presence of a Magistrate, shall be proved against such persons. Will not done.

Section 27 of the Indian Evidence Act, 1872 provides that when any fact is proved as a result of information received from a person accused of any offense in the custody of a police officer, so much of such information, whether a police officer be as an officer. The confession or not, as clearly related to the fact so discovered, can be proved. Section 27 provides that the amount of information received from an accused can be proved. For the application of section 27 it is necessary to divide the statement of the accused into its components and separate the permissible part thereof. Only those parts which were the immediate cause of the discovery shall be admissible as evidence. 39 In *Kathi Kalu Oghad*<sup>40</sup>, the Supreme Court said that:

"However, compulsion in the custody of a police officer to obtain information from an accused person is not inherent. There may be cases where an accused in custody is subsequently compelled to give information which is sought to be proved under section Is performed

27. These will be other cases where the accused gives information without any compulsion. Where the accused is compelled to give information, it would be in contravention of Article 20(3); But there is no such violation where he gives information without any compulsion. Therefore, the contention that Section 27 essentially contravenes Article 20(3) cannot be accepted, as the fact of the receipt of information from a person in custody does not imply an obligation. "

Section 132 provides that a witness is not exempted from answering a question on the ground that the answer would convict him. However, the provision for it reads as follows: "Provided that no such reply, which a witness shall be compelled to give, shall not be subjected to any arrest or prosecution, or to be proved against him in any criminal proceeding." except that the prosecution for giving false information shall be the evidence from such reply."

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<sup>39</sup> *Mohmed Inayatullah v. State of Maharashtra*, AIR 1976 SC 480

<sup>40</sup> AIR 1961 SC 1808

## **Provisions under the Indian Penal Code**

Section 348 of the Indian Penal Code, 1860<sup>41</sup> provides that, whoever makes any confession from the person imprisoned or any person interested in the person or any information from any person falsely for the purpose of extorting prohibits the manner in which an offense or misconduct may be discovered, or to restore or restore any property or valuable security, or to satisfy any claim or demand, or to lead to the restoration of any property for the purpose of compelling a person limited or interested in any person to give information about or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and with fine. will also be liable

## **Provisions under the Indian Legal System: To protect a woman from custodial torture**

*Section 376(2) of the Indian Penal Code, 1860<sup>42</sup>, provides that whoever,—*

- a) being a police officer, \*\*\*\* within the limits of the police station to which such police officer is appointed; or in the premises of any station house; or on a woman in the custody of such police officer or in the custody of a police officer subordinate to such police officer; or*
- b) being a public servant, commits \*\*\*\* on a woman in the custody of such public servant or in the custody of a public servant subordinate to such public servant; or*
- c) being a member of the armed forces deployed in any area by the Central or State Government, has committed \*\*\*\* in such area; or*
- d) being on the management or employees of any prison, remand home or other place of detention established by any law or under any women or children's institution, does \*\*\*\* on any prisoner in such prison, remand home , place or institution; or*
- e) being on the management or staff of any hospital, commits \*\*\*\* on a woman in that hospital; shall be punished with rigorous imprisonment for a term which shall not be less*

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<sup>41</sup> Indian Penal Code, 1860, Sec. 348

<sup>42</sup> Indian Penal Code, 1860, Sec. 376(2)

than ten years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine."

Explanation.—For the purposes of this sub-section,—

- a) "armed forces" means the navy, military and air force and includes any member of the armed forces constituted under any law, including paramilitary forces and any auxiliary forces which are under the control of the Central Government, or state government;
- b) "hospital" means the premises of a hospital and includes the premises of any institution for the reception and treatment of 151 persons or persons in need of medical attention or rehabilitation during convalescence;
- c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;
- d) "women's or children's institution" means an institution, whether orphanage or home for neglected women or children or widow's home or by any other name called, established and maintained for the reception and care of women; yes baby kids

Section 46(1) of the Code of Criminal Procedure, 1973<sup>43</sup> provides that, where a woman is to be arrested, unless the circumstances indicate otherwise, she shall be deemed to be produced in custody on notice of the arrest and, unless the circumstances unless otherwise required or unless the police officer is a woman, the police officer shall not touch such person to arrest the woman.

Section 46(4) of the Code of Criminal Procedure, 1973<sup>44</sup> provides that, except in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such extraordinary circumstances exist, a woman police officer shall report in writing. Obtain the prior permission of a Judicial Magistrate of the first class in whose local jurisdiction the offense is committed or the arrest is to be made.

Women are tortured in prison for the purpose of extracting confessions and punishing, inflicting pain and suffering, instilling fear and causing psychological harm. Rape is used not only directly against rape victims, but also against male members who are forced to testify rape of wives, sisters, partners, daughters or mothers is done. The act of being forced to see

the rape of another has been recognized as a distinctly psychological form of torture. However, in such scenarios, the Rape itself is often not deserving of torture. Rather like electric shocks, shackles or police batons, women's rape have been seen as weapons of the tyrant. Thus, an attack on a woman's body is carried out as an attack on a man and, in many cases, is treated as such, except for the woman herself. Physical imprisonment in any form where the power between the prisoner and the prisoner is unequal such as in police and punitive custody increases the risk of abuse of power and torture. Male prison officers increase the risk of abuse and coercion with female inmates, so do male prison facilities housing women.

In 1972, Mathura rape Case 46 marked one of the major watersheds in the history of codification of laws regarding the Sexual oppression of women. It reflected the patriarchal and Victorian prejudices of the entire legal system in more ways than one.

The compelling theme of the narrative emanating from its proceedings was based on the fact that this Aboriginal woman had a premarital relationship with a man with whom she had eloped and it was therefore argued that she may have consented sexual intercourse in the police station, being a woman of loose morals. An open letter of protest to the President of India by some eminent members of Delhi's legal fraternity and various women's groups fervently calling for a redefinition of 'consent' to an act of sexual intercourse Made a ruckus. . He argued that Mathura had to go through sex at gunpoint. In 1979, the Government of India referred the amendment of the law of rape to the Law Commission of India and the Law Commission's 84th Report on Related Offenses focused on the controversial "consent" issue, while emphasizing that consent was the antithesis of rape and that consent must be genuine and affected by any coercion. Submission or mere act of helpless resignation due to unavoidable compulsion cannot be construed as consent. The report recommended changes to procedural law 47. The 84th report of the Law Commission suggested changes in the law relating to rape. Some of these were incorporated in the Criminal Law (Amendment) Act, 1983.

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<sup>43</sup> Code of Criminal Procedure, 1860, sec. 46(1)

<sup>44</sup> Code of Criminal Procedure, 1860, sec. 46(4)

<sup>45</sup> Available at: [www.amnestyusa.org/pdf/custodyissue.pdf](http://www.amnestyusa.org/pdf/custodyissue.pdf) (visited on 11March 2018).

<sup>46</sup> *Tuka Ram and Anr. v. State Of Maharashtra*, AIR 1979 SC 185

In the case of Sheela Barse<sup>48</sup>, the Court has directed to ensure protection of women in police custody from atrocities and abuses which are as follows:

1. Women suspects should be kept in separate lockups under the supervision of women constables.
2. Women should be interrogated in the presence of women police personnel.
3. A person arrested without a warrant should be informed immediately of the grounds of arrest and the right to obtain bail.
4. As soon as the arrest is made, the police should obtain from the arrested person the name of the relative or friend whom it wishes to inform about the arrest. Then the relative or friend should be informed by the police.
5. As soon as the arrest is made and the person is taken to the lock-up, the police should inform the nearest Legal Aid Committee.
6. The Legal Aid Committee should take immediate steps to provide legal aid to the arrested person at the cost of the State, provided such person is willing to accept legal aid.
7. The Magistrate before whom the arrested person is produced shall interrogate the arrested person whether he has any complaint against torture and misbehavior in police custody. The Magistrate shall also inform such person of the right of medical examination.

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<sup>47</sup> 84th Report of Law Commission on 'Rape and Allied Offences' (1980).

<sup>48</sup> AIR 1983 SC 378.

In *Veena Sethi v State of Bihar* 49, the Supreme Court has strongly condemned the tendency of individuals to be detained as criminal lunatic for a long time even after they are sensible. The Court has emphasized that there should be an adequate number of institutions for the care of mentally ill persons and the practice of sending the insane or persons of unsound mind to safe custody in jail is not desirable, as the prison is not suitable for the treatment of such persons. There's hardly any room for that. . The court has also expressed displeasure over the practice of keeping women in jail without a crime being accused. These women are kept in jail simply because they are the victims of some crime or they are needed for the purpose of giving evidence or they are in protective custody

In *Hussainara Khatoon (IV) v State of Bihar* 50, the Court has held that protective custody is in fact nothing other than imprisonment which is violative of Article 21. The court has directed the government to set up welfare and rescue homes for the care of destitute women and children.

In *Arvind Singh Bagga v State of Uttar Pradesh* 51, the Court has given a broader definition of 'torture'. According to the Court, "torture is not only physical, but may also include mental and psychological torture calculated to intimidate him into surrendering to the demands of the police." The detention of a married woman, who is not an accused on the pretext of being a victim of kidnapping and \*\*\*\*\* who was not in her knowledge and to the knowledge of the aforesaid police officers concerned, is in itself a great mental torture. For that which cannot be compensated later, but here we find that she and her husband and her family were harassed by threatening violence and to create fear in her mind and force her to bow down. There was physical violence. Charanjit Singh renounced his marriage with Bagga which was duly done. He was asked to write a statement as per the orders of the investigating officers.

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<sup>49</sup> AIR 1983 SC 339

<sup>50</sup> AIR 1983 SC 1360.

<sup>51</sup> AIR 1995 SC 117.



In *Christian Community Welfare Council of India and Others v State of Maharashtra et al.*<sup>52</sup>, on the intervening night of June 23-24, 1993, at 12:45 pm, 10 policemen of Nagpur Crime Branch apprehended railway employee Janius Adam, his wife Zarina Adam. and detained two of their children, for allegedly harboring a suspect in the robbery. Adam was brutally beaten and died in the cell. His wife was beaten up and tortured repeatedly. According to the High Court, “Not only was the forcible taking away of a woman in the middle of the night by male police officers reprehensible, but also the gross and gross abuse of power shows that such police officers have no respect for public morality and decency in the State. should ensure that the woman is not arrested after sunset and before sunrise without the presence of a lady constable and in no case.

