

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:3221

ANSWERED ON:11.02.2014

CUSTODIAL DEATHS

Gandhi Shri Feroze Varun;Singh Shri Ratan

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether there has been a sharp increase in the incidents of custodial deaths, torture and rape in police custody in the country;
- (b) if so, the details thereof and the total number of such cases reported, separately and guilty personnel arrested, convicted and the action taken against them during each of the last three years and the current year, State-wise; and
- (c) the steps taken by the Union Government to stop such cases along with the details of advisories issued to the State Governments and the State Police in this regard?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI R.P.N. SINGH)

(a) As per available data with National Crime Records Bureau (NCRB), a total of 70, 104 and 109 custodial deaths were reported during 2010, 2011 and 2012 respectively, and a total of 6, 1 and 1 cases were registered under custodial rape during 2010, 2011 and 2012 respectively.

(b) States/Union Territory-wise data available with NCRB showing number of custodial deaths registered, policemen charge-sheeted, policemen convicted under custodial death and persons arrested, persons charge-sheeted and persons convicted under custodial rape during the years 2010, 2011 and 2012 are at Annexure I and II respectively.

(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 the 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 24 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.