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## CUSTODIAL DEATH IN INDIA: MISUSE OF POWER

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### ABSTRACT

A panel of judges, "S.S. Nijjar and F. M. Kalifulla" were displeased when "amicus curiae"<sup>1</sup>, "A. M. Singhvi" filed a request for the implementation of 15 additional recommendations to curb custodial excesses, which between 2007 and 2012 resulted in the deaths of 11,820 people and 3,532 incidents of documented custody torture. After learning that nearly 12,000 people died in jails or police stations over the course of the last five years, the Supreme Court examined a number of gravely inefficient implemented directives to reduce custodial deaths and requested an explanation from the federal government and the states. This is the most severe form of violation of human rights that affects people of all sexes and ages.

This article's major goal is to raise awareness of the effects of custodial death on human existence as a whole and to demonstrate that everyone has the right to survive. The main objective of this article is to analyse the recent cases of custodial deaths in India, what protection does law provide for the custodial the increasing custodial deaths in India and the Constitutional provisions, basic fundamental rights dealing with the custodial death in India. After a brief analysis, it was discovered that there are 4448 cases that are reported in custodial deaths alone in India between 2020-2022<sup>2</sup> just because of the torture and violence of the police authorities.

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<sup>1</sup> amicus curiae | law | Britannica, <https://www.britannica.com/topic/amicus-curiae>.

<sup>2</sup> 4,448 Reported Cases Of Custodial Deaths In India Between 2020-2022, UP Accounts For 952, <https://www.indiatimes.com/news/india/4448-reported-cases-of-custodial-deaths-in-india-between-2020-2022-up-accounts-for-952-575787.html>.

## INTRODUCTION

The idea of custodial death is not new, particularly in India where it has been used ever since the British held the country's sovereignty. Over the previous four to five years, police brutality and violence have increased significantly. It reveals a lack of legislative mechanisms in our court system to hold law enforcement officials accountable for adopting cruel tactics and engaging in torture while claiming that they were only doing their jobs. Authorities should be instructed to use acceptable amount of force in order to prevent incidents when police brutality leaves the accused with serious injuries<sup>3</sup>. Violence in prisons and jails is also influenced by the impression that the accused has been given by the media<sup>4</sup>. The new mechanism "Black Lives Matter"<sup>5</sup> was inspired by the US police violence that led to "George Floyd's" murder<sup>6</sup>. Public outrage over the deaths of **Jayaraj and Bennix**<sup>7</sup> while in Tamil Nadu's custody led to calls for an effective system to stop police torture. The lack of an "anti-torture" statute in India<sup>8</sup> was brought to light by these instances, and calls have been made for legislation to be put in place to stop this kind of thing from happening again.

## OBJECTIVES OF THIS ARTICLE

1. To have a detailed analysis of custodial deaths, its types and laws related to it.
2. Discuss the some cases of custodial deaths that have been occurred in India.
3. What are the measures that should be taken to prevent or reduce the cases of custodial deaths in India?

## WHAT IS CUSTODIAL DEATH?

An accused person dies while in custody, either before a trial or after being found guilty. Police misconduct while in prison, whether direct or indirect, is to blame for the death. It also includes deaths that occur on hospital grounds, on privately owned land, or even in cars like authorities

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<sup>3</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials | OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement>.

<sup>4</sup> A Vital Role Played by the Media in Custodial Death : Voice of Margin, <https://www.voiceofmargin.com/a-vital-role-played-by-the-media-in-custodial-death/>.

<sup>5</sup> The Black Lives Matter movement explained | World Economic Forum, <https://www.weforum.org/agenda/2016/08/black-lives-matter-movement-explained/>.

<sup>6</sup> How George Floyd Was Killed in Police Custody - The New York Times, <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

<sup>7</sup> Jayaraj-Bennix case: Supreme Court refuses bail to two cops | Chennai News - Times of India, <https://timesofindia.indiatimes.com/city/chennai/jayaraj-bennix-case-supreme-court-refuses-bail-to-two-cops/articleshow/86030217.cms>.

<sup>8</sup> Anti-Torture Laws in India | ProBono India, <http://www.probono-india.in/blog-detail.php?id=103>.

or other vehicles, in addition to those that occur in jails<sup>9</sup>.

