

MAR
2019

CONTINUING IMPUNITY:

Deaths in Police Custody in
Delhi, 2016-2018



Peoples Union for Democratic Rights (PUDR)

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Preface

PUDR has been investigating and publishing reports on deaths in police custody in Delhi since the 1980s. We sought to investigate each reported case of custodial death and did so, more regularly between 1980 and 2005, and intermittently thereafter, bringing out reports on our findings. Apart from numerous small reports on particular incidents, we have published three larger reports *Invisible Crimes* (1989), *In Pursuit of Life* (1991) and *Capital Crimes* (1998) on the aftermath of custodial deaths (See Annexure 1). Our fact-finding investigations have showed that deaths in police custody were commonly the result of torture of suspects, which is part of routine policing practice in India. Instances of custodial torture, we found, were rarely directly reported, given the power of the police over torture survivors. We investigated and brought out reports on the very few incidents of custodial torture about which we got to know over the years (See Annexure 1). The brutal truth remained that it was through their deaths in police custody that we learnt of most victims of custodial torture – as many custodial deaths were the unintended consequence of torture in police custody. The repetitive, almost mundane nature of accounts of custodial deaths reflected in our reports, and their similarity over the years, have shown the systemic and rampant nature, deep pervasiveness and centrality of custodial violence and torture in the practice of policing in Delhi.

It is significant that this remained so despite the Supreme Court of

India's judgment in *D.K. Basu v. State of West Bengal*, 1997, (<https://lawnn.com/supreme-court-india-judgement-d-k-basu-v-state-west-bengal/> last accessed 16.3.2019) that laid down norms for arrest and, like several other constitutional safeguards and laws and judgments, issued strictures against torture in custody.

In report after report, we also saw how justice eluded the victims. We found very few cases of criminal proceedings against the accused police personnel and even fewer convictions in the judiciary in cases of custodial death. This was because investigations into custodial deaths were often scuttled from the very beginning, with police using all kinds of delaying tactics to suppress the matter, from denying that it was a custody death, to setting up an internal inquiry and not registering any FIR, with higher-ranking police officers often defending the policemen involved at the local Police Stations. Continued impunity was the institutional answer to custodial deaths.

Further, the whole process of inquest and inquiry lacked transparency. Post-mortem reports of the victim were not easily accessible to even their family members. Mandatory magisterial inquiries took years to complete, and even then the inquiry reports were not made public. In addition to this denial of justice from the criminal justice system, there were no institutional mechanisms for speedy and automatic award of compensation in custodial death cases, leaving the hapless families of victims without even a semblance of support. A stark fact that our past investigations revealed was the socio economic vulnerability of the majority of the victims in cases of custodial death. Most of them were from marginalized sections of society, whose deaths, like their lives, seemed to be of little consequence to the wider society. Denial of compensation to their family members in such contexts amounted to outright denial of the possibility of their ever being able to seek justice.

Our past reports on custodial deaths captured these issues in earlier decades. (See Annexure 1). In some ways this present report, based on investigations of some recent incidents of custodial death reiterates many of the same issues and problems – a chronicle of deaths foretold. Yet the context in recent years has changed in certain very important ways, making the implications of these 'continuities' far graver. There is, for

one, much greater media coverage of custodial deaths in the city, and seemingly greater public awareness of ‘human rights.’ Further, the police are notifying the NHRC about custodial deaths regularly, and inquiries into such incidents are being routinely conducted by the Metropolitan Magistrates (i.e., judicial magistrates). It certainly seems that incidents of custodial death that come to light nowadays are dealt with through a more efficient and organised institutional redressal mechanism, one that is apparently more transparent and accountable.

But then appearances, as this present report will show, can be oddly deceptive.

I. Custodial Deaths in 2018

This report came about as PUDR was investigating custodial deaths that occurred in Delhi in 2018, and sought to follow up the cases of such deaths that had occurred in previous years – to examine police investigations, magisterial inquiries, and court prosecutions and see if they had resulted in justice. The National Human Rights Commission (NHRC), in response to an RTI, stated that it had recorded seven ‘custodial deaths’ (in police custody) between 1 January 2016 and 31 December 2017, and for this report, we also investigated the aftermath of these earlier cases.

The following is a report of our findings, with the three incidents of custodial deaths in Delhi in 2018 presented first, and subsequently, the follow-up of the seven incidents of 2016-2017.

1. Death of Deepak, Karawal Nagar Police Station, 16 January 2018

On 16 January 2018, 19-year-old Deepak died in police custody in the Karawal Nagar Police Station (PS) in North East Delhi, making this the first reported custodial death of the year in Delhi. The press reported it extensively as such, and the PUDR team met the area police and the family of the victim in the course of investigation. Their versions are given below.

Police version

According to the police at Karawal Nagar PS, Deepak, who lived in Shiv Vihar, Karawal Nagar, was accused of sexual harassment by a minor girl in the locality in July 2017. The girl had lodged a police complaint, and had given her statement to a magistrate under Section 164 of the Code of Criminal Procedure, 1973 (CrPC). The police then charged him under Sections 354, 506, 509, and 323 (molestation, criminal intimidation, voluntarily causing hurt) of the Indian Penal Code, 1860 (IPC) and Section 12 (sexual harassment) of the Protection of Children from Sexual Offences Act, 2012 (POCSO). The police claim that they had tried to look for him at his house, where he lived with his uncle Shyam Sundar, but had not been able to trace him. They then got a non-bailable warrant issued in his name. Deepak also had other pending cases against him – two cases of chain snatching (under Karawal Nagar PS) and one case of theft (under Crime Branch). Since he was still absconding in the sexual harassment case, the police had started proceedings to declare him a ‘Proclaimed Offender’ (P.O.). On 15 January 2018, they arrested him after receiving a tip-off. They took him to the Karawal Nagar PS, and had to present him in the Karkardooma Court the following day. Deepak was detained in a small room at night as the PS at that point was housed in temporary rented accommodation and did not have a proper lockup. When the police went to take him to court on 16 January 2018, they found him hanging from the ceiling. They took him to the Guru Tegh Bahadur (GTB) Hospital where he was declared ‘brought dead.’ Subsequently, the Metropolitan Magistrate (MM) began the inquiry, which is mandatory in case of death in custody (under Section 176 CrPC), and the post-mortem was conducted under her supervision. According to the police, this is a clear case of suicide. No policeman was held guilty for Deepak’s custodial death or for negligence, but five policemen were indicted for not having shifted Deepak on 15 January to the Khajoori PS where there was a police lockup. Thus, additional SHO Narender was sent to the District Lines, and SI Sandeep, ASIs Satish, Yashvir and Rambir were suspended.

Family’s version

Deepak (nickname Popay) lived with his uncle Shyam Sundar and his

family in Shiv Vihar, Karawal Nagar. Shyam Sundar has a partially disabled leg, and Deepak helped him out at the grocery store where he works. Deepak had lost his mother in childhood and he and his elder sister had been brought up by his uncle as their father had abandoned them. For some months before his death in police custody, he had been staying at his grandmother's house in Gurgaon. Deepak had been arrested earlier in October 2017 in a case of chain-snatching in the area. He had spent a few months in Tihar jail and had been released recently. His court hearing in that matter was on 15 January, 2018, for which he had gone to the Karkardooma Court, and met his uncle who also came there. As the two were waiting for his case, SI Sandeep from Karawal Nagar PS came and confronted them. The SI then picked him up in connection with the POCSO case, despite his uncle's and lawyer's request to let him appear for the hearing and despite Shyam Sundar volunteering to bring him to the PS after that. Deepak was kept at the lockup in Karkardooma Court and brought to the Karawal Nagar PS by late afternoon. Meanwhile Shyam Sundar was frantic with worry and when he finally reached the PS, he found Deepak there. He found him looking very scared. Deepak told him that he feared that police would beat him up. Since Deepak was feeling cold, Shyam Sundar took permission from the policemen to give him some warm clothes. One of the policemen at the PS got angry at this and threw Shyam Sundar into the same room as Deepak.

It was only by about 5.30 or 6.00 pm that Shyam Sundar was allowed to call his sister, Deepak's aunt, and tell him where he was. She then rushed to the PS. She was allowed in by the police woman on duty and managed to talk to her brother and nephew. She pleaded with the policemen to let her brother go. Her plea seemed to work and Shyam Sundar was permitted to leave, but was asked by a policeman to pay Rs. 30,000 if he wanted his nephew to be released. Shyam Sundar said this was too much for him to pay, and asked if he could pay about Rs. 10,000 (which he could try to borrow from others) for them to let Deepak go. The policeman who had been talking to him consulted SI Sandeep and then reiterated his demand. In reply, Shyam Sundar repeated his inability to meet it, and he and his sister got ready to leave. SI Sandeep told them to get Deepak food, which they did, leaving it for him to eat

at night. Till this time, the police had not beaten Deepak. At night at about 9.30 pm, the family received a call from the PS to ask for Deepak's date of birth, which Shyam Sundar told them. They asked him to come to the PS but as he was quite tired, he told them that he would meet Deepak in court.

The next morning, Shyam Sundar started calling the SI Sandeep from 8 am to find out when they would present Deepak in court but could not get through to his number. He spoke to his lawyer and said he did not have any money (for conveyance and paying the lawyer, etc.). The lawyer told him to come in time for when they presented Deepak, and that he would take care of the money if needed. His lawyer also told him to hurry and to reach the court by mid-day or so. Shyam Sundar also called the landline of the PS and was informed that the police had taken Deepak to the court. He set off for the court thereafter. While on his way, he got a call, supposedly from the ACP, saying that he should return to Karawal Nagar. He did not pay heed and continued towards the court thinking it was someone trying to prevent him from getting to the court in time for the hearing. As he was waiting there, he got a call from the pradhan (local leader) of his area who told him that Deepak had committed suicide at the PS. He could not believe the news at first, but seeing that they had not presented Deepak in court, Shyam Sundar started moving back towards the PS. When he reached the PS by the afternoon, he saw a number of police officials, media personnel, etc., and was told that the news was actually true.

The MM inquiry began thereafter. According to Shyam Sundar, the police tried to get him to consent to getting the post-mortem done on the afternoon of 16 January itself, but he insisted that they should wait for the MM to arrive, even if it caused a delay. The post-mortem examination was conducted on 17 January 2018 in the late afternoon. Deepak's family members, however, were not allowed to see Deepak's body below the neck before post-mortem, even though they asked to. The police had informed the cremation ground officials in Shiv Vihar in advance. They pressurised the family to cremate the body hurriedly without any of the rituals and without even seeing the body.

When our team met them, Deepak's family firmly held that he was

killed by the police in custody. This belief was strengthened by what three young men who were also detained at the Karawal Nagar PS that night told them later. They contacted the family to let them know that Deepak had been beaten badly by the police on the night of 15-16 January 2018. It appears that apart from Deepak, five young men had been detained that day in the PS under charges of gambling, playing satta etc. Two of them were allowed to leave at night and three were let go on the morning of 16 January. Late during the night of 15-16 January, one of them ran into Deepak, probably while being taken to the toilet. According to him, Deepak was badly injured at the time, evidently due to police beating. They had also heard sounds of him being beaten. The young men said that one of the policemen had used a short, pipe-like rod to beat Deepak. Deepak requested them to let his family know that he had been badly beaten up. He also asked the young men to let him use a phone to call his family, but they were scared that the police would beat them up too and did not let him do so. Apparently, unlike Deepak, the other detained youth were allowed to keep their phones.

