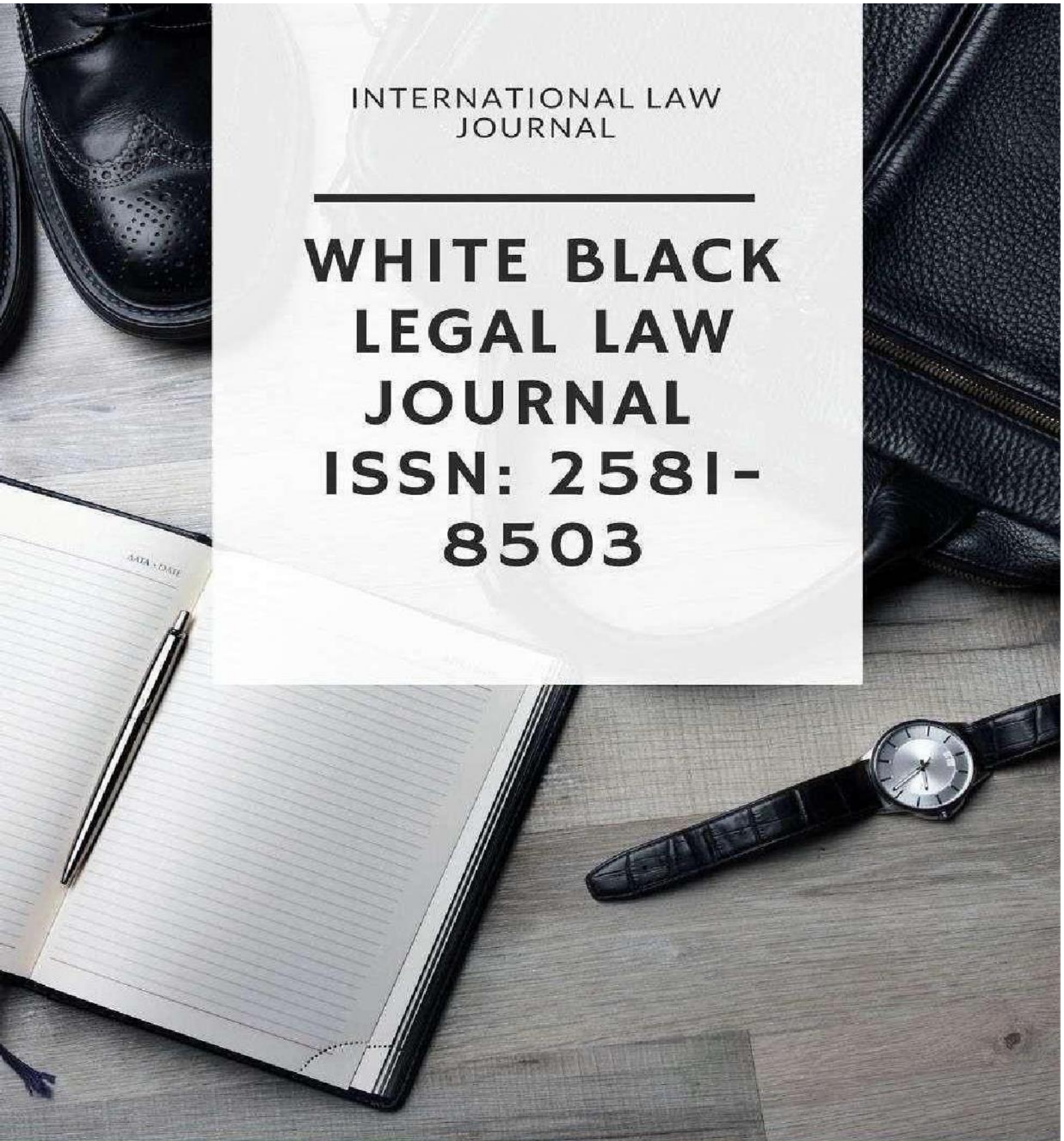




INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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CASE COMMENTARY ON PARAMVIR SINGH SAINI V. BALJIT SINGH AND OTHERS (2020)

CCTV Surveillance, Custodial Transparency, and Police Accountability in India

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ABSTRACT

Custodial violence has been an issue of continuous concern of the judiciary in India for decades. The incidence of custodial killings and allegations of torture have not come to an end in any police station in the country in spite of the landmark directions issued in *D.K. Basu v. State of West Bengal* (1997). The Supreme Court of India, in *Paramvir Singh Saini v. Baljit Singh & Others*, (2020) 10 SCC 439, made a substantial step to operationalise accountability of police in the mandatory installation of CCTV cameras in police station and interrogation rooms. The litigation stemmed from a suo motu proceeding on the issues of police brutality in the State of Uttar Pradesh, which finally had grown into a constitutional enquiry regarding the institutional safeguards provided to arrested people under Articles 20, 21 and 22 of the Constitution of India.