One of the most severe types of human rights violations is considered to be violence committed while in a person's custody. The Constitution of Indian guarantees everyone's right to life and liberty, and it is forbidden to torture an accused individual while they are being kept in a detention facility<sup>10</sup>. According to The Indian Constitution, inmates in police and judicial detention facilities must be kept safe<sup>11</sup>. However, authorities like the police violate these legal protections and engage in acts of torture and physical abuse while in custody.

### **THE POLICE CUSTODY**

Police custody is the term used to describe the process by which a suspect in a crime is taken into custody by a police officer and transported to the police station. When a person is in police custody, they are only kept at the police station for a maximum of 24 hours and are interrogated by the officer in charge during that time. Within 24 hours of custody, police officers must bring the defendant before the judge<sup>12</sup>.

### **THE JUDICIAL CUSTODY**

In contrast to police detention, which involves the guilty being held in the officers' actual physical custody, judicial custody entrusts the accused to the local magistrate. Keeping the guilty in prison is what is meant by judicial custody, as opposed to police custody, which also entails holding the accused in custody. "The investigating police officer" is not allowed to interview the defendant while in judicial custody unless court decides that the data submitted to the court backs up the police officer's assertion<sup>13</sup>.

### **COURT REMAND AND CUSTODY IN INDIA UNDER CrPC**

Regarding judicial remand and custody of a person, the CrPC contains specific provisions. A

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<sup>9</sup> Custodial death Definition | Law Insider, <https://www.lawinsider.com/dictionary/custodial-death>.

<sup>10</sup> Article 21 of the Constitution of India: Understanding Right to Life and Personal Liberty from Case Laws - Academike, <https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/>.

<sup>11</sup> Article 22 in The Constitution Of India 1949, <https://indiankanon.org/doc/581566/>.

<sup>12</sup> Procedure To Be Followed By An Investigating Officer When Investigation Cannot Be Completed Within 24 Hours, <https://www.legalserviceindia.com/legal/article-4623-procedure-to-be-followed-by-an-investigating-officer-when-investigation-cannot-be-completed-within-24-hours.html>.

<sup>13</sup> Judicial custody vs police custody - iPleaders, <https://blog.iplayers.in/judicial-custody-vs-police-custody/>.

police officer is not permitted to hold someone in custody for more than 24 hours<sup>14</sup> in accordance with Section 57 of the CrPC<sup>15</sup>. According to "Section 167 of the CrPC", the officer must ask for "Special permission from the magistrate"<sup>16</sup> if a circumstance arise that necessitate holding a suspect for a period of time longer than 24 hours<sup>17</sup>. Remand or pre-trial custody are terms used to describe section 57. The court has the authority to remand custody of an accused person under Sections 167(2)<sup>18</sup>, 209(b)<sup>19</sup>, and 309(2)<sup>20</sup> of CrPC. At various times throughout a criminal trial, all three parts are created. Remand under "Section 167(2)<sup>21</sup> of the Criminal Procedure Code" is a legal option that is used to pursue an investigation that has just begun. This option can be used for either police or court custody. When a magistrate resides a case, he or she may detain the accused until the final decision of the trial is been declared, by using the remand provisions of Section 209(b)<sup>22</sup> of the CrPC. After cognizance, the subject may only be taken to judicial custody, according to Section 309(2)<sup>23</sup>. In order to safeguard the suspect from any wrongful acts that a police officer could perform, the detention time is not prolonged for more than 24 hours. A Judicial Magistrate must be notified of the accusation if the investigation could not be finished in 24 hours. The judicial magistrate cannot grant more than 15 days' worth of remand as in the case *Chaganti Satyanarayan & Ors V. State of Andhra Pradesh*<sup>24</sup>. Section 167(2) permits the magistrate to remand a defendant for a maximum of 60 days for offences that do not carry a sentence of death, life in prison, or 10 years in jail. For offences carrying a life sentence, the death penalty, or at least ten years in prison, the magistrate may remand a defendant into "Judicial custody for a maximum of 90 days". The suspect must be freed on bail if the maximum period of custody is surpassed<sup>25</sup>.

