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Custodial Deaths and Police Accountability in India: Constitutional Safeguards, Human Rights and Institutional Challenges

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ABSTRACT

Custodial death is among the gravest manifestations of state power exercised without legal restraint, because a person who enters police custody remains under the direct control of public authorities responsible for protecting life, dignity and bodily integrity. In India, constitutional guarantees under Articles 14, 21 and 22, statutory safeguards governing arrest and custody, judicial directions, and National Human Rights Commission mechanisms seek to prevent custodial torture, unlawful detention and custodial deaths. Yet recurring allegations of physical violence, coercive interrogation, denial of medical care, fabricated records, delayed reporting and inadequate investigation demonstrate continuing challenges in translating safeguards into effective protection. This paper critically examines custodial deaths and human rights violations occurring in police stations from constitutional, statutory, evidentiary and institutional perspectives. It analyses the preventive safeguards developed through Supreme Court jurisprudence, particularly D.K. Basu v. State of West Bengal, Nilabati Behera v. State of Orissa, Joginder Kumar v. State of Uttar Pradesh and Paramvir Singh Saini v. Baljit Singh. It also considers the procedural framework under the Bharatiya Nagarik Suraksha Sanhita, 2023, the evidentiary framework under the Bharatiya Sakshya Adhinyam, 2023, and the role of the Protection of Human Rights Act, 1993 and NHRC guidelines. The study adopts a doctrinal and analytical methodology based on constitutional provisions, legislation, judicial decisions, official guidelines and secondary literature. It argues that prevention requires more than post-death compensation or disciplinary action. Effective accountability depends upon independent investigation, functioning audio-video surveillance, preservation of digital and medical evidence, prompt magisterial inquiry, access to counsel and medical examination, institutional oversight, protection of complainants and witnesses, and prosecution where criminal liability is established. The paper proposes a rights-sensitive accountability framework integrating transparency, forensic independence, police reform and judicial supervision.

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I. INTRODUCTION

Custodial death represents the most serious point at which the coercive authority of the State intersects with the fundamental rights of an individual. Police custody is legally constituted for investigation, questioning and production before a competent court; it is not a zone in which ordinary constitutional protections are suspended. Once a person is detained, the State assumes an enhanced responsibility to protect that person's life, bodily integrity and dignity. A death occurring during such custody therefore raises questions extending beyond the immediate cause of death.

The constitutional foundation of this protection is principally located in Articles 14, 21 and 22 of the Constitution of India. Article 21 protects life and personal liberty against deprivation except according to constitutionally valid procedure, while Article 22 provides specific safeguards relating to arrest and detention. The Supreme Court has progressively interpreted these guarantees to require transparency and accountability in police custody.¹ The jurisprudence beginning with *Joginder Kumar* and developed substantially in *D.K. Basu* gave that requirement concrete operational form.

The problem of custodial deaths cannot, however, be reduced to physical torture alone. A detainee may suffer serious human-rights violations through arbitrary or prolonged detention, denial of medical treatment, intimidation, humiliating treatment, sexual violence, coercive interrogation, deprivation of access to counsel, or deliberate manipulation of station records. A death may also follow an apparently natural medical condition that was aggravated by the failure of authorities to provide timely medical attention.²

Indian law contains several overlapping mechanisms addressing these concerns. The Bharatiya Nagarik Suraksha Sanhita, 2023 provides the current criminal-procedure framework, including safeguards concerning arrest, custody, medical examination and inquiry into deaths in custody. Section 196 specifically requires a Magistrate's inquiry where a person dies or disappears in

¹ INDIA CONST. arts. 14, 21, 22; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

² *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (India); *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746 (India).

police custody, in addition to the police investigation, and contains requirements relating to medical examination and the participation of relatives.³

The Supreme Court's decision in *Nilabati Behera v. State of Orissa* established that compensation in public law may be awarded for violation of the fundamental right to life and that sovereign immunity does not defeat such a constitutional remedy. *D.K. Basu v. State of West Bengal* subsequently articulated detailed safeguards against custodial violence and emphasised that custody does not place a person beyond the protection of law.⁴

The paper proceeds in nine parts. Part II develops the literature review, methodology and analytical framework. Part III examines the constitutional and statutory framework governing police custody, arrest, medical safeguards, custodial death inquiries and human-rights oversight. Part IV analyses the principal forms and institutional pathways of custodial violence and death. Part V considers evidentiary and investigative challenges, particularly where police authorities control relevant records and witnesses. Part VI evaluates judicial and institutional responses. Part VII examines constitutional rights and rights-sensitive prosecution. Part VIII offers a critical assessment and recommendations, and Part IX concludes.

