
ACCOUNTABILITY AND LEGAL REMEDIES FOR DEATHS IN POLICE CUSTODY IN INDIA: A HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

This study examines accountability and legal remedies for deaths in police custody in India through a rights-centred lens anchored in the Constitution, statutory reforms, and international standards. It argues that custodial death is not an aberration of procedure but a breach of the core guarantees of life, dignity, and due process, and that the State's duties of prevention, investigation, prosecution, and reparation must be made real in practice. The research parses the doctrinal structure after the replacement of the CrPC, IPC, and Evidence Act by the "Bharatiya Nagarik Suraksha Sanhita" (BNSS), the "Bharatiya Nyaya Sanhita" (BNS), and the "Bharatiya Sakshya Adhiniyam" (BSA), focusing on inquest and magisterial inquiry, offences targeting coercive extraction of confessions, evidentiary exclusion of police confessions, and prior sanction to prosecute public servants. It reads these regimes alongside constitutional protections under Articles 21, 20(3), and 22, and treaty-based obligations under the ICCPR. It integrates the Minnesota Protocol's markers of promptness, effectiveness, independence, impartiality, and transparency, and tests domestic practice against those benchmarks. The argument is supported by authoritative sources on the BNSS-BNS-BSA framework, NHRC's 24-hour reporting and autopsy protocols, and the still-pending ratification of UNCAT, with contemporary statistics indicating continuing custodial mortality across jurisdictions. The study advances that accountability requires four converging levers: rigorous compliance with BNSS inquests and mandatory magistrate inquiries, strict application of BNS offences and BSA exclusions, time-bound sanction decisions under BNSS, and enforceable reparation through constitutional remedies. It contends that surveillance-based safeguards like CCTV with audio, mandated by the Supreme Court, must be embedded with privacy-by-design under the "Digital Personal Data Protection Act, 2023" to ensure evidentiary integrity without eroding rights. Expected findings include a clarified crosswalk of post-reform provisions, a practicable synthesis of investigation standards,

and a structured pathway for stronger remedies within the existing legal architecture.

Keywords: Custodial deaths, Article 21, NHRC, BNSS, BNS, Minnesota Protocol, compensation, sanction, CCTV, police accountability.

Introduction

Deaths in police custody test the Constitution's promise in its most literal form, because the State's control over the body of a detainee collapses the gap between right and remedy if institutions do not respond. The guarantees under Articles 21, 20(3), and 22 extend to every person in custody, including arrestees and undertrials, and the presence of custody heightens rather than diminishes the State's duty of care. Post-2023 criminal law reforms have reframed the statutory vocabulary of procedure, offences, and evidence. The BNSS now governs investigation, arrest, inquest, and magisterial inquiry. The BNS codifies offences including those aimed at extracting confessions by violence. The BSA reconfirms the exclusionary rule for confessions to police and confessions in custody unless made before a Magistrate. These frameworks, read with NHRC protocols on immediate reporting and forensic documentation, build a layered scheme that must be operationalised by police leadership, prosecutors, and magistracy to prevent impunity.¹ The challenge is empirical as well as normative. The NHRC's reporting architecture requires intimation of custodial deaths within twenty-four hours, production of video-recorded autopsies, and forwarding of magisterial inquiry records, creating a compliance trail that, when followed, can anchor accountability in facts rather than suspicion. National data indicate persistent custodial mortality. Public records and reportage based on NCRB datasets show police custody deaths each year across States, while prison mortality in judicial custody runs into the thousands, underscoring systemic health, surveillance, and oversight deficits. These figures are not abstractions; they translate into legal duties to investigate promptly, effectively, and impartially, consistent with ICCPR standards and the Minnesota Protocol's investigative architecture. India has acceded to the ICCPR and is bound to ensure the right to life through practical measures that include serious examination of alleged unlawful killings and custodial violence. The continued non-ratification of UNCAT amplifies attention on domestic criminal law to supply effective offences, procedures, and remedies. Constitutional tort jurisprudence and Supreme Court directions on arrest safeguards and CCTV oversight provide remedial scaffolding, but their effectiveness turns on routine administrative

¹ Joshua N. Aston, *Torture Behind Bars: Role of the Police Force in India* 184 (Oxford University Press, New Delhi, 1st edn., 2020).

obedience. The post-reform moment therefore calls for doctrinal clarity and operational fidelity, with BNSS inquests and mandatory magistrate inquiries acting as the hinge between allegations and provable truths.²

Research Questions

The research questions for the study are as follows: -

- To identify how Articles 21, 20(3), and 22 interact with BNSS-BNS-BSA provisions to shape investigation, prosecution, and evidentiary control in deaths occurring in police custody.
- To evaluate whether current inquest, magisterial inquiry, sanction, and surveillance mandates align with the Minnesota Protocol's standards and enable effective remedies, including compensation and criminal liability.

Problem Statement

Deaths in police custody continue despite constitutional guarantees and procedural safeguards. Gaps persist in first response, scene management, autopsy quality, and independence of inquiry. Prosecutions stall at the sanction stage or fail on evidentiary infirmities tied to coerced confessions and poor documentation. Compliance with NHRC's twenty-four-hour reporting and video-autopsy requirements varies. These deficits erode trust and blunt the deterrent effect of Supreme Court safeguards on arrest and detention, demanding a tighter statutory-to-practice fit under BNSS, BNS, and BSA.

Objectives of the Study

The objectives of the study are as follows: -³

- to map and analyse the post-reform statutory scheme and constitutional standards governing accountability for deaths in police custody in India.

² Annual Report 2023-24, available at: https://nhrc.nic.in/assets/uploads/annual_reports/1755187700_d5bfef90db19872e5f9a.pdf (last visited on October 27, 2025).

³ Eva Verma, "An Era of Guardians Becoming Perpetrators—Custodial Deaths: An Analysis Between the Laws of India and UK", 4 *International Journal of Criminal, Common and Statutory Law* 104 (2022).

- to assess investigative and remedial pathways against Minnesota Protocol benchmarks and propose practice-grounded improvements within the existing legal framework.