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<sup>14</sup> Central Bureau Of Investigation v. Kishore Singh And Others | Supreme Court Of India | Judgment | Law | CaseMine, <https://www.casemine.com/judgement/in/5609aedae4b0149711414e35>.

<sup>15</sup> Section 57 in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/571025/>.

<sup>16</sup> Section 167 in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/1687975/>.

<sup>17</sup> Union Of India v. Thamisharasi And Others | Supreme Court Of India | Judgment | Law | CaseMine, <https://www.casemine.com/judgement/in/5609acdae4b014971140fd6c>.

<sup>18</sup> Section 167(2) in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/839149/>.

<sup>19</sup> Section 209(b) in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/1992060/>.

<sup>20</sup> Section 309(2) in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/152094/>.

<sup>21</sup> Section 167(2) in The Code Of Criminal Procedure, 1973, *supra* note 18.

<sup>22</sup> Section 209(b) in The Code Of Criminal Procedure, 1973, *supra* note 19.

<sup>23</sup> Section 309(2) in The Code Of Criminal Procedure, 1973, *supra* note 20.

<sup>24</sup> Chaganti Satyanarayan & Ors vs State Of Andhra Pradesh on 8 May, 1986, <https://indiankanoon.org/docfragment/1615412/?formInput=what is 15 days remand>.

<sup>25</sup> Police Remand & Judicial Remand - Procedure & Criminal Law In India - Crime - India, <https://www.mondaq.com/india/crime/1061848/police-remand-judicial-remand--procedure-criminal-law-in-india>.

## VIOLATION OF RULE OF LAW

Custodial deaths brought on by police abuse and brutality are against the core principles of the Indian Constitution, which in turn breaches a number of fundamental rights protected by Constitution of India.

- Article 20 (1)<sup>26</sup>, prohibits the conviction of anybody for any crime other than those that violate the law in force at the time the act was committed. As a result, this legislation forbids imposing penalty that goes beyond what is allowed under the statute that governs the offence.
- Article 20(3)<sup>27</sup> states that no one may be made to testify against themselves. It is a very useful rule since it prevents the accused from confessing when they are forced or tortured into doing so. Police are allowed to question suspects in “Section 161 of the Code of Criminal Procedure”<sup>28</sup>, but if they employ pressure to get information from a suspect during an investigation, it is considered compelled testimony. Forced testimony is not taken into consideration since it violates Article 20(3).
- Section 163 of the 1973 Code of Criminal Procedure<sup>29</sup>, prevents any examining officer from using a warning or any other incentive to get the defendant to confess so that it might be used against him in court.
- According to Section 24 of the Indian Evidence Act of 1872<sup>30</sup>, no confessions made by the accused under duress or under the influence of threats, promises, or coercion from law enforcement are acceptable in court. This section's main goal is to stop the accused from making forced confessions.
- According to Section 164(4) of CrPC, 1973<sup>31</sup>, confessions must be properly signed and recorded, and the Magistrate's support that the confession was given willingly should be used as further evidence.
- Section 348 of IPC, 1860<sup>32</sup> states that, which addresses unjust incarceration, forbids using this type of confinement to force confessions. A fine and up to three years in jail are possible penalties for the crime of wrongful confinement.

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<sup>26</sup> Article 20(1) in The Constitution Of India 1949, <https://indiankanoon.org/doc/1501707/>.

<sup>27</sup> Article 20(3) in The Constitution Of India 1949, <https://indiankanoon.org/doc/366712/>.

<sup>28</sup> Section 161 in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/447673/>.

<sup>29</sup> Section 163 in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/1184284/>.

<sup>30</sup> Section 24 in The Indian Evidence Act, 1872, <https://indiankanoon.org/doc/967059/>.

<sup>31</sup> Section 164(4) in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/91322/>.

<sup>32</sup> Section 348 in The Indian Penal Code, <https://indiankanoon.org/doc/792272/>.

