 DOI: https://10.5281/zenodo.23553415

The Jaswant Singh Khalra Case: Police Accountability, Human Rights, and the Rule of Law in India

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Abstract

This paper examines the abduction and killing of the human rights defender Jaswant Singh Khalra in 1995 as a case study in police accountability and the rule of law in India. Khalra used municipal cremation records to show that the Punjab Police had secretly cremated large numbers of persons as "unidentified" or "unclaimed" during the insurgency years. After his abduction from his home in Amritsar on 6 September 1995, the Supreme Court of India transferred the investigation to the Central Bureau of Investigation (CBI), and in *Prithipal Singh v. State of Punjab*, decided on 4 November 2011, it upheld the convictions of the police officers held responsible. Following the approved doctrinal-and-case-study design, the paper analyses the constitutional framework (Articles 14, 19, 21, 22, 32 and 226), the judicial reasoning on custodial crime, and the barriers that obstructed justice, namely control of records and custody by the accused, institutional solidarity, witness intimidation and delay. It draws on two book-length treatments of Khalra's life and work, Ajmer Singh's *Darkness Defied* and Dr. Paramjeet Singh Mansa's *Human Rights Protector*, alongside judgments, official findings and human rights reports. The paper argues that the convictions were achieved not through the ordinary operation of the system but through exceptional, sustained Supreme Court supervision, which shows that constitutional guarantees are insufficient where investigations lack practical independence and witnesses lack effective protection. It concludes with reforms on independent investigation, custody and cremation records, witness protection and the protection of human rights defenders.

Keywords: Jaswant Singh Khalra; Rule Of Law; Police Accountability; Custodial Violence; Human Rights Defenders; Constitutional Rights.

1. Introduction

1.1 Background

The rule of law requires that every person, including those who exercise State authority, remains accountable to the law. Police powers of arrest, detention and investigation are among the most intrusive the State possesses, and for that reason the Constitution of India surrounds them with limits grounded in equality, liberty and human dignity. The difficulty arises when the officials

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entrusted with enforcing those limits are themselves the alleged violators, and when they control the places, documents and witnesses on which proof depends.

The case of Jaswant Singh Khalra (1952–1995) is a leading Indian example of that difficulty. Khalra, a bank official turned human rights activist who served as General Secretary of the Human Rights Wing of the Shiromani Akali Dal, investigated disappearances and secret cremations in Punjab. His work, undertaken with Jaspal Singh Dhillon of the same Human Rights Wing, relied on crematoria records rather than on rumour, and it brought allegations of mass illegal cremations into public and judicial view. He was abducted on 6 September 1995 and, as the courts later found, killed in police custody. The resulting litigation produced a rare outcome in the history of the Punjab disappearances, namely the criminal conviction of police officers, upheld by the Supreme Court on 4 November 2011.[2]

1.2 Relationship to the approved research design

This paper is the full development of the approved research titled "The Jaswant Singh Khalra Case: Police Accountability, Human Rights, and the Rule of Law in India". It retains the original problem statement, objectives, research questions, working hypothesis, methodology, scope and proposed structure, and Table 1 shows where each is addressed.

Approved component	Content	Treated in
Objective 1	Khalra's emergence as an activist; methods of documenting disappearances and cremations	Section 3
Objective 2	Police misconduct and the constitutional principle of the rule of law	Sections 5 and 7
Objective 3	Investigation and judicial response in the Khalra case	Section 4
Objective 4	Obstacles to accountability: witness intimidation, concealment of evidence, investigative dependence	Section 6
Objective 5	Measures for police oversight and protection of human rights defenders	Section 8
Forum, jurisdiction and judicial review	Obstacles of forum and standing; review of State action under Arts 32 and 226	Sections 3.4 and 5.7
Working hypothesis	Safeguards are insufficient without independent investigation and witness protection	Section 7
Methodology and scope	Doctrinal method with qualitative case study; Arts 14, 19, 21, 22, 32, 226; *Prakash Singh* as reform benchmark	Sections 1.5 and 5

[2] Prithipal Singh v. State of Punjab, (2012) 1 S.C.C. 10 (India) [hereinafter Prithipal Singh]. Paragraph pin cites throughout follow the reported judgment.

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Table 1: Approved components and their treatment in this paper

1.3 Statement of the problem

The central problem is the gap between constitutional protection and its enforcement when police personnel are implicated in serious offences. Investigations become especially difficult when officials control detention facilities, records and access to witnesses. The paper asks whether existing accountability mechanisms can resolve this conflict of interest, and how abuse of authority operates to suppress scrutiny, conceal wrongdoing or shield officials from prosecution. Personal or financial gain as a motive is considered only where the record supports it, and is not assumed.

1.4 Objectives, research questions and hypothesis

The paper pursues five objectives:

1. to trace Khalra's emergence as a human rights activist and his methods of documentation
2. to analyse the relationship between police misconduct and the rule of law
3. to examine the investigation and judicial response
4. to assess the obstacles to accountability
5. to propose measures for police oversight and the protection of human rights defenders.

These objectives correspond to five research questions: what circumstances shaped Khalra's activism; how the conduct established in his case undermined legality, equality and protection of life; how effectively investigative agencies and courts secured accountability; what role institutional self-protection and intimidation played; and what reforms could improve prevention, investigation and redress in comparable cases.

The working hypothesis is that constitutional safeguards are insufficient when investigations into police misconduct lack practical independence and witnesses lack effective protection, and that criminal prosecution combined with independent oversight and protection for those who report violations offers a stronger basis for accountability.

1.5 Research methodology

The study adopts a doctrinal legal methodology supported by a qualitative case study. Primary materials are constitutional provisions, legislation, reported judgments and publicly available official findings, in particular the orders of the Supreme Court in the habeas corpus proceedings and the judgment in *Prithipal Singh*. Secondary materials are scholarly writing, human rights reports and the two books named above. No interviews or fieldwork were undertaken. As the approved research design requires, the analysis separates four categories of material, set out in Table 2, so that a judicial finding is never confused with an allegation or with the researcher's own interpretation.

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Category	Meaning	Typical source
Judicial finding	A conclusion reached by a court on the evidence	Judgments and orders of the Sessions Court, High Court, Supreme Court
Witness account	Testimony given before a court or investigators, assessed (or not) by a court	Evidence of Paramjit Kaur, Rajiv Singh, Kuldip Singh and others as recorded in the judgment
Allegation / advocacy claim	An assertion not adjudicated, or a figure advanced by a party	Khalra's own larger estimates; NGO reports
Interpretation	The evaluative reading of an author	Biographies, commentary, and this paper's own analysis

Table 2: Evidentiary categories used in this paper

Because the events of 1995 were prosecuted under the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, the analysis applies those statutes to the original proceedings.[3] Their successors, the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023, in force since 1 July 2024,[4] are treated separately in Section 8 as part of the contemporary reform landscape. Likewise, the police-reform directions in *Prakash Singh v. Union of India*,[5] postdate Khalra's abduction and are used only as a benchmark and never as a standard that applied in 1995.

