

Custodial Violence and the Protection of Human Rights in Police Custody: a Socio-Legal Study with Special Reference to Moradabad and Rampur Districts of Uttar Pradesh

Munendra Pal Singh¹, Dr. Amit Verma²

¹Research Scholar, Teerthanker Mahaveer College of Law and Legal Studies, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India

²Associate Professor, Teerthanker Mahaveer College of Law and Legal Studies, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India

ABSTRACT

A person in police custody is wholly in the hands of the State, and it is here that the promise of Article 21 of the Constitution of India is most often broken. This paper studies custodial violence as a socio-legal problem, with special reference to the Moradabad and Rampur districts of western Uttar Pradesh. It combines a doctrinal reading of the international, constitutional and statutory framework with theories of police subculture, power, social exclusion and intersectionality. It follows the Supreme Court's response from Sunil Batra (1978) and Nilabati Behera (1993) through D.K. Basu (1997) to Paramvir Singh Saini (2020) and Prabir Purkayastha (2024), and maps the arrest and custody safeguards of the Code of Criminal Procedure, 1973 onto the Bharatiya Nagarik Suraksha Sanhita, 2023. Uttar Pradesh reported more custodial deaths than any other state in 2020-21 and 2021-22, yet no published dataset breaks these deaths down by district. The paper argues that India's difficulty lies less in a shortage of rules than in their weak enforcement. There is still no separate law against torture, the Convention against Torture remains unratified, and the prosecution of police officers depends on official sanction and on records kept by the police themselves. The paper ends with a district-level research design and with recommendations that include a torture law, active district oversight of CCTV in police stations, and regular publication of custody data.

Keywords: custodial violence; police custody; Article 21; D.K. Basu guidelines; Bharatiya Nagarik Suraksha Sanhita; Convention against Torture; Moradabad; Rampur

1. INTRODUCTION

A person in a police lock-up depends on the police for food, medical care and any contact with the outside world, and the law treats that dependence as a reason for extra protection. In *Sunil Batra v. Delhi Administration* (1978) the Supreme Court held that a prisoner does not lose his fundamental rights at the gate, and in *Nilabati Behera v. State of Orissa* (1993) it held that the State must pay compensation when a person dies in its custody. Practice in police stations has not kept pace with these judgments. The National Campaign Against Torture (2020) counted 1,731 deaths in custody across India in 2019, roughly five a day. Of these, 125 took place in police custody, and the organisation linked 93 of them to alleged torture or foul play. Uttar Pradesh recorded 14 deaths in police custody that year, more than any other state.

Official figures point the same way. In a written reply in the Lok Sabha in July 2022, the Minister of State for Home Affairs reported 1,940 custodial deaths in 2020-21 and 2,544 in 2021-22. Uttar Pradesh was at the top in both years, with 451 and 501 deaths (Scroll Staff, 2022). Most of these deaths occurred in judicial custody, and not all resulted from violence, but the numbers are too large to dismiss as isolated lapses. Earlier work by the Asian Centre for Human Rights (2011) and Human Rights Watch (2016) describes the same problems: beatings during interrogation, unrecorded arrests, and investigations run by colleagues of the accused officers.

This paper looks at the problem through two districts of western Uttar Pradesh, Moradabad and Rampur. Both belong to the Moradabad division, and in both, close to half the population is Muslim (Office of the Registrar General & Census Commissioner, India, 2011). Poor workers, religious minorities and Dalits are the groups that the literature finds most exposed to arbitrary arrest and ill treatment (Human Rights Watch, 2009; National Campaign Against Torture, 2020). Yet the national data cannot tell us how many people have been hurt or killed in custody in either district. The National Crime Records Bureau reports custodial deaths by state, and the National Human Rights Commission does not publish a district-wise series. A district-level study therefore begins with a gap in the evidence, and this paper sets out how that gap can be filled.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Custody and Custodial Violence

Indian law distinguishes police custody from judicial custody. Under Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaces Section 167 of the Code of Criminal Procedure, 1973 (CrPC), a

Magistrate may authorise detention in police custody for up to fifteen days; beyond that the accused is held in judicial custody, ordinarily in prison. In *Central Bureau of Investigation v. Anupam J. Kulkarni* (1992) the Supreme Court read the older provision to mean that police custody could be granted only within the first fifteen days after arrest. Section 187(2) of the BNSS now allows the fifteen days to be taken in parts at any time during the first forty or sixty days of detention, depending on the gravity of the offence. This widens the period during which an accused can be sent back to the police.