This commentary critically looks at the reasoning of the Court, direction issued by the Court, the enforceability of the directions and the implications of the judgment for the criminal procedure under the new *Bharatiya Nagarik Suraksha Sanhita* (BNSS), 2023, *Bharatiya Nyaya Sanhita* (BNS) 2023 and *Bharatiya Sakshya Adhiniyam* (BSA), 2023. The commentary examines from both criminological and comparative angles the effectiveness and/or appropriateness of the technological form of surveillance as a solution to institutional police violence. The judgment is welcomed for its innovative look at rights protection, but faulted for depending on the implementation of the State, the lack of independent enforcement and its failure to tackle the deep culture of organisation that facilitates custodial abuse. The commentary ends with 15 concrete recommendations relating to legislative and institutional reform.

The case involved the police's use of excessive force against an injured man, who sustained serious injuries in a CCTV surveillance. The case was about the police's use of excessive force against a man who suffered serious injuries from being shot in a CCTV surveillance.

Keywords: *Police Accountability, CCTV Surveillance, Custodial Violence, Article 21, Human Rights*

I. INTRODUCTION

Custodial violence, including torture, coercion and death in police custody, is one of the most serious forms of violation of fundamental rights in a constitutional democracy. It undermines the state's monopoly on force and turns the role of the police into an oppressive one. The continued existence of this phenomenon in India where there are constitutional provisions (article 20, 21 and 22) to ensure a coherent development of law leaves a structural gap between what is written in the Constitution and what is being enforced.¹

The National Crime Records Bureau (NCRB) has been recording custodial deaths from its annual publications. The issue is exacerbated by the lack of any independent oversight within police stations, where the most critical phases of the criminal process arrest, interrogation and remand take place.²

In its landmark decision in *D.K. Basu v. State of West Bengal*³, the Supreme Court in 1997 listed the procedural safeguards to be adhered to when arresting and detaining individuals. Compliance was inconsistent and enforcement was lax. In *Paramvir Singh Saini v. Baljit Singh*, the Court tried to introduce architectural and technological solutions to complement the procedural remedies; that is, to make the spaces of the police visible and thus subject to accountability.

This commentary places the judgment within the framework of the overall body of jurisprudence relating to police accountability, explores its constitutional implications, dissects it in the light of criminological theory, and compares it to international case law. The transformative potential and the constraints of police accountability that can be achieved using CCTV are explored in the critical evaluation section, the heart of this commentary.

¹ Constitution of India, Arts 20, 21, 22; see also *Joginder Kumar v. State of UP*, (1994) 4 SCC 260.

² National Human Rights Commission, Annual Reports 2016–2020 (NHRC, New Delhi); National Crime Records Bureau, Prison Statistics India 2019 (Ministry of Home Affairs, 2020).

³ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (Supreme Court of India).

II. BACKGROUND OF THE CASE

Paramvir Singh Saini is steeped in a long history of judicial and legislative reactions to custodial abuse. Torture and arbitrary detention are banned by the Constitution which was enacted in 1950 under articles 20 and 22. The Code of Criminal Procedure, 1973 (as amended by the BNSS, 2023) provided for the safeguards for the medical examination and production before a magistrate. However, the lack of transparency of the police station as an institutional environment was not addressed by any of these provisions.

The precedent of *D.K Basu v State of West Bengal* is the basic precedence. These directions were then transferred to Section 35 of the BNSS, 2023, as it is currently worded. But the instructions were prospective and procedural, they could not be about what took place in the walls of police stations in the course of interrogation.⁴

The Law Commission of India in its 113th Report (1985) and 152nd Report (1994) had recommended compulsory video recording of confessions and custodial interrogations, but this did not materialise⁵. The lack of robustness of the existing statutory framework to address custodial deaths paved the way for the pro-technology approach of the Court in the case of *Paramvir Singh Saini*. Lack of strength of the existing statutory framework to address custodial deaths paved the way for the pro-technology approach of the Court in the case of *Paramvir Singh Saini*.

III. FACTS OF THE CASE

The case stems from a writ petition, filed by a police officer's daughter, before the Allahabad High Court protesting against alleged custodial torture in UP. The High Court, in view of the gravity of the allegation, ordered the installation of CCTV cameras at all the police stations in the State. The Supreme Court heard the case on appeal from the State of Uttar Pradesh.

The Supreme Court did not restrict its consideration to the facts of the appeal and considered the issue from a national perspective. The bench consisting of three judges, initiated a suo motu proceeding and sent notice to all the States and Union Territories. The Court requested affidavits of police stations in the country regarding the status of installation of CCTVs in

⁴ *D.K. Basu* (n 3) 445–447 (directions 1–11).

⁵ Law Commission of India, 113th Report on Injuries in Police Custody (1985); 152nd Report on Custodial Crimes (1994).

police stations. The responses showed an alarming gap: Majority of the States did not have CCTV cameras in their Police establishments, and many States did not have data on custodial deaths within their jurisdictions.

