

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

STARRED QUESTION NO:185

ANSWERED ON:23.11.2010

DEATH IN POLICE CUSTODY

Barq Shri Shafiqur Rahman;Sidhu Shri Navjot Singh

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether despite the guidelines and recommendations by the National Human Rights Commission (NHRC), custodial deaths have been reported from various State including the National Capital Territory of Delhi;

(b) if so, the reaction of the Government thereto; and

(c) the steps taken to prevent custodial deaths?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI AJAY MAKEN)

(a) to (c): A Statement is laid on the Table of the House.

STATEMENT IN REPLY TO PARTS (a) TO (c) OF THE LOK SABHA STARRED QUESTION NO. 185 FOR 23.11.2010 REGARDING "DEATH IN POLICE CUSTODY"

(a): The number of cases registered by the National Human Rights Commission (NHRC) during the last three years in respect of intimations regarding custodial deaths in States/Union Territories are as mentioned below :

Year Custodial deaths

2007-08 2267

2008-09 1943

2009-10 1794

Out of these deaths, only 187, 127 and 125 deaths were in Police Custody during the corresponding years.

(b) to (c): 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 including custodial deaths. However, the Central Government issues advisories and the NHRC issues guidelines and recommendations.

In an important step aimed at curbing custodial violence, all the State Governments/Union Territories were advised by NHRC 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 incidents of custodial death and custodial rape within 24 hours of occurrence of the event and that failure to report promptly will give rise to the presumption that there was an attempt to suppress the incident.

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

The guidelines issued by the NHRC 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

29.03.1997. Subsequently on 02.12.2003, revised guidelines of the NHRC 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 NHRC also recommended that in case of death in the course of police action, where the police officer belonging to the same police station is a member of the encounter party whose action resulted in death, 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, a First Information Report (FIR) to this effect must be registered under appropriate sections of the Indian Penal Code. 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 States and Union Territories have been directed to send a six monthly statement of all cases of deaths in police action in the States/Union Territories through the Director General of Police to the NHRC.

Further, the NHRC has reiterated its guidelines on 12.05.2010 to all State Governments/Union Territory Administrations for investigation into cases of deaths caused in police action.