
POLICE REFORM AND HUMAN RIGHTS IN INDIA: A CONSTITUTIONAL AND LEGAL ANALYSIS OF ACCOUNTABILITY, CUSTODY SAFEGUARDS AND STRUCTURAL REFORM

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ABSTRACT

India continues to govern a constitutional democracy through a policing institution whose foundations were established under the colonial-era Police Act 1861. This article examines the extent to which police reforms undertaken since Independence have contributed to the protection of human rights of individuals who come into contact with the police. Adopting a doctrinal and analytical approach, the study examines the constitutional safeguards contained in Articles 20(3), 21 and 22, the statutory protections incorporated into the Bharatiya Nagarik Suraksha Sanhita 2023, Bharatiya Nyaya Sanhita 2023 and Bharatiya Sakshya Adhiniyam 2023, the reports of major national reform bodies from the National Police Commission (1979-81) to the Second Administrative Reforms Commission (2007), and the seven directives issued by the Supreme Court in *Prakash Singh v Union of India* (2006). The article advances three principal arguments. First, the Supreme Court has developed an extensive body of safeguards relating to arrest and custodial treatment, most recently reflected in *Mihir Rajesh Shah v State of Maharashtra* (2025); however, their effective implementation continues to depend substantially on the same police structures that these safeguards seek to regulate. Second, the three criminal codes enacted in 2023 have incorporated several judicially developed safeguards while simultaneously expanding police discretion in areas such as handcuffing and the permissible period for seeking police custody. Third, nearly two decades after *Prakash Singh*, implementation of structural police reforms remains largely formal, with no State having fully implemented all seven directives. At the same time, custodial deaths reported to the National Human Rights Commission continued to remain a significant concern, ranging between 140 and 176 cases annually from 2021-22 to 2025-26. The article concludes that effective rightsbased policing requires an independent accountability

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framework, a specific statutory offence addressing torture, and enforceable institutional safeguards to protect policing from partisan control, rather than relying primarily on further recommendations for reform.

Keywords: police reform; human rights; custodial violence; Prakash Singh; Article 21; Bharatiya Nagarik Suraksha Sanhita; police accountability; India

1. Introduction

“Every policeman is a citizen in uniform and every citizen is a policeman without uniform.”

The police serve as the most prominent representation of the state, acting as the primary institution through which the public encounters its enforcement power.⁴ In India that power is still organised, in a number of States, under a statute enacted four years after the uprising of 1857 to keep a colony in order.⁵ The Constitution of 1950 changed the purposes the police are meant to serve. It did not change the institution itself. The distance between that constitutional purpose and the inherited institutional design is the subject of this article.

The distance is greatest at the time of arrest and within police holding facilities. In March 2026, the Union Government disclosed to Parliament that deaths in police custody reported to the National Human Rights Commission (NHRC) were 176 in 2021-22, 163 in 2022-23, 157 in 2023-24, and 140 in 2024-25, before rising back to 170 by mid-March of the 2025-26 period (see Figure 2 in Part 8).⁶ A 2025 survey of 8,276 police personnel across 17 States and Union Territories found that a substantial minority regarded ‘third-degree’ methods as justified against suspects in serious cases.⁷ None of this is new in kind. Three decades ago the Supreme Court condemned custodial violence as an affront to human dignity that strikes at the rule of law itself.⁸

There is an extensive history of reform initiatives. The core recommendations issued by the

⁴David H. Bayley, *The Police and Political Development in India* (Princeton University Press, Princeton, 1969).

⁵The Police Act, 1861 (Act 5 of 1861); David Arnold, *Police Power and Colonial Rule: Madras 1859–1947* (Oxford University Press, Delhi, 1986).

⁶“Custodial Deaths at 170 This Year, Accountability Nearly Absent: Govt Data” *The Wire*, Mar. 2026, available at: <https://m.thewire.in/article/government/custodial-deaths-at-170-this-year-accountability-nearly-absent-govt-data> (last visited on Oct. 2, 2026), reporting the Ministry of Home Affairs’ reply in the Lok Sabha on Mar. 24, 2026.

⁷Common Cause and Lokniti-CSDS, Status of Policing in India Report 2025: *Police Torture and (Un)Accountability* (Common Cause, New Delhi, 2025).

⁸*D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

National Police Commission (NPC) between 1979 and 1981 were subsequently reiterated by the Ribeiro Committee (1998–99), the Padmanabhaiah Committee (2000), the Malimath Committee (2003), the Police Act Drafting Committee (2006), and the Second Administrative Reforms Commission (2007).

In *Prakash Singh v Union of India* the Supreme Court converted the core of those proposals into seven binding directives.⁹ Twenty years later, compliance remains partial and frequently formal.¹⁰ Meanwhile, on 1 July 2024, The Code of Criminal Procedure 1973 (CrPC), the Indian Penal Code 1860 (IPC), and the Indian Evidence Act 1872 (IEA) have been superseded by the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), the Bharatiya Nyaya Sanhita 2023 (BNS), and the Bharatiya Sakshya Adhiniyam 2023 (BSA).¹¹ Any present assessment of police reform must therefore read the older safeguards through the new codes.

This article asks three questions. First, how far do the constitutional and statutory frameworks protect persons against police abuse after the 2023 codes? Second, how far have the recommendations of national commissions and the *Prakash Singh* directives been implemented? Third, what explains the persistent distance between legal standards and police practice? Part 2 sets out the method and situates the study in the literature. Part 3 traces the colonial design of Indian policing. Parts 4 and 5 examine the constitutional and statutory safeguards. Part 6 reviews the reform commissions, Part 7 analyses the judicial response and Part 8 assesses compliance. Part 9 offers recommendations and Part 10 concludes.

2. Research Methodology and Literature

2.1 Method

The study is doctrinal and analytical. Its primary sources are the Constitution of India, the Police Act 1861, the CrPC, IPC and IEA together with their 2023 successors, The Protection of Human Rights Act of 1993 and the Juvenile Justice (Care and Protection of Children) Act of 2015, reported decisions of the Supreme Court, and the reports of the NPC, the Law Commission of India and other expert bodies. The secondary sources utilized consist of

⁹*Prakash Singh v. Union of India*, (2006) 8 SCC 1.

¹⁰Commonwealth Human Rights Initiative (CHRI) assessment, reported in "No State Fully Complied With SC Directives on Police Reforms, Finds Study" *The Wire*, Apr. 23, 2018, available at: <https://thewire.in/government/sc-police-reforms-directives> (last visited on Oct. 2, 2026).

¹¹The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023); The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023); The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023).

monographs, journal articles, and reports from civil society organizations. These primarily include publications from the Commonwealth Human. Official data on custodial deaths are taken from Government replies in Parliament based on NHRC records, supplemented by National Crime Records Bureau (NCRB) data; data on police capacity are taken from the India Justice Report 2025. Figures 1 to 3 present the principal quantitative data. The study covers the period from 1947 to 2026, with reference to the colonial antecedents needed to explain the present design. It does not include original fieldwork, and its conclusions on practice rest on published empirical studies and official data.