Deepak's family believes that the young woman who had made the complaint against Deepak and her powerful, politically connected uncle visited the PS late on the night of 15-16 January, and after that, the police beat up Deepak very badly, possibly to teach him a lesson. Their strategy misfired and Deepak died as a result of the beating. The police then decided to say that he had committed suicide.

The young men who contacted the family, however, were probably unwilling to testify in court owing to their fear of police vengeance. After the initial contact with Deepak's family, they have been avoiding telephone calls.

The family also questions the way in which the police allege that Deepak hung himself, and denies the police version that Deepak was suicidal and had attempted suicide in February 2017. The POCSO case according to them was also set-up, as the complainant and Deepak had known each other and exchanged messages etc. for a long time, and it was possible that she was under pressure from her family to register a complaint against Deepak.

Questions and Anomalies

1. No FIR was lodged against the police, though there were a few suspensions etc., reportedly only for their procedural negligence in detaining persons without a proper lock-up. Deepak's was clearly a death that had occurred in police custody. While the MM is investigating this case of suspected custodial death, why were the policemen implicated in his death allowed to roam around in the locality, potentially free to influence witnesses and family members of the victim?
2. Why was the family not allowed to see the body of the victim before the post-mortem, nor allowed to get independent photographs taken?
3. Why has no compensation been given to the victim's family by NHRC or any other body?
4. The police versions of the so-called suicide, given to the press, television channels, and our team, vary in terms of the material used for ligature – from shawl to muffler or gamchha or sheet. Why they are so unsure of the material used?
5. How is it that none of the policemen on duty saw or heard Deepak as he tried to commit suicide in such a small PS? How did he access the high ceiling of the room given that his height was about 167 cm? Was a stool available in the room, and if so, how and why?
6. Has there been any attempt to independently investigate the possibility that Deepak was tortured – for instance, by talking to other eyewitnesses? Why was the family not allowed to see the body? Why was Deepak not allowed to call up his family at night, as he had apparently wanted to?
7. Further, how can higher-ranking police officials so confidently state that Deepak's death was due to 'suicide', long before the MM inquiry was initiated? Are they possibly protecting the local policemen who might have tortured Deepak, and abetting fellow policemen in such violations?
8. Indeed, why has the possibility of torture not been closely examined, especially in a case where the family is certain he was not suicidal? Why have the policemen who held him in custody not

been named and investigated yet, for negligence at the least, if not culpable homicide?

9. Why has the MM's report been delayed, and why has its status not been made public?
10. Why has Deepak's family not been given compensation by the NHRC or any other body?

There is enough reason from the bare facts of the incident that show that the 'suicide' story is dubious. If the family's version were accepted, the impunity with which the police appear to have beaten up and abused a youth, likely primarily because of his class background, and to have finally caused his death is alarming. The evidence and statements of the youth who were also detained in the PS on the night of 15-16 January is crucial in this case. As the youth were accused of petty crimes in the area, the local police would have been able to exert enormous pressure upon them, possibly explaining their reluctance in coming forward. It is the responsibility of the MM to get the version of such witnesses and assure them protection so they can testify without fear. It is unclear whether this has been done, or even attempted.

Aftermath

The post-mortem examination conducted by doctors at the GTB hospital blandly attributes cause of death to asphyxiation caused by ante-mortem hanging. All injuries recorded are commensurate with these findings. Curiously, however, no time of death is estimated. No other evidence of torture is recorded in-the post mortem. According to the post-mortem report, the "ligature material" with which Deepak is supposed to have committed suicide was "taken into possession by the police". The MM inquiry is apparently still not complete, over a year after Deepak's death. Our team has not been able to meet the MM to get any further information about the matter, despite repeated efforts. Deepak's uncle Shyam Sundar was consistently following up and going to the MM's court on the dates announced by her, expecting that she would present the report, only to be given a new date. This has been going on at least since April 2018, when the family expected the inquiry to be completed three months after the Deepak's death in police custody. As we await information about the Magistrate's report, well over one

year after Deepak's death in police custody, PUDR demands that this document be made public and the policemen responsible for his death in police custody be duly and fairly investigated, and prosecuted.

2. Death of Dalbir Singh, Naraina Police Station, 21 February 2018

The media reported the death of Dalbir Singh, aged around 54 years, who apparently fell to his death in the precincts of Naraina Police station in West Delhi on 21 February, 2018. He had been arrested on 20 February in a case of forgery and cheating, on the basis of a complaint by a Lieutenant Colonel posted at the Army Base hospital in the Delhi Cantonment area. Dalbir Singh's was the second reported case of custodial death in 2018.

Police version

The official version of the incident, as reported by many newspapers and also asserted by the IO (Investigating Officer) ASI Pradeep Kumar, is simple. Dalbir Singh was arrested for allegedly trying to buy medicines on forged prescriptions from the Army Base Hospital. After his arrest on 20 February 2018 under Section 420, IPC (cheating and forgery), he was produced at the Patiala House Court on 21 February. The court remanded him to police custody for a day. He was brought back to the Naraina PS. He wanted food and hence was taken to the canteen on the second floor of the building. It was here that Dalbir Singh allegedly pushed Constable Parvesh who had taken him there, locked/latched the door from the outside and tried to escape, jumping off from the second floor while trying to escape from custody. Constable Parvesh tried to break open the door and using his mobile phone, called up other officials and informed them about the escape. The police in their version also suggested that Dalbir Singh might have tried to escape through the water pipes and fallen down. There were no eyewitnesses in the canteen or to any other attempt to escape that took place at about 6 pm. When a search was carried out, Dalbir Singh was found lying injured on the ground behind the building of the PS. The police took him to Deen Dayal Upadhyay Hospital, where the doctors pronounced him dead on arrival.

The IO termed it a 'failed escape attempt' although he had not been a witness to the incident, having been posted to the Naraina PS only after its occurrence. He held that there was 'nothing in this case' and that the report of the investigation had been submitted to the MM, so he had nothing much to say. Sub-inspector Deepak and Constable Parvesh who had taken Dalbir Singh to court were suspended for negligence of duty. Despite efforts, the PUDR team was unable to find out more information about the forgery case under which Dalbir Singh was being investigated.

Family's version

The team tried to meet the family members of the victim at their residence in Rohini. But for unknown reasons, his son and other family members refused to meet the team and share any information. According to media reports, however, Dalbir Singh's son Vijay Singh had alleged that his father had been tortured in the PS. According to him, Dalbir Singh, a share market investor by profession, was the son of an ex-serviceman. After the death of his father, Dalbir Singh used to buy medicines for his mother at concessional rates using her 'Ex-serviceman's Dependant' identity card. On 20 February, 2018, he had gone to get medicines for his mother, who is suffering from high blood pressure and diabetes, using the same card.

The family began looking for him when he did not return home that day, and was planning to file a report for a 'Missing Person'. But before they could do that, Dalbir Singh's son was informed of his father's arrest by the police over the phone on 21 February. He received at least 6 calls through the day from the police who had taken him into custody. They demanded Rs 25,000 in return for his father's release. The last call he received was from his father at 6 pm, who asked him to come to the PS with the money. But when Vijay Singh reached the PS with the money at 6.30 pm, the gates of the Naraina PS building were locked and no one answered the calls on the number from where he had received the earlier calls. At around 9.30 pm, he again received a call from someone informing him that his father had fallen from the second floor of the PS. Later Dalbir Singh's body was handed over to his family members after a panel of doctors at the DDU Hospital conducted an autopsy.

In media reports, Dalbir Singh's son had refuted the allegations of cheating/forgery against his father and also dismissed the 'failed escape attempt' theory propounded by the police. Since his father knew that he would be bailed out soon, there was no reason for him to try to 'escape'. Moreover, he asked why his father would try to 'escape' since he knew that if he did so, he would strengthen the police case against him. Dalbir Singh's son further alleged that the policemen possibly tortured his father and then pushed him down from the PS building.

After our fact-finding investigation, we were left with some basic questions about the incident and the police version.

Questions and Anomalies

1. How is it possible that there were apparently no eyewitnesses to the incident, and no clear account of how and from where Dalbir Singh fell? The second and third floors of the Naraina PS building have many rooms which are normally occupied by officials on duty, and other officials who take rest during the off-duty hours. It is unlikely that Dalbir Singh would have used any of these rooms to jump from the window – supposing the police version is true. The only possible escape route seems to be through the terrace on the fourth floor of the building using the pipelines. However, we were told that there were no eyewitnesses who had seen Dalbir Singh climbing on the fourth floor, using the staircases, at about 6.00 – 6.30 pm, when most of the officials are generally present in the premises.
2. Why were there no CCTV cameras in any of those parts of the building where the alleged 'failed escape attempt' took place? The CCTVs at the PS were apparently installed only in the front part of the building and Dalbir Singh's escape bid thus was not recorded – indicating that there is no visual corroboration of the 'escape attempt'.
3. The charges against Dalbir Singh were not very serious. Under these circumstances, why would an accused person try to escape?
4. Why was the family not allowed or called to see the body of the victim before the post-mortem, nor allowed to get independent photographs taken?

5. Why was the family not informed of Dalbir Singh's fall immediately, or allowed into the PS for three hours after the incident?
6. Why were the policemen responsible for his custody not arrested and prosecuted for negligence at the very least for so many months, if not for culpable homicide? Why did the police spin the story of 'failed escape' even though the possibility of torture in custody, and death resulting from it could be true, even assuming that higher-ranking officials or policemen who were not present at the time at the site were not involved in the developments?
7. Why has the family not received any compensation from the NHRC or any other body?

Aftermath

As is the norm, an MM inquiry under Section 176 CrPC was instituted into the case. While the PUDR team met the MM at the Patiala House District Court twice, we were not given any information about the ongoing investigation, and were advised to file an RTI to access information about the same. The press reported that at the end of June 2018, an FIR against unidentified police officials charging them under Section 304, IPC (culpable homicide not amounting to murder) was ordered into the case according to a court order after the inquest report. The court order cited the inquest report, which apparently noted several inconsistencies in the case, such as contradictory statements of the police regarding the sequence of events leading to the death, the sound of the body falling on the ground etc. Further, the inquest report noted that the police had not got a medical check-up of the accused done after securing remand from the court as is required by law, and his son was not permitted into the PS for more than three hours after Dalbir Singh's death. The report also noted (as we had found) that the CCTV in the spot was not functioning. After the case was registered, the DCP (West) Vijay Kumar stated that the District Investigation Unit was looking into the case. (Scroll.in, 10 July 2018, <https://scroll.in/article/884519/> last accessed 16.3.2019)

3. Death of Komal Kaur, Tilak Vihar Police Post, 15 July 2018

On 15 July 2018, 17-year-old Komal Kaur allegedly took her life by hanging herself inside the premises of the Tilak Vihar Police Post in West Delhi. The circumstances underlying her death, even several months after the incident, are mired in controversy. Komal's was the third reported death in police custody in Delhi in 2018.