II. LITERATURE REVIEW, METHODOLOGY AND ANALYTICAL FRAMEWORK

The literature on custodial violence in India is multidisciplinary because the phenomenon cannot be understood solely through criminal law. Constitutional scholarship examines the relationship between personal liberty and State power; criminological literature considers interrogation practices, police culture and institutional incentives; human-rights literature focuses on torture, dignity and accountability; and forensic scholarship addresses the reliability of medical and scientific evidence in disputed deaths. Judicial decisions provide another important body of knowledge because the Supreme Court has repeatedly converted constitutional principles into concrete safeguards.

A. Conceptualising custodial death and human-rights violation

A custodial death refers broadly to the death of a person while under the control or authority of the police or other lawful custodial institutions. The expression should not automatically be treated as synonymous with custodial murder. A person may die from illness, suicide, accident, self-harm, assault, excessive force or other causes while in custody. The legal significance of

³ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023, § 196 (India).

⁴ *Nilabati Behera*, *supra* note 2; *D.K. Basu*, *supra* note 2.

custody lies in the State's heightened responsibility for the person's safety and in the evidentiary imbalance created by institutional control.⁵

B. Research methodology

The study adopts a doctrinal, qualitative and analytical methodology. Primary materials include the Constitution of India, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Bharatiya Sakshya Adhiniyam, 2023, the Protection of Human Rights Act, 1993, relevant rules and judicial decisions. The study also considers official guidelines and materials issued by the National Human Rights Commission concerning custodial deaths, post-mortem examination, reporting and police accountability. Secondary materials include scholarly commentary, human-rights literature and institutional reports.⁶

C. Scope and limitations

The paper focuses on deaths and serious human-rights violations occurring in police stations, lock-ups and closely connected periods of police custody. It does not undertake a state-wise empirical comparison of custodial-death statistics, nor does it claim that every custodial death is caused by torture. The study instead examines the legal architecture applicable when a person dies or suffers serious injury while under police control. Statistical conclusions are therefore outside its principal scope.

D. Analytical framework

The analysis proceeds through five linked questions. First, what legal authority permits the State to arrest, detain and interrogate a person, and what limits accompany that authority? Second, what positive duties arise once custody begins, particularly concerning health, dignity, communication and documentation? Third, what evidence is required to reconstruct events occurring within a police station? Fourth, which institutions should investigate and adjudicate allegations when the police themselves may be implicated? Fifth, what remedies and preventive reforms can reduce recurrence while preserving legitimate investigative functions?

⁵ *D.K. Basu, supra note 2; Nilabati Behera, supra note 2.*

⁶ INDIA CONST.; The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3; The Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023 (India); The Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1994 (India).

III. LEGAL FRAMEWORK GOVERNING CUSTODIAL DEATHS AND POLICE-STATION VIOLATIONS

A. Constitutional framework

Article 14 requires non-arbitrary State action and equal protection of law. In the custodial context, arbitrary arrest, discriminatory treatment or selective enforcement may raise Article 14 concerns. Article 21 is the central safeguard because the deprivation of liberty through lawful arrest does not extinguish the right to life, dignity and bodily integrity. Article 22 further protects arrested persons through requirements relating to communication of the grounds of arrest, access to legal representation and production before a Magistrate.⁷

B. Arrest, custody and procedural safeguards under the BNSS, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023 now supplies the principal statutory framework for criminal procedure. Its provisions concerning arrest, communication of arrest, production before a Magistrate, medical examination and investigation must be read consistently with constitutional safeguards. Most importantly for custodial death, section 196(2) provides for a Magistrate's inquiry where a person dies or disappears in police custody or in any other custody authorised by a Magistrate or court, in addition to the police investigation. Section 196 also requires attention to medical examination and, where practicable, the participation of known relatives in the inquiry.⁸