The questions that crystallised before the Court were the following:

- (i) whether the State had a positive constitutional obligation to install surveillance equipment within police stations
- (ii) whether surveillance equipment sets such as cameras installed in police stations were justified under Article 21 and 22 of the Constitution
- (iii) how far the Court has the jurisdiction to issue such a direction
- (iv) who would monitor such recordings and ensure that evidence is preserved.

IV. ISSUES BEFORE THE SUPREME COURT

The Court considered and decided the following main issues:

- Whether there is any constitutional duty on the part of the State to provide CCTV cameras in police stations and if so, whether such duty can be enforced on the State by the Court under Article 32 of the Constitution by issuing directions.
- Is it legitimate and proportionate to treat audio-video recording of police activity within the police station (including in the interrogation rooms, lock-up, corridors, etc.) as an appropriate and proportionate means to ensure the protection of the fundamental rights of arrested persons in accordance with the provisions of Article 20, 21, and 22?
- How to ensure that CCTV footage is stored, preserved, and monitored to ensure that it is not tampered with and is of evidentiary value.
- How long do state governments/UTs have till they comply and what are the technical specifications and accountability requirements?
- The scope of police station surveillance is subject to what are sometimes referred to as "limiting principles," which might include the right to privacy of officers conducting surveillance and/or suspects under surveillance.

V. JUDGEMENT OF THE SUPREME COURT

The Supreme Court (by Justice R. F. Nariman) held that installation of CCTV cameras in police stations is a constitutional mandate in terms of right to life and personal liberty under Article 21, read with Article 22.⁶

⁶ Paramvir Singh Saini v. Baljit Singh, (2020) 10 SCC 439, [22]–[30] (Supreme Court of India).

The Court delivered a detailed set of mandatory directions, the ratio decidendi of the judgment. All States and Union Territories shall install CCTV camers with audio recording facility in all police stations including entry and exit points, lock-up, corridors, inspection rooms and interrogation rooms. Areas where women are interviewed to be kept separate for privacy.

The recordings shall be preserved for at least eighteen months, and all law enforcement agencies shall maintain the integrity of the recording chain. The footage shall be preserved as evidence if any complaint of custodial abuse is made during this period.

An Oversight Committee will be constituted in each district consisting of District Judge and representatives of civil society to review the functioning of CCTV and to receive complaints from time to time.

State Governments shall file compliance affidavits and reports before the Court from time to time. Non-compliance will be considered contempt of court.

All cameras must be night vision capable and connected to a server maintained by a party outside the local police station.

The Court's obiter dicta are also significant: It held that the right against self-incrimination under Article 20(3) does not prevent the installation of cameras in non-interrogation areas and that the State's interest in preventing custodial abuse is a legitimate and compelling state interest justifying proportionate intrusion into the privacy of officers in the discharge of their official functions.⁷

The Court also noted the States' defiance of D. K. Basu directions was a recurring theme in the judicial proceedings, and that something more durable was called for. Technology is not a substitute for safeguards but an addition to them, the Court held.

VI. CONSTITUTIONAL ANALYSIS

The judgment is built on a rich constitutional foundation; each of the provisions of the Constitution of India, is scrutinized.

⁷ ibid [35]–[38].

(A) Article 14 (Equality before Law)

The mandatory installation of CCTV cameras is applicable to all police stations in all States and Union Territories. It follows from Article 14 that the State's protective function cannot vary geographically. The Court impliedly considered the concern that detainees in rural police stations with lax oversight are at a higher risk of abuse while in custody.⁸

The court talked about Article 20 and Article 21. Article 21 is very important. It is the right to life. The Court said that this right to life is very important and it comes from some cases like *Maneka Gandhi v. Union of India*. These cases say that if someone is put in jail it has to be fair and just.

(B) Article 20 and 21 (Protection against Self-Incrimination and Right to Life)

Article 21 is the foundation of the judgment. The Court referred to the broad interpretation of the right to life established in *Maneka Gandhi v. Union of India*⁹ and later rulings. These require that any process removing liberty must be fair, just, and reasonable. Custodial violence is an arbitrary and unreasonable loss of life. Therefore, any measures to prevent it are constitutionally acceptable. The Court explained that installing CCTV does not violate Article 20(3), as no one is forced to provide a statement just because surveillance cameras are present.

(C) Article 22 (Safeguards against Arbitrary Arrest and Detention)

The court also talked about Article 22. This article is about making sure that people are not arrested and held for no reason. The court said that people have the right to know why they are being arrested. They also have the right to talk to a lawyer and to see a judge. The court said that it is an idea to record what happens when someone is arrested. This way we can make sure that people are treated from the start. The court said that the time between when someone's arrested and when they see a judge is very important. This is because bad things can happen to people during this time. So the court said that we should record everything that happens during this time to make sure that people are safe.