Research Methodology

The study adopts a doctrinal and comparative method using constitutional text, BNSS-BNS-BSA provisions, NHRC guidelines, and international instruments. It reads Supreme Court decisions to extract controlling principles on arrest safeguards, inquiry duties, CCTV oversight, and compensation. It engages with ICCPR obligations and Minnesota Protocol standards to test domestic law for promptness, effectiveness, independence, impartiality, and transparency. It references recent official documents and reports on custodial mortality and compliance practice. The focus is synthesis and crosswalk rather than empirical measurement, with sources limited to authoritative and official materials.⁴

Constitutional and Human Rights Framework

Custodial protection in India rests first on the Constitution. Article 21 guarantees life and personal liberty except according to procedure established by law, a phrase interpreted to include substantive fairness and dignity, making torture and custodial killing unconstitutional. Article 20(3) protects against self-incrimination, and Article 22 provides arrest-related safeguards including production before the nearest Magistrate within twenty-four hours. These guarantees bind police conduct from arrest to interrogation and detention. Internationally, India is a party to the ICCPR, which under Article 6 imposes a duty to protect the right to life and to investigate alleged unlawful deprivations with genuine diligence. The Human Rights Committee's General Comment No. 36 crystallises State duties to investigate, prosecute, punish, and remedy. The Minnesota Protocol operationalises these duties by specifying standards for death investigations that involve potential State responsibility, including custodial contexts. India has signed but not ratified UNCAT, keeping the focus on domestic criminal law and constitutional remedies to deter and redress custodial violence. The doctrinal task is to braid these layers so that every custodial death triggers not just a report or ritual, but a rights-compliant investigation and remedy.⁵

⁴ Selected NHRC Guidelines on Custodial Deaths/Rapes, *available at*: <https://nhrc.nic.in/sites/default/files/978-93-84686-123.pdf> (last visited on October 27, 2025).

⁵ International Covenant on Civil and Political Rights, *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (last visited on October 24, 2025).

Article 21 and Custodial Protection

Article 21 applies with undiminished force to persons in custody, and custody heightens the State's obligations of care, supervision, and medical attention. The right to life includes dignity, bodily integrity, and protection from cruel or inhuman treatment. Procedural fairness is not satisfied by formal arrest memos or routine inquiries if the underlying processes are neither prompt nor effective. When a detainee dies, the State must demonstrate that measures of prevention and supervision were reasonable and that post-death responses meet the thresholds of thoroughness and impartiality. Remedies for violation include criminal liability for individuals under general penal provisions and public law compensation in writ jurisdiction for constitutional tort. The doctrinal bridge between Article 21 and statutory procedure lies in the rigour of inquests, the independence of magisterial inquiries, and the exclusion of tainted evidence, each of which calibrates incentives away from coercive methods and toward lawful investigation. The Article's power is realised when these downstream processes work in concert to produce accurate cause-of-death findings and credible accountability.⁶

Article 20(3), Right Against Self Incrimination

Article 20(3) establishes that no person accused shall be compelled to be a witness against himself. In custodial settings, that protection confronts the investigative temptation to short-circuit proof by extracting confessions rather than building evidence. The constitutional safeguard is translated into statutory evidentiary rules and substantive offences. The BSA repeats and strengthens the bar against confessions to police, and confessions in police custody unless made in the immediate presence of a Magistrate, keeping coercive statements out of the trial record. The BNS criminalises hurt or grievous hurt to extract confession or information. This combination attempts to collapse the payoff from violence by both punishing the means and eliminating the evidentiary fruits. When coupled with Article 21's dignity imperative, Article 20(3) becomes a structural check: if coercion cannot advance the case in court and exposes the officer to prosecution, the rational choice is lawful investigation. The effectiveness of this design turns on daily compliance and prosecutorial readiness to charge offences aimed at custodial coercion.⁷

⁶ A. Solanki, "Study of Natural Deaths in Custody at Tertiary Care Hospital: A Retrospective Study", 45 *Journal of Indian Academy of Forensic Medicine* 42 (2023).

⁷ The Bharatiya Sakshya Adhiniyam, 2023, *available at*: <https://www.indiacode.nic.in/bitstream/123456789/20063/1/a2023-47.pdf> (last visited on October 23, 2025).

International Standards

The Minnesota Protocol articulates what an effective investigation into potentially unlawful death must achieve. It is not a form but a set of qualities: investigations must be prompt, to preserve perishable evidence and prevent contamination; effective, meaning capable in practice of identifying perpetrators and enabling prosecution; independent, with institutional separation from implicated agencies; impartial, with even-handed pursuit of leads; and transparent, allowing meaningful participation by the next of kin and public confidence through reasoned reporting. These qualities apply a fortiori in custodial deaths, where the State's control over the setting makes trace evidence, custody records, CCTV, medical logs, and duty rosters central. ICCPR obligations to protect life and provide an effective remedy reinforce these operational demands. Domestically, BNSS inquests and mandatory magisterial inquiries provide vehicles to deliver those qualities if used with fidelity. Aligning procedure to these standards requires documented scene-of-death processing, autopsies meeting forensic best practices, chain-of-custody integrity for CCTV and medical records, and reasoned orders that are accessible to the family.⁸

Statutory Scheme After Criminal Law Reforms

The criminal law reforms notified in late 2023 and brought into force in 2024 recast the relevant statutes. The BNSS governs procedure including inquest and magisterial inquiry, with granular duties on the police to inform the Executive Magistrate and to document the body and scene. A separate provision requires an empowered Magistrate to inquire into custodial deaths and related categories. The BNS supplies substantive offences, including the proscription of hurt or grievous hurt for the purpose of extracting confession or information, functionally descended from the repealed IPC provisions but renumbered and reframed. The BSA consolidates and updates rules of evidence, preserving the exclusion of confessions made to police and in police custody, subject only to recording before a Magistrate. The NHRC's protocol requires intimation within twenty-four hours, standardized autopsy with video recording, and transmission of inquiry records to the Commission, aligning practice across States. These layers took effect through official notifications that commenced the new codes in 2024, and they must be read together when a death occurs in police custody, beginning with immediate

⁸ John Woodroffe, Syed Amir Ali, *Law of Evidence* 211 (LexisNexis, Gurgaon, 1st edn., 2023).

reporting and culminating in charge decisions, sanction processing, and trial.⁹

Inquest and Judicial Inquiry

Inquest is the front-end factual spine. Under “BNSS Section 194”, upon receiving information of a suspicious death, including deaths raising reasonable suspicion of an offence, the officer in charge must immediately inform the nearest Executive Magistrate, proceed to the place of the body, examine in the presence of local witnesses, and draw up a report describing injuries and apparent cause of death, forwarding it to the District or Sub-Divisional Magistrate promptly. Where the case falls within categories such as death or disappearance or alleged rape in custody, an empowered Magistrate shall inquire into the cause of death under “BNSS Section 196”, either instead of or in addition to the police investigation, exercising the powers of inquiry into an offence. The NHRC overlays this with a strict twenty-four-hour intimation requirement and demands a complete autopsy and case record set, including video-recorded post-mortem, site plan, inquest report, and statements, to be sent to the Commission, fusing statutory duties with national oversight. The purpose is convergence. The inquest preserves the body and scene record, the magisterial inquiry lends independence, and NHRC monitoring secures compliance.¹⁰

CrPC Section 174 - Police inquest on suicide or suspicious death; inform Executive Magistrate; prepare report	BNSS Section 194 - Police to enquire and report on suicide etc.; mandatory intimation to Executive Magistrate; scene inspection with witnesses; prompt report to Magistrate.
CrPC Section 176 - Inquiry by Magistrate into cause of death including in custody	BNSS Section 196 - Inquiry by Magistrate into cause of death, including deaths or disappearances or alleged rape in custody, either instead of or in addition to police investigation. ¹¹

⁹ BNSS (Act 46 of 2023) – Official Text (English), *available at*: https://www.mha.gov.in/sites/default/files/2024-04/250884_2_english_01042024.pdf (last visited on October 24, 2025).