Police version

On 14 July 2018, police personnel at the Tilak Vihar Police Post received a call about a fight between two families residing in C-127 and C-128 of Tilak Vihar. Police officials reached the area and tried to separate the two parties. The apparent reason for the fight between the two families was an alleged romance between the deceased, Komal Kaur, and Happy Singh, son of Pritam Singh, who was her family's neighbour. Komal's mother and brothers were apparently opposed to the relationship between Komal and Happy and were trying to get her married off to someone else. On seeing the commotion that had broken out, Komal, who had been home all this while, decided to leave the house and go to a gurudwara in the Fateh Nagar area nearby.

Around 1.30 am (of 15 July), Komal reached the Tilak Vihar Police Post, where she saw that members of both families present. She requested the police to protect her from her family. The police took her to a room within the Police Post building, with the intention of escorting her to the "Nari Niketan", a shelter home for women. While they were still working on the formalities, Komal allegedly took her life by hanging herself from the ceiling with a chunni (long scarf) in the room where she had been kept. While she left no suicide note, the police papers contain a letter allegedly signed by her dated 14 July 2018, in which she request the police for protection from her family.

Immediately after the incident, disciplinary action was taken against the following police personnel - Sub-inspector Parvesh Kaushik, in-charge of the Tilak Vihar Police Post, and woman constable Manmohan Kaur were sent to the District Lines for alleged negligence. As-

sistant Sub-Inspector Sushil Kumar, the investigating officer, and the Head Constable K. Badhoriya too were suspended. An inquiry by the Metropolitan Magistrate was initiated under Section 176 CrPC.

Family's version

PUDR met family members of Komal who gave their version of events. They alleged that an argument broke out between Pritam Singh, and Komal's cousin brother Ravinder at around 10.30 pm. Komal was in the house till then, but on seeing the commotion on the street outside her house, she came downstairs with her mother and brothers. Quite a crowd had gathered by then, and in all the shouting and screaming, Komal soon went missing. They claim that according to eyewitnesses who saw her walking down the road, Komal was forcibly taken away by Happy Singh's sisters. She was neither wearing slippers nor a chunni at the time. This is significant, as the next time they saw Komal, she was hanging from a red chunni in the Police Post.

Komal's family claim that they received a call from the police-post at 1.30 am. There was a crowd there which threatened them and so the police took all of Komal's three brothers into a separate room. According to Jasbir, her brother, they did not know that Komal was also in the room adjacent to them, and that she would resort to suicide. There was a small opening in the wall partitioning the two rooms, and it was through that opening that Jasbir saw his sister hanging in the adjacent room. The room housing Komal had been bolted from the outside. The family shared phone recordings that they had made of the room and the body, when they discovered that Komal had apparently taken her life. Komal's brothers believe that the whole incident could have been avoided if the police had informed them of Komal's whereabouts. They felt that it was because of the negligence of the police officials that their sister took her life.

Some important questions and anomalies emerged in this case.

Questions and Anomalies:

1. Why did a 17-year-old girl supposedly take her life inside a Police Post? Why was she left unattended there?
2. Why was the room where she supposedly committed 'suicide' bolted from the outside?

3. When did Komal dictate and sign on the alleged written statement in the police papers? This is particularly important as the age that has been recorded in the statement, her signature, and the date on which the statement was purportedly dictated (14 July) are all incorrect according to the family. The family claims that since Komal could read and write, there was no need for her to dictate the letter.
4. If Komal had in fact gone to Fateh Nagar gurudwara, which is nearly 2 kms away from her home, at around 11pm, and if, as the police claim, she did not come back to the Police Post till 1.30 am, how could the police could record a statement after midnight and date it as 14 July?

Aftermath:

The MM inquiry are still apparently continuing. While some policemen were transferred to District Lines after the incident, as mentioned, it is significant that when the PUDR team went to the DCP's office at Rajouri Garden to enquire about the case, they were directed to SI Parvesh Kaushik, one of those against whom disciplinary proceedings had been initiated in this case. The distance between Tilak Vihar and Rajouri Garden is only about 2-3 km, which indicates that the police have not prioritised ensuring neutrality of investigation. Even the transfer of police personnel to the police lines, hardly a punishment in any case, was not seriously implemented. There are nine police districts in Delhi and personnel facing punishment should ideally be posted to another district, so that they are at least not in a position to directly intimidate and influence witnesses and decisions. The fact that this was not done exposes the callous attitude of the police towards custodial death investigations. Moreover, while ASI Sushil Kumar refused to speak to PUDR about the case, he was seen conversing with the family members of Happy Singh outside the Magistrate's court in Tis Hazari on 22 February 2019. Such an open display of closeness with the young man's family gives rise to the suspicion (articulated by Komal's family) that in July 2018 too, the police may have colluded with Happy Singh's family to pressurise Komal, and thus possibly abetted her suicide at the least. The Magistrate's report is awaited. On 28 January 2019, the MM as-

sured the family that she would give the final report by 5 February 2019, but on that date again, another date was given. Many dates have been given by the Magistrate and the report is not yet completed. Questions of fixing responsibility for Komal's death within the precincts of the Police Post, of giving compensation etc. are not on the priority list for the MM, the police or any other state representative. Meanwhile, on every date given by the MM, Komal's mother hires an auto rickshaw along with her son to make herself available at the court, but to no avail. In this, like in most other cases of custodial death that have taken place in Delhi in recent years, the wait for even getting the wheels of justice to begin turning has been long.

II. Custodial Deaths in 2016-2017:

Follow up of Cases

As stated earlier, PUDR also initiated follow-ups of custodial deaths (as reported to the NHRC) that took place in Delhi between 1.1.2016 and 31.12.2017. Altogether, follow-up investigations were carried out in seven cases of custodial deaths out of which two took place in 2016 and five in 2017:

The names and details recorded in NHRC's list were:

- i. Rajni Kant S/o Dev Rattan Sharma, Date of Death 20.5.2016, Ghazipur Police Station.
- ii. Som Pal S/o Dyal, Date of Death 28.12.2016, Adarsh Nagar Police Station (wrongly noted as Som Lal in the NHRC report)
- iii. Ramesh @ Vishal S/o Pradeep, Date of Death 13.07.2017, Mangol-puri Police Station.
- iv. Rajkumar @ Bihari S/o Sh.Raghunandan, Date of Death, 02.08.2017, Jahangirpuri Police Station.
- v. Cryprian Amaogbonnaya, Nigerian National, Date of Death 18.08.2017, Special Cell SR, New Friends Colony.
- vi. Anil S/o Ram Singh, Date of Death 22.08.2017, Ambedkar Nagar Police Station.

vii. Kulbhushan Chaturvedi, Date of Death,06.12.2017, Keshav Puram Police Station

PUDR teams met various individuals and officials while revisiting these incidents: the police at the concerned PS, the higher-ranking officials charged with acting upon magisterial reports, family members etc. where possible. Our reports of the cases here are very uneven in the degree of information or detail, primarily because we found it quite difficult, despite efforts, to get access to information about what happened in the aftermath of past incidents of custodial death. The following are our findings in these investigations into deaths in police custody in 2016-2017.

i. Death of Rajni Kant, Ghazipur PS, 20 May 2016

On 20 May, 2016 a man called Rajni Kant died in the custody of the Ghazipur PS in East Delhi. An FIR was registered only on 23 May 2016. In the police version of the incident, on 20 May around 7.20 pm, Rajni Kant was found in a canal next to the police station in an unconscious state. The FIR also mentions that the police had been approached by a resident of Harijan Basti, Mulla Colony with a complaint that his brother was missing and that a person was found in the canal which could be his brother. The complainant later identified the body recovered from the canal as his brother Rajni Kant, originally from Jehanabad, Bihar. There is no mention in the FIR about the chronology or sequence of events – around when Rajni Kant’s brother approached the police regarding his brother going missing, whether the police had registered a formal complaint regarding the ‘missing person,’ or when Rajni Kant’s brother was summoned to identify Rajni Kant’s body. According to the official account, Rajni Kant was picked up in a PCR van on duty and taken to Lal Bahadur Shastri Hospital, Khichdipur where he was declared brought dead by the doctor. The FIR registered under Sections 302 and 201 of the IPC against unknown persons on 23 May 2016 cites the post-mortem report, which mentioned asphyxia resulting from manual strangulation as the cause of death. There were fresh injury marks on the body suggesting that the deceased may have been

physically assaulted.

The officers in the Ghazipur PS that PUDR spoke to said that they had no information about the two-year-old case and that the people on duty then had been transferred. In the police records, the case found no mention as a custodial death and the record-keeper at the PS reproduced the FIR version as that of an incident in which a body was recovered and taken for post-mortem. On being asked why an ambulance was not called to take Rajni Kant to hospital, the officers said that it is common practice for a person to be taken to the hospital in a PCR van if such a van is close by and more accessible than an ambulance. Regarding the progress in the case, the officers said that they had no information as the case had been transferred to the Crime Branch, North Delhi, and the reason behind the transfer of the case was also unknown to them.

The media reports of May 2016 around the incident, however, narrate a completely different version, citing the family members of Rajni Kant who had then spoken to journalists. According to Rajni Kant's brother and his friend Rajeev, on the night of 19 May 2016, Rajni Kant and Rajeev took an auto from Kaushambi and got off near Ghazipur bus stand, and entered into a heated argument with the auto-rickshaw driver over the auto fare. One of the newspapers also reported that the two men were drunk. Rajni Kant then approached a PCR van stationed nearby requesting the police officers to speak to the auto driver. The police however asked him to leave, following which Rajni Kant went and sat in the PCR van insisting that he would get off only once the police spoke to the auto driver. Subsequently, there was an argument between Rajni Kant and the policemen, and he was detained. One of the newspapers cite Rajeev, the eyewitness to the situation, as having supposedly said that Rajni Kant, in a moment of rage, had pushed a policeman and later apologized but while he was being detained, Rajeev overheard the policemen saying that they would teach Rajni Kant a lesson. The policemen asked Rajeev to come and take Rajni Kant the next morning. The next morning (20 May 2017), Rajeev along with Rajni Kant's relative, Ramesh, went to the police station where the police denied that any such incident had happened and stated that Rajni Kant was not with them. Later in the evening, when they came back to the PS to

check, the police informed them that Rajni Kant had been brought to the PS but had fled. While Rajeev and Ramesh were returning from the PS, they learned that Rajni Kant's body had been found in the canal. After the post-mortem, the body was handed over to the family. However, as mentioned, the FIR was registered on 23 May, two days later. One of the news reports published on 25 May, 2016 also stated that serious allegations had been levelled against two constables of custodial violence, and the case has been transferred to the Crime Branch. The media also reported that a magisterial inquiry, presumably by the MM under Section 176 CrPC, was underway. There is no information about whether compensation was given to the family by the NHRC or any other state institution.

