



**Torture and Impunity in India:
Case Studies of Custodial Torture
Against Muslims**



**SOUTHASIA
JUSTICE
CAMPAIGN**

Torture and Impunity in India: Case Studies of Custodial Torture Against Muslims

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Executive Summary

1. **Introduction:** This report documents individual cases of custodial torture and deaths in India, especially against Muslim minorities, to share the lived experiences of and impact on survivors. In the process, the report also audits the existing domestic legal framework for torture prevention, such as it is, for its efficacy in preventing torture and enabling justice for victims and accountability for perpetrators.
2. The **context** to this report is the worsening unlawful use of force by police against minorities, over the past decade, especially in some geographies, in a variety of circumstances, all enabled by the rise in top-down anti-Muslim rhetoric and a politicisation of the police and law and order machinery. These include crackdown against those protesting against discriminatory laws, policies and state practices; attacks against individuals by ‘vigilantes’, really violent majoritarian groups, using protection provided in law (specifically cow protection and anti-conversion laws) and entrenched impunity, that involves coordination with police forces; and routine law enforcement function of a brutalised and corrupt police force, that has long used torture as a method of policing. Hardening securitisation and the discourse of terrorism, has meant that Muslims and other vulnerable groups are disproportionate victims of the misuse of national security laws, including Unlawful Activities (Prevention) Amendment Act, 2019, and preventive detention laws including National Security Act, 1980. These abuses have operated in a broader climate of entrenched prejudice, among publics but especially among police and law enforcement authorities, that have significantly aggravated the targeting of Muslims and other minorities.
3. **Scope:** The report documents stories of custodial torture and deaths, in the northern states of Delhi, Haryana, Rajasthan and Uttar Pradesh, by respective police forces, through nine case studies, during the period 2019 - 2023. Five of these, all from Uttar Pradesh, involved unlawful detention by police of peaceful protesters, against discriminatory laws and hate speech. Two, again from Uttar Pradesh, involved torture as reprisal against victims seeking justice against police unlawfulness. Three, from Delhi and Rajasthan, involved victims detained and tortured, as a result of religious profiling. Included is also a case study involving torture by ‘vigilantes’ in collusion with police.
4. **Research:** The documentation is based primarily on survivor accounts and testimonies, that also involved review of evidence including photographs, videos, medical records, social media posts, media clippings, as well as of court documents. Given the sensitive nature of the topic, and the risk of reprisal, we have taken care to seek consent from victims, where they were available.
5. **Findings:** The case studies presented in this report demonstrate that custodial torture was deliberately used as a tool to further and facilitate targeting minority members, propagated by the ruling majoritarian dispensation. Innocent individuals, including juveniles, were intentionally targeted by the police, tortured, and at times killed, to send a chilling message to the larger Muslim community. The lack of repercussions for such heinous crimes has only emboldened the police, and further hardened impunity. Key findings include:
 - Regardless of any signs of participation in protests, Muslim citizens including minors were targeted by authorities, on account of discriminatory mindset and practices.
 - Victims were attacked on the streets, in transit to work, in schools/other institutions, and in their homes, creating a sense that there was nowhere they could be safe.
 - Such treatment was intended to punish, intimidate, and discriminate against the minority community (demonstrated by use of slurs/verbal abuse and humiliation, including forcing them to speak/sing Hindu chants)

- Violations were mainly committed by police and prison officials, in some cases also by Hindu ‘vigilante groups’ with the acquiescence, complicity, or participation of officials.
- Patterns of abuse included arbitrary arrests and detention, lack of access to lawyers and other safeguards against torture during detention, inflicting torture, threats and harassment and reprisals against victims and their families, as well as punitive destruction of property. There was also abuse of judicial detention, and abuse of national security and counter-terrorism and cow protection laws, to target minorities.
- The procedures for arrest, medical check-ups, warrants, memos, seizure reports, logs, and records, to be maintained by the police, as checks against mistreatment, all come across as mere formalities that police engage in to keep their record right. In none of the cases mentioned in the report, did the authorities abide by their obligations.
- Judicial oversight failed in these cases. Despite procedures and safeguards in place – for arrests, detention, use of CCTV and against torture - in statutes and judicial pronouncements, the fact of their frequent violation by police authorities, hardly found much resistance from magistrates and the judiciary, in general.
- Judicial magistrates have the basic responsibility to foresee and enforce procedures and protect those accused and detained by the police. However, the case studies in this report testify to the fact that the judiciary failed to act on its duty. Worse, in all cases of torture presented here, between arrest and production before the magistrate, the judicial magistrates failed to examine if custodial torture had taken place. Rather, magistrates granted police, added custody in some cases, opening the doors for further torture
- Many victims/survivors did not feel safe to report and found themselves in situation of vulnerability - suffering from physical and psychological impact, also socio-economic background in addition to religious identity being targeted etc).
- The lack of scrutiny and sensitivity from judicial officers / magistrates has significantly enabled the police to operate unchecked.

6. The roots of the problem of torture in India: The findings of this report are validation, yet again, of the structural and institutional underpinnings that ensure that torture continues to be in practice widely and that accountability is slim. This could be traced to several factors:

- India continues to be one of the rare democracies not to have ratified the UN Convention Against Torture (UNCAT). India signed the UNCAT in 1997, but has refused to ratify it to date, claiming domestic law suffices to address it. This is despite a slew of recommendations from international experts and mechanisms, including India’s UPR’s reviews (2017, 2022) to ratify CAT and enact domestic legislation prohibiting torture. India’s refusal to prohibit torture in law - universally binding and non-derogable under any circumstance – is significant, and emblematic of its disregard for international law and principles of justice.
- The Indian Constitution does not explicitly prohibit torture, but the prohibition is understood to be encompassed within the right to live with dignity (Art 21), Art 20 (right against self-incrimination) and Article 22 (protections against arbitrary arrests). Indian statutory law too makes no explicit mention of torture and instead lays out preventive procedural laws for police to prevent excessive use of force.
- Punishment is covered under Indian Penal Code (IPC) Sec 220, 348 (unlawful confinement), Sec 330 and 331 (hurt or grievous injury to extract confession), among others, and other procedural safeguards, including through developing jurisprudence (DK Basu judgement). Yet the associated sections allowing for the prosecution of public servants (Sec 197), only with the prior sanction of the government, which is seldom granted, means there is little possibility of accountability. The Supreme Court

has interpreted this provision as a means to protect government servants from false and frivolous charges, often overlooking the harsh realities faced by victims.

- The absence of any independent investigative mechanism renders the existing methods for addressing torture (including National Human Rights Commission guidelines) unreliable in practice.
- Recent overhaul of the criminal code, with three new laws replacing current codes (Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam), retain these earlier weaknesses, whilst they also entrench and expand the risk of abuse, including legalising solitary confinement, public shaming and handcuffing of detainees, and expanding police custody powers, among others.
- Politicisation of justice institutions, especially in recent years, has rendered the weak provisions further ineffective, especially in cases involving minority victims or those from other vulnerable groups.
- Survey data reveals police personnel widely support use of ‘tough methods’ and instilling fear, to solve crimes, and large sections among them harbour entrenched prejudice against Muslim and other vulnerable groups.
- Torture, or at least police high handedness, also seems to have some societal sanction. There is much public discourse that is supportive of excessive use of force by police (seemingly to control crime), and popular culture reinforces a macho masculine image of the police. Torture prevention is also not on the agenda of political parties, and only occasionally of media and civil society.

7. Recommendations

To the Government of India

- Ratify the UNCAT and its Optional Protocol. Recognise the competence of the Committee Against Torture to receive communications under Article 22 of the UNCAT.
- Establish domestic legislation, in conformity with the UNCAT, to prohibit and criminalise torture and ill-treatment, including amending the criminal code and relevant body of law and procedures.
- Institute mechanisms to receive complaints and independently investigate cases of custodial torture and ill-treatment.
- Ensure independence and effectiveness of the National Human Rights Commissions (NHRC), in line with Paris Principles, as also recommended by the SCA of GANHRI in its 2025 review of India.
- Ensure NHRC makes available (i) to victims and their families and representatives all information regarding the investigation of their cases, (ii) publicly on its website, cases of custodial torture and death that it has intervened in, including case status, disaggregated by categories
- Provide training to police personnel and investigating agencies in human rights informed investigation tools (Istanbul Protocol, Minnesota Protocol, Sexual Violence in Conflict Protocol, Mendez Principles, Model Protocol on protecting human rights in peaceful protests, et al)
- Proactively engage with the UN Special Rapporteur on Torture and UN Working Group on Arbitrary Detention, respond to their communications, and allow country visits by them.

To the UN and the international community

- Continue to engage with the Government of India to ratify the and its Optional Protocol.
- Demand responses to ‘opinions’/‘communications’/‘Urgent Action’ , and escalate instances where responses are not forthcoming
- Continue to monitor specific torture cases, raise concerns and engage with India to ensure their redress.

- Consider raising specific instances of concerns on torture and custodial deaths in bilateral and other diplomatic engagements with the Government of India.
- Offer support to India with technical assistance in training police in human rights informed investigation tools and protocols.
- Develop and allow safe spaces for victims, survivors and their representatives, and NGOs working with them, to submit complaints on specific cases of custodial torture and deaths.
- Consider engaging with the Global Alliance of National Human Rights Institutions on prioritising engagements on prohibition of custodial torture and deaths and encouraging them to develop country-wise periodic reporting on the same.

To civil society actors

- Continue to intervene in cases of custodial torture and deaths - especially of vulnerable communities, including minorities - and provide legal, medical, and psycho-social support to victims, survivors, and their families.
- Take measures to develop and strengthen collective engagements on individual instances of custodial torture and deaths, and at broader levels to advocate for the ratification of the UNCAT and its Optional Protocol, and a domestic legislation prohibiting and criminalising torture and ill-treatment.
- Undertake joint monitoring and documentation, towards creating evidence based periodic and thematic reports, on custodial torture and deaths.

Introduction

1. Overview

“Custodial violence and torture is so rampant in India that it has become almost routine...The Commission regards crimes like rape, molestation, torture, fake encounter in police custody as manifestations of a systemic failure to protect human rights of one of the most vulnerable and voiceless categories of victims.”¹

In July 2022, the Union Minister of State for Home Affairs Nityanand Rai stated in Parliament that a total of 4,484 custodial deaths were reported between 2020 and 2022, with Uttar Pradesh reporting 952 of these deaths, the highest in India.² Despite some feeble attempts at reform over the years, cases of custodial death, which often follow gruesome custodial torture, have continued to rise. This is exacerbated by increasing police impunity and inadequate mechanisms for accountability and redressal for victims. Given that the police are called upon to investigate their own brutality, there is a lack of effective investigation, prosecution, and conviction for custodial torture and death, leading to a culture of impunity among police and prison officials.

India signed the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 1997. However, since then it has repeatedly refused to ratify the Convention. In September 2019, the Supreme Court of India dismissed a petition filed by a former union law minister, seeking a comprehensive legislation on custodial torture, on the grounds that a draft legislation was already pending consideration by the state governments.³ Contradicting this, in September 2020, the Government informed Parliament that it does not intend to introduce a law to prevent and criminalise torture by police and public officials. The Union Minister of Home Affairs stated, “The existing provisions of IPC (Indian Penal Code) provide punishment for such offences. ‘Police’ and ‘Public Order’ are state subjects under the Seventh Schedule to the Constitution of India and it is primarily the responsibility of the state governments to ensure compliance of law and protect life and property of people.”⁴

This report seeks to document and examine case studies of custodial torture and deaths in India—especially against Muslim minorities—through personal interviews, place them in existing domestic legal frameworks and international obligations, and in the context of discrimination and targeting of Muslims in India, contributing to existing evidence on this matter. It analyses key findings to arrive at common themes and trends in the incidents of custodial death and torture, especially against religious minorities, surrounding circumstances such as allegations of involvement in protests or cow slaughter, or so-called ‘love jihad’, among others; discriminatory comments made by the police and

¹ NHRC Annual Report of 2018.

