
ENSURING ACCOUNTABILITY IN CUSTODIAL PRACTICES: A JUDICIAL ANALYSIS OF PARAMVIR SINGH SAINI V. BALJIT SINGH

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ABSTRACT

Ensuring the safeguarding of human rights within the confines of police stations remains a pivotal concern. The escalation in instances of custodial torture underscores the imperative for instilling awareness through early-stage human rights education and training. Addressing this issue, the esteemed Supreme Court, in the case of *Paramvir Singh Saini v. Baljit Singh*, has made it obligatory to install Closed-Circuit Television (CCTV) cameras in police stations and premises of investigative agencies. This mandate is aimed at upholding constitutional provisions pertaining to the rights of individuals and undertrial prisoners, as enshrined in Article 21. By mandating CCTV installations, the judiciary seeks to promote transparency and accountability within law enforcement agencies, thereby curbing instances of human rights violations. These measures serve as a proactive step towards fostering a system where the fundamental rights of every individual are respected and protected. Moreover, such initiatives not only act as a deterrent against potential abuses of power but also contribute to building trust between law enforcement authorities and the public they serve. In essence, the integration of CCTV surveillance aligns with the overarching goal of ensuring justice and upholding human dignity within the realm of law enforcement. This analysis explores the judicial mandate for CCTV installation in police stations as a pivotal measure to uphold human rights and ensure accountability within the criminal justice system.

Keywords: Accountability, CCTV, Human Rights, Transparency, Undertrial Prisoners

Facts of the case

1. The present case was filed as a special leave petition (SLP) under article 136 of Indian Constitution to see whether police stations have installed CCTV cameras as per landmark judgement of *Shahfi Mohammad v. State of Himachal Pradesh* and *D.K. Basu vs. State of West Bengal*.
2. The SLP was filed to address the reasons behind rising number of deaths due to police abuse in police custody and strengthen human rights framework in prisons.
3. The data presented to the Supreme Court lacked essential information, including the quantity of functioning cameras within police stations, the overall count of installed cameras, their specific placements, operational functionality, and other pertinent details.
4. In above mentioned landmark judgements, the apex court recommended the establishment of a Central Oversight Body (COB), a directive that numerous states and territories have yet to comply with. Additionally, these cases underscored the imperative of installing CCTV cameras in prisons and police stations to maintain discipline and mitigate violations of prisoners' human rights.
5. However, during the legal ruling these instructions were mere recommendations and not mandatory. The issue gained prominence with custodial torture case in July 2020 to capture crime scenes involving human rights violation.

Issues

The following are broad issues framed in respective cases that the courts had to settle considering the mandatory installation of CCTV cameras in police stations:

- How far has the installation of surveillance cameras at police stations made progress?
- Is the state abided by Section 161(3) of the CrPC?

Rule

- Constitution of India, 1949

- Indian Penal Code, 1860
- Criminal Procedure Code, 1973
- Protection of Human Rights Act, 1993

Analysis

The case discusses the issue of human rights protection in jails and prisons by invoking the legal, constitutional and above all human rights of undertrial prisoners. The case underlined many crucial aspects necessary for democratic country like India.

❖ Right to Life and Personal liberty

The dwelled into the intricacies of Article 21 of Indian Constitution. The impact of right to life is reflected in all forms and figures and same must be reinstituted in prisons as well. In a landmark judgement of *Maneka Gandhi v. Union of India* (1978), the apex court ruled that the right to life and personal liberty is not confined to mere breathing and having animal existence, it includes right to have meaningful and dignified life. The ‘dignity’ aspect while upholding article 21 is how the court in this case reiterated right to life. Custodial torture can be called a systematic breakdown of democratic and constitutional principles. This ruptures the core principle of apex law that preserves life and liberty of the person. Custodial torture and illegal encounters encroach upon these inherent constitutional values thereby disregarding the central argument circling liberty. Therefore, through criminal special leave petition the decision aims to protect the essence and soul of article 21.

❖ Institution of Oversight Committees

With this judgement supreme court reaffirmed the need for oversight committees at multiple levels. In case of *Shafhi Mohd. v. State of Himachal Pradesh*, the apex court directed the need for establishing central oversight body (COB). In pursuance to that, this judgement issued the directions for delegating responsibilities to SLOC i.e. State Level Oversight Committee and DLOC (District Level Oversight Committee). The court also laid down their composition and duties of these two committees.