1.6 Scope and structure

The paper focuses on Khalra's activism, his abduction and death, and the legal proceedings that followed. The wider Punjab context is considered only where needed to understand the case. Section 2 reviews the literature; Section 3 examines Khalra's activism; Section 4 narrates the investigation and the judicial response; Section 5 sets out the constitutional framework and analyses the matter on grounds of judicial review; Section 6 analyses the obstacles to accountability; Section 7 tests the hypothesis; Section 8 offers recommendations; and Section 9 concludes.

2. Review of Literature

Writing on the Khalra case falls into four groups: biographical works, human rights documentation, legal and judicial sources, and commentary on the institutional response. Each has a different evidentiary value, and the paper treats them accordingly.

[3] Indian Penal Code, No. 45 of 1860 (India); Code of Criminal Procedure, 1973, No. 2 of 1974 (India); Indian Evidence Act, No. 1 of 1872 (India).

[4] Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India); Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India); Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023 (India).

[5] Prakash Singh v. Union of India, (2006) 8 S.C.C. 1 (India).

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2.1 Biographical works

Ajmer Singh's *Darkness Defied: The Life and Legacy of Jaswant Singh Khalra* is the principal biography.[6] It first appeared in Punjabi in October 2020, and an English edition was released at Bhai Gurdas Hall, Amritsar.[7] The English edition's chapter structure traces Khalra's intellectual and personal development: chapter 3 ("From Comrade to Sikh") and chapter 4 ("Life Takes a Sharp Turn") trace turning points in his personal journey; chapter 5 ("On the Land of England") deals with his 1991 stay in Britain, where, although he had been granted the right to remain, he chose to return to Punjab, which the book presents as a decision rooted in spiritual conviction; chapter 6 draws on ten articles he wrote on politics and Sikh sovereignty; and chapter 7 ("Back in the Battlefield") covers his return in 1992, the establishment of the Human Rights Wing, and the cases he documented, including the Behla incident, the persecution of 43 members of Baba Gurbachan Singh Manochahal's family, and the Patti case.[8] The book's value lies in the detail of Khalra's motives and methods. Its limits are those of a sympathetic biography by a historian of the Sikh struggle; it is therefore used here as an *interpretive* source for context and motive, and not as proof of facts that the courts have separately found.

Dr. Paramjeet Singh Mansa's *Human Rights Protector* is consulted for its treatment of Khalra as a defender of rights.[9] The paper uses that idea as a conceptual lens and tests it against the judicial record, which, notably, itself recognises the State's duty to protect "the human rights defender fighting for the interest of the victims".[10] Together the two books give the paper its human and moral dimension; the legal analysis rests on the primary sources.

2.2 Human rights documentation

Human Rights Watch and Ensaaf, *Protecting the Killers: A Policy of Impunity in Punjab, India*,[11] and Ram Narayan Kumar and others, *Reduced to Ashes: The Insurgency and Human Rights in Punjab*,[12] document the disappearances and cremations and criticise the failure of accountability. These are advocacy and research reports. Their factual claims are weighed against judicial findings, and their evaluative claims are treated as interpretation.

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[6] Ajmer Singh, *Darkness Defied: The Life and Legacy of Jaswant Singh Khalra* (English ed.; Punjabi original published Oct. 2020) [hereinafter Singh].

[7] *English Version of Jaswant Singh Khalra's Biography Released*, Tribune (Amritsar)

[8] Singh, *supra* note 5, chs. 3–7

[9] Paramjeet Singh Mansa, *Human Rights Protector*

[10] *Prithipal Singh*, ¶ 7.

[11] Hum. Rts. Watch & Ensaaf, *Protecting the Killers: A Policy of Impunity in Punjab, India* (2007).

[12] Ram Narayan Kumar et al., *Reduced to Ashes: The Insurgency and Human Rights in Punjab* (South Asia Forum for Human Rights 2003).

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2.3 Legal and judicial sources

The core legal sources are the Supreme Court's orders in *Paramjit Kaur v. State of Punjab* (Writ Petition (Crl.) No. 497 of 1995),[13] and the final judgment in *Prithipal Singh.* These record the CBI's findings, the Court's supervisory directions and the reasoning on custodial crime, and they have the highest evidentiary value in this study. The National Human Rights Commission's orders in the Punjab mass cremation matter, which was remitted to it by the Supreme Court, supply official findings on compensation.[14]

2.4 Gap addressed

Existing writing tends either to commemorate Khalra or to catalogue the wider abuses. Less attention has been given to the case as an *institutional* problem, that is, to how the structure of police control over custody, records and witnesses shaped what could be proved, and which reforms follow from that structure. This paper addresses that gap.

3. Khalra's Emergence as a Human Rights Defender

3.1 Background and context

Jaswant Singh Khalra was born in 1952 and worked as a bank official in Amritsar. According to the Supreme Court, he was General Secretary of the Human Rights Wing of the Shiromani Akali Dal and had been working on "abduction and cremation of unclaimed/unidentified bodies" during the disturbed period in Punjab, particularly in the districts of Amritsar and Taran Taran. The court records that the police had been eliminating young persons on the pretext that they were militants and disposing of their bodies without records or last rites.[15] *Darkness Defied* shows that his activism developed from his return to Punjab in 1992, when he helped establish the Human Rights Wing and began the systematic documentation of cases.[16]

3.2 Method: documentary evidence

Khalra's distinctive contribution was methodological. Rather than relying only on family complaints, he and his colleagues examined the registers of municipal cremation grounds, which recorded cremations of bodies labelled "lavaris" (unclaimed) by the police. A press note he issued on 16 January 1995 linked these records to reports that thousands of persons had been subjected to

[13] *Paramjit Kaur v. State of Punjab*, (1999) 2 S.C.C. 131 (India); *Paramjit Kaur v. State of Punjab*, (1999) 2 S.C.C. 141 (India).

[14] Nat'l Hum. Rts. Comm'n,nhrc.nic.in.

[15] *Prithipal Singh*, ¶ 35.

[16] Singh, *supra* note 5, ch. 7

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enforced disappearance. The Supreme Court later recorded that the CBI found this press note to be correct.[17]

The scale of the findings must be stated with care. The CBI's interim report of 22 July 1996 recorded that 984 bodies had been cremated as unidentified in Taran Taran district alone, and its final report, noted in the Court's order of 12 December 1996, put the number of unlawful cremations at 2,097, of which 585 were fully identified, 274 partially identified and 1,238 unidentified.[18] Khalra himself asserted that the true number of persons killed and cremated across Punjab could be far higher, with figures above 25,000 being cited in public sources. That higher figure is an *allegation and estimate*; it was not adjudicated by any court and is not relied on in this paper.