### **Indian Police Act, 1860**

Sections 7 and 29 provide for dismissal and other punishment to police officers who are negligent in the discharge of their duties or are unfit to do so.

In the case of *Dr. Mahmood Nayyar Azam v. State of Chhattisgarh and others* <sup>53</sup>, the appellant while in custody was compelled to hold a placard in which slanderous language was written. He was photographed with the said placard and the picture was made public. After referring to the various provisions, the learned Single Judge sought a report from the Chief Secretary. The report was filed which stated that the sub-inspector was punished with "condemnation" by the superintendent of police. It was also laid down that the charge sheet was served on all the erring officers and one departmental

An inquiry was conducted and in the end, he was fined a large withholding of an annual increment and a case was registered against the erring officers under Section 29 of the Police Act. In appeal, the Division Bench observed that, "On reflection of the facts of the case, it is clear that the appellant was subjected to mental torture at the hands of senseless police officers. With regard to the various aspects analyzed by us and the totality of facts and circumstances, Keeping this in view, the appellant is to be provided an amount of

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<sup>52</sup> 1995 Cr.LJ 4223(Bombay).

<sup>53</sup> 2012 Cr.LJ 3934 (SC)

rupees five lakhs as compensation. The said amount shall be paid by the responding State within a period of six weeks and such salary as may be deemed fit by the competent authority of the State from the guilty officers. will be recovered in equal proportion.

### **Equipped Forces Special Powers Act, 1983**

Article 6 of the Act allows the concept of safe guard and protects the defense of soldiers from suspected offences.

Under the existing law, the purpose of the various bye-laws mentioned above is to persuade the Committee to review section 357B by including financial provisions in cases of abuse and, in addition, the fines provided in section 326A or section 376D of the Indian law. Paying the Penal Code of 1860. Further, the Commission considers that it is the duty of the State to compensate for the harm caused to a person in custody, and therefore recommends that the Indian Evidence Act 1872 be amended by including reference to the Framework Act section. 114B, namely "Indian Evidence" (Amendment). The Bill, 2016, (Map No. LXVII 2016), was introduced in the Rajya Sabha on 10 March 2017.

## 4. Chapter 3

### Protection against Custodial Torture -An International Perspective

Due to the growing concept of human rights, as well as the democratic nature of the world, there has been a tendency to ensure the protection of human rights in laws, that is, constitutions around the world. The Constitution of the United States, drafted in 1787, was the first of these examples, which would exclude these subjects from political controversy, and keep them out of reach of most politicians. The United Nations Charter, which expresses the belief in fundamental human rights, dignity and values, the equal rights of men and women, respect for human rights and the fundamental freedoms of all human beings, regardless of race, nationality, origin, language or religion,

Efforts initiated by the United Nations to protect the human rights of all persons detained by the State for the protection of human rights and fundamental freedoms are recognized and recognized in the provisions of the International Covenant on Civil and Political Rights (ICCPR, 1966) . . A dent has been added to the Universal Declaration of the United Nations. These efforts were strengthened by Standard Minimum Rules for the Treatment of Prisoners (1977), Code of Conduct for Law Enforcement Officers (1979), Principles of Medical Ethics for Doctors, Protection of Prisoners and Prisoners from Torture (1982) Is. and the United Nations Convention against Torture. Worked. (1984). Emphasizing the fact that this was not in question, the General Assembly stated that they were ignoring fundamental and enduring human rights, such as the right to life, freedom from torture and the rule of law. religious law. Yet the 41st session of the

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<sup>1</sup> See Sunil Deshta and Kiran Deshta, "Philosophy of Right to Life: A Movement from Rigidity to Flexibility," 31 *CMLJ* 123 (1995)

<sup>2</sup> Universal Declaration of Human Rights, 1948, Article 3.

<sup>3</sup> *Id.*, Article 4.

<sup>4</sup> *Id.*, Article 5.

<sup>5</sup> *Id.*, Article 9.

<sup>6</sup> *Id.*, Article 7

“The United Nations Human Rights Committee and the human rights violations of prisoners are in a much worse condition than those of imprisoned criminals. The right to be free from torture, which is used in many human rights treaties to intentionally protect all persons from severe physical and mental suffering, or is acknowledged or approved by state employees in this area for a specific purpose, such as contact information. I support a prohibition against harassment and other inhuman or degrading treatment or punishment, as set forth in regional and international human rights treaties.” (LAW COMMISSION OF INDIA, 2017)<sup>7</sup>

- i. 1948, United Nations Declaration on Human Rights. (para 5)
- ii. American Declaration of Human Rights, 1948.
- iii. European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, Art 3)
- iv. United Nations Convention on the Status of Refugees, 1951  
Minimum Rules for the Treatment of Prisoners, 1955 (Article 31)
- vi. Leather manufacture has the right to be free from unlawful detention, imprisonment and deportation (1963).
- vii. International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD)
- viii. International Covenant on Human and Political Rights, 1966, Articles 4, 7, 10)
- ix. American Convention on Human Rights, 1969), Article 5)

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<sup>7</sup> Law Commission of India, 273<sup>rd</sup> Report: *Implementation of United Nations Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment*, (2017)

x-Declaration on the Protection of All Peoples Subject to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975).

xi. Alternative Convention on the International Covenant on Human and Political Rights (1976)

xii. Code of Conduct for Legal Professionals (1979), paragraphs 2-3 and 5-6.

xiii. Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)

xiv. African Charter on Human Rights and National Law, 1981), 5)

xv- Treaty and fighting cruelty and other cruel, inhuman or degrading treatment or punishment (CAT)

xvi, 1984. United Nations Declaration on the Fundamental Principles of Justice for Victims of Crime and Abuse, 1985

xvii. Inter-American Conference on the Prevention and Punishment of Torture, 1985

xviii. European convention on the elimination of all forms of lezvaz oppression and inhumane treatment

xix. 1987. 1989 Convention on the Rights of the Child (Article 37)

xx. European Convention on the Elimination of All Forms of Abuse and Other Harassment, Harassment or Punishment", 1989-

xxi. Cairo Declaration on Human Rights in Islam, 1990 (provided for Articles 19 and 20)

xxii. Paris Charter of Lezvaz New Europe, 1990

xxiii. Agreement on the Protection of the Rights of Lezvaz Migrant Workers and their Family Members, 1990 (Article 10)

xxiv International Convention on the Protection of the Rights of All Persons from Compulsory Harm, 1992 (CPAED).

xxv. "Arab Charter of Human Rights, 1994 (Chapter 8)" (LAW COMMISSION OF INDIA, 2017)

### **The Universal Declaration of Human Rights, 1948 (UDHR)**

A careful study of the Second Amendment to the United Nations Universal Declaration of

Human Rights reveals that the preamble of this declaration includes the goals and aspirations of the international community as well as the recognition of human rights for all. This indicates that the source of the nation is the United Nations where it was found. Therefore, Article 5, Article 9 of the 1948 Universal Declaration of Human Rights calls for measures to prevent unfair abuse and imprisonment.

#### Universal Declaration of Human Rights 1948

- a) The provisions of Article 3 provide that every person has the right to life, liberty and security of the individual.
- b) The provisions of section 5 provide that no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- c) The provisions of Article 8 do not imply that everyone has the right to effective remedy by competent national tribunals for acts violating the fundamental rights guaranteed by the Constitution or by law.
- d) the provisions of section 9 provide that no person shall be unreasonably detained, detained or deported.

#### **International Covenant on civil and political Rights, 1966**

1. Article 2 Clause 3(a) provides that each State Party to the present covenant undertakes to ensure that any person whose rights or freedoms have been violated shall have an effective remedy, even if The violation may have been committed by persons acting in an official capacity.
2. Article 6 provides that every human being has an inherent right to life; This right will be protected by law. No one shall be arbitrarily deprived of his life.
3. Article 7 provides that no one shall be subjected to torture or to cruel or degrading treatment.
4. Article 9 provides as follows:
  - Everyone has the right to liberty and to the safety of the individual. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as may be established by law.
  - Any person arrested shall be informed at the time of his arrest of the reasons for his arrest, and of any charges against him immediately.

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<sup>8</sup> Asifa Parveen, *Custodial Abuse and Human Rights Jurisprudence : An Appraisal*, 399(2006)  
(Unpublished Dissertation, AMU)

<sup>9</sup> Dr. S.K. Kapoor, *International Law and Human Rights*, 817 (Central Law Agency, Allahabad, 18<sup>th</sup> edn. 2011)

- Any person who is deprived of his liberty by arrest or detention shall be entitled to proceed before the court so that such court may determine that the validity of his detention is delayed and if the detention is not valid, his release can be ordered.
- Anyone who has been the victim of an unlawful arrest or detention shall have an enforceable right to compensation.
- Article 10 provides that all persons deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person.

### **United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)**

Adopted by General Assembly resolution 45/110 of 14 December 1990.

Fundamental objective:

- (i) The current Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as provide minimum safeguards for persons subject to the option of imprisonment.
- (ii) the rules shall be applied taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.
- (iii) Member States shall develop non-custodial measures within their legal systems to provide other alternatives, thus reducing the use of imprisonment, and rational crime justice politics, social justice and social justice in view of the observance of human rights. take into account the needs of rehabilitation. other's needs.<sup>10</sup>

Scope of non-custodial measures:

- (i) The relevant provisions of the extant rules shall apply to all persons subject to prosecution, trial or execution of sentence at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as "criminals" regardless of whether they have been suspected, accused or sentenced.

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<sup>10</sup> *Supra note 8 at 7*



- (ii) The rules shall be enforced without any discrimination on grounds of race, colour, sex, age, language, religion, political or other opinion, birth of national or social origin, property, other status.
- (iii) Non-custodial measures should be used in accordance with the principle of minimum interference.