Custodial violence covers more than torture during questioning. The Law Commission of India (1994), in its 152nd Report, examined custodial crimes as a class of offences committed by public servants against persons under their control. In this paper the term includes physical assault, sexual violence, threats and humiliation, denial of food, sleep, medical care or legal advice, detention without any record, and death in custody. It also includes killings in staged "encounters" that begin with an unrecorded arrest, a practice the Supreme Court addressed in *People's Union for Civil Liberties v. State of Maharashtra* (2014).

2.2 Police Subculture

Studies of policing in the West describe an occupational culture marked by suspicion of outsiders, strong loyalty among officers and a belief that rough methods are sometimes needed to get results (Reiner, 2010; Skolnick, 1966; Westley, 1970). In a national survey of police personnel, a large share of respondents said it was justified to use force against suspects to extract information or to punish them (Common Cause & Lokniti-CSDS, 2019). Jauregui (2016), drawing on long fieldwork with the police in Uttar Pradesh, describes their power as "provisional authority": large at the moment of use, but always open to challenge from politicians, senior officers and the public.

2.3 Power Relations

Foucault (1977) argued that modern power works mainly through surveillance and routine discipline rather than through public punishment of the body. Custodial torture in India suggests that the two forms of power exist side by side. The lock-up hides what is done to the detainee, and the station records, which the police themselves prepare, decide what can later be proved in court. Foucault (1982) also described power as a relation exercised over people who are still able to act. In custody that relation is almost entirely one-sided. Lokaneeta (2011, 2020) shows that Indian law has responded to this imbalance by regulating methods of interrogation rather than by banning torture outright, which leaves room for coercion to continue in new forms.

2.4 Social Exclusion and Intersectionality

Social exclusion theory helps explain why the burden falls so unevenly. People without secure work, education, savings or political contacts are less able to resist an unlawful arrest, hire a lawyer or push a complaint through the system (Byrne, 2005). Galtung's (1969) idea of structural violence adds that harm can be built into institutions without anyone intending it. Crenshaw (1989) cautions against looking at one form of disadvantage at a time. A poor Muslim labourer or a Dalit woman called in for questioning faces risks that arise from the combination of class, caste, religion and gender. The figures bear this out. The National Campaign Against Torture (2020) found that 60 percent of those who died in police custody in 2019 came from poor and marginalised communities, and that many of them had been picked up for petty matters such as theft, gambling or the sale of illicit liquor.

2.5 The Colonial Inheritance

The Indian police were built as an instrument of colonial rule. The Police Act, 1861, still the basic law of policing in Uttar Pradesh, was framed after the revolt of 1857 to maintain control rather than to serve the public (Arnold, 1986; Bayley, 1969). Verma (2005) traces many present-day abuses to this design, which made the police answerable to the executive and kept them at a distance from the people. The National Police Commission of 1977-81 and the Supreme Court in *Prakash Singh v. Union of India* (2006) tried, with limited success, to change this. Baxi (1982) and Kannabiran (2003) read the persistence of custodial violence as part of a wider tolerance of State lawlessness when the victims are poor.

3. INTERNATIONAL LEGAL FRAMEWORK

International law prohibits torture absolutely; no emergency or public danger can justify it (Rodley & Pollard, 2009). Article 5 of the Universal Declaration of Human Rights provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (United Nations General Assembly, 1948). The International Covenant on Civil and Political Rights makes this a binding duty in Article 7, protects liberty and requires prompt production before a judge in Article 9, guarantees humane treatment of every person deprived of liberty in Article 10, and protects the right against self-incrimination in Article 14(3)(g) (United Nations General Assembly, 1966). India acceded to the Covenant in 1979.