3.3 Jaswant Singh khalra as bank director while simultaneously acting as a prominent human rights activist in Punjab, India

During the height of the militancy and insurgency period in Punjab, Mr. Khalra was employed as the Director of the Amritsar Central Cooperative Bank in the city of Amritsar. He was a well-respected professional within the banking and local community. His professional position in banking directly intersected with the start of his human rights investigation. Press accounts state that he was deeply troubled by the disappearances of young men that followed Operation Blue Star and the anti-Sikh violence of 1984. The Shift to Human Rights Work His transition into human rights advocacy was sparked directly by his professional circles. In the early 1990s, some of his bank colleagues and acquaintances suddenly went missing.While attempting to search for information regarding his missing colleagues, Mr. Khalra began investigating government and municipal records. This led to a monumental discovery: Municipal Records: He uncovered files from the Municipal Corporation of Amritsar that detailed the names, ages, and addresses of thousands of individuals who had been secretly detained, killed, and cremated by the police as "unidentified" or "unclaimed" bodies. Expanding the Investigation: Operating under the Human Rights Wing of the Shiromani Akali Dal, he expanded his research to other districts in Punjab (such as Tarn Taran and Majitha), eventually estimating that up to 25,000 illegal cremations had taken place.

Scroll.in reports a more personal trigger: the family of Piara Singh, a former colleague, heard that he might have been taken to the Durgiana Mandir cremation ground, and Khalra went there to enquire.[19] The Supreme Court's own summary is consistent with this account, recording that he had taken up the cause of persons killed under the pretext of militancy and cremated without records or last rites.[20]

It is a reasonable interpretation, though not a judicial finding, that his banking background shaped his method, since a habit of reading ledgers made him alert to what the cremation registers

[17] *Prithipal Singh*, ¶ 33.

[18] *Prithipal Singh*, ¶¶ 31, 33; *Paramjit Kaur*, *supra* note 12.

[19] He Fought Against the Disappearing of Young Men from Punjab. Then One Day He Disappeared Too

[20] *Prithipal Singh*, ¶¶ 35, 47(i).

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could show. His biographer places the shift in the context of his return to Punjab in 1992 and the founding of the Human Rights Wing.[21]

3.4 Obstacles of forum and standing

Khalra's first attempts to obtain judicial scrutiny failed on grounds of forum and standing and not on the merits. In January 1995 he and Jaspal Singh Dhillon filed a writ petition in the Punjab and Haryana High Court seeking an independent investigation of the cremations. The High Court dismissed it, reportedly as too vague and because the petitioners lacked *locus standi*.[22] That ground is difficult to reconcile with the public-interest standing principles already settled in *S.P. Gupta v. Union of India*,[23] under which a person with sufficient interest may sue to redress a public injury. The Committee for Information and Initiative on Punjab (CIIP) then moved the Supreme Court (petition No. 447/95), but Khalra was abducted before his own matter could be heard.

Further forum problems followed. The first complaint after the abduction was registered by the local police at P.S. Islamabad under s. 365 IPC and named no one; the Supreme Court found that it had been wrongly recorded and that the police did not cooperate.[24] Paramjit Kaur approached the NHRC but was advised to go to the Supreme Court;[25] her Writ Petition (Crl.) No. 497 of 1995 under Article 32 then produced the CBI transfer on 5 November 1995, and the CIIP petition was later heard with it. Even after the Supreme Court remitted the cremations to the NHRC in December 1996, the Commission read its mandate as confined to the 2,097 cremations in Amritsar district, a limit criticised as excluding the rest of Punjab.[26] In short, the system repeatedly sent the complaint to a body that could not, or would not, examine it.

3.5 The cremation records and the estimate of 25,000

Unravelling Secrets: From the conversation with Baba Bhoot Nath, they learned that according to the rules of municipal committees, the cremation committee has to cremate every abandoned body found in the city using its own funds. It is also necessary to complete certain police procedures regarding dead bodies including conducting a postmortem. According to the postmortem rules of the medical department, if no heir is found for a dead body, then it is necessary to retain a photograph of the dead body and its identification marks in the registry. Police Department Rule No. 3 in Chapter 25 outlines clear instructions on the procedure to be followed for the cremation of "unidentified" and "unclaimed" bodies, which mandates that photographs of the bodies be advertised to the public.

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[21] Singh, *supra* note 5, ch. 7

[22] *Jaswant Singh Khalra's Hunt for the Truth About Punjab Disappearances*, ThePrint (Past Forward) (2026); *Honoring Jaswant Singh Khalra and the Movement for Justice*, Ensaaf, ensaaf.org.

[23] (1981) Supp. S.C.C. 87 (India).

[24] *Prithipal Singh*, ¶ 47(ix)–(xi).

[25] *Prithipal Singh*, ¶ 47(xii).

[26] *Punjab*, Tribune, Feb. 4, 1999.

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The investigation conducted by the two-member committee of the Human Rights Wing revealed that during that dark period of government oppression, thousands of Sikhs who were illegally detained by the Punjab Police were killed in different ways and their bodies were conveniently declared unclaimed. They were transferred to the municipal cremation grounds for the completion of legal formalities, the cases were dismissed under false FIRs and false post-mortem reports filed by government-backed doctors. For those militants who had bounties on their heads, their real names were published out of greed for potential monetary rewards, but a fabrication was added that their heirs were not ready to claim the corpses.

In this way, such dead bodies were burnt as "unclaimed". In the register of Durgiana crematorium, the names and villages of some of the persons killed by the police were documented.Yet, the bodies were described as "unidentified" in the record.

For example, Raja Sansi's police picked up a militant named Pargat Singh "Bullet" who was undergoing treatment at Guru Nanak Hospital in Amritsar in broad daylight. On 5 November 1992, after declaring him dead in a "police encounter" his bodywas cremated as "unidentified" at the Durgiana Mandir cremation ground.

With the information obtained from the Durgiana temple, it became easier to proceed with the investigation process. In the same way, information was obtained from the municipal crematoriums of Amritsar, Tarn Taran, and Patti. Additional information was also obtained from the civil birth and death registers of Amritsar. Conspiracies were laid bare even from the receipts of the lumber bought for cremation. Based on this investigation, the Human Rights Wing released its first report to the press on 16 January 1995. To protect their main source, Baba Bhoot Nath, the Fact-Finding Committee not only refrained from quoting him, but the report purposefully stated that the employees of the Durgiana Mandir cremation grounds had refused to provide any information. All the information they had obtained was stated to have come from the birth and death register of Amritsar.The following important facts were revealed from that first report.

What the records showed: In early 1995 Khalra and Dhillon examined the registers kept at three cremation grounds in the then Amritsar district: Durgiana Mandir (Amritsar) , Patti and Tarn Taran, which was one of Punjab's thirteen districts at the time. The entries recorded bodies brought for cremation by the police and labelled "unidentified" or "unclaimed". Human Rights Watch notes that the municipal records gave the number of bodies brought by specific police officers and the amount of firewood purchased to burn them.[27] The firewood supplied by the municipal authorities for the last rites therefore left a paper trail: *Reduced to Ashes* is reported to record roughly 300 kilograms of wood bought for each body.[28] Where wood was bought for a cremation that the police said involved an unknown person, the question of who the person was could be asked and tested against families' reports of disappearance.

Corruption in the Crematoriums: Bhai Jaswant Singh, while talking to the press reporters, said that "When we went to the crematoriums to investigate, we found that even the Municipal Committees did not do justice with these dead bodies abused by the police. According to the law, the

[27] Hum. Rts. Watch & Ensaaf, *supra* note 10.