C. Protection of Human Rights Act, 1993 and NHRC oversight

The Protection of Human Rights Act, 1993 provides an institutional mechanism through the National Human Rights Commission and the State Human Rights Commissions. The NHRC has developed specific procedures for custodial deaths, including prompt intimation, post-mortem documentation, magisterial inquiry reports and forensic material. The Commission's guidelines are important because they introduce an external reporting channel into a field otherwise dominated by police and executive authorities.⁹

D. Bharatiya Sakshya Adhiniyam, 2023 and electronic evidence

Modern custodial investigations increasingly depend upon electronic evidence. CCTV footage, station-entry records, digital duty registers, call records, body-worn camera data where

⁷ INDIA CONST. arts. 14, 21, 22; *Maneka Gandhi*, *supra* note 1.

⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3, §§ 35–36, 47–48, 53, 196.

⁹ The Protection of Human Rights Act, 1993, *supra* note 6, §§ 3, 21, 30; NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, <https://nhrc.nic.in/acts-and-rules/guidelines> (last visited Oct. 3, 2026).

available, hospital records and mobile-phone communications may establish the sequence of events before and after a death. The Bharatiya Sakshya Adhiniyam, 2023 provides the contemporary evidentiary framework for electronic and digital records. The legal challenge is not merely admissibility but preservation, authenticity, continuity and attribution. CCTV footage that is overwritten, selectively extracted or preserved without adequate chain-of-custody documentation may become difficult to rely upon.¹⁰

E. Judicial guidelines as constitutional safeguards

The Supreme Court has used its constitutional jurisdiction to develop detailed safeguards because ordinary criminal procedure alone was considered insufficient to prevent custodial abuse. In *D.K. Basu*, the Court prescribed requirements concerning identification of police personnel, preparation of arrest documentation, communication to relatives or friends, medical examination and documentation of custody. These safeguards are designed to create an auditable trail. In *Paramvir Singh Saini*, the Court extended this logic to surveillance and institutional oversight, requiring CCTV systems covering police-station areas and mechanisms for monitoring footage.¹¹

F. International human-rights standards

India's constitutional framework can also be understood against international standards prohibiting torture and arbitrary deprivation of liberty. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture reflect widely recognised principles concerning the humane treatment of persons deprived of liberty.¹² Although international instruments operate within India's constitutional and statutory framework in accordance with domestic law, they provide interpretive context for dignity, humane custody and effective remedies.

IV. PATTERNS, CAUSES AND INSTITUTIONAL PATHWAYS OF CUSTODIAL VIOLENCE

Custodial violence can arise through a combination of individual misconduct and institutional conditions. Physical assault during interrogation is the most visible form, but the broader spectrum includes threats, intimidation, sleep deprivation, denial of food or water, humiliating

¹⁰ The Bharatiya Sakshya Adhiniyam, 2023, *supra* note 6, §§ 61–63 (electronic records and their admissibility); *see also Paramvir Singh Saini v. Baljit Singh*, (2021) 1 SCC 184 (India).

¹¹ *D.K. Basu*, *supra* note 2; *Paramvir Singh Saini*, *supra* note 10.

¹² Universal Declaration of Human Rights, G.A. Res. 217 (III) A, arts. 5, 9 (Dec. 10, 1948); International Covenant on Civil and Political Rights arts. 7, 9, 10, Dec. 16, 1966, 999 U.N.T.S. 171 (acceded to by India Apr. 10, 1979); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85 (signed by India Oct. 14, 1997; not ratified).

treatment, illegal restraint, sexual abuse and deliberate denial of medical attention. In some situations, violence may be associated with attempts to extract information or confessions; in others, it may arise from punitive attitudes toward detainees or attempts to conceal earlier misconduct.