¹⁰ Section 194(1) in Bharatiya Nagarik Suraksha Sanhita, 2023, *available at*: <https://indiankanoon.org/doc/156205493/> (last visited on October 21, 2025).

¹¹ Inquiry by Magistrate into Cause of Death, Bharatiya Nagarik Suraksha Sanhita, 2023, *available at*: <https://www.advocatekhoj.com/library/bareacts/bharatiyanagarik2023/196.php?STitle=Inquiry+by+Magistrate+into+cause+of+death&Title=Bharatiya+Nagarik+Suraksha+Sanhita%2C+2023> (last visited on October 20, 2025).

Table 1. Inquest and Inquiry: CrPC vs BNSS mapping¹²

Offences and Evidentiary Safeguards

Substantively, coercion aimed at extracting confessions is criminalised. “BNS Section 120” covers hurt or grievous hurt to extort confession or to compel restoration of property, inheriting and updating the policy of the repealed “IPC Sections 330 and 331”. Evidentiary law complements this by keeping coerced or custodial confessions out of the trial record. The BSA codifies the classic exclusion: “BSA Section 23” states that no confession to a police officer shall be proved against an accused, and no confession made while in police custody shall be proved unless in the immediate presence of a Magistrate. The historical discovery proviso equivalent to old Section 27 survives in the BSA architecture, but it is narrowly cast and does not revive the inadmissible confession itself. Together, these rules depress the evidentiary yield of violence and attach personal criminal liability to it. In practice, prosecutors should charge the BNS offence contemporaneously with the homicide or culpable homicide count where injuries during interrogation precede death, while courts enforce the BSA bar to exclude statements tainted by custody.¹³

IPC Section 330 - Hurt to extort confession	BNS Section 120 - Hurt or grievous hurt for extorting confession or information.
IPC Section 331 - Grievous hurt to extort confession	BNS Section 120 - Same subject matter integrated in renumbered offence.
IEA Section 25 - Confession to police officer not to be proved	BSA Section 23(1) - Confession to police officer inadmissible. ¹⁴
IEA Section 26 - Confession in police custody inadmissible unless before Magistrate	BSA Section 23(2) - Confession in custody inadmissible unless in immediate presence of a Magistrate.

¹² BPRD BNSS Handbook (English) – Key Provisions, *available at*: https://bprd.nic.in/uploads/pdf/BNSS_Handbook_English.pdf (last visited on October 25, 2025).

¹³ Police to Enquire and Report on Suicide (Section 194 BNSS), *available at*: <https://thelawgist.org/police-to-enquire-and-report-on-suicide-section-194-bnss/> (last visited on October 19, 2025).

¹⁴ Bharatiya Sakshya Adhiniyam, 2023, *available at*: [https://uppolice.gov.in/site/writereaddata/siteContent/Three New Major Acts/202407031507276576BSA2023-9-25.pdf](https://uppolice.gov.in/site/writereaddata/siteContent/Three%20New%20Major%20Acts/202407031507276576BSA2023-9-25.pdf) (last visited on October 28, 2025).

Table 2. BNS vs IPC and BSA vs IEA mapping relevant to custodial violence¹⁵

Prior Sanction to Prosecute Public Servants

Prosecution of police personnel often turns on the prior-sanction rule. The BNSS reframes the earlier position under CrPC Section 197 through “BNSS Section 218”, which addresses prosecution of Judges and public servants for acts alleged to have been committed while acting or purporting to act in the discharge of official duty. A decisive reform appears in the express “deemed sanction” clause that activates if the competent government fails to decide within one hundred and twenty days of receiving the proposal. This time-limit reduces structural delays that historically stalled custodial violence prosecutions at inception. The doctrinal tension persists between shielding honest duty performance and preventing impunity. Courts will continue to test whether the act complained of bore reasonable nexus with official duty, but the 120-day trigger narrows space for indefinite inaction. The provision interacts with specialized accountability regimes and does not override obligations under the Lokpal and Lokayuktas Act where applicable. Used seriously, deemed sanction accelerates movement from inquiry to charge sheet and trial in cases of deaths occurring in custody.¹⁶

NHRC Reporting and Autopsy Protocol

NHRC practice directions require intimation of every custodial death within twenty-four hours to the Commission, followed by dispatch of a complete dossier comprising FIR, inquest, site plan, post-mortem with video recording, viscera reports, photographs, magisterial inquiry records, and statements. The Commission has insisted on forensic adequacy, mandating videography of autopsies to capture external and internal examinations and to preserve an evidentiary record for later independent review. These documentary demands align with Minnesota Protocol expectations of transparency and effectiveness. They also dovetail with domestic BNSS requirements for inquest and magisterial inquiry, thereby providing a uniform compliance template across States. Where CCTV exists, footage becomes part of the record, and oversight committees identified by the Supreme Court in the CCTV judgment operate as institutional guardians of preservation and access. The combined effect is to make early-stage

¹⁵ Siva Prasad Bose, *Introduction to Tort Law in India* 78 (Notion Press, Chennai, 1st edn., 2022).

¹⁶ Prosecution of Judges and Public Servants, Bharatiya Nagarik Suraksha Sanhita, 2023, *available at*: <https://www.advocatekhaj.com/library/bareacts/bharatiyanagarik2023/218.php?STitle=Prosecution+of+Judges+and+Public+servants&Title=Bharatiya+Nagarik+Suraksha+Sanhita%2C+2023> (last visited on October 27, 2025).

record creation reliable, resistant to later manipulation, and capable of sustaining prosecutions and public law compensation in appropriate cases.¹⁷

Landmark Supreme Court Jurisprudence

The Supreme Court has built a jurisprudential spine that structures arrest, detention, inquiry, compensation, and encounter scrutiny. The arrest safeguards jurisprudence clarifies that detention must be justified, documented, and supervised, with information to relatives and access to counsel. Compensation has been recognised as a public law remedy for violations of Article 21 in cases of illegal detention and custodial death. Encounter deaths are subjected to a special regime mandating FIRs, independent investigation, and magisterial inquiry, with guidelines intended to minimise conflict of interest. A distinct line requires installation of CCTV with audio in police stations and the offices of investigating agencies, building an objective record of custodial interactions. These principles, when read with the BNSS-BNS-BSA framework, create a full chain from prevention to remedy. Their effectiveness ultimately depends on administrative diligence, prosecutorial firmness, and judicial insistence on compliance in daily practice, rather than episodic orders after grave events.¹⁸

D. K. Basu v. State of West Bengal

In the case of *D. K. Basu v. State of West Bengal*¹⁹, the Supreme Court responded to a series of communications highlighting deaths in custody and torture by treating a letter as a public interest litigation. The petition sought judicial directions to curb custodial violence by structuring arrest and detention practices. The Court examined data and submissions indicating systemic misuse of arrest powers and lack of documentation, and it considered international standards on arrest and detention. The judgment distilled a set of mandatory requirements for arrest and detention, including identification of arresting officers, preparation and countersignature of arrest memos with time and date, information to a friend or relative of the arrestee, medical examination at intervals, and entries in station diaries to create an auditable trail. The Court emphasised that these safeguards are not technicalities but measures to protect

¹⁷ Minnesota Protocol on the Investigation of Potentially Unlawful Death (and NHRC Custodial Death Reporting), available at: <https://nhrc.nic.in/sites/default/files/978-93-84686-123.pdf> (last visited on October 24, 2025).

