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# INSTITUTIONALIZED VULNERABILITY IN CUSTODIAL TORTURE: A STUDY OF ITS DISPROPORTIONATE IMPACT ON SC/ST COMMUNITIES IN INDIA

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## **Abstract**

*Custodial torture in India represents one of the most persistent and structurally entrenched violations of fundamental human rights, disproportionately afflicting communities at the lowest rungs of the caste hierarchy – the Scheduled Castes (SC) and Scheduled Tribes (ST). Custodial violence against the SC/ST communities remains proceeds with a regularity systemic and almost impunity in spite of constitutional guarantees of equality and dignity, a strong statutory framework such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and major judicial pronouncements such as D.K. Basu v State of West Bengal (1997). This paper critically examines the phenomenon of institutionalized vulnerability – the structural embeddedness of caste identity within policing practices, criminal justice institutions, and evidentiary frameworks – that renders SC/ST individuals disproportionately susceptible to custodial torture. The paper presents the argument that the targeting of SC/ST communities by custodial torture is not accidental but is systemic, based on historical caste subordination replicated by the institutional cultures of law enforcement by conducting a doctrinal analysis, reviewing data on the National Crime Records Bureau, and reading human rights literature. This paper also claims that the lack of commitment to the United Nations Convention against torture by India coupled with the lack of specific anti-torture laws leaves a serious accountability gap that cannot be sufficiently addressed by the existing frameworks. Legislative reform, institutional change of police culture, independent oversight mechanisms, and ratification of UNCAT by India are all suggested as critical measures to breaking institutionalized vulnerability.*

**Keywords:** Custodial Torture, Scheduled Castes, Scheduled Tribes, Caste Discrimination, Police Brutality, Human Rights, UNCAT, Institutionalized Violence, India.

## **Chapter 1: Introduction**

### **1.1 Background**

The continued use of custodial torture in India stands in a disturbing paradox of constitutional identity of the country. India boasts of being the largest democracy in the world and the values of the constitution that emphasize equality, dignity, and rule of law. But inside the four corners of police stations and detention cells all across the country there is an organized trend of cruelty towards the most marginalized groups that is itself going against these core

promises with a troubling regularity. Custodial torture – the infliction of physical or psychological pain upon persons deprived of their liberty by state agents – is not a peripheral aberration in the Indian criminal justice system. It is an institutionalized practice, as this paper argues, whose victims are disproportionately recruited out of the Scheduled Caste and Scheduled Tribe communities, which is indicative of the far-seated and unresolved infiltration of the caste hierarchy into state institutions.

The statistical aspects of this crisis are grim. National Crime Records Bureau (NCRB) records that between 2010 and 2020 there were 2,544 custodial deaths in India, with a major part of them in states with a large proportion of SC/STs. The 2022 Crime in India Report by the NCRB registered 50,900 cases of atrocities against SC communities and 10,064 cases against ST communities, which is a steady upward trend refuting the idea of progressive changes. The National Human Rights Commission (NHRC) receives thousands of complaints of custodial violence annually, yet convictions of police personnel remain vanishingly rare a pattern of impunity that itself constitutes a form of institutionalized protection for perpetrators of torture.

The custodial torture dimension of caste is accidental. It reflects the historical positioning of SC/ST communities as socially subordinate, legally vulnerable, and culturally stigmatized a positioning that has been partially but insufficiently disrupted by constitutional and legislative intervention. In India, the assumptions about crime, suspicion, and the lesser human value are reproduced in the police forces that are based on and exist in caste-stratified social environments and which treat the detainees in a particular way. The station house, the lock-up, the interrogation room are places where centuries of caste servitude are played out with the help of the instrumentality of state power and legal authority.

### 1.2 Research Objectives

This paper pursues four principal objectives: first, to critically examine the concept of institutionalized vulnerability as it applies specifically to SC/ST communities within India's custodial justice system; second, to evaluate the adequacy of the existing legal and constitutional framework in addressing custodial torture targeting these communities; third, to analyze the systemic factors including police culture, evidentiary rules, accountability deficits, and caste ideology that perpetuate

custodial violence with impunity; and fourth, to propose comprehensive reforms addressing both the legal architecture and institutional culture that sustain this pattern of abuse.