² <https://thewire.in/rights/custodial-death-uttar-pradesh>

³ <https://theleaflet.in/supreme-court-rejects-plea-seeking-legislation-on-custodial-torture/#>

⁴ https://theleaflet.in/wp-content/uploads/2020/09/Lok-Sabha_Question_on_Torture-.pdf

references to the victim's religious identity; police methods of torture and post-torture redressal mechanisms and reprisals from the police. The report shares the lived experiences of and impact on survivors, victims' families, and communities.

2. Religious minorities and torture

The increasing prevalence of custodial torture and death against minorities, and the associated impunity for state officials, must be looked at in the context of increasing Hindutva extremism under the current political dispensation led by the Bharatiya Janata Party (BJP). This report specifically digs deeper towards this and attempts to demonstrate custodial torture being deployed by security agencies to target religious minorities, particularly Muslims. Legislation on cow protection, criminalising religious conversion, and restricting interfaith marriages, along with the unprecedented use of extraordinary terror laws such as the Unlawful Activities (Prevention) Amendment (UAPA) Act, 2019, and the preventive detention law under the National Security Act, 1980, have significantly aggravated the targeting of minorities. These legal tools have operated in a broader climate of entrenched prejudice: according to a 2025 nationwide survey of active police personnel, over half of all Hindu respondents admitted that they believed Muslims are 'naturally prone' to committing crimes.⁵

Since BJP's election to power in May 2014 (re-elected in 2019, and again in 2024) with an absolute majority, it has implemented a programme of relentless targeting of Muslims, through legislation as well as through use of force, particularly against protestors and dissenters.

Between December 2019 and March 2020, till the Covid-imposed lockdown came into force, widespread protests were witnessed all over the country against the Citizenship Amendment Act, 2019, (CAA). The CAA provides amnesty and fast-tracked pathways to citizenship to non-Muslim refugees from neighbouring countries except Myanmar, who arrived in India before 31 December 2014, discriminating against Muslims in its application. Not only Muslim citizens but also many others feared that if the CAA was to be enacted in conjunction with the National Register for Citizens (NRC), it would not only lead to Muslim minorities being stripped of their citizenship and being declared foreigners, but also take away any form of legal path back to citizenship. These fears were not unfounded, as the NRC exercise that had been carried out in Assam under the supervision of the Supreme Court, had led to thousands of Muslim citizens being declared as foreigners and facing deportation or detention in camps which are essentially prisons for foreigners.⁶ Police all over the country—especially in BJP-ruled states such as Uttar Pradesh—cracked down heavily on anyone suspected to be a protestor participating in the protests against the CAA, arresting them *en masse*, in complete contravention of established procedures.⁷ These persons were then subjected

⁵ <https://commoncause.in/page.php?id=204>

⁶ <https://sabrangindia.in/supreme-court-seeks-assam-governments-response-on-plan-to-deport-over-200-declared-foreigners-detained-in-transit-camp/>; <https://cjp.org.in/ripped-apart-28-bengali-muslims-detained-as-declared-foreigners-in-assams-barpetta-district/>

⁷ <https://maktoobmedia.com/india/up-police-killed-23-muslims-arrested-more-than-3000-during-anti-kaa-protest-report/>

to custodial torture, possibly to coerce false confessions or to reveal information about other ‘suspected persons’.⁸

3. India and the UNCAT

India has consistently refrained from ratifying UNCAT since 1997, despite recommendations from the National Human Rights Commission of India (NHRC) in its early years. India has ignored several recommendations from international experts and mechanisms, including those received during its recent Universal Periodic Review (UPR) in 2022.⁹ During India’s UPR session in May 2017, the Attorney General of India stated, “[...] the concept of torture is completely alien to our culture and it has no place in the governance of the nation.” However, facts and figures suggest otherwise.

In India’s 2017 and 2022 UPRs, there were 31 and 19 recommendations respectively, calling on India to ratify the UNCAT and enact domestic legislation in compliance with international standards. Whilst recommendations calling for the enactment of legislation to address torture were ignored, India supported most recommendations calling on it to ratify the UNCAT. Yet these have not resulted in any concrete action to date.

Though the prohibition of torture is considered a *‘jus cogens’* peremptory norm of international law, meaning it is universally binding and non-derogable under any circumstances, India’s repeated refusal to ratify the UNCAT and adopt national anti-torture legislation highlights the tenuous and non-comprehensive nature of legal frameworks against custodial torture in India. Article 53 of the Vienna Convention on the Law of Treaties gives rise to obligations *erga omnes* (owed to and by all States), placing responsibility on the State to take action against the perpetrators of torture. Further, India has ratified the International Covenant on Civil and Political Rights (ICCPR), Article 7 of which prohibits cruel, inhuman or degrading treatment or punishment and the Universal Declaration of Human Rights, 1948, Article 5 of which contains the same prohibition.

Indian civil society and international non-governmental organisations (NGOs) have for nearly three decades been campaigning and advocating for India to ratify the UNCAT and enact a domestic legislation to prohibit and criminalise torture. Several UN institutions and experts have raised concerns about India being one of the rare democratic countries to abstain from ratifying UNCAT.

These earlier efforts lay the foundation for further advocacy demanding India ratify UNCAT and enact domestic law on torture. However, the organisations which supported and contributed to such efforts today either cease to function or function with restricted means after almost all of them were subjected to some form of targeting over the past decade or so. In recent years, several national and international support organisations too have limited their engagement on India, given the current hostile climate.

⁸ <https://www.civicus.org/index.php/media-resources/news/5561-india-ongoing-targeting-of-activists-under-anti-terror-laws-for-their-protests-against-citizenship-law>; <https://www.hrw.org/report/2020/04/10/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>.

⁹ <https://www.upr-info.org/en/review/india>

4. Torture in the domestic framework

Article 21 of the Indian Constitution does not explicitly prohibit torture, but the prohibition against torture is understood to be encompassed within the right to live with dignity. In several judgments, the Supreme Court has held that torture is “an affront to human dignity” and “violates the right to life under Article 21”.¹⁰ Provisions such as Article 20 (3), which sets out the right against self-incrimination and Article 22 of the Constitution, which provides protections against arbitrary arrests and detentions, also broadly aim to prevent torture.

Indian statutory law makes no explicit mention of torture and instead lays out preventive procedural laws for the police to prevent excessive use of force. For instance, Section 49 of the Code of Criminal Procedure, 1973 (CrPC) prohibits the use of “*more restraint than is necessary to prevent escape*” of the arrested person. Section 163 prohibits the police from inducing, threatening, or promising the detainee to extract a confession. Section 197 allows for the prosecution of public servants for offences alleged to have been committed by them in the discharge of their official duties, but only with the prior sanction of the state government, which is arguably the biggest legal obstacle in pursuing a case against the police.

Section 220 of the IPC provides for the punishment of up to seven years for an officer who unlawfully confines a person. Sections 330 and 331 provide for the punishment of up to seven and ten years for anyone that causes hurt or grievous hurt to extract any information or confession that may lead to detection of an offence. Section 348 punishes wrongful confinement of a person for extorting any confession or information, with imprisonment of up to three years. The cases of minors are governed by the Juvenile Justice Act, 2015 (JJA). Section 10 of the JJA provides that in case of arrest of a child, a child welfare officer is responsible for producing the child before the Juvenile Justice Board (JJB) within a period of 24 hours and for immediately informing the child’s family.

The existing procedure—that could be deemed to act as protection against torture—provides that after a legal complaint (First Information Report, FIR) is registered, a warrant of arrest must be issued by a court. An arrest memo must be created under section 41B of the CrPC. After an amendment in the law, in case of arrest in crimes attracting punishment of less than seven years, the police have to record the reasons for arrest. With the amendment in the CrPC and the insertion of section 41, the police are now required to issue notice for appearance to anybody who is suspected of committing a crime. A provision inserted in the CrPC in 2009 (operational from 2009) requires the display of the facts of the arrest on the notice board in the police control room.¹¹ This provides statutory recognition to the guidelines laid down by the Supreme Court in the DK Basu case.¹²

¹⁰ <https://www.sconline.com/blog/post/2024/03/23/custodial-torture-in-india-intersection-of-criminal-law-and-constitutional-rights/>; <https://www.project39a.com/torture-landmark-judgments>

¹¹ <https://www.casemine.com/act/in/5a979da24a93263ca60b7195>

¹² <https://indiankanoon.org/doc/501198/>

As per Section 50A (3) of the CrPC, the facts of the record of arrest must be intimated to a relative or a nominee or a friend of the arrested person. Section 50A (4) of the CrPC states that it is the duty of the magistrate to be satisfied whether information about the arrest is being passed on to the arrestee's relative, nominee or friend.. According to section 51, if the body of the arrested person is searched, then the receipt of articles seized must be given to the person. Section 54 requires mandatory medical examination of the arrestee and that there must be a report for the same. Section 58 states that in case of arrest without a warrant by police, the local district magistrate must be informed. During first production of the arrestee, either under sections 156 or 187 (1) before the magistrate, documents are required to be established regarding the reasons of arrest. Section 55 A states that the responsibility of health and safety of the arrestee is on the officer in whose custody the person is present.

In 2023, India overhauled its criminal laws¹³ by replacing the IPC, the CrPC, and the Indian Evidence Act with three new laws: the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA). This presented an opportunity to introduce stronger protections against custodial abuse. Instead, the new framework has caused widespread concern for not only retaining earlier weaknesses but also entrenching and expanding the risk of abuse.¹⁴ The requirement of prior government sanction for prosecuting public officials remains intact under the BNSS, continuing to shield perpetrators of torture from legal accountability. In addition to retaining such barriers, the new laws introduced several disturbing regressions, including:

- **Endorsement of solitary confinement**¹⁵ as a form of judicial punishment, despite the practice being widely recognised as a form of cruel, inhuman, or degrading treatment or punishment (CIDTP), and in certain circumstances may amount to torture under international law.
- **Expansion of police custody powers**¹⁶, allowing police custody for up to 60 or 90 days for certain offences, increasing the risk of custodial torture during extended pre-trial detention.
- **Reintroduction of sedition**¹⁷ using vague and expansive terms that can be deployed to criminalise dissent and justify arbitrary detention, despite the recent repeal of India's original colonial-era sedition law.
- **Legalisation of public shaming**¹⁸ and **handcuffing**¹⁹, with the BNSS explicitly permitting the public display of an accused person's identity and allowing handcuffing in a wide range of cases, undermining dignity, presumption of innocence, and protections against ill-treatment.

¹³ It is the previous criminal law framework—the IPC, the CrPC and the Evidence Act—that applies to the cases highlighted in this report.

¹⁴ https://southasiajusticecampaign.org/wp-content/uploads/2024/11/SP_NewCriminalLaws.pdf

¹⁵ Section 11 of BNS.

¹⁶ Section 187 of BNS.

¹⁷ Section 152 of BNS.

¹⁸ Section 37 of BNS.

¹⁹ Section 43(3) of BNS.

There is a vast body of evidence – in-depth reports, victim testimonies, media reports – that confirm that most procedural safeguards against torture are implemented mostly in breach. Our own case studies presented below confirm this assessment.