¹⁸ D.K. Basu v. State of West Bengal Judgment, available at: <https://cjp.org.in/wp-content/uploads/2021/07/DK-Basu-main-judgment-18121996.pdf> (last visited on October 26, 2025).

¹⁹ (1997) 1 SCC 416.

life and dignity under Article 21. On the merits, it issued binding directions to all States and Union Territories, requiring compliance and dissemination. The judgment warned that non-compliance would attract departmental action and contempt consequences. The Court also recognised that violations of fundamental rights in custody may attract public law compensation, though the primary vehicle would remain criminal prosecution and departmental action against errant officers. The factual matrix thus became the platform for a normative re-ordering of arrest practice, and the directions have since been incorporated into police manuals and form the baseline against which arrest legality is tested in later cases.

Nilabati Behera v. State of Orissa,

In the case of *Nilabati Behera v. State of Orissa*²⁰, a mother approached the Supreme Court alleging that her son, Suman Behera, died due to custodial violence and that his body was later found on a railway track. The State denied liability and suggested accidental death, but the record disclosed multiple injuries inconsistent with that narrative. The Court addressed whether monetary compensation could be granted in a petition under Article 32 for violation of Article 21, separate from private law remedies in tort. It held that constitutional courts may award compensation in public law when the infringement of fundamental rights is established, as an effective remedy that is distinct from and in addition to civil and criminal proceedings. On the facts, the Court concluded that the death was custodial and attributable to State failure to protect life in custody, and it directed compensation to the petitioner. The judgment carefully located the remedy within the Constitution's guarantees, avoiding displacement of ordinary processes while ensuring immediate redress. It connected the grant of compensation to deterrence and accountability, affirming that monetary relief could be appropriate where fundamental rights are violated by State agents. The case thus stands for the proposition that the writ jurisdiction can yield direct monetary remedies in custodial death cases, and that the absence of a completed criminal trial does not bar public law relief when the facts sufficiently demonstrate State responsibility.²¹

²⁰ (1993) 2 SCC 746.

²¹ Smt. Nilabati Behera Alias Lalit Behera v. State of Orissa and Others, *available at*: <https://indiankanoon.org/doc/1628260/> (last visited on October 25, 2025).

Joginder Kumar v. State of U.P.

The petition in *Joginder Kumar v. State of U.P.*²², arose from an arrest without prompt production before a Magistrate and without intimation to family, reflecting broader concerns about routine and unreasoned arrests. The Supreme Court examined the normative basis of arrest powers and the misuse that results when arrest is treated as a reflex rather than a last resort. It declared that arrest is not to be made merely because it is lawful to do so, and it stressed the necessity to record reasons for arrest and to inform a friend or relative of the arrestee. The Court directed that police control rooms should maintain records of arrests, and that reasons for arrest must be subject to judicial scrutiny. It connected these directions to Articles 21 and 22, understanding that arbitrary arrest often sets the stage for custodial violence. The ruling did not abolish arrest; it rationalised it through reason-requirement and communication duties, anticipating later codifications of appearance notices and proportionality tests. This case therefore builds a bridge between the legality of initial custody and the prevention of abuse during detention, with the Court's directions becoming part of the standard by which arrest practices are judged in subsequent litigation and administrative audits.²³

Arnesh Kumar v. State of Bihar

*Arnesh Kumar v. State of Bihar*²⁴, addressed the tendency to arrest in offences punishable up to seven years without applying mind to necessity. The Supreme Court held that arrest is not automatic and directed strict adherence to the statutory thresholds that require reasons to believe and reasons to record before arrest, together with issuance of a notice of appearance when appropriate. The judgment required police officers to satisfy themselves on the necessity criteria and to forward reasons to the Magistrate, and it obligated Magistrates not to authorise detention mechanically. The ruling operationalised proportionality and necessity in arrest decisions, aiming to reduce unnecessary custody where investigation can proceed without detention. In custodial-death discourse, the case curbs inflow into police lockups by insisting that arrest be a justified exception, not a default. The insistence on written reasons creates a paper trail that can be examined if harm occurs, and it disincentivises gratuitous detention. The

²² (1994) 4 SCC 260.

²³ *Joginder Kumar v. State of U.P.*, available at: <https://indiankanoon.org/doc/768175/> (last visited on October 24, 2025).

²⁴ (2014) 8 SCC 273.

judgment has become a touchstone for evaluating the legality of arrest and the authorisation of further detention, reinforcing the architecture built by earlier cases on arrest safeguards and due process in custody management.²⁵

PUCL v. State of Maharashtra

*PUCL v. State of Maharashtra*²⁶, confronted encounter killings and crafted a national set of guidelines to govern registration, investigation, and oversight. The Supreme Court mandated that every encounter death be registered through an FIR, that investigation be conducted by an independent agency such as the CID or a police team from another police station, that a magisterial inquiry be held, that the NHRC be informed promptly, and that the families be allowed participation consistent with law. It required the preservation of scene and ballistic evidence, post-mortems by two doctors, preferably from outside the district, and transparency in reporting. While the case was not limited to lock-ups, its logic tracks custodial settings where agency conflict of interest is acute. The guidelines embed independence and impartiality, echoing the Minnesota Protocol's core qualities. Over time, these directions have served as a benchmark for High Courts assessing State responses to alleged fake encounters, and their spirit informs the expectation that custodial deaths trigger independent inquiry pathways rather than internal reviews by implicated units. The ruling therefore extends the accountability arc from closed station rooms to field operations, insisting on the same investigatory discipline when State force is alleged to have caused death.²⁷

Prakash Kadam v. Ramprasad Vishwanath Gupta

In *Prakash Kadam v. Ramprasad Vishwanath Gupta*²⁸, the Supreme Court addressed allegations of a fake encounter orchestrated by police personnel and rejected the notion that superior orders could shield participants in extra-legal killings. The Court characterised such killings as nothing short of murder and signalled that bail and trial considerations must reflect the gravity of the allegation. The judgment emphasised individual responsibility within the chain of command and the inadmissibility of appeals to exigency or public order to excuse

²⁵ Arnesh Kumar v. State of Bihar, *available at*: https://judicialacademy.nic.in/sites/default/files/1_Arnesh_Kumar_v._State_of_Bihar.pdf (last visited on October 23, 2025).