A. Coercive interrogation and abuse of investigative power

The police possess legitimate investigative powers, including the authority to question suspects and collect evidence. The difficulty begins when interrogation is converted into physical or psychological coercion. Coercive interrogation is particularly dangerous because the detainee is dependent upon the police for basic needs and may have limited access to independent assistance. The Supreme Court's arrest jurisprudence reflects the principle that the existence of a power to arrest does not by itself justify its exercise in every case.¹³

B. Denial of medical care and institutional neglect

Not every custodial death results from a direct assault. A detainee may suffer from an existing illness, injury, withdrawal symptoms, mental distress or an acute medical condition requiring immediate treatment. If police officers ignore symptoms, delay hospitalisation or fail to conduct the required medical examinations, the resulting death may raise questions of negligence and of violation of the State's positive duty of care. Medical examination therefore performs both a protective and an evidentiary function.¹⁴

C. Fabrication, suppression and manipulation of custodial records

A major accountability risk arises where the same institution accused of wrongdoing controls the station diary, arrest register, visitor records, duty roster and initial narrative concerning the detainee. The creation of false entries, omission of relevant events or delayed recording can complicate reconstruction of the incident. Even without deliberate fabrication, incomplete documentation can create evidentiary uncertainty. This makes contemporaneous and independently auditable records essential.¹⁵

D. The first twenty-four hours and evidentiary risk

The earliest period after a custodial death is critical because physical and digital evidence can deteriorate rapidly. Medical examination, scene preservation, seizure of clothing and other material, collection of CCTV footage, identification of officers on duty and recording of witness

¹³ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260 (India); *D.K. Basu*, *supra* note 2.

¹⁴ *D.K. Basu*, *supra* note 2; The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3, § 53.

¹⁵ *D.K. Basu*, *supra* note 2 (requiring contemporaneous documentation of arrest and custody); NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, *supra* note 9.

accounts should therefore occur without avoidable delay. NHRC practice has long required prompt intimation of custodial deaths. Section 196 of the BNSS also contemplates a Magistrate's inquiry and medical examination within a prescribed framework.¹⁶

E. The role of technology in prevention and accountability

Technology cannot substitute for institutional integrity, but it can reduce evidentiary dependence on contested oral accounts. Audio-video CCTV coverage, secure storage, access logs and independent oversight can make it more difficult to erase or retrospectively reconstruct events. *Paramvir Singh Saini* expressly connected CCTV surveillance in police stations with the protection of fundamental rights and required extensive coverage, recording capability and oversight. The effectiveness of such systems, however, depends upon functioning equipment, adequate storage, maintenance, independent access and consequences for deliberate disabling or non-preservation.¹⁷

V. EVIDENTIARY AND INVESTIGATIVE CHALLENGES

Custodial-death cases present distinctive evidentiary difficulties because the victim may be dead or incapacitated, independent eyewitnesses may be absent, and the relevant events often occur within a controlled institutional environment. The prosecution must establish the circumstances of death through medical evidence, witness testimony, documentary records, electronic evidence and circumstantial links. At the same time, an accused police officer remains entitled to a fair investigation and trial.

A. Attribution of responsibility

A custodial death may involve several officers with different roles. Some may have made the arrest, others may have interrogated the detainee, others may have been responsible for the lock-up, and senior officers may have supervisory duties. Individual criminal responsibility must be based on evidence establishing the relevant act, omission, participation or legally recognised form of liability. A broad assumption that every officer present is criminally responsible would undermine fair-trial principles.¹⁸

¹⁶ The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3, § 196; NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, *supra* note 9.

¹⁷ *Paramvir Singh Saini*, *supra* note 10.

¹⁸ INDIA CONST. art. 21; see The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, §§ 3(5), 120 (India) (§ 3(5): acts done by several persons in furtherance of a common intention, formerly Indian Penal Code § 34; § 120: voluntarily causing hurt or grievous hurt to extort a confession, formerly Indian Penal Code §§ 330–331); *D.K. Basu*, *supra* note 2.