5. Efforts towards a legislation

Back in 2010, the government moved a Prevention of Torture Bill for parliamentary consideration, seeking to provide punishment for torture inflicted by public servants. This bill provided for a punishment of up to ten years for a public officer convicted of torture, but retained the requirement of prior sanction from the concerned authorities before prosecution. It was passed by the *Lok Sabha*, the lower house of Parliament, and tabled thereafter but has remained in limbo since. In 2017, the Law Commission of India, made recommendations to amend Sections 330 and 331 of the IPC,²⁰ and states were invited to send opinions regarding the amendments. It was on the basis of this draft that the Supreme Court rejected the plea for comprehensive legislation on custodial torture in 2019, but there was no word from the government regarding this bill until September 2020, when the current government explicitly stated that it had no plans to enact an anti-torture legislation.

Due to this absence of statutory law on torture, the Supreme Court has, over the years, attempted to deal with the issue of custodial torture and death by interpreting Article 21 of the Constitution. Article 21 provides for the protection of life and liberty of person and in the case of ***Francis Coralie Mullin vs. Union Territory of Delhi (1981)***, the Supreme Court held that Article 21 includes "the right to live with human dignity and all that goes along with it" and "any form of torture or cruel, inhuman or degrading treatment would be offensive to human dignity and constitute an inroad into this right to live and it would, on this view, be prohibited by Article 21 unless it is in accordance with procedure prescribed by law, but no law which authorises and no procedure which leads to such torture or cruel, inhuman or degrading treatment can ever stand the test of reasonableness and non-arbitrariness: it would plainly be unconstitutional and void as being violative of Articles 14 and 21."

This interpretation was then used to lay down comprehensive guidelines for arrest and detention by the police, to prevent misuse of powers in ***D.K. Basu vs. State of West Bengal (1997)***. These guidelines broadly included the requirement for police to wear clear identification and name tags; the preparation of an arrest memo with the time and date of arrest, signed by a family member of the person as well as the arrested person; right of the arrested person to contact a family member as soon as possible; and a notification by the police to the family member within 12 hours of arrest, if the person cannot be contacted, and a diary entry of the arrest with the name of the person and the name and particulars of the police officers who are in charge of his custody. Also, an arrested person has the right to a lawyer and to request physical examination at the time of arrest and the right to a medical examination by a qualified doctor every 48 hours of incarceration. In ***Shafiqi Mohammad v. State of Himachal Pradesh (2018)***, the Supreme

²⁰ 330 and 331 of the IPC

Court directed that CCTV cameras be installed in every police station, which was reiterated in ***Paramvir Singh Saini vs. Daljit Singh (2021)***.

Lawyers and survivor families state that the guidelines have been brazenly ignored in practice by the police. Even a bare perusal of the case studies in this report shows that none of the stated guidelines were followed by the police in the process of making the arrests and the victims had scant means of redress, due to legal obstacles and a great fear of reprisal by the police.

6. Research and methodology

This report examines the prevalence, patterns, and underlying factors contributing to custodial torture and deaths in India, particularly concerning Muslim community members in the northern Indian states of Delhi, Haryana, and Uttar Pradesh. This report documents nine instances of custodial torture and deaths of Muslim men, including minors, by the police in these states, during the period between 2019 and 2023. The report analyses the themes that emerge from these cases in the context of the domestic and international framework against torture, while focusing on survivors'/victims' accounts and perspectives.

The research for this report was carried out between November 2023 and January 2024. The research included desk-based study and interviews with survivors and their families for first-hand testimonies, review of documentation provided by the survivors, such as case records, photographs, videos, medical records, social media postings, and media clippings.

Face to face interviews were conducted in January 2024 and were based on a questionnaire. Interview contents were analysed with other sources, in some cases requiring telephonic follow-up communication, for clarifications. Frequent visits to the interviewees potentially made them vulnerable to further police actions and hence telephonic communications on secure applications were used for follow-up. All interviewees were adults and were informed about the purpose, nature and application of the research prior to the interview. Throughout the report, real names and other identifying information have been redacted for security concerns.

A closer look at the cases in this report and contextualising the situations which led to these, raises the larger question of 'what it means to be a Muslim in India today?'. It is a snippet from the larger reality and challenges faced by the Muslim community, and those that fall victim to police action. The cases mentioned in this report reflect the challenges faced by the Muslim community after the Citizenship Amendment Act (CAA) was enacted, hate speeches by spokesperson of the BJP, communal hatred and racial profiling, and the resultant police action against them, when they sought to protest discrimination, or were just carrying on with their lives and livelihoods.

The analysis focuses on case studies, testimonies, and narratives of survivors, victims' families and legal experts to provide a comprehensive picture of the lived experiences and impact of custodial torture and deaths on the survivors and their families. It involves

the analysis of the collected data along with various sources, such as media reports, government reports, judicial records, and independent investigations, to identify trends and patterns.

A few limitations in the research must be acknowledged. Firstly, the availability and reliability of data on custodial torture and deaths in India are often constrained by media underreporting and lack of transparency by the police and authorities. Additionally, the sensitive nature of the topic does not invite a complete and faithful re-telling in first-hand accounts and testimonies from survivors and victims' families, thereby limiting the depth of analysis. The fear of reprisals restricts most victims and survivors from sharing their tales of trauma.

The scope of this research report may not cover all forms of custodial abuse and deaths, as it largely focuses on the Muslim community members in the states mentioned above. This is due to issues of access to information in those areas, and logistical limitations of conducting a pan-India exercise.

We express our immense gratitude to the survivors and their families, who were willing to testify and share details of these extremely traumatic events in their lives, despite great fear of reprisal from authorities. Many expressed hope that their efforts would not be in vain, and would lead to tangible outcomes for justice and accountability.

To this end, the report aims to provide recommendations for policy reforms and human rights advocacy to prevent future incidents of custodial torture and deaths, promote police accountability, and uphold the human rights of the vulnerable. Addressing this issue requires concerted efforts from policymakers, law enforcement agencies, the justice system, and civil society, to ensure accountability from the police and justice for victims and survivors. An exercise of this nature, developing partnerships with concerned NGOs / victim groups in each region, has the potential for progressing the conversation on the subject. The report hopes to contribute to the body of evidence and knowledge on the subject, encouraging further research on this topic, whilst also sparking action in support of the survivors' struggles for justice.

Case Studies: Delhi

Case Study #1: Sheikh Hamid

Sheikh Hamid, a 30-year-old Muslim man and a scrap dealer from the Jahangirpuri neighbourhood of New Delhi, was subjected to custodial torture on April 17, 2022.

On April 16, 2022, while the Ramadan prayers were being held in a mosque in Jahangirpuri, a procession was organised by the right-wing militant group Bajrang Dal on the occasion of *Hanuman Jayanti*. Members of the procession armed with tridents, swords, knives, baseball bats, hockey sticks and pistols, chanting ‘*Jai Shri Ram*’ and dancing to hate-filled music, tried to barge in the mosque to hoist a saffron flag with ‘*Jai Shri Ram*’ embossed on it and started to desecrate the mosque.²¹ This led to a series of violent incidents of stone-pelting and gunfire²² with civilians and police personnel injured.

At around 11 am on the following day, Hamid was having a cup of tea in the neighbourhood when a man posing as an official interrupted and enquired for documents pertaining to Hamid’s scrap waste business. Hamid obliged to take this man to his shop. After walking barely a few meters, the man pulled Hamid from behind into a lane where a police vehicle was parked. Hamid was pushed inside this police vehicle by four to five policemen, forced to crouch down, and taken to the Jahangirpuri police station.

At the police station, Hamid was lodged in a room with a police officer. A few moments later, another officer joined them and without saying a word he repeatedly slapped Hamid across the face and punched him in the stomach. Hamid was dragged around the room with his hair pulled and was constantly slapped and punched. Hamid kept pleading to know the crime he was accused of having committed, but there was no response. Around 2 pm, he was taken to a hospital for the routine pre-arrest medical examination and at around 8 pm he was taken to an unknown location and was forced to sign some papers. At around 10 pm, he was sent to the Tihar prison. In violation of the legal requirement, he wasn’t produced before a magistrate, who authorised the detention.

On the next day, he was transferred to the Rohini prison along with a few other men. At the Rohini prison, he and a few other inmates were randomly made to appear in some court proceedings online before a judge. He couldn’t understand the proceedings and had no legal support at all. Thereafter, he was lodged in a small cell with six to seven other inmates, all of them handcuffed.

Frequently, three to four men in plainclothes entered the cell and unleashed brutality against the handcuffed men. Hamid is unsure if these men were police officers or jail officials. From Hamid’s recollection of the conversations among these men, one of them was named Ankush. Ankush would kick Hamid and use sticks and water pipes to strike the bottom of his foot and his stomach repeatedly. Ankush called Jahangirpuri ‘*Chhota*

²¹ Anwar, Tarique. “Witnesses Narrate How Jahangirpuri Hanuman Jayanti Rally Turned Communal.” NewsClick, 18 Apr. 2022, www.newsclick.in/Witnesses-Narrate-Jahangirpuri-Hanuman-Jayanti-Rally-Turned-Communal.

²² Saikia, Arunabh. “Why Two Hanuman Rallies Went off Peacefully in Delhi’s Jahangirpuri – but the Third Sparked Trouble.” Scroll.in, 18 Apr. 2022, www.scroll.in/article/1022036/why-two-rallies-went-off-peacefully-in-delhis-jahangirpuri-but-the-third-sparked-trouble.

Pakistan' (a mini Pakistan) and said that everyone residing there was from Bangladesh. Ankush forced Hamid to chant '*Jai Shri Ram*', played music from his phone and compelled Hamid to dance. Hamid's subordination didn't reduce the brutality.

Abruptly on April 22, 2022, Hamid was transferred back to the Tihar prison, where the brutal torture continued. Some men in plain clothes frequently visited the cell and beat Hamid and other inmates. The other inmates were also Muslim men from Hamid's neighbourhood who had been picked up by the police after the April 16th incident.

Hamid had suffered an electric shock seven years ago and this resulted in a metal rod inserted in his left leg. The assaulting men in Rohini and Tihar prisons caused Hamid severe pain and suffering by targeting his left leg after finding out about this. Any plea for medical assistance only led to further torture.

The custodial torture inflicted on Hamid continued for almost six months until he was released on bail by a magistrate on October 15, 2022. With the support of his family and local community, Hamid had some form of legal support and representation which secured his release. It was only later that he found out that the police had registered a case²³ against him and 36 others after the April 16th incident. All the accused were Muslim men from the Jahangirpuri neighbourhood. The police investigation in this case concluded that Hamid, with 13 other men, was involved in "*instigating the public and were pelting stones, glass bottles upon the opposite party and police staff deployed on duty.*" Closure of the police investigation resulted in Hamid's release on bail. The trial in this case has not commenced.

Following his release, Hamid continues to undergo medical treatment at a private centre. The injured left leg, multiple unhealed wounds all over his body, and denial of medical attention in prisons continue to affect him to this day. The trauma of torture, mental depression, and physical disability has also barred him from working ever since. The support of his family and community, and them believing his innocence gives him confidence. However, Hamid's family is struggling financially and can't even afford medicines for their ill children. The police continue to frequently threaten and harass Hamid and his family members. The fear of further reprisals prevents Hamid from filing a complaint against the men who tortured him in custody.

²³ The FIR No. 440/22 against Sheikh Hamid and 36 other accused men were registered under Sections 147(Punishment for rioting) 148 (Rioting, armed with deadly weapon)/149(Every member of unlawful assembly guilty of offence committed in prosecution of common object.)/186(Obstructing public servant in discharge of public functions)/353(Assault or criminal force to deter public servant from discharge of his duty)/332(Voluntarily causing hurt to deter public servant from his duty)/307(Attempt to murder)/323(Punishment for voluntarily causing hurt.)/427(Mischief causing damage to the amount of fifty rupees.)/436(Mischief by fire or explosive substance with intent to destroy house, etc.)/109(Punishment of an abettor if the act abetted is committed in consequence and when no express provision is made for its punishment)/120B(Punishment of criminal conspiracy)/34 (Acts done by several persons in furtherance of common intention) of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act.