The Convention against Torture goes further. It defines torture in Article 1, requires each state party to make torture an offence in Article 4, demands prompt and impartial investigation in Article 12, provides for redress in Article 14, and bars the use of statements obtained by torture in Article 15 (United Nations General Assembly, 1984). India signed the Convention in 1997 but has not ratified it, and it has not signed the Optional Protocol of 2002, which provides for independent visits to places of detention. Non-binding instruments add practical detail, notably the Code of Conduct for Law Enforcement Officials (United Nations General Assembly, 1979), the Body of Principles on detention (United Nations General Assembly, 1988), the Nelson Mandela Rules (United Nations General Assembly, 2015) and the Istanbul Protocol (Office of the United Nations High Commissioner for Human Rights [OHCHR], 2022). Article 51(c) of the Constitution directs the State to respect international law and treaty obligations, and in Nilabati Behera (1993) the Supreme Court referred to Article 9(5) of the Covenant when it recognised a right to compensation for violation of Article 21. Table 1 summarises India's position under these instruments.

Table 1: International Instruments on Custodial Torture and India's Position

Instrument	Relevant provisions	Position of India
Universal Declaration of Human Rights, 1948	Articles 5 and 9	Declaration, not a treaty; India voted in favour
International Covenant on Civil and Political Rights, 1966	Articles 7, 9, 10 and 14(3)(g)	Acceded in 1979, with a declaration on Article 9
Convention against Torture, 1984	Articles 1, 2, 4, 12, 14 and 15	Signed in 1997; not ratified
Optional Protocol to the Convention against Torture, 2002	Independent visits to places of detention	Not signed
Code of Conduct for Law Enforcement Officials, 1979	Articles 2, 3 and 5	Non-binding; guidance for police
Body of Principles on Detention, 1988	Principles 6, 17, 21 and 24	Non-binding; guidance for detention
Nelson Mandela Rules, 2015	Rules 1, 24 to 35 and 71	Non-binding; minimum standards
Istanbul Protocol (revised 2022)	Medical and legal documentation of torture	Non-binding; manual for doctors and investigators

Source: Compiled by the author from United Nations General Assembly (1948, 1966, 1979, 1984, 1988, 2015) and OHCHR (2022).

4. CONSTITUTIONAL FRAMEWORK

Article 21 is the main source of protection. After *Maneka Gandhi v. Union of India* (1978), any procedure that takes away life or personal liberty must be fair, just and reasonable. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981) the Court held that the right to life includes the right to live with human dignity, and that torture and cruel, inhuman or degrading treatment are therefore barred by Article 21. Article 20(3) protects an accused person from being compelled to be a witness against himself. In *Nandini Satpathy v. P.L. Dani* (1978) the Court applied this protection to police interrogation, and in *Selvi v. State of Karnataka* (2010) it held that narcoanalysis, polygraph and brain-mapping tests cannot be imposed on a person without consent.

Article 22(1) gives an arrested person the right to be told the grounds of arrest and to consult a lawyer of his choice, and Article 22(2) requires production before the nearest Magistrate within twenty-four hours. In *Prabir Purkayastha v. State (NCT of Delhi)* (2024) the Supreme Court held that a person arrested under the Unlawful Activities (Prevention) Act, 1967 must be given the grounds of arrest in writing, and it set aside the arrest and the remand because this had not been done. Articles 32 and 226 empower the Supreme Court and the High Courts to issue writs, including habeas corpus, and it was through these powers that the courts created the remedy of public law compensation for custodial wrongs (Jain, 2018; Sathe, 2002).