[28] *Jaswant Singh Khalra's Hunt for the Truth*, *supra* note 22.

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wood that is bought for cremating the dead bodies in the crematorium and the amount that is paid in return is recorded in the register. What we saw was that the municipal employees would write three quintals of fuel per dead body in the official record, when in reality piles of dead bodies were sometimes cremated with only two quintals to pocket the fuel money. The cremation employees admitted they often cleaned the crematory by throwing half-decomposed bodies in the canals and drains, and whenever the families went to these crematoriums asking for the remains of their loved ones, they were summarily informed that the remains had been discarded.

Particularly painful were cases where the crematoriums, often located on the city outskirts, had stray dogs around who would drag the limbs of the dead away. It is the people living nearby who would gather these mutilated organs and arrange for cremation.

Bhai Jaswant Singh Khalra, while speaking separately to the editors of two newspapers in England, said in an extremely sad tone, "In our culture, corpses are bowed to with respect, but this treatment of the corpses of Sikh youth...when we prepare the complete story, even history will be ashamed." Bhai Khalra hoped that "when the reality of this heinous genocide comes out, the real face of Indian politics will be exposed, the terrible picture of state terrorism will come out and the police officers responsible for the massacre will stand in the dock."(Punjab Times and Des Pardes, London)

Taking the above written evidence, the leaders of the Human Rights Wing, Bhai Jaswant Singh Khalra, Mr. Jaspal Singh Dhillon, Amrik Singh Muktsar, and others first knocked on the door of the then-Governor of Punjab. When there was no hearing there, they filed a petition in the High Court on 15 January. At the same time, they went and met the members of parliament elected to the Lok Sabha from Punjab and offered to help them in the fight for justice. But they did not receive any positive response from the Governor, the High Court nor any elected representative of the people. All institutions, political organs, and high state officials appeared void of humanity and dead inside.

What was proved: The CBI's final report, noted by the Supreme Court on 12 December 1996, found 2,097 unlawful cremations at the three grounds, of which 585 bodies were fully identified, 274 partially identified and 1,238 unidentified. Human Rights Watch and Ensaaf separately state that Khalra and Dhillon's work exposed over 6,000 secret cremations in one district; that figure differs from the CBI's, and this paper reports both without resolving the difference.[29] The Court recorded that Khalra's press note of 16 January 1995 was found correct.[30]

What was estimated: Khalra publicly estimated that the number of persons killed and cremated across Punjab could be about 25,000.[31] This was an extrapolation from the Amritsar findings to a state of thirteen districts, in which, as human rights groups stress, other bodies may also have been dumped in rivers and canals and left no register at all.[32] No court has adjudicated that number, and no source consulted sets out the arithmetic he used. It is therefore treated here as an *estimate and allegation*, with the 2,097 cremations as the judicially recorded base.

[29] Hum. Rts. Watch & Ensaaf, *supra* note 10.

[30] *Prithipal Singh*, ¶ 33.

[31] 142 Cong. Rec. E1394 (daily ed. July 29, 1996); *The Quint* (2026); *see* NPR, *supra* note 18.

[32] Hum. Rts. Watch & Ensaaf, *supra* note 10.

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3.6 The Rajasthan government's letter on bodies in rivers

Singh's biography refers to a letter from the Government of Rajasthan to the Government of Punjab concerning dead bodies found floating in rivers and canals. Reports in The Pioneer in March 1992 revealed that the Rajasthan government formally complained to Punjab's chief secretary. They stated that irrigation canals were carrying a high number of dead bodies into Rajasthan. Many recovered corpses had their hands and feet tied, pointing to extrajudicial disposal during the peak of Punjab's insurgency.

Rajasthan Authority Statements and Newspaper Context:

Formal Complaint: The government of Rajasthan lodged an official grievance with the Chief Secretary of Punjab regarding continuous floating corpses drifting down the inter-state canal network.

Discovery Condition: Reports highlighted that numerous bodies-frequently with bound hands and feet-were trapped and retrieved when canal water flow was temporarily halted for routine maintenance and repair.

The Pioneer Coverage: Investigative articles published in The Pioneer on March 26 and 27, 1992, brought widespread public attention to these grim canal findings, which later correlated with documentation of illegal mass cremations and disappearances investigated by human rights advocates like Jaswant Singh Khalra. Its evidentiary value, if it is established as described, is considerable, for two reasons. First, it originates from an authority outside Punjab's police hierarchy and outside any party to the dispute, which supports the cremation findings with independent evidence that disposal did not always take place at cremation grounds. Second, the geography fits: the canal system carrying Sutlej water to Rajasthan begins at the Harike headworks, the very place where the Supreme Court found that Khalra's body was thrown into a canal.[33] Until the letter itself is produced, however, it should be categorised in this paper's framework as a *document reported by the biographer* and not as a judicial finding.

3.7 International advocacy: the Canadian addresses of 1995

In 1995 Khalra travelled abroad, including to Canada and the United Kingdom, to place his findings before diaspora and human rights audiences. In a speech remembered as "Defiance of Darkness", he said that if nothing else, he would at least not let the darkness settle around himself. Friends urged him not to return to Punjab. The Supreme Court records that he told many people of telephone threats and of being watched and followed, and that he had generated public pressure against the police, which became "a source of anger and pressure" on them.[34]

The biography presents his insistence on returning as an expression of conviction rather than recklessness.[35] Whatever the weight one gives to that interpretation, the *legal* significance lies elsewhere. Khalra's activism shows that documentary evidence and citizen participation can compel

[33] *Prithipal Singh*, ¶ 2(F).

[34] *Prithipal Singh*, ¶ 47(ii)–(iv).

[35] Singh, *supra* note 5, ch. 5

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 DOI: https://10.5281/zenodo.23553415

State accountability, and his fate shows the risk borne by those who undertake such work when the State's own agents are the subject of the inquiry.

Two addresses delivered in Canada in 1995 are drawn from *Darkness Defied* because they preserve Khalra's own words and framing. The first was given at the Dixie Road Gurdwara on 10 April 1995.[36] The second was delivered in Ottawa on 5 June 1995, addressed to members of the Canadian Parliament.[37]

Methodologically, these speeches are *party statements*: they show what Khalra knew, claimed and feared five months before his abduction, and they help to establish motive and the threats he described, which the Supreme Court later accepted in part.[38] They are not proof of the figures they contain. Their value for this paper lies in showing that he deliberately took the documentary evidence to foreign audiences and legislators, treating international visibility as protection and as pressure on the State.

[36] Singh, supra note 5

[37] Singh, supra note 5

[38] Prithipal Singh, ¶ 47(ii)–(iv).