- Section 25 Indian Evidence Act, 1872<sup>33</sup>, The accused are shielded from the investigating authorities under Section 25. According to Section 25, a confession made in front of a police officer cannot be used as evidence against him. In situations where a custody declaration would reveal a new fact, Section 27<sup>34</sup> offers a narrow exemption.
- According to Section 26 of the Indian Evidence Act, 1872<sup>35</sup> any confession made while a person is being held without a magistrate is not admissible in court.
- According to this Section 46 of CrPC, 1973<sup>36</sup> a suspect cannot be beaten to death if they are not charged with a crime that carries a death sentence or a life sentence.
- Section 49 of Code of Criminal Procedure, 1973<sup>37</sup>, According to Section 49 of the CrPC, unnecessary restraint is prohibited. The accused must not be restrained any more than is necessary to stop him or her from escaping.

## CASES ON CUSTODIAL DEATH

### 1. CUSTODIAL DEATH OF VIGNESH

During a vehicle inspection on April 18, 2022, police caught Vignesh and Suresh, found liquor bottles, and marijuana inside. The police officers brought Vignesh and Suresh to “The Secretariat Colony police station”. The medical personnel stated Vignesh’s dead the day after he was taken into custody. "A police constable, a sub-inspector, and a member of the Home Guards" were fired as part of the investigation into the unsolved killing. The case was then diverted to “The Chennai Police Crime Branch-Crime Investigative Department” in response to a significant uproar against the escalating incidents of custodial death. Following an investigation, the department detained six police officers who were connected to the victim's death in custody. The District Magistrate ordered the individuals responsible for the terrible incident to remain in judicial detention. The SC/ST Atrocities Act and Section 302 of the Indian Penal Code were been used to charge the offenders<sup>38</sup>.

The postmortem report, which showed that the 25-year-old victim had numerous fractures and wounds over his body in addition to numerous bruises (especially on his head), led to the

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<sup>33</sup> Section 25 in The Indian Evidence Act, 1872, <https://indiankanoon.org/doc/494844/>.

<sup>34</sup> Deoman Upadhyaya vs State on 24 August, 1959, <https://indiankanoon.org/doc/438019/>.

<sup>35</sup> Section 26 in The Indian Evidence Act, 1872, <https://indiankanoon.org/doc/387768/>.

<sup>36</sup> Section 46 in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/706971/>.

<sup>37</sup> Section 49 in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/129574/>.

<sup>38</sup> Tamil Nadu: Six policemen arrested in connection with custodial death of Vignesh | Cities News, The Indian Express, <https://indianexpress.com/article/cities/chennai/tamil-nadu-6-policemen-held-vignesh-custodial-death-7905861/>.

authorities being held. Deep muscular damage, edoema, contusions, and arm injuries were all extremely obvious.

**2. “JOGINDER KUMAR V. STATE OF U.P AND OTHERS, 1994 AIR 1349, 1994 SCC (4) 260”**

In this precedent-setting decision, the Court declared that the rights protected by "Articles 21 and 22(1) of the Constitution" should be acknowledged and preserved. The Court enacted a few guidelines to ensure the protection of these rights. The officer should explain the arrested person's rights when bringing them to the police station. The registry must have a record of who received information on the arrest of the accused and who informed them<sup>39</sup>.

**“Articles 21 and 22(1) should be strictly recognised and enforced”.**

If all conditions are met and followed by the police authority, The Magistrate will determine it. The verdict is crucial because it provides a strategy for protecting the person's individual fundamental rights as well as the basic fundamental human rights.

**3. “YASHWANT AND OTHERS V. STATE OF MAHARASTRA, AIR 1973 SC 337”**

The High Court of Bombay condemned nine Maharashtra police officers to three years in prison after they were found guilty of causing a death in custody in 1993. The Supreme Court agreed with the high court's ruling which stated an increase in the punishment sentence from three years to seven years each. The tragic occurrence involving the police, according to “Justice N.V. Ramana and MM Shantanagoudar”, undermines public trust in the criminal justice system. The court determined that the authorities engaged in the incident were guilty of violating Section 330 of the Indian Penal Code<sup>40</sup> by intentionally inflicting harm on the victim in order to coerce a confession<sup>41</sup>.