5. STATUTORY FRAMEWORK

5.1 Arrest and Custody under the BNSS, 2023

The three new criminal laws came into force on 1 July 2024, replacing the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872. Most of the arrest safeguards that the courts developed, and that Parliament later wrote into the CrPC, carry over into the BNSS under new section numbers (Table 2). These include limits on arrest without warrant (Section 35), the arrest memo (Section 36), access to an advocate during interrogation (Section 38), notice of the grounds of arrest and to a relative (Sections 47 and 48), and the twenty-four-hour limit on detention (Section 58).

Some changes move in the other direction. Section 43(3) permits the use of handcuffs at arrest or production for listed categories of accused, among them habitual offenders and persons accused of organised crime, terrorist acts and some other grave offences. This sits uneasily with *Prem Shankar Shukla v. Delhi Administration* (1980), where the Court held that handcuffing must be the exception and must be justified in each case. Section 187(2), discussed above, allows police custody to be spread over a longer period. Section 35(7) offers a modest gain: a person who is infirm or above sixty years of age and is accused of an offence punishable with less than three years' imprisonment cannot be arrested without the permission of an officer not below the rank of Deputy Superintendent of Police.

Where a person dies or disappears in police custody, or a woman alleges rape in custody, Section 196(2) of the BNSS (formerly Section 176(1A) of the CrPC) requires an inquiry by a Judicial Magistrate or Metropolitan Magistrate in addition to the police investigation. Section 218 keeps the requirement of government sanction before a public servant can be prosecuted for acts done in the discharge of official duty, but adds that if the government does not decide within one hundred and twenty days, sanction is deemed to have been granted.

Table 2: Arrest and Custody Safeguards under the CrPC, 1973 and the BNSS, 2023

Safeguard	CrPC, 1973	BNSS, 2023	Judicial or other origin
Arrest only when necessary; notice of appearance	Ss. 41, 41A	S. 35	Joginder Kumar (1994); Armesh Kumar (2014)
Arrest memo and identification of the arresting officer	S. 41B	S. 36	D.K. Basu (1997)
Information to the district police control room	S. 41C	S. 37	D.K. Basu (1997)
Meeting an advocate during interrogation	S. 41D	S. 38	Nandini Satpathy (1978); D.K. Basu (1997)
Grounds of arrest and right to bail	S. 50	S. 47	Article 22(1); Prabir Purkayastha (2024)
Information to a relative or friend	S. 50A	S. 48	Joginder Kumar (1994); D.K. Basu (1997)
Medical examination of the arrested person	S. 54	S. 53	D.K. Basu (1997)
Use of handcuffs	No provision	S. 43(3)	Prem Shankar Shukla (1980)
Production before a Magistrate within 24 hours	S. 57	S. 58	Article 22(2)
Remand to police custody	S. 167	S. 187	Anupam J. Kulkarni (1992)
Judicial inquiry into custodial death or rape	S. 176(1A)	S. 196(2)	Statutory amendment of 2005
Sanction to prosecute public servants	S. 197	S. 218	Statutory; deemed sanction after 120 days added in 2023

Source: Compiled by the author from the Code of Criminal Procedure, 1973 and the Bharatiya Nagarik Suraksha Sanhita, 2023.

5.2 Substantive Offences and Rules of Evidence

Section 120 of the Bharatiya Nyaya Sanhita, 2023 (BNS) punishes voluntarily causing hurt or grievous hurt to extort a confession, replacing Sections 330 and 331 of the Indian Penal Code. Rape by a police officer within the limits of the police station, or of a woman in the custody of a police officer, is an aggravated form of rape under Section 64(2)(a). The Bharatiya Sakshya Adhiniyam, 2023 (BSA) makes a confession caused by inducement, threat or coercion irrelevant (Section 22), and provides that a confession made to a police officer, or made by a person in police custody except in the immediate presence of a Magistrate, cannot be proved against the accused (Section 23). The proviso that admits information leading to the discovery of a fact, formerly Section 27 of the Evidence Act, remains in Section 23. It gives the police a strong reason to press for recoveries during questioning (Lokaneeta, 2020).