Case Study #2: Sheikh Shahadat

Sheikh Shahadat, a 36-year-old Muslim man from the Jahangirpuri neighbourhood of New Delhi, died in police custody on July 23, 2023. According to the Delhi Police, Shahadat's health deteriorated and he was declared dead at the hospital.²⁴ However, Shahadat's family allege that he was subjected to custodial torture, noting the wounds and bruises on his body.

Around 6 pm on July 21, 2023, Shahadat along with four other people had gone to the Netaji Subhash Place locality in New Delhi. As they exited their car, they were confronted by seven to eight police personnel, some in uniform and some in plainclothes. Muslim men being randomly questioned by the police is not a rare occurrence in New Delhi. Shahadat was upset with this public questioning by the police and asked for a reasons for the humiliation he faced.

The police didn't bother to respond, and started to slap, beat, and verbally abuse the men. All five of them, including Shahadat, were detained by the police and their car was searched. The police claimed that they found a knife in the car. They were all forced into a police vehicle, beaten, and verbally abused on their way to the Subhash Place police station.

One of the men accompanying Shahadat was Rafiqul. He is the husband of Shahadat's niece, Sahana Khatun. Rafiqul managed to call and inform Khatun about their arrest and location, who then informed Shahadat's wife Setara Bibi. Rafiqul says the police continued to violently beat and abuse them throughout the journey to the police station.

Khatun rushed to the police station along with a family member and inquired about the whereabouts of Rafiqul and Shahadat. The police blatantly refused to provide any information about them and denied any arrests. They persistently waited and kept asking the police for information. Meanwhile, the family member accompanying Khatun, noticed the car Rafiqul and Shahadat had used to commute, parked outside the police station. Khatun confronted the police with this information and they admitted the detention at this juncture but refused to provide any additional information. Khatun continued to wait for hours at the police station and repeatedly pleaded for information.

At around 3 am, one police officer demanded a bribe of ₹ 100,000 (~ £ 1000) for their release. Khatun responded that they could not afford such a large sum of money.²⁵ On her constant pleadings and requests, Khatun was allowed to meet her husband Rafiqul, as well as her uncle Shahadat. Both of them confirmed having been subjected to brutal custodial torture and demands for money in exchange for their release. She then returned to her residence.

²⁴ "Suspect Dies in Police Custody; Family Alleges Foul Play, 'Police Not Giving Us Proper Answers.'" The Hindu, 23 July 2023, www.thehindu.com/news/cities/Delhi/suspect-dies-in-police-custody-family-alleges-foul-play-police-not-giving-us-proper-answers/article67113046.ece.

²⁵ Chauhan, Rohan. "Kin of man 'brutally' killed in police custody demands justice The Patriot, 8 Aug. 2023, www.thepatriot.in/crime/victims-family-demands-justice-38835#:~:text=On%20July%2023%2C%202023%2C%20Shahadat,Police%20Station%20in%20Northwest%20Delhi.

According to Rafiqul, all five of them were locked up in one room at the police station and brutally beaten with heavy rods, sticks, and plastic pipes. The police repeatedly targeted Shahadat's right hand, and after a point it fell numb and stopped moving. Shahadat's feet were tied, and he was hit on his back, stomach, and private parts. Shahadat screamed in pain the whole time as the police put pressure on his open wounds. They were threatened with sexual violence, being forced to perform sexual acts on each other, and being forced to drink urine.

Khatun returned to the police station a few hours later in the day and was informed that all five men had been arrested under a complaint²⁶ and were going to be produced before a magistrate later in the day. She was allowed to briefly meet Rafiqul and Shahadat. According to her, Shahadat was severely injured, and in particular, his right hand was badly swollen and appeared to be broken.

At around 5 pm, a magistrate ordered judicial detention of four men including Rafiqul, however, Shahadat was remanded to police custody on police's request. Not understanding what the police custody entailed and in the hope of requesting Shahadat's release, Khatun along with Bibi went to the police station later in the evening. They were chased away from the police station at around 3 am the next day. While at the police station, they heard Shahadat's painful cries as the torture continued.

Later in the day, Shahadat's brother received a call from the Jahangirpuri police station, informing him about Shahadat's admission to the Ambedkar Hospital. Khatun rushed to the hospital, but was unable to see Shahadat despite multiple attempts. A policeman asked her to check the mortuary and she found Shahadat's body there. She informed Bibi, who later arrived at the hospital to formally identify the body. According to Bibi, Shahadat's body had blue and black marks all over his back and chest from the beatings, his right hand was swollen, and legs also showed marks of injuries.

Shahadat's body was handed over to his family for last rites on July 25, 2023, but to date no post-mortem report has been shared. A medical board was constituted by the magistrate on July 25, 2023, and a post-mortem was conducted. The medical board was provided samples of his clothes, blood, tissues, and nail clippings. The status note states: *"Opinion regarding cause of death will be given after receipt of analysis report of specimen preserved"*.

All attempts by Shahadat's family to register a complaint of custodial killing have failed till date. The police have refused to disclose the circumstances surrounding his death or take any action. After Bibi's application before a magistrate, on December 19, 2023, the police submitted: *"They received information about a few persons roaming around with illegal weapons with the intent to commit a robbery and arrested them on July 21, 2023..... Shahadat had been medically examined three times on July 22, 2023..... At around 6.30 am, a guard observed Shahadat breathing heavily and he was taken to Ambedkar Hospital where he was declared dead."*

²⁶ FIR No. 552/2023 under Sections 25,54 and 59 of Arms Act

A judicial inquiry into the matter is also underway in another court. The police have stated “*technical issue with the hard disk*” as the reason not to submit CCTV footage from the police station.

Case Studies: Haryana

Case Study #3: Sahib

Sahib is a 32-year-old Muslim man and a farmer from the Mewat region in the state of Haryana. On April 23, 2022, Sahib was physically assaulted by cow vigilantes associated with the Right-wing militant group Bajrang Dal.

In November 2015, the BJP government in Haryana had passed the *Haryana Gauvansh Sanrakshan and Gausamvardhan Act* (HGSG – a law to protect and care for cows) in the state assembly. This act prohibits cow trafficking, slaughter, possession, or consumption of beef. However, eight years since this law’s enforcement, no rules or procedures have been formulated and the police follow their own ad-hoc processes. Cow vigilantes have emerged across the state, often backed by the state and political machinery. On numerous occasions they have attacked and even murdered people, mostly from the Muslim community, they believed to be involved in the cow slaughter trade.²⁷

In the early hours of April 23, 2022, Sahib was walking towards his farm. At the outskirts of his village, he was abruptly stopped by 12-13 men riding in two jeeps. Sahib recognized some of the men as members of the Bajrang Dal, as they were from a neighbouring village. The men removed the weapons from the jeeps, including guns and *lathis* (wooden batons) and fired two shots in the air. Sahib was terrified and started to run for his life through the fields. At some distance, he slipped and fell. The men surrounded him and charged at him saying that they knew he was a Muslim who slaughters cows, sells the meat and is engaged in the cow trade. Sahib pleaded his innocence and said he was only a farmer.

Due to this commotion in the early hours of the day, a group of people started coming together around Sahib and his attackers. When they attempted to intervene, the armed men fired a gunshot into the crowd, creating a frenzy and preventing anyone from helping Sahib. The men forced Sahib into their car and drove him to a *gaushala* (cow shed) in the neighbouring district.

At the *gaushala*, Sahib was surrounded by the men. They brutally beat him with fists, boots, *lathis*, and gun barrels. He screamed and begged them to stop but they continued for hours and recorded videos of their own crime. They forced him to say ‘*Jai Shri Ram*’ over and over again, and continued assaulting him. He sustained extensive injuries all over his body, especially his back and stomach.

The videos of the incident went viral on social media after they were shared by a user @_rambhaktgopal, run by a man named Gopal Sharma. Sharma has been in the news for opening fire on the anti-CAA protesters outside the Jamia Millia University in January

²⁷ Jha, Bagish. “Why Most Cases Under Haryana’s Cow Protection Law Are Ending in Acquittal.” The Times of India, 5 March 2023, www.timesofindia.indiatimes.com/city/gurgaon/why-most-cases-under-haryanas-cow-protection-law-are-ending-in-acquittal/articleshow/98421788.cms.

2020. The video shows Sahib being dragged away, unable to stand, and forced into a jeep at gunpoint.²⁸

After assaulting Sahib for almost 12 hours and forcing him to confess to cow smuggling, the attackers dropped him off at the Ferozpur police station at around 9 pm. At the police station, Sahib was kept locked up in a cell for the entire night, not allowed to contact his family and denied medical assistance. On the following morning, he was charged with cow slaughtering and presented before a magistrate without a lawyer.²⁹ The magistrate sent him to judicial detention, and he spent the following month in prison. He secured bail on May 25, 2022. The legal case of cow slaughter against him is still ongoing.

Sahib's mental and physical health have deteriorated greatly. He is unable to leave his house due to fear. He has received threatening telephone calls warning him against pursuing a case against his assaulters.³⁰ He has sustained extensive injuries on his back and stomach, and is unable to continue his work as a farmer. He lives with his mother, father, eight siblings, wife and five kids and the family continues to suffer due to loss of income.

²⁸ Chadha, Pavneet Singh, and Sukhbir Siwach. "As Videos Emerge of 'Cow Vigilantes' Using Excess Force, Nuh Villages on Edge, Police Register FIR." *The Indian Express*, 29 April. 2022, www.indianexpress.com/article/cities/delhi/as-videos-emerge-of-cow-vigilantes-using-excess-force-nuh-villages-on-edge-police-register-fir-7892376.

²⁹ FIR No. 149/2022, registered on April 23, 2022, under Sections 13(1) and 13(3) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 against Sahib.

³⁰ After the video of Sahib's assault went viral, the police registered an FIR No. 153/2022 on April 27, 2022, against "three to four unidentified persons" under Sections 286 (negligent conduct with respect to fire or combustible matter), 294 (obscene acts and songs), 323 (punishment for voluntarily causing hurt), 342 (punishment for wrongful confinement) and 506 (punishment for criminal intimidation) of the Indian Penal Code, and some sections of the Arms Act, 1959. No arrests have been made.

Case Study #4: Saikul Khan

Saikul Khan, a 27-year-old Muslim man and a student from the Alwar district in the state of Rajasthan, was arrested by the police in an alleged case of mistaken identity and after being subjected to custodial torture, died in custody on July 23, 2023. Saikul, who had married three months earlier, was preparing for competitive police exams and was visiting his family in Alwar when he was arrested, tortured, and killed by the police.

Saikul and his friend Mr. Govind were on a motorbike at around midnight on July 20, 2023, when they were stopped by 12-13 police personnel. Govind managed to escape detention but Saikul could not. At a later stage, Govind shared with Saikul's family that the police were harassing Saikul and said "*Mulle, tum log gaay mata to uṭhate ho aur crimes aur chori bhi karte ho*" (You Muslims smuggle holy cows, and you also commit crimes and theft). Saikul protested the remarks and asked for the grounds of his arrest, but in vain. He was taken to the Cyber Cell in Faridabad in the state of Haryana.

The following day, on July 21, 2023, Saikul's brother Mr. Sabir Khan, received a call from the police informing him of Saikul's arrest. A police official identifying himself as sub-inspector Mr. Rajesh Kumar informed Sabir that Saikul had been mistakenly arrested instead of his friend Govind in a case of fraud and cheating. However, the official added a condition that Saikul would be released only if Sabir would find and bring Govind along with him to the police station.