#### Legal Protection

- (i) The selection of a non-custodial measure shall be based on an assessment of the nature and severity of the offense and the criteria established with respect to both the personality and background of the offender, the purpose of punishment and the rights of the victims.
- (ii) the offender shall be entitled to request or complain to a judicial or other competent independent authority on matters affecting his personal rights in the implementation of the measures of custody.
- (iii) Non-custodial measures shall not include medical or psychological use to put the offender at an unreasonable risk of physical or mental injury.
- (iv) Subject to non-custodial measures, the dignity of the offender shall be protected at all times.
- (v) In implementing the non-custodial measures, the right to privacy of the offender shall be respected, as shall the right to privacy of the family of the offender.

#### **Declaration on the protection of all persons from torture and other cruel, inhuman or degrading treatment or punishment:**

It was adopted by the United Nations General Assembly in resolution 3452 (sex) of 9 December 1975. The certificate has 12 articles and lists the requirements.:

- i) To train officers with full respect for the prohibition of torture.
- ii) Prohibition of compliance with the general rules or orders of the Government responsible for the detention of prisoners.
- (iii) on the methods and practices of conducting scientific research in the Member States on the basis of a systematic review.
- (iv) There should be an inquiry into the acts of atrocities committed by the accused.

The Order was adopted and opened for signature, ratification and accession by the General

Assembly on 29/46 December 1984. It is designed to help combat torture that ensures cruel, inhuman or degrading treatment or punishment, or other forms of punishment, are accessible from around the world.

Article 1 of the Convention defines torture as follows:

“torture” means severe pain or suffering, physical or mental, intentionally caused by any act of knowledge or confession from any person or any third person. He will be punished. How did he do it, whether it was danger or danger.

Article 2 states that:

1. Every State has the right to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any area within the limits of its powers.
2. No such situation, state of war or threat of war, internal political instability or any other emergency can justify torture.
3. An order issued by a leader, official or state body cannot justify torture.

Article 4(a) provides that each State Party shall ensure that all acts of torture are covered by the Criminal Code. It applies to the right to commit an act of violence and to an act done by a person participating in this act. Article 4) also states that each State Party shall, having regard to the serious nature of these offences, be punished with appropriate punishment. .

Article 10 provides that each State Party shall provide education and information, as well as against torture, which has been adopted in the teaching and training of law enforcement officers, civilian or military medical personnel, officers, public servants and others who This includes. The custody, interrogation or treatment of any person subject to arrest, detention or imprisonment of all kinds.

Article 11 provides that each State Party shall ensure that its competent authorities conduct a speedy and impartial investigation if there are sufficient grounds to believe that an act of torture has been committed in any area under its jurisdiction.

Article 13 provides that every Member State shall ensure that any person who claims to have been subjected to torture in any area under its jurisdiction has the right to promptly and fairly

file complaints with the authorities. is. He could ask.

Article 14 provides for compensation for victims of torture. It provides that each party ensures in its legal system that the victim of torture is the victim, and has a legally established right to fair and adequate compensation.

Article 17 provides that the Committee against Atrocities shall perform the functions assigned to it.

### **Vienna Declaration and Programme of Actions<sup>11</sup>**

It was adopted by the World Conference on Human Rights on 25 June 1993. Recognizing that the promotion and protection of human rights is a matter of priority for the international community, and this conference provides a unique opportunity to conduct a comprehensive analysis. To enhance the international human rights system and machinery for the protection of human rights, and thereby promote the full observance of those rights, in a fair and balanced manner.

Recognizing and affirming that all human rights derive from the dignity and value inherent in the human person and that the human person is a central theme of human rights and fundamental freedoms and should consequently be the principal beneficiaries and actively participate in the realization of these rights Should take more freedom. Reaffirming its commitment to joint and separate action in Article 56 of the Charter of the United Nations, with due emphasis on developing effective international cooperation for the achievement of the objectives set out in Article 55, including universal respect and the observance of human rights is included. and fundamental freedom for all.

The Declaration provides freedom from torture by welcoming ratification by several Member States of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and encourages ratification by all other Member States. The declaration further emphasizes that it is one of the most brutal violations against dignity and undermines the ability of the victims to carry on with their lives and their activities.

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<sup>11</sup> *Ibid*

Emphasizing that the Universal Declaration of Human Rights, which is a common standard of achievement for all peoples and all nations, has been a source of inspiration and the basis for the United Nations to make progress in the standard setting enshrined in existing international human rights instruments, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The Declaration considered the major changes on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter of the United Nations, including promoting and encouraging respect for human rights and fundamental freedoms. All. It emphasizes the principle of equal rights and self-determination of fairness, justice and equality, rule of law, patriotism, development, better standard of living and solidarity.

### **The United Nations Code for Conduct of Law Enforcement Officials.**

The code was adopted on December 17, 1979 by United Nations General Assembly resolution 34/169. In adopting a code of conduct, the General Assembly recognized that the establishment of such a code is one of several important measures to improve service delivery to citizens. With the protection of all their rights and interests by law enforcement officers.

The Code of Conduct consists of eight articles, each with an explanatory note. Some of these articles deserve special mention. Article 2 of this Code requires law enforcement officers to respect and protect human dignity and to uphold and uphold human rights. The commentary lists various international human rights instruments.

Article 3 requires law enforcement officers to use force only when strictly necessary and necessary for the performance of their duty. The comment refers to the principle of proportionality in the use of force and stipulates that the use of force and firearms is considered an extreme measure.

Article 6 requires law enforcement officers to ensure the full protection of the health of persons detained.

Thus we can say that these provisions were adopted to protect the human rights of human

beings especially to protect the rights of the detained persons.

**(2) A declaration on the protection of all persons subject to torture and other cruel, inhuman or degrading treatment or punishment;**

It was adopted by the United Nations General Assembly in resolution 3452 (sex) of 9 December 1975. The certificate consists of 12 points. Some of these articles are worth it.

Article 1: For the purposes of this declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally or on the provocation of any public official, for such purposes as may be obtained from him. To do or the knowledge or confession of a third person, to punish him for an act that he has done or is believed to do or to intimidate him or any other person.

Article 2: Torture is a severe and deliberate form of cruel, inhuman or degrading treatment or punishment.

Article 3: No State shall permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances, such as a state of war or threat of war, internal political instability or any other public emergency, cannot be construed as justification for torture or other cruel, inhuman or degrading treatment or punishment.

Article 6: Every State shall, with a view to preventing any case of torture, or other cruel, inhuman or degrading treatment in its territory, provide for the custody and treatment of persons deprived of their liberty in its territory, as well as the methods and practices of interrogation under systematic review. or punishment.

Article 7: Every State shall ensure that all acts of torture as defined in Article I are offenses under its criminal law. The same shall apply in relation to acts which constitute participation, collusion, abetment in an attempt to commit torture.

Article 10: If an investigation under Article 8 or Article 9 establishes that an act of torture as defined in Article I appears to be an act of the Committees, criminal proceedings shall be initiated against the alleged offender or perpetrators in accordance with national law.

The Convention also requires States Parties to take effective measures to prevent and punish other cruel, inhuman or degrading treatment or punishment, while the Convention does not include a separate enforcement mechanism, reports the Inter-American Commission on Human Rights. There is no obligation to practice torture in member states and the Inter-American Court of Justice having jurisdiction over its treaty.

## **African Charter on Human and People's Rights**

The African Charter, adopted by the Organization for African Unity in 1981, states:  
Everyone shall have the right to respect for the dignity inherent in a human being and the recognition of his legal status. All forms of exploitation and degradation of human beings, especially slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

## **Arab Charter on Human Rights**

Article 8 of the Arab Charter on Human Rights, adopted by the League of the Arab States provide:

1. No one shall be subjected to physical or psychological torture or to cruel, degrading, degrading or inhuman treatment.
2. Each State Party shall protect every person subject to its jurisdiction from such practices and take effective measures to prevent them, the commission of or taking part in such acts as an offense punishable by law and any are not subject to the statute of limitations. Each State Party shall guarantee in its legal system the right to redress and rehabilitation and compensation for any victim or torture.

## Guidelines and Examination of Issues Relating to Torture by various Commissions

*Torture is not only physical, it can also be mental torture, or mental torture which is designed to instill fear and obey needs and orders. "1 The World Medical Association and the Tokyo Declaration of 1975 define "torture" as well as "intentional." Systematic and injurious symptoms of physical and mental pain, caused by the fact that one or more people live freely or in any body. acting on behalf of, compel any other person to give information, recognition or any other reason.*

*In Mahmud Nayyar Azam in Chhattisgarh, the Court referred to the dictionary for the meaning of "harassment" when considering the issue of detention of harassment. In R. Ramnath Iyer's Legal Dictionary, 2nd ed., the term "harassment" is defined as:-*

*"Traumatic" and "trauma" are words that have the most popular meanings, as well as valid connotations. You can draw a line between the words and the word "bullying", and the latter cannot be summed up in the word "pain" or "reluctance." Synonyms of "boring" are: asthenia, feeling tired, problems, troubles, teasing, sarcasm, problems, nervousness, doing. All these were accompanied by spirits of anger and anguish of the soul. The term "depression" in the media includes pain and burning. The word "torture" includes the concept of suffering. In this latter definition the term "torture" refers to both mental and psychological torture. Those arrested are accused of being subjected to enormous psychological pressure due to cruel, inhuman and degrading treatment."*

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<sup>1</sup> *Arvinder Singh Bagga v. State of U.P.*, AIR 1995 SC 117

<sup>2</sup> See: Speech by Dr. Justice A S Anand, former Chief Justice of India, in VIIIth International Symposium on Torture, (1999) 7 SCC 10 (J).

<sup>3</sup> AIR 2012 SC 2573

## **NHRC Guidelines on Arrest-**

The National Human Rights Commission has issued the following detailed guidelines:

Regarding arrest in view of various judicial pronouncements

### **I. Pre-Arrest Guidelines**

\* The right to arrest without a warrant can happen only if we obtain reasonable satisfaction and do a little research, as well as verify the authenticity and veracity of the complaint and reasonable belief on the necessity of collusion in person as well as to minimize the consequences of arrest. for. The existence of a power to arrest without warrant in the knowable case cannot justify the arrest as an act only.