The statute book still lacks a definition of torture and an offence of torture as such. The Prevention of Torture Bill, 2010 was passed by the Lok Sabha but lapsed after a Select Committee of the Rajya Sabha proposed changes. In its 273rd Report the Law Commission of India (2017) recommended ratification of the Convention against Torture and attached a draft Prevention of Torture Bill, 2017, along with a presumption that injuries suffered in custody were caused by the police officers who held the person. Its 113th Report had earlier proposed a Section 114B in the Evidence Act for the same purpose (Law Commission of India, 1985). Neither proposal was enacted, and the BSA does not contain such a presumption.

5.3 The Protection of Human Rights Act, 1993

The Protection of Human Rights Act, 1993 created the National Human Rights Commission (NHRC) and provided for State Human Rights Commissions. The Commission may inquire into complaints, visit jails, and recommend compensation and prosecution (Sections 12 and 18). Its recommendations do not bind the government, and Section 36(2) prevents it from inquiring into a matter more than one year after the act complained of. The NHRC has required since 1993 that every custodial death be reported to it within twenty-four hours, and has asked since 1995 that post-mortem examinations in such cases be video-recorded (Human Rights Watch, 2016). Section 12(g) of the Legal Services Authorities Act, 1987 entitles every person in custody to free legal services.

6. JUDICIAL RESPONSE TO CUSTODIAL VIOLENCE

Much of what protects a detainee today was built by the courts before Parliament acted. The judgments are discussed below in chronological order and summarised in Table 3.

6.1 Opening Up Article 21 (1978 to 1990)

The modern law begins with a failure. In *Tukaram v. State of Maharashtra* (1979), the Mathura case, the Supreme Court acquitted two policemen accused of raping a young tribal girl inside a police station, reasoning that she had not resisted. The protest that followed led to the Criminal Law (Amendment) Act, 1983, which created the offence of custodial rape. Around the same time the Court was widening Article 21. In *Sunil Batra v. Delhi Administration* (II) (1980) the Court treated a letter from a prisoner about torture by a warder as a petition for habeas corpus.

The Bhagalpur blindings, in which police in Bihar blinded undertrial prisoners with acid, came before the Court in *Khatri v. State of Bihar* (1981). The Court required free legal aid from the first production before a Magistrate. *Sheela Barse v. State of Maharashtra* (1983) required that women suspects be kept in separate lock-ups guarded by women constables and be questioned only in the presence of women officers. *Rudul Sah v. State of Bihar* (1983) awarded compensation under Article 32 to a man kept in prison for fourteen years after his acquittal, as did *Bhim Singh v. State of Jammu and Kashmir* (1985) for a legislator illegally detained. *Saheli v. Commissioner of Police* (1990) held the State liable for the death of a boy after a police assault in Delhi.

6.2 Compensation, Arrest and the D.K. Basu Requirements (1993 to 1997)

Nilabati Behera v. State of Orissa (1993) turned these awards into a settled principle. A young man taken into police custody was found dead on a railway track the next day with multiple injuries. The Court held that compensation under Articles 32 and 226 is a public law remedy to which sovereign immunity is no defence. *Joginder Kumar v. State of U.P.* (1994) arose from the detention of a young advocate for five days by the police in Ghaziabad. The Court held that the power to arrest is not a reason to use it, that every arrest must be justified, and that the arrested person may have a friend or relative informed. In *Arvinder Singh Bagga v. State of U.P.* (1994) the Court found that police in Uttar Pradesh had illegally detained and tortured a young woman and members of her husband's family, and it directed compensation and the prosecution of the officers.