B. Medical and forensic evidence

Post-mortem examination is central to the investigation of custodial death. The examination should document external and internal injuries, their possible age and nature, and other findings relevant to competing explanations of death. Where necessary, forensic pathology, toxicology and other scientific analysis should be used. Videography of the post-mortem can strengthen transparency and permit later scrutiny.¹⁹

C. CCTV, metadata and chain of custody

Electronic evidence can provide a temporal record of movement, presence and interaction, but its probative value depends on authenticity and continuity. Investigators should secure original storage devices or reliable forensic copies, record the time and method of extraction, preserve relevant metadata and document each transfer. Where footage is missing, investigators should examine whether the absence resulted from technical failure, ordinary overwriting, inadequate storage or deliberate interference.²⁰

D. Independent investigation and scene preservation

An effective investigation should separate the roles of immediate police administration and evidence collection concerning alleged misconduct. The scene should be secured, relevant officers identified, weapons or other objects examined where appropriate, medical records obtained, CCTV footage preserved and witnesses protected from intimidation. Where allegations concern serious custodial violence or death, the involvement of a judicial Magistrate and, where warranted, an independent investigative agency can reduce both the appearance and the reality of a conflict of interest.²¹

E. Protection of families, witnesses and complainants

Families of custodial-death victims often face an information deficit because the institution controlling the deceased's final hours is also responsible for explaining the incident. Effective investigation therefore requires access to basic information, copies of relevant records as legally permissible, communication regarding the inquiry and protection from intimidation. Witnesses who are detainees, station staff or local residents may also be vulnerable. A credible

¹⁹ NAT'L HUMAN RIGHTS COMM'N, *Revised Format of Post-Mortem Examination in Case of Death in Police Custody*, https://nhrc.nic.in/flipbook/act_rule_sop_guideline/58; NAT'L HUMAN RIGHTS COMM'N, *Revised Instructions to Be Followed While Sending Post-Mortem Reports in Cases of Custodial Deaths*, https://nhrc.nic.in/flipbook/act_rule_sop_guideline/56; D.K. Basu, *supra* note 2.

²⁰ The Bharatiya Sakshya Adhiniyam, 2023, *supra* note 6, §§ 61–63; Paramvir Singh Saini, *supra* note 10.

²¹ The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3, § 196; D.K. Basu, *supra* note 2; Nilabati Behera, *supra* note 2.

accountability mechanism must make it possible to complain without retaliation and should provide meaningful access to legal assistance.²²

VI. JUDICIAL AND INSTITUTIONAL RESPONSE

The judicial response to custodial violence in India has been significant because the Supreme Court has repeatedly treated custodial abuse as a constitutional problem rather than merely a departmental irregularity. The Court has used Articles 21 and 32, together with its broader constitutional jurisdiction, to impose preventive safeguards, award compensation and require institutional mechanisms. This jurisprudence reflects a shift from viewing custody as an administrative matter to recognising it as a constitutional relationship in which the State owes heightened duties to the individual.

A. *D.K. Basu* and the preventive safeguard model

D.K. Basu v. State of West Bengal remains a foundational authority on custodial safeguards. The Court prescribed requirements intended to make arrest and detention traceable, including clear identification of police personnel, a memo of arrest, communication to a friend or relative, medical examination, and the forwarding of copies of all arrest documents to the local (Illaq) Magistrate. The importance of the judgment lies in prevention.²³

B. *Nilabati Behera* and constitutional compensation

In *Nilabati Behera v. State of Orissa*, the Supreme Court recognised public-law compensation for violation of the fundamental right to life in a custodial-death context. The decision is important because compensation serves a distinct constitutional function: it acknowledges State responsibility for violation of fundamental rights independently of ordinary private-law remedies. Compensation cannot, however, substitute for criminal investigation where the evidence discloses a possible offence. A rights-sensitive framework must therefore treat compensation, disciplinary action and criminal prosecution as potentially complementary rather than mutually exclusive responses.²⁴

C. *Paramvir Singh Saini* and surveillance-based accountability

Paramvir Singh Saini v. Baljit Singh extended the accountability framework by requiring CCTV coverage in police stations and in the offices of central investigative agencies, and by directing the creation of oversight structures. The Court required coverage of important areas, audio-

²² INDIA CONST. arts. 14, 21, 22; The Protection of Human Rights Act, 1993, *supra* note 6; NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, *supra* note 9.