Neither the outcome of the investigation nor apparently has the MM's report been made available to the NHRC more than two years after the incident. The NHRC had summoned the DCP, Crime Branch, North and the Secretary, Home, Govt. of NCT of Delhi in April but no progress was reported on that front. The present police officers at Ghazipur police station refused to acknowledge the fact that an inquiry of custodial violence was conducted against two policemen. PUDR filed an RTI with the DCP Crime Branch. No reply has been received.

ii. Death of Som Pal, Adarsh Nagar PS, 28 December 2016

Som Pal, a 25-year-old fruit vendor was picked up by the Adarsh Nagar PS in North Delhi on 28 December 2016. The incident grabbed media attention at the time as five policemen were indicted and suspended for destroying evidence, and an FIR was lodged in the matter.

It appears that the police received a call about a quarrel and went by PCR van to the site, near Azadpur Mandi, on the afternoon of 28 December 2016. They found that a fight was going on between Som Pal who used to sell fruit from his 'rerhi' (handcart) and a shop owner who sold shoes. They picked up Som Pal and brought him back to the PS. One day later, a policeman on his beat discovered an unidentified young man lying unconscious on his stomach with a bleeding head at Majlis Park near the Adarsh Nagar Metro Station, about a kilometre

away from the PS. He was taken from the site to the Babu Jagjivan Ram Memorial Hospital where doctors declared him 'brought dead'. In seeking to identify the body on 30 December, one of the policemen recognised him as the youth who had been brought in for questioning to the PS two days earlier. It was found that Som Pal had been brought to the PS and had died from falling off the terrace of the building of the PS. The FIR (No. 555/16) registered on the night of 31 December 2016 named five policemen – the SHO Sanjay Kumar, and Constables Kuldeep, Surendra, Indraj and Sulendra – accusing them of destroying evidence and shifting the body away from the site. The Daily Diary Entry and the MLC (Medico-Legal Certificate) of Som Pal supported the imposition of charges under Sections 304 (culpable homicide not amounting to murder), 342 (wrongful confinement), 201 (disappearance of evidence of offence), and 34 (Acts done by several persons in furtherance of common intention) of IPC against the accused policemen, and the investigation was handed over to the DIU (District Investigation Unit). It appeared that the policemen had brutally thrashed Som Pal and the injuries sustained had resulted in his death. Newspapers also revealed that the accused SHO had taken leave for two days after the incident to avoid scrutiny. There was public protest at the time and a large number of local residents accompanied Som Pal's dead body as it was taken for cremation. The NHRC took cognizance of the case and in the first week of January 2017, issued a notice to the Delhi Police Commissioner, calling for a detailed report in the matter within six weeks. He was asked to submit all relevant documents with his report, viz. postmortem report, inquest report, video CD of the post-mortem and the magisterial inquiry report in the matter. An SDM's inquiry was also launched into the case.

PUDR's investigation has revealed that no further action seems to have been taken against the accused policemen, though we were informed that DIU's investigation into the FIR and the magistrates' inquiries have been completed. The case in court does not seem to have made any progress, and it is not clear if the culpability of the policemen has been established in court, two years after Som Pal's death.

The victim's family, with whom our team met, had come decades ago

as migrants from the area around Indore. Som Pal's father Dyal is a frail man who has been working in the fruit market, assisting at a fruit seller's shop, for the last fifty years or so. Som Pal had also grown up in the area and sold fruits on a handcart, eking out a marginal living, supporting his father. When the PUDR team met him in 2018, Dyal remembered the protests in the area when Som Pal's body was taken for cremation and how people were angry about him being killed by police custodial violence. While looking visibly upset about his son being so badly beaten up by the police, and convinced that they had done so, he had little idea about the progress of the case. He also did not seem to have much say in the family, possibly due to his poverty and vulnerability, and called his younger brother and Som Pal's uncle (a well-built man who is apparently a martial arts expert and has often collaborated with the police to organise self-defence courses etc.), who was the 'mukhiya' or leader of the family. When we enquired if they were content with the police/court developments and magisterial inquiry, he admitted that in 2018, they had reached a 'compromise' with the policemen who gave the family a sum of money. He refused to divulge the amount. He also refused to divulge the names of the policemen who had been pressurising them. In his account he directly contradicted the earlier statements given by the family at the time of the incident, and denied that the family had the post-mortem report (after other relatives had admitted that they did). Evidently responding to pressure and inducements from the police, about which even other people in the area of the wholesale fruit market seemed to know, the uncle of the victim stated blandly that for the family, Som Pal had died due to his fall in the PS and they knew nothing about the beating.

The investigation into the FIR 555/16 is apparently over, though we do not know the final outcome. Two years later, Som Pal's death has almost been recast as an 'accident.' Incidentally, his was possibly the only death in police custody that took place in Delhi in 2016 according to the NCRB (National Crime Records Bureau). Given the developments recorded above, the likelihood of any identification and prosecution of the guilty is negligible.

iii. Death of Ramesh, Mangolpuri PS, 13 July 2017

On 13 July, 2017 at 8.08 am, Ramesh (also known as Vishal) was declared brought dead at the Sanjay Gandhi Hospital. Ramesh, a 20-year old Sultanpuri resident used to work at a barber shop. He lost his mother at an early age and was brought up by his paternal grandmother, Jagroshi, after his father, Pradeep, remarried. On 12 July 2017, Ramesh had left his home in the evening asking his grandmother for some money as he wanted to go to Haridwar the next day, but he never returned. The family thought he must have stayed over at a friend's place, which he used to do sometimes. It was only the next afternoon that the family was informed about his death. They were told by police officials that he was beaten by a mob for stealing. Newspapers reported that Ramesh was killed as a result of injuries he sustained from a public beating at Mangolpuri Railway Station. Before announcing the death of the victim, the police came to the family home in plainclothes to enquire about his family members and his character. The police had taken more than six hours to inform the family about the death. After finally telling them, the police took Ramesh's father and uncle to the hospital, where they saw the body from a distance covered in cloth. The family was not permitted to see the body below the neck. They were not allowed to take the body home for last rites. Instead the police rushed them directly to the cremation ground to and Ramesh's body was hurriedly burnt.

In following-up this case, we were able to gain access to the case details through the lawyers, and thus are able to record it in much more detail than in other cases of 2016-2018 that we followed up. The details of the incident are as follows:

Police version:

Ramesh was picked up by a PCR van at 2.30 am, on 13 July 2017, after Anita, the complainant and her sister-in-law made the PCR call. Anita has stated that at around 2 am, she was attacked by two people who tried to snatch her mobile phone near the Mangolpuri Railway Station. When she tried to defend herself, she was attacked by Ramesh with a knife, and by three other people, who all came together in a scooty and

started beating her. A group of 15-20 people came to her rescue and got hold of two of these people. One of them ran away and only Ramesh was beaten up with wooden sticks and sugarcanes. After the PCR call, the police van took Ramesh, Anita and her two female relatives (eyewitnesses in the case) to Mangolpuri PS. Here these complainants recorded their statements and a FIR No. 1009 against Ramesh was filed at 5 am, under Sections 394 (Voluntarily causing hurt in committing robbery), 397 (Robbery, or dacoity, with attempt to cause death or grievous hurt), and 34 (Acts done by several persons in furtherance of common intention) of the IPC.

Ramesh was taken to Sanjay Gandhi Hospital, where Dr Rajesh Dalal medically examined him. In MLC No. 11614/17 at 4.15 am, Dr Dalal recorded that Ramesh was under the influence of alcohol and that he had multiple bruises on his hips, back, face and upper right and left thigh, as well as an abrasion over his left foot and face. A total of seven injuries were noted. Ramesh was then released and taken back to the Police Station at 5.10 am for further investigation. Another case FIR No. 1010/17 was registered against unknown persons at 6.40 am under Sections 308 and 34 of the IPC, because of the injuries that Ramesh had sustained from the public beating.

At around 7.45 am, Ramesh was again taken to the hospital for an MLC because the IO, ASI Suresh Kumar found that he was unresponsive and that his condition appeared to be deteriorating. He was taken to Sanjay Gandhi Hospital and according to MLC No. 12191/17 at 8.08 am, he was declared 'brought dead' which led to a change in the IPC section from 308 to 304 in FIR No.1010/17. The police then sent this information to SDM, NHRC and MM North West.

On 14 July 2017, the Chief Metropolitan Magistrate (North West) directed the SHO, Mangolpuri to conduct a post-mortem examination in the presence of a videographer. The post-mortem (no. 622/17) was conducted at Maulana Azad Medical College, New Delhi by a board of three doctors. The post-mortem report states that the deceased has 36 external injuries, which are a result of blunt force trauma to the head and the body. The extensive bruising is caused because of multiple impacts of hard blunt objects but injury number 4 is stated to be caused by a hard rod-like object which created a tram track bruise of 11cm x 2.5cm

on the left side of his back, and a 22cm x 3cm bruise on his buttocks' natal cleft (line between the buttocks). According to the post-mortem report, the doctors opined that the death was caused by the combined effect of head injury by blunt force, and haemorrhagic shock due to extensive bruising.

Investigation into both the FIRs was then transferred to District Investigation Unit (DIU) from PS Mangolpuri, ordered by the DCP (Outer District). On 18 July 2017, investigation of both the cases FIR no. 1009/17 and 1010/17 was again transferred to the Crime Branch.

The MM's inquiry (under Section 176 of Cr.PC) was initiated into Ramesh's death at the Rohini Court. The court recorded the statements of the complainant and eyewitnesses in the phone-snatching case, police personnel present including ASI Suresh and HC Chander Shekhar, Ramesh's father, Pradeep and a relative of his, Pinkur, as well as the doctors who had conducted the post-mortem and medical examinations.

In the inquest proceeding at Rohini court, the then SHO, Arvind Kumar, stated that there was no foul play or negligence on the part of police officials in the death of Ramesh, and that he died because of the injuries sustained from the public beating after the incident at the Mangolpuri Railway Station. Ramesh's father and his relative also said in the court that they did not suspect anyone for Ramesh's death, as he had fallen into the habit of drinking and kept bad company.

When the PUDR team went to the Mangolpuri PS, the police personnel present said that there had been no cases of custodial killing in the PS in years. When we got hold of the details of the case, they said that it was not a case of custodial killing, because Ramesh had died sustaining injuries from the crowd beating. We found that two persons, Aman and Shehzaad Ali, who were arrested under Sections 394 and 397 of the IPC (like Ramesh) and were allegedly involved in the incident of phone-snatching along with Ramesh, were still in jail (at the time of our investigation) under FIR No. 1009. No compensation appears to have been given to Ramesh's family by any state institution.