Sabir and one of his cousins immediately went to the police station, located about four hours away from Sabir's and Saikul's village. At the police station, Kumar demanded a bribe of ₹ 200,000 (approximately £ 2,000) for Saikul to be released. After some negotiations, Kumar settled for ₹ 165,000 thousand (approximately £ 1,650). Sabir withdrew the money from a bank machine and handed it over to Kumar in the presence of his superior official Inspector Mr. Bhajan Lal.

However, when Sabir asked for Saikul's release, Kumar informed him that Saikul had been injured during the investigation and that he would be released only after he has recovered. Sabir then met Saikul and was shocked to find him gravely injured. Saikul narrated the episode of torture after he was detained and pleaded with him to take him away.

On July 23, 2023, Sabir once again called Kumar and reminded him of his promise to release Saikul. However, Kumar told him that Saikul was ill and had been admitted to the BK Hospital in Faridabad. The family rushed to the hospital and found out that Saikul was dead. Saikul had injury marks all over his body, especially on his neck and nose. It was apparent that Saikul was beaten with belts, batons and electrocuted. Sabir believes that Saikul was bleeding profusely through his nose before dying.³¹ Several eyewitnesses,

³¹ Ahmad, Ghazala. "FIR Against Cops in Custodial Death of Muslim Youth From Rajasthan." Maktoob Media, 28 July 2023, www.maktoobmedia.com/features/fir-against-cops-in-custodial-death-of-muslim-youth-from-rajasthan.

family and friends, who had seen Saikul's dead body, confirm the signs of the brutal custodial torture he was subjected to.³²

Sabir tried to contact Kumar, but all his attempts failed. Kumar was unreachable by phone and wasn't present at the police station. Sabir learned from others that Kumar had previously been accused in four other cases of custodial killings but remained unaccountable and continued to enjoy impunity.

On July 24, 2023, Sabir filed a complaint against Kumar and other police officials at the Faridabad police station accusing them of Saikul's custodial death. According to the media reports, Kumar was suspended for 'taking bribe', but no action has yet been taken against him in connection with Saikul's custodial death. According to the police, the post-mortem was conducted and recorded in the presence of a judicial magistrate;³³ however, the family still awaits this report along with Saikul's other medical records.

A complaint with the NHRC, which is mandated to inquire into cases of deaths in custody according to the Supreme Court guidelines, has not received any response. On November 4, 2023, Saikul's family wrote to the Director General of Police of Haryana, raising concerns over the investigation and requesting an independent and impartial probe. This letter has also not received any response.

³² Ali, Arbab "Muslim Man Dies in Faridabad Police Custody, Cops Booked for Murder." The Quint, 27 July 2023, www.thequint.com/news/india/muslim-man-custodial-death-faridabad-police-booked-for-murder-haryana#read-more; India, Clarion. "Haryana: Newly-Wed Muslim Youth Dies in Police Custody, Family Alleges Torture." Clarion India, 25 July 2023, www.clarionindia.net/haryana-newly-wed-muslim-youth-dies-in-police-custody-family-alleges-torture; Faisal, Meer. "Muslim Youth Allegedly Dies in Police Custody in Haryana." The Observer Post, 23 July 2023, www.theobserverpost.com/29yearoldmuslim-youth-allegedly-died-in-police-custody-in-haryana.

³³ Ali, Arbab "Muslim Man Dies in Faridabad Police Custody, Cops Booked for Murder." The Quint, 27 July 2023, www.thequint.com/news/india/muslim-man-custodial-death-faridabad-police-booked-for-murder-haryana#read-more.

Case Studies: Uttar Pradesh

Case Study #5: Mohammed Muzammil

Mohammed Muzammil, a 17-year-old Muslim boy and a student from Saharanpur district in the state of Uttar Pradesh, was subjected to custodial torture by the Uttar Pradesh police on June 11, 2022.

In May 2022, Nupur Sharma, a spokesperson for the Bharatiya Janta Party, made highly offensive remarks about Prophet Muhammad on national television. The incident sparked widespread outrage and led to escalating communal tensions in several Indian states. On June 10, 2023, protests against her remarks were held in Saharanpur which turned violent in some locations.

On June 11, 2022, at around 12.30 pm, Muzammil received a call from one of his college professors asking him to visit his college campus to complete formalities for his exam registration process. He hailed an e-rickshaw to reach his college. Shortly after, his e-rickshaw was stopped outside a gas shop by a few men in plain clothes who claimed to be police officials. They ordered him to get off the e-rickshaw and started abusing and beating him without any explanation. While he was still reeling from the violence, they put him on a motorcycle and took him to the Muzaffary Masjid police station. Throughout the journey, they refused to tell him the reasons for his detention and instead abused him to keep quiet.

Inside the police station, Muzammil was taken to a room where four to five police personnel were present. He was verbally abused with curses and religious slurs, calling all Muslim men violent criminals and thieves. He was brutally assaulted for about an hour and his repeated pleas to stop were ignored. Later he was left alone in the room for the whole day and around midnight, they started torturing him again, this time even more brutally. He was assaulted with sticks, punched and slapped all over his body. While assaulting Muzammil, they repeatedly shouted “mulle, mulle” (a slang for Muslim men) and said “tum pakistani aatankvaadi ho” (you are a Pakistani terrorist). The assault continued for about two hours. One of the policemen urinated on the floor and forced Muzammil to kneel on it to perform his ‘namaaz’ (prayers). He was extremely traumatised by the torture.

The next day, following a magistrate’s order, he was transferred to the district prison and was incarcerated there for three months. He did not have access to a lawyer and the order recorded his age incorrectly as 19 years rather than 17. As Muzammil was a juvenile, his detention was illegal. Thereafter, he was transferred to another district prison for three more months and was released on bail in December 2022. Muzammil was only released after the court reviewed his documents proving his age.

On June 11, 2022, i.e. the day of Muzammil’s abduction and arrest, the police and local authorities arrived at his rented residence at around 4 pm and attempted to demolish it illegally, claiming it was an illegal construction. The bulldozer reached his residence and

smashed through the front gate and destroyed it completely.³⁴ Efforts to explain to the authorities that this was a rented property where Muzammil resided succeeded only after considerable damages had been done. No prior notice of demolition was provided to the property owner, either before or during the demolition. Muzammil's family had to pay the property owner around ₹ 40,000 (approximately £ 400) for the repairs and were then evicted from the house.

According to media reports, police claimed Muzammil was the 'key conspirator' of the violence on June 10, 2022³⁵, and that he had incited young boys for violence.³⁶ They claimed Muzammil to be 18 years old, despite his identification cards proving him to be 17 years and 10 months old.³⁷ Contrary to the police claims, the legal complaint³⁸ registered by the police did not name Muzammil, and his name was only included later where his age was listed as 19 years. This complaint had opened the scope for mass arrests and police arbitrariness as 200-300 unnamed people were mentioned passingly in addition to 31 named Muslim men. This case is at the stage of trial.

³⁴ Iyer, Aishwarya. "UP Police Held a Minor for Protests. His Parents Found Out When the Bulldozers Arrived." Scroll.in, 18 June 2022, www.scroll.in/article/1026405/up-police-held-a-minor-for-protests-his-parents-found-out-when-the-bulldozers-arrived.

³⁵ Digital, Times Now. "Saharanpur Violence | Police Suspect 18-Year-Old Muzammil as Key Conspirator of Violence | Breaking News." Times Now, 12 June 2022, www.timesnownews.com/videos/times-now/india/saharanpur-violence-police-suspect-18-year-old-muzammil-as-key-conspirator-of-violence-breaking-news-video-92160434.

³⁶ TIMES NOW Navbharat. "Saharanpur Violence का Mastermind 18 साल का Muzammil, लोगों को भड़काया और हिंसा हुई | Hindi News." YouTube, 12 June 2022, www.youtube.com/watch?v=ft1Z_R-h0KE.

³⁷ Iyer, Aishwarya. "UP Police Held a Minor for Protests. His Parents Found Out When the Bulldozers Arrived." Scroll.in, 18 June 2022, www.scroll.in/article/1026405/up-police-held-a-minor-for-protests-his-parents-found-out-when-the-bulldozers-arrived.

³⁸ FIR No.165/2022, filed on June 10, 2022, under sections Sections 147(Punishment for rioting) 148 (Rioting, armed with deadly weapon)/149(Every member of unlawful assembly guilty of offence committed in prosecution of common object) 307(Attempt to murder), 332(Voluntarily causing hurt to deter public servant from his duty) 336(Act endangering life or personal safety of others.), 323(Punishment for voluntarily causing hurt), 353(Assault or criminal force to deter public servant from discharge of his duty.), 504(Intentional insult with intent to provoke breach of the peace.), 506(Punishment for criminal intimidation. If threat be to cause death or grievous hurt, etc), 427(Mischief causing damage to the amount of fifty rupees.), 188(Disobedience to order duly promulgated by public servant.), 120-B(Punishment of criminal conspiracy) of the Indian Penal Code, 1860 and Section 3(Mischief causing damage to public property) and 4(Mischief causing damage to public property by fire or explosive substance) of Prevention of Damage to Public Property Act, 1984.

Case Study #6: Rehan Shah

Rehan Shah, a young Muslim man and daily wage labourer from Badaun district in Uttar Pradesh, was tortured by police officers of the Uttar Pradesh Police on May 2, 2022. Since the incident, Rehan and his family have faced continued harassment and reprisals for pursuing a case against the officers at the Alapur police station. Following this, Rehan's father, Yunus Shah, was arbitrarily detained and tortured because the family persisted in their efforts to hold the police accountable.

On May 2, 2022, Rehan had returned to his home in Badaun from New Delhi after completing a painting assignment. That evening, at around 5 PM, he stepped out on his motorbike for personal errands. Roughly two kilometres from his residence, he was stopped by a police patrol unit. After briefly questioning him about his movements, the police detained Rehan and tried to force him to confess to a crime related to cow smuggling. Rehan explained that he had no knowledge of such an incident, described his work as a house painter, and denied any involvement.

He was then forcibly and illegally taken to the Alapur police station, where five to six police personnel subjected him to custodial torture. This included beatings with sticks, punches, and slaps across his body, electric shocks, and sexual violence by insertion of a stick into his anus. Despite his repeated pleas and assertions of innocence, the police continued the torture until Rehan lost consciousness.

Later, a police officer from Alapur police station called Rehan's family, demanding ₹5,000 (approximately GBP 50) as a bribe to "release him." His family arrived at the station and found Rehan unconscious, lying in the station compound. After paying the bribe, the officers returned ₹1,000 (approximately GBP 10) for his medical treatment.

Rehan's condition was critical. He was admitted to the Badaun District Hospital and later referred to specialised care in New Delhi due to the severity of his injuries.

With support from local lawyers and NGOs, Rehan's family sought to register a complaint against the police. After a month-long struggle involving media advocacy and repeated representations to senior officers, an FIR (No. 198/2022) was finally registered at the Alapur police station on June 5, 2022. Although five police officers were suspended for their alleged role in the torture, they were reinstated within days.

On August 3, 2022, Rehan's family submitted written appeals to senior officials requesting an impartial investigation, arguing that the Alapur police or their superiors in Badaun could not be trusted to investigate themselves.

Following the complaint, the family was subjected to persistent threats and pressure to withdraw the case in exchange for a "compromise." Fabricated news items, allegedly planted by the police, falsely claimed that the family had withdrawn the complaint. The family publicly refuted these reports. Meanwhile, the Uttar Pradesh Police continued to delay both the investigation and the filing of a chargesheet.

