

SC to Form Special Panels to Probe Atrocities by Police

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Chief Justice of India (CJI) N.V. Ramana said he was in favour of forming standing committees headed by the Chief Justices of the High Courts to investigate complaints received from the common man of “atrocities” committed by the bureaucracy, especially police officers, in the country. The CJI’s oral observation comes even as police officers are in the spotlight for committing serious crimes.

In news: CJI for forming special panels to probe ‘atrocities’ by police

Placing it in syllabus: Governance

Dimensions:

- Status of Police and Bureaucrat Atrocities and Custodial Deaths
- Reasons for them
- Suggestions
- A. Need for a Anti Custodial Torture law
- B. Should we sign Anti Torture Convention
- C. Other Reforms

Content:

Status of Police and Bureaucrat Atrocities and Custodial Deaths:

- 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.**
- Every day, an average of five people die in custody in

India, with some of them succumbing to torture in police or judicial custody.

- And yet, **there has not been a single conviction in the deaths of 500 persons** allegedly due to **torture in police custody** between 2005 and 2018.

Data from "India: Annual Report on Torture"

- According to the **India: Annual Report on Torture 2019**, 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. This works out to almost five such deaths daily.
- The report highlights the most common forms of torture which include electric shock, hammering nails in the body, applying chilly power on different parts of the body, branding with a hot iron, inserting rods in the parts of the body, forcing legs apart, hanging upside down and merciless beating, etc.
- These are some of the horrific treatments the person who dies in custody often goes through.
- Most of these people belong to the oppressed classes who are not economically and socially empowered to fight the atrocities of the police.
- The report indicates that Uttar Pradesh has the dubious distinction of most custodial deaths with 14 out of 125 cases, followed by Tamil Nadu with and Punjab, both recording 11 deaths.
- What is most disconcerting is that about 75% of these 125 deaths happened due to alleged torture or foul play, and about 20% died under suspicious circumstances that police cited suicide.

Reasons for them:

Colonial Mindset:

- The fact that the criminal justice system has the

underlying colonial mindset is in fact responsible for many of the problems in it which continue to the present day.

- The Policing system in India is quoted as the best example of colonial mentality by many.
- It was originally conceived for maintaining law and order to serve the interests of British.
- The colonial nature to **serve for the interests of political executive rather than for public interest** still continues.

Torture is perpetrated to extract confession or bribes

- Many studies suggest the prevalence of corruption is one of the reasons for police atrocities.
- It is a fact that police resort to third-degree methods for obtaining confessions and statements from the accused.
- Such methods often result in serious injuries and even death.

Section 49 of CrPC accords a list of rights to an arrested person. It is explicitly mentioned in there that the use of force while detaining a person should not be more than it is necessary to stop them from escaping. This is hardly followed.

Absence Conviction of policemen accused of torture:

- There is absolute impunity to the perpetrators of torture.
- The National Crime Records Bureau under the Ministry of Home Affairs, Government of India in its Crime in India reports from 2005 to 2018 revealed that with respect to the death of 500 “persons remanded to police custody by court”, 281 cases were registered, 54 policemen were chargesheeted
- But not a single policeman was convicted as on date

Absence of psychiatric help:

- Jails often fail to provide proper healthcare and security to the prisoners.
- Suicide is one of the biggest reasons for custodial deaths.
- In India, there are no adequate provisions for inmates and under-trials seeking psychiatric help and this affects their mental health greatly.
- Thus it is imperative that they should have better access to psychological support and better preventive measures must be implemented.

Overwork and overload among police

- The police depts are hopelessly understaffed and policemen are extremely overloaded with work. Typical constable works 12 to 16 hour a day 6 days a week.
- Such overloading makes them angry and frustrated.
- This makes torture and other atrocities as a easy method to get the work done.

Suggestions

- There has been large scale anger over the issue and demands for reforms in policing and bringing in adequate mechanisms, making the culpable officers accountable for their misdeeds
- We have certain remedies in the IPC to address this issue.
- The Supreme Court also, from time to time, has issued directives and instructions to the Union and State Governments to take up the matter seriously, implement means to bring down incidents of custodial death, and punish the truant officials.
- But these have not yielded fruit, as is evident from the rising numbers of custodial deaths in the country.
- Interestingly, India does not have an anti-torture law and this matter is being hotly debated once again now.

Need for a Anti Custodial Torture law

- 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 guaranteed by the Indian Constitution.
- Torture is not defined in the Indian Penal Code, but the definitions of 'hurt' and 'grievous hurt' are clearly laid down.
- Though the definition of 'hurt' does not include mental torture, Indian courts have included psychic torture, environmental coercion, tiring interrogative prolixity, and overbearing and intimidatory methods, among others, in the ambit of torture.
- Voluntarily causing hurt and grievous hurt to extort confession are also provided in the Code with enhanced punishment.
- In such cases, **Anti Custodial Torture law is needed to hold the erring policemen accountable.**

In its 273rd report, the law commission had provided a draft Prevention of Torture Bill, 2017. The key features of this bill are as follows:

- This bill makes provisions for punishment (including life term) to officials for any kind of torture and inhuman treatment.
- It makes provisions for compensation to victims of torture. The courts will decide upon the justifiable compensation after taking into account the various facets of case.
- The courts will bear in mind the socio-economic background of the victim and ensure that the compensation helps the victim to bear the expenses on medical treatment and rehabilitation.

Should we sign Anti Torture Convention?

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (commonly known as the **United Nations Convention against Torture(UNCAT)**) aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world.
- The Convention requires states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured.
- All state parties are obliged under the Convention to submit regular reports to the CAT on how rights are being implemented.
- Upon ratifying the Convention, states must submit a report within one year, after which they are obliged to report every four years.
- The Convention was adopted on 10 December 1984 and came into force on 26 June 1987.
- India signed the UN convention on October 14, 1997 but has not yet ratified it.
- The reason the government gives is that it has already criminalized torture under penal law. However, sections 330 and 348 of the Indian Penal Code, 1860 do not particularly criminalize torture instead it penalizes certain acts that involve torture.
- In addition, the provisions grant immunity to the police officers, armed forces personnel and public servants unless the government approves their prosecution.
- India has also expresses its reservations against the following provisions of the convention: Inquiry by the CAT (Article 20); State complaints (Article 21); Individual complaints (Article 22)
- 273rd Report of the Law Commission recommended ratification of the U.N. Convention against Torture and other Cruel, Inhumane or Degrading Treatment (CAT).

Arguments against torture:

- Torture is used as a tool by the State to silence people and suppress their voice against injustice.
- Torture tends to degrade and corrupt the society.
- Information provided by the prisoners under torture is unreliable as they tend to say anything to escape torture.
- Torture is against the principles and conventions of UN and they tend to negate the inalienable rights of all members of human family.

Other Reforms

- Providing psychiatric help and better healthcare facilities.
- Recruiting adequate numbers of police, raising the salaries of policemen, and providing more funds to district police chiefs to buy better/more equipment.
- Overhauling the laws and procedure related to bail
- Ensuring the judicial system delivers speedy justice.
- pass laws to decriminalize vics like drugs, liquor, gambling and prostitution. This will reduce oppurtunities for policemen to collect bribes, and would give them more time and resources to chase real criminals like murderers, theives etc

Mould your thought: Why are the cases of police atrocities rising in India? What can be done to remedy the situation?

Approach to the answer:

- Introduction
- Give statistics about police atrocities
- Mention the reasons for the rise in atrocities
- Discuss the solutions to eliminate them
- Conclusion