After the Supreme Court delivered its verdict on the Joginder Kumar case, the question that arises is what is relevant to the question of whether the court's decision on arrest is being implemented.

\* Arrest in known cases may be justified by one or the other of the following:

v) *In cases involving serious offences such as theft, dacoity, rape, etc., and the accused must be arrested to avoid or avoid trial.*

vi. *The accused is prone to violent behavior, and is likely to commit an even greater crime.*

vii. *The accused must be charged with destroying physical evidence or interfering with witnesses and/or endangering other suspects arrested.*

viii. *The accused is a hardened criminal who, if not arrested, is likely to commit a similar offence.*

- Barring scary facts, and as mentioned above, this is a duplicate, it should be avoided if the police officer warns the person to be present at the police station and leave the post without permission.

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<sup>4</sup> Important Instructions/Guidelines of National Human Rights Commission, New Delhi, 22 August 2000.

<sup>5</sup> *Joginder Kumar v. State of Utter Pradesh*, AIR 1994 SC 1349

<sup>6</sup> *Ibid.*

<sup>7</sup> 3<sup>rd</sup> Report of National Police Commission of India, A publication of Government of India (1980)

<sup>8</sup> *Supra note 2 at 9*



• Police officers making an arrest or interrogation must bear a name tag with clear identification and designations. The particulars of the police personnel who have been arrested or interrogated should be recorded in the register maintained at the police station concurrently.

## II. Arrest guidelines

• The use of force should be avoided while effecting the arrest as per the rules. However, in case of forcible resistance to arrest, minimum force may be used to overcome such resistance. However, care must be taken to ensure that injury, visible or otherwise, is avoided to the person being arrested.

• The dignity of the person being arrested must be protected. Public demonstration or parade of the arrested person should not be allowed at any cost.

• The person arrested should be searched out of respect to the dignity of the person, without force or aggression and with due regard to the right of the person to privacy. Women should be searched by other women only with strict respect for decency.

• The use of handcuffs or leg chains should be avoided and, if at all, resorted to strictly in accordance with the mandated law repeatedly stated in *Prem Chander Shukla v. Administration of Delhi* and *Citizens for Democracy v. Supreme Court* Assam State.

• Women police officers should be added as far as possible where the person or persons being arrested are women. Arrest of women should be avoided between sunset and sunrise.

• Where there is a demand for the arrest of children or juveniles, under no circumstances should there be any force or assault. Police officers may engage respected civilians for this purpose so that children or adolescents are not terrorized and minimum force is used.

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<sup>9</sup> Section 51(2) of the Code of Criminal Procedure, 1973.

<sup>10</sup> AIR 1980 SC 1535.

<sup>11</sup> (1995)3 SCC 743.

<sup>12</sup> Inserted by The Code of Criminal Procedure (Amendment) Act, 2005

- Where the arrest is without a warrant, the person arrested must immediately inform the grounds of the arrest in a language he understands. Again, for this purpose the police can, if necessary, take the help of respectable citizens. These grounds must have already been recorded in writing in the police records. Reason in writing should also be shown to the arrested person and a copy should also be given on demand.
- The arrested person may, on a request made by him, demand that any of his friends, relatives or other persons be informed of the fact of his arrest and the place of his detention. The police should enter the name of the person informed in a register.
- If a person is arrested for a bailable offence, the police officer should inform him of his right to be released on bail so that he can arrange for bail.
- Apart from informing the arrested person about the above rights, the police should also inform about his right to consult and defend a lawyer of his choice. He should also be informed that he is entitled to free legal aid at the expense of the State.
- When the arrested person is brought to the police station, he should be given immediate medical aid if requested in this regard. He should be made aware of this right. Where the police officer learns that the arrested person is in a position where he is unable to make such a request, but requires medical assistance, he should immediately arrange it. This should also be recorded concurrently in a register. Only a registered female doctor should examine a woman requesting medical assistance
- The police officer affected by the arrest should inform the Police Control Room and the District/State Headquarters without delay about the place of arrest and detention. There should be a monitoring mechanism working round the clock.
- As soon as the person is arrested, the police officer giving effect to the arrest shall mention in the register of arrest the existence or non-existence of any injury on the arrested person.

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<sup>13</sup> Section 50(1) of the Code of Criminal Procedure, 1973.

<sup>14</sup> Inserted by The Code of Criminal Procedure (Amendment) Act, 2005.

<sup>15</sup> AIR 1997 SC 610 see also *Haricharan and Others v. State of Madhya Pradesh and Others*, (2011) 3 SCR 769, *Dr. Mehmood Nayyar Azam v. State of Chhattisgarh and Others*, (2012) 8 SCC 1.

If any injury is found on the arrested person, then full particulars thereof and other particulars of the manner in which the injury occurred should be entered in the register, the entry should also be signed by the police officer and the arrested person. At the time of release of the arrested person, a certificate of the above effect under the signature of the police officer shall be issued to the arrested person.

- If the arrested person is remanded to police custody under a court order, subject to medical examination by a doctor on a panel of approved doctors appointed by the Director by a trained medical officer every 48 hours during the detention of the arrested person should be done. Health services of the concerned State or Union Territory. At the time of release from police custody, the arrested person shall be medically examined and issued a certificate stating the factual position of the existence or non-existence of any injury on his person.

*I. Guidelines after arrest:*

- The arrested person must be produced before the appropriate court within 24 hours of the arrest.<sup>16</sup>
- The arrested person should be allowed to meet his lawyer at any time during the interrogation.
- The inquiry should be conducted at a clearly identifiable place, which has been notified for the purpose by the Government. The place should be accessible and the relatives or friends of the arrested person should be informed about the place of interrogation
- Methods of inquiry should be consistent with recognized rights to life, Dignity and liberty and the right against tyranny and degrading treatment..

*II. Fourth. enforcement of guidelines*

- Guidelines should be translated into as many languages as possible and distributed in each police station. This should also be included in a handbook which should be given to every policeman.

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<sup>16</sup> The Code of Criminal Procedure, 1973, sec. 56 and 57

- Guidelines should get maximum publicity in print or other electronic media. It should be displayed prominently on notice boards in more than one language in each police station
- Police should set up a grievance redressal mechanism, which will promptly investigate complaints of violation of guidelines and take corrective action
- The notice board displaying the guidelines should also indicate the location of the grievance redressal mechanism and how that body can be contacted.
- NGOs and public institutions including courts, hospitals, universities etc. should be involved in dissemination of these guidelines to ensure the widest possible reach.
- The functioning of the grievance redressal mechanism should be transparent and its reports should be accessible.
- Prompt action should be taken against the police officers found guilty of violating the guidelines. It should not be limited to departmental inquiry only but should also give impetus to the criminal justice system.
- For effective implementation of the guidelines, it is necessary to sensitize and train the police officers.

## **Report of the Law Commission of India**

### *I. (113th Report (1985): Injured Police Officer*

*The Law Commission's 113th Report recommends an amendment to the Indian Evidence Act of 1872, which was recorded in Part 114B, and states that in the case of a judgment of injury, when evidence is available, the court may decide that The cause of the injuries was the police. One person in this time period. The police will have to prove otherwise. In the case of the above acts, this should be a realistic approach, not a narrow technical point of view. The amendments proposed by the commission are as follows:*

"114-B(1) Prosecution (by the police) for an offense that commits an act which may cause harm to persons, if there is evidence that the harm has been caused, if there is any indication that the harm has occurred within that time period." during which the person is in police custody, the court may decide that during that period of time the police were called for the injury at the direction of that person.

The Court may, in particular, having regard to all material circumstances, in deciding to make an application under Article (1):

- \*The duration of the period of temporary arrest, statement of the victim as it was before the injury, the statement which is admissible in evidence;
- A certificate from the doctor stating that the victim was not present, and
- Accepting the attached application, or attempting to write a statement in the interest of the child.

## *II. 52nd Report (1994): Custodial Crimes<sup>18</sup>*

The commission dealt with the cases of arrest and abuse of power by officers and referred to it all constitutional and legal provisions including Articles 20, 21 and 22, which should be followed as they pertain to human health and liberty. It has also sought provisions of the Indian Penal Code, 1860 specifically sections 166 and 167 (non-compliance of lawful orders by public officials), 220 (conflict with any person by corrupt and malicious causes), 330 and 331 (illegal restraint and hurt). Made provisions. is taken into account. corporal) sections 340-348 (improper detention and improper detention), sections 376(2) (type of rape committed by police, etc.), 376B to 376D (custodial sexual offence)\* \*case) and sections 503 and 506 (criminal intimidation). The commission also considered the provisions of CrPC, specifically section 41 (arrest), section 49 (detention), section 50 (cause of arrest), section 53 (medical examination of respondent), section 54 (if requested). medical examination) . idea. of the person arrested), section 56-58 (action after arrest), section 75-76 (arrest under warrant), section 154 (statement in understandable cases), section 163 (provision for pleading) section 164 (magistrate Confession before),section 313 (examination of defendant in court), section 357 (compensation)

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<sup>18</sup> Law Commission of India, 152<sup>nd</sup> Report: *Custodial Crimes*, (1994)

The Commission also considered various provisions of the Indian Evidence Act, 1872, namely Sections 24-27. The main recommendation of the commission was to amend the IPC by introducing a new clause to penalize violation of section 160 of CrPC. It also recommended amendment in CrPC by adding section 41(1A) to include section 50A for recording reasons for arrest and informing relatives etc. The committee also took this decision in the context of the Indian Evidence Act, which is a chapter. 114B, as reported by 113B.

*III. Report 177 of the Law Commission under the title "Arrested Laws" in 2001.*"<sup>19</sup>

The Indian Commission in its Report No. 177 has proposed to amend the Articles and PDA including Chapter 55A, which reads as follows

"Prisoner's Health and Safety:" A prisoner is responsible for ensuring the safety and security of the prisoner's life. "Defendant."