²³ *D.K. Basu*, *supra* note 2.

²⁴ *Nilabati Behera*, *supra* note 2.

video recording and the preservation of footage for eighteen months, or for not less than one year where available equipment cannot yet store it that long. It also recognised the role of oversight committees in reviewing footage and addressing malfunction. This is significant because it changes the evidentiary environment of custody.²⁵

D. NHRC and administrative oversight

The NHRC has developed a specialised custodial-death reporting and inquiry framework. Its published guidance states that deaths in police or judicial custody are to be reported to the Commission within twenty-four hours, and its investigation process may call for inquest, post-mortem and magisterial inquiry material. The Commission can also seek forensic assistance. Such mechanisms provide an additional layer of review outside the immediate police hierarchy. However, oversight bodies depend on timely information and complete records from public authorities.²⁶

E. Police reform and institutional independence

Custodial deaths cannot be addressed solely through post-incident punishment. Police organisations require professional training in lawful interrogation, medical emergency response, human-rights standards, record keeping and evidence preservation. The broader police-reform jurisprudence beginning with *Prakash Singh v. Union of India* is relevant because institutional autonomy, accountability and professional standards affect the environment in which individual safeguards operate. Independent complaints mechanisms, transparent transfers and postings, supervisory responsibility and credible disciplinary procedures can reduce incentives for concealment. Reform must therefore address organisational conditions as well as individual misconduct.²⁷

VII. CONSTITUTIONAL RIGHTS AND RIGHTS-SENSITIVE PROSECUTION

Custodial accountability must remain anchored in constitutional rights. The State has a legitimate duty to investigate crime, protect victims and preserve public order, but these objectives do not authorise methods that violate fundamental rights. A rights-sensitive approach therefore does not oppose effective policing; it defines the lawful conditions under which

²⁵ *Paramvir Singh Saini*, *supra* note 10.

²⁶ The Protection of Human Rights Act, 1993, *supra* note 6, §§ 3, 12, 13; NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, *supra* note 9; see also Letter No. 66/SG/NHRC/93 from R.V. Pillai, Sec'y Gen., Nat'l Human Rights Comm'n, to the Chief Sec'ys of all States and Union Territories (Dec. 14, 1993) (reporting of custodial deaths within 24 hours), and Letter F. No. 40/3/95-LD from R.V. Pillai to the Chief Sec'ys of all States and Union Territories (June 21, 1995) (extending the requirement to deaths in judicial custody), in NAT'L HUMAN RIGHTS COMM'N, *On Custodial Deaths/Rapes*, https://nhrc.nic.in/assets/uploads/act_rule_sop_guideline/sec-1.pdf.

²⁷ *Prakash Singh v. Union of India*, (2006) 8 SCC 1 (India); *D.K. Basu*, *supra* note 2.

policing may be conducted. The central constitutional principle is that a person does not lose dignity by becoming an accused or a detainee.

A. Article 21, dignity and the right to life

Article 21 has been interpreted as protecting more than physical existence. It includes dignity, bodily integrity and procedural fairness in the exercise of State power. Custodial torture is therefore constitutionally objectionable even before it results in death. When death occurs, the violation becomes irreversible and the State's responsibility to investigate becomes especially compelling. The principle also supports affirmative duties: police authorities must provide reasonable medical assistance, safe custody and protection from violence.²⁸

B. Article 22 and the legality of arrest

Article 22 operates as an immediate constitutional check on police detention. The requirement of communication of the grounds of arrest and production before a Magistrate limits secret or prolonged detention. *Joginder Kumar* emphasised that the existence of a power of arrest does not make every arrest necessary or justified. *D.K. Basu* further developed procedural safeguards intended to prevent abuse after arrest.²⁹

C. Privacy, bodily integrity and medical examination

The constitutional protection of privacy, particularly after *K.S. Puttaswamy v. Union of India*, is relevant to bodily searches, medical examinations, collection of biological samples and digital information generated during custody. Police may undertake legally authorised examinations and investigations, but the manner of collection must remain grounded in law and respect dignity. Medical examination after arrest also has a protective function because it can record injuries and health conditions at an early stage.³⁰

D. Fair trial and presumption of innocence

Rights-sensitive prosecution requires equal concern for the rights of the deceased or injured person and the procedural rights of the accused officer. Allegations of custodial torture are serious, but courts must determine guilt on legally admissible evidence. Investigations should therefore be comprehensive rather than predetermined. An independent investigation benefits both sides: it protects the victim's family from institutional suppression while protecting accused officers from unsupported allegations.³¹

²⁸ *Maneka Gandhi*, *supra* note 1; *D.K. Basu*, *supra* note 2.

