Human rights are those rights that individuals have by virtue of their existence as human beings. Human rights can be defined as: “Those rights, which are inherent in our nature and without which we cannot live as human beings”. The expression ‘Human Rights’ is introduced in the United States ‘Declaration of Independence’ in 1776 and United States Constitution embodied a ‘Bill of Rights’. In 1789, the French Declaration of Bill of ‘Rights of Man’ gave birth to new ideas as, ‘equality before law’, ‘freedom from arrest except in conformity with law’, ‘protection against retrospective operation of law’, ‘presumption of innocence’, ‘freedom of opinion’, ‘freedom of religion’ and other such concepts. In the 19th Century these rights became the basic principles of the Constitutional law of the modern civilized States.

‘Right to life’ is a primordial right, which one should possess in order to enjoy other rights. Right to life, liberty and security of person as a basic human right finds significant place in various international instruments on human rights such as, the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). India being a member of United Nations signed the Universal Declaration of Human Rights in 1948 and ratified the International Covenant on Civil and Political Rights in 1979 thereby became obliged to protect and promote the human rights. Article 21 of the Constitution of India in tune with the object of Article 3 of the Universal Declaration of Human Rights (1948) and Article 6 of the International Covenant on Civil and Political Rights provides that ‘no person shall be deprived of his life and personal liberty except according to procedure established by law’.

Maneka Gandhi’s case paved the way for realizing new vistas of personal freedoms like right to speedy trial, right to bail, right to appeal, right to humane treatment inside prison, right against torture and right to compensation. It is well settled rule that the restrictions imposed on a person under custody have the sanction of law by which his enjoyment of Fundamental Rights is curtailed, but his basic human rights are not crippled. However, the worst violation of human rights take place during the course of investigation, when the police with a view to secure evidence or confession often resort to third degree methods including torture and adopt techniques of screening arrest by either not recording the arrest or describing the deprivation of liberty merely as a prolonged interrogation.
Custodial torture is universally held as one of the cruellest forms of human rights abuse. The Constitution of India, the Supreme Court, the National Human Rights Commission (NHRC) and the United Nations forbid it. But the police across the country defy instructions issued by these institutions. Therefore, there is a need to strike a balance between the individual human rights and societal interests in combating crime by using a realistic approach. Thus, keeping in view the above aspects, the present study has focussed on the following objectives:

— To study and analyze extensively the prevalent practice of custodial torture in India by law enforcing agencies, its various forms and the reasons behind it.

— To examine the various International Conventions, Constitutional and Legislative provisions in India concerning the issue so as to assess the implementation of universally accepted international norms for treatment of offenders in the Indian legal system.

— To examine the legal framework in USA, UK and Canada on the issue so as to make a comparative study.

— To assess the role of judiciary, Human Rights Commissions and NGOs in prevention of custodial torture.

— To examine the state liability for custodial torture committed by the law enforcing agencies.

— To point out lacunae in law and suggest appropriate amendments to plug loopholes and make the law more effective.

Keeping in view, the above mentioned objectives of the study, the present study has been organized in seven chapters. An overview of each chapter is as follows:

Chapter 1: Introduction, highlights the idea of evolution of ‘Human Rights’ in India from the ancient times to modern day world with the special reference to Indian Police and its historical prospective in the context of human rights violations. Then torture is defined with reference to the definitions given by United Nations Convention, Torture Commission of India, 1884, Amnesty International, Supreme Court of India and various renowned authors. After that historical background of custodial torture prevailing in India and abroad is discussed along with the methods of torture used by the police and law enforcement agencies.
Chapter 2: *International Conventions on Custodial Torture*, discusses various United Nations instruments containing torture prohibiting clauses such as Universal Declaration of Human Rights (1948), the Geneva Conventions (1949), the International Covenant on Civil and Political Rights (1966) and United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). Further, an insight into Regional Conventions and International Tribunals relating torture is also presented.

Chapter 3: *Custodial Torture: Constitutional and Legislative Provisions in India*, highlights various Articles/Sections related to custodial torture under Constitution of India, Indian Penal Code, Criminal Procedure Code and Indian Evidence Act along with the various immunities available to law enforcement agencies. Then a critical study is done on Prevention of Torture Bill, 2010.

In Chapter 4: *Law Relating to Torture in USA, UK and Canada*, the response of United States, United Kingdom and Canada towards various Conventions and agreements adopted by United Nations against torture is presented.

Chapter 5: *Role of Judiciary, Human Rights Commissions and NGOs in tackling Custodial Torture*, focusses on discussion of significant role played by Indian Judiciary in evolving prison jurisprudence in India taking into consideration a number of cases where Courts have taken stringent action against police officers indulging in torture. National Human Rights Commission (NHRC) also plays an important role in curbing custodial torture. So, this chapter discusses functions, powers, restrictions on power, the procedure of investigation and recommendations made by NHRC. Non Governmental Organisations (NGOs) raise their voice and do benign jobs to curb custodial torture. The awareness created by NGOs and their campaigns against torture and recourse to judicial remedies have been assessed in this chapter.

Chapter 6: *State Liability for Custodial Torture*, discusses the very first question ‘What is State Liability’ keeping in view the historical background of liability of State in India related to torture. After that, provisions under the Indian Legal System for grant of compensation to the victims of custodial torture are elaborated and various important judgements by Supreme Court/ High Courts related to State Liability have been explored.

The general conclusions derived from the present work have been presented in Chapter 7: *Conclusion and Suggestions*. Further, suggestions to curb custodial torture are also presented.

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