(D) Articles 32 and 226 (Constitutional Remedies)

The judgment emphasizes the constitutional authority of the Supreme Court under Article 32 to issue positive directions, not just negative prohibitions, when fundamental rights are at risk.

⁸ See also *Hussainara Khatoon v. Home Secretary, Bihar*, (1980) 1 SCC 81, concerning the differential quality of legal protection available to marginalised detainees.

⁹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

The Court referenced its past decisions in *Vineet Narain v. Union of India*¹⁰ and *Vishaka v. State of Rajasthan*¹¹ to assert that when Parliament has not passed laws, and fundamental rights need protection, the Court can provide binding directions.

VII. ANALYSIS UNDER NEW CRIMINAL LAWS

(A) Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

The BNSS, 2023 replaced the Code of Criminal Procedure, 1973 starting on 1 July 2024. Section 35 of the BNSS requires that every arrested person be brought before a Judicial Magistrate within twenty-four hours. This sets D.K. Basu requirements into law. Section 51 calls for the medical examination of accused individuals. Sections 54 and 55 place responsibilities on the officer in charge of a police station to keep proper arrest records.¹²

The directions added in *Paramvir Singh Saini* add a layer to the existing BNSS frame by guaranteeing that procedural requirements outlined in the legislation are verifiable by evidence captured by CCTV cameras. One such example includes Section 37 of the BNSS which states that the arrested individual's family or friends are to be informed of the arrest a right likely to be fulfilled more efficiently in the event that this very information has been audio visually recorded. The introduction of audio-video recording of trial statements in the BNSS also complements the technology-oriented ruling.

(B) Bharatiya Nyaya Sanhita (BNS), 2023

BNS, 2023 however chose to continue to retain, and further build upon those sections dealing with custodial violence. Section 117(2) of BNS treats a public servant causing hurt voluntarily in order to extort a confession to have a more severe punishment. Section 118 of BNS deals with the grievous hurt in custodial context.

Section 238 lays down the penalty for breach of criminal trust by a public servant.¹³

However, in *Paramvir Singh Saini*, the courts added a condition which is crucial in terms of what may be needed to prove a prosecution, which means that with use of CCTVs the use of force could be made evident thereby proving the charge under Sections 117(2), 118 and 238 in question more evidently, for this the basic evidential threshold would be achieved.

¹⁰ *Vineet Narain v. Union of India*, (1998) 1 SCC 226.

¹¹ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

¹² *Bharatiya Nagarik Suraksha Sanhita*, 2023, ss 35, 37, 51, 54–55 (India).

¹³ *Bharatiya Nyaya Sanhita*, 2023, ss 117(2), 118, 238 (India).

(C) Bharatiya Sakshya Adhiniyam (BSA), 2023

The BSA, 2023 took over from the Indian Evidence Act, 1872 and streamlined the regime for electronic evidence. Broadly, a broad definition of “electronic record” is set out in Section 57 and, in relation to the admissibility of computer-generated evidence, “computer output” in Section 61, which mandates certification for the mode in which it was produced.¹⁴ CCTV footage from police stations, provided it is preserved and authenticated under Section 61 of the BSA, 2023 will be admissible as electronic evidence.

It will also pass muster, by implicitly complying with the need for chain of custody envisaged in Section 61 of the BSA, 2023 for the storage, time stamping and preservation of the said records at a central server as required by our directions in *Paramvir Singh Saini*, above,.

The Oversight Committee procedure further prevents possible tampering with the same to defeat the evidentiary value thereof.

VIII. CRIMINOLOGICAL PERSPECTIVE

Viewed criminologically *Paramvir Singh Saini*’s judgment will be implicitly engaging with a variety of different conceptions of criminal behavior and institutional misconduct. If we approach this from a Classical Criminology point of view then the implementation of CCTV will alter the calculation of costs versus benefits from a police perspective of the risk involved in custody-related violence. The idea of certainty of punishment, rather than severity as articulated by Beccaria, as being a mechanism for crime prevention might lend itself to believing that this virtually incessant observation will be more potent than some new or elevated custodial penalty.¹⁵ For Positivist criminology, then, cameras will not necessarily be directly impacting the perpetrator but will be more focused upon individual and biographical aspects like the specific officer’s psychopathology, burnout and occupational stress.

Sutherland’s Differential Association Theory of Crime is perfectly suited to policing - the most extreme forms of mistreatment of prisoners has often been socialised, learned through occupational culture in the police station, and accepted as valid as part of effective crime detection methodology.¹⁶ CCTV surveillance is capable of disrupting such a culture because it enables a break in the silence of the officers ‘Omerta’ to be exposed. Should such a facility be

¹⁴ *Bharatiya Sakshya Adhiniyam*, 2023, ss 57, 61 (India); see also *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1 (on certificate requirement for electronic evidence).

¹⁵ Cesare Beccaria, *On Crimes and Punishments* (Henry Paolucci tr, Bobbs-Merrill 1963) 99.