²⁹ INDIA CONST. art. 22; *Joginder Kumar*, *supra* note 13; *D.K. Basu*, *supra* note 2.

³⁰ *K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India); *D.K. Basu*, *supra* note 2.

³¹ INDIA CONST. art. 21; *D.K. Basu*, *supra* note 2.

E. Balancing public order and human rights

Police officers routinely confront difficult circumstances involving serious offences, resistance, threats and time-sensitive investigations. The legal system must recognise these operational realities without permitting them to become general exceptions to constitutional protection. Force, restraint, arrest and interrogation must remain authorised by law and proportionate to legitimate objectives. A rights-sensitive model therefore asks whether the action was legally authorised, necessary in the circumstances, proportionate to the threat, properly documented and subject to review. This approach protects both public safety and the legitimacy of law enforcement.³²

F. State responsibility and effective remedy

The constitutional remedy for a custodial violation must be capable of producing practical consequences. Compensation may provide immediate public-law redress; criminal prosecution may address individual culpability; disciplinary action may respond to professional misconduct; and institutional reforms may reduce recurrence. These remedies address different dimensions of the same constitutional injury. An effective framework should not treat compensation as a substitute for prosecution where criminal conduct is established, nor prosecution as a substitute for institutional reform.³³

VIII. CRITICAL ASSESSMENT AND RECOMMENDATIONS

The existing Indian framework contains substantial legal safeguards, but the continuing significance of custodial deaths indicates that formal rules alone cannot guarantee compliance. The principal weakness is often located at the implementation stage: incomplete documentation, delayed medical care, non-functioning surveillance, inadequate forensic capacity, institutional conflict of interest and prolonged proceedings can weaken accountability. The legal framework should therefore be assessed as a chain of preventive and remedial mechanisms rather than as a list of isolated provisions.

A. Principal findings

First, constitutional safeguards are sufficiently broad to impose strong duties concerning dignity, life, liberty and arrest procedure. Second, judicial decisions have developed detailed preventive requirements, particularly in *D.K. Basu* and *Paramvir Singh Saini*. Third, section 196(2) of the BNSS carries forward the mandatory Magistrate's inquiry into deaths in custody that section 176(1A), inserted into the Code of Criminal Procedure by an amendment of 2005,

³² *D.K. Basu*, *supra* note 2; *Joginder Kumar*, *supra* note 13.

³³ *Nilabati Behera*, *supra* note 2; *D.K. Basu*, *supra* note 2; *Prakash Singh*, *supra* note 27.

had entrusted to a Judicial or Metropolitan Magistrate, preserving a statutory basis for independent examination of the cause of death. Fourth, electronic evidence has become central to accountability, making preservation of and secure access to CCTV and digital records essential.³⁴

B. Digital forensic and surveillance reforms

Every police station should maintain a secure, auditable system for audio-video surveillance covering all legally required areas, with automatic logging of system status and of attempts to access or delete footage. Any malfunction should generate an immediate written or digital report to an independent supervisory authority. When a serious injury or custodial death occurs, relevant footage should be automatically preserved through a secure legal-hold mechanism so that ordinary retention cycles cannot overwrite it.³⁵

C. Independent investigation and forensic capacity

Serious custodial deaths should be investigated by an authority institutionally independent of the police personnel implicated in the detention. The exact institutional model may vary by jurisdiction, but the minimum requirements should include secure evidence access, forensic competence, protection from local interference and direct accountability to a senior judicial or statutory authority. Forensic pathology units should have adequate staffing and functional independence. Post-mortem examinations should follow standardised protocols and be appropriately documented and videographed.³⁶

D. Police training and supervisory responsibility

Human-rights training should not be limited to occasional lectures. Police academies and in-service programmes should integrate constitutional law, lawful interrogation, arrest safeguards, medical emergencies, documentation, digital evidence preservation and ethical decision-making. Supervisory officers should be assessed not only on crime-detection outputs but also on compliance with custody safeguards. Station-level registers and electronic systems should make supervisory review routine. Where serious violations occur, disciplinary responsibility should extend beyond the immediate actor when evidence establishes supervisory neglect or deliberate failure to act.

