

Increasing incidents of custodial deaths

†2612. SHRI KAPTAN SINGH SOLANKI: Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether it is a fact that incidents of custodial deaths are increasing continuously;
- (b) if so, the details thereof;
- (c) whether lack of co-ordination between Centre and State Governments is the reason behind increasing custodial deaths; and
- (d) whether Government has formulated any policy to control such deaths?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI AJAY MAKEN): (a) and (b) The number of cases registered by the National Human Rights Commission (NHRC) during the last three years in respect of intimations regarding custodial deaths are as mentioned below:

Year	Custodial deaths
2007-08	2267
2008-09	1943
2009-10	1794

(c) and (d) As per the Seventh Schedule of the Constitution of India, "Police" and "Public Order" are State Subjects. It is for the State Government to take action in every crime. In view of this, the Central Government does not intervene directly in the matters of custodial deaths, but only issues advisories, while the National Human Rights Commission (NHRC) issues guidelines and recommendations.

In an important step aimed at curbing custodial violence all the State Governments/Union Territories were advised in 1993 to issue directions to the District Magistrates and Superintendents of Police of every district that they should report to the Secretary General of the National Human Rights Commission about the incident of custodial death and custodial rape within 24 hours of occurrence of the event and that failure to report promptly will give rise to presumption that there was an attempt to suppress the incident. The States and Union Territories were again advised in 1995 to follow the instructions.

†Original notice of the question was received in Hindi.

Further, Section 176 of the Criminal Procedure Code has been amended *vide* Code of Criminal Procedure (Amendment) Act 2005 to provide that in cases of death or disappearance of a person or rape of a woman while in custody of the police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within twenty four hours of death. The Union Government have also been issuing guidelines to the State Governments from time to time advising them to ensure that adequate steps are taken to check instances of custodial deaths.

Section 357 of Cr.P.C. empowers the Courts to grant compensation to the victim and order for payment of cost of the prosecution.

Further, to prevent custodial crimes, a Bill titled "The Prevention of Torture Bill, 2010" was introduced in Lok Sabha on 26.4.2010. The Bill, *inter-alia*, provides for punishment to those involved in the incident of torture and specifies the time limit for taking cognizance of the offence of torture. The Bill would act as a deterrent for Public Servants from indulging in custodial violence and abuse of power by police authorities.

Further the NHRC had issued guidelines to all State Governments/Union Territories to inform the Commission about incidents of deaths during police encounter within 24 hours of occurrence.

The guidelines issued by the Commission in respect of procedures to be followed by the State Governments in dealing with deaths occurring in encounters with the police were circulated to all Chief Secretaries of States and Administrators of Union Territories on 29.3.1997.

Subsequently on 2.12.2003, revised guidelines of the Commission have been issued and it was emphasized that the States must send intimation to the Commission of all cases of deaths arising out of police encounters. The Commission also recommended the modified procedure to be followed by State Government in all cases of deaths, in the course of police action, and it was made clear that where the police officer belonging to the same police station is a member of the encounter party,

whose action resulted in deaths, such cases should be handed over for investigation to some other independent investigating agency, such as State Crime Branch of Criminal Investigation Department (CBCID). Besides, whenever a specific complaint is made against the police alleging commission of a criminal act on their part which makes out a cognizable case of culpable homicide, an FIR to this effect must be registered under appropriate sections of the I.P.C. Such case shall invariably be investigated by the State CBCID. A Magisterial Inquiry must invariably be held in all cases of deaths which occur in the course of police action. The next of kin of the deceased must invariably be associated in such inquiry.

All the Chief Ministers and Administrators have been directed to send a six monthly statement of all cases of deaths in police action in the States/UTS through the Director General of Police to the Commission by the 15th Day of January and of July respectively in the proforma devised for the purpose.

German firm's refusal to sell pistols

2613. SHRI M.V. MYSURA REDDY: Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether it has come to the notice of his Ministry that a German firm M/s Heckler & Koch has refused to sell 9mm pistols and MP5 submachine guns to A.P. State Police citing that the State is violating the human rights;
- (b) whether the Ministry has taken up this issue with the company as it amounts to an insult to a Federal State of the country; and
- (c) if so, the outcome thereof?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI MULLAPPALLY RAMACHANDRAN): (a) No, Sir.

(b) and (c) Question does not arise.

Supreme Court directive on missing children

2614. SHRI BHARATSINH PRABHATSINH PARMAR: Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether cases of missing children are on the rise in the country;