¹⁶ Edwin H Sutherland, *Principles of Criminology* (4th edn, J B Lippincott 1947) 6–8.

circumvented simply by the video being switched off or the recording removed the system is inadequate without impartial checks and serious penalties.

An active oversight body with real sanctions. Conflict Criminologists, grounded in Marxism and the critical traditions would suggest that the ruling fails to grapple with the deep structural inequalities that generate violence in custody: the marginality, in terms of socio economic disadvantage, of the individuals likely to end up at a station, the capture of local policing by powerful local interests, and the class-based orientation of policing priorities¹⁷. By addressing the issue from a technological viewpoint, the ruling would hide this more endemic cause and lend itself to an impression of closure.

The 'Broken Window' theory states that a tolerant attitude towards minor violations and procedural "shortcuts", generates a culture that makes larger violations tolerated.

However, surveillance may offer an interruption of that escalation, as even minor transgressions become open to view. This will only hold true as long as there is a functioning 'Oversight' committee. The labelling theory indicates the dangers of such systems in that they may serve to increase labelling of individuals that may already be marginalized.

The systemic aspect of custodial violence, I argue, is perhaps the key criminological contribution of its study. Skolnick's notion of the working personality of police officers¹⁸ That is, the experience of danger, authority and solidarity that shapes police officer identities offers an understanding as to why the systemic issues behind many failures of oversight cannot be resolved through individualized interventions: the issue is structural, not simply personal. While CCTV offers a solution to systemic problems through altering the environment that generates certain kinds of incentives, this can never be a replacement for reforms that target training, culture and command responsibility.

IX. COMPARATIVE ANALYSIS

Examining the approaches to police accountability in other countries reveals the specificity and the shortcomings of the approach chosen by the Supreme Court of India.

¹⁷ Richard Quinney, *Class, State and Crime* (2nd edn, Longman 1980) 55–62.

¹⁸ Jerome H Skolnick, *Justice without Trial: Law Enforcement in a Democratic Society* (4th edn, Quid Pro Books 2011) 42–70.

the distinctiveness and the limitations of the approach adopted by the Supreme Court of India.

Country	Oversight Body	CCTV / BWC	Custodial Record	Complaint Mechanism	Statutory Basis
India	District Oversight Committee (judicial)	CCTV (court-mandated)	BNSS ss 35, 54	NHRC, courts	Judicial directions
United Kingdom	IOPC (Independent)	BWC + CCTV	PACE 1984	IOPC	PACE 1984
United States	Civilian Review Boards (varied)	BWC (varied)	State statutes	Civilian boards, DOJ	Federal Civil Rights Act
Canada	OIPRD, RCMP CRCC	BWC (partial)	Criminal Code	OIPRD	RCMP Act
Australia	IBAC (Victoria)	BWC (most states)	State statutes	IBAC	Various
South Africa	IPID	Partial CCTV	Criminal Procedure Act	IPID	IPID Act 2011

Table 1: Comparative Police Accountability Frameworks

The UK's 1984 PACE Act is likely the most all-encompassing piece of legislative custodial safeguards there is¹⁹. PACE legislates the recording of custody logs, access to a solicitor, the audiotaping of interviews (now video-recording), and regular welfare check-ups. The genuinely independent (of policing) IOPC, handles complaint investigations. This combined set of legislation, independent review and fine-grained procedural detail compares favourably to Indian judicial discretion and the Indian law regime as set up by courts to govern police interaction with arrestees in their time in Police Custody in custody in India.

¹⁹ Police and Criminal Evidence Act 1984 (UK), ss 36–40, 56–58; Code of Practice C.

The United States is divided in this area of the country with no federal custodial protection legislation so there can be huge differences between each state with regard to whether a person has protections or not. However with the widespread uptake of body-worn cameras following many police shootings and with the Department of Justice now exercising its Civil Rights Act authority in examining and investigating systematic rights abuses in some cities; they also serve as examples.²⁰ Comparing this with the Canadian dual body: the Ontario Independent Police Review Directorate and the Civilian Review and Complaints Commission for the RCMP provide further examples of the effectiveness of statutory-based, independent review boards as a method of overseeing the police - they are not simply committees of judges but have investigatory capacity.

IPID is in the statutory mandate with IPID Act 2011 to investigate in custody deaths and provide referral to the prosecution²¹. The Independent Police Investigative Directorate is a standing entity with fully occupied staff, which is in stark comparison to the time bound Oversight Committees under paramvir Singh Saini, that do not have an investigative mandate.

X. CRITICAL EVALUATION

(A) Strengths of the judgement

The decision of Paramvir Singh Saini is, for many, the acme of judicial creativity. Its main brilliance is in concretizing the amorphous constitutional promise of life and dignity to an architectural and technological mandate on the state. Before this ruling, judges have spoken about the malady and prescribed procedural fixes for it.

The judgment seeks to create circumstances in which these remedies operate.

