

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

STARRED QUESTION NO:103
ANSWERED ON:09.12.2003
CUSTODIAL DEATHS
RAM VILAS PASWAN;SUNDER LAL TIWARI

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether attention of the Government has been drawn towards the advice given by the Supreme Court for amending the laws in view of the harassment in police custody, country-wide;
- (b) if so, the details thereto and the reaction of the Government in this regard;
- (c) whether the Government propose to amend the Evidence Act to curb growing incidents of custodial deaths;
- (d) if so, the details thereof;
- (e) the steps being taken by the Union Government in this regard; and
- (f) if not, the reasons therefor?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI I.D. SWAMI)

(a) to (f): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO. 103 FOR 9.12.2003.

The Supreme Court, while delivering its judgement in D.K. Basu Vs. State of West Bengal and others, took note of the need to amend the provisions of the Indian Evidence Act in order to contain the rise in the case of custodial violence, in line with the recommendations of the Law Commission. The Law Commission in its 113th Report, recommended the insertion of Section 114B in the Indian Evidence Act to provide that in the prosecution of a police officer for an alleged offence of having caused bodily injury to a person, if there was an evidence that the injury was caused during the period when a person was in the custody of the police, then the Court may presume that the injury was caused by the police officer having the custody of that person during that period. The Commission further recommended that the Court, while considering the question of presumption, should have regard to all relevant circumstances including the period of custody, statement made by the victim, medical evidence and the evidence which the Magistrate may have recorded.

Criminal Laws (both substantive and procedural) are subjects included in the Concurrent List of the Seventh Schedule of the Constitution. Accordingly the recommendations of the Law Commission on matters relating to Criminal Law have been sent to all the State Governments/UT Administrations for their comments. A decision to initiate further amendments to the procedural law including the evidence act will depend on the views of the State Governments/UT Administrations.

The Criminal Procedure Code (Amendment) Bill, 1994 was introduced in Parliament in 1994 proposing to amend the Cr. P.C. to provide for, inter-alia,-

- (i) Prohibition on the arrest of women before sunrise and after sunset except in unavoidable circumstances;
- (ii) Mandatory provision for supplying information of detainee or arrested person to his friend/relative nominated by him;
- (iii) Furnishing of a copy of medical report to the detainee when requested by him; and
- (iv) Mandatory judicial inquiry in a case of alleged death, disappearance, or rape in custody.