

Custodial Torture

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Context- Two police officers were recently suspended after being accused of custodial torture (violence) and assaulting the accused in police custody.

Key Highlights

- Custodial Torture is the punishment of physical or mental torment or experiencing an in the on an individual care of the police or different specialists.
- Custodial deaths, or deaths that take place while a person is in custody, are frequently the result of this grave violation of human rights and dignity.

Types of Death Under Custody:

- **Death in Police Custody:**
 - Excessive force, torture, denial of medical care, and other forms of abuse can all lead to death in police custody.
- **Death in the Judicial Custody:**
 - Overcrowding, poor hygiene, a lack of medical facilities, inmate violence, or suicide are all potential causes of death in judicial custody.
- **Death in the Custody of Army or Paramilitary Forces:**
 - Can occur through torture, extrajudicial killings, experiences, or crossfire episodes.

India's Custody Death Rate:

- 146 deaths in police custody were reported in 2017-2018,

- 136 in 2018-2019,
- 112 in 2019-2020,
- 100 in 2020-2021, and
- 175 in 2021-2022, according to the Ministry of Home Affairs (MHA).
- Over the most recent five years, the largest number of custodial deaths (80) has been accounted for in Gujarat, trailed by Maharashtra (76), Uttar Pradesh (41), Tamil Nadu (40) and Bihar (38).

India's Obstacles to Preventing Custodial Torture:

- Absence of sanction of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which India endorsed in 1997 yet has not yet approved.
- Because of this, India is not bound by international standards and obligations to prevent and combat incarceration torture.

What are the custodial torture-related legal and constitutional frameworks?

• Constitutional Provisions:

- The right to life and personal liberty, which includes the right to be free from torture and other cruel, inhuman, or degrading treatment or punishment, is protected by Article 21 of the Indian Constitution.
- In accordance with Article 20(1), no one shall be convicted of any offense except those that are in violation of the law in force at the time the Act was enacted. As a result, the punishments outlined in this law are the only ones that are allowed.
- Article 20(3) disallows an individual to be constrained to be an observer against himself. It is a very useful law because it prevents the accused from confessing if they are forced or subjected to torture.

• Legal Protections:

- According to Section 24 of the Indian Evidence Act of 1872, an accused person's confessions will not be admissible in court if they give in to the threat, promise, or inducement of investigators. The primary goal of this section is to stop the accused from confessing against his will.
- Section 330 and 331 of the Indian Correctional Code (IPC) condemn willfully making hurt or intolerable hurt blackmail admission or data from any individual.
- In 2009, the Criminal Procedure Code (CrPC) was amended to include safeguards under sections 41A, 41B, 41C, and 41D. These safeguards ensure that arrests and detentions for interrogation have reasonable grounds and documented procedures, that arrests are made transparent to family, friends, and the public, and that legal representation provides protection.

What are the International Human Rights Conventions?

- **International Human Rights Law, 1948:**
 - A provision in the International Human Rights Law shields individuals from torture and other forms of forced disappearance.
- **United Nation Charter, 1945:**

- The Charter of the United Nations calls for respectable treatment of prisoners. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights cover the fundamental freedoms and human rights of prisoners, as stated in the Charter.

- **The Nelson Mandela Rules, 2015:**

- In 2015, the United Nations General Assembly adopted the Nelson Mandela Rules to ensure that prisoners are treated with respect and that torture and other cruel treatment are outlawed.

What Measures can be Taken to Avoid Custodial Torture?

- **Strengthening Legal Systems:**
 - enacting comprehensive legislation that makes torture in custody a clear crime.
 - Guaranteeing speedy and fair examinations concerning charges of custodial torment.
 - ensuring that perpetrators are held accountable through prompt and fair trials.
- **Police Reforms and Sensitization:**
 - Upgrading police preparing projects to stress regard for common freedoms and poise.
 - Advancing a culture of responsibility, incredible skill, and sympathy inside policing.
 - putting in place oversight mechanisms to effectively monitor and deal with cases of torture in custody.
- **Empowering Civil Society and Human Rights Organizations:**
 - encouraging organizations of civil society to actively advocate for people who have been tortured in prison.
 - Offering help and legitimate help to casualties and their families.
 - seeking redress and justice by collaborating with international human rights bodies and organizations.