Custodial Deaths in India

***Mains**: GS-II- Important aspects of governance*

Why in the news?

The recent custodial death of Ajith Kumar, a 27-year-old temple guard in Tamil Nadu has sparked public dissent and debate over custodial violence.

What is custodial death?

- **Custodial death** – It refers to ***death of an individual in the custody of a law enforcement.***
- **Forms** - It can encompass deaths *in police custody, prison, or other detention settings.*
- **Causes** - Natural causes like illness or may also happen due to suicide, infighting among prisoners or police brutality and torture.

What are its negative impacts?

- **Violates constitutional provisions** – The extrajudicial methods undermines constitutional governance such as
  - **Article 20(3) -** Protection against self-incrimination violated due to forced incrimination.
  - **Article 21 -** Right to life and personal liberty, including protection from torture.
  - **Article 22 -** Safeguards against arbitrary arrest and detention.
- **Loss of life** - Frequent *deaths often due to signs of tortures* and injuries, ending up with disabilities.
- **Loss of trust** - Public credibility in law enforcement and the justice system severely undermined.
- **Affects mental health** - Trauma for victims, families, and even officers, some driven to suicide.

How they are regulated in India?

- **Constitutional protection** - The *Right to life under Article 21* of the Constitution serves as the foundation, making custodial deaths a violation of fundamental rights.
- **Other regulations**
  - **Section 176(1) CrPC** - mandatory magisterial inquiry
  - **Section 46 & 49 CrPC** - limit use of force/restraints
  - **Sections 330–331 IPC** - punishment for custodial torture
- **NHRC guidelines** - Immediate reporting by District magistrates and superintendents of police must inform the National Human Rights Commission (NHRC) within 24 hours

of any custodial death.
    - **Autopsy protocol** - Post-mortems must be video-recorded and the report submitted, along with a magistrate inquiry's findings, to the NHRC.
- **Judicial oversight** - In ***D.K. Basu v. State of West Bengal,*** the Supreme Court mandated detailed procedures for arrest, detention, and reporting to prevent rights violations.
- **Magisterial inquiry** - Section 176 CrPC (now Section 196 of the Nagarik Suraksha Sanhita, 2023) requires that custodial deaths be inquired by a judicial magistrate, not the executive, to ensure impartiality.
- **Mandatory FIR** - Police must register a First Information Report (FIR) and investigate deaths neutrally, often by a different agency.

What are the challenges in addressing custodial deaths?

- **Outdated curriculum** - A curriculum designed in the pre-liberalisation era cannot address the needs of modern India.
- **Lack of accountability** – There is ineffective implementation of constitutional provisions by law enforcement authorities, frequent violations due to pressure.
- **Impunity** - Police often use torture to extract confessions, with limited consequences and mere suspensions cannot address core problems.
- **Legal gaps** – *Absence of anti-torture law* at the national level and non-ratification of the UN Convention.

UN Convention Against Torture (UNCAT) *aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment worldwide.*

What measures can be taken?

- **Enhance legislative clarity** – Ensuring a national level legislative clarity by enacting a comprehensive anti-custodial violence law.
- **Digital surveillance** - Mandate CCTV cameras in all custodial facilities, use body-worn cameras, and implement digital record-keeping to deter abuse and ensure evidence preservation.
- **Ensure rights awareness** – The detainees or the accused persons should be provided with legal safeguards provided by the constitution and need to rise awareness about the same.
- **Increasing budgetary allocation** - Increase funding for police infrastructure, independent oversight bodies, and forensic facilities to reduce reliance on confessions and promote transparency.
- **Promote police welfare** - Reallocate police budgets to prioritize officer mental health, welfare, and counseling services to reduce stress-induced misconduct and improves police-community relations.
- **Instigating ethical standards** - Regular training on human rights, legal procedures, and non-coercive investigation methods to instill accountability and respect for detainee rights.
- **Establishing fast-track courts** – These courts could explicitly handle custodial death cases to ensure timely justice.
- **Timely redressal** - Time-bound investigation mechanisms, mandatory video

documentation of interrogations, and civil society involvement in oversight investigations needed.

What lies ahead?

- Supreme Court guidelines (DK Basu case) on arrest and detention can be implemented.
- Anti-torture law can be formed to align with international standards efforts can be taken to ratify the UN Convention against Torture.
- NGOs, human rights organizations, and local communities can be involved in monitoring, reporting, and supporting victims, fostering a culture of accountability and transparency.

Reference

[The Hindu| Custodial Deaths]

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