



KAMARAJ IAS ACADEMY
Only IAS Academy by Grandson of "Per. unthalsivar Kamarajar"

CUSTODIAL DEATH IN INDIA:

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CONTEXT: A Brutal death of 27-year-old Ajith kumar in the Sivaganga district of Tamil Nadu after alleged third-degree torture by Tamil Nadu police exposes deep rooted systematic violence and miscarriage of justice.

CUSTODY AND ITS TYPES: Custody refers to the legal status of being under the protection, care, or guardianship of someone or an institution. In the context of law enforcement and criminal justice, it specifically relates to the detention or confinement of an individual by authorities, either during investigation (police custody) or while awaiting trial (judicial custody).

Types of Custody

Police Custody: In this type of custody, a police officer arrests the accused based on information, complaints, or reports related to a crime

During police custody, the accused is kept in a lock-up.

Judicial Custody: An accused person is placed in judicial custody by order of the concerned magistrate.

In judicial custody, the police have no right to interrogate the accused unless specific circumstances warrant it

Custodial Death Definition: Custodial death refers to a fatality that occurs while an individual is in custody (police or judicial). It can be directly or indirectly linked to activities carried out during the person's confinement.

Coverage: These deaths can occur in various settings, including jails, police vehicles, private or medical facilities, and public spaces

Occurrence: Custodial deaths may result from negligence by authorities, including torture or cruel treatment by police officers.

Constitutional provisions related to Custodial Deaths in India

Article 20: Protection Against Arbitrary Punishment

Article 21: Right to Life and Personal Liberty

Right against Illegal Detention

Right to a Speedy and Fair Trial

Right to bail

Right against solitary confinement

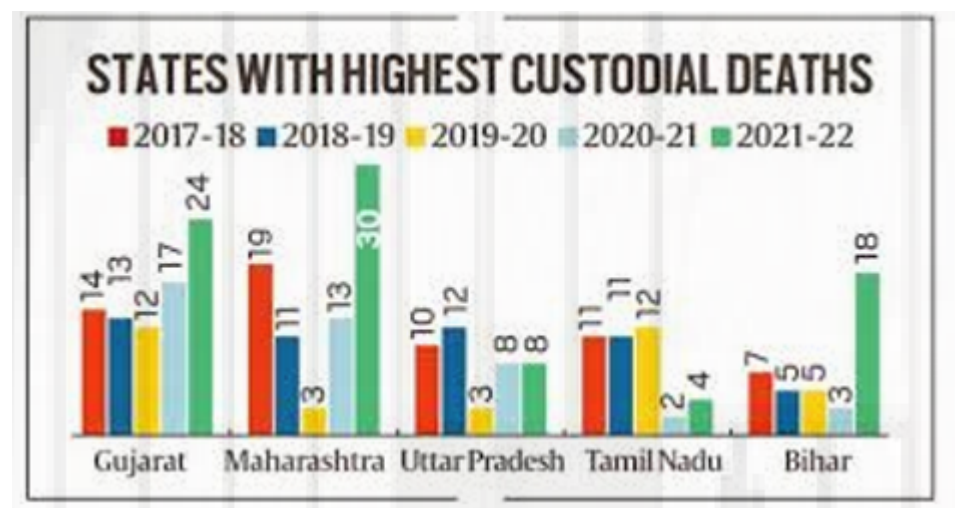
Article 22: Protection Against Arbitrary Arrest and Detention

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