*IV. 185 Report of the Legal Commission (2003): Review of the Indian Evidence Act 1872*<sup>20</sup>

The commission in its report 185 states that it refers to the 113 report of Madhya Pradesh Judicial Commission v Shyam Sundar Trivedi. [21] This is actually done by the Supreme Court. It was stated that in cases of death by custodial or police torture; It is hard to expect direct evidence of police cooperation. Arrested by brothers' bonds, police officers often did not turn up to provide evidence and often the police - as in the case - could pretend to be completely unaware of the case. Courts in such cases should not follow the principle of evidence without question excessively. There would be no evidence available for prosecutors to contact the police.

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<sup>19</sup> Law Commission of India, 177<sup>th</sup> Report: *Law Relating to Arrest* (2001)

<sup>20</sup> Law Commission of India, 185<sup>th</sup> Report: *Review of the Indian Evidence Act, 1872*(2003)

<sup>21</sup> 1995(4) SCC 262

The court called the killing of police officers in custody "a serious offense in a civilized society governed by the instruction of regulation". Men in 'khaki' are non above the rule. "Section 330 of the Penal Code" (LAW COMMISSION OF INDIA, 2017) provides for punishment of 331 offenders with intent to punish with imprisonment of up to 10 years, such cases being minor by reason of difficulties.

"Disappointed by the situation, the Legal Commission in its 113 report recommended that the Indian Evidence Act be amended to provide for the possibility of sexual hurt while prosecuting a police officer. Police in hand, If there is evidence that the injury was caused when the person was held by police, the court can determine what caused the damage. This time the police is needed to stop the man. The duty of disclosing the opposite should be fulfilled by the concerned police officer."

The court further said:

"Given the inhuman nature of the crime, the gross violation of the fundamental rights of the victim and the increasing number of such crimes, where only some are visible and nothing else, we hope that the government and the legislature consider the recommendations of the Judicial Commission and Bringing about appropriate legal reforms..."

*V. 268th Report (2017): Code of Criminal Procedure Amendment 1973: Conditions relating to Bail.*

The commission in its 268 report had recommended the inclusion of section 41(1A) and amendment in 41B, CrPC. The PC is required to inform the police about the rights of the detainee, bail and the freedom of the bail process..

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<sup>22</sup> Law Commission of India, 268<sup>th</sup> Report: *Amendments to Code of Criminal Procedure 1973: Provisions Relating to Bail*, (2017)

## **Reports of Police Commission**

### *I. Select East Indian News Committee (1832)*

The East Indian Select Committee (1832) discussed the general use of harassment by the police and police to collect confessions, money or taxes. The Atrocities Commission (1855), appointed by the British Government to investigate the allegations of atrocities against the President of Madras, stated in its report that the police brutality was silent. The report points to the fact that brutality is a problem in police formations rather than in unusual and unique circumstances. The recommendations of the Violent Commission in 1860 laid the foundation for the establishment of the Police Commission.

### *II. Police Commission, 1860*

The Police Commission praised the dissolution of the Army Police as a separate organization in 1860 and proposed the establishment of a single uniformed community police force under the Proposed Police Act, 1861.

The Indian Police Commission (1902-03) investigated police action after the 40 Years of Police Act, 1861. The The Indian Police Commission (1902–03) studied the police's response to the 40-year-old Police Act of 1861. The commission concluded that the police was not a good thing. There were errors in reading, planning, and, of course, no control, thought it was random and controversial, and he could not gain the trust and cooperation of the people. The commission concluded that the police are in a state of anarchy, that violence is rampant, people are seriously injured, and that radical and radical changes in government are inevitable and necessary. commission found that the police force was not functioning properly. There were errors in training and planning, there was not enough supervision, it was viewed and considered corrupt and oppressive and it completely failed to win the trust and cooperation of the people. The commission concluded that the national police force was in a state of disarray, that violence was rampant and people had suffered serious injuries, and that radical and overarching changes of government were inevitable and necessary. The commission's landmark recommendations were that educated Indians should be recruited into the police force at the highest level and that the judiciary and judiciary should be separated from the investigative unit, junior police inspectors and gangs. Investigation Department. should be done at the state level.



23 The Police Commission, (1860)

### *III. National Police Commission (1979-1981)*

The National Police Commission in its eight reports has investigated matters relating to the work of other known police officers. The commission, in its first report, said:

Police are often criticized for using third-party methods during investigations to investigate suspects or suspects. Police brutality in dealing with suspects is mentioned in literature on police in many parts of the world, and Indian police are doing the same. The investigation of a person, whether a witness or a suspect or a suspect, is a difficult and sensitive task for any police officer and requires a lot of patience and a comprehensive understanding of the human mind. Unfortunately many police are under pressure of work and motivated by the desire for immediate results, offering a system of patient and scientific investigation and various methods to pressure a witness or suspect or suspect to disclose all known facts. use the tools. I use energy consumption. He. Whereas the law recognizes from time to time the need to use force by the police to perform its duties such as to disperse a violent mob or to arrest a violently violent person who opposes the arrest, etc. Helplessness is a highly illegal and degrading practice and is repulsive to criticism.

The National Police Commission recommended that there should be a mandatory court inquiry into police deaths and rape cases. The overtime recommendations for this purpose in each province should be legally examined by the State Government in consultation with the High Court by the Judge. The nominated judge will be appointed as the District Inquiry Authority (DIA) and will be assisted by an inspector. The DIA will send the investigation report to the national government. It will be your responsibility to publish this report and the decisions taken thereon within two months of the receipt of the report from the Government. The DIA will also act as an independent authority to oversee the final release of complaints lodged by the department. Care

<sup>24</sup> Available at Shodhganga @ inflibnet  
[http://shodhganga.inflibnet.ac.in/bitstream/10603/64472/23/23\\_annexure%20v.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/64472/23/23_annexure%20v.pdf) (last visited 25.04.2018)

A Public Grievances Board should be constituted at the State level to make the best use of the entire process. At the regional level, unexpected visits by senior officers to police stations and similar units will help in early detection of people arrested and abused. If any misconduct is found during such visit, immediate and effective punishment should be given. Unfortunately, the government ignored the important recommendations of the National Police Commission.

#### *IV. Rebeiro Committee (1998)*

The Rebeiro Committee has reviewed the suitability of key recommendations of the National Police Commission in the changing scenario of the country. The committee recommended the establishment of a State Security and Accountability Commission, a District Complaints Authority (DCA) to investigate allegations of police misconduct, including arbitrary arrest and detention, false criminal charges and law enforcement violence. The committee recommends to separate the investigation work from legal and procedural work and to amend the Police Act, 1861 by new act etc., but sadly, the recommendation has not been made so far.

#### *V. Padmanabhaiah Reform Police Committee (2000)*

The Padmanabhaiah Committee is designed to study the recruitment process, training, duties and responsibilities of police, police performance, police investigation and prosecution, among other things. The Committee notes that the Commission and the Executive Committee have repeatedly emphasized the need to improve scientific support for research, as well as to reduce child care and supervision. However, as is the case with forensic drugs in India, and how they are used in criminal investigations by the police, there is nothing to worry about. Therefore, the committee recommends that all law enforcement agencies be protected from any aid testing. Unfortunately, these recommendations were not made due to limited resources with the government.

#### *VI. Malimath Committee on Reforms of the Criminal Justice System (2003)*

The Malimath Committee highlighted various issues relating to the criminal justice system in general and the police system in particular. The committee examined in detail the basic principles of the criminal justice system like right to peace, right of accused, consideration of

innocence and burden of evidence, justice for victims etc.

“The manner in which police investigations are conducted is critical to the effectiveness of the justice system. Whether they are made for suspects or not. Public protection from criminal and child custody cases. The committee also called for legal separation of investigative functions. Recommended and Ordered Work and Police Act.

Most importantly, the rules, procedures and actions of the police should be such as to ensure that the perpetrators are caught and overrepresented and the innocent victims of the process punished. The object of study, as well as the entire justice system, is to discover the truth. To achieve this goal, researchers must be appropriately trained and assessed, and provided with the necessary scientific and practical support. ”

The committee further said:

"If he is threatened with violence, the accused should feel free to tell him about the incident when he appears before him. In this case, the judge can refer him to the authorities.

The Committee recommended that audio and video recording of statements of witnesses, pre-death statements and complaints should be permitted by law. Dialogue centers should be set up at the Regional Office in any district where they are not located, and where they are located, they should be strengthened by means of tape recording and/or video, photographs, etc..

However, the Malimath Committee report by other human rights organizations in the country including Amnesty International India and the International Commission of Jurists, (2003), faced many criticisms. In recent years, efforts have been made to reform the institutional mechanisms to effectively deal with genuine public complaints against the police, including custodial violence and audit of police performance, as well as accountability of the police to the people of the country. executive level. In this regard, the Supreme Court heard a writ petition filed by two retired police officers and an NGO, seeking implementation of the National Police Commission's report. The Supreme Court passed the judgment in 2006 which is a landmark judgment on police reforms known as Parkash Singh v Union of India. 25 The decision dealt with three aspects of policing - autonomy, accountability and efficiency. The court issued the following directions to the Central Government, State Governments and

Union Territories for compliance till appropriate legislation is made: National Security Commission, State Security Commission, Selection and Minimum tenure of DGP, Minimum tenure of Inspector General of Police and other officers, Separation, Police Establishment Board and Police Complaints Authority.

*VII. Police Act Drafting Committee (2005)*

In this regard, the Government of India, realizing the long felt need to replace the old Police Act, 1861, set up a Police Act Drafting Committee (PADC) in September 2005 to draft a new Police Act. of, inter alia, increasing challenges to the police and to meet the democratic aspirations of the people. In drafting the Model Police Act, 2006, the committee was guided by the need for a professional police 'service' in a democratic society to be efficient, effective, responsive to the needs of the people and accountable to the rule of law. The Act provides for the social responsibilities of the police and emphasizes that the police shall be governed by the principles of fairness and human rights norms, with special attention to the protection of the weaker sections of the society, including minorities. It also includes a provision that

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<sup>25</sup> AIR 2006 S.C.

the composition of the police shall reflect social diversity. Other salient features of the Model Act include functional autonomy, promoting professionalism, accountability paramount, better service conditions and the role of protecting internal security in the face of new threats.