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4. The Abduction, Investigation and Judicial Response

4.1 Chronology

Date	Event (source: *Prithipal Singh* unless stated)
16 Jan 1995	Khalra's press note on cremations of "unidentified" bodies (Sabrang India commentary; the CBI later found it correct, para 33)
6 Sep 1995	Khalra abducted from his residence, 8 Kabir Park, Amritsar, reported by his wife Paramjit Kaur, in her complaint the same day, as an abduction by persons in police uniform in a white Maruti van
7 Sep 1995	FIR No. 72 registered at P.S. Islamabad, Amritsar, under s. 365 IPC, naming no one; no progress follows
5 Nov 1995	Supreme Court, on Paramjit Kaur's Writ Petition (Crl.) No. 497 of 1995, transfers the investigation to the CBI; CBI registers a case on 18 Dec 1995
15 Mar 1996	Court directs transfer of implicated officers out of Amritsar and Taran Taran and orders protection for witnesses
22 Jul 1996	CBI interim report: 984 bodies cremated as unidentified in Taran Taran district
7 Aug 1996	Court notes sufficient material to prosecute Ajit Singh Sandhu (SSP), Ashok Kumar (DSP) and Jaspal Singh (DSP); directs interim compensation of Rs 10 lakh to Paramjit Kaur
13 Oct 1996	CBI charge-sheet against nine police officers filed at Patiala
12 Dec 1996	Court records 2,097 unlawful cremations and remits the mass cremation matter to the NHRC
2 Mar 1998	Special Police Officer Kuldip Singh gives the CBI his account of Khalra's detention and killing
25 Jul 1998	Charges framed against eight accused; the SSP, Sandhu, had died by suicide before charges were framed
18 Nov 2005	Additional Sessions Judge, Patiala, convicts the accused
8 and 16 Oct 2007	Punjab and Haryana High Court upholds convictions (acquitting one accused) and enhances four sentences to life imprisonment
4 Nov 2011	Supreme Court dismisses the appeals: *Prithipal Singh v. State of Punjab*, (2012) 1 SCC 10

Table 3: Principal events in the Khalra case

4.2 The investigation

The early investigation by the local police achieved nothing. The complaint recorded under s. 365 IPC named no suspect, and the Supreme Court later found that Paramjit Kaur's report had not been

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properly recorded and that the version entered differed from what she had reported, which it attributed to the connivance of police officials.[39] Before approaching the Supreme Court she had approached the National Human Rights Commission, but was advised to move the Court.[40]

The turning point was Article 32. The Supreme Court treated her petition as a habeas corpus proceeding, transferred the investigation to the CBI and thereafter monitored it for years. The CBI itself reported that a fair investigation was impossible while the implicated officers remained posted in Amritsar and Taran Taran, and the Court ordered their transfer and the protection of witnesses by the Central Reserve Police Force and Border Security Force.[41] The judgment records that, but for the Court's directions and the CBI transfer, the mystery of Khalra's death might never have surfaced.[42]

4.3 The trial and outcome

The prosecution examined 22 witnesses and the defence 12. The accused were charged with criminal conspiracy (s. 120-B IPC) and abduction in order to murder (s. 364 read with s. 34 IPC), and three of them were additionally charged with murder (s. 302 read with s. 34) and causing disappearance of evidence (s. 201 read with s. 34).[43] Table 4 summarises the outcome for each accused as recorded in the Supreme Court's judgment.

Accused	Sessions Court (18 Nov 2005)	High Court (2007) and Supreme Court (2011)
Jaspal Singh, DSP	Life imprisonment under ss. 302/34 IPC; also convicted under ss. 120-B, 364/34, 201/34	Conviction upheld by High Court and Supreme Court (Crl. A. No. 528 of 2009 dismissed)
Prithipal Singh, Satnam Singh, Surinderpal Singh, Jasbir Singh	Seven years' RI under ss. 364/34; five years under s. 120-B	High Court enhanced sentences to life imprisonment under s. 364 IPC; Supreme Court dismissed their appeals
Amarjit Singh, ASI	Convicted, including under ss. 302/34	Acquitted by the High Court
Ajit Singh Sandhu, SSP	Charges not framed	Died by suicide before charges were framed
Ashok Kumar; Rachpal Singh	—	Ashok Kumar died during trial; Rachpal Singh was discharged

[39] *Prithipal Singh*, ¶ 47(x)–(xi).

[40] *Prithipal Singh*, ¶ 47(xii).

[41] *Prithipal Singh*, ¶¶ 30–33.

[42] *Prithipal Singh*, ¶ 37.

[43] *Prithipal Singh*, ¶¶ 2(G), 36.

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Table 4: Outcome of proceedings by accused

4.4 The Supreme Court's reasoning

The judgment of Dr. B.S. Chauhan and P. Sathasivam JJ. is significant for the principles it applied to custodial crime. Seven points deserve emphasis.

1. **The State's duty to protect life:** The Court held that the right to life carries both a negative obligation not to deprive arbitrarily and a positive obligation to protect life and to investigate suspicious deaths. It added that the State must protect victims of torture "as well as the human rights defender" working for them.[44]
2. **A realistic approach to custodial crime:** Relying on *Munshi Singh Gautam v. State of M.P.*[45] and other authority, the Court accepted that direct evidence is rarely available when police officers are the offenders, since they control records and are bound by ties of solidarity. Such cases must be judged with a realistic and not a narrow technical approach.[46]
3. **No body, no bar:** Recovery of the body is not a condition precedent to a murder conviction. The *corpus delicti* has two components, death and the criminal agency of another, and either may be proved by circumstantial evidence.[47]
4. **Burden under Section 106 of the Evidence Act:** Once abduction by the police was proved, only the accused could explain what happened to Khalra. Their failure to do so, even in their statements under s. 313 CrPC, supplied a further link in the chain of circumstances and justified the presumption of responsibility for abduction, illegal detention and murder.[48]
5. **Evidence of an accomplice and a solitary witness:** The Court accepted, with caution, the evidence of Kuldip Singh, a Special Police Officer who was privy to events and had not been tried. It acknowledged his shifting versions and lack of independent corroboration for part of his account, but explained the variations by the persistent threats directed at witnesses, and held that his account of detention, killing and disposal of the body was safe to rely upon because it was supported by other circumstantial evidence and witnesses.[49]
6. **Findings on intimidation and institutional conduct:** The Court found that police officials had threatened witnesses and the complainant, had registered false criminal cases against Paramjit Kaur, Kirpal Singh Randhawa, Kulwant Singh and Rajiv Singh, and had "united in an unholy alliance" to protect colleagues and the image of the force.[50]
7. **Rule of law:** Police atrocities violate Articles 21 and 22, and tolerance of them would amount to "systematic subversion and erosion of the rule of law".[51]

[44] *Prithipal Singh*, ¶ 7.
[45] *Munshi Singh Gautam v. State of M.P.*, A.I.R. 2005 S.C. 402 (India).
[46] *Prithipal Singh*, ¶¶ 8–11.
[47] *Prithipal Singh*, ¶ 28; ¶ 47(xxiv).
[48] *Prithipal Singh*, ¶¶ 29, 44.
[49] *Prithipal Singh*, ¶¶ 18–26, 41.
[50] *Prithipal Singh*, ¶¶ 40, 47(xiv), (xvi)–(xviii).
[51] *Prithipal Singh*, ¶ 48.