Questions and Anomalies

1. The MLC No 11614/17 was done at 4.15 am and the first FIR was

registered against Ramesh at 5 am. The MLC recorded a total of 7 injuries comprising abrasions and bruises, which can be thought of as minor injuries. All of Ramesh's physiological abilities were intact. The second FIR (against the public for beating) was registered at 6.40 am under IPC Section 308 (Attempt to commit culpable homicide). Whilst there were no serious injuries at the time of the first MLC, why was section 308 used when no vital organs were affected which would consequently cause death? Ramesh died about one hour after the second FIR. Dr. Rajesh Dalal, who had conducted the MLC and had medically examined Ramesh, in his statement to the Metropolitan Magistrate on 25 July 2018 stated that he released Ramesh after the medical examination (after the people had beaten him up) because he was stable. There was no visible head injury at the time of the MLC at 4.15 am. He further clarified that if Ramesh's condition would have been serious, the doctor would never have discharged him and the specialist would have given him proper treatment.

2. In stark contrast, Ramesh's post-mortem report shows a total of 36 injuries, including one major injury on the head and injury no. 4, which is said to be caused by a hard blunt rod-like material. These injuries were not present at the time of the MLC at 4.15 am. Between the first MLC and his death around 4 hours later, Ramesh had remained in the police station and in police custody.

These grave discrepancies and anomalies suggest that Ramesh was a victim of custodial and not mob violence. Thirty one injuries, including a head injury, seem to have been caused while he was in police custody, with no other (non-police) witnesses or outsiders present. That no action has been taken against the police in such a case exposes much of what is wrong with custodial death investigations in India. The facts that even in the face of such evidence, there seems to be widespread consensus amongst the police including higher-ranking officials that this was not a custodial death; that the MM's report is apparently still 'incomplete' and certainly not public; and that the policemen likely implicated in such custodial violence are roaming free reveals the structural basis of the impunity that the police in Delhi seem to enjoy to torture and kill those in their custody.

iv. Death of Rajkumar, Jahangirpuri PS, 2 August 2017

Raj Kumar s/o Raghu Nandan, who lived in Kasganj, Uttar Pradesh, died in police custody at the Jahangirpuri PS in North West Delhi on 2 August 2017. The press reported that 32-year-old Raj Kumar used to work as a security guard in a private school in Pitampura in Delhi till some time earlier. While there, he had entered a relationship with a married woman who used to live in Jahangirpuri. After getting into a quarrel with the woman's husband, he had left both the job and Delhi about 10 months before his death (around November 2016) and returned to UP. In August 2018, he came to Delhi upon being summoned by the police for questioning at Jahangirpuri PS, as the woman had gone missing a few weeks previously and her husband had lodged a 'missing person' complaint and suspected Raj Kumar of being involved. On 2 August 2017, Raj Kumar was dropped off at the PS by his friend Situ Sharma at about 3.30 pm. His friend was asked to leave after a few minutes. Whatever transpired thereafter is unclear. One of the news reports states that Raj Kumar's nephew Ankit Pachauri had received a phone call from him earlier in the day, in which he had said that he was scared to go to the PS. At 11 pm that night, his family was informed that Raj Kumar had killed himself by hanging himself in the toilet in the PS. Media reports suggest that he had hanged himself in the toilet of the lockup. At the time of the incident, Raj Kumar's family had raised doubts about his death, and about why he would have killed himself given that he had come voluntarily for routine questioning.

An MM's inquiry was initiated into the incident (under Section 176 CrPC), and a post-mortem examination was conducted by a board of doctors in front of the MM and the family members.

Despite our efforts, in our visits to the PS and the Court we were unable to find any information about the incident or the status of the case. While the police refused to share any facts with us, stating that we should meet the Magistrate instead, they shared their view that Raj Kumar's was not a custodial death but a suicide, which he committed out of shame and the social situation. They suggested that the post-mortem too had confirmed that the death was a suicide.

We have sought further information from the NHRC and higher-ranking police officials about the inquest, post-mortem and other details about the case.

v. Death of Cyprian Ama Ogbonnaya, Special Cell SR, New Friends Colony, 18 August 2017

The case involved the death of a 40-year-old Nigerian national, Cyprian Ama Ogbonnaya on 18 August 2017. The Special Cell, New Friends Colony in South East Delhi had received a tip-off about a gang of drug suppliers operating in South Delhi, and having fixed a decoy customer who would lead them to members of the gang, they decided to conduct a raid. The team reached Chattarpur Enclave and were allegedly talking to the locals, when Ogbonnaya spotted them and allegedly jumped from the fourth floor of the residential complex. He was rushed to the AIIMS Trauma Centre where he was declared 'brought dead'. PUDR spoke to the Investigating Officer SI. Aditya who confirmed this sequence of events. He reiterated that Ogbonnaya had jumped even before the police team had entered the gate and hence it did not technically qualify as a death in custody. We have sought details about the inquest and post-mortem in this case from the NHRC.

vi. Death of Anil, Ambedkar Nagar PS, 22 August 2017

On 22 August 2017, 34-year-old Anil was killed inside Ambedkar Nagar PS, in South Delhi, allegedly by Vishal (21 years), a neighbour. Anil (who drove a taxi for a living) and Vishal (a peon) were taken into custody in Ambedkar Nagar PS after a quarrel at Block C, Koyle ki Taal dairy, Dakshinpuri. The two were apparently drunk and had started fighting after Anil's daughter's birthday party, over some issue. The police intervened in response to a call made to them by Anil's wife, Angelina Lovely, at 12.55 am (on 22 August). Investigating Officer SI Brahm Prakash who was on emergency duty was assigned the call and deputed to the spot. Anil and Vishal were brought to the PS at about 1.30 am. According to media reports at the time, Lovely had urged the police not to keep Anil in the same room with Vishal, as the latter had

already attacked them (Anil, Lovely and her mother) with an iron rod, which had prompted her to call the police helpline. The IO however briefly left his desk, leaving the two in his room. ASI Ashok Kumar who was supposed to be on guard also left the room, as he was called by the Duty Officer to answer a phone call. While unattended, Vishal attacked Anil with a file clip (Sua, used to pierce papers for filing) and when the SI Brahm Prakash returned, he saw him holding it in his left hand and holding Anil's collar with the other, and then stabbing him rapidly several times. Anil's relative Sunny, who was present at the PS at the time of the incident, took him to the AIIMS Trauma Centre in an auto-rickshaw. ASI Ashok Kumar helped Sunny to take Anil to the hospital, where the latter was declared 'brought dead'. An FIR (No. 360/17) was filed under Section 302 of the IPC against Vishal. The case is said to be ongoing in the court of the Additional Sessions Judge, Saket. SI Brahm Prakash and ASI Ashok Kumar were suspended for their negligence and an inquiry by the MM was initiated under Section 176 CrPC. The NHRC had taken cognizance in the case and was supposed to be given a report by the Deputy Inspector General of Police within 8 weeks. While we were unable to meet the MM, we were told that the report had given the policemen a clean chit. We have sought details of the action taken in this case from the NHRC and the area Deputy Commissioner of Police.

Even if this was indeed a murder, certain questions arise. The negligence of the police in leaving two men, who were fighting violently, unattended with potential weapons inside the PS is of a grave order. It is also strange that a bleeding and injured Anil, stabbed within the PS, was taken to the hospital in a private auto-rickshaw, rather than a police vehicle, and that too by his relative.

As in other cases, the lack of transparency and information on the status and progress of the inquiry and the case has been a problem. We have also written to the NHRC and the police seeking information about this matter.

vii. Death of Kulbhushan Chaturvedi, Keshav Puram PS, 7 December 2017

On 7 December 2017, 43-year-old Kul Bhushan Chaturvedi died of a heart attack in Fortis Hospital, Shalimar Bagh after being held in cus-

tody for two hours in Keshav Puram, PS in North West Delhi. He was a well-established businessman producing electrical parts in Bawana. He and his brother Chandra Bhushan Chaturvedi had a fight over the issue of parking their vehicles with their neighbour Anil Kumar, a businessman, who was apparently drinking. The police were called to the spot by both sides. On the first visit, a police official came and resolved the issue. Later an acquaintance of Anil Kumar's came and started abusing the Chaturvedis. This turned into a brawl and Anil Kumar's son, Rashit, was supposedly hit. The police came a second time and took Kul Bhushan, Chandra Bhushan, Anil Kumar and Rashit to the Police Station. While in custody, Kul Bhushan continuously asked for water and complained about feeling suffocated. When he collapsed, his family was allowed to take him to Fortis Hospital, where he was declared dead. A magisterial inquiry as well as investigation by the Crime Branch was initiated. ASI Kishan Chand and ASI Buzir Singh, who were involved in the matter, were suspended.

Police version

According to the officials, they brought both the parties involved in a violent dispute over parking space to the Police Station after the report to 100 (police helpline no.) was made at night. Both the parties were then asked to get their medical examination done but the police officials mentioned in the FIR that Chandra Bhushan and Kul Bhushan Chaturvedi refused, while Anil Kumar and his son Rashit Kumar got their medical examination done. The MLC at Deep Chandra Bandhu Hospital, Ashok Vihar showed that Rashit Kumar had minor injuries. As for the victim, the reason of his death is mentioned in the post-mortem report as Acute Coronary Insufficiency and its sequelae due to coronary artery disease, with injuries on the neck.

According to the official investigating the case at the Crime Branch, Rohini, Sector 18, Inspector Shyam Sundar, both the inquiries, i.e the Crime Branch investigation and the judicial inquiry are going on simultaneously. The Crime Branch has recorded statements of the people involved and the neighbours, and the inspector tried to justify the delay by saying that investigations take time and that the Crime Branch cannot submit its report before the judicial inquiry is over. An important

piece of information that we received from him was that the doctor's committee had given its report, which states that Kul Bhushan had a heart blockage and the cause of his death was cardiac arrest. The inspector stated that this could not be argued against, as the family has been unable to bring out contrary evidence of the victim's medical history. Further, he said that there are certain other issues that still need to be looked into.

At the time of the incident press reports stated that the family accused the investigators of mental harassment, which led to Kul Bhushan's death. It was reported that the interrogators mocked him when he fell sick and did not take him to the hospital even when he was severely sick. The PCR staff threatened to beat and lock Kul Bhushan up. They snatched the mobile phones of the detained persons and behaved ill-behappily with them.

The doctors in the case state that Kul Bhushan was brought in around 2.30am and had died before reaching the hospital. They failed to resuscitate the victim and there were faint strangulation marks on his neck. Newspapers also reported that the police had registered a case under Section 304 (culpable homicide not amounting to murder) against the people Kul Bhushan had a fight with.

Two assistant sub-inspectors were suspended for not handling the case with professional policing acumen, and disciplinary action was taken for the way they handled the PCR calls.

Family's version:

The PUDR team visited Kul Bhushan's home and met his brother Chandra Bhushan, who had also been taken into custody after the brawl. From him, PUDR learned of some alarming information regarding the behaviour of the police officials. This information, however, could not be cross-checked as we do not have the statements of the neighbours. Regardless, the family's version should be given its due importance.

At 11.45pm, the police van took Kul Bhushan, Chandra Bhushan, Anil Kumar and Rashit to the PS. Kul Bhushan and Chandra Bhushan were locked up and the other party were allegedly treated very well. Chandra Bhushan said that the police officials had started abusing them in the police van itself. The family members who reached the PS later were

told to return, as the officials present scared them by saying they would keep both Chandra Bhushan and Kul Bhushan in custody for days. ASI Kishan Chand arrogantly told both of them, while abusing them, that they should note down his plate number. He even showed them his belt, saying that nothing would happen to him for his actions.