The nature of the offence committed in the prevailing instance makes the prolongation of the sentence wholly acceptable. The Constitution's due process provisions must be followed by law enforcement organisations at all times. The verdict sets “a Precedent” that the court won't take into consideration any instances involving violations of human rights because the Supreme Court not only postponed the punishment but also lengthened the period.

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<sup>39</sup> Joginder Kumar v. State of U.P. | Lexpeeps, <https://lexpeeps.in/joginder-kumar-v-state-of-u-p/>.

<sup>40</sup> Section 330 in The Indian Penal Code, <https://indiankanon.org/doc/2858386/>.

<sup>41</sup> Yashwant and Others v. State of Maharashtra | Lexpeeps, <https://lexpeeps.in/yashwant-and-others-v-state-of-maharashtra/>.

## INDIAN LAWS THAT PUNISH THE CRIME OF CUSTODIAL DEATH

Due to the exponential increase of custody deaths in recent years, new, strict rules are required to address the problem. However, the Constitution has some legal measures that punish the crime of custodial death.

- According to Section 302 of IPC<sup>42</sup>, A police officer would be prosecuted with murder and subject to punishment under Section 302 of the IPC if the suspect dies while they are in their custody.
- According to Section 304 of IPC<sup>43</sup>, The police officer may be penalised for "culpable homicide not amounting to murder". If the police officer's carelessness led to the custodial death, Section 304A may also be used.
- Section 306 of Indian Penal Code<sup>44</sup>: <sup>45</sup>The sanctions for aiding suicide are covered under this section of the IPC. Police officers are prosecuted under section 306 of the IPC if it is proving the suspect's suicide while they were in custody and if the cop encouraged the suicide.
- According to Section 330 of the Indian Penal Code, police officials frequently use violence and torture to coerce confessions, seriously injuring the accused in the process. The IPC's Section 330 addresses the penalty for intentionally inflicting harm.
- According to Section 331 of the Indian Penal Code<sup>46</sup>, if a police officer intentionally causes serious injury to an accused person while they are in custody, they will be punished.
- Section 176(1) of CrPC<sup>47</sup>, states that when a person passes away while in detention, Section 176(1) gives a magistrate the authority to order a cause-of-death investigation. According to this section, depending on the jurisdiction where the crime was committed, an investigation will be opened and a hearing will be held by either the "Metropolitan Magistrate or Judicial Magistrate" if a person dies, vanishes, or is raped while the accused is in custody.

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<sup>42</sup> Section 302 in The Indian Penal Code, <https://indiankanoon.org/doc/1560742/>.

<sup>43</sup> Section 304 in The Indian Penal Code, <https://indiankanoon.org/doc/409589/>.

<sup>44</sup> Section 306 in The Indian Penal Code, <https://indiankanoon.org/doc/92983/>.

<sup>45</sup> Section 330 in The Indian Penal Code, <https://indiankanoon.org/doc/2858386/>.

<sup>46</sup> Section 331 in The Indian Penal Code, <https://indiankanoon.org/doc/1135572/>.

<sup>47</sup> Section 176(1) in The Code Of Criminal Procedure, 1973, <https://indiankanoon.org/doc/1365663/>.



**“STATISTICS OF CUSTODIAL DEATHS IN INDIA FROM 2018-28.02.2022<sup>48</sup>**

S. No.	State/UT Name	2018-2019		2019-2020		2020-2021		2021-2022(28.2.2022 )	
		Police	Judicial	Police	Judicial	Police	Judicial	Police	Judicial
1	Andhra Pradesh	5	43	3	26	3	47	1	46
2	Arunachal Pradesh	2	6	0	2	1	2	0	2
3	Assam	5	30	2	32	1	18	8	13
4	Bihar	5	114	5	105	3	156	17	197
5	Chhattisgarh	3	55	3	56	3	64	2	84
6	Goa	0	3	0	2	0	1	1	5
7	Gujarat	13	67	12	53	17	82	21	96
8	Haryana	7	65	3	74	3	46	4	96
9	Himachal Pradesh	1	15	4	7	0	8	0	7
10	Jharkhand	3	64	2	43	5	49	4	72
11	Karnataka	7	1	4	4	5	3	7	2
12	Kerala	3	33	2	27	1	34	4	37
13	Madhya Pradesh	12	143	14	143	8	155	8	176
14	Maharashtra	11	149	3	91	13	130	29	154
15	Manipur	3	0	2	1	0	1	1	0

<sup>48</sup> Over 2,150 cases of deaths in judicial custody in 2021-22: Govt - India News, <https://www.indiatoday.in/india/story/over-2150-cases-of-deaths-in-judicial-custody-govt-1928310-2022-03-23>.