2.2 Literature and contribution

The literature falls into three strands. The first is historical and institutional. Arnold's study of the Madras police shows how colonial policing was built for control rather than service,¹² and Bayley's early account of the post-Independence police traced how that inheritance shaped political development.¹³ Verma¹⁴ and Raghavan¹⁵ extend this analysis to the structural problems of the contemporary force, including political control and weak accountability. The second strand is doctrinal and concerns the rights of suspects and arrested persons under Articles 20, 21 and 22, as developed in the constitutional law treatises.¹⁶ The third strand is empirical and critical, and includes Lokaneeta's work on interrogation and violence,¹⁷ the Status of Policing in India Reports,¹⁸ and Prakash Singh's own account of the reform litigation.¹⁹ The comparative literature shows that democratic societies have restructured policing around accountability and human rights,²⁰ a benchmark against which the Indian record can be read.

Most of this work predates the 2023 codes. The contribution of this article is to bring the three strands together and to re-examine the safeguards against police abuse in light of the BNSS,

¹²David Arnold, *supra* note 5.

¹³David H. Bayley, *supra* note 4.

¹⁴Arvind Verma, *The Indian Police: A Critical Evaluation* (Regency Publications, New Delhi, 2005); Arvind Verma, "Police in India: Design, Performance, and Adaptability" in Devesh Kapur and Pratap Bhanu Mehta (eds.), *Public Institutions in India: Performance and Design* (Oxford University Press, New Delhi, 2005).

¹⁵R.K. Raghavan, "The Indian Police: Problems and Prospects" 33(4) *Publius: The Journal of Federalism* 119 (2003).

¹⁶M.P. Jain, "Indian Constitutional Law" (LexisNexis, Gurgaon, 8th edn., 2018).

¹⁷Jinee Lokaneeta, *The Truth Machines: Policing, Violence, and Scientific Interrogations in India* (University of Michigan Press, Ann Arbor, 2020).

¹⁸Common Cause and Lokniti–CSDS, *supra* note 7.

¹⁹Prakash Singh, *The Struggle for Police Reforms in India* (Rupa Publications, New Delhi, 2022).

²⁰David H. Bayley and Clifford D. Shearing, "The Future of Policing" 30 *Law & Society Review* 585 (1996).

BNS and BSA, and of the Supreme Court's recent arrest jurisprudence.

3. The Colonial Design and its Persistence

3.1 From the Police Act 1861 to the 1902-03 Commission

Forms of policing existed in India long before British rule. Kautilya's *Arthashastra* describes officials responsible for urban and rural order, and the Mughal *kotwal* combined policing with municipal functions. A unified, salaried and hierarchical police force on the modern pattern, however, was a colonial creation. After experiments with *darogas* and *faujdars* under Company rule, the uprising of 1857 led to the Police Commission of 1860 and to the Police Act 1861.²¹ The Act created a force organised on military lines, placed its superintendence in the provincial government and its district control under the District Magistrate, and was concerned above all with the security of the regime.²²

The Indian Police Commission of 1902-03, appointed under Lord Curzon and chaired by Sir Andrew Fraser, surveyed the force forty years later. It found it inefficient, poorly trained and widely regarded by the public as corrupt and oppressive. Its remedies improved recruitment and supervision but left the purpose and structure of the force intact. Through the national movement the police were used to suppress political dissent, which deepened public distrust of the institution.

3.2 Independence without institutional change

The Constitution placed 'police' and 'public order' in the State List,²³ Consequently, each state operates its own police force. At the same time, the central government maintains its own armed police forces and specialized organizations, including the Central Bureau of Investigation and the National Investigation Agency. Many states either retained the 1861 Act or enacted legislation modeled after it. Although several states established their own police commissions following Independence, none of them altered the fundamental framework.²⁴

²¹David Arnold, *supra* note 5.

²²The Police Act, 1861 (Act 5 of 1861), ss. 3-4.

²³The Constitution of India, Seventh Schedule, List II, entries 1 and 2.

²⁴ The Police Act, 1861 (Act 5 of 1861); see, e.g., The Bombay Police Act, 1951 (Bom. Act 22 of 1951); The Kerala Police Act, 1960 (Act 5 of 1961); The Karnataka Police Act, 1963 (Act 4 of 1964); The Delhi Police Act, 1978 (Act 34 of 1978); see also Government of India, Second Administrative Reforms Commission, Fifth Report: Public Order (Ministry of Personnel, Public Grievances and Pensions, June 2007).

That design has three features that matter for human rights. First, the political executive exercises general superintendence over the police without any statutory limit on what superintendence permits.²⁵ In practice, control of transfers and postings has become the principal instrument of that control. Second, there is no external body with binding power to examine complaints against the police; accountability runs upward through the departmental hierarchy. Third, the system relies heavily on the constabulary, recruited and trained largely for physical duties, while investigation demands skills in law, forensics and interviewing that the system does not supply in sufficient measure. The 'dual system' of district control, shared between the Superintendent of Police and the District Magistrate, and the commissionerate system adopted in larger cities, change the line of command but not these three features. The persistence of these features explains why later reform proposals have concentrated on insulation from political control, external accountability and professional investigation. It also explains why the burden of protecting individual rights has fallen so heavily on the courts.

4. Constitutional Safeguards against Police Excess

The framers had lived under colonial policing, and they drafted Articles 20(3), 21 and 22 with that experience in mind. Introducing what became Article 22, Dr B R Ambedkar told the Constituent Assembly that the provision 'merely lifts from the provisions of the Criminal Procedure Code two of the most fundamental principles which every civilised country follows as principles of international justice'. Its significance, he explained, was that it would 'put a limitation upon the authority both of Parliament as well as of the Provincial Legislature not to abrogate these two provisions, because they are now introduced in our Constitution itself'.²⁶ The Supreme Court has since read these provisions expansively, treating fundamental rights as the constitutional expression of human rights that India recognised internationally.²⁷

4.1 Article 20(3): the privilege against "self-incrimination"

Article 20(3) provides that 'No person accused of any offence shall be compelled to be a witness against himself.' In *M P Sharma v Satish Chandra* the Court held that the protection applies once a person is formally accused, including through an FIR, and is not confined to the courtroom.²⁸ *State of Bombay v Kathi Kalu Oghad* narrowed the meaning of 'to be a witness'

²⁵Police Act 1861,

²⁶Constituent Assembly of India Debates, vol. IX, Sept. 15, 1949 (Dr. B.R. Ambedkar).

²⁷*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; M.P. Jain, *supra* note 16.

²⁸*M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300.

to the imparting of personal knowledge, excluding fingerprints, specimen handwriting and similar physical evidence.²⁹ *Nandini Satpathy v P L Dani* then extended the privilege to police interrogation and held that compulsion includes not only physical force but also psychological pressure and atmospheric coercion.³⁰ In *Selvi v State of Karnataka* the Court held that the involuntary administration of narco-analysis, polygraph and brain-mapping tests violates Articles 20(3) and 21.³¹ Together these decisions establish that the right to silence is available at the police station, where it is most needed.