³⁴ INDIA CONST. arts. 14, 21, 22; *D.K. Basu*, *supra* note 2; The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3, § 196(2); The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974, § 176(1A) (India) (inserted by The Code of Criminal Procedure (Amendment) Act, 2005, No. 25, Acts of Parliament, 2005 (India)).

³⁵ *Paramvir Singh Saini*, *supra* note 10; NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, *supra* note 9.

³⁶ The Bharatiya Nagarik Suraksha Sanhita, 2023, *supra* note 3, § 196; NAT'L HUMAN RIGHTS COMM'N, *Guidelines: Death in Custody/Encounter etc.*, *supra* note 9.

E. Strengthening magistrates, human-rights institutions and complaints mechanisms

Magisterial inquiries should be conducted promptly and with genuine independence. Human-rights commissions should have timely access to CCTV footage, medical evidence and other records rather than receiving only a police-generated narrative. District-level complaints mechanisms should be easily accessible, publicly identified and protected from retaliation. Human Rights Courts contemplated under the Protection of Human Rights Act should be operationalised where required by law and supported by adequate institutional capacity.

F. Proposed rights-sensitive accountability model

A practical accountability model may be organised into seven stages: lawful arrest; documented and medically supervised custody; continuous and secure recording; immediate preservation of evidence after a serious incident; independent investigation and magisterial inquiry; judicial determination of individual responsibility; and comprehensive remedies including compensation, discipline and institutional reform where legally warranted. Each stage should produce records capable of independent verification.

G. Legislative and policy reforms

India would benefit from continued legislative examination of the law relating to torture and custodial abuse, including clear definitions, investigative procedures, protection against retaliation and remedies consistent with constitutional standards. At the policy level, police stations should adopt standardised custodial-risk assessments, health screening, digital evidence-preservation protocols and periodic independent audits of CCTV functioning. Annual public reporting could disclose the number of custodial deaths, the status of inquiries, prosecutions, disciplinary proceedings and compensation, while protecting privacy and the integrity of pending investigations.

IX. CONCLUSION

Custodial deaths expose the most difficult dimension of criminal justice: the State is empowered to restrict liberty for legitimate investigative purposes, yet the same power creates a heightened obligation to protect the person placed under its control. The constitutional position is clear that arrest and detention do not suspend the rights to life, dignity, bodily integrity and fair procedure. The contemporary statutory framework, including the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023, provides important tools for inquiry and proof. Section 196 of the BNSS is particularly significant because it requires a Magistrate's inquiry in specified cases of death or disappearance in police custody, in addition to the police

investigation. The NHRC's custodial-death procedures further emphasise prompt reporting and the preservation of post-mortem and inquiry material. Nevertheless, the effectiveness of these protections depends upon implementation.

The principal conclusion of this study is therefore that custodial accountability must be treated as an integrated institutional system. Prevention, documentation, investigation, prosecution and remedy are interconnected. Independent investigation is essential where police personnel may be implicated; forensic medicine must operate with professional independence; electronic evidence must be preserved securely; Magistrates and human-rights institutions must have meaningful access to records; and police officers must receive continuous training in lawful interrogation and constitutional safeguards.

Ultimately, the protection of persons in police custody is a measure of the rule of law itself. The legitimacy of criminal investigation depends not only on the ability of the police to detect offences but also on the manner in which coercive powers are exercised. A police station should be an institution of lawful investigation, not an evidentiary black box. Secure surveillance, transparent documentation, independent inquiry, accessible remedies and effective supervision can reduce that opacity.
