



Need for Stricter Measures in Custodial Deaths

For Prelims: [Custodial Torture](#), Human Rights, [Custodial Deaths](#), Article 21, [IPC](#), [CrPC](#).

For Mains: [Custodial torture and Custodial Deaths](#), Reforms in Policing, Technology and Interrogation, Measures to avoid custodial deaths

Source: [IE](#)

Why in News?

The Supreme Court has emphasised the necessity of adopting a "more rigorous approach" when considering **bail applications from police officers charged in cases of custodial deaths**.

What is Custodial Death?

▪ About

- Custodial death refers to a **death that occurs while a person is in the custody of law enforcement officials** or a correctional facility. It can occur due to **various causes such as the use of excessive force, neglect, or abuse** by the authorities.
- According to the [Law Commission of India](#), the crime by a public servant against the arrested or the detained person who is in custody amounts to [custodial violence](#).

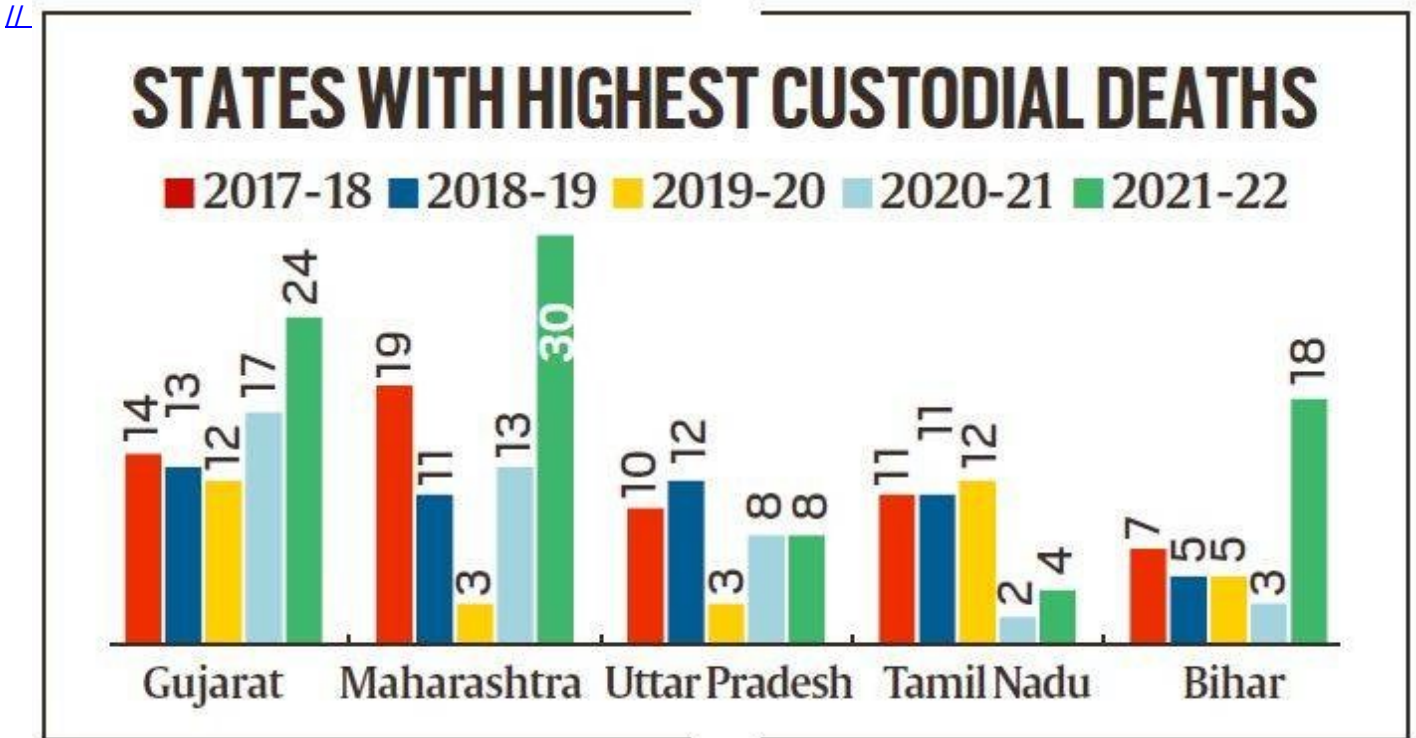
▪ Types of Custodial Death:

- **Death in Police Custody:** Death in police custody can result from excessive force, torture, denial of medical care, or other forms of abuse or incidental cause.
- **Death in Judicial Custody:** Death in judicial custody may occur due to overcrowding, poor hygiene, lack of medical facilities, inmate violence, or suicide.
- **Death in the Custody of the Army or Paramilitary Forces:** It can happen through torture or extrajudicial killings.

Police Custody and Judicial Custody

Aspect	Police Custody	Judicial Custody
Custody Location	Lock-up of a police station or with an investigating agency	Jail under custody of Magistrate
Appearance before Court	Within 24 hours before the concerned Magistrate	Until there is an order from the Court for bail.
Commencement	At the time of arrest by a police officer after receiving a complaint or filing an FIR	After public prosecutor satisfies the court that the custody of the accused is necessary for investigation.