Chandra Bhushan also told us that they were not medically examined, whereas the other party was taken for medical examination. Kul Bhushan kept asking for water and complained about feeling suffocated, to which the police officials responded saying that they have seen such drama before and they did not pay any attention to his requests. Later, when they allowed Kul Bhushan to have water, they told him to go out on his own and get water. This was the point where Chandra Bhushan observed that his brother could barely walk. Kul Bhushan collapsed on the stairs and Chandra Bhushan started shouting, after realising that his brother's body had gone cold. Hearing this, the victim's family who was in the other room came rushing in. It was only then that the police allowed the family to take Kul Bhushan to the hospital.

Chandra Bhushan told us that he was not allowed to accompany his family to the hospital but later was allowed to make a call. He found out that his brother's condition was not well and then allowed to go to the hospital, only to find out that his brother had died. According to Chandra Bhushan, the two hours of constant pressure and abuse from the police, as well as their negligence, had killed his brother and the victim's family is struggling for justice for Kul Bhushan.

The family argues that one year before the incident, Kul Bhushan had visited Amarnath and had undergone a medical check-up at Ganga Ram Hospital. Although this report is unavailable to PUDR, the family argues that this medical check-up reported nothing abnormal, which raises questions about Kul Bhushan's death.

Questions and anomalies

The following questions arise from the family's version of events:

1. Why was Kul Bhushan not given any medical care when he was continuously complaining of suffocation?

2. Why did the police not take him to the hospital when he fainted on the stairs in the PS?
3. Why was the police so abusive towards Kul Bhushan and his family when they were in custody?
4. Why was the MLC not done for Kul Bhushan after he was taken into custody?

It is not enough to merely consider such a death tragic, where the death could have easily been avoided by simply visiting the nearest hospital or perhaps by providing the victim with water and medical aid at the PS itself. Police officials seem to have behaved in a grossly negligent and arrogant manner, with no care for any consequences of their actions. The family has lost their primary bread earner and as of now, no compensation has been given to the family of the victim.

III. State Intervention after Custodial Deaths

As we have found in the past, in most cases of deaths in police custody there are no independent (non-police) witnesses. This was true for the deaths of Deepak, Dalbir Singh and Komal (all incidents of 2018) as well as the deaths of Rajni Kant, Som Pal (both in 2016), Ramesh, and Rajkumar (both in 2017). In all these cases, the police were the sole witnesses. In the case of Anil and Kul Bhushan Chaturvedi, there were apparently other witnesses but the police were evidently culpable in other ways, and the deaths definitely occurred in custody. The need to collect evidence properly and ensure an independent investigation into these incidents is crucial to establish guilt in any offence. In incidents of deaths in police custody, this seems nearly impossible under the present system.

We have found that it is very difficult to get information about a custodial death and the MM inquiry if one were to go to a PS and ask about it a week or two after its occurrence. In the cases of custodial deaths that took place between 2016 and 2018 (like in earlier years), our team found that we were arbitrarily doled out some bare facts in a few instances and

in others not even that, and instead told to approach the DCPs office or the MM's Court. Information or even press statements that would have been shared by the police with the press at the time of the incidents were also difficult to get. We were told to apply through formal channels such as RTI applications, which we have done. At one level, there is now more overt acknowledgment in police administration about the practice of custodial violence and the routine bureaucratic procedures to be followed by them, far more systematically than in earlier years. Specifically, the NHRC has to be informed; the Metropolitan Magistrate, notified to take over the inquest and inquiry; and the press, informed as well – and all this seems to be done nowadays with practised ease. Yet bureaucratization and superficial acknowledgments of custodial violence and torture have also meant greater efficiency in denying information to citizens and civil rights groups than earlier. Any information about the case has to now be applied for and sought through formal channels, such as seeking appointments with higher-ranking police officials or MMs and putting in RTI applications. The process is slow and equally, if not more, non-transparent, making it difficult to piece together the truth about any incident. Families too remain substantially in the dark, with little information about what happens in inquiries and investigations.

A few procedural norms have thus changed in the two decades since our last comprehensive report on the aftermath of custodial deaths in Delhi (1998), though in other aspects there remain significant continuities. One example of the latter is the secrecy around custodial death investigations and inquiries – and another is the tendency among the police to generate different kinds of fictional accounts to explain the deaths that occurred, as 'suicide' bids, failed 'escape' attempts, 'natural' deaths, or as not having occurred in police custody – anything but the consequence of routine custodial violence.

Fiction after fact? Custodial deaths as 'Suicides' or failed 'Escape' attempts

Going by the fact that three of the ten custodial deaths that have taken

place in the last three years are regarded popularly and by the police as the result of 'suicide' (including two out of the three deaths in 2018), Delhi Police Stations seem to be popular sites for those seeking to kill themselves. It appears that 'suicide' was understood to be the cause of death in at least 30% of the custodial deaths inside Police Stations in Delhi between 2016 and 2018, based on the incidents discussed here. In the custodial death cases in the Jahangirpuri and Karawal Nagar Police Stations, and the Tilak Vihar Police Post, people in the prime of their youth allegedly committed suicide when they were in the lock-up. This is a puzzling and disturbing trend, and certainly something the Delhi police should worry about – why do healthy young people with no suicidal tendencies, choose to commit suicide inside Delhi's police stations?

The SHO of Karawal Nagar went to considerable lengths to explain the reason for the death of 19-year-old Deepak in January 2018 as a 'suicide.' He said that the rate of suicide in Karawal Nagar was very high and the area could in fact be called the 'suicide capital' of the city, implying that this was because of the grimness of living conditions in this marginal locality in north-east Delhi. He also took pains to explain that Deepak had been suicidal and had (according to him) tried to commit suicide in February 2017 – a description and fact denied by his family. Since there is no evidence for either, and the police official's qualifications to assess the psychological state of the general population or the victim are doubtful, it is somewhat difficult to believe this view. What this reveals however is the complicity of the police, whether or not they were directly involved in the custodial death, in explaining away the victim's death through wider sociological and psychological factors, rather than seriously examining the allegation of custodial torture. These views were held and expressed long before the MM's report (which is still pending). The fact that these police officials are the main sources of information for the MM, and also wield power and authority in the local area where the family members of the victim still stay, means that this explanation, however unfounded, might unfairly prevail in the official conclusion about this death.

In the case of the death of Raj Kumar in Jahangirpuri PS (2017) also,

the official explanation of 'suicide' seems unlikely, given that he had come to the PS voluntarily and had shown no earlier signs of being suicidal. The fact that he was a migrant, and no one was following up his case, makes it likely that the official story would have prevailed, though (as mentioned) we are still waiting to gain access to the MM's findings. In three other cases discussed here, the deaths in police custody have been attributed to 'escape' attempts by the accused. One of these 'escape' stories, that of Dalbir Singh in Naraina PS (February 2018), has been exposed by the MM's inquiry as doubtful and an FIR has been lodged against the guilty policemen. It remains to be seen if this results in conviction, since in this case too, the police alone were witnesses and had several hours that they could have used to tamper with or remove evidence. Nonetheless there appears to have been enough reasonable doubt for the MM to conclude that this was a custodial death. The family of the victim was able to withstand any pressure from the police, and the accused policemen could be indicted.

The same cannot be said for the death of Som Pal in Adarsh Nagar PS (December 2016). As discussed above, the social and economic marginality of the victim's life will probably determine the way his death will be described and judged. With some members of the family accepting monetary inducement from the evidently guilty police, and others being too vulnerable within the family to raise their voice, it is unlikely that the police will be finally held guilty or prosecuted, despite weighty evidence and an FIR against the police, and an implausible police cover story.

Thus, six out of the ten cases of custody deaths that we have investigated have been explained away as being cases of 'suicide' or a 'failed escape attempt' from custody. But from the cases of custody deaths here and in the past that PUDR has investigated, the use of torture by the police seems to be a routine way of interrogation. The 'suicide' and 'escape' stories most often are attempts by the police to hide their crime. But even if we assume that these 'suicides' and 'failed escapes' are not a cover-up and that these persons did actually commit suicide or so desperately try to 'escape,' then too this points to a very disturbing dimension of police functioning. It exposes the relentless pressure and trauma, apart from

physical pain, that police inflict on those it detains, the experience or fear of which is so unbearable that it is enough to drive the accused to think of ending their lives or take enormous risks to escape instead of going through repeated ordeals during investigations.

‘Suicide’ or ‘escape’ stories that the police have repeatedly given not only evoke the possibility of police complicity in these custodial deaths, but their easy circulation and acceptance in official circles points to the lack of any institutional accountability despite claims and appearances to the contrary. This is explained in our next section.

Institutional Mechanisms of Accountability

• *Magisterial Inquiries*

In each of the cases mentioned here, it appears that at least compared to earlier, there are more mechanisms of ensuring institutional accountability. One of the standard demands in the 1990s and early 2000s by PUDR and other civil society groups was that (a) the inquiry under Section 176 CrPC in cases of custodial death should be conducted into every case of custodial death regardless of allegations of police involvement; and (b) the executive magistrate’s inquiry which was conducted under Section 176 CrPC should be changed to inquiry by a judicial magistrate.

In 2005, changes were brought about in Section 176 CrPC as a result of which SDM inquiries after police custodial deaths were replaced by Metropolitan Magistrates (MM). The change was possibly intended to reduce the possibility of bias, as the police and executive magistrates have a close working relationship. It was presumed therefore that the judicial magistrate would be more independent. Moreover, the findings of a judicial inquiry, and the evidence collected therein, would also be admissible in court, unlike the inquiry by an SDM or executive magistrate.

While we welcomed the change initially, hoping that it would lead to greater accountability of the police and greater transparency in official responses, our findings in these recent investigations show that this is not the case. Only in the case of the death of Dalbir Singh in Naraina was the MM’s report completed within a year, which indicted the police

and led to the registration of an FIR against the guilty policemen. In all the other cases, including cases of the death of Deepak in Karawal Nagar (2018) or of Som Pal in Adarsh Nagar (2016), the reports have taken an extremely long time to be completed, even in incidents where the needle of suspicion clearly points to the police.

It appears that the MM's inquiry and reports may not be quite as 'independent' as imagined by the authorities who sought to change the CrPC, or by us when we questioned executive magistrates' inquiries into custodial deaths. While the Magistrate's inquiries are now mandatory and the post-mortem examination etc. must be carried out under their supervision, a few key problems remain:

- The Magistrate's report is not a public document, and there is no way for citizens to enquire if the report is completed. Moreover, given that the report is now prepared by a judicial magistrate, any inquiry about it receives the standard response that it is 'sub-judice'. MM's reports are supposed to be sent to the NHRC, as is information of police action. These too are not accessible or public, as PUDR found.
- Further, the fundamental problem that remains is that the MM is substantially dependent on the police for gathering evidence. There are rarely any independent eyewitnesses to custodial deaths. While the Magistrate can call the families of victims and hear their testimonies independently, the police can influence the investigations in many ways. For instance, victims' families continue to live in the same area and are subject to the pressure of police from the same PS (if not the same policemen) who might have tortured their family members or caused their death, or been involved in covering it up, making it likely that the investigation will be skewed.
- In most of the cases discussed here (eight out of ten), families of victims were poor and otherwise underprivileged and deprived as well. Relative to the power that the police can and do exercise on the families of victims on the ground, their ability to resist this kind of pressure, whether it be threats or bribery, is extremely limited. MMs seem largely and curiously unaware of these realities, and are not able to give protection to families from the local police. It is perhaps

not a coincidence that the only magisterial indictment amongst these cases discussed has taken place in a case (Naraina PS, 2018) in which the family is economically better-off.