### 1.3 Research Questions

The article has the following central research questions:

Why are SC/ST communities disproportionately exposed to custodial torture in India? What are the structural and institutional reasons behind this?

Does the existing legal framework constitutional provisions, statutory protections, and judicial directives provide adequate protection against custodial torture for SC/ST individuals?

What role does lack of independent anti-torture laws and the non-ratification of UNCAT of India play in the impunity of the offenders of custodial violence?

What does it take in terms of legislative, institutional, and cultural changes to break the systems of institutionalized vulnerability?

### 1.4 Hypothesis

This paper advances the hypothesis that custodial torture targeting SC/ST communities in India is not a product of individual police misconduct but reflects institutionalized vulnerability a structural condition produced by the intersection of caste ideology, police organizational culture, accountability deficits, and legislative inadequacy and that meaningful reform requires systemic transformation rather than incremental legal adjustment.

### 1.5 Scope and Limitations

The study involves custodial torture in SC/ST communities in the police and pretrial detention system of the mainland of India. It is silent on the custodial situation in conflict zones where special security laws are applicable, and it is also silent on the experiences of other marginalized groups, but at points where it is

pertinent comparative references have been made. The research methodology is mostly doctrinal and qualitative, and it is based on statutory analysis, judicial rulings, NCRB data, NHRC reports, and human rights documents. The main empirical fieldwork is outside the scope of this paper.

## Chapter 2: Literature Review

### 2.1 Overview

The academic work on the subject of custodial torture in India has been extensive, encompassing legal, sociological, criminological, and human rights literature, producing a densely but disjointed literature. Caste and custodial violence have been more and more intersected since high-profile cases have made visible the structural aspects of police brutality to the general population. An essential analysis of this literature establishes the contributions made as well as research gaps that are being addressed in this paper.

### 2.2 Foundational Legal Scholarship

Upendra Baxi's early and influential work on the crisis of the Indian legal system provided the foundational critique of the gap between constitutional promise and legal reality in India, arguing that law functions as an instrument of social control that frequently reinforces rather than disrupts existing hierarchies of power.<sup>1370</sup> His specific analysis of custodial crimes and police power identified the structural conditions weak accountability, prosecutorial deference to police, and judicial reluctance to interfere with law enforcement discretion that enable custodial violence to persist. The framework provided by Baxi is still fundamental to the idea of why the law bans on torture have not been effective in the Indian scenario.

This analysis is extended to the wages of impunity by Kannabiran, who records the systematic ineffectiveness of accountability mechanisms in all parts of the criminal justice system and postulates that the impunity of

state violence is not accidental but a structural production of the interaction of institutional interests, political protection, and social justification of violence against marginalized groups.<sup>1371</sup>

### 2.3 Caste and Criminal Justice.

Caste and criminal justice have been examined in the sociological literature to the greatest extent. Thorat and Kumar's edited volume on Ambedkar's perspectives on social exclusion provides the theoretical framework for understanding how caste-based discrimination operates across institutional domains, including law enforcement.<sup>1372</sup> Guru's analysis of Dalit political discourse illuminates the lived experience of caste stigmatization that precedes and contextualizes custodial abuse the presumption of criminality attached to lower-caste identity that makes SC/ST individuals targets of police suspicion and violence.<sup>1373</sup>

Human Rights Watch's landmark report Broken People (1999) provided the first comprehensive documentation of caste-based police violence in India, establishing empirically what had previously been addressed primarily through theoretical analysis that police violence against Dalits follows systematic patterns rooted in caste ideology rather than individual prejudice.<sup>1374</sup> This report's findings, though now decades old, have been consistently corroborated by subsequent documentation from Amnesty International, the People's Union for Civil Liberties, and the National Campaign on Dalit Human Rights.

### 2.4 Legal Framework Analysis

Lokaneeta's analysis of the Indian Evidence Act and custodial violence identifies Section 27 which renders admissible confessions made in police custody that lead to discovery of facts

<sup>1371</sup> K. G. Kannabiran, *The Wages of Impunity: Power, Justice and Human Rights* (Orient Longman 2004) 112–145.