In accordance with the instructions given to the Court of Appeal and the SADC, measures initiated by the government were initiated, and a new Police Act was developed. As of June 2014, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Kerala, Rajasthan and Tripura, India, Andhra Pradesh, Chhattisgarh, Jammu and Kashmir, Jharkhand, Orissa, Punjab, India, Tamil Nadu and Tash Nir) and Sri Lanka. Karnataka. Bengal was in the notebook. Goa, Gujarat, Madhya Pradesh, Maharashtra, Manipur, Moscow, Arunachal Pradesh, Mizoram, Nagaland, Uttar Pradesh and Uttarakhand do not conform to the Supreme Court (ACHR 2008). Recently at 5 pm. The reports of the Second Change and Policy Management Commission (2007) and the National Criminal Justice Bill (2007) have indicated that the issue of child support and care needs must be addressed immediately. Removal of disease from the body.

## 6. Chapter 5

### Judicial Response

A review of Supreme Court judgments and a few examples to demonstrate that the Indian Police Force has made significant progress in protecting and upholding rights and providing effective assistance to violent prison survivors and their families.

Corrective measures have been provided in the Constitution through the use of writs issued by the Supreme Court and High Courts for human rights violations by the police. Accordingly, the Supreme Court has the natural power to quash the proceedings even if they are in the initial stage of registering the motto. Article 51 of the Constitution is responsible for promoting respect for international law. Parliamentarians also uphold the sanctity of human rights and recognize the reliance on international treaties that guarantee fundamental human rights.

Justice has been developed through human rights legislation, in particular, the Supreme Court of India, with successive judgments on the fundamental rights of a prisoner. Those who stand for the protection of human rights, especially the intelligentsia often go to court for redress and redress.

Kishor Singh v State of Rajasthan<sup>3</sup>, the Supreme Court held that the use of third party methods by the police is violative of Article 21 of the Constitution. The court expressed deep concern over police brutality in the following words:

*“Any police force that relies more on punches than intelligence, violence beyond culture, cannot control crime because its aim is to eradicate and fuel a situation that must be wiped out. If the low mountains are indeed Nothing gives a deep scar to our constitutional culture than a man being beaten up,*

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<sup>1</sup> Vishaka v. State of Rajasthan, AIR 1997 SC 3014

<sup>2</sup> Sadasivan Nair, "Fair Trial as a Human Right", 1 IJHR 77(1998)

<sup>3</sup> AIR 1954 Cr.LJ 1672

*cowardly and ignorant in a police cell and humiliated by a government official without regard for human rights.”*

In *Ajaib Singh v State of Punjab*,<sup>15</sup> the High Court considered in detail the nature of arrest under section 22 (1) and (2) of the arrest made under sections 50 (1) and (2) of the Criminal Procedure Act. . . And it was concluded that sections 22(1) and (2) were applicable to arbitrary arrest and were not required to apply to arrest made under warrant. In case of arrest without warrant, it was necessary to apply to the provision of Article 22(1) of the Constitution as a matter of urgency on the legal grounds of the detainee's legal right and normal course of action.

In *Sunil Batra v. Delhi Administration*<sup>4</sup>, the Supreme Court ruled that Article 21 denies personal liberty, except as a matter of law, and restricts the liberty of a person to the extent that his denial is a violation of certain rights. . Bar chains are a serious threat to a prisoner's limited personal liberty, and, therefore, they must have legal authority before such flooding is permitted. The need to retrieve prisoners must be assessed in the context of the prisoner and in the context of the prisoner's safe custody. The warden has to record his complete journal and the prisoner's history mentioning the reasons for the prisoner being put in chains.

"*Prem Shankar Shukla v. Delhi Administration*<sup>5</sup>, the Supreme Court has observed that handcuffs are prima facie inhuman, and, therefore, irrational, extremely harsh and oppressive.,

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<sup>4</sup> AIR 1978 SC 1675

<sup>5</sup> AIR 1980 SC 1535



Article 21 to iron out resorting to animal tactics so as to avoid an under-trial that is not in the public interest just, just and condemnable in itself. But tying a man's arms and legs, tying his limbs with steel hoops, To drag her in the streets and make her stand in courts for hours is to torture her, defame her dignity, defame the society and malign the spirit of our constitutional culture. .... Insurance against compulsory escape requires handcuffs There are also other measures where a \*\*\*\*\* can have the safe custody of a detained person without the indignity and cruelty inherent in handcuffs or other contraventions. In fact, by tying hands or feet or both together Has not only a deterrent effect, but also a punitive injury. *Khatri v State of Bihar* 6, once known as the Bhagalpur blinding case, shook the entire nation. This case shows the extent to which the police can go to commit atrocities on persons in their custody. In this case the police had blinded some of the prisoners and hence, it was alleged that the state was liable to pay them compensation. Thus an important question of constitutional importance was involved, i.e., if a person is deprived of his right to life or personal liberty by the State in contravention of Article 21, whether the court can grant monetary relief to such person.

*Sheela Barse v State of Maharashtra* 7- Detailed directions were issued by the Supreme Court to the authorities concerned to ensure protection against harassment and abuse of women in police lock-ups. Some of these important directions are-

- (ii) The Court ruled that the custody of four or five police officers should be selected at appropriate places where only female suspects should be kept by women police officers.
- (iii) The woman should be examined only in the presence of the lady police officer/police officer.
- (iv) If a person is arrested by the police without any order, they must be informed immediately of the reasons for their arrest, and if they are arrested, the arrested person must be informed immediately. Upon release from prison. You have the right to apply for the job.
- (v) Women suspects should be detained at different places under the supervision of women police officers.

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<sup>6</sup> AIR 1981 SC 928

<sup>7</sup> AIR 1983 SC 378.

- (vi) Women should be investigated by women police officers.
- (vii) A person arrested without permission should be informed immediately of the reasons for the arrest and the right to bail.
- (viii) Once arrested, the police must obtain the name of a relative or friend from the detainee with the intention of informing him of the arrest. Then a relative or friend should be informed by the police.
- (ix) As soon as a person is arrested, the police should be informed about the nearest Legal Aid Committee and the love of that person.
- (x) The Legal Aid Committee should take immediate steps to provide legal aid to the prisoner from the State Fund, as long as the person is ready to accept legal aid.
- (xi) The Magistrate from whom the prisoner is produced shall ask the prisoner whether he has a complaint of misconduct and misconduct at the hands of the police. The magistrate will also inform that person about the right of medical examination.

*The Supreme Court expressed grief over incidents of police harassment in Raghbir Singh Vs State of Haryana. There, an assistant sub-inspector of police was sentenced to life imprisonment for the death of a suspect arrested in a burglary at a police officer's house. The court dismissed the appeal. It was held that the rule of law imposes a duty on the state to take special measures to prevent and punish cruelty by the police system. The court observed:*

*“We are deeply concerned about the recurrence of police brutality, resulting in an alarming number in the mind of the average citizen that when law enforcement officers put human rights to death, their lives and freedoms are at stake. . A threat to human rights is considered a serious crime, a violation of the duty of the state police service to protect its citizens and in this case not to commit a heinous crime against them. We hope that we will have a high level of governance and political environment, we have to think of special measures to protect and combat police brutality, order, otherwise the legitimacy of our country has changed, the identity of the people around world than.*

*Section 56 of the Prisons Act does not permit better use of bars at unusually long hours, day and night, and where prisoners are confined to safe cells, where escape is impossible. The court further said:*

*“It is wrong to brutally detain a prisoner when safe custody is not possible. The repeated use of handcuffs and chains shows paganism contrary to our dignity and the purpose of social justice. And it is cruel unconstitutional, sorry in many places. It's so popular that the prison law should mean its use in any case - but not so bad. ”—situation.”*

Speaking to the court, Bhagwati J:

"Why should the court not be ready to create new tools and devise new solutions to guarantee the most important rights to health and personal liberty?"

On the obligation of the State to pay compensation for the violation of Article 21, the Court responded by saying that if it was not done, Article 21 would be void. But since the matter of police obligations is still being investigated, the court has not ruled on the matter. However, over time, justice has been served to the criminals in Bhagalpur, with three police officers involved in the horrific cold-blindness finally found guilty of taking the law into their own hands. .

*Nilabati Behera v State of Orissa* 9, Van Behera was arrested by the police on 1 December 1987 at 8 am, and found dead the next day on a railway line near the police post, Jeraikela. He was not released from prison and his death was unnatural, so he was injured several times. The court said that the clear conclusion in the case was that Suman Behera was grievously injured in police custody, leading to her death. Accordingly, the court restrained the State Prosecutor Orissa from paying Rs 50,000 to the applicant and Rs 10,000 to the Supreme Court Legal Aid Committee.

*Joginder Kumar v State of UP and 10 others*, a lawyer, who was called to the police station in connection with the case, were arrested and detained for five days. The Supreme Court, along with the power of arrest, considered the power of torture and observed:

"No one can be arrested because it is legal for a police officer to do so. It is another thing to have the ability to bind, another to adjust to the practice. The police should be able to pardon his arrest beyond its capacity..."

The High Court has laid down four main guidelines that the police must follow in all arrests. this is: -

- i. A detainee in custody has the right, if he so requests, to inform a friend or relative or other person, as far as possible, that he has been arrested.
- ii. officer will inform the prisoner of the above right.

iii. It should be recorded in the diary who was informed of the arrest.

iv. A departmental order should be issued that the arresting officer should record the reasons for the arrest in the diary. It shall be the responsibility of the Magistrate to ensure that the above requirements are met, that in his case the arrest is made.