4.2 Article 21: from procedure established by law to due process

Article 21 provides that 'No person shall be deprived of his life or personal liberty except according to procedure established by law.' In *A K Gopalan v State of Madras* the majority treated any procedure enacted by a competent legislature as sufficient.³² Fazl Ali J dissented, reading 'law' to require a fair procedure consistent with natural justice. His perspective prevailed in *Maneka Gandhi v Union of India*, which established that the procedure must be "fair, just and reasonable," rather than arbitrary or oppressive.³³ Article 21 thereby acquired a substantive due process content.

That content has been applied directly to policing. In *Francis Coralie Mullin v Administrator, Union Territory of Delhi*, it was ruled that any form of torture, as well as cruel, inhuman, or degrading treatment, violates human dignity and is expressly prohibited under Article 21.³⁴ *Sunil Batra v Delhi Administration*³⁵ and *Prem Shankar Shukla v Delhi Administration*³⁶ held that fetters and handcuffs are prima facie inhuman and may be used only where there is a real and recorded danger of escape, ordinarily with judicial approval. *Citizens for Democracy v State of Assam* reaffirmed that rule against routine handcuffing of undertrials.³⁷ The right to privacy, recognised in *K S Puttaswamy v Union of India*, now adds a further limit on intrusive investigative methods.³⁸

²⁹*State of Bombay v. Kathi Kalu Oghad*, AIR 1961 SC 1808.

³⁰*Nandini Satpathy v. P.L. Dani*, (1978) 2 SCC 424.

³¹*Selvi v. State of Karnataka*, (2010) 7 SCC 263.

³²*A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

³³*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

³⁴*Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

³⁵*Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

³⁶*Prem Shankar Shukla v. Delhi Administration*, (1980) 3 SCC 526.

³⁷*Citizens for Democracy v. State of Assam*, (1995) 3 SCC 743.

³⁸*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

4.3 Article 22: arrest, grounds and production

Article 22(1) guarantees that an arrested person shall be informed, as soon as may be, of the grounds of arrest, and shall not be denied the right to consult and be defended by a legal practitioner of his choice. Article 22(2) requires production before the nearest magistrate within twenty-four hours, excluding travel time. These guarantees were the basis for the two most important judicial codes of arrest.

In *Joginder Kumar v State of UP*, the Court ruled that possessing the legal authority to make an arrest does not equate to having a valid justification to execute it. Citing the NPC's finding that a large proportion of arrests were unnecessary, it required the police to justify each arrest, to inform a friend or relative, and to record these steps.³⁹ *D K Basu* went further and laid down eleven requirements for every arrest and detention: identification of the arresting officers, an attested arrest memo, intimation to a relative, medical examination every forty-eight hours, access to a lawyer during interrogation, and reporting to a police control room, among others. Failure to comply was to attract departmental action and contempt.⁴⁰ The right to know the grounds of arrest has recently been reinforced. In *Pankaj Bansal v. Union of India* and *Prabir Purkayastha v. State (NCT of Delhi)*, the Court ruled that, under the specific statutes in question, the grounds must be provided in writing.⁴¹ In *Mihir Rajesh Shah v State of Maharashtra* the Court generalised the rule: the duty to communicate grounds applies to all offences under all statutes, including the BNS; the grounds must ordinarily be given in writing in a language the arrestee understands; where that is not possible at the moment of arrest, Written reasons must be provided within a reasonable timeframe, and no later than two hours prior to production for remand; and non-compliance renders the arrest and remand illegal.⁴² High Courts have since differed on whether the ruling operates only prospectively, a question that may need resolution by the Supreme Court.⁴³

³⁹*Joginder Kumar v. State of U.P.*, (1994) 4 SCC 260.

⁴⁰*D.K. Basu*, *supra* note 8.

⁴¹*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576; *Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254.

⁴²*Mihir Rajesh Shah v. State of Maharashtra*, 2025 INSC 1288.

⁴³See "Supreme Court's 'Mihir Rajesh Shah' Ruling on Written Grounds of Arrest Operates Prospectively: Delhi High Court" *LiveLaw*, 2026, available at: <https://www.livelaw.in/high-court/delhi-high-court/delhi-high-court-supreme-court-mihir-rajesh-shah-ruling-written-grounds-arrest-prospectively-520838> (last visited on Oct. 2, 2026); but see "Mihir Rajesh Shah Judgment on Written Grounds of Arrest Not Merely Prospective" *LiveLaw*, 2026, available at: <https://www.livelaw.in/high-court/orissa-high-court/written-arrest-grounds-article-22-right-mihir-rajesh-shah-judgment-prospective-effect-548058> (last visited on Oct. 2, 2026).

Article 22(3) to (7) permits preventive detention, subject to communication of the grounds and an opportunity to make a representation. The Court has insisted that these 'meagre safeguards' be strictly enforced, because preventive detention bypasses the ordinary criminal process altogether.⁴⁴

4.4 Constitutional remedies: compensation and structural directions

The Court has also developed remedies. In *Rudul Sah v State of Bihar*, where a prisoner had been detained for fourteen years after acquittal, it awarded compensation under Article 32.⁴⁵ *Nilabati Behera v State of Orissa* explained the basis of the remedy: compensation for a violation of fundamental rights is a public law remedy founded on the strict liability of the State, to which sovereign immunity is no defence.⁴⁶ The remedy has been applied to illegal detention, custodial death and custodial humiliation.⁴⁷ In *Sube Singh v State of Haryana*, however, the Court cautioned that public law compensation should be reserved for cases where custodial violence is established or patent, and that ordinary civil and criminal remedies remain primary.⁴⁸

Two structural directions complement these remedies. In *PUCL v State of Maharashtra* the Court laid down sixteen requirements for investigating deaths in police encounters, including registration of an FIR, an independent investigation and a magisterial inquiry.⁴⁹ In *Paramvir Singh Saini v Baljit Singh* it directed the installation of CCTV cameras with night vision and audio in every police station, including interrogation rooms and lock-ups, and in the offices of central investigating agencies.⁵⁰

The cumulative result is a detailed constitutional code of arrest and custody. Its weakness lies not in its content but in its enforcement, which depends on magistrates, superior officers and the police themselves. Part 8 returns to that problem.

5. The Statutory Framework after the 2023 Criminal Law Reforms

The 2023 codes re-enact most of the arrest and custody safeguards developed by the courts and

⁴⁴*Shalini Soni v. Union of India*, (1980) 4 SCC 544.

⁴⁵*Rudul Sah v. State of Bihar*, (1983) 4 SCC 141.

⁴⁶*Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

⁴⁷*Bhim Singh v. State of J&K*, (1985) 4 SCC 677; *Mehmood Nayyar Azam v. State of Chhattisgarh*, (2012) 8 SCC 1.

⁴⁸*Sube Singh v. State of Haryana*, (2006) 3 SCC 178.

⁴⁹*People's Union for Civil Liberties v. State of Maharashtra*, (2014) 10 SCC 635.

⁵⁰*Paramvir Singh Saini v. Baljit Singh*, (2021) 1 SCC 184.

introduced by CrPC amendments in 2005, 2008 and 2010. They also make changes that bear directly on the human rights of arrested persons. Table 1 sets out the principal corresponding provisions.