In *State of M.P. v. Shyamsunder Trivedi* (1995), a case of death in custody, the Court criticised the trial court's hyper-technical approach to evidence. It noted that police officers rarely testify against colleagues. The leading decision came two years later. In *D.K. Basu v. State of West Bengal* (1997) the Court laid down eleven

requirements for every arrest and detention. They include name tags for arresting officers, an attested arrest memo, notice to a relative or friend, an inspection memo recording injuries at arrest, medical examination every forty-eight hours, a meeting with a lawyer during interrogation, and a district police control room that displays arrest information. Non-compliance attracts departmental action and contempt.

6.3 Evidence, Police Reform and Encounters (1998 to 2014)

In *Ajab Singh v. State of U.P.* (2000) the Court refused to accept the official account of a death in custody in Uttar Pradesh and awarded compensation to the family. *Munshi Singh Gautam v. State of M.P.* (2005) recognised that direct evidence of police involvement in a custodial death is seldom available, because the police control the place, the records and often the witnesses, and asked courts not to throw out such cases on technical grounds. *Prakash Singh v. Union of India* (2006) addressed the structure of policing. Among other directions, it required Police Complaints Authorities at the state and district levels to look into serious misconduct, including custodial death and torture.

Selvi (2010) extended Article 20(3) to scientific techniques of interrogation. In *Mehboob Batcha v. State* (2011) the Court upheld the conviction of police officers for the rape of a woman in a police station in Tamil Nadu and the death of her husband in the same station. *Arnesh Kumar v. State of Bihar* (2014) required a recorded checklist of reasons before arrest for offences punishable with up to seven years. In *People's Union for Civil Liberties v. State of Maharashtra* (2014) the Court issued detailed directions for police encounter deaths, including registration of an FIR, investigation by an independent team, a magisterial inquiry and information to the NHRC.

6.4 CCTV, Oversight and Written Grounds (2015 to 2024)

Returning to the subject in *D.K. Basu v. State of West Bengal* (2015), the Court directed states to set up Human Rights Commissions where none existed, fill vacancies in them, and consider installing CCTV cameras in police stations. *Paramvir Singh Saini v. Baljit Singh* (2020) made CCTV mandatory. It required cameras with night vision and audio at entry and exit points, lock-ups, corridors and officers' rooms, footage kept for up to eighteen months, coverage of central agencies with powers of arrest, and State and District Level Oversight Committees to monitor compliance. Most recently, *Prabir Purkayastha* (2024) held that the grounds of arrest must be given in writing.

Table 3: Leading Supreme Court Decisions on Custodial Violence (Chronological)

Year	Case	Principle laid down
1978	<i>Sunil Batra v. Delhi Administration</i>	Prisoners keep their fundamental rights; courts can supervise custody
1979	<i>Tukaram v. State of Maharashtra</i>	Acquittal in custodial rape case; led to the 1983 amendment on custodial rape
1980	<i>Prem Shankar Shukla v. Delhi Administration</i>	Handcuffing only in exceptional, recorded cases
1981	<i>Khatri v. State of Bihar</i>	Free legal aid from the first production before a Magistrate
1981	<i>Francis Coralie Mullin v. Administrator, UT of Delhi</i>	Torture violates the right to live with dignity under Article 21
1983	<i>Sheela Barse v. State of Maharashtra</i>	Separate lock-ups and women officers for women suspects
1993	<i>Nilabati Behera v. State of Orissa</i>	Public law compensation for custodial death; no sovereign immunity
1994	<i>Joginder Kumar v. State of U.P.</i>	Arrest must be justified; right to inform a relative or friend
1995	<i>State of M.P. v. Shyamsunder Trivedi</i>	Courts must not let custodial crimes fail on technicalities
1997	<i>D.K. Basu v. State of West Bengal</i>	Eleven requirements for arrest and detention

Year	Case	Principle laid down
2006	Prakash Singh v. Union of India	Police reforms, including Police Complaints Authorities
2014	Arnesh Kumar v. State of Bihar	Checklist before arrest for offences up to seven years
2014	PUCL v. State of Maharashtra	Procedure for investigating encounter deaths
2020	Paramvir Singh Saini v. Baljit Singh	CCTV in all police stations; oversight committees
2024	Prabir Purkayastha v. State (NCT of Delhi)	Grounds of arrest to be given in writing

Source: Compiled by the author from the reported judgments listed in the references.