²⁶ (2014) 10 SCC 635.

²⁷ People's Union for Civil Liberties and Another v. State of Maharashtra and Others, *available at*: <https://www.kshrc.kerala.gov.in/images/pdf/part3.pdf> (last visited on October 22, 2025).

²⁸ (2011) 6 SCC 189.

unlawful violence. In the custodial-death context, the reasoning demolishes defences that seek to normalise lethal force within custody or during interrogation. It instructs that chain-of-command compliance does not dilute criminal liability. This case has become a citation of choice when courts are urged to treat encounter allegations as policy disputes rather than homicide claims requiring ordinary criminal process. Its declarative stance reinforces the substantive side of accountability by ensuring that officers implicated in staged encounters cannot wrap themselves in institutional authority to avoid prosecution or conviction.²⁹

Paramvir Singh Saini v. Baljit Singh

*Paramvir Singh Saini v. Baljit Singh*³⁰ transformed surveillance infrastructure from a policy aspiration into a judicial mandate. The Supreme Court directed installation of CCTV cameras with audio capabilities in every part of police stations and the offices of investigative agencies where interrogation occurs, and it required constitution of oversight committees at the State and district levels to monitor functionality, storage, and access. The directions contemplated that footage would be preserved and accessible to complainants and courts, subject to legal process, to verify allegations of abuse. For custodial death cases, this order supplies an objective evidentiary trail, reducing dependence on contested testimony. The judgment recognised earlier directions on audio-video recording of statements and integrated them into a wider oversight design. Its practical significance lies in preservation, because non-existent or overwritten footage would otherwise disable scrutiny. By situating CCTV within a rights framework, the Court aligned domestic practice with the Minnesota Protocol's transparency and effectiveness expectations, and it created tangible duties for State authorities whose compliance can be judicially audited.³¹

Rudul Sah v. State of Bihar

*Rudul Sah v. State of Bihar*³², arose from an egregious illegal detention lasting years after acquittal. The Supreme Court was asked whether, in a petition under Article 32, it could order monetary compensation for the violation of fundamental rights. The Court answered in the

²⁹ Prakash Kadam and Others v. Ramprasad Vishwanath Gupta and Another, *available at*: <https://vlex.in/vid/prakash-kadam-and-etc-571695190> (last visited on October 21, 2025).

³⁰ (2021) 1 SCC 184.

³¹ Paramvir Singh Saini v. Baljit Singh Judgment, *available at*: <https://cjp.org.in/wp-content/uploads/2021/12/paramvir-singh-judgement.pdf> (last visited on October 20, 2025).

³² (1983) 4 SCC 141.

affirmative, founding the doctrine of constitutional compensation in public law where State action results in clear infringement of Article 21. Although the case concerned illegal detention rather than a custodial death, its doctrinal move is central to remedies in custodial violence and deaths because it validates direct monetary relief independent of and in addition to criminal and civil proceedings. The Court ordered payment to the petitioner and left open further civil action. This articulation made the right to life judicially meaningful beyond declaratory relief, embedding deterrence into constitutional adjudication. Subsequent cases on custodial deaths have relied on this principle to craft immediate remedies without waiting for the outcome of a full criminal trial, recognising that public law remedies serve both reparation and public accountability.³³

Bhim Singh v. State of J&K

In *Bhim Singh v. State of J&K*³⁴, an elected legislator was arrested and not produced before a Magistrate within twenty-four hours, apparently to prevent him from attending the Assembly. The Supreme Court found that the arrest and the failure to produce him violated constitutional guarantees under Articles 21 and 22. It granted monetary compensation in the writ jurisdiction, continuing the movement begun in *Rudul Sah* toward public law damages for State wrongdoing that infringes personal liberty. The case underscored that the duty to produce an arrestee before a Magistrate within the statutory window is not a technicality; it is a structural safeguard against secret or protracted detention that can enable abuse. Its implications for custodial death jurisprudence are clear. A system that tolerates illegal arrest and non-production undermines all subsequent accountability. The Court's remedial stance therefore supports the broader architecture in which arrest legality, timely production, and access to counsel reduce the risk of violence and, when violated, warrant immediate constitutional remedies.³⁵

Recent Judicial and Policy Developments

The period from January 2024 to October 2025 displays a sharper judicial focus on custodial accountability across three fronts that interact in practice - compliance with CCTV and audio-video recording directives, evolving sanction rules for prosecuting public servants, and

³³ *Rudul Sah v. State of Bihar and Another*, available at: <https://indiankanoon.org/doc/810491/> (last visited on October 19, 2025).

³⁴ (1985) 4 SCC 677.

³⁵ *Bhim Singh, MLA v. State of J & K and Others*, available at: <https://indiankanoon.org/doc/1227505/> (last visited on October 28, 2025).

monetary redress under public law. The Supreme Court's continuing docket under "*Paramvir Singh Saini v. Baljit Singh*"³⁶, has kept states and police agencies under scrutiny for end-to-end CCTV coverage of police stations, interrogation rooms, and preservation of footage, with fresh pleadings in 2025 pointing to gaps in several states, including non-functioning cameras and inadequate retention protocols. The Court's earlier directions, read with the BNSS framework on audio-video recording during investigation, have migrated from principle to compliance monitoring. In parallel, the switch from the CrPC to the BNSS introduced a time bound and deemed sanction regime under "Section 218 of the Bharatiya Nagarik Suraksha Sanhita", igniting debate in courts and commentary about retrospective application and harmonization with the "official duty" test under preexisting jurisprudence. Compensation rulings and policy circulars, including state level compensation policies for custodial deaths, now sit alongside writ remedies under Articles 32 and 226, shaping a mixed toolbox that victims and families are invoking with greater frequency.³⁷

High Court Interventions on Compensation

Recent High Court orders reflect an increasingly pragmatic approach to interim and final monetary relief in custodial death cases, treating compensation as an independent constitutional remedy and not as a substitute for criminal prosecution or departmental action. Benches have ordered ex gratia or directed structured payments while leaving criminal liability questions to investigation and trial, and have used magisterial findings, autopsy video recordings, and CCTV lapses to calibrate quantum. The Chhattisgarh High Court, in proceedings publicized by the state's official channels during 2024, took suo motu cognizance of custodial violence narratives and pressed for accountability, and reportage during 2024-25 records state policy movement on ex gratia in specific incidents. Maharashtra provides a parallel policy signal: publicly reported figures show a custodial death compensation framework announced in 2025, pegging amounts to cause categories, with investigations simultaneously proceeding under criminal law. Taken together, these orders and policies indicate a willingness to couple immediate victim-oriented relief with directions for independent inquiry, while reinforcing that

³⁶ *Supra* note 30.