On December 9, 2022, a confrontation occurred in Kakrala town between police personnel and members of the public. Although Yunus and his sons were at home at the time, between 7 and 8 PM, 10–15 police officers stormed their residence. They threatened the family to withdraw the torture complaint or face legal consequences. Upon refusal, officers beat the family and sexually harassed and abused Rehan's mother, Najma Shah (detailed in Case Study #7).

That night, Yunus and his sons — Yusuf, Rayees, and Rehan — were detained and subsequently shown as arrested on December 10, 2022, under FIR 487/2022. Najma's other children, Rizwan and Arman (a minor), were also named in the complaint.

In custody, the four men were again tortured. They were beaten with sticks and fists. Rehan was given electric shocks to the ears and head. As his condition worsened, he was taken to hospital. Yunus sustained a fractured finger; Rayees suffered a fractured leg. Throughout the ordeal, the police demanded that the family “drop the case” (FIR 198/2022).

At 1:45 AM on December 10, 2022, Yunus, Yusuf, Rayees, and Rehan were formally shown as arrested, along with 24 others. According to the police, these individuals, along with 250–300 unnamed persons, had allegedly clashed with the police in Badaun the previous evening. The complaint accused them of instigating violence, throwing bricks and stones, and attacking officers and private property.

On December 10, 2022, all 28 named individuals were remanded to judicial custody. They were placed in separate barracks in Badaun district prison, where they received basic treatment. The 24 others were released on bail over the following days. Rehan's family, however, continued to face coercion. Their home was sealed, and Najma and her children were evicted. On December 12, 2022, Rehan's lawyer filed an application seeking urgent medical treatment for Rehan, but it was denied.

On January 5, 2023, the four men filed for bail in the local court. The magistrate rejected the request on January 24, 2023. On January 8, the Station House Officer of Alapur police station wrote to the Senior Superintendent of Police (SSP), Badaun, referencing the bail application in paragraph 32 and warning that bail might be granted. He recommended invoking the National Security Act (NSA) for preventive detention.

The following day, the police circle officer submitted a supporting letter. On January 10, the SSP submitted the application to the District Magistrate. On January 11, 2023, the District Magistrate passed an order under Section 3(3) of the NSA, authorising administrative detention under Section 3(2). NSA detention is a form of preventive detention that can be extended up to 12 months, subject to review every three months. Yunus and his family submitted a representation challenging the NSA order on January 24, 2023, but it was rejected by the central government on February 6, 2023. Similar NSA orders were issued against Yusuf and Rayees. Rehan was not detained under NSA, likely due to his deteriorating physical and mental health. The NSA orders were renewed routinely until January 11, 2024, when Yunus, Yusuf, and Rayees were released after the

latest extension lapsed. The criminal proceedings against them continue, and they fear further reprisals.

Rehan's youngest brother Arman (15 years old) was also arrested in the same case. On March 28, 2023, the magistrate denied his bail. Despite being a minor, Arman was detained in an adult prison, in violation of the Juvenile Justice (Care and Protection of Children) Act, 2015 and international law.

Another brother, Rizwan, was granted interim protection from arrest by the Allahabad High Court on April 20, 2023. However, on May 17, 2023, he and Najma were illegally detained at night, taken to multiple locations, and subjected to custodial torture. Najma's ordeal is described in detail in Case Study #7.

On May 18, 2023, following an urgent application by their lawyer, the magistrate ordered Rizwan's release based on the High Court's order. Najma was remanded to Badaun district prison, even though she was not named in FIR 487/2022. Her name was added later during the investigation. She was released on bail in September 2023.

On September 20, 2023, Yunus, Yusuf, and Rayees were granted bail by the Allahabad High Court, but they remained detained under the NSA until January 11, 2024, when the detention was not renewed. The case against the family remains open, and they continue to live in fear of further retaliation.

Case Study #7: Najma

Najma is a 65-year-old woman resident of Badaun, Uttar Pradesh. On 2 May 2022, her 27-year-old son Rehan was arbitrarily detained by the police, brutally beaten, and electrocuted, as set out in Case Study #6 above. During his illegal detention, Najma and her family were called to the police station for Rehan's release. The officers on duty demanded INR 5,000 (approximately GBP 50) and threatened Najma with dire consequences if the amount was not paid. They also hurled communal slurs at Najma and Rehan, asking, "Tum log gosht khate ho? Suar ka gosht khaoge?" (Do you people eat meat? Will you eat pork?). Najma paid the bribe despite the family's economic precarity. When Rehan was released, the police warned Najma that if they saw him after Eid prayers the next day, they would kill him. Najma took Rehan to the Badaun District Hospital and managed, with great difficulty and after a month-long struggle, to register an FIR against the police officers of Alapur Police Station in June 2022. After the FIR was registered, the Circle Officer called Najma and pressured her to withdraw the complaint. She refused and insisted that the charge sheet be filed.

On 9 December 2022, police personnel entered Rehan's village for an unrelated cause. Rehan, who had gone out to purchase medicines from a nearby pharmacy, was recognised by the police officers as the complainant in the FIR. They walked up to him and slapped him repeatedly. Rehan fainted from fear and the attack. The commotion drew local residents, and a confrontation ensued between them and the police, which involved stone pelting. The police responded with a lathi charge, and protestors retaliated with objects gathered from the streets. The police subsequently registered an FIR against 200 unnamed and 50 named individuals.

Najma's family, including Rehan and his father Yunus Shah, were home at the time. After the clash in the market, police officers from Alapur Police Station barged into their house and assaulted the family. Najma, her husband Yunus, their sons Rehan and Rahis, her daughter, and daughter-in-law were all beaten with fists and lathis. Rahis was dragged and beaten mercilessly. Holding Najma's hand, he cried out, "Maa mujhe bacha le" (Mother, save me). Najma was struck in the hand and dragged as she tried to shield him. Her clothes were torn and her hands were left bleeding. Yunus, Rahis, Rehan, and Yusuf were arrested and tortured in custody. The police struck 70-year-old Yunus in the leg. Najma's son Rizwan fled to save himself, and her youngest son Arman (then 15) who was not at home during the incident, was arrested later in February 2023.

The police crackdown continued for the next five days. Officers from Alapur Police Station vandalised 15–20 homes, destroyed refrigerators and furniture, and threatened local women and girls with rape if they did not reveal the whereabouts of male relatives. On the morning of 10 December 2022, Najma travelled to Bareilly, where her daughter Tabassum lives, and filed applications before the Inspector General of Police, the National Commission for Women, the NHRC, and other bodies. She gave interviews to media outlets, recounting the abuses. Najma stayed in Bareilly for some time but did not seek formal medical attention due to fear and financial constraints, relying instead on over-the-counter painkillers and ointments.

On 12 February 2023, Arman was arrested with the assistance of a local informant and a woman (mukhbir). Seeing this, Najma and Rizwan fled to a relative's home. Soon after, the district court issued proclamations under Sections 82 and 83 CrPC against Rizwan. The police raided their home, seized cattle, gold, and silver jewellery, and sealed the property. Some items were also looted. The police ignored a stay order from the Allahabad High Court protecting Rizwan from arrest, and on 17 May 2023, Rizwan and Najma were detained.

In custody, Najma was slapped by a female constable, injuring her right eye, and beaten on her hands with lathis, causing swelling. Male officers verbally abused her and threatened to kill Rizwan in front of her. Rizwan was punched in the stomach and legs, and one leg was fractured. Thanks to legal intervention, Rizwan was released without being sent to jail. Najma, however, was remanded to Badaun District Prison from 17 May to 7 August 2023.

Najma was charged under serious non-bailable offences alongside Rehan, Rizwan, Arman, Rahis, Yunus, and Yusuf. She was held in a crowded barrack with 45 other women. She found it difficult to sleep, was in constant pain, and suffered from psychological distress. She was initially made to sweep the prison floor, but due to back pain and injuries, the prison authorities eventually relieved her of the task. Her right eye remained damaged despite receiving basic prison medical care.

On 9 June 2023, Najma's bail plea was rejected by the Badaun District Court. However, the Allahabad High Court granted her bail on 7 August 2023, noting that she was not named in the FIR and was added only later. Despite her release, the psychological and physical trauma persists. She continues to suffer anxiety and sleeplessness. Financial constraints have prevented her from seeking professional mental health care; she relies on free medicine from a local community health centre. Rehan, who was severely tortured, now suffers from seizures and is entirely dependent on Najma.

Case Study #8: X (anonymised)

X, a 26-year-old Muslim man and daily wage labourer from Saharanpur district in the state of Uttar Pradesh, was subjected to custodial torture by police personnel on 11 June 2022.

As stated in Case Study #5, in May 2022, Ms. Nupur Sharma, a spokesperson for the Bharatiya Janata Party, made extremely offensive remarks against Prophet Muhammad on national television. The incident sparked widespread outrage and led to escalating communal tensions in several Indian states. On 10 June 2022, protests against her remarks were held in Saharanpur, some of which turned violent.

At around 11 a.m. on 11 June 2022, X stepped out of his home to buy medicines for his wife. When he reached the store, he realised that it was closed. On his way back home, he was stopped by a few policemen who asked where he was going. He explained that the medical store was closed, so he was returning home, and showed them the doctor's prescription for his wife.

Upon learning his name and that he was Muslim, the policemen aggressively accused X of having participated in the protests the previous day. They abused him with religious slurs. Despite repeatedly denying the accusation and pointing to the prescription as evidence of his purpose, the police slapped and assaulted him for nearly half an hour, forcing him to falsely admit that he had participated in the protests.

At around 12 p.m., X was detained and taken to the Muzaffar Masjid police station, where he was again interrogated. The police refused to believe his version and stated that they assumed, based on his identity, that he had joined the protests and incited violence. He was taken to a cell and beaten with lathis. When he fell to the ground in pain, he was kicked in the chest with boots. He lost consciousness for several hours and experienced intense chest pain upon regaining consciousness. Around 7 p.m., he was transferred to a prison.

It later emerged that X had been arrested for allegedly rioting and destroying public property during the protests.³⁹ However, he was released on bail two months later, after a magistrate found no substantive evidence against him.

³⁹ FIR No.165/2022, filed on June 10, 2022, under sections Sections 147(Punishment for rioting) 148 (Rioting, armed with deadly weapon)/149(Every member of unlawful assembly guilty of offence committed in prosecution of common object) 307(Attempt to murder), 332(Voluntarily causing hurt to deter public servant from his duty) 336(Act endangering life or personal safety of others.), 323(Punishment for voluntarily causing hurt), 353(Assault or criminal force to deter public servant from discharge of his duty.), 504(Intentional insult with intent to provoke breach of the peace.), 506(Punishment for criminal intimidation. If threat be to cause death or grievous hurt, etc), 427(Mischief causing damage to the amount of fifty rupees.), 188(Disobedience to order duly promulgated by public servant.), 120-B(Punishment of criminal conspiracy) of the Indian Penal Code, 1860 and Section 3(Mischief causing damage to public property) and 4(Mischief causing damage to public property by fire or explosive substance) of Prevention of Damage to Public Property Act, 1984.

X continues to suffer from the physical and psychological consequences of the torture. He experiences persistent chest pain where he was kicked and is only able to work sporadically due to ongoing health issues.

Case Study #9: Y (Anonymised)

Y, a 20-year-old Muslim man and daily wage worker from Nagina town in the state of Uttar Pradesh, was detained and brutally tortured by Uttar Pradesh police personnel on 20 December 2019, allegedly for participating in a protest against the Citizenship Amendment Act (CAA).