Table 1. Principal safeguards: former and current provisions

Subject	Former provision	Current provision
Arrest without warrant; notice of appearance	CrPC ss 41, 41A	BNSS s 35
Procedure of arrest; arrest memo; identification	CrPC s 41B	BNSS s 36
Police control room; designated police officer	CrPC s 41C	BNSS s 37
Right to meet an advocate during interrogation	CrPC s 41D	BNSS s 38
Manner of arrest; women; handcuffing	CrPC s 46	BNSS s 43
No more restraint than necessary	CrPC s 49	BNSS s 46
Grounds of arrest; right to bail	CrPC s 50	BNSS s 47
Intimation to relative or friend	CrPC s 50A	BNSS s 48
Medical examination of arrested person	CrPC s 54	BNSS s 53
Detention not beyond twenty-four hours	CrPC s 57	BNSS s 58
Audio-video recording of search and seizure	(none)	BNSS s 105
Remand and police custody	CrPC s 167	BNSS s 187
Magisterial inquiry into custodial death or rape	CrPC s 176	BNSS s 196
Sanction to prosecute public servants	CrPC s 197	BNSS s 218
Hurt to extort confession	IPC ss 330, 331	BNS s 120
Wrongful confinement, including to extort confession	IPC ss 340–348	BNS s 127
Public servant disobeying law to cause injury	IPC s 166	BNS s 198
Rape by a police officer	IPC s 376(2)(a)	BNS s 64(2)(a)
Confession to police; discovery	IEA ss 25–27	BSA s 23

5.1 Arrest

Section 35 of the BNSS consolidates the former Sections 41 and 41A of the CrPC. For offenses carrying a penalty of up to seven years of imprisonment, police may only make a warrantless arrest if they have reason to believe that arrest is necessary for one of the purposes the section lists, and must record their reasons for arresting or for not arresting. Where arrest is not required, a notice of appearance must be issued, and a person who complies with it is not to be arrested unless the officer records reasons.⁵¹ These provisions codify *Arnesh Kumar v State of Bihar*, which required a checklist of reasons for arrest to be placed before the magistrate and made non-compliance a ground for departmental action and contempt,⁵² and *Satender Kumar Antil v CBI*, which directed courts and the police to enforce those requirements in all bail matters.⁵³ Section 35(7) introduces a new safeguard: for offenses carrying a penalty of less than three years in prison, individuals who are infirm or over the age of sixty cannot be arrested without prior approval from an officer ranked at least Deputy Superintendent of Police.⁵⁴ The procedural safeguards in sections 36 to 38, 47, 48, 53 and 58 reproduce the *D K Basu* requirements: identification of the arresting officer, an attested memo of arrest, intimation to a relative and to the designated officer in the district, information about the grounds of arrest and the right to bail, medical examination, access to an advocate during interrogation and production within twenty-four hours.⁵⁵ Women cannot be arrested between sunset and sunrise, except in extraordinary circumstances and with the prior approval of a first-class Judicial Magistrate.⁵⁶ Children in conflict with the law cannot be detained in a jail or police holding cell, and they must be brought before the Juvenile Justice Board within 24 hours.⁵⁷

5.2 Handcuffing and police custody: discretion widened

Two changes move in the opposite direction. Under Section 43(3) of the BNSS, a police officer is permitted to handcuff an individual based on the nature and severity of the offense, provided the person is a repeat offender, has previously escaped from custody, or is accused of serious crimes such as organized crime, terrorism, murder, rape, or acid attacks.⁵⁸ The provision rests

⁵¹The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 35(1)(b), (3)-(6).

⁵²*Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

⁵³*Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.

⁵⁴The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 35(7).

⁵⁵*Id.*, ss. 36-38, 47, 48, 53, 58.

⁵⁶*Id.*, s. 43(5).

⁵⁷The Juvenile Justice (Care and Protection of Children) Act, 2015, s. 10(1).

⁵⁸The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 43(3).

the decision with the arresting officer and does not require recorded reasons or prior judicial approval. It sits uneasily with *Prem Shankar Shukla*, where the Court treated handcuffing as an exceptional measure to be justified case by case.⁵⁹ Since the statute is subject to Article 21, the better reading is that section 43(3) identifies categories in which handcuffing may be considered, not categories in which it is automatic, and that reasons must still be recorded.

Section 187 of the BNSS retains the fifteen-day limit on police custody but allows it to be taken 'in the whole or in part' at any time within the first forty or sixty days of the total remand period, depending on the offence.⁶⁰ Under the CrPC, the ruling in *CBI v Anupam J Kulkarni* restricted police custody to the first fifteen days following production.⁶¹ The aggregate limit is unchanged, but the wider window allows repeated returns to police custody. Given that torture occurs mainly during custodial interrogation, this change increases the period of exposure and calls for close scrutiny of every remand application.

5.3 Investigation, evidence and accountability provisions

The BNSS introduces some measures that may improve accountability. Section 105 requires search and seizure to be recorded through audio-video electronic means, and section 176(3) requires a forensic team to visit the crime scene in offences punishable with seven years or more.⁶² Section 196 retains the mandatory inquiry by a Judicial Magistrate into any death, disappearance or alleged rape in police custody.⁶³

The BSA retains the rule that a confession to a police officer, or made in police custody other than before a magistrate, is inadmissible, subject to the discovery exception.⁶⁴ Proposals by the Malimath Committee to admit confessions recorded by senior police officers were not adopted.⁶⁵ This is consistent with the Law Commission's opposition to diluting the right to silence,⁶⁶ and with experience under the Terrorist and Disruptive Activities (Prevention) Act

⁵⁹*Prem Shankar Shukla*, *supra* note 35.

⁶⁰The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 187(2)–(3).

⁶¹*Central Bureau of Investigation v. Anupam J. Kulkarni*, (1992) 3 SCC 141.

⁶²The Bharatiya Nagarik Suraksha Sanhita, 2023, ss. 105, 176(3).

⁶³*Id.*, s. 196(2).

⁶⁴The Bharatiya Sakshya Adhiniyam, 2023, s. 23; formerly the Indian Evidence Act, 1872, ss. 25-27.

⁶⁵Government of India, *Report of the Committee on Reforms of Criminal Justice System*, vol. I (Ministry of Home Affairs, New Delhi, 2003).

⁶⁶Law Commission of India, *180th Report on Article 20(3) of the Constitution of India and the Right to Silence* (2002).

1987, where the admissibility of confessions to police required elaborate judicial safeguards.⁶⁷

The substantive criminal law remains the main weakness. The BNS, like the IPC, contains no offence of torture. Custodial violence must be prosecuted under general offences such as hurt or grievous hurt to extort a confession, wrongful confinement and murder,⁶⁸ together with the specific offences of rape by a police officer and disobedience of law by a public servant.⁶⁹ These offences are difficult to prove because the acts occur in custody, the only witnesses are usually police officers and medical records are often prepared by doctors who depend on police cooperation. Prosecution of police officers also requires sanction where the act is done in the discharge of official duty.⁷⁰ The courts have held that custodial violence cannot be part of official duty, but the sanction requirement still delays and deters prosecution.