³⁷ Bhumika Indulia, "2021 SCC Vol. 1 Part 2 | Installation of CCTV Cameras in Police Stations, Interest Waiver on Loan During Moratorium and More", available at: <https://www.sconline.com/blog/post/2021/02/17/2021-scc-vol-1-part-2/> (last visited on October 27, 2025).

compensation neither precludes FIRs for homicide nor supplants internal disciplinary controls.³⁸

Ongoing Compliance Litigation on CCTV and Arrest Protocols

Litigation tracking after “Paramvir Singh Saini” has widened from installation orders to enforcement audits and contempt calibrated demands, with petitions in 2025 flagging non coverage of interrogation rooms, short retention periods, and poor signage about surveillance for detainees. Fresh filings have highlighted incomplete state wise saturation, for instance identifying pending police stations without CCTV, and inadequate preservation of footage for inquiry or trial use. These litigations intersect with BNSS provisions on audio-video processes during investigation, making the evidentiary chain more resilient in custodial death cases where the state is the potential accused. Courts have started to insist on affidavits by senior police leadership with station wise inventories, certifying uptime, storage protocols, and fault repair turnaround. The overarching effect is a dual compliance matrix - Supreme Court judicial directions at the top, and BNSS architecture that embeds audio video recording of witness examination, searches, and identification, giving magistrates and trial courts a more reliable record when allegations of custodial torture surface.³⁹

BNSS Deemed Sanction Debate

“Section 218 of the Bharatiya Nagarik Suraksha Sanhita” recasts the sanction landscape by introducing a 120-day decision window and a deemed sanction consequence if the government does not decide within that period. Primary sources place “Prosecution of Judges and public servants” in Section 218, and authoritative handbooks by policing institutions explicitly note the 120-day deemed sanction rule. The doctrinal friction has arisen when courts in sanction linked appeals continue to cite pre BNSS formulations under “Section 197 of the Code of Criminal Procedure, 1973”, occasionally overlooking the new proviso and its temporal reach. Scholarly and practitioner commentary through 2024-2025 points out this oversight and argues for clarifying whether the deemed sanction clause applies prospectively to post July 1, 2024 cognizance events or also to sanction requests made earlier but decided later. High Courts are

³⁸ Alim Shaikh, “At 17, Maha Logged Most Custodial Deaths in Country in 2023: NCRB”, *available at*: <https://timesofindia.indiatimes.com/city/pune/at-17-maha-logged-most-custodial-deaths-in-country-in-2023-ncrb/articleshow/124243980.cms> (last visited on October 26, 2025).

³⁹ M. Nagpal, “Tracing Journey of Crime Victim's Position Under Indian Law”, 9 *Cogent Social Sciences* 1 (2023).

beginning to reference the new text, and bar submissions increasingly cite the BNSS clause to resist indefinite executive delay in cases alleging custodial offences, thereby shrinking a long-standing procedural barrier that often-blunted accountability.⁴⁰

Empirical Trends and Data

Empirical tracking continues to struggle with under reporting and definitional variance across agencies, yet multiple sources indicate persistent custodial death incidence with slow movement on prosecutions and convictions. NHRC annual reports reaffirm the 24-hour intimation rule and show that many intimations still arrive late or without full documentation sets required for a rights compliant inquiry. NCRB publications and derivative reportage for 2023 reveal state wise variation, with some states reporting double digit police custody deaths in a given year. Civil society and international monitors add a wider lens, indicating that official custodial death counts are likely lower than reality, and that magisterial inquiries and CID investigations sometimes diverge on cause of death assessments.⁴¹

Data Quality and Reporting Gaps

Three gaps recur in custodial death documentation. First, the obligation of 24-hour intimation to the NHRC or State Commissions is not met consistently, producing time lag and data loss, as NHRC's consolidated guidelines continue to remind state agencies. Second, compliance with mandatory magisterial inquiry for deaths in police custody - the BNSS equivalent provision is "Section 196" - shows unevenness, with inquiries delayed or conducted without the full evidentiary suite, including post mortem videography and preservation of viscera and clothing. Third, the police case diary and forensic annexures sometimes miss essential chain-of-custody and audio-video elements that courts now expect in light of BNSS provisions on recording by audio video electronic means. These deficits affect prosecutions by inviting adverse inferences or evidentiary exclusion downstream, and they also dilute the preventive value of credible inquests. Courts in 2025 have begun to link compensation and disciplinary directions to these documentary omissions, signaling that process failures can themselves

⁴⁰ The Bharatiya Nagarik Suraksha Sanhita, 2023, *available at*: https://prsindia.org/files/bills_acts/bills_parliament/2023/Bharatiya_Nagarik_Suraksha_Sanhita%2C_2023.pdf (last visited on October 25, 2025).

⁴¹ Annual Report 2021-22, *available at*: https://nhrc.nic.in/assets/uploads/annual_reports/1755187591_0199a76f989e210c9c2d.pdf (last visited on October 24, 2025).

ground public law consequences.⁴²

Case Spotlight

The 2020 Sathankulam custodial deaths of P Jeyaraj and J Bennix remain a contemporary anchor for examining endurance of trial processes and the visibility of custodial violence in public law discourse. As of April 2025, national reporting recorded the CBI trial as being at an advanced stage, with evidence completion reports moving the matter toward final adjudication. The case is frequently cited in judicial and academic writing to show how a combination of High Court monitoring, CBI investigation, magisterial oversight, and media attention can keep a custodial death prosecution alive past the typical attrition points. It also shows the limitations of case-by-case visibility - many other custodial death matters do not attract sustained coverage or external monitoring, leaving families to navigate a complex mesh of FIR registration, autopsy protocols, and state compensation schemes without the systemic pressure that propelled Sathankulam. The trial's progress underscores the continuing salience of independent investigation and forensic integrity for any serious custodial death allegation.⁴³

Procedural Barriers and Accountability Gaps

Four obstacles impede full accountability. Sanction to prosecute public servants still invites preliminary contests over the scope of “official duty”, though the BNSS’s deemed sanction clause is designed to curb indefinite delay. Conflict of interest arises when police units investigate colleagues, making separation between departmental and criminal inquiries crucial and increasing the value of magistrate led oversight and external agencies. Forensic compliance remains uneven, with missing audio-video capture of key investigative steps, inadequate autopsy documentation, and weak chain-of-custody undermining admissibility. Oversight structures like Police Complaints Authorities have not reached uniform functionality across states, despite mandated creation under Supreme Court directives. Each barrier connects to a legal lever - “Section 218 of the BNSS” for sanction, “Section 196 of the BNSS” for magisterial inquiry, “Section 23 of the Bharatiya Sakshya Adhiniyam” for confessional exclusion, and

⁴² NHRC Selected Letters and Guidelines on Deaths in Custody, *available at*: https://www.mha.gov.in/sites/default/files/2025-04/NHRCselectedlettersandguidelinesondeathsincustody_09042019_0%5B1%5D_4.pdf (last visited on October 23, 2025).