Maximum Duration	24 hours (extendable to 15 days by the appropriate Magistrate)	90 days for offences punishable with life imprisonment, death, or imprisonment for not less than ten years; 60 days for other offences
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Why Restricting Custodial Deaths is a Necessity?

- It's against the basic right of individuals to be treated fairly by the law.
- India is a signatory of the **United Nations Convention Against Torture (UNCAT)** which prohibits inhuman treatment of people in judicial and police custody.
- In the **absence of strict rules to prevent custodial violence**, India faces challenges in extraditing individuals who have fled **to other countries to avoid pending judicial proceedings**, such as Vijay Mallya.
 - **Economic offenders often cite lax regulations on custodial torture** in India in their extradition cases.
- Custodial violence can **hurt the mental health** of the person in custody because the police might not care about their feelings, leading to **cruel behaviour, sexual abuse**, and people hating each other. Example: **Custodial rape case of Mathura in 1972**.

What are the Constitutional and Legal Framework Related to Custodial Death?

- **Constitutional Provisions:**
 - **Article 21 of the Constitution of India** guarantees 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.
 - **Article 20** grants protection against arbitrary and excessive punishment to an accused person, whether a citizen or foreigner or legal person like a company or a corporation. It contains three provisions in that direction:
 - It contains provisions related to **No ex-post-facto law (Article 20 (1))**, **No**

double jeopardy (Article 20 (2)), and No self-incrimination (Article 20 (3)).

- Also, In **Selvi v. State of Karnataka**, the court observed that the **state could not perform [narco-analysis, polygraph, and brain-mapping](#) tests on any individual without their consent.**

▪ **Legal Protections:**

- **Section 24 Indian Evidence Act, of 1872** declares that all the confessions made by the **accused by succumbing to the threat** of investigating agencies would **not be admissible in a court of law.**
 - This Section primarily works to prevent the accused from giving confessions using force against his will.
- **Sections 330 and 331 of the [Indian Penal Code \(IPC\)](#)** criminalise voluntarily causing hurt or grievous hurt to extort confession or information from any person.
- Section 41 of **[the Criminal Procedure Code \(CrPC\)](#)** was amended in 2009 to include safeguards so that:
 - Arrests and detentions for interrogation have reasonable grounds and documented procedures.
 - Arrests are made **transparent to family, friends, and the public**, and there is protection through legal representation.

What are the International Conventions Against Custodial Torture?

▪ **International Human Rights Law, 1948:**

- The International Human Rights Law contains a provision that **protects people from torture and other enforced disappearances.**

▪ **United Nations Charter, 1945:**

- It calls for treating prisoners with dignity. The Charter clearly states that despite being prisoners, their fundamental freedoms and human rights are set out in the **[Universal Declaration of Human Rights](#)**, the **[International Covenant on Civil and Political Rights](#)**, and the **[International Covenant on Economic, Social, and Cultural Rights](#)**.
- The International Human Rights Law contains a provision that **protects people from torture and other enforced disappearances.**

▪ **The Nelson Mandela Rules, 2015:**

- The Nelson Mandela Rules were **adopted by the [United Nations General Assembly](#) in 2015 to treat prisoners with inherent dignity** and to prohibit torture and other ill-treatment.

▪ **United Nations Convention Against Torture (UNCAT):**

- It is an **international human rights treaty** under the purview of the United Nations that **aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment** around the world.

What Measures can be Taken to Combat Custodial Torture?

▪ **Strengthening Legal Systems:**

- Enacting comprehensive legislation explicitly **criminalising custodial torture** like **Supreme Court** directives in **[Prakash Singh Case 2006](#)**.
 - **SC** directed the separation of investigation and law and order functions to better improve policing, setting up of **State Security Commissions (SSC)** that would have members from civil society and forming a **National Security Commission**.
- Ensuring **prompt and impartial investigations into allegations** of custodial torture.
- Holding perpetrators accountable through fair and expeditious trials.

▪ **Police Reforms and Sensitization:**

- Enhancing **police training programs to emphasise respect for human** rights and dignity.
- Promoting a culture of accountability, professionalism, and empathy within law enforcement agencies.
- Establishing **oversight mechanisms** to monitor and address cases of custodial torture effectively.

▪ **Empowering Civil Society and Human Rights Organisations:**

- **Encouraging civil society organizations** to actively advocate for victims of custodial

- torture.
- The [National Human Rights Commission \(NHRC\)](#) **should be allowed to inquire** into any matter **even after one year** from the date of the alleged human rights violation.
 - Its jurisdiction should be expanded to cases of human rights violations by armed forces with appropriate measures.
 - Providing support and **legal assistance to victims** and their families.
 - Collaborating with international human rights bodies and organisations to seek redress and justice.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Q.1 Instances of the President's delay in commuting death sentences have come under public debate as a denial of justice. Should there be a time specified for the President to accept/reject such petitions? Analyse. **(2014)**

Q.2 The National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure the accountability of a government. In light of the above observation assess the role of NHRC as an effective complement to the judiciary and other institutions in promoting and protecting human rights standards. **(2014)**

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