The directive on the setting up of CCTV cameras with audio-video capabilities and night vision facilities connected to a centralized server maintained in an independent custody, is technically savvy and practically concrete. The other directions of the court differ from previous directions given on accountability of the police because they carry a mandate of reporting with compliance accompanied by sanctions in case of default under threat of contempt. The setting up of judicial led oversight committees ensures accountability not solely within the executive. The judgment represents, at the least from a human rights point of view, some activism in the sense that Vishaka and Vineet Narain gave.

²⁰ United States Department of Justice, Investigation of the Ferguson Police Department (2015); 42 USC § 14141 (Pattern and Practice Statute).

²¹ Independent Police Investigative Directorate Act 1 of 2011 (South Africa), ss 7–9.

The judges have occupied a space where the legislators have been lethargic by issuing these constitutional directions.²²

It's been a role in which they have effectively legislated. As the NHRC has pointed out numerous reports on custodial deaths has yielded little or no follow-up with respect to prosecutorial actions so in these cases judges had to step in.

(B) Implementation Difficulties and Structural Gap

The gravest critique against the judgment is regarding execution. The record of adherence with D.K. Basu directions (a piece of constitutional stature at par) does not, however, give hope. States have been filing affidavits of compliance after subsequent events (hearings, review applications, etc.) that have demonstrated that directions have remained entirely, or partly unexecuted for years after they were initially pronounced.

The challenge is amplified by financial, administrative and political hurdles that are highly heterogeneous across India's incredibly varied police terrain.

The Financial burden not insignificant in India having about 16,671 police stations²³ to equip each station with multiple cameras, audio recording facility, night vision facility, network connectivity infrastructure and data storage facilities will involve high capital cost," the court observed, adding this burden will fall heavier on smaller states and Union Territories. The court, it noted, failed to provide for any central government funding in the directions and has also not laid down any minimum technical specifications that will ensure a minimum quality installation.

Beyond this, the judgment does not engage with the human reality of custodial abuse. CCTV footage can be turned off, shifted, tampered with or switched off, at will. Footage can be deleted, destroyed, or become 'unavailable' just when it is needed the most.

The Oversight Committee, which is composed primarily of overworked district-level judicial officers facing a mountain of cases, has neither the staff nor the mandate to be able to review CCTV footage from the hundreds of police stations that come under its purview.

This is not an academic question. RTI applications filed over the past couple of years show that in several cases, CCTV footage became 'missing' only when a complaint of custodial violence was lodged.²⁴

²² Vishaka v. State of Rajasthan (n 11); Vineet Narain v. Union of India (n 10).

²³ Ministry of Home Affairs, Data on Police Organisations 2022 (Bureau of Police Research and Development, 2022) 14.

²⁴ See Human Rights Watch, 'Bound by Brotherhood: India's Failure to End Killings in Police Custody' (2016) 28–35.

(C) Privacy and Data Protection Concerns

However, the judgment pays scant attention to the privacy implications of ubiquitous audio-video surveillance within police stations. Although the Court finds that women may be interviewed in rooms with a separate room arrangement, it does not engage with the routine recording of audio data from interviews which may encompass information of private and personal nature, professional privilege between a person under investigation and their counsel, or the statements of persons who have not been offered the choice of not being recorded.

While a formal data protection law is lacking - with the Digital Personal Data Protection Act, 2023 still a recent development, the issues relating to access to CCTVs: access, legal basis, conditions - remains up in the air²⁵. This carries a significant threat of a mechanism for the safety of prisoners - CCTV footage - being used against him by law enforcers. This would create an uneven terrain where law enforcers can selectively bring CCTV evidence in prosecution while being denied to the accused during defence. This, however, defeats the protection sought to be ensured.

(D) Absence of Independent Enforcements

A structural weakness of the judgment comes in as, the judgment doesn't provide for any enforcement agency as such. The Oversight Committee, presided over by the District judge, has no staff, budget or power to investigate. It can't take custody of footage and can't summon policemen or file prosecution cases, it's a judicial setup that exists on a per case basis. The existing NHRC which has the power to probe custodial deaths, have not been included in the framework of the judgment regarding CCTV footage surveillance.

As International experience, documented at Section IX, indicates, to ensure custodial accountability a permanent statutory or at least independent body with powers of enquiry, prosecution recommending and reporting to the public is required. The decision does not generate such a body by establishing monitoring through Oversight Committees with judicial presence. It generated such a body which is subject to the inertia that have plagued accountability in Indian policing previously.

(E) Whether CCTV Alone Can Prevent Custodial Violence

Research on the deterrent value of police CCTV evidence is ambiguous. United Kingdom evidence showed body-worn cameras substantially decrease reports of uses of force, or civilian

²⁵ Digital Personal Data Protection Act, 2023, s 4 (India); the Act's provisions on security safeguards and purpose limitation are potentially relevant to CCTV footage but have not yet been tested in the custodial context.

complaints, when mounted to patrol cars-though this effect appeared concentrated in those interactions occurring outdoors, where both participants observed the camera to be in operation²⁶. It is possible that the deterrent value would be significantly smaller in less public-based, or power-imbalanced spaces, like a custody suite, or during an interrogation, where the suspect might have no means to be certain the camera was actually running.