- Given the shroud of secrecy around the MM's inquiry, it is difficult for citizens and civil rights groups to even communicate to the magistrates any anxieties about and information of such pressure, and their impact on particular investigations. The kind of delays, and cover-ups that seem to have taken place in the Naraina case (2018), or the pressure exerted on the family in the Adarsh Nagar case (2016), are likely to have occurred elsewhere. It appears that judicial magistrates cannot be held accountable by citizens for delays in their reports or for other problems with their investigations.

For all these reasons, the understanding that judicial inquiries would be fairer and more likely to result in justice is not borne out by our investigation into these recent incidents of custodial deaths.

Role of the NHRC

The NHRC issued a notification in 1993, soon after its inception, that it must be informed of any incident of custodial death or rape within 24 hours of the incident. If not, it would give rise to the presumption that an attempt was made to suppress the incident. It appears that the NHRC is routinely informed of such deaths. Yet this does not seem to result in greater chances of justice. The role of the NHRC in cases of custodial violence thus needs to be examined.

In 2001, NHRC asked states to send reports of custodial deaths within two months of the incident. Several questions concerning this direction remain unanswered. To what extent are these guidelines followed? If not followed, what measures is the Commission taking to deal with it? Has the NHRC been able to use its resources to further justice? The Commission was envisioned as an effective legal remedy, substantive in nature, having a flexible way to reach out to every case. The NHRC has been unable to effectively discharge many of its functions, however, which may be because it has the power only to make recommendations. In the cases that we have followed, it has intervened in the form of

asking for reports but has never received any replies. The number of pending cases pending brings out the limitations of the Commission as a mere elephant in the room.

While the NHRC responded to an RTI application concerning custodial deaths in 2016-18, it did not give FIR numbers or any other details. The response contained only file numbers, which were not enough to find out any details from any PS or its website. We could only find out more details about the cases using their dates, media reports and fact-finding investigations. The Commission has largely failed to pursue the cases of custodial death in Delhi, where it is located. One wonders about the condition of human rights in other parts of the country.

In cases where the NHRC has taken cognizance, like in Anil's case (Ambedkar Nagar, 2017), the report was supposed to be given by the DIG within 8 weeks. This report is either unavailable or inaccessible. The Commission has recorded this case as a custodial death but has not followed it up. According to the guidelines of the Commission, the state has to give information/ reports about a custodial death case in two months from the incident. But in this case, the police officials present in the PS at the time of our visit claimed that the inquiry is over and that the accused policemen have been given a clean chit; but it is unclear how the NHRC has not been informed, and why the official 'status of the case' is unchanged? Is the police not following the guidelines or is the NHRC not vigilant enough? We have no way of knowing the answer.

In all the cases we investigated except one, there is no information of when the NHRC was informed and what information was sent to them. In Ramesh's death in Mangolpuri in 2017, where we do have this information, the NHRC was provided with reports of the post-mortem and its videography in 2018 almost after a year after the incident, in clear violation of the 2001 directive that these be intimated to NHRC within 2 months of the incident. (<http://nhrc.nic.in/press-release/nhrc-issues-fresh-guidelines-regarding-intimation-custodial-death>, last accessed 16.3.2019). In the case of the death of Rajni Kant in Ghazipur PS, as in every other case, the NHRC has apparently not been informed about case updates. In the Ghazipur PS case, the NHRC had sum-

moned the DCP North, Crime Branch, but it was yet another no-show. NHRC took cognizance of Som Pal's case (Adarsh Nagar) and in January 2017, issued notice to the DCP to bring out a detailed report with relevant documents. This has apparently not yet been submitted. The NHRC has not been able to or interested in actually holding the police accountable for this case.

Evidently, this failure of the police and the MMs to respond to the NHRC shows that they too take such matters lightly, merely sending them information about the deaths as part of 'Standard Operating Procedure' but nothing further. It appears to be a meaningless gesture, since neither the police nor the NHRC seem to be committed to stopping custodial violence and deaths, given their persistent inaction. The fact that the NHRC has no independent investigative team, nor independent powers to ensure accountability from the police and magistrate, only partially explains its inaction. It could if it so wished have at least visibly put pressure on state authorities to give reports in time, ordered compensation (as it used to till a few years ago), ordered criminal prosecution of the guilty policemen and so on. It could have acted as an institutional safeguard, however limited, instead of a dead-end, a place where information of custodial deaths is sent, recorded and then seemingly forgotten.

Compensation

A striking feature of all of the cases discussed in this report is the lack of any official compensation paid to the families of victims by any state institution. This is a significant failure and the state must be asked why no effort was made to pay compensation. In a majority of the cases between 2016 and 2018, as discussed, the victims were poor and supported their families economically. The only instance in which there was some evidence of the family receiving a sum of money was in the case of Som Pal, where the police paid the family (the amount was not specified for fear of police intimidation, or legal action). This was apparently done entirely privately and secretly, and as 'hush-money' to buy their silence rather than as 'compensation.' In cases like the death of Deepak (Karawal Nagar PS, 2018) or Ramesh (Mangol Puri PS, 2017) too, similar

problems and pressures could crop up, and indeed might have emerged already. In the case of most of these victims, the ability of their families to persevere in the search for justice would be difficult given their great social and economic vulnerability, even if there had been independent witnesses and a more thorough and fair investigation. In the present scenario of deeply skewed and unfair investigations also eventually controlled by the police, and the enormous power that the police have over the lives of marginal populations in the city, grants of compensation are the precondition for the victims' families' ability to secure justice. Its denial, conversely, amounts to a denial of justice.

IV. Present Continuous: Custodial Deaths and Impunity

There is a strange sense of déjà vu while writing about custodial deaths in Delhi, because of the stark continuities in the cases, the police and family versions, and the outcomes, between the 1980s when PUDR started investigating them and now, more than three decades after. Perhaps the starkest continuity is that very few policemen responsible for these deaths are criminally prosecuted, even though there is more talk of human rights, and significantly more press coverage of custodial deaths today. This results from a systemic failure to indict and punish the custodians of law who violate it. This continued impunity granted in practice to the police ensures the same-ness of the 'script' of deaths in police custody and their aftermath, which continues in Delhi even though so much else has changed.

The main reason for this continuity is the continued prevalence of custodial torture as a primary method used by the police to 'solve' crimes, instead of gathering of evidence and investigation. Custodial torture is rarely reported. In one of the few cases of custodial torture in Delhi that was reported (Vijay Vihar PS in 2013) and that we have investigated (PUDR report 'Crimes of Habit', April 2014), we found that there were many legal and extra-legal ways in which the police were sought to

be exonerated when such torture was incidentally exposed. Those who suffer it in most cases do not report this to the police because of their own vulnerable status, and fear of further torture and harassment to their families etc. The main problem is the huge structural imbalance of power between the police and those who are tortured in police custody in the course of investigations. As we have previously argued, deaths in police custody are not aberrations, but are usually the unintentional consequences of routinised torture.

In all the cases discussed in this report, a few policemen have been transferred or at most suspended, even when accused of destroying evidence (Som Pal, Adarsh Nagar PS, 2016), and even with ample evidence of injuries inflicted in custody (Ramesh, Mangolpuri PS, 2017). Police officials do not perceive these as ‘custodial’ deaths, despite the definition of custodial death in law as ‘Death occurring during the period when some limitation is placed upon the liberty of the deceased and that limitation must be imposed, either directly or indirectly, by the police’ [Criminal Law Journal (Cr.L.J. 635 (637)1970)]. Delays in MM reports seems to be the norm, with rare welcome aberrations, as in the case of Dalbir Singh’s death (Naraina P.S., 2018). As mentioned earlier, the norm also seems to be that MM’s reports uphold police versions of custodial deaths, without going into the context of the case.

The delay in magisterial reports and their frequent echoing of police versions; the poverty and vulnerability of the majority of victims in custodial deaths and their families; the normalisation of police torture in public perception and the fickleness of public memory have contributed to a reality where custodial deaths continue to occur and remain unpunished, despite apparently greater visibility and official acknowledgment of ‘human rights’. The rate of convictions in cases of custodial deaths is a blatant reminder that even when cases are registered and police are found culpable, finally very few are convicted. In most cases even where there is evidence of custodial violence, FIRs are not registered. In the cases discussed here, FIRs to probe the role of the police in causing the death in any way have been registered in only two out of the ten cases. The social and economically vulnerable status of most of the victims also affects the chances of justice, as our findings in these cases show.

In eight out of the ten cases, the victims belonged to marginal sections of society. The majority of the victims of custodial violence tend to be from these sections. After the death, their families are particularly vulnerable to police intimidation and pressure – the Adarsh Nagar case (2016, death of Som Pal) is a case in point. The FIR in the case came to be lodged only because of the circumstances (discussed above), with the body being found and the police role coming to light at the time, as well as the public protests. From then onwards though, the systemic attempt to scuttle the investigation started. As mentioned above, the police offered money to silence the victim's family. The payoff by the police to the victim's family may itself amount to an admission of guilt but no action has been taken against them, and will likely not be. The nature of the incident – Som Pal's death explained as an attempted 'escape' that failed – is similar to the story offered by the police for the death of Dalbir Singh (Naraina PS, 2018), which the MM has ruled as a 'custodial death' and in which case an FIR has been lodged. Here too the police could put pressure on the family in the future but the family's social status may enable them to withstand this better, and the possibility of the case going forward and the guilty being brought to book is thus higher. Cases of custodial death also continue literally for decades, like other court cases, and even the initial indictment of the guilty, gathering of evidence etc. goes on for a few years. In the case of families of victims from the disprivileged social contexts, this effectively means a period during which they are constantly under pressure from the police, which is nearly impossible to withstand. It is perhaps not surprising that some of the rare cases in the past in which the police were indicted and convicted are ones in which victims' families have been able to bear such pressure. One such case that was in the news again in 2017 was that of the custodial death of a businessman Dilip Chakravarty in July 1995 [PUDR report 'Special Staff on Duty: Death in the custody of North East District Police' (Sep.1995)] in which the Delhi High Court upheld the conviction of six policemen who had been charged with beating him so severely that he died of head injuries. The victim had not been formally arrested. The conviction had taken place in 2001, and the wife of the victim and other witnesses had testified in court about the

case prior to that, and even there, some witnesses had turned hostile. These instances illustrate the point mentioned earlier, about the role and need for a policy on compensation. Such a policy is not a substitute for prosecution but a measure of accountability towards the family members of the deceased, one that would allow them to withstand pressure by accused police personnel and their supporters, often others in the police force, who could exercise power over their families. The fundamental question in all these recent cases of custodial death is: why has the state not paid any compensation in any of these cases? The bizarre truth is that even if Som Pal's death (Adarsh Nagar PS) comes to be treated as an 'accident' in the course of a supposed 'failed escape' attempt', there are state policies for compensation for accidents but no policy on compensation for custodial violence and death. The fact that there is not even an effort to develop one is another absence that reflects the callous response of the state machinery and institutions towards custodial violence and deaths.