<sup>1372</sup> Sukhadeo Thorat and Narender Kumar (eds), *B.R. Ambedkar: Perspectives on Social Exclusion and Inclusive Policies* (Oxford University Press 2008) 23–51.

<sup>1373</sup> Gopal Guru, 'The Language of Dalit-Bahujan Political Discourse' (1995) 30 *Economic and Political Weekly* 2273, 2275.

<sup>1374</sup> Human Rights Watch, *Broken People: Caste Violence Against India's Untouchables* (1999) 89–134.

<sup>1370</sup> Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing 1982) 45–67.

as a structural incentive for custodial torture, arguing that the evidentiary framework creates instrumental motivations for law enforcement to extract confessions through coercion.<sup>1375</sup> This argument is directly engaged and extended in Chapter 5 of this paper. The summary of custodial violence given by Deshta and Deshta is a helpful doctrinal chart of the pertinent legal texts, but fails to address the caste-specific aspects of vulnerability adequately.<sup>1376</sup>

## 2.5 Identified Research Gaps

Although the literature reviewed is valuable, it has certain gaps, which this paper will fill. To begin with, no current literature takes into account the legal, institutional and caste-ideological aspects of SC/ST custodial vulnerability in a single analytical framework. Second, the consequences of India not ratifying UNCAT on SC/ST communities in particular have not been strictly examined. Third, the interplay between the SC/ST Prevention of Atrocities Act and general law of custodial violence has been under-doctrinally addressed. Fourth, the existing literature lacks sufficient interaction with the 2020 amendments to the legislations under the Bharatiya Nyaya Sanhita and their consequences on the custodial accountability. The following paper deals with each of these gaps.

## Chapter 3: Research Methodology

### 3.1 Research Design

The research methodology followed in this paper is mainly a doctrinal legal research approach, it is complemented with the qualitative approach as institutional reports, human rights documentation and socio-legal literature are analyzed. Doctrinal analysis the systematic examination of constitutional provisions, statutes, judicial decisions, and authoritative commentary is the appropriate primary methodology for a paper centrally concerned with the adequacy and coherence

of the legal framework governing custodial torture.<sup>1377</sup> This is supplemented by socio-legal analysis that situates legal rules within their social and institutional context, enabling examination of the gap between legal text and enforcement reality that is central to understanding institutionalized vulnerability.

### 3.2 Sources

Primary Legal Sources: the Constitution of India, 1950; the Indian Penal Code, 1860; the Code of Criminal Procedure, 1973; the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and its 2015 Amendment; the Protection of Human Rights Act, 1993; the Bharatiya Nyaya Sanhita. The major source of case law is the judicial decisions of the Supreme Court of India and other applicable High Courts. UNCAT, ICCPR, ICERD, and UN Special Rapporteur reports are all considered to be international primary sources.

Secondary Data: NCRB annual reports on crime, the annual reports of the NHRC, the Amnesty International and Human Rights Watch, PUCL and PUDR, academic monographs and peer-reviewed journal articles. NCRB reports provide statistical data that is descriptively used to contextualize legal analysis, but not to make quantitative claims.

### 3.3 Limitations

The lack of disaggregated information on the caste identity of victims of custodial torture is a major empirical constraint. India does not systematically capture caste identity in custodial death and torture statistics, and it is challenging to determine the caste-specific burden of custodial violence. This paper addresses this limitation by triangulating across multiple data sources NCRB atrocity statistics, NHRC complaint data, and civil society documentation to establish the pattern of disproportionate impact.

<sup>1375</sup> Jinee Lokaneeta, 'Debating the Indian Evidence Act and Custodial Violence' (2015) 27 *Law and History Review* 741, 748–756.

<sup>1376</sup> Sunil Deshta and Kiran Deshta, 'Custodial Violence in India: An Overview' (2003) 45 *Journal of the Indian Law Institute* 573, 578.

<sup>1377</sup> Terry Hutchinson, *Researching and Writing in Law* (4th edn, Lawbook Co 2018) 8–12.