In December 2019 and January 2020, widespread peaceful protests were held across India against the controversial CAA. Police, especially in BJP-ruled states, responded with heavy-handed crackdowns, denying permission for protests and imposing curfews under Section 144 of the Code of Criminal Procedure (CrPC), which prohibits assemblies of more than four people.

On 20 December 2019, shortly after Friday prayers at a nearby mosque, Y and his friends were returning home around 3:30 p.m. when they were suddenly stopped by the police. They were accused of participating in the anti-CAA protest and pelting stones at officers. Despite their pleas that they were returning from prayers, the police abruptly began assaulting them. Among the attackers were also civilians known as "Police Mitras" (Friends of the Police), who joined in the beatings. Y and his friends were then detained and taken to Nagina police station. All of the detained were under the age of 25, including two juveniles aged 16 and 14.

According to Y, the group was not informed of the reasons for their detention, and their mobile phones and wallets were confiscated. They were unable to contact their families or legal counsel. When they attempted to offer their evening prayers in the locked room, they were forced to stop and were called *deshdrohis* (traitors). The young man who led the prayer was beaten with lathis and batons on his chest, suffering serious injuries.

At approximately 6:00 p.m., they were transferred in a bus to the Bijnor police lines near the district headquarters, escorted by around ten police personnel. No reasons were provided for the transfer, and they were again denied access to family or lawyers. Questions were met with abuse and further assault. During the journey, one officer showed them videos of men being stripped and tortured in custody, warning them to expect similar treatment.

At around 7:00 p.m., as the bus arrived at Bijnor police lines, a large contingent of police personnel awaited them, armed with lathis. As each detainee stepped off the bus, they were beaten. Y initially refused to get off the bus but was dragged out and struck violently on his left leg—a blow he later described as “bone-crushing.” He collapsed in pain and was unable to walk, crawling on the floor before being thrown into a large hall with over 150 other detainees, where mass beatings continued.

Y pleaded for medical attention for his fractured leg. After some hours, a doctor arrived and administered an injection, which did little to relieve the pain. He was later sent to a government hospital, where the injury was falsely recorded as an accident. Despite explaining the assault to the doctor, Y was asked for a bribe for further treatment. At

around 9:15 p.m., after repeated requests, the doctor finally phoned Y's father to inform him of his whereabouts.

Y's father arrived at the hospital around 11:00 p.m. to find his son in tears and in severe pain. He was made to pay the doctor for the phone call. Around 3:00 a.m., he arranged for a private ambulance to transfer Y to a private hospital. The government hospital cited "accident" as the cause of injury in its discharge note, but neither the discharge summary nor medical records were handed over.

At the private hospital, it was confirmed that Y had a displaced leg fracture that had worsened due to repeated police assault. Doctors advised immediate surgery to implant a steel rod. The cost of the procedure was INR 70,000 (approximately GBP 700). Y comes from a poor family with nine siblings who are daily wage workers, while his father works as a compounder at a local clinic. It took several hours for the family to arrange the required amount, and the surgery was only conducted around 6:00 p.m. that day. Police personnel visited the hospital over the next two days and warned Y against disclosing the torture he had suffered.

Months later, Y continues to experience physical limitations that impact his ability to work. He remains deeply traumatised and lives in constant fear of reprisals. These fears have prevented him and his family from pursuing any legal action against the police.

Case Study #10: Syed Asad Raza Hussaini and students⁴⁰

Syed Asad Raza Hussaini, the founder and principal of the Sadaat Madrasa School in Muzaffarnagar district, Uttar Pradesh, and his students were attacked and tortured by the Uttar Pradesh police on 20 December 2019, following a confrontation between anti-CAA protesters and the police near the school.

In December 2019 and January 2020, widespread peaceful protests were held across India against the Citizenship Amendment Act, 2019. Police, especially in BJP-ruled states, responded harshly—denying permission for protests and imposing curfews under Section 144 of the Code of Criminal Procedure (CrPC), which prohibits assemblies of more than four people.

On 20 December 2019, a protest demonstration against the CAA was planned in Muzaffarnagar, and Section 144 CrPC was reportedly in effect. A confrontation occurred between protesters and police at a square near the Sadaat Madrasa compound.

The Sadaat compound houses a mosque, a madrasa (school), and a hostel for its students. Around 60 students were enrolled at the time, most from poor backgrounds across Uttar Pradesh and other Indian states. The madrasa provided free education and boarding.

That morning, following prayers, Hussaini—who also serves as the imam—explicitly instructed students not to join any protests. The madrasa had no affiliations with political groups and had never been in conflict with the police.

Police personnel had been deployed across the city due to the protests. A police contingent stationed outside the madrasa that morning was treated respectfully—offered tea, snacks, and chairs by the madrasa staff. The protest rally passed the compound peacefully around 1:30 p.m., and the police contingent left soon after.

However, around 4:00 p.m., approximately 200 police officers returned and attempted to forcefully enter the madrasa through its main iron gate. When unsuccessful, they went around to an adjacent building, jumped the wall, and opened the gate from inside. Police officers damaged all CCTV cameras at the entrance and then stormed into Hussaini's office, where they physically assaulted and verbally abused him.

Simultaneously, other officers began destroying property across the compound—smashing a parked car, computer systems in the administrative block, bathroom

⁴⁰ Nidhi Suresh & Sharib Ali, 'UP Police Detained 41 Children during CAA Protests, Some Were Tortured, Says Citizens' Report' (*Scroll.in*, 13 February 2020) <<https://scroll.in/article/952964/up-police-detained-41-children-during-caa-protests-some-were-tortured-says-citizens-report>> accessed 16 May 2025; Special Correspondent, 'A Month on, Police Struggle to Make Charges Stick against Anti-CAA Protesters in Muzaffarnagar' *The Hindu* (18 January 2020) <<https://www.thehindu.com/news/national/a-month-on-police-struggle-to-make-charges-stick-against-anti-cao-protesters-in-muzaffarnagar/article30595732.ece>> accessed 16 May 2025; 'Uttar Pradesh: Madrasa Inmates Say Police Beat Them, Forced Them to Chant "Jai Shri Ram"' (*The Indian Express*, 6 January 2020) <<https://indianexpress.com/article/india/muzaffarnagar-uttar-pradesh-madrasa-inmates-say-police-beat-them-forced-them-to-chant-jai-shri-ram-6201343/>> accessed 16 May 2025.

fixtures, air conditioners, ceiling fans, and window panes. Police stormed the hostel, a three-storey building, and forcibly dragged out students. Where doors were bolted from inside, latches were broken, and students were pulled out.

Hussaini was beaten in front of approximately 50 students who were lined up outside the hostel. He denied police allegations that he had encouraged student participation in protests, reiterating that he had advised them to refrain. Nevertheless, Hussaini, the students, and madrasa staff were all pushed into a police vehicle and taken to Civil Lines Police Station. The beatings continued throughout the journey and at the station, where even an eight-year-old student was assaulted.

At the station, Hussaini and the students were detained along with other arrestees and subjected to severe physical torture. Hussaini sustained a broken arm and serious injuries to his legs and body. One student suffered a severe knee injury requiring surgery. Many others sustained bone fractures. Students were subjected to anti-Muslim slurs, forced to chant "Jai Shri Ram," and students from Kargil were called "specialist stone-pelters." They were denied water to break their Friday fast.

That night, 12 students, Hussaini, and two staff members were released. Three more students were released the next day, while a case was registered against 12 of them.⁴¹ Despite being juveniles, they remained in detention for nearly two weeks—released only after their age documents were submitted to a magistrate and the illegality of their arrests was demonstrated.

Subsequently, civil society groups initiated legal challenges to this arbitrary detention and custodial torture. Senior police officials at both the district and state levels approached Hussaini and pressured him to refrain from testifying against police brutality or allowing students to do so. In exchange, they offered to release the remaining students.

Faced with this pressure and concerned for the welfare and future of the children, Hussaini submitted an affidavit in accordance with the police's request. Although this secured the students' release, the deep psychological trauma left them too afraid to return to the madrasa.

⁴¹ FIR No. 684/ 2019, was filed against them on December 21, 2019 at Civil Lines police station under Indian Penal Code 1860 (IPC) sections: 147, 148, 149 (rioting), 186, 188 (obstructing and disobeying public servant), 323 (causing hurt), 336 (endangering human life), 353 (assaulting public servant), 307 (acting with intention to cause death), 504 (provoking to disturb public peace), 427 (mischief causing damage), 120-B: (criminal conspiracy), besides CLAA 1932, Sec 7 (preventing a person from undertaking business); and Prevention of Destruction of Public Property Act 1984, Sec 2, 3 (destruction of public property).

Conclusion

The case studies presented in this report demonstrate that custodial torture is deliberately used as a tool to further and facilitate hate crimes propagated by the ruling majoritarian dispensation. Legislation that significantly infringes upon the rights of Muslims in India, coupled with police brutality, have a devastating impact on their status as equal citizens and their right to live with dignity. Innocent individuals, including juveniles, were intentionally targeted by the police, tortured, and at times killed, to send a chilling message to the larger Muslim community in the country. The lack of repercussions for such heinous crimes has only emboldened the police, often serving the interest of their political superiors.

A summary of the key findings from the case studies is set out below:

- Regardless of any signs of participation in protests, Muslim citizens including minors were targeted by authorities, on account of discriminatory mindset and practices.
- Patterns of abuse included arbitrary arrests and detention; lack of access to lawyers and other safeguards against torture during detention; inflicting torture, threats and harassment and reprisals against victims and their families; as well as punitive destruction of property. There also seems to be an abuse of judicial detention, and use of national security, counter-terrorism laws, and laws related to cow protection, as tools to target minorities.
- Victims were attacked on the streets, in transit to work, in schools/other institutions, and in their homes, creating a sense that there is nowhere they can be safe.
- Such treatment was intended to punish, intimidate, and discriminate against the minority community (clearly demonstrated by the often-discriminatory slurs/verbal abuse and humiliation, including forcing them to speak/sing Hindu chants), oppressing religious minorities and dissidents.
- Violations were mainly committed by police and prison officials, in some cases also by Hindu 'vigilante groups' with the acquiescence, complicity, or participation of officials.
- Violations went largely unpunished; political discourse and discriminatory laws facilitate or at least contribute to the discriminatory context that fuels such violence.
- Judicial oversight also failed in these cases. Many victims/survivors did not feel safe to report and found themselves in situation of vulnerability - suffering from physical and psychological impact, also socio-economic background in addition to religious identity being targeted etc).

Below are our conclusions, based on the findings from the cased studies:

Custodial torture has become a weapon used by the police especially to restrict dissent, teach so called ‘trouble makers’ a lesson, and ‘deliver quick punishment’. Cases contained in the report testify to the fact that during and after public protests by members of the Muslim community, to express dissent peacefully - against discriminatory laws or a hate speech/hate crime, or arbitrary action by authorities - a right guaranteed by the Indian Constitution, the police, especially in states ruled by the BJP, randomly picked up young Muslim men and boys, illegally detained them and inflicted brutal torture in custody.

In the case of Syed Asad Raza Hussaini and his young teenage students, despite being indoors in their institution during the public protests, they were arbitrarily detained and tortured in custody. Mohammed Muzammil, X and Y, were also arbitrarily detained and brutally tortured in custody during public protests. Muzammil was a juvenile at the time of this incident and not only was he tortured but the house he resided in, with his family, was punitively demolished, partially. Y was brutally tortured in illegal detention and had to be rescued by his family and needed extensive medical treatment.

In the India today, especially in BJP ruled states, anti-minority vigilante attacks by Hindu groups and police action, go hand in hand. It is similar to a situation of double jeopardy but outside the realms of a court. Members of the Muslim community are not only targeted by vigilantes groups in the disguise of cow protection and religious sentiments, but the acts of the vigilantes are also aided and supported by the police. These vigilante groups are local mafias, often powerful men, supported by leaders in the ranks of the BJP and organisations associated with it, including Bajrang Dal and Vishwa Hindu Parishad.⁴² Seldom are they legally charged for their heinous acts and often their acts are covered up by the police to further target the victims and survivors.