The Protection of Human Rights Act 1993 established the NHRC and State Human Rights Commissions, which require all custodial deaths to be reported within twenty-four hours. Their powers are, however, largely recommendatory, and they cannot inquire into a matter more than one year after the act complained of.⁷¹ The statutory framework therefore offers detailed procedural rules but weak sanctions for their breach.

6. Committees and Commissions on Police Reform

Since Independence, at least seven national bodies have examined the police. Their recommendations overlap to a striking degree. Table 2 summarises the most important of them.

Table 2. Major national reports on police reform

Body (year)	Principal recommendations relevant to rights and accountability
Gore Committee on Police Training (1971–73)	Broaden training beyond drill; emphasise behaviour, attitudes and public dealing
National Police Commission (1979–81)	State Security Commission; fixed tenure and merit selection of the police chief; separation of investigation from law and

⁶⁷*Kartar Singh v. State of Punjab*, (1994) 3 SCC 569.

⁶⁸The Bharatiya Nyaya Sanhita, 2023, ss. 103, 115–117, 120, 127.

⁶⁹*Id.*, ss. 64(2)(a), 198.

⁷⁰The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 218; formerly the Code of Criminal Procedure, 1973, s. 197.

⁷¹The Protection of Human Rights Act, 1993, ss. 12, 18, 36(2).

Body (year)	Principal recommendations relevant to rights and accountability
	order; judicial inquiry into custodial death and rape; new Police Act
Ribeiro Committee (1998–99)	Review of NPC implementation; Police Performance and Accountability Commission; District Police Complaints Authority; Police Establishment Board
Padmanabhaiah Committee (2000)	Merit-based selection of the DGP; Police Establishment Board; District Police Complaints Authority; community policing; new Police Act
Malimath Committee (2003)	Separate investigation wing; State Security Commission; Police Establishment Board; new Police Act
Police Act Drafting Committee (Sorabjee) (2005–06)	Model Police Act 2006: State Police Board, tenure, Police Accountability Commission, district complaints authorities, offences by police officers
Second Administrative Reforms Commission (2007)	Fifth Report, <i>Public Order</i> : core principles for police and criminal justice reform; independent complaints authority; replacement of the 1861 Act

6.1 The National Police Commission

The NPC, appointed in 1977 and chaired by Dharma Vira, produced eight reports between 1979 and 1981.⁷² It identified political interference as the central obstacle to impartial policing and proposed a State Security Commission to set policy and shield the police from illegitimate pressure, a fixed tenure for the State police chief, and the separation of investigation from law and order duties. It recommended a mandatory judicial inquiry into alleged rape in custody, death or grievous hurt in custody, and deaths in police firing. Its Third Report observed that a large proportion of arrests were unnecessary or unjustified and that the power of arrest was a principal source of police corruption, a finding later relied on in *Joginder Kumar*.⁷³ The NPC also drafted a model Police Act. None of its central structural proposals was implemented by the Union or the States in the years that followed.

⁷²Government of India, *Reports of the National Police Commission* (First to Eighth Reports) (Ministry of Home Affairs, New Delhi, 1979-81).

⁷³*Joginder Kumar*, *supra* note 38.

6.2 The later committees

The Ribeiro Committee was constituted in 1998 on the direction of the Supreme Court in the *Prakash Singh* litigation, to review the action taken on the NPC's recommendations.⁷⁴ It endorsed most of them in modified form and proposed a Police Performance and Accountability Commission and District Police Complaints Authorities. The Padmanabhaiah Committee, appointed by the Ministry of Home Affairs in 2000, was criticised for consisting only of serving and retired police officers, but it too recommended merit-based selection of the police chief, a Police Establishment Board and district complaints authorities.⁷⁵ The Malimath Committee, concerned with the wider criminal justice system, made 158 recommendations, including a separate investigation wing.⁷⁶ Its proposals to admit confessions to senior police officers and to dilute the right to silence were criticised as incompatible with Article 20(3) and were not adopted.⁷⁷

The Police Act Drafting Committee, chaired by Soli J Sorabjee and including civil society members, produced the Model Police Act 2006.⁷⁸ The draft combined functional autonomy with accountability: a State Police Board, secure tenure for key posts, a Police Accountability Commission, dedicated investigation units and a chapter of offences by police officers. A revised model bill was prepared in 2015 with greater emphasis on community policing and an independent investigating team for the accountability commission.⁷⁹ The Second Administrative Reforms Commission's Fifth Report, *Public Order*, restated the case for reform as a set of core principles and observed that earlier recommendations had been made in isolation, without linking police reform to reform of the criminal justice system as a whole.⁸⁰

The Law Commission addressed the same problems from the side of criminal procedure. It recommended safeguards against custodial crimes,⁸¹ reform of the law of arrest,⁸² and, in 2017,

⁷⁴Government of India, *Committee on Police Reforms (Ribeiro Committee)*, First Report (1998) and Second Report (1999).

⁷⁵Government of India, *Report of the Committee on Police Reforms (Padmanabhaiah Committee)* (Ministry of Home Affairs, New Delhi, 2000).

⁷⁶*Supra* note 64.

⁷⁷Law Commission of India, *supra* note 65.

⁷⁸Police Act Drafting Committee, *Model Police Act, 2006* (Ministry of Home Affairs, New Delhi, 2006).

⁷⁹Bureau of Police Research and Development, *Model Police Bill, 2015* (Ministry of Home Affairs, New Delhi, 2015).

⁸⁰Second Administrative Reforms Commission, *Fifth Report: Public Order* (Government of India, New Delhi, 2007).

⁸¹Law Commission of India, *152nd Report on Custodial Crimes* (1994).

⁸²Law Commission of India, *177th Report on Law Relating to Arrest* (2001).

ratification of the UN Convention against Torture together with a draft Prevention of Torture Bill.⁸³

6.3 Assessment

Three points emerge. First, the diagnosis has been consistent for more than forty years: political control over transfers and postings, absence of external accountability, and the fusion of investigation with law and order duties. Second, the proposed remedies are also consistent: an insulating commission, secure tenure, a personnel board, an independent complaints authority and a new statute. Third, the obstacle has never been a lack of ideas. It has been the reluctance of governments to give up control over the police. That reluctance is what led the reform debate into the courtroom.

7. Judicial Response: The *Prakash Singh* Directives

7.1 The litigation

In 1996 Prakash Singh, a former Director General of Police, and N K Singh, a former senior police officer, filed a public interest petition under Article 32 asking the Court to direct the Union and the States to implement the NPC's recommendations.⁸⁴ The Court had already shown, in *Vineet Narain v Union of India*, that it was willing to issue structural directions to insulate investigating agencies from executive interference.⁸⁵ After a decade of hearings, during which the Ribeiro Committee was constituted and the States filed responses, the Court delivered judgment on 22 September 2006.

The Court noted the gravity of the problem, the need to preserve the rule of law, the long pendency of the petition, the consistency of the recommendations of successive commissions and the uncertainty as to when reform would come. It concluded that it could not wait further.⁸⁶ Relying on Articles 32, 142 and 144, it issued seven directives to operate until the Union and the States enacted appropriate legislation.