## **Chapter 4: Institutionalized Vulnerability Caste, Police Power, and Structural Subordination**

### **4.1 Conceptualizing Institutionalized Vulnerability**

The concept of institutionalized vulnerability, as deployed in this paper, refers to the structural condition in which membership in a socially subordinated group here, SC/ST communities systematically increase an individual's exposure to state violence through mechanisms embedded in institutional culture, organizational practice, and legal architecture. Institutionalized vulnerability is contrasted with either individual or episodic vulnerability: it is a structural phenomenon that is independent of the specific bias of individual officers but is reproduced by institutional mechanisms that would produce the same result under whatever attitudes of the individual.

This theoretical framework builds upon and supplies the analysis of structural impunity proposed by Baxi and the report of systematic caste-based police violence by Human Rights Watch. It acknowledges that the police station is not a caste-neutral institution but rather one that functions within and recreates the caste social order and imposes on custodial encounters the entire burden of historical and current caste subordination. The SC/ST police detainee does not come into the picture as an abstract legal entity with an equal rights status; he or she comes into the picture as a socially marked being whose caste identity can be read instantly by their custodians.

### **4.2 Historical roots of Caste–Police Complicity.**

The historical aspect of relationships between police authority and caste subordination in India is not new since independence. The colonial Criminal Tribes Act, 1871 which designated entire communities, predominantly of lower-caste origin, as hereditary criminals subject to special surveillance and restriction institutionalized the equation of caste identity with criminal propensity within the legal

apparatus of the state.<sup>1378</sup> Though formally repealed in 1952, its legacy persists in the Habitual Offenders Acts enacted by multiple states that continue to subject communities of SC/ST origin to enhanced police surveillance based on presumed hereditary criminality. This caste-criminal equivalence institutionalization of the past offers the profound framework in which modern custodial violence against SC/ST communities is affected.

### **4.3 Policing Organizational Culture and Caste.**

Modern Indian police organizational culture is a replication of caste hierarchy achieved through various processes. The patterns of recruitment, which is constitutionally governed by the policy of reservation, leads to police forces in which the top ranks would still be dominated by upper caste police officers whose cultural presuppositions about the SC/ST communities influence the establishment of institutional norms and unwritten expectations. Sociological research on police culture in India documents the persistence of explicit and implicit caste prejudice within police organizations the assumption of SC/ST criminal propensity, the devaluation of SC/ST testimony and complaint, and the normalization of physical coercion as an appropriate response to lower-caste suspects.<sup>1379</sup>

The lock-up becomes, in this cultural context, a space where caste hierarchy is enacted through the body where the social subordination of the Dalit or Adivasi detainee is expressed and reinforced through physical violence that simultaneously extracts confessions and performs caste domination. Custodial torture against SC/ST members, therefore, fulfills a dual role: instrumental (obtaining evidence or compliance) and expressive (asserting caste hierarchy and the social unworthiness of the victim).

<sup>1378</sup> Meena Radhakrishna, *Dishonoured by History: Criminal Tribes and British Colonial Policy* (Orient Longman 2001) 34–58.

<sup>1379</sup> Steven Wilkinson, *Police and Minorities in India* (Cambridge University Press 2004) 67–98.

#### 4.4 Economic vulnerability as a Multiplier.

The economic aspects of the SC/ST marginalization are added to institutionalized vulnerability. SC/ST people are overrepresented within the ranks of people who are ineligible to hire an attorney, who do not know their rights when in custody, and who do not have social support that can create the political pressure that could prevent custodial abuse. The D.K. Basu guidelines requiring that arrested persons be informed of their rights, that family members be notified, and that medical examinations be conducted presuppose a level of institutional responsiveness and individual legal literacy that is systematically less available to SC/ST detainees in rural and semi-urban contexts.<sup>1380</sup> Economic vulnerability thus amplifies legal vulnerability, producing a compounded disadvantage that significantly increases custodial torture risk.

### **Chapter 5: Legal Framework Adequacy, Gaps, and Accountability Deficits**

#### 5.1 Constitutional Guarantees and their boundaries.

The Constitution of India offers a formally sound system of safeguards applicable to custodial torture. Article 21's guarantee of the right to life and personal liberty has been expansively interpreted by the Supreme Court to encompass the right to be free from torture and custodial violence a position firmly established in *Nilabati Behera v State of Orissa* (1993), where the Court held the state directly liable in compensation for custodial death.<sup>1381</sup> Article 22 provides specific protections for arrested persons including the right to be informed of grounds of arrest, the right to legal counsel, and the requirement of production before a magistrate within twenty-four hours. Article 17 eliminates untouchability and its manifestation in any form and it has given a constitutional ground to treat caste motivated custodial violence as the constitutional tort.