Gauri Shankar Sharma et al. UP 11 STATUS, Police In child mortality cases it is often difficult to obtain evidence against third party police escorts as they have a police station record which can be difficult to make noise in case of envy. The punishment should be in such a way as to prevent others from indulging in such conduct. There will be no room to give. "

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<sup>10</sup> AIR 1994 SC 1349

<sup>13</sup> AIR 1995 SC 55

*D.K. Basa vs. West Bengal D.K. settle down Working with the President, West Bengal Legal Aid. This non-partisan organization sent a letter to the Chief Justice of India on 16.08.1986 to draw attention to several reports, accidents and custodial deaths published in telegraph, newspaper and police. He requested that the letter be treated as part of the "public hearing" application. Considering the importance of the issues raised in the letter, it was treated as a written request and a notice was given to the respondents while the writ petitions were being considered, Ashok Kumar Johri addressed a letter. Attention was drawn to the death of the Chief Justice. Mahesh Bihari of Pilkhana, Aligarh.*

*\* Police Arrest and Interrogation The arrested person must follow correct, visible and legible signs and word tags. The details of all police officers interrogating the detainees should be entered in the register.*

*\* The police, detainee or detainee must prepare a memorandum of arrest during the course of the arrest, and such agreement must be supported by at least one witness or family member of that person or area. This could be an important person. where it is tied. I sign with the detainee and place the date and time of arrest.*

*\* A person who has been detained or detained in a police station, interrogation center, or other researcher, or who studies or is interested in the welfare of a friend or family member, or any other person, have the right to hold. Notice must be given as soon as possible that the person has been arrested and detained, without the arrest of witnesses, a witness has been arrested for reporting by a friend or family member of the detainee has gone.*

*The place and time of arrest of the detainee must be registered with the police, where a close friend or relative of the detainee is located in the same area or outside the city, must be recorded by the Regional Legal Aid Organization and the District Police. Within 8-12 hours of arrest.*

*• The person to be arrested must know the right of any person to be informed of his arrest or detention immediately after his arrest or detention.*

*• Where you are detained, you write a note about the person's arrest, read the name of that person's best friend, report the arrest, and the name and description of the investigation. For what reason was he arrested?*

*\* If requested, the confinement of a person should also be assessed at the time of his arrest, and all major and minor injuries, if any, that may be present in the body at the time should*

be included. The control protocol must be signed by the arrested person and the police officer in custody, and a copy of it must be provided in the data header.

- The arrested person should be examined by an authorized medical practitioner every 48 hours during the child's stay, by a doctor called by the Director of Health Services of the State or Union Territory concerned from a recognized doctor. The Director of Health Services should also make arrangements for clustering of all tehsils and surrounding areas.

\* Copies of all documents including the arrest report mentioned above should be sent to the Police Magistrate for recording.

- The subject of the data is entitled to be allowed to meet with his lawyer during the interview, but only during the interview.

*In Mahmood Nayyar Azam v State of Chhattisgarh 13, the High Court dismissed the case of a social worker who was concerned about the exploitation of the poor and discriminated in the community and worked to raise awareness, falsely alleging him. Crime, arrest and humiliation. The court ruled that any form of harassment or cruelty, inhuman or degrading treatment, shall be subject to Articles 20 and 21 of the Constitution, whether by inquiry, inquiry or otherwise. The use of the word 'oppression' includes pain and suffering.*

*Dagdu and others. v. Maharashtra State 14, SC Note:*

*"No member of the public is safe from the dangers of anarchy. The police provide safety and security to the citizens, and if they indulge in this way, they create a sense of insecurity in the minds of the citizens. He is a predator. Turned out to be more cruel than the gatekeeper."*

*In Sube Singh v State of Haryana 15, the High Court discussed in detail the reasons for the plan and the proposed measures to protect the manner in which the violence was dealt with.*

*The court found:*

*"Expecting immediate results in crimes so serious or serious puts a lot of pressure on the police to catch 'criminals'. The need for immediate results makes them use third-party methods. This leads to incomplete investigations." Efforts to move swiftly to "single" custody with a sense of urgency, reduce pressure on three areas of government, promote, encourage and conduct research on appropriate mechanisms for direct prosecution.. "*

*Gauri Shankar Sharma et al. v. UP 16 states, Supreme Court notes:*

... *Crime is a serious offense committed by a person who protects civilians and does not violate their uniform and authority while in custody them by cruelty. The death of a police officer should be taken seriously as we will help solve the police raj. It is necessary to press it with a heavy hand. The structure of the sentence should be such that others do not do so. There will be no place to go. "*

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<sup>14</sup> AIR 2000 SC 3203

<sup>15</sup> AIR 2017 SC 5233

<sup>18</sup> AIR 1990 SC 709

In *Munshi Singh Gautam v. MP 17*, the Supreme Court ruled that cybercrime should be viewed differently than mirrors used in ordinary criminal cases, such as in cases where the person is suspected to have died. It is difficult to get any kind of evidence in the hands of the police. The court noted:

"It is not uncommon for cases of police brutality or detention to be direct evidence of police activity, which can only explain the circumstances under which a person died. In addition, there are times when The prosecutor himself stands in port, disregarding the truth of the world, the reality of the given case and the special circumstances, which often lead to malpractice and the justice delivery system. ... He should not listen to the fact that the police kept Death is probably the worst kind of crime is another crime in a civilized society governed by law. The biggest threat to the world. Parental abuse violates the fundamental rights of citizens recognized by the Constitution of India and violates human dignity. Police harassment and prisoner abuse appear to be a tarnished image of violation/decent people, and aimed at promoting "hacks" for men standing above the law, and in some cases risking crop failure to the early Christian Church. Crime must be abolished, and it is the basis of a disrupted justice system. The self is at risk of consequences. We remind you of paganism. Therefore, the courts must treat such cases equally and with kindness, and the average person gradually loses faith in the operation of the legal system, which can be a painful day for all if possible. and to see".

In *Prakash Kadam vs Ramprasad Vishwanath Gupta*<sup>18</sup>, the Supreme Court has expressed dissatisfaction over this false association. Some of the police and personnel were manned by independent people of their enemy rape. By the time the police became the hired killer, witnesses may have had major security concerns that the police might be able to testify against senior witnesses and their family members or threaten them with probation. to save them. Border guards were hunters. As the Bible says, "If salt loses its saltiness, how can it be made salty again?" If in ancient Rome: "Who will protect the Praetorian Guard?" The court ruled that the death penalty should be given in cases where the court observed false relations with the police. These officers have been warned that they will not be excused if with the word 'incident' on the ground that they obey the orders of their superiors or politicians, no matter how high they are. Ho. At the Nuremberg trials, gsng war criminals argued that 'orders were orders', but were hanged. If an unlawful order is given to a police officer by a person in



charge of his job to falsely "meet", it is his responsibility to refuse to comply with that illegal law, otherwise he will be charged with and shall be punished with death.

Consequently, it follows that the above judicial proceedings indicate that the harassment of a public servant or his official support has been illegal.

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<sup>18</sup> (2011) 6 SCC 189

7.

## **Conclusion and suggestions**

In addition to his protection and upbringing, a prisoner has a curse of human nature in his mind. The word thinking means to take care and protect. There is no need for a bigger picture of prison violence. Complaining of harassment in deprivation of liberty should not be an easy way for a judge to get help, as it is a common criminal act.

This problem arises from a technical point of view, and it is necessary to establish a system of public administration that is more effective in maintaining order and preventing and solving crime, without empowering the police. Provides for the rights and actions of a person on the street. Such a system apparently ensures a high degree of police control and acts as a hindrance in the exercise of their powers. In addition, there is a need for an effective institutional approach to handling complaints about credible "police incidents".

According to the Supreme Court, "oppression in liberal areas" is a violation of human dignity and degrading treatment, which is extremely destructive.

First, the deprivation of liberty to torture must be justified as an offense under the special law. Second, in many cases of torture in disadvantaged places, officers can be terminated by applying existing laws of detention and detention. The rules laid down by the Supreme Court, though not absolute judgments, must be enforced. Action should be taken against those who do not do so.

Third, police action must be closely monitored throughout society, and especially in relevant professional groups, including private or groups, and the media to show that the promises of the government will come true. The opposition party also led the Director General of Police to send a report to Parliament on all cases of arrest, death and torture of children.

The government has not ratified the agreement on the basis of the false argument that the existing laws are sufficient to ensure that mindfulness is not the case, which is clearly not the case.

If this is the case 60 years after independence and despite many concerns and guidelines

issued by courts across India, the atrocities will not continue as they are today.

A thorough study on this subject concludes that in spite of the incomparable efforts and achievement of human rights at the international and national level and in spite of the sincere efforts of the founders of the Indian Constitution and the sustained efforts of the Supreme Court of India, the achievement is for all the people. The goal of human rights as a common standard of Dramatic Supreme Court decisions haven't shooed officials from their cocoons and human rights violations continue

Hon'ble Supreme Court in DK Basu's case to deal with the evil of custodial crime and to bring transparency and accountability in it, guidelines followed in all cases of arrest or detention However, most of the recommendations made by the Hon'ble Courts or various NGOs from time to time are seen more only in violation and are not followed. Although most of the rules and instructions regarding the prohibition of torture have been incorporated into the police force's training curriculum, the core mindset has not changed. Therefore, the need of the hour is that serious thinking and concerted efforts should be made by all concerned - State, voluntary organizations, society etc. so that necessary change can be brought in the attitude of the keeper of the law.

Human rights violations are frequent by the police and the impact is widespread. The major areas of human rights violations committed by the police are torture, unlawful arrest, illegal detention, false implication, etc. Of these, torture is the most extreme form of human rights violations committed by the police. It ranges from simple beatings to custodial death. Corruption, political nexus or individual bias

Human rights violations may also be committed by the police in special cases under investigation. They also oppress those individuals who stand up against the abuse of power by a police officer.

Complaints against the police to the National Human Rights Commissions clearly indicate that custodial death/murder cases are happening even in the most literate states. In addition, there are frequent torture/illegal arrests/illegal detention and other harassment by the police. However, through timely intervention by the National and State Human Rights Commissions the role has been played in protecting and protecting human rights through strict and appropriate recommendations to the respective governments against the guilty police

personnel. It is important to note that the Commission directed all the alleged and Union Territories to report directly to the Commission within 24 hours of any instance of death or occurrence of, if not, it shall be treated as suppression of facts. will be taken in . Another corrective step was the recommendation to the State Governments to video-film all the postmortem examinations and send the cassettes to the Commission without delay, to eliminate the possibilities of manipulation in the postmortem reports.

