

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](#)