⁸³Law Commission of India, 273rd Report on Implementation of 'United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment' through Legislation (2017).

⁸⁴*Prakash Singh*, *supra* note 19.

⁸⁵*Vineet Narain v. Union of India*, (1998) 1 SCC 226.

⁸⁶*Prakash Singh v. Union of India*, *supra* note 9.

7.2 The seven directives

Table 3. The *Prakash Singh* directives

No.	Directive	Purpose
1	State Security Commission, including the Leader of the Opposition and independent members	Prevent unwarranted political influence; lay down policy; evaluate police performance
2	The DGP must be selected from the three senior-most officers empanelled by the UPSC and serve a minimum tenure of two years.	Merit-based leadership; security from arbitrary removal
3	Minimum two-year tenure for officers on operational duty (IGP, DIG, SP, SHO)	Prevent punitive transfers
4	Separation of investigation from law and order, beginning in towns of ten lakh or more	Specialised, better-quality investigation
5	Police Establishment Board for transfers, postings and promotions of officers up to Deputy Superintendent	Remove personnel decisions from political patronage
6	Police Complaints Authorities at the state and district levels are headed by retired judges.	Independent inquiry into serious misconduct, including custodial death, grievous hurt and rape.
7	National Security Commission at Union level.	Selection and tenure of chiefs of central police organisations.

The directives address the three structural features identified in Part 3. Directives 1, 2, 3 and 5 limit political control over the police. Directive 6 creates the external accountability the system lacked. Directive 4 addresses the quality of investigation, which bears directly on the use of coercion to obtain confessions.

7.3 Implementation and its limits

The States' response was resistance. Several filed review petitions, which were dismissed. Deadlines were extended. In 2008 the Court appointed a three-member Monitoring Committee chaired by Justice K T Thomas, which reported in 2010 that no State had complied fully and

that many had taken positions contrary to the directives. Contempt petitions were filed but the Court declined to punish non-compliant governments. In July 2018 the Court reinforced Directive 2, requiring States to send proposals to the UPSC well before a vacancy and prohibiting the appointment of 'acting' DGPs.⁸⁷

The litigation shows both the strength and the limits of judicial governance. The Court could define structures, but it could not compel legislatures to enact them in good faith, and it was reluctant to use contempt against State governments. Many States responded by enacting new police Acts that gave statutory form to the bodies the Court required while altering their composition and powers. These Acts allowed States to claim compliance while preserving executive control, as Part 8 explains.

7.4 Other judicial contributions

The Court has also acted on specific abuses. *Arnesh Kumar* and *Satender Kumar Antil* sought to curb routine arrest.⁸⁸ *Lalita Kumari v Government of UP* made registration of an FIR mandatory on information disclosing a cognisable offence, addressing the opposite problem of police refusal to act.⁸⁹ *PUCL* regulated encounter killings and *Paramvir Singh Saini* required CCTV in police stations.⁹⁰ *Mihir Rajesh Shah* has made written grounds of arrest a condition of a lawful arrest.⁹¹ Each of these decisions is significant. Each also depends for its effect on the institutions that *Prakash Singh* sought, and largely failed, to reform.

8. The Compliance Gap: A Critical Analysis

8.1 Formal compliance

CHRI's assessment in 2018 found that not one State had fully complied with the *Prakash Singh* directives. Although every State had constituted a Police Establishment Board on paper, only one complied fully with the directive, and only twelve States had constituted Police Complaints Authorities at both State and district levels.⁹² Later assessments reported the same pattern.⁹³

⁸⁷*Prakash Singh v. Union of India*, Writ Petition (Civil) No. 310 of 1996 (Supreme Court, order dated July 3, 2018).

⁸⁸*Arnesh Kumar*, *supra* note 51; *Satender Kumar Antil*, *supra* note 52.

⁸⁹*Lalita Kumari v. Government of Uttar Pradesh*, (2014) 2 SCC 1.

⁹⁰*People's Union for Civil Liberties*, *supra* note 48; *Paramvir Singh Saini*, *supra* note 49.

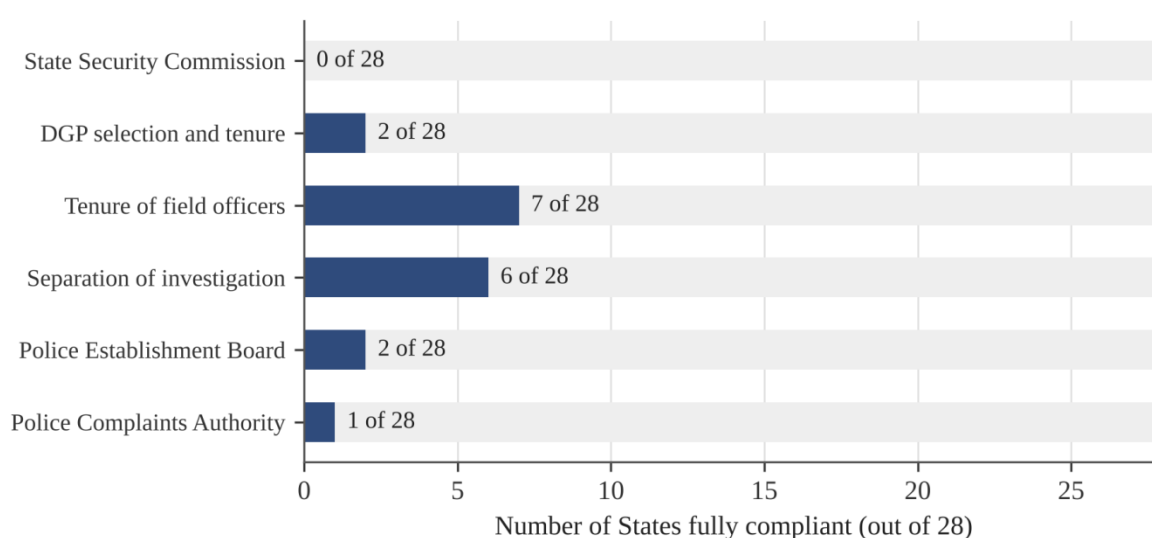
⁹¹*Mihir Rajesh Shah*, *supra* note 41.

⁹²*Supra* note 10.

⁹³*See Common Cause, Common Cause Journal*, vol. XLV, no. 1 (January–March 2026), available at: <https://commoncause.in/pdf/CC-Journal-Vol-XLV-No.1-Jan-Mar-2026.pdf> (last visited on Oct. 2, 2026), reviewing compliance twenty years after the judgment.

CHRI's 2021 assessment, summarised in a review published to mark twenty years of the judgment, found that no State had fully complied with the directive on State Security Commissions, two with that on the selection and tenure of the DGP, seven with that on the tenure of field officers, six with that on the separation of investigation from law and order, two with that on Police Establishment Boards and only one with that on Police Complaints Authorities (Figure 1).⁹⁴ By 2023, twenty-six States had a legal or policy framework for Police Complaints Authorities, but only eleven authorities were operational on the ground.⁹⁵ The typical deviations are instructive. State Security Commissions are often dominated by ministers and officials, sometimes exclude the Leader of the Opposition or independent members, and have advisory rather than binding powers. Police Complaints Authorities are frequently staffed by serving or retired officials, lack independent investigators and issue recommendations that governments may ignore. Tenure protections are diluted by broad grounds for premature removal. The separation of investigation from law and order has been ordered on paper but is constrained by shortages of personnel.