7. INSTITUTIONAL MECHANISMS OF OVERSIGHT AND REDRESS

The NHRC and the Uttar Pradesh State Human Rights Commission receive complaints and intimations of custodial deaths, but they can only recommend action, they rely heavily on police reports, and they cannot take up matters older than a year. At the first production the Magistrate is expected to ask about ill treatment, look for injuries and order a medical examination where needed. Human Rights Watch (2016) found that this check often fails in practice, because remand hearings are brief and Magistrates seldom question the detainee directly. A medical examination under Section 53 of the BNSS, and the forty-eight-hourly examination required by D.K. Basu, can record injuries before they fade, but only if the doctor is independent and records findings in the detail that the Istanbul Protocol requires (OHCHR, 2022). Human Rights Watch (2016) documented cases where doctors recorded no injuries, or where post-mortem reports were incomplete. Departmental inquiries are run by colleagues of the accused officers, and Human Rights Watch (2009), whose research included Uttar Pradesh, found that they rarely led to punishment. The Police Complaints Authorities of Prakash Singh (2006) and the District Level Oversight Committees of Paramvir Singh Saini (2020) were meant to supply outside scrutiny, but both depend on regular work at the district level, where evidence is thinnest. Free legal aid helps little when a detainee meets a lawyer only at the remand hearing.

8. MORADABAD AND RAMPUR: SOCIO-LEGAL SETTING AND A DISTRICT-LEVEL RESEARCH DESIGN

8.1 The Setting

Moradabad and its neighbour Rampur, a former princely state that joined the Indian Union in 1949, lie in the Moradabad division of western Uttar Pradesh. In both districts close to half the population is Muslim (Office of the Registrar General & Census Commissioner, India, 2011), and both have large informal workforces in handicrafts, small trade, transport and agriculture. Read together with the national pattern described in Section 2, these features suggest that a large part of the population in both districts belongs to the groups most at risk in custody: poor workers, religious minorities, Dalits and migrants with few local ties. This is a hypothesis, not a finding. No published source gives a district-wise count of custodial deaths or torture complaints for either district.

8.2 Hypotheses

Compliance with arrest safeguards under the BNSS and D.K. Basu is lower for persons arrested for petty offences and for persons from marginalised groups.

Police stations with working CCTV and an active District Level Oversight Committee record fewer complaints of custodial ill treatment.

Delay in magisterial inquiries into custodial deaths is associated with a low rate of prosecution of police officers.

8.3 Sources, Sample and Indicators

The field study will use four sources. First, applications under the Right to Information Act, 2005 to the police and district administration of both districts, the State Human Rights Commission and the NHRC, for ten years of data on custodial deaths, magisterial inquiries, departmental action and compensation. Second, interviews with criminal lawyers and legal aid advocates. Third, interviews with police personnel, subject to permission, and with medical officers. Fourth, interviews with families of persons who died or were injured in custody. Purposive and snowball sampling will be used. Consent will be obtained and identities withheld. Table 4 sets out the main dimensions and indicators.

Table 4: Dimensions and Indicators for the District-Level Study

Dimension	Indicators	Source of data
Individual vulnerability	Age, gender, caste, religion, occupation, income and offence of arrested persons	Interviews; RTI data
Procedural compliance	Arrest memo, notice to relative, medical examination every 48 hours, written grounds, production within 24 hours	Interviews with lawyers; case records
Technological oversight	Working CCTV, footage retention, meetings of the District Level Oversight Committee	RTI data; interviews
Accountability and redress	Magisterial inquiries completed, FIRs against officers, sanction decisions, convictions, compensation paid	RTI data; NHRC and SHRC records
Attitudes and perceptions	Police views on use of force; community trust in the police	Interviews with police and community

Source: Prepared by the author on the basis of D.K. Basu (1997), Paramvir Singh Saini (2020) and the BNSS, 2023.