The age-old methods of interrogation and investigation procedures for the detection and protection of crimes rather than their prevention. Custodial death, , torture, unlawful arrest, illegal detention, false charges, failure to act, etc. are examples of such atrocities by the police. Custodial torture always lacks independent witnesses that sum up the situation. In short, there is an obvious human rights violation by the police which is yet to be handled in efficient ways.

Justice AN Mulla, of the Supreme Court of Allahabad, once said, "I can assure you that it is an absolute duty to ensure that there is an absolute in the country by a group described as a crime, which as a business Known, omnipresent, there is no anarchy. Indian Police."

India's Home Minister Sardar Patel's dream to provide a clean, fair and efficient police force to the country has been pitched by political chains.

development over the years. The fact is that overall policemen have become in party cadres and there is a growing nexus between politicians, gangsters and police.

Although it has been 20 years since India signed the United Nations Convention against Torture and other cruel, inhuman or degrading treatment or punishment, it is still nowhere to be ratified. There are no laws in India specifically for the prevention of custodial torture, nor is there any strong procedural protection against custodial violence.

A report by the Law Commission of India, which recommended the inclusion of Section 11-4-A in the Indian Evidence Act, advocated the need to reverse the burden of proof in cases of injury or death of a prisoner. Recommended police custody, and to put the said burden on the police. Appropriate amendments should be made to Sections 53 and 54 of the Criminal Procedure Code.

The necessity of these recommendations cannot be understated given the daylight hours; Recently, the Supreme Court of India, in response to a PIL filed by Shri Ashwini Kumar, a former Law Minister, sought a response from the NHRC regarding the need for an anti-

custodial torture law. With the Atrocities Bill prevented from being passed in the Lok Sabha, the time has come for the legislature to pass it meaningfully in the Rajya Sabha as well.

To analyze the problem of deprivation, harassment, you need to understand the problems of the police. The Indian Police has a large body that appears to be dealing with the following problems: High pressure, low energy and poor working conditions, due to low energy, low level of education in low cells; Inadequate and outdated training, but not TV channel performance and resource maintenance; Poor information and communication networks unnecessary riots in power and a dysfunctional state of society as a whole. Working 16 hours a day, seven days a week, even on public holidays, with the police, you have little time for entertainment. It is very difficult for them to be sensitive to human rights in these situations. It is common in the community for the police to be involved in all sales regardless of their concerns. The government should take concrete steps to deal with the challenges faced by our police.

1) Vocational education and training in the field of human rights protection. As per the Constitution, this should be a mandatory plan to protect and safeguard the rights of law enforcement and security personnel at all levels. Knowing the various sections of the Indian Penal Code and the Code of Criminal Procedure is very little. Please read the Fundamental Laws of the Constitution of India and in particular the Fundamental Rights and Freedoms of Citizens as well as International Bills and other documents relating to the rights of prisoners/suspects/suspects. Translated into regional languages. All police officers and prison staff should understand that their loyalty to Instagram is constitutional and legal and they are not bound to follow illegal orders of their superiors, who and only they are responsible and punished. Our soldiers are usually trained in some way or the other. This is one of the most important aspects of his imprisonment. This is a high level, we should start with the training and training of our police officers, but we should have them to operate from the youth level.

(2) Use of scientific research in the field of AIDS

Third party methods may be used in investigative activities or because of a lack of scientific research or because of the failure or unwillingness of the investigative team. Most of the police stations in the village do not even have a separate area where the police can only talk about \*\*\*\*\*. Accused/accused of being a Junior Inspector or Agent while living with others responsible for increasing the number of cases. Some of these people, without training or qualifications in scientific research, work under constant pressure from above to "fix" the matter in some way. There are many unresolved issues before you have a better chance of being promoted. Therefore, they try to "cure" as many cases as possible in the shortest possible time. Various forms of torture result, and often death in prison. Supporting the police is necessary to make full use of academic support in investigations including the use of forensic laboratories, false detectors, computers, etc.). The review is based on the psychological performance of the offenders. The services of a psychologist should be supervised for those in need. With a view to modernize our police, it is necessary to identify false detection centers as well as laboratory problems in the country and assist the police in collecting and analyzing information, evidence etc. Computers can also play an important role in this area. .

Apart from the fact that the police is the official \*\*\*\*\* of the state in the constitution, the central authority has the following functions:

20 years ago by using state-of-the-art state police system. The program provides financial assistance to the government to cover communications costs, such as computer forensics, equipment, and other academic research support. According to the State Department, the annual budget for 1991-1992 was Rs 15 crore. 30 crore will be disbursed per year in the period 1992-95. This resource allocation is insufficient. The government should allocate more money to modernize the police..

### *(3) Role of court in police work, pre-trial detention*

*National Police, in accordance with the recommendations of the Commission and the Court in which the accused shall be detained before further detention by the Investigating Officers, and in particular as per the provisions of the Code of Administrative Procedure, for knowing*

any complaint of harassment or illness. They should be asked to provide details. If the answer is yes, then the police should be identified. In the event of harassment, the court is bound to deny the right of stay to other police officers and transfer the suspects/suspects who have been convicted. Also, as per Article 54 of the Code of Criminal Procedure, in the event of harassment, the judge is compelled, in addition to sending him for medical examination. In the case of a harassment statement, which confirms the fact that a medical professional must be registered with a criminal center, the cost is deducted.

#### *(4) Amendment to the State Sustainability Act*

Existing law provides for the release of officers from law enforcement agencies committing crimes in the performance of their official duties. According to Article 1 of Article 132, Section 1 of Article 197 of the Criminal Code, if an officer is accused of having committed an offense which he cannot perform in the performance of his official duties, the Court shall consider such case. cannot accept. . cases, unless approved before the Central Government. Under police protection, he was sentenced to torture. Similarly, Chapter 6 of the 1983 Act. The Special Forces Act provides for criminal activity as a symbol of protection. This concept of "self-defense" must be abolished, and police and security officers must be held accountable for their actions. He made a similar recommendation in the eighth and final report.

#### *(5) Change the lines of evidence*

There is a need to replace the law with evidence in line with the recommendations of the Legal Entity Commission. In case of punishment including deprivation of liberty, torture or death, the applicant is subject to the position of witnesses and witnesses. According to eyewitnesses, torture and death in sentencing cells, as a rule, were Instagram allies who did not speak out against police arrest without fear of punishment. There were other witnesses to this.

The police are not involved in these cases, simply because they develop a sense of brotherhood, and they do not want to give legal aid to their associates. They distort the truth. Therefore, in the Act, the Legal Commission proposed to amend the certificate by creating a new Article 114B, disputing the notion that the damage to the vehicle was caused by a police officer. The proof of his innocence will rest on his shoulders. While on duty you will be asked

*whether the police department can contact the suspects/suspects taken into custody in a way that is more humane and compliant with the law.*

*(6) Adoption of any law aimed at preventing oppression relating to deprivation of liberty*

*The state should establish an intermediate bill that provides for the safe custody of the defendant or defendant in a police station. The project would entail mandatory inspection of the respondent before and after suspension by the police and in the event of death of the victim and police during pre-trial detention, the presence of a lawyer during the investigation, the appointment of an authorized officer responsible for the safe custody of the defendant. A firm credit guarantee at all levels, the death of the victim and the police officer*

*(7) In the event of an unexpected attack*

*One measure that could have a profound impact on abuse prevention is unplanned distribution, regular visits to the police and other places of detention and deprivation of liberty. The objective is twofold: first, those who have filed their complaints can be tested and the monitoring authority can be allowed to conduct tests, and the situation can be rectified by taking into account the recommendations of the expert. can go. Such commissions may include judges, doctors, psychologists and other professionals in the field of human rights..*

*8) Establishment of National Human Rights Commission*

*In response to growing concerns about increasing human rights violations and international criticism of gravity, the government decided to establish a National Human Rights Commission (NHRC).*

i. In India, unfortunately, the police still operate under the old Police Act of 1861, which was a legacy of colonial rule. The primary function of the police during the British rule was to protect the common interest and reduce the demands and actions of the people involved. The attitude of the police should be further strengthened and whatever action is taken along with the police in India, it will work.

ii. The government and the legislature should take seriously the recommendations of the Legal Commission and the National Human Rights Commission and make appropriate changes not



only to prevent this crime, but also to punish those responsible.

iii. In order to free the police from external pressure and influence, there should be infrastructural improvement in its establishment.

iv. There is also a need to change the attitude and behavior of the police through proper education and training.

v. A chapter on human rights should be included in the police training programme.

vi. Officers against whom there is prima facie evidence of human rights violations should be given preventive punishment.

vii. Social organizations, mass media, social activists, vigilant lawyers and educated public must unite against the violation of human rights by the police administration.

viii. Human rights cell similar to the legal said cells in the bar

ix. India's international human rights commitment must be strengthened.

*Additional Tips to Prevent Detention Rape:*

*I. The representation of women in police should also likewise be increased and mobility should be provided.*

*II. A medical examination, wherever necessary, by a female doctor, shall be provided forthwith for any woman in custody who is alleged to have been \*\*\*\*\*. It is an important measure in obtaining evidence for a legal prosecution.*

*iii. Rape, Victims of abuse and other torture or abuse in custody are entitled to fair and adequate and fair compensation and medical care.*

*iv. Women's rights should be promoted as human rights through official programs of education.*

*v. The government must ensure that all law enforcement personnel and other government agents receive adequate training on national and international standards that protect the human rights of all women and how to properly enforce them.*

*vi. Law enforcement personnel and other government agents should be instructed that keeping a raped woman in their custody is an act of torture and will not be tolerated.*

*vii. Special steps must be taken to uphold the United Nations Declaration on the Elimination of Violence against Women. These steps should include a clear prohibition of gender-based*

*violence, whether in public or private life.*

None of the given suggestions are difficult to implement. Active efforts from the government and police administration in this direction will ensure positive results. Change in attitude cannot be brought about overnight. These take time and are worth the wait

. Let us all hope that in the years to come, custodial crimes will be reduced till they are completely eliminated. If human dignity is left then there is hope in the future.

## 8.

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