Right Against Torture

Why in news?

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The Law Commission, as part of its 273rd Report, submitted a draft Prevention of Torture Bill, 2017 for the consideration of the government

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What are the major recommendations?

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- Ratifying the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.
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- Defining ‘torture’ in a broader way to include any physical, mental or psychological injury.
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- Considering as torture an injury that is either inflicted intentionally or involuntarily, or even an attempt to cause such an injury.
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- Amending the Criminal Procedure Code, 1973, and the Indian Evidence Act, 1872, to accommodate provisions regarding compensation and burden of proof respectively.
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- Inserting a new section in the Indian Evidence Act to ensure that in case a person in police custody sustains injuries, it is presumed that those injuries have been inflicted by the police.
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- Curbing the menace of torture and having a deterrent effect on such acts through imposing fine and stringent punishment like life imprisonment.
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- Placing the burden of proof on the authority concerned to explain such injury.
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- Authorising the courts to decide upon a "justiciable compensation" to victims after considering the socio-economic background of the victim.
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- Taking into account the nature, purpose, extent and manner of injury, including mental agony caused to the victim for compensations.
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- Putting in place an effective mechanism to protect victims of torture, complainants and witnesses against possible threats or ill-treatment.
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- Making State own the responsibility for injuries caused by its agents on citizens as per the idea of 'liability follows negligence'.
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- Acknowledges the principle that sovereign immunity could not override the rights assured by the Constitution to an individual.
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What is the significance?

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- **Extradition request** - India has made many requests for extradition of offenders from other countries.
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- However, conditions in India's prisons, especially over-crowding and torture, are a reason for extradition requests failing.
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- E.g. extradition courts in the UK refused to send two persons to India to face trial, on the ground of ineffective system of protection from torture.
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- Having an anti-torture legislation in place is thus a practical necessity in India's interest to make countries accede to extradition requests.
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- **Moral Commitment** - Custodial violence continues to be prevalent in the country.
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- Suspects being forced to confess for undone wrongs is a continuing practice against individual right; the most recent instance is the faulty accusation in Ryan school murder case (Click here to know more).
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- Enacting a law to eliminate all forms of torture and other cruel, inhuman and degrading forms of treatment is thus a moral liability for India.
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- Ratifying the UN Convention and following it up with a domestic law against torture can give shape to these moral and legal commitments.
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Source: Live Law, The Hindu

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