⁴³ Matajog Dobey v. H. C. Bhari, *available at*: https://jajharkhand.in/wp/wp-content/judicial_updates_files/07_Criminal_Law/31_section_197_of_crpc_protection_to_public_servants_against_prosecution/Matajog_Dobey_vs_H._C._Bhari%28With_Connected_..._on_31_October%2C_1955.PDF (last visited on October 22, 2025).

“Paramvir Singh Saini” for CCTV and recording - that together define the remedial map in custodial death litigation.⁴⁴

Sanction to Prosecute

The “official duty” test governs whether sanction is needed before cognizance against a public servant, with classic doctrine asking whether the act is reasonably connected to duty and not a mere cloak for illegality. Under “Section 218 of the Bharatiya Nagarik Suraksha Sanhita”, sanction must be decided within 120 days, failing which it is deemed granted - a structural break from “Section 197 of the Code of Criminal Procedure, 1973”. Commentary in 2024-2025 has pointed out instances where courts did not advert to the new deemed sanction proviso, prompting calls for greater doctrinal clarity about prospectivity and cases straddling the July 1, 2024 commencement of the new codes. In custodial death prosecutions, this alters defense strategy on threshold objections and narrows the room for executive inaction. The net effect is to shift litigation from whether a prosecution can begin to what evidentiary quality supports charges, with the sanction question now bound to a firm decision timeline.⁴⁵

Evidence and Admissibility Issues

Confessional law remains a central evidentiary constraint in custodial violence cases. “Section 23 of the Bharatiya Sakshya Adhiniyam” restates the prohibition: a confession made to a police officer is not provable against the accused, and a confession while in police custody is inadmissible unless recorded before a magistrate. This pushes prosecutions to build on circumstantial and scientific proof - injuries mapped to custody timelines, CCTV and audio-video records, call detail records, station diaries, and independent witness accounts - rather than on any admission extracted in custody. The BNSS’s audio-video provisions for recording statements, searches, and identification provide courts a more reliable corpus, reducing reliance on oral reconstruction and cross examination alone. Forensic autopsies and videography, required under encounter and custodial death guidelines, further integrate with the BSA’s digital evidence facilitation, provided the chain-of-custody is intact. These doctrinal shifts

⁴⁴ S. Subramanian, *Human Rights and Police* 154 (Association for Advancement of Police and Security Sciences, New Delhi, 1st edn., 1992).

⁴⁵ Final BNSS (Bharatiya Nagarik Suraksha Sanhita), *available at*: https://bprd.nic.in/uploads/pdf/Final_BNSS.pdf (last visited on October 21, 2025).

Favour meticulous documentation and early magistrate involvement over confession centric investigation methods.⁴⁶

CCTV and Documentation Failures

Persistent CCTV and documentation failures materially affect custodial death inquiries. Reports before the Supreme Court in 2025 have flagged that many interrogation rooms still lack cameras and that installed systems often suffer uptime and storage deficits; footage is sometimes overwritten before an inquiry is ordered. Courts have reacted by requiring state affidavits, timelines for full coverage, signage about surveillance, and fixed retention periods. The “Paramvir Singh Saini” line of orders, when read with BNSS audio video provisions, expects a cohesive evidentiary record spanning arrest, interrogation, medical examination, and production before a magistrate. Where this record is absent, High Courts have moved to draw adverse inferences, direct compensation, or transfer investigation to external agencies. The message is clear - documentation is not a bureaucratic formality but the constitutional infrastructure for truth finding in custodial death cases, and omissions will carry tangible legal consequences during writ and criminal proceedings.⁴⁷

Remedies and Enforcement Pathways

Remedial architecture in custodial death matters runs on parallel tracks that often proceed together in time. Writ petitions under Articles 32 and 226 seek compensation, independent investigation by the CBI or a Special Investigation Team, and compliance directions on CCTV and arrest protocols. Criminal prosecution proceeds under the Bharatiya Nyaya Sanhita for homicide and hurt offences that map onto custodial torture conduct, while departmental action under police service rules addresses suspension, transfer, and dismissal. Complaints to Police Complaints Authorities, mandated in “*Prakash Singh v. Union of India*”⁴⁸, provide an independent forum for serious misconduct. Victim compensation under “Section 396 of the Bharatiya Nagarik Suraksha Sanhita” engages the DLSA and SLISA for interim and final payments, including where offenders are untraced or trials end in acquittal. These routes are

⁴⁶ India Code: Section Details, available at: https://www.indiacode.nic.in/show-data?abv=CEN&actid=AC_CEN_5_23_00049_2023-47_1719292804654&orderno=23&orgactid=AC_CEN_5_23_00049_2023-47_1719292804654&statehandle=123456789%2F1362 (last visited on October 20, 2025).

⁴⁷ R. K. Bangia, *Law of Torts with Consumer Protection* 228 (Allahabad Law Agency, Allahabad, 1st edn., 2022).

⁴⁸ (2006) 8 SCC 1.

not mutually exclusive; families frequently pursue writ relief while trials continue, using public law orders to maintain investigative independence and to secure timely financial support during protracted proceedings.⁴⁹

Constitutional Tort and Compensation

Public law compensation remains the most durable bridge between rights violations and immediate relief, and its doctrinal lineage is clear. “*Rudul Sah v. State of Bihar*”⁵⁰, laid the foundation for monetary redress under writ jurisdiction where personal liberty was wrongfully curtailed, and “*Nilabati Behera v. State of Orissa*”⁵¹, affirmed that compensation could be awarded for custodial death as a constitutional remedy under Article 21, independent of civil suits in tort or statutory compensation. High Courts regularly cite this line to grant compensation in appropriate custodial death matters, particularly where prima facie material suggests state responsibility and the criminal process is likely to be prolonged. This remedy does not bar prosecution or departmental action; it instead acknowledges a state duty to repair while the criminal court determines individual guilt. Contemporary orders reflect sensitivity to delay costs and often combine compensation with directions for independent investigation or adherence to forensic and CCTV protocols mandated by the Supreme Court.

Criminal Prosecution and Disciplinary Action

Criminal charges in custodial death fact patterns align with the Bharatiya Nyaya Sanhita’s homicide and hurt chapters, and charging decisions turn on autopsy, timeline evidence, and witness accounts. While murder and culpable homicide allegations may arise in aggravated cases, the BNS also codifies targeted custodial torture offences: “Section 118 of the Bharatiya Nyaya Sanhita” addresses voluntarily causing hurt or grievous hurt to extort a confession or compel restoration of property; allied provisions include “Sections 112 to 116” on hurt and grievous hurt and “Section 123” on acts endangering life or personal safety. It is important to note that “Section 120 of the Bharatiya Nyaya Sanhita” concerns hurt on grave and sudden provocation and is not the extortion of confession clause, a distinction relevant to appropriate charging. Departmental proceedings can and do move in tandem, with suspension pending inquiry and dismissal upon proof of grave misconduct, while writ courts insist that such internal

⁴⁹ Police Reforms in India, *available at*: <https://prsindia.org/policy/discussion-papers/police-reforms-india> (last visited on October 19, 2025).