9. GAPS AND CHALLENGES

The first gap is legislative. Without a law that defines and punishes torture, cases are registered under general provisions on hurt or murder, and the special features of custodial crime, such as the State's control over evidence, receive no special treatment. The Law Commission of India (2017) also noted that the absence of such a law has been raised before foreign courts in extradition proceedings.

The second gap lies in evidence and prosecution. The station diary, the arrest memo, the medical report and the first account of a death are all prepared under police control. Shyamsunder Trivedi (1995) and Munshi Singh Gautam (2005) both recognised this, but without a statutory presumption trial courts continue to require a level of proof that is hard to meet. The requirement of sanction under Section 218 of the BNSS adds a further barrier. Deemed sanction after one hundred and twenty days may help, but it is untested. Families who complain face pressure to settle, and the Witness Protection Scheme approved in *Mahender Chawla v. Union of India* (2019) is unevenly applied.

The third gap concerns capacity and culture. Police in Uttar Pradesh work long hours under pressure to solve cases quickly, often without adequate forensic support (Common Cause & Lokniti-CSDS, 2019). Where scientific investigation is weak, confessions and recoveries become the easiest route to a charge sheet. The fourth gap comes from the new law itself. Wider handcuffing under Section 43(3) and staggered police custody under Section 187(2) of the BNSS increase the occasions on which a detainee is in police hands, and they have not yet been tested against Prem Shankar Shukla (1980) and Anupam J. Kulkarni (1992). Finally, without district-level data no reform can be measured in places such as Moradabad and Rampur.

10. RECOMMENDATIONS

Parliament should enact a separate law against torture on the lines of the draft attached to the 273rd Report of the Law Commission (2017), with a clear definition, graded punishment, a presumption of police responsibility for injuries in custody, and time-bound investigation by an agency outside the accused officers' chain of command. India should ratify the Convention against Torture and its Optional Protocol.

The District Level Oversight Committees in Moradabad and Rampur should meet on a fixed schedule and publish the status of CCTV in every police station as required by Paramvir Singh Saini (2020).

The Uttar Pradesh Police and the National Crime Records Bureau should publish district-wise data on arrests, police remands, injuries and deaths in custody, magisterial inquiries, prosecutions and compensation.

Magistrates should see every arrested person at the first production, ask whether they were ill treated, record visible injuries and order an independent medical examination, following the Istanbul Protocol, where there is any doubt. A legal aid advocate from the District Legal Services Authority should be present at every first production. Uttar Pradesh should create working district Police Complaints Authorities and invest in forensic support so that investigations depend less on confessions.

The rights of arrested persons should be displayed in every police station in Hindi and Urdu, the second official language of the state, with legal literacy camps in the neighbourhoods where most arrests are made.

The State should pay interim compensation promptly in every custodial death or serious injury, without waiting for the end of the criminal case, and should protect families and witnesses who come forward.

11. CONCLUSION

Indian law does not lack principles on custodial violence. The Constitution, as the Supreme Court has read it since 1978, forbids torture, requires fair procedure in every arrest and allows compensation when the State fails. Many of the D.K. Basu requirements are now in the BNSS, and Paramvir Singh Saini (2020) has required cameras in every police station. What is missing is enforcement. Custodial deaths remain high, Uttar Pradesh reports more of them than any other state, and the officers responsible are seldom convicted. The causes are a police culture that accepts force, the social exclusion of those most often arrested, evidence that the police control, and the lack of a law that names torture as a crime.

Moradabad and Rampur show the problem in local form. Both districts have large populations of the groups most exposed to abuse in custody, and neither has any public record that allows the scale of that abuse to be measured. A district-level study built on official records and on the accounts of lawyers, police and families can begin to fill that gap. The protection of human rights in police custody will improve only when safeguards are checked where arrests actually happen: in the police station, at the first production before a Magistrate, and in the records that the district administration keeps..

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