And a rich academic research literature about organisational deviance finds that a culture of abuse within an institution is deeply immune to surveillance only. If officers can see that colleagues, even supervisors, countenance custodial abuse and, consequently, the likelihood of being disciplined is minimal then any deterrent effect generated by a camera's presence is bound to be partial and, in the longer run, ineffective²⁷. By the absence of discussion about police training, accountability for commanding officers, departmental processes of discipline and an organisational culture of immunity, the judge has sought an intervention through technology that targets symptoms not causes.

The NCRB figures for custodial deaths over the years after the judgement shows that the problem has continued unabated and in several States has increased.²⁸ Though it is premature to definitively link this to the inability to implement CCTV cameras across all police stations, it appears very evident that technology for surveillance while a necessary condition would not suffice. In the United Kingdom, legal safeguards (PACE 1984), independent investigation (IOPC), entitling rights of victims to legal assistance and through cultural reform sustained training is a model the Indian State needs to emulate.

XI. SUBSEQUENT DEVELOPMENTS

The apex court has on and off asked for progress reports of the states and Union Territories after the verdict. The compliance has varied – States like Delhi, Maharashtra and Tamil Nadu have higher rate of installation, but some smaller states and Union Territories mentioned financial and operational issues. In 2022, the court was unhappy with the speed of compliance, reminded of its earlier directions and pointed out that number of custodial deaths reported by NHRC had not gone down.²⁹

²⁶ Barak Ariel and others, 'The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints against the Police' (2015) 31(3) *Journal of Quantitative Criminology* 509, 524–525.

²⁷ John P Crank, *Understanding Police Culture* (2nd edn, Routledge 2004) 112–125.

²⁸ National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs, 2023) Table 16A.

²⁹ *In Re: Death of Civilians in Police Action, Suo Motu Writ Petition (Civil) No 1 of 2020* (Supreme Court of India, order dated 16 September 2022) (compliance proceedings arising from Paramvir Singh Saini).

The judgment has also influenced the design of police station modernisation schemes under the Home Ministry's Modernisation of Police Forces (MPF) scheme, which now includes CCTV installation as an eligible expenditure category. However, the MPF scheme is discretionary, and fund-allocation is subject to annual budget cycles, creating an element of uncertainty that runs counter to the constitutional direction.

Looking ahead, the conjunction between CCTV surveillance and artificial intelligence holds out both promise and peril. AI-driven analysis of CCTV footage could identify unusual behaviour patterns suggestive of ill treatment and trigger warnings to Oversight Committees in near real-time. Body worn cameras worn by officers instead of installed at fixed points would plug blind spots left by cameras. But the same technologies, unchecked, could facilitate mass surveillance of detainees and profiling of those arrested.

XII. SUGGESTIONS AND REFORMS

Fifteen recommendations to strengthen Mr Paramvir Singh Saini's blueprint

- **Statutory Independent Police Complaints Authority:** Parliament must legislate to set up an independent permanent Police Complaint Authority (IPCA) modelled on the UK's IOPC, with powers of investigation, prosecution recommendation and annual public reporting.
- **Mandatory body-worn cameras:** All police personnel undertaking arrests and interviews should be obligated to wear body worn cameras (BWC), with automatic recording during arrest. BWC footage should automatically get uploaded on to a central server within 6 hours after conclusion of the interaction.
- **Real Time Monitoring:** Oversight Committees should be provided with dedicated digital dashboards receiving live feeds from police station CCTVs (with automatic alerts for camera failures/long durations of no recording)
- **Cloud Storage with Access Controls:** CCTV Recordings should be stored on tamper proof, access logged cloud servers maintained by an independent body (such as a national custodial records authority under MHA).
- **Independent Technical Audit:** Annual technical audit of all CCTV systems installed in police stations by an independent body (with public disclosure of results) to verify functional status & data integrity.
- **AI-Assisted Anomaly Detection:** Pilot AI-assisted review of CCTV footage in select

states to identify patterns of custodial abuse without having to manually review every recording.