Figure 1. State compliance with the *Prakash Singh* directives



Source: CHRI assessment (2021), as reported in Prakash (n 90). Directive 7 (National Security Commission, at Union level) is not shown; the Union had not complied with it.

⁹⁴Vinson Prakash, "States of Compliance" XLV(1) *Common Cause Journal* 14 (January–March 2026), table 1, drawing on CHRI's 2021 assessment.

⁹⁵Mohd Aasif, "Police Complaints Authority" XLV(1) *Common Cause Journal* 23 (January–March 2026), citing CHRI (2023).

This pattern supports the first hypothesis of the underlying study: the reform agenda has failed less for want of legal standards than for want of implementation. Where States have implemented the directives in good faith, particularly in the form of functioning complaints authorities, the result has been greater transparency. Where they have not, the bodies created serve mainly to demonstrate compliance to the Court.

8.2 Persistent violations

The data on custodial deaths show no sustained decline (Figure 2). Police custody deaths reported to the NHRC numbered 176 in 2021-22, 163 in 2022-23, 157 in 2023-24 and 140 in 2024-25, before rising to 170 in 2025-26 by mid-March.⁹⁶ The earlier series is similar: 146 in 2017-18, 136 in 2018-19, 112 in 2019-20 and 100 in 2020-21, so the fall during the pandemic year was not sustained.⁹⁷ In the five years to March 2026, the Government reported only one case in which disciplinary action followed a custodial death.⁹⁸ NCRB data point the same way: of the cases registered against police personnel for human rights violations, not one ended in conviction in any year from 2018 to 2023.⁹⁹ Disciplinary action and prosecutions against responsible officers remain rare. The Status of Policing in India Report 2025 found that around thirty per cent of police personnel surveyed had a high propensity to justify torture, that compliance with arrest procedures was uneven, and that victims of police violence were disproportionately poor, Dalit, Adivasi or Muslim.¹⁰⁰ These findings indicate that the human rights violations identified in the underlying study, in arrest, detention and interrogation, are structural rather than incidental.

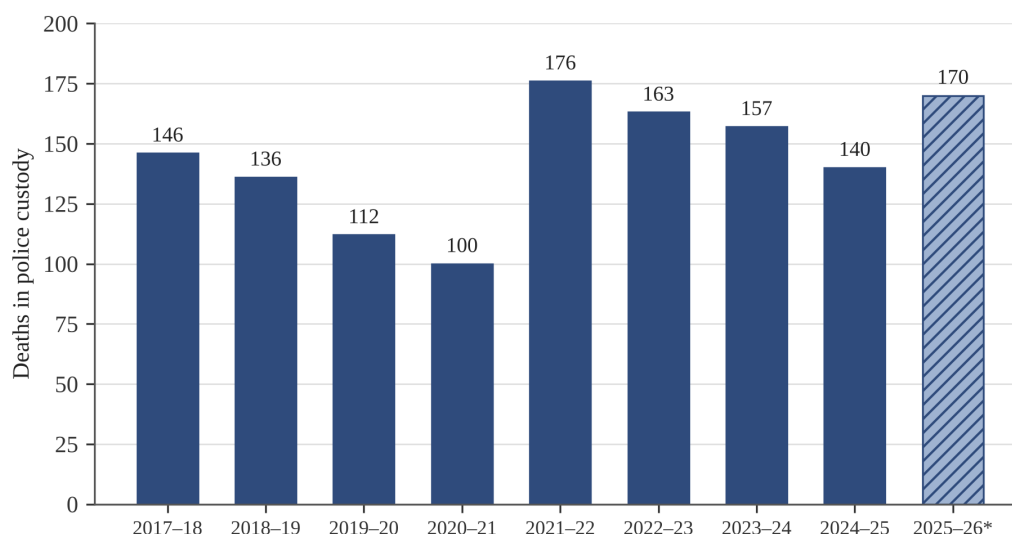
⁹⁶*Supra* note 6.

⁹⁷"669 Cases of Deaths in Police Custody Registered in Last Five Years: MHA to Rajya Sabha" ThePrint, Feb. 8, 2023, available at: <https://theprint.in/india/669-cases-of-deaths-in-police-custody-registered-in-last-five-years-mha-to-rajya-sabha/1362400/> (last visited on Oct. 2, 2026). That reply gave 175 deaths for 2021-22; the 2026 reply (*supra* note 6) gives 176.

⁹⁸*Supra* note 6.

⁹⁹"Deaths in Custody Persist, Convictions Remain Rare" *Dataful Insights*, 2026, available at: <https://insights.dataful.in/articles/custodial-deaths-in-india-a-system-without-consequences> (last visited on Oct. 2, 2026), analysing National Crime Records Bureau, *Crime in India* (1999-2023 editions).

¹⁰⁰Common Cause and Lokniti-CSDS, *supra* note 7.

Figure 2. Deaths in police custody reported to the NHRC, 2017–18 to 2025–26

Source: Ministry of Home Affairs replies in the Rajya Sabha (8 February 2023) and the Lok Sabha (24 March 2026), based on NHRC records; see nn 3 and 93. * 2025–26 covers 1 April 2025 to 15 March 2026 only.

Judicial supervision of custodial safeguards has also had to be renewed. In September 2025 the Supreme Court took suo motu cognisance of the absence of functional CCTV cameras in police stations, after reports of eleven deaths in police custody in Rajasthan in the first eight months of that year.¹⁰¹ In November 2025 the Court recorded that only eleven States and Union Territories had filed affidavits of compliance with *Paramvir Singh Saini*, and warned that Chief Secretaries of defaulting States would be required to appear in person.¹⁰² By July 2026 the Court acknowledged significant progress in installation, but identified long-term funding and maintenance of the systems as continuing obstacles.¹⁰³ Five years after the original direction, a basic safeguard still depends on continuous judicial monitoring for its implementation.

¹⁰¹*In Re: Lack of Functional CCTVs in Police Stations*, Suo Motu Writ Petition (Supreme Court, order dated Sept. 4, 2025), reported in "Supreme Court Takes Suo Motu Notice over Non-Functional CCTV Cameras in Police Stations" *News on AIR*, Sept. 4, 2025, available at: <https://www.newsonair.gov.in/supreme-court-takes-suo-motu-notice-over-non-functional-cctv-cameras-in-police-stations> (last visited on Oct. 2, 2026).