The award of compensation by state agencies (the NHRC, state governments, courts etc.) in the past has been arbitrary and depended largely upon the capacity of the family to pursue the case in courts, or upon the intervention of rights groups like PUDR to fight for the grant of compensation. Since this is itself random and arbitrary, the principle of equality in the law is violated at multiple levels. The NHRC has occasionally awarded compensation in cases of custodial deaths but again, has apparently no consistent guidelines for its award. Is a trend apparent from the fact that there has been no compensation by the NHRC or any other state institution in any case of custodial deaths in Delhi in the last three years? If so, this is utterly dangerous for democracy, given the need for compensation in cases where families have lost their primary earning members and sources of survival, as well as any possibility of sustaining the wait for justice. PUDR has previously asked for guidelines to be formed on compensation for custodial violence and death. Supreme Court judgments like the one in *DK Basu vs. State of West Bengal* (1997) have held that compensation has to be seen as relief for infringement of the fundamental right to life by the state, and that Sections 330 and 331 of the IPC effectively make torture during

interrogation punishable. DK Basu states that, “The prosecution of the offender by the state is an obligation but crime needs to be compensated monetarily too as the court cannot stop at just giving declarations.” In this context the guidelines laid down in a recent judgment of the Calcutta High Court in September 2017 are valuable and should form the basis of state policy. The judgment decrees that the state should pay basic compensation to family members for every case of custodial death (Reba Bibi vs. State of W. Bengal and Others, 6.9.17, Calcutta High Court, <https://indiankanoon.org/doc/165043988/> last accessed 16.3.2019) and the victim’s family is free to approach other authorities for further compensation. It is only when such a policy is applied to all states (including Delhi) that arbitrariness with compensation for custodial deaths – dependant on the whims of the NHRC and the economic clout of the victim’s family – will be addressed. This along with other measures suggested here will create the basis for combating the impunity that the police in Delhi seem to enjoy in practice to torture, and kill, those in their custody.

In the light of these investigations into incidents of custodial deaths in Delhi in 2018 and follow-up of cases from 2016-17,

PUDR demands

- The Metropolitan Magistrate’s inquiry and report into all these incidents of custodial death under Section 176 of CrPC. should be made public. This should be done for all other cases of custodial death as well.
- All the police personnel implicated in these cases should be arrested and prosecuted, after an independent and fair investigation.
- The state should grant compensation to families of all victims of custodial death. A provision for granting compensation in all cases of custodial death should be developed (based on the Calcutta High Court judgment of 6.9.17).

Annexure 1

A list of PUDR Reports on Custodial Violence in Delhi

Custodial Deaths

1. 1989 Death of Naresh: Police atrocity: Anand parbat Police Station
2. 1989 Shalimar Bagh, Torture of Children and the Cover Up
3. 1989 Waiting and Waging: A Tale of Life, Death and Justice
4. 1989 Invisible Crimes: A Report on Custodial Death 1980-89
5. 1990 Custodial Death in PS Seemapuri
6. 1990 A Death in PS Geeta Colony
7. 1990 Murder in Police Custody: Model Town Police Station
8. 1991 Murder in Custody: The Story of Two Women
9. 1991 A Murder In Police Custody: Lahori Gate Police Station
10. 1991 Custodial Death: Delhi Police, With You, After You Always: Timarpur Police Station
11. 1991 A Wiped Out Life: The Story of a Police Cover Up: Connaught Place Police Station
12. 1991 A Theft and Death Sentence: Murder in Patel Nagar Police Station
13. 1991 A "Viral" Death in Custody
14. 1991 A Dead End: Custodial Death at Preet Vihar Police Station
15. 1991 A Death in Our Times: Kamla Market Police Station
16. 1991 In Pursuit Of Life: On The Aftermath Of Custodial Deaths In Delhi
17. 1991 Death Via Custody: Guru Tegh Bahadur Police Post
18. 1992 A New Countdown: Custodial Death in Hauz Khas Police Station
19. 1992 'Escaping Death': Death in Custody at Budh Vihar Chowki
20. 1992 Tragedy of "Errors": Alipur Police Station
21. 1992 New Seemapuri Police Station: Choose the Death Card
22. 1992 Police Chase the Police: Custodial Death: Welcome Police Station
23. 1993 A Fatal Depression: Custodial Death in Lodhi Colony Police Station
24. 1993 A Cover Up that Failed: Death and Protest at Najafgarh Police Station
25. 1993 And the Hindon Flows On: Death in Custody of Gokulpuri Police Station
26. 1993 A Time to Murder and Create: Death in Patel Nagar Police Station
27. 1993 Criminal Negligence: Death in Kanjhawala Police Station
28. 1993 An Accidental Suicide?: Death in Ashok Vihar Police Station
29. 1994 First Notch in Their Gun: Custodial Death: Seelampur Police Station
30. 1994 A Death in Mangolpuri PS: "I only came to attend a wedding"
31. 1994 A Venomous Concoction: Custodial Death in Haryana
32. 1994 Custodial Death: A report on the Aftermath
33. 1994 Jama Masjid Police Station : A Death of No Consequence
34. 1994 A Very Easy Death : IGI Airport Police Station
35. 1994 Deaths in Tihar Jail: A Report on Invisible Lives
36. 1995 Of Police and Prison : A Death via Two Custodies
37. 1995 Special Staff on Duty: Death in the Custody of N.E. District Police
38. 1996 A Tale of two Cities: Custodial Death and Police Firing in Ashok Vihar
39. 1996 Custodial Death & A Weak Alibi: Mehrauli Police Station

40. 1996 The Usual Story: Police Post no. 8, Faridabad
41. 1996 A Lover's 'Suicide': Police Post ISBT
42. 1996 Dead on the Tracks: Custodial Death at PS SamaipurBadli
43. 1996 Death of Matloob: Geeta Colony Police Station
44. 1996 Death on the move: Sarojini Nagar Police Station
45. 1997 Chemistry of Suicide Custodial Death at PS. Greater Kailash
46. 1997 Murder at Midnight: Custodial Death at PS. Old Delhi Rly. Station
47. 1997 A Mother's Death: Death in Custody of PS Najafgarh
48. 1997 An Endless Wait: Follow Up of a Custodial Death
49. 1997 Hanging Story: Custodial Death at PS Tilak Nagar
50. 1997 A Prolonged Affair: Harassment and Suicide at Nehru Place Police Post
51. 1998 Leaflet: On Custody Death at New Delhi Railway Station PS
52. 1998 Last Stop: Custodial Death at New Delhi Railway Station Police Station
53. 1998 Capital Crimes: Deaths in Police Custody, Delhi 1980-1997
54. 1998 यतीम लहू : दिल्ली पुलिस हिरासत में मौतें 1980-1997
55. 1999 Crimes Unlimited: Torture, Extortion and Murder in the Custody of Delhi police: Gandhi Nagar Police Station
56. 1999 Three Deaths and Police Folks: Custodial Deaths : Okhla, Kotwali and Alipur Stations
57. 1999 Leaflet: on the Custodial killing of Anil: Seemapuri Police Station
58. 1999 Triggering Death: Custodial Death, Delhi Police Style: Seemapuri Police Station
59. 2001 Dead Men Tales: Deaths in Police Custody in Delhi
60. 2001 Deaths in Police Custody: Malviya Nagar Police Station
61. 2004 Another 'Suicide': A Death in custody: Subzi Mandi Police Station
62. 2004 Death of a rickshaw puller: Custodial Death by R.P.F: Old Delhi Railway Station
63. 2004 Custodial Deaths in Delhi, 2003
64. 2005 Suicide in a lock-up? Custody Death: Adarsh Nagar Police Station
65. 2010 A Story of 'suicide' and Survival: Death in the custody: Vijay Vihar Police Station

The following reports were about incidents in Haryana:

- 1993 नरवाना शहर : पुलिस हिरासत में एक मौत
- 1993 A "Criminal Investigation": Death in the Custody of Gurgaon Police Station
- 2016 Rishipal's Death: The Cost of Friendship in Anti-Dalit Haryana

Custodial Deaths in Jail

1. 1989 Death in Tihar Jail: A Report
2. 1996 Behind High Walls: Custodial death in Tihar Jail
3. 2013 A Death Most Foul: The Unnatural Death of Naim Ahmad in Tihar Jail
4. 1999 A Sensational Case of Extortion: Death in Tihar Jail and Crime Branch R.K. Puram

Custodial Rape

1. 1990 Custodial Rape: The Baljeet Nagar Story
2. 1990 Custodial Rape
3. 1991 A Rape and A Retraction: The Saga of Dakshinपुरी

4. 1994 Hauz Khas Police Station: A Rape In Custody
5. 1995 A Rape in Custody: Narela Police Station
6. 1997 Leaflet: On Custodial Rape at PS. Malviya Nagar
7. 1996 A Maze of Inquiries: Custodial Rape at PS D. B. Gupta Road
8. 1997 An Unrecorded Crime: Rape in Police Custody at Malviya Nagar
9. 1997 Burden of Proof: Custodial Rape at PS. Sultanpuri
10. 1999 Rape and Condemned: Custodial Rape of a Sex Worker
11. 2002 A Questionable Case: Custody Rape in East Delhi
12. 2004 In Custody: An Investigation into 5 cases of Sexual Assault
13. 2007 An Invisible Crime: Investigation in to Custodial Male Rape: Shakarpur
Police Station

Custodial Torture

1. 1981 Who Burnt Basanti Devi: An Investigation into the Alleged torture of a BJP
Woman worker Anand Vas Police Post, Shakurpur Police Station
2. 1995 Police Torture at Narela (A Pamphlet)
3. 2014 Crimes of Habit: A Report on Custodial Torture: Vijay Vihar police Station

वो कौन था
वो कहाँ का था
क्या हुआ था उसे
सुना है आज कोई शख्स मर गया यारो
-शहरयार

"...it was a matter of course
some hang themselves
some slip on soap
this one chose to jump.
The police mouthpiece
addressed the press
the seventeenth account of sudden death:
'We threaten no one
We assault no one
We assume that no one
would want to escape
no one
no one
no one."

- From 'Before Interrogation', a poem by Ronnie Kasrils.
on a death in police custody in South Africa.

Published by: People's Union for Democratic Rights (PUDR)
For Copies: Moushumi Basu, A-6/1, Aditi Apartments, D Block, Janakpuri,
New Delhi-110058
Website: www.pudr.org
Suggested Contribution: Rs.20/-