<sup>1380</sup> D.K. Basu v State of West Bengal [1997] 1 SCC 416, [35]–[42] (Kuldip Singh J).

<sup>1381</sup> *Nilabati Behera v State of Orissa* [1993] 2 SCC 746, [24]–[31].

Nonetheless, the constitutional protections are at an abstract level, which must be translated into action by institutions. The enforcement of constitutional rights against custodial torture depends on complaint mechanisms, investigative independence, prosecutorial willingness, and judicial oversight each of which is compromised in ways that systematically disadvantage SC/ST complainants. The lack of independent prosecutorial power, police investigating complaints against police and the evidentiary difficulty of establishing torture in custody all contribute to making constitutional guarantees little more than a far-fetched hope among SC/ST victims of custody violence.

#### 5.2 The SC/ST Prevention of Atrocities Act Application to Custodial Contexts

As amended in 2015, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 offers statutory safeguarding against caste-motivated violence, with clauses directly addressing custodial settings. Section 3(1) lists various atrocity offenses such as subjecting members of SC/ST communities to consume un-eatables and un-edible substances, inflicting harm and humiliation and sexual abuse. These provisions were reinforced by the Amendment of 2015, new offenses were introduced, and a presumption of guilt was established in the event that the commission of an offense is proven. The Special Courts to try atrocity offenses and Special Public Prosecutors to prosecute them are institutional acknowledgments of the inefficiency of the ordinary criminal justice systems.

Nevertheless, the application of the Act to the custody torture by police officers poses complicated jurisdictional and evidentiary issues. The requirement that the offense be committed on account of the victim's SC/ST identity establishing the caste motivation of the act is difficult to prove in custodial contexts where perpetrators can claim the violence was an incident of interrogation rather than caste-

motivated abuse.<sup>1382</sup> The institutional reluctance of police to register FIRs against fellow officers under the Act further limits its practical application, despite the Supreme Court's direction in *Munshi Singh Gautam v State of Madhya Pradesh* (2005) that officers who fail to register atrocity complaints are themselves liable to prosecution.

### 5.3 The Evidentiary Framework and Its Perverse Incentives.

Section 27 of the Indian Evidence Act, 1872 providing that information given by an accused in police custody leading to discovery of relevant facts is admissible has been extensively criticized as a structural incentive for custodial torture. Section 27 encourages the law enforcement to use coercive interrogation methods by making the fruits of custodial interrogation admissible without examination as to how the information was obtained. Lack of a formal exclusionary rule of evidence gained by use of torture implies that custody violence would directly be used to serve evidentiary functions, institutionalizing torture into investigative practices.<sup>1383</sup>

This is a perverse incentive at work with a vengeance among SC/ST detainees. The presumption of guilt that police place on SC/ST suspects along with the evidentiary utility of custodially-obtained confessions and discovery information makes SC/ST detainees an especially appealing subject of coercive interrogation. Section 27 should be reformed by necessarily mandating courts to consider the conditions under which custodial information was acquired, and to bar information that was acquired by means of torture or coercion, to eliminate the evidentiary motive of custodial abuse.

### 5.4.4 Lack of Anti-Torture Law and Non-Ratification of UNCAT.

The biggest legislative lapse in the custodial torture situation in India is that there is no single law against torture. Although, India has signed UNCAT in 1997, it has not ratified the Convention, and the Prevention of Torture Bill that has been introduced, revised and abandoned several times since 2010 by the successive governments. The absence of a dedicated anti-torture statute means that custodial torture is prosecuted, where prosecution occurs at all, under general provisions of the Indian Penal Code addressing hurt and grievous hurt provisions that do not reflect the specific gravity of torture as a human rights violation, do not impose the enhanced penalties that UNCAT requires, and do not establish the command responsibility for superior officers that effective accountability demands.<sup>1384</sup>

The failure of India to ratify UNCAT has certain implications to the SC/ST communities. Article 2 of UNCAT and its need to take effective legislative, administrative, judicial, and other measures to prevent torture, Article 12 of UNCAT and its need to investigate the complaints in a timely and unbiased manner, and Article 14 of UNCAT and its need to ensure that victims of SC/ST custodial torture receive redress and fair compensation are a collection of duties that would go a long way in In the concluding observations of 2019, the Committee Against Torture specifically acknowledged that failure to ratify UNCAT, and the disproportionate effect of custodial violence on marginalized communities are issues of urgent concern in India.