- **Strengthened Disciplinary Mechanisms:** Amend state police acts to mandate that custodial violence will now constitute “specified misconduct” triggering compulsory departmental inquiry and where appropriate, a legal obligation to refer cases for criminal prosecution under the BNS, 2023
- **Comprehensive Police Training:** Pre-service and in-service training programmes should include human rights education, trauma-informed interrogation techniques and CCTV compliance as mandatory components. Whistle-Blower Protection: Legislation should protect police officers who report custodial abuse by colleagues from retaliation (including anonymous reporting channels monitored by the proposed IPCA).
- **Data Protection Framework for CCTV Footage:** The Digital Personal Data Protection Act, 2023 should be complemented by rules on CCTV footage from police stations, outlining access, retention, deletion, and right to view
- **Citizen Oversight Committees:** District-level Oversight Committees should include elected representatives of civil society organisations, legal aid organisations, and marginalised community groups, rather than simply judges.
- **Periodic Judicial Inspections:** Every Sessions Judge should be required to conduct an unannounced annual inspection of at least three police stations within their jurisdiction, filing an inspection report with the High Court. Strengthening the NHRC: The NHRC should be given statutory authority to order CCTV footage preservation, access recordings independently of State police, and initiate suo motu investigations of custodial deaths without a complaint.
- **Central Government Funding:** Create a dedicated fund under MPF scheme for CCTV installation, maintenance, and upgradation with technical compliance conditionality.
- **Legislative Amendments to BNSS:** BNSS 2023 needs an explicit provision mandating the AVR of all arrests and police station interviews, turning PVS directions into statutory provisions.

XIII. CONCLUSION

Paramvir Singh Saini v Baljit Singh & Ors has a special place in the Indian constitutional jurisprudence of police accountability. As the first SC direction imposing a technologically specific obligation upon the State for protecting FRs in custody—extending D K Basu into

preventive architecture—its contribution does not lie simply in the content of the directions, but in recognising that legal safeguards for arrested persons are an empty formality unless there exist institutions through which violation becomes visible and provable.

However, the promise of the judgment remains compromised by its own limitations—the reliance on executive compliance, the absence of an independent statutory body, the scant regard to data protection and privacy, and the refusal to confront the police’s organisational culture of violence all mean that CCTV surveillance, however comprehensive, will never be enough to end custodial abuse in India. The criminological truth that ‘cultures of deviance’ demand cultural, structural and punitive changes, and not just surveillance, must inform our reform agenda.

The new criminal laws (BNSS, BNS and BSA) provide us with a more contemporary statutory context within which the directions of PSS may be realised. But the task at hand demands legislative action: enactment of a Police Accountability Act; creation of an authentic independent complaints authority; statutory protection for CCTV-based evidence; and a long-term national commitment to police reform founded in constitutional principles.

But the measure of Paramvir Singh Saini’s legacy won’t be the cameras installed on the walls of Indian police stations — it will be whether those cameras are, and continue to be, watched — by independent institutions, empowered communities and a vigilant judiciary. In that watchfulness lies the future of custodial rights in India.

REFERENCES

Cases

- Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1 (Supreme Court of India).
- D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 (Supreme Court of India).
- Hussainara Khatoon v. Home Secretary, Bihar, (1980) 1 SCC 81 (Supreme Court of India).
- Joginder Kumar v. State of UP, (1994) 4 SCC 260 (Supreme Court of India).
- Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (Supreme Court of India).
- Paramvir Singh Saini v. Baljit Singh & Others, (2020) 10 SCC 439 (Supreme Court of India).
- Vineet Narain v. Union of India, (1998) 1 SCC 226 (Supreme Court of India).
- Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (Supreme Court of India).

Legislation

Bharatiya Nagarik Suraksha Sanhita, 2023 (India).
Bharatiya Nyaya Sanhita, 2023 (India).
Bharatiya Sakshya Adhiniyam, 2023 (India).
Constitution of India, 1950.
Digital Personal Data Protection Act, 2023 (India).
Independent Police Investigative Directorate Act 1 of 2011 (South Africa).
Police and Criminal Evidence Act 1984 (UK).

Books and Journal Articles

Ariel B and others, 'The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints against the Police' (2015) 31(3) Journal of Quantitative Criminology 509.
Beccaria C, On Crimes and Punishments (Paolucci H tr, Bobbs-Merrill 1963).
Crank JP, Understanding Police Culture (2nd edn, Routledge 2004).
Quinney R, Class, State and Crime (2nd edn, Longman 1980).
Skolnick JH, Justice without Trial: Law Enforcement in a Democratic Society (4th edn, Quid Pro Books 2011).
Sutherland EH, Principles of Criminology (4th edn, J B Lippincott 1947).

Government and Institutional Reports

Human Rights Watch, 'Bound by Brotherhood: India's Failure to End Killings in Police Custody' (2016).
Law Commission of India, 113th Report on Injuries in Police Custody (1985).
Law Commission of India, 152nd Report on Custodial Crimes (1994).
Ministry of Home Affairs, Data on Police Organisations 2022 (Bureau of Police Research and Development, 2022).
National Crime Records Bureau, Crime in India 2022 (Ministry of Home Affairs, 2023).
National Crime Records Bureau, Prison Statistics India 2019 (Ministry of Home Affairs, 2020).
National Human Rights Commission, Annual Reports 2016–2020 (NHRC, New Delhi).
United States Department of Justice, Investigation of the Ferguson Police Department (2015).