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The judgment also guards against over-generalisation. Citing *State of U.P. v. Mohd. Naim*,[52] the Court declined to endorse a sweeping claim that the police as an institution violates human rights without supporting data, while insisting that, where material shows atrocities, courts must act firmly against the officers responsible.[53] The accountability problem is therefore framed in the judgment itself as one of specific institutional conditions and not of the police as a whole, a framing this paper adopts.

5. Police Power and the Constitutional Framework

The Khalra case engages each of the constitutional provisions identified in the approved research design. Table 5 summarises their relevance, and the discussion that follows draws out the main points.

Provision	Guarantee	Relevance to the Khalra case
Art. 14	Equality before the law; protection against arbitrary State action	Police officers are subject to the same criminal law as every citizen; shielding colleagues defeats equal protection
Art. 19(1)(a), (c)	Freedom of speech and expression; freedom to form associations	Documenting and publicising cremation records and organising a Human Rights Wing are protected expression and association
Art. 21	Protection of life and personal liberty	Unlawful detention, killing and secret disposal of bodies; the State's positive duty to protect life and investigate deaths
Art. 22	Safeguards on arrest and detention (grounds, counsel, production before a magistrate within 24 hours)	Khalra was never produced before any magistrate; his detention was secret and unrecorded
Arts 32, 226	Constitutional remedies in the Supreme Court and High Courts	The habeas corpus petition under Art. 32 made the CBI investigation, witness protection and compensation possible

Table 5: Constitutional provisions engaged by the case

5.1 Equality and the rule of law (Article 14)

Article 14 forbids arbitrary State action and denies any official a place above the law. In *Prithipal Singh* the Court warned that police excesses encourage the men in "khaki" to consider themselves

[52] A.I.R. 1964 S.C. 703 (India).

[53] *Prithipal Singh*, ¶ 13.

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above the law,[54] which is a restatement of the equality principle in the setting of custodial power. The institutional solidarity the Court found in Khalra's case is, in constitutional terms, a denial of equal accountability.

5.2 Expression and association (Article 19)

Khalra's work was an exercise of freedom of speech and association: collecting records, issuing a press note, addressing audiences and organising a rights body. The reasonable restrictions permitted by Article 19(2) and (4) do not extend to silencing a person by abduction and killing. The significance of Article 19 here is that human rights defence is itself a constitutionally protected activity and not merely a private cause, which supports the case for special protective measures (Section 8).

5.3 Life, liberty and dignity (Article 21)

Article 21, read through *Maneka Gandhi v. Union of India*,[55] requires that any deprivation of life or liberty follow a procedure that is fair, just and reasonable. Custodial torture and killing are the antithesis of that requirement, a position settled in *D.K. Basu v. State of West Bengal*,[56] which laid down binding safeguards on arrest and detention, and in *Nilabati Behera v. State of Orissa*,[57] which recognised public-law compensation for custodial death. The Khalra proceedings applied both ideas: the Court awarded interim compensation of Rs 10 lakh to Paramjit Kaur in 1996 and later remitted the mass cremation matter to the NHRC to determine compensation. The NHRC subsequently found that the cremation of persons by State authorities in violation of the rules on unidentified bodies violated the dignity of the dead and hurt the sentiments of their kin.

5.4 Arrest safeguards (Article 22)

Article 22 requires that an arrested person be told the grounds of arrest and be produced before a magistrate within twenty-four hours. The Court, in terms, observed that these provisions exist so that arbitrary arrest and detention are not made.[58] Khalra's secret detention at Jhabal police station, as found by the courts, defeated each element of the guarantee. Without a record of arrest there was nothing to produce, nothing to contest, and nothing for a court to examine until the habeas corpus petition forced the question.

[54] *Prithipal Singh*, ¶ 11 (quoting *Munshi Singh Gautam*, *supra* note 46).

[55] (1978) 1 S.C.C. 248 (India).

[56] (1997) 1 S.C.C. 416 (India).

[57] (1993) 2 S.C.C. 746 (India).

[58] *Prithipal Singh*, ¶ 48.

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5.5 Constitutional remedies (Articles 32 and 226)

Articles 32 and 226 were the effective mechanism of justice. The Supreme Court's willingness to transfer the investigation to the CBI, to order the relocation of implicated officers, to direct protection of witnesses and to monitor the investigation "order after order" converted a stalled complaint into a prosecution. The judgment itself accepts that the offence could be unearthed because of the Court's directions.[59] This is the central empirical observation of the paper, and Section 7 returns to it.

5.6 Police reform as a benchmark: Prakash Singh

Prakash Singh,[60] issued directions on police reform, including State Security Commissions, selection and tenure of the head of the police, separation of investigation from law and order, Police Establishment Boards, and Police Complaints Authorities at State and district level to inquire into serious misconduct. These directions came eleven years after Khalra's abduction and are used here only as a benchmark. They are relevant because the failures documented in Khalra's case, namely the lack of an independent complaints channel and the dependence of investigation on the implicated force, are the failures those directions address. Whether the directions have been implemented effectively is a separate empirical question beyond this paper's scope.

5.7 The matter on grounds of judicial review

Judicial review is the power of constitutional courts to test executive and administrative action against the Constitution and the law. In India, it is exercised through Articles 32 and 226 and forms part of the basic structure of the Constitution, so that it cannot be ousted by legislation.[61] The Khalra proceedings are a sustained example of its use against a State police force. They can be examined under the three classical heads of review, namely illegality, irrationality and procedural impropriety, together with proportionality and the remedial question of compensation.[62] Table 7 sets out the application.

[59] *Prithipal Singh*, ¶ 37.

[60] Prakash Singh, supra note 4.

[61] *Kesavananda Bharati v. State of Kerala*, (1973) 4 S.C.C. 225 (India); *L. Chandra Kumar v. Union of India*, (1997) 3 S.C.C. 261 (India).

[62] *Council of Civil Service Unions v. Minister for the Civil Service*, [1985] A.C. 374 (H.L.) (appeal taken from Eng.); *Om Kumar v. Union of India*, (2001) 2 S.C.C. 386 (India) (proportionality).

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Ground	State action reviewed	Application in the case
Illegality	Secret, unrecorded detention; failure to register and investigate a complaint properly	Courts found the complaint wrongly recorded and the detention unrecorded; Article 22 and the criminal procedure were not followed; investigation transferred to the CBI
Irrationality	Labelling bodies "unidentified" while registers carried particulars; cremation without identification effort	CBI findings on 2,097 cremations; Supreme Court order of 12 December 1996 treating them as a violation on a mass scale
Procedural impropriety	No arrest record, no production before a magistrate, no inquest or post-mortem before disposal	Article 22 guarantees; the safeguards later consolidated in *D.K. Basu*
Proportionality (Art. 19)	Abduction and killing of a person documenting official records	Not a restriction that Article 19(2) could ever permit
Remedy	Absence of redress through ordinary channels	Interim compensation of Rs 10 lakh; continuing supervision of the CBI; remit to the NHRC

Table 7: Judicial review of State action in the Khalra case

Review of executive inaction: The first failure was inaction: the local police recorded a complaint that named no one and did nothing. Failure to perform a legal duty to investigate a cognisable offence is reviewable by writ, and the Supreme Court's transfer of the investigation to the CBI was an exercise of that power. The Court did not stop at a single direction. It monitored the investigation order after order, a technique of continuing mandamus that it had used to insulate the CBI from executive influence in another setting.[63] The later holding that registration of an FIR is mandatory for a cognisable offence only confirms the point.[64]

Review of administrative practice: The cremation of bodies as "unclaimed" without inquest or identification effort is an administrative practice, and its legality can be tested. A classification that treats a person as unidentified while the register carries a name is irrational on its face, and disposal without informing next of kin offends the dignity that Article 21 protects. The CBI's findings and the Court's order of 12 December 1996 are, in substance, a judicial review of that practice, although the Court chose to remit the question of relief to the NHRC.