## **Chapter 6: Accountability Deficits Impunity, Oversight, and Systemic Failure**

### 6.1 Architecture of Impunity.

Custodial torture against SC/ST communities is not a by-product of inadequate enforcement, but rather an interlocking set of processes that

<sup>1382</sup> Anand Upadhyay, 'Caste Motivation and Custodial Violence: Evidentiary Challenges under the Atrocities Act' (2020) 55 *Economic and Political Weekly* 38, 41.

<sup>1383</sup> Lokaneeta (n 6) 752.

<sup>1384</sup> United Nations Committee Against Torture, *Concluding Observations on India* (UN Doc CAT/C/IND/CO/1, 2019) paras 8–14.

systematically ensure impunity of those who commit offenses is not met. These processes are police self-investigation against police complaints, the necessity of a government sanction to prosecute the police under section 197 of the Code of Criminal Procedure, the evidentiary challenge of proving torture in the absence of independent medical examination, intimidation of SC/ST complainants by their witnesses, and police union and network pressure over police to avoid accountability.

The NHRC annual reports provide evidence of a steady trend: each year, thousands of complaints related to custody deaths and torture are received, a small percentage of which are investigated, an even smaller percentage of which leads to prosecution, and the convictions are so infrequent as to be statistically insignificant. Such a trend is not accidental; it represents how institutional protection mechanisms operate in a systematic way which is specifically effective against SC/ST complainants who are deprived of both the social capital, political network, and legal resources to clear the institutional resistance to accountability.

## 6.2 Judicial Response Innovations and Limitations

In *Selvi v State of Karnataka* (2010), the Court itself has signaled a radical extension of the rights of the custodial, when it declared that forced narcoanalysis, polygraph testing, and brain mapping infringed Art. 20(3) protection against self-incrimination, but has also been noted to develop important judicial doctrine in regard to the custodial rights.<sup>1385</sup>

However, judicial remedies remain fundamentally reactive addressing individual cases after violations have occurred rather than preventing the institutional conditions that produce systematic custodial torture. Even after more than 20 years, the D.K. Basu guidelines are still being systematically flouted, as seen in the number of custodial deaths, and the fact that

the NHRC has been receiving complaints on the matter. The distance between judicial direction and institutional compliance reveals a more fundamental issue, the courts are able to declare the rights and command compliance, but not to change the organizational culture of the police and to establish independent mechanisms of accountability, which would make compliance more than formal.

## 6.3 The NHRC and State Human Rights Commissions.

The Protection of Human Rights Act, 1993, created the National Human Rights Commission and the State Human Rights Commissions as quasi-courts that have the mandate to probe cases of human rights abuse, such as custodial deaths and torture. The NHRC has been instrumental in recording custodial violence and proposing compensation, which is crippled by its structural shortcomings. The NHRC has no power to prosecute cases, its recommendation is not binding but advisory, it does not have the power to investigate complaints against the Armed Forces, and its one-year time limit on complaints does not apply to many cases where the victims or families are hindered in making timely complaints.

These restrictions are especially acute in the case of SC/ST communities. The barriers to timely complaint fear of reprisal, lack of legal literacy, geographic distance from NHRC offices, and the social power of perpetrators within local communities mean that the one-year limitation period effectively excludes many genuine victims. The non-binding nature of NHRC recommendations implies that state governments are free and often do not act on compensation recommendations, and the findings of the Commission are often symbolic to SC/ST complainants.

