

Gujarat Panel on Custodial Death

Why in news?

The Gujarat State Law Commission (SLC) has recently submitted a report to the state government making several suggestions, to the increasing incidents of custodial death in Gujarat.

What is custodial death?

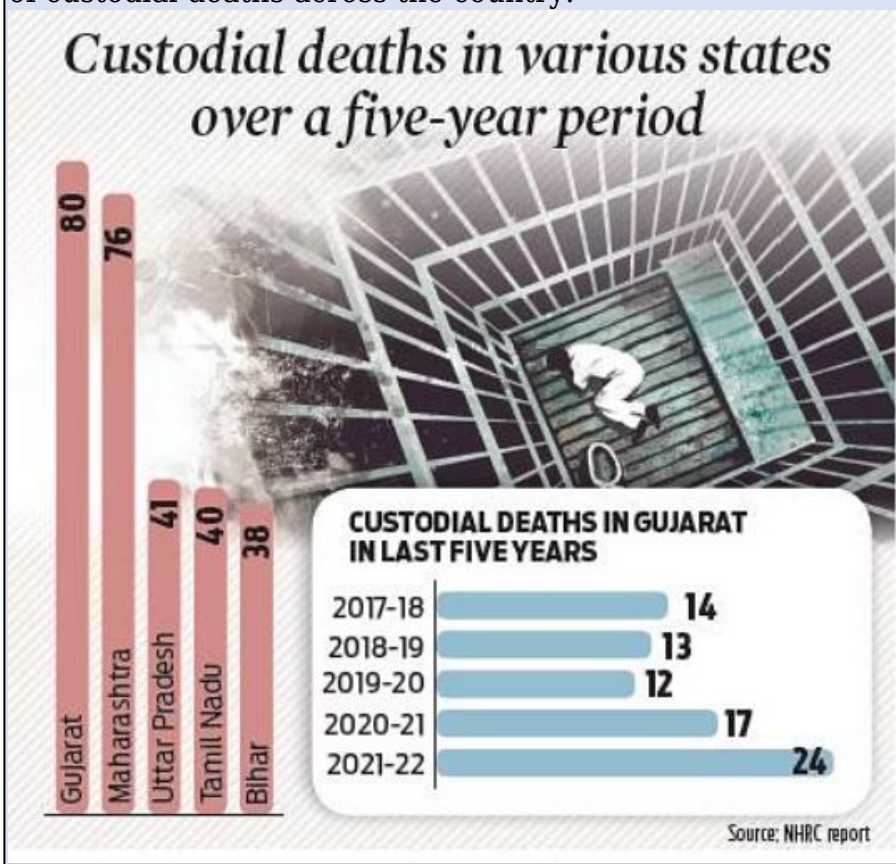
- Custodial deaths are events of the demise of persons who are detained by police *during pretrial or after conviction.*
- **Classification-** It can be broadly classified into 3 types
 - Death in police custody
 - Death in judicial custody
 - Death in custody of army or paramilitary force

| Police custody | Judicial custody |
|---|--|
| The police have the physical custody of the suspect and have to produce the suspect before a judge within 24 hours of the arrest. | The accused is in the custody of Magistrate |
| The accused is lodged in a police station | The accused is lodged in prison |
| The police custody may extend only up to 15 days | The judicial custody may extend up to 90 days. |

- **Cause**
 - Illness
 - Suicide
 - Infighting among prisoners
 - Police brutality and torture
 - Fake encounters
- **Issues-** Custodial deaths are one of the highest forms of violation of human rights.
- It is a blunt attack on the *Right to life and liberty (Article 21)* guaranteed by the Indian Constitution.

Status of Custodial Death in India

- Data shows that between 2001 to 2018, 1,727 persons have died in police custody (including those in judicial remand) and those who have been arrested but not yet produced before the court.
- On average, 96 persons die in custody every year.
- **India Annual Report on Torture 2019**- It reveals that there were a total of 1,731 custodial deaths in India.
- Out of those, 1,606 people died under judicial custody and 125 people died under police custody.
- **Vulnerable**-Most of these people belong to the oppressed classes who are not economically and socially empowered.
- **'NCRB - Crimes in India: 2021' report**- Gujarat reported the highest number of custodial deaths (24) for the second consecutive year in 2021.
- **Gujarat panel**- It has pointed out that not a single case registered against police personnel has resulted in conviction in 2021.
- **Ministry of Home Affairs**- Between 2017 and 2022, Gujarat reported highest cases (80) of custodial deaths across the country.



What legal provisions are available regarding Custodial Death?

- **IPC Section 330**- If any public servant causes injury to any person to extort confession he will be liable for punishment with imprisonment upto 7 years.
- **Right not to be a witness against himself**- Article 20(3) of the Constitution provides that no accused person will be compelled to be a witness against himself.
- **Section 163 of CrPC**- It prohibits the investigating officers from forcing any person to make any statement which he would like to make on his free will.
- **Indian Evidence Act, 1872**- Section 25 states that no confession made to a police officer can be used to prove any offence against him.
- Section 26 makes all confessions made during custody inadmissible unless made in the

immediate presence of a Magistrate.

- **Supreme Court judgements-** The SC has mandated that all police stations and investigation agencies must install CCTV cameras.
- **Joginder Kumar v. State Of U.P and Others 1994-** The SC held that the police officer shall inform the arrested person when he is brought to the police station of this right.
- **D.K. Basu Vs State of West Bengal (1997)-** The Supreme Court issued a list of 11 guidelines.
 - Details of all personnel handling the interrogations of the arrested person must be recorded in a register.
 - A memorandum of arrest at the time of the arrest should be prepared.
 - Police must notify a detainee's time, place of detention, and place of custody.

What are the recommendations of the report on custodial death?

- The report has suggested the need for reforms
 - To sensitise the police to function within the constitutional framework.
 - To promote transparency by installation of video-audio enabled CCTV cameras at police stations and prisons.
 - To take strict legal action against police personnel who misuse their official position.
 - To conduct regular health check-ups of prisoners.
 - To have exclusive interrogation teams specialising in the process of gathering evidence from those detained.
- It has also highlighted the fact that the doubts on the functioning of the police are raised rampantly because many of the policemen are trying their best to misuse their power.

References

1. [Indian Express- Custodial death in Gujarat](#)
2. [New Indian Express | Image](#)