⁵⁰ *Supra* note 32.

⁵¹ *Supra* note 20.

action should not derail independent criminal investigation or judicial oversight of evidence preservation.⁵²

Victim Compensation Schemes

“Section 396 of the Bharatiya Nagarik Suraksha Sanhita” replaces the CrPC scheme and sets out a clear role for DLSA and SLSA in the award of compensation, whether on court recommendation or upon application by victims where offenders are untraced or trials do not proceed. The provision explicitly allows interim relief and requires decision within a defined period, and clarifies that scheme-based compensation is in addition to fines directed under the BNS. National Legal Services Authority documents and state schemes have begun to update their templates and SOPs to mirror BNSS language, highlighting the interface with trial court orders under the sentencing chapter.⁵³

Independent Complaint Mechanisms

Police Complaints Authorities, required by the Supreme Court’s directions in “*Prakash Singh v. Union of India*”⁵⁴, provide an independent avenue for serious misconduct complaints, including deaths in custody. While implementation has been uneven across states, policy papers and compliance audits continue to emphasize the need for state and district level authorities headed by retired judges, with powers to inquire into allegations against officers of varying ranks and to recommend binding action. Writ courts regularly remind states of their continuing obligation to operationalize these bodies and to ensure that serious custodial allegations are not left to intra departmental review alone. In practice, families combine PCA complaints with NHRC intimation and writ petitions to construct multiple oversight layers around a single incident, thereby reducing the risk that a conflict-ridden internal inquiry will be the only investigative record available to magistrates and trial courts in later proceedings.⁵⁵

⁵² The Bharatiya Nyaya Sanhita, 2023, *available at*: https://prsindia.org/files/bills_acts/bills_parliament/2023/Bharatiya_Nyaya_Sanhita%2C_2023.pdf (last visited on October 28, 2025).

⁵³ Section 396 in Bharatiya Nagarik Suraksha Sanhita, 2023, *available at*: <https://indiankanoon.org/doc/171510839/> (last visited on October 27, 2025).

⁵⁴ *Supra* note 48.

⁵⁵ *Prakash Singh and Others v. Union of India and Others*, *available at*: <https://www.casemine.com/judgement/in/5609ae2de4b0149711413181> (last visited on October 26, 2025).

Comparative Benchmarks and Best Practices

Comparative assessment ties Indian law and practice to two sets of standards. The first is the Minnesota Protocol on the Investigation of Potentially Unlawful Death, which requires prompt, thorough, impartial, and transparent investigations, with autopsy and scene documentation standards that match modern forensic expectations. The second is the Supreme Court's own corpus of guidelines - "*D.K. Basu v. State of West Bengal*," "*Joginder Kumar v. State of U.P.*"⁵⁶, "*Arnesh Kumar v. State of Bihar*"⁵⁷, "*Paramvir Singh Saini v. Baljit Singh*"⁵⁸, and "*People's Union for Civil Liberties v. State of Maharashtra*"⁵⁹, - which together address arrest safeguards, necessity of arrest, CCTV coverage, and encounter investigation protocols.⁶⁰

Custody Safeguards vs Practice

Arrest and detention safeguards have been articulated for three decades yet confront practical deficits. "*D.K. Basu*" prescribed arrest memos, medical examinations, and production before a magistrate; "*Joginder Kumar*" insisted that arrest must be necessary, not routine, and "*Arnesh Kumar*" targeted unnecessary arrest through notice of appearance for specified offences. On the ground, custodial death narratives continue to reveal non-compliance - delayed medicals, missing CCTV footage, and incomplete case diaries. The BNSS adds audio video recording scaffolding around witness examination and other investigative steps that, if faithfully used, can bridge the gap between formal rights and actual practice. Courts increasingly draw connections between these safeguards and outcomes, using noncompliance to support compensation, to transfer investigations, or to doubt defense versions about alleged medical or suicide causes. Comparative standards from the Minnesota Protocol supply a common vocabulary for these judicial expectations about timeliness, independence, and forensic completeness.⁶¹

Encounters and Unlawful Force

Encounter related deaths sit adjacent to custodial death analysis and engage many of the same

⁵⁶ *Supra* note 22.

⁵⁷ *Supra* note 24.

⁵⁸ *Supra* note 30.

⁵⁹ *Supra* note 26.

⁶⁰ *Paramvir Singh Saini v. Baljit Singh*, available at: <https://lawjurist.com/index.php/2024/12/28/paramvir-singh-saini-vs-baljit-singh/> (last visited on October 25, 2025).

⁶¹ *DK Basu Guidelines English*, available at: <https://www.humanrightsinitiative.org/download/1589358673DK-Basu-guidelines-English.pdf> (last visited on October 24, 2025).

accountability tools. In *“People’s Union for Civil Liberties v. State of Maharashtra”*⁶², the Supreme Court issued detailed directions for independent investigation, magisterial inquiry, autopsy videography, and timely reporting to the NHRC or State Commissions. Subsequent High Court orders in 2025 have reiterated adherence to these norms in current encounter cases, reminding states that investigative independence and transparency are non-negotiable. These directives have evidentiary consequences in custodial prosecutions where police narratives of medical cause or suicide clash with forensic documentation; failure to preserve the scene, to video graph the post mortem, or to secure weapon and trace evidence undermines the state’s explanation. The overlap in safeguards suggests that encounter law and custodial death law should be read together as an integrated set of investigative duties that enable criminal courts and writ benches to test state narratives against a documented record rather than uncorroborated assertions.⁶³

Conclusion

The accountability project for deaths in police custody in India has matured into a layered regime where constitutional tort, criminal prosecution, departmental discipline, and administrative oversight operate concurrently. The legal materials now include a re coded procedure in the BNSS with “Section 218” time bound sanction and “Section 396” victim compensation, are stated evidence act in the BSA with “Section 23” on confessions, and a run of Supreme Court guidelines on arrest, CCTV, and encounters. The task is to hardwire these rules into everyday practice so that the evidentiary record in each case is capable of proving or disproving allegations without delay or doubt. Courts in 2024-2025 have signaled that process is substance - that CCTV uptime, audio video capture, magisterial inquiries under “Section 196 of the BNSS”, and timely NHRC intimations are not peripheral but central to both truth finding and redress. The emergent pattern is a turn toward measurable compliance and verifiable records, reducing room for impunity while preserving fair trial guarantees, so that the law moves from promise to proof in the most difficult arena of state accountability⁶⁴.

⁶² *Supra* note 26.

⁶³ Meera Emmanuel, “Even State Has No Authority to Violate Article 21: What the Supreme Court Said About Encounter Killings Back in 2014”, *available at*: <https://www.barandbench.com/columns/even-state-has-no-authority-to-violate-article-21-what-the-supreme-court-said-about-encounter-killings-back-in-2014> (last visited on October 23, 2025).

⁶⁴ D. Banerjee, *Criminal Justice India Series* 198 (Allied Publishers, Kolkata, 1st edn., 2002).

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