## Chapter 7: Conclusion and Recommendations.

### 7.1 Conclusion.

This paper's analysis establishes that custodial torture targeting SC/ST communities in India is a product of institutionalized vulnerability a

<sup>1385</sup> D.K. Basu (n 11).

structural condition produced by the intersection of historical caste subordination, police organizational culture that reproduces caste hierarchy, legislative gaps including the absence of anti-torture legislation, evidentiary rules that create perverse incentives for coercive interrogation, and accountability mechanisms so comprehensively compromised as to ensure near-total impunity for perpetrators. The constitutional structure, though formally strong, is weak in practice in institutional circumstances that effectively disfavor SC/ST complainants. Though it offers much-needed supplementary protections, the SC/ST Prevention of Atrocities Act has caste-motivation evidentiary standards that are hard to meet in custodial situations and institutional opposition to enforcement against police offenders. The Indian government refusal to ratify UNCAT and enact anti-torture legislation as a stand-alone act is a critical accountability gap that contributes to impunity.

### 7.2 Legislative Recommendations

**Ratification of UNCAT and Standalone Anti-Torture Legislation:** India needs to ratify the United Nations Convention against Torture without wasting further time and enact comprehensive anti-torture laws that demarcate the meaning of torture as a human right offence, create more serious penalties that reflect the seriousness of torture as a human rights violation, impose command responsibility on senior officers who do not prevent or report torture, and

**Amendment of Section 27, Indian Evidence Act:** Section 27 is to be amended to give courts a duty to investigate the surrounding of the information obtained by means of torture, coercion or other forbidden methods, and to forbid any evidence that is taken by the methods of torture, coercion or other forbidden methods. A clear exclusionary rule, based on international precedents, would eliminate the evidentiary incentive to custodial torture.

**Enhancing the Atrocities Act: The Prevention of Atrocities Act** has to be changed to establish a

distinct offense of custodial torture on SC/ST persons with a rebuttable presumption that police brutality on SC/ST detainees is caste-based, and the burden of appreciation of the caste-based nature of custodial violence.

### 7.3 Institutional Recommendations

**Independent Custodial Oversight:** An independent Police Complaints Authority, institutionalized by statute nationally and by state with real investigative authority, prosecutorial mandate, and composition that is representative of SC/ST communities is necessary to interrupt the loop of police self-investigation that facilitates impunity. Compulsory videotaping of all custodial interrogations, with the video saved separately of the police station of investigation, would be objective evidence of custodial treatment and discourage abuse.

**Mandatory Independent Medical Examination:** All persons taken into custody should receive independent medical examination conducted by doctors accountable to health authorities rather than police within hours of arrest and at regular intervals during detention. Detainees and their representatives should have access to medical examination reports as a right, which will form documentary evidence that may be used to substantiate torture claims.

**Transforming the Police Culture:** The only way to ensure the long-term reduction of custodial torture against SC/ST communities is to transform the organizational culture of the police force: to recruit policemen and women so that SC/STs become a significant part of the police force, to ensure human rights and anti-discrimination training are part of initial and ongoing police training, and to design the performance evaluation systems so that complaints of custodial torture are not

### 7.4 International Engagement

India should engage constructively with the UN Special Rapporteur on Torture, implement the Committee Against Torture's 2019 concluding observations, and incorporate international

anti-torture standards into domestic law through ratification of UNCAT and its Optional Protocol, which would establish an independent national preventive mechanism for regular inspection of detention facilities a reform of particular importance for SC/ST communities whose custodial vulnerability is most acute in the least scrutinized detention environments.

### 7.5 Final Conclusion

The issue of custodial torture of SC/STs in India is not a law-and-order issue that can be resolved through incremental procedural change. It is a human rights crisis that is based on institutionalized caste discrimination that has also infiltrated the state apparatus and has turned the means of legal authority into the means of historical subordination. Dismantling institutionalized vulnerability requires nothing less than a comprehensive reformation of the legal, institutional, and cultural architecture of custodial justice one that recognizes the caste-specific dimensions of custodial vulnerability, establishes meaningful accountability for perpetrators, and genuinely extends to SC/ST individuals the constitutional promise of equal dignity before the law. The price of doing nothing is calculated in shattered bodies, ruined lives and the betrayal of the constitutional pledges of India which have been continuing.

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