Another victim, Sheikh Hamid, was illegally detained following the incident of Hindu nationalist groups attacking Muslim community neighbourhood and mosque in Delhi. He was not only forcefully detained but subjected to brutal torture in police and judicial custody, for six months. Similar is the case of Sahib who became the target of a cow vigilante group in his village, in Haryana. He was assaulted for hours by ‘cow protection groups’ and later handed over to the police, who arrested him, detaining him for a month. Both Sheikh and Sahib require lifelong medical attention and are mentally traumatised by the brutality.

Case of Sheikh Shahadat, Saikul Khan and Rehan Shah demonstrate ‘what it means to be a Muslim in India today’. While all the cases mentioned in this report highlight the religious bias and hatred of the police and authorities, in these three cases, the victims and survivors were specifically targeted, what may seem like a routine, because of their religious identity. Sheikh was detained for inquiring the reasons from the police for abruptly stopping him while out and about in a market. He died in police custody following hours of torture. Saikul was abruptly picked up by Police in a case, he had no

⁴² <https://www.hrw.org/report/2019/02/19/violent-cow-protection-india/vigilante-groups-attack-minorities>

connection with. His family was compelled to pay a hefty bribe for his release, but not before he was tortured in custody, and later died, succumbing to his injuries. Similarly, Rehan was stopped by the police at a check post, detained and tortured to surrender to a fabricated crime of cow slaughter and trade. When his family, to seek justice, sought to initiate a case against the police officers, all of them – including ailing parents - were detained, under fabricated criminal charges, including under the draconian National Security Act.

In all case studies mentioned in this report, respondents shared their experience of hate filled religious slurs used by police officers against them, in custody. Many of them were compelled and forced to speak aloud Hindu religious chants. Rehan's case demonstrates the act of reprisal by authorities, a fear all of them mentioned as a key barrier against their pursuing the cases against police officials. With the same crime perpetrating police officers and their colleagues being the investigating agency, if the victims and survivors managed to file a complaint, they not only fear closure of that case but also remain vulnerable to future fabricated charges inflicted upon them. Most of victims and survivors come from the lowest economic strata of society and are extremely weak before the might of the police.⁴³ They have no other options but to continue to live with their traumas and pains.

The role of the judiciary in all this, stands out for its failures of omissions and commissions, as much as the police. Despite procedures and safeguards put in place – for arrests, detention, use of CCTV and against torture⁴⁴ - in statutes and judicial pronouncements, the fact of their frequent violation by police authorities, hardly finds much resistance from magistrates and the judiciary in general, as case studies in this report demonstrate. Judicial oversight in India, based on evidence presented in this report, seems to be a chimera!

The procedures of arrest, medical check-ups, warrants, memos, seizure reports, logs, and records, to be maintained by the police all, come across as mere formalities that police engage in to keep their record right. In none of the cases mentioned in this report, did the authorities abide by the obligations. Victims and survivors and their family members, in cases like Shahadat's where they constantly knocked on police's doors for information, were denied any information. In this case, where the family had pushed for justice and pursued the legal path, even after months of trying to access judicial redress, basic details and documents like the postmortem report and medical reports were not made available to them. With regard to the latest CCTV judgement of the Supreme Court, as reflected in this case, the police took the plea in court that the footage was lost. Judges imposed no consequence on them.

Judicial magistrates have the basic responsibility to foresee and enforce procedures and protect those accused and detained by the police. However, the cases in this report testify to the fact that the judiciary failed to act on its duty. Worse, in all cases of torture presented here, between arrest and production before the magistrate, the judicial

⁴³ <https://www.omct.org/en/resources/urgent-interventions/around-the-world-poverty-and-discrimination-fuel-torture-and-other-forms-of-violence>

⁴⁴ <https://theleaflet.in/remarkable-judgment-that-reclaims-human-rights-by-use-of-cctv-in-interrogation/>

magistrates failed to examine if custodial torture had taken place. Magistrates are duty bound to ensure detainees have not been subjected to torture. To make it worse, the magistrates, in the cases mentioned here, granted police further custody in some cases, opening the doors for further torture, and like in Shahadat's case resulting in his death. In Saikul's case, the police officials accused of torturing and murdering him, was just called out as 'a repeat offender'.

Custodial torture continues to be a harsh reality in India and over the recent years it is increasingly been used as a tool by the police to target marginalised communities, especially Muslims. Lack of political will to ratify UNCAT and enact a legislation to prohibit and criminalise torture, and the indifference of the judiciary, has only aggravated the situation. Indian civil society has been advocating and demanding UNCAT ratification and legislation adhering to the international law on torture. Rather than enable a change among decision makers, the situation seems to be getting worse, especially for some groups.

The preamble of the Indian Constitution clearly starts with the promise of justice and individual dignity. However, the Indian Constitution does not expressly contain a right to be free from torture, but is only implied in the guarantee of right to life. The Supreme Court in the DK Basu case has defined torture as naked violation of individual dignity.⁴⁵ This violation of individual dignity either by State or non-State actors amounts to torture.

India had expressed reservation about granting compensation to victims of torture, as provided under the ICCPR. As early as 1997, the Supreme Court had stated that the very existence of the ICCPR implies that compensation must be aligned with the fundamental rights outlined in the Indian constitution. However, courts have read these provisions inconsistently, often leading to long delays and significant costs for the victims of custodial torture and death, as well as their families. In Indian statutes, there indeed are provisions and powers to address custodial torture and death, but they fall under general provisions (related to other ordinary offences, and not torture) and often depend on the discretion of the courts. These inconsistencies highlight the urgent need for dedicated legislation on torture.

There is also a pre-condition for prosecuting an official. Section 197 (1) of CrPC⁴⁶ provides immunity to public servants by requiring prior permission or sanction from the government for their prosecution. The Supreme Court has interpreted this provision as a means to protect government servants from false and frivolous charges, often overlooking the harsh realities faced by victims.⁴⁷ And neither the criminal nor the administrative processes incorporate command responsibility. Therefore, a legislation that clearly prohibits and criminalises torture can significantly benefit the victims and survivors of torture and ensure perpetrators are held accountable and appropriately punished.

⁴⁵ <https://cjp.org.in/revisiting-dk-basu-the-most-relevant-judgment-of-all-time/>

⁴⁶ <https://indiankanoon.org/doc/12704/>

⁴⁷ <https://www.livelaw.in/top-stories/supreme-court-public-servant-discharge-of-official-duties-existing-policy-previous-sanction-requirement-230809>

In cases of custodial torture and deaths, the absence of independent investigative mechanisms renders the existing methods for addressing these violations, unreliable in practice. Unfortunately, the processes and results established by the NHRC, which has mandatory guidelines for dealing with custodial deaths, have proven to be ineffective, failing to provide redressal for victims and to hold perpetrators accountable.⁴⁸ The established processes have become mere bureaucratic exercises; when a custodial death is reported, it is simply recorded by the NHRC. Compensation has only been recommended in rare cases of custodial torture, and the idea of prosecuting the responsible officials remains only distant possibility for this institution.

In reality, many of the measures/procedures in domestic law, described above in the Introduction to this report, are not implemented in practice, allowing the police to act in their own interest, bolstered by a sense of impunity. As evidenced by the case studies in this report as well as other documentation on torture, it has become routine for investigating agencies to create paper trails and documentation to demonstrate a semblance of compliance with existing procedures and laws, without any regard for substance. Further, the lack of scrutiny and sensitivity from judicial officers / magistrates has significantly enabled the police to operate unchecked. The significant power imbalance between authorities and ordinary citizens, in Indian society - particularly affecting marginalised communities such as Muslim victims – has further contributed to the widespread prevalence of torture in India.

India continues to be one of the rare established democracies not to have ratified the UNCAT.⁴⁹ Indian civil society and international NGOs have raised concerns among a wide range of individuals and institutions about the prevalence of custodial torture and deaths in India. Numerous recommendations to address this have been made during India's UPRs, along with statements and communications by UN experts, and further concerns raised in the UN HRCs.⁵⁰ However, India has largely ignored any domestic and international calls to ratify UNCAT and has avoided ratification so far. Ratification of the UNCAT will, to a certain extent, compel the Indian state to recognise and criminalise custodial torture and provide opportunities for victims and survivors to seek justice and redress in the courts of law. Oversight and scrutiny of police practices is an essential for a rule of law society. Allowing the police to operate with 'a free hand' can lead to potential abuses of power and misconduct. This is why it becomes even more important to follow international standards which aim to prevent such abuses and torture.

This report has been an attempt to bring to the forefront, concerns on custodial torture and deaths through specific case details – to demonstrate the dynamics, drivers and consequences of these gruesome acts. The report has sought to highlight the prevalence of custodial torture and deaths in India, specifically used as a tool by the police to target Muslim minorities. It serves to share the lived experiences and impact on survivors, victims' families, and communities.

⁴⁸ <https://thewire.in/rights/custodial-death-judicial-inquiry-crpc>

⁴⁹ <https://cjp.org.in/why-has-india-still-not-ratified-un-convention-against-torture/>

⁵⁰ <https://www.omct.org/en/resources/statements/india-serious-concerns-raised-at-un-rights-review>

It is hoped that this report, will rekindle conversation on torture in India, and why it must be challenged – through laws and procedures, but also through changed practices, norms and cultures, and change in mindsets, including societal.

Recommendations

To the Government of India

- Ratify the UNCAT and its Optional Protocol.
- Recognise the competence of the Committee against Torture to receive communications under Article 22 of the UNCAT.
- Establish a domestic legislation, in conformity with the UNCAT, to prohibit and criminalise torture and ill-treatment.
- Institute mechanisms to receive complaints and independently investigate cases of custodial torture and ill-treatment.
- Ensure effective implementation of the existing legal framework, also established by the Supreme Court on numerous occasions, in all cases of custodial torture and deaths.
- Recommend that the NHRC initiates a nation-wide public hearing on custodial torture and creating safe avenue for victims and survivors and their representatives to confidentially depose.
- Recommend that the National Human Rights Commission collate disaggregated data and cases of custodial torture and death, making available on its website updated information on the number, scope and nature of cases of custodial torture and death it has intervened and continues to intervene, status of all these cases and outcome of NHRC intervention.
- Recommend that the NHRC makes available to victims and their families and representatives all information regarding the investigation of their cases, including status of investigation, details of interim and final recommendations and copies of orders.
- Issue an invitation for a country-visit and proactively engage with the UN Special Rapporteur on Torture.

To the UN and the international community

- Continue to engage with the Government of India to ratify the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.
- Consider raising specific instances of concerns on torture and custodial deaths in bilateral and other diplomatic engagements with the Government of India.
- Develop and allow safe spaces for victims, survivors and their representatives, and NGOs working with them, to submit on specific cases of custodial torture and deaths.
- Consider engaging with the Global Alliance of National Human Rights Institutions on prioritising engagements on prohibition of custodial torture and deaths and encouraging them to develop country-wise periodic reporting on the same.

To civil society actors

- Continue to intervene in cases of custodial torture and deaths and providing legal, medical, and psycho-social support to victims, survivors, and their families.
- Take measures to develop and strengthen collective engagements on individual instances of custodial torture and deaths, and at broader levels to advocate for the ratification of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and a domestic legislation prohibiting and criminalising torture and ill-treatment.
- Consider undertaking a joint research exercise towards creating evidence based periodic and thematic reports on custodial torture and deaths.

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