Forum and jurisdiction: Judicial review also answers the forum problem identified in Section 3.4. The Supreme Court's power under Article 32 is not limited by the consent requirement

[63] Vineet Narain v. Union of India, (1998) 1 S.C.C. 226 (India).

[64] *Lalita Kumari v. Government of Uttar Pradesh*, (2014) 2 S.C.C. 1 (India) (decided after the events of 1995 and cited as a benchmark only).

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that governs the CBI's ordinary work in a State under the Delhi Special Police Establishment Act, 1946, and a constitutional court may direct a CBI investigation in an appropriate case despite the absence of State consent.[65] That is what the order of 5 November 1995 did in substance. Review in the High Court under Article 226 was available as a first forum, and the reported dismissal of the January 1995 petition for want of standing sits uneasily with the liberal standing rule of *S.P. Gupta*; the paper treats that report as unverified until the order itself is consulted.

Limits of review: Judicial review tests legality and does not substitute for institutions. Three limits appear. First, separation of powers: courts may direct and supervise, but they cannot permanently run an investigation or administer a police force, which is why the *Prakash Singh* directions sought to build standing institutions. Second, capacity: sustained supervision of the kind seen here cannot be replicated in every case. Third, remedial reach: the review of the mass cremations ended in a remit to a statutory commission whose mandate critics regard as narrow, and the sources consulted disclose no reported challenge under Article 226 to the scope of that mandate. The judicial review analysis therefore supports the working hypothesis: review corrected the failure in this case, but only because the Court was willing to supply, for years, the independence that the ordinary system lacked.

6. Obstacles to Accountability

The record permits identification of six obstacles. Each is grounded in a judicial finding unless stated otherwise.

6.1 Control of custody and records

The accused held the means of concealment. Khalra's detention was unrecorded, his body was disposed of in a canal near Harike, and even the first complaint was not recorded faithfully. The Supreme Court had earlier recognised, in *Gauri Shanker Sharma v. State of U.P.*,[66] that in custodial deaths the police are in charge of the very records they may manipulate.[67] A system in which the suspect controls the evidence cannot investigate itself.

6.2 Institutional self-protection

The Court found that, even after the CBI took over, the Punjab police officials did not cooperate and "united in an unholy alliance" because colleagues were involved.[68] The CBI's own request for transfer of implicated officers out of the two districts is a practical demonstration that investigation could not proceed while they held local authority.

[65] Delhi Special Police Establishment Act, 1946, No. 25 of 1946, § 6 (India); *State of West Bengal v. Committee for Protection of Democratic Rights*, (2010) 3 S.C.C. 571 (India).

[66] A.I.R. 1990 S.C. 709 (India).

[67] *Prithipal Singh*, ¶ 10.

[68] *Prithipal Singh*, ¶ 47(xiv).

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6.3 Witness intimidation and counter-prosecution

This was the most direct obstacle. The Court found that witnesses were threatened and implicated in false cases: Kirpal Singh Randhawa in a rape case in 2004, Rajiv Singh in four cases during the trial and in a purported terrorist-organisation case in 1998 later found to be fake, and Kulwant Singh in an NDPS Act case in which he was convicted and later acquitted, the appeal being filed only on the Supreme Court's direction. One prosecution witness turned hostile despite protection.[69] The witnesses could speak only after receiving security under the Court's orders.[70] The first eyewitness affidavits did not name the accused, a fact the Court attributed to fear.[71]

6.4 Delay

The trial court's evidence was recorded some eight years after the incident,[72] the Sessions Court judgment came in 2005 and the Supreme Court's final decision in 2011, sixteen years after the abduction. Delay weakens recall, enables intimidation and gives the accused time to build alibis, though the Court found that the alibis advanced were not proved and in fact pointed to guilt.[73] The principal accused, the SSP, died by suicide before charges were framed, so that the person alleged to have conspired with the others never faced trial.

6.5 Evidentiary difficulty

The absence of a body, the reliance on a former Special Police Officer who was himself part of the events, the need to corroborate his account, and the accused's technical objections about charges all complicated proof. The Court dealt with these through doctrine (Section 4.4), but each obstacle would have defeated a prosecution conducted by a less determined court.

6.6 Limits of the remedial response

Criminal accountability reached the officers responsible for Khalra's own abduction and murder. For the wider cremations, the Supreme Court remitted the matter to the NHRC, which has since ordered monetary relief: its orders over the years include awards of Rs 2.5 lakh to the next of kin of 194 persons found to have been in police custody before death and cremation, Rs 1.75 lakh each to the next of kin of 1,051 victims, and a recommendation of about Rs 27.94 crore as monetary relief for the families of 1,513 identified victims.[74] Human Rights Watch, Ensaaf and other commentators argue that the NHRC's mandate was confined to the legality of the cremations and compensation, so that

[69] *Prithipal Singh*, ¶ 40.

[70] *Prithipal Singh*, ¶ 37.

[71] *Prithipal Singh*, ¶ 47(xvi).

[72] *Prithipal Singh*, ¶ 37.

[73] *Prithipal Singh*, ¶ 47(xxi).

[74] Nat'l Hum. Rts. Comm'n nhrc.nic.in.

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questions of criminal culpability of the officials for the underlying killings were not examined. That criticism is an *interpretive and advocacy claim* about the adequacy of the remedy; the factual premise, that the Commission expressly declined to express any opinion on the culpability of individual officers, is stated in its own orders, as quoted in published commentary.[75]

7. Analysis: Testing the Working Hypothesis

The hypothesis has two limbs: first, that constitutional safeguards are insufficient where investigations lack practical independence and witnesses lack effective protection; second, that criminal prosecution combined with independent oversight and protection for those who report violations offers a stronger basis for accountability.

7.1 First limb: safeguards without independence

The record supports the first limb strongly. On paper, Khalra had every guarantee in Articles 14, 19, 21 and 22, and the Indian Penal Code criminalised abduction and murder. Yet for years none of these produced a result, because the force that was bound to enforce them controlled the investigation. The turning points were not ordinary procedural steps but extraordinary judicial interventions: transfer to the CBI, relocation of the accused officers, security for witnesses and continuous monitoring. The Court itself said that, without them, the fate of Khalra might never have been known.[76] This indicates that the constitutional text was necessary but not sufficient; what was missing was a structure that placed investigation beyond the reach of the accused.