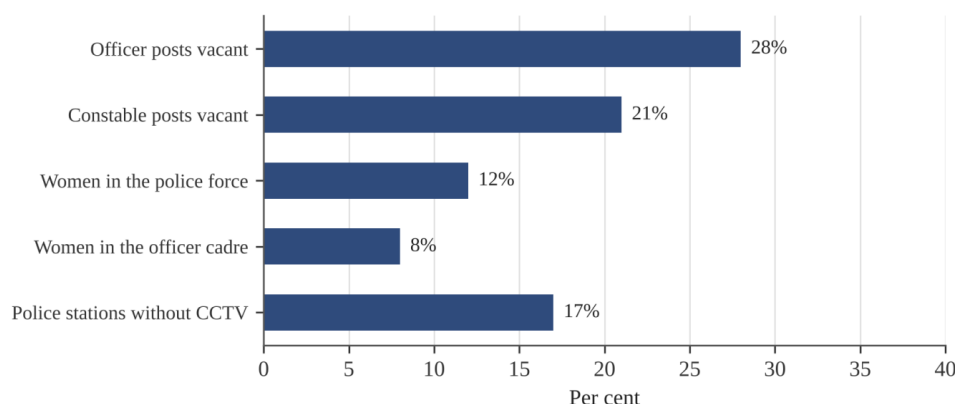
¹⁰²*Id.* (order dated Nov. 25, 2025), reported in "Supreme Court Pulls Up Federal Govt, States for Non-Functional CCTV Cameras in Police Stations" *Gulf News*, Nov. 25, 2025, available at: <https://gulfnews.com/world/asia/india/supreme-court-pulls-up-federal-govt-states-for-non-functional-cctv-cameras-in-police-stations-1.500359033> (last visited on Oct. 2, 2026).

¹⁰³*Id.* (order dated July 22, 2026), reported in "Supreme Court Lauds Progress on CCTV Installation in Police Stations, Flags Funding Hurdles" *Bar & Bench*, July 22, 2026, available at: <https://www.barandbench.com/news/supreme-court-lauds-progress-on-cctv-installation-in-police-stations-flags-funding-hurdles> (last visited on Oct. 2, 2026).

8.3 Why the gap persists

Four causes stand out. The first is political incentive. Control over postings and transfers is valuable to governments of every party, and the directives that would limit it are the ones most consistently diluted.¹⁰⁴ The second is institutional culture. Where investigative capacity is weak and results are demanded quickly, coercion becomes a substitute for evidence, and that habit is transmitted through training and supervision.¹⁰⁵ Capacity constraints compound the problem. The India Justice Report 2025 found that 28 per cent of officer posts and 21 per cent of constable posts were vacant, that women made up 12 per cent of the force but only 8 per cent of its officers, that training received only 1.25 per cent of police budgets, and that about one police station in six still had no CCTV camera (Figure 3).¹⁰⁶ The third is the accountability deficit. The absence of a torture offence, the sanction requirement, the reliance on departmental inquiry and the recommendatory powers of human rights commissions mean that violations rarely carry personal consequences.¹⁰⁷ The fourth is international disengagement. India signed the UN Convention against Torture in 1997 but has not ratified it. The Prevention of Torture Bill 2010 passed the Lok Sabha but lapsed in 2014, and the Law Commission's 2017 draft has not been taken up.¹⁰⁸

Figure 3. Selected indicators of police capacity, India Justice Report 2025



Source: India Justice Report 2025 (n 102), based largely on official data for 2022–23. ‘Police stations without CCTV’ is derived from the reported 83 per cent of stations with CCTV.

¹⁰⁴R.K. Raghavan, *supra* note 15; Arvind Verma, *supra* note 14.

¹⁰⁵Jinee Lokaneeta, *supra* note 17.

¹⁰⁶India Justice Report, “Less than 1000 Women Senior Officers in India's 20.3 Lakh Police Force, Says India Justice available at: https://indiajusticereport.org/files/English-National%20Press%20Release_India%20Justice%20Report%202025.docx.pdf (last visited on Oct. 2, 2026); see also Tata Trusts et al., *India Justice Report 2025* (2025).

¹⁰⁷The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 218; The Protection of Human Rights Act, 1993, s. 18.

¹⁰⁸Law Commission of India, *supra* note 82.

8.4 The 2023 codes in context

The 2023 codes do not resolve these causes. They codify important judicial safeguards and add useful tools such as audio-video recording of searches. But they leave the police establishment untouched, create no offence of torture, retain the sanction requirement and widen discretion over handcuffing and the timing of police custody.¹⁰⁹ Codification of safeguards without institutional reform repeats the pattern of the past five decades: better rules applied by an unreformed institution.

9. Recommendations

“You cannot fight today’s battles with yesterday’s solutions.”

Drawing on the analysis above, the following measures are proposed.

- (1) Enact a new Police Act in every State that still relies on the 1861 Act or its derivatives, following the Model Police Act 2006, with State Security Commissions whose composition and binding powers match the *Prakash Singh* directives.
- (2) Make Police Complaints Authorities genuinely independent: chaired by retired judges, with civilian members, their own investigators, adequate budgets and binding findings, and with a duty to publish annual reports.
- (3) Enact a law criminalising torture by public servants, with a definition consistent with the UN Convention against Torture, a presumption of responsibility for injuries sustained in custody, and compensation for victims; and ratify the Convention.
- (4) Amend section 218 of the BNSS to make clear that no sanction is required to prosecute a public servant for custodial violence, and set a time limit for sanction decisions in other cases.
- (5) Read section 43(3) of the BNSS in conformity with *Prem Shankar Shukla*, by rules requiring recorded reasons for handcuffing and their prompt review by the magistrate.
- (6) Require magistrates to examine every request for police custody under section 187 of the BNSS

¹⁰⁹The Bharatiya Nagarik Suraksha Sanhita, 2023, ss. 43(3), 187(3), 218.

against the arrest record, the written grounds of arrest required by *Mihir Rajesh Shah*, and the medical examination reports.

- (7) Enforce the CCTV directions in *Paramvir Singh Saini* by independent audits, and treat missing or non-functional footage in a custodial death case as a matter for adverse inference.
- (8) Strengthen the Protection of Human Rights Act 1993 by giving the commissions power to direct prosecution and to enforce compensation awards, and by extending the one-year limitation for complaints of custodial violence.
- (9) Separate investigation from law and order in all urban police districts, with dedicated, legally trained and forensically equipped investigation units.
- (10) Make human rights, interviewing techniques and forensic methods core components of training at every rank, and link promotion to compliance with arrest and custody safeguards.

10. Conclusion

India's constitutional guarantees against police abuse are among the most developed in any common law jurisdiction. The Supreme Court has read Articles 20(3), 21 and 22 to require fair procedure, to prohibit torture and degrading treatment, to regulate every stage of arrest and custody, and to compensate victims of violations. The 2023 codes have written many of these rules into statute.

Yet the institution that applies these rules has changed little since 1861. Successive commissions have proposed the same structural reforms for more than four decades, and the *Prakash Singh* directives gave those proposals legal force. Two decades later, compliance is largely formal, custodial deaths continue at a steady rate, and a significant share of police personnel continue to regard coercion as legitimate. The 2023 codes improve some safeguards while widening police discretion in others, and leave the accountability deficit untouched.

The lesson of this history is that rights-based policing cannot be achieved by rules of procedure alone. It requires an institution insulated from partisan control, accountable to an independent external authority, equipped to investigate without coercion, and subject to a criminal law that names torture as a crime. Until those conditions are secured, the human rights of persons in

police custody will continue to depend on the vigilance of courts rather than on the design of the institution itself.

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