16	Meghalaya	0	3	1	4	2	5	2	8
17	Mizoram	1	4	1	0	0	3	1	3
18	Nagaland	0	0	0	5	0	2	1	6
19	Odisha	4	61	6	59	4	89	2	60
20	Punjab	5	117	6	93	2	70	6	133
21	Rajasthan	8	74	5	79	3	71	11	73
22	Sikkim	0	3	0	0	0	4	1	1
23	Tamil Nadu	11	89	12	57	2	61	4	93
24	Telangana	0	9	0	21	1	22	4	21
25	Tripura	0	5	1	6	0	1	1	3
26	Uttar Pradesh	12	452	3	400	8	443	8	443
27	Uttarakhand	2	18	1	24	1	46	2	23
28	West Bengal	5	115	7	115	8	177	3	221
29	Andaman and Nicobar	0	1	1	0	0	0	0	1
30	Chandigarh	0	4	0	2	0	2	0	1
31	Dadra and Nagar Haveli and Daman and Diu	0	1	0	0	0	0	0	0
32	Delhi	8	44	9	47	4	41	1	60
33	Jammu & Kashmir	0	8	0	5	2	7	1	14

34	Ladakh	0	0	0	0	0	0	0	0
35	Lakshadweep	0	0	0	0	0	0	0	0
36	Puducherry	0	1	0	1	0	0	0	1
	Total	136	1797	112	1584	100	1840	155	2152”

## NHRC ROLE

Founded on October 12<sup>th</sup>, 1993, "The National Human Rights Commission". "The Protection of Human Rights Act", 1993 contains the legislation governing the NHRC<sup>49</sup>. The NHRC supports "The Paris Principles decided upon in Paris in October 1991" during the first worldwide workshop devoted to the defence and advancement of human rights<sup>50</sup>.

The Board established certain instructions to the law enforcement authorities after quickly realising that wrongful death in custody is a serious issue. It is now necessary to report deaths that occur in police and correctional facilities. "The District Magistrate and Superintendent of Police" must notify the Commission of any such deaths within 24 hours of the event<sup>51</sup>. In addition, it became necessary to film the post-mortem. By adopting preventive steps, the Commission has been instrumental in reducing certain deaths that occur while a person is in custody. The NHRC reported 31,845 occurrences of custody deaths between 1993 and 2016, according to a Transparency International study published in 2019<sup>52</sup>.

## REMEDIES TO STOP FATALITIES IN CUSTODY

The troubling statistics for fatalities in custody highlight India's deplorable law and order situation. It is regrettable when people lose their right to life as a result of police abuse and

<sup>49</sup> About the Organisation | National Human Rights Commission India, <https://nhrc.nic.in/about-us/about-the-Organisation>.

<sup>50</sup> NHRC : OFFICE OF THE NATIONAL HUMAN RIGHTS COMMISSION OF THAILAND - OFFICE OF THE NATIONAL HUMAN RIGHTS COMMISSION OF THAILAND, <https://www.nhrc.or.th/Human-Rights-Knowledge/International-Human-Rights-Affairs/Paris-Principles.aspx?lang=en-US>.

<sup>51</sup> NHRC issues fresh guidelines regarding intimation of Custodial Death | National Human Rights Commission India, <https://nhrc.nic.in/press-release/nhrc-issues-fresh-guidelines-regarding-intimation-custodial-death>.

<sup>52</sup> NHRC recorded 31,845 custodial-death cases between 1993 and 2016: Report | Business Standard News, [https://www.business-standard.com/article/pti-stories/nhrc-recorded-31-845-cases-of-custodial-death-between-1993-2016-report-119121001554\\_1.html](https://www.business-standard.com/article/pti-stories/nhrc-recorded-31-845-cases-of-custodial-death-between-1993-2016-report-119121001554_1.html).

brutality. The reality that the police officers who use violence and torture constitute an even worse situation. Lack of proof against authorities for causing a death while in custody is a helpless situation because they are in command of all the records and evidence, making it impossible to penalise the staff. However, there are certain actions that may be taken to stop custodial fatalities.

First, the landmark decision "D.K. Basu v. State of West Bengal, 1996" and its eleven rules should be strictly maintained.

1. The person who conducted the arrest and are in charge of the accused's questioning must have his identity card, on which are listed his name and position.
2. When the accused is taken into custody, the police officers are required to note the arrest.
3. As soon as practicable, the accused's family or acquaintances must be informed of his or her detention.
4. After 8 to 12 hours following the arrest, the accused's family members or acquaintances who reside outside the district shall be telegraphically informed about the arrest by the district's "legal assistance organisation" and the local police station.
5. The detained individual must be informed of his right to tell a third party of his arrest.
6. The arrest requires the creation of an entry record.
7. When an accused person is apprehended, they must be checked out.
8. Within 48 hours of the arrestee's imprisonment, a medical examination must be done on him.
9. "The magistrate" of the relevant region shall get copies of all papers and memos.
10. During the investigation, the arrested person has the opportunity to consult with his or her attorney.
11. The instructions provide that a police control room must be established in each state's administrative centre and district and that information on arrests must be sent to the control room within 12 hours of the arrest taking place.

Lower-ranking police personnel are under to more pressure from higher-ranking law enforcement or government authorities to crack a case or get a confession; as a result, they give in to this pressure and use violence. The Supreme Court of India ordered the State and Central governments to stop putting further pressure on the police officials in "Prakash Singh v. Union of India, 2006"

In addition to "*The D.K. Basu v. State of Bengal*" ruling, "*The Prakash Singh v. Union of India*" ruling's seven recommendations must also be followed<sup>53</sup>.

1. 1. The court mandated the formation of a State Security Commission to ensure that "State governments" are not exerting pressure on the police. The panel should establish certain rules for the police, and the court suggested evaluating the conduct of the police personnel.
2. "The Director-General of the Police" must be appointed using a merit-based system for a two-year term.
3. The third instruction is that the minimum term for both the station house officers and the "SP in charge of the police station is two years".
4. The police's investigative and law and order duties were to be separated, according to the fourth instruction.
5. It is necessary to establish a "Police Establishment Board" to make decisions about "postings, transfers, promotions, and other service affairs" involving police officers with ranks equal to or below Deputy Superintendent of Police (DSP). The police officers ranking above DSP would also be recommended for transfers and postings by the boards.
6. At the state level, a Police Complaint Authority (PCA) must be established to investigate public complaints made against police personnel with rank DSP or above in situations of misbehaviour including grave bodily harm, rape, or custodial death. To handle grievances from officers with lower ranks than DSP, a PCA should be formed at the district level.
7. The most recent order encouraged the establishment of "The National Security Commission" at the union level, whose task would be to create a panel for the selection and installation of "Central Police Organisation Chiefs with a minimum tenure of two years".

## CONCLUSION

Total amount of fatalities in custody reported by "NHRC and NCRB" are horrific. It needs to be altered. The state's support of cops, despite the fact that they abuse their authority, is a significant problem. In situations when a person dies while being held in custody, police

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<sup>53</sup> Efforts to implement Supreme Court directives on police reforms 'largely regressive' - Frontline, <https://frontline.thehindu.com/dispatches/states-efforts-to-implement-supreme-court-directives-on-police-reforms-largely-regressive/article32684870.ece>.

operations must be closely monitored, and any guilty police officers must face punishment. To convince the authorities that they cannot abuse their power, a precedent must be established. It is quite challenging to predict that the situation with relation to custody mortality would improve given the existing situation. There is a need for strict judicial action that will only be focused on punishing the staff members whose violent force resulted in a loss of life and who abused their position. The rules established in "*The landmark cases of D.K. Basu v. State of Bengal and Prakash Singh v. Union of India*" must be rigorously followed in order to ensure the decrease in incidents of custodial death.

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