7.2 Second limb: prosecution, oversight and protection together

The second limb is supported but must be qualified. Criminal prosecution produced convictions and upheld a principle, but only because it was combined with oversight (the Court's monitoring and the CBI) and protection (security for witnesses). Where prosecution was absent, as in the wider cremations, the result was compensation without criminal accountability. The case therefore suggests that the three elements work as a set: prosecution gives accountability its force, independent oversight gives the process credibility, and witness protection makes proof possible.

7.3 Limitations and counter-considerations

Three qualifications apply. First, this is a single case, and generalisation must be cautious. The Court's own warning against sweeping claims about the police[77] should be respected. Second, the very feature that explains the success, namely sustained Supreme Court supervision, is not replicable across the thousands of cases that arise; a system cannot depend on a constitutional bench monitoring each case. This is why institutional reform, and not only exceptional judicial

[75] *Why Punjab's Secret Cremations Case Stands as a Landmark in the Annals of Human Rights Work*, The Wire

[76] *Prithipal Singh*, ¶ 37.

[77] Prithipal Singh, ¶ 13.

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intervention, is required. Third, the evidence on Khalra's detention rested significantly on one witness whose reliability the Court examined closely and accepted only to the extent it was corroborated.[78] The paper does not claim more than the Court found.

8. Recommendations

The reforms below respond to the obstacles identified in Section 6 and to the fifth objective of the approved research design. Table 6 maps each obstacle to a proposed response, and the discussion adds detail.

Obstacle	Proposed response
Control of custody and records	Tamper-evident digital custody registers; functioning CCTV in police stations; mandatory preservation of records; central registry for unidentified bodies with photographs and post-mortem before disposal
Institutional self-protection	Independent investigation of custodial crime by an agency outside the implicated force or district; statutory, empowered Police Complaints Authorities
Witness intimidation and counter-prosecution	Effective implementation of the Witness Protection Scheme; independent scrutiny of criminal cases registered against witnesses during a trial; relocation of implicated officers
Delay	Time-bound investigation and trial of custodial offences; time-bound decision on sanction for prosecution
Lack of protection for defenders	Statutory protection for human rights defenders, prompt FIRs naming complained-of suspects, rapid habeas corpus relief
Limits of remedies	Wide remit mandates covering accountability and not only compensation; ratification of treaties against torture and enforced disappearance

Table 6: Obstacles and proposed responses

1. **Independent investigation:** Where police officers are accused of custodial crime, investigation should lie with an agency that is institutionally separate from the accused's force and district. The *Prakash Singh* directions on Police Complaints Authorities should be given statutory force with powers to compel records and recommend prosecution, and not merely to advise.
2. **Custody and cremation records:** The decisive evidence in the Khalra matter was documentary. *D.K. Basu* already requires arrest memos and entries in a diary, and *Paramvir*

[78] *Prithipal Singh*, ¶ 41.

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Singh Saini v. Baljit Singh,[79] directed the installation of CCTV in police stations. These should be made tamper-evident and auditable. Disposal of any unidentified body should require recording of photographs, post-mortem findings and identification attempts, held in a registry the public and courts can access.

3. **Witness protection:** The Witness Protection Scheme, 2018, approved in *Mahender Chawla v. Union of India*,[80] and the corresponding provision of the Bharatiya Nagarik Suraksha Sanhita, 2023 should be implemented in custodial cases without delay. Khalra's case shows that intimidation takes the form of counter-prosecution as well as physical threat, so protection should include independent review of any case registered against a witness during the trial.
4. **Protection of human rights defenders:** The UN Declaration on Human Rights Defenders[81] recognises the right and responsibility to promote and protect human rights. India lacks a dedicated statute. A protective mechanism should provide for early-warning response when a defender reports threats, immediate registration of an FIR naming complained-of suspects, and prompt habeas corpus relief where a defender goes missing. Had such a mechanism operated in 1995, the first hours after the abduction, which were lost to an FIR naming no one, might have been used differently.
5. **Timely prosecution:** The State assured the Court in 1996 that sanction under s. 197 CrPC would be granted if required.[82] Sanction for prosecuting public servants, now governed by s. 218 of the BNSS 2023, should be decided within a fixed period, with reasons, so that it does not become a means of delay.
6. **International obligations and legislation:** India signed the International Convention for the Protection of All Persons from Enforced Disappearance[83] in 2007 and the UN Convention against Torture[84] in 1997, but has ratified neither. The Law Commission of India's 273rd Report[85] recommended ratification of the Torture Convention and enactment of an anti-torture law. Ratification and domestic legislation would give statutory content to the standards the courts have articulated.
7. **Remedial mandates and records:** When courts remit cases of mass violation to statutory bodies, the mandate should expressly address accountability as well as compensation. CBI and judicial records in cases of this kind should be preserved and made accessible for research, so that the historical record does not depend on any one party.

[79](2021) 1 S.C.C. 184 (India).

[80](2019) 14 S.C.C. 615 (India).

[81]G.A. Res. 53/144, annex, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Dec. 9, 1998).

[82]*Prithipal Singh*, ¶ 33.

[83]International Convention for the Protection of All Persons from Enforced Disappearance, Dec. 20, 2006, 2716 U.N.T.S. 3.

[84]Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

[85]Law Comm'n of India, Rep. No. 273, *Implementation of 'United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984' Through Legislation* (2017).

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The BNS 2023 now governs the substantive offences that were charged in 1995: abduction in order to murder, murder, criminal conspiracy and causing disappearance of evidence correspond to ss. 140, 103, 61 and 238 respectively, with common intention in s. 3(5), and the presumption on facts within the accused's special knowledge (s. 106 of the Evidence Act) is now s. 109 of the BSA 2023.[86] The recommendations above are therefore addressed to a legal framework that has changed in form but not in the underlying structural problem.

9. Conclusion

Jaswant Singh Khalra's case shows both the promise and the fragility of the rule of law. The promise is in the outcome: police officers of rank were convicted of abducting a human rights defender, and the Supreme Court affirmed that the State must protect life and protect those who defend it, that the absence of a body does not bar a murder conviction, and that tolerating police atrocities amounts to systematic erosion of the rule of law. The fragility is in the path: for years the system could not look at itself. A complaint naming no one, a force that closed ranks, witnesses who were themselves prosecuted, and a delay of sixteen years between the abduction and the final judgment are all features that the ordinary machinery did not overcome. It took the Supreme Court's exceptional supervision to do so.

The study's hypothesis is therefore largely confirmed: constitutional safeguards are insufficient without practical independence of investigation and effective protection of witnesses, and prosecution, independent oversight and protection together offer a stronger basis for accountability than any one alone. The lesson is not that every case needs the Supreme Court, but that the conditions the Court created, an investigator the accused cannot influence, security for those who testify, and continuous judicial attention, must be built into the ordinary system. Documentary evidence, citizen participation and persistence by a family were what exposed the truth in Khalra's case, and the legal system's task is to make such persistence unnecessary.

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[86] Bharatiya Nyaya Sanhita, 2023, §§ 3(5), 61, 103, 140, 238 (India); Bharatiya Sakshya Adhiniyam, 2023, § 109 (India).