The SLOC must consist of secretary (or additional secretary) from Home as well as Finance

department, director general of police and chairmen (or member) of state women's commission. The duties of SLOC includes carrying out the mandates dictated by honourable courts with respect to installation of CCTV cameras in police stations. The committee will receive budget allocation for the same. They will be the reporting body to address concerns regarding equipment in monthly reports submitted by DLOC. The DLOC will comprise of divisional commissioner (regional commissioner) of revenue, district magistrate, superintendent of police and mayor (head of zila panchayat). Their responsibility includes supervision, maintenance, and monitor CCTV installed. Above all, DLOC will have to review footage collected from the cameras to check human rights violations that may have occurred but not reported.

❖ Rule of Natural Justice

The judgement upholds the essence of fair trial in terms of principle of natural justice. Combatting police brutality is crucial as it is systematically eroding the faith of people in judiciary. Motion pictures like “*Simmba*” where encounters are glorified fails to see the repercussions it has. With rising incidents regarding offences against women, there is an internal debate swinging into the need to transforming from reformatory theory of punishment to retributive theory of punishment. The former takes time and evidences beyond reasonable doubt before giving verdict while latter brings instant and speedy justice to victims. In Hyderabad encounter case, where gang-rape accused were shot down by Telangana police, people welcomed their actions with flowers and praises.¹ This type of instant-justice is nothing but a gory violation of human rights. The accused is deprived from their legal right of fair trial and principles of natural justice. Every person is entitled to fair and impartial trial and any state interference with cardinal principles of natural justice is sheer violation of fundamental rights.² When police commit illegal encounters it assumes the role of judiciary and executioner which deprives the accused of their free trial rights, thereby disregarding their right of *audi alteram partem*. Fairness in court proceedings, due chance to counter argue and reasonableness are some crucial pillars of natural justice. In committing encounters, these principles are eroded upon by unlawful police actions.

¹ India Today, <https://www.indiatoday.in/india/story/hyderabad-rape-case-police-encounter-accused-shot-dead-10-points-1625762-2019-12-06> (last accessed 4 Feb, 2024)

² Smt. Ujjam Bai v. State of Uttar Pradesh (Writ Petition (civil) 79 of 1959)

❖ **Role of Human Rights commission**

Given the enormity of violations, the role of commissions as peacekeepers becomes pivotal. The ruling empowers national and state human rights commissions to address and eradicate human rights violations within police stations. It highlights that these commissions in India are not mere statutory bodies but serve as significant entities offering explicit guidance and genuine redressal. The judgment elaborates on the state human rights commissions' responsibilities under the Protection of Human Rights Act, 1993, particularly in handling complaints related to excessive force leading to serious injuries or custodial deaths. Furthermore, it clarifies that Human Rights Courts, Superintendents of Police, or other designated functionaries have the authority to take cognizance of such offenses. This reaffirms the importance of these bodies in upholding human rights standards and ensuring accountability within law enforcement agencies, thus fostering a more just and equitable society.

The judgement, unlike previous ruling mandated certain pointers. The court expounds on keeping recordings of CCTV cameras for 18 months and update the exiting equipment with respect to battery requirements to store such a paramount data. Further, the court also discussed the importance of human rights court in handling issues of police torture and custodial deaths.

Conclusion

The decision has a landmark impact to restore human rights. The issue of police torture and custodial deaths affects the very root of rule of law and democracy. This ruling not only addresses the human rights of undertrials but also invokes the very principle of natural justice in coordination with article 21. This decision has dual impact on two crucial, highly acknowledged but mediocrely executed principles of criminal justice system, guilty beyond reasonable doubt and right to be heard. Inhumane treatment and depriving an alleged accused from his (or her) dignity is gross violation of human rights. In past, the central commission in India, addressing these abuses and concerns, NHRC, becomes helpless due its limited role. NHRC guidelines does not have penalized effect but mere recommendatory nature, this is the reason why ret'd. Justice HL Dattu called NHRC as 'toothless tiger.' However, this judgement reestablished the importance of the commission in such cases.

The need of the hour demands for dedicated legislations to tackle the issue from its root cause.

The awareness and human rights teaching in training will not be enough. There is a need for comprehensive plan, which includes identifying the loopholes in the law and making necessary amendments to colonial acts. The police department must become more accountable and therefore employ certain degree of responsibility while interrogating an accused or any witness. There must be a penalty on non-compliance of rules established by honourable apex court like active medical facility in prisons and jails. Although India has replaced Indian Penal code with Bhartiya Nyaya Sanhita, but still “custodial death” failed to position itself as an offence. There is a dire need to criminalize actions of police under new acts to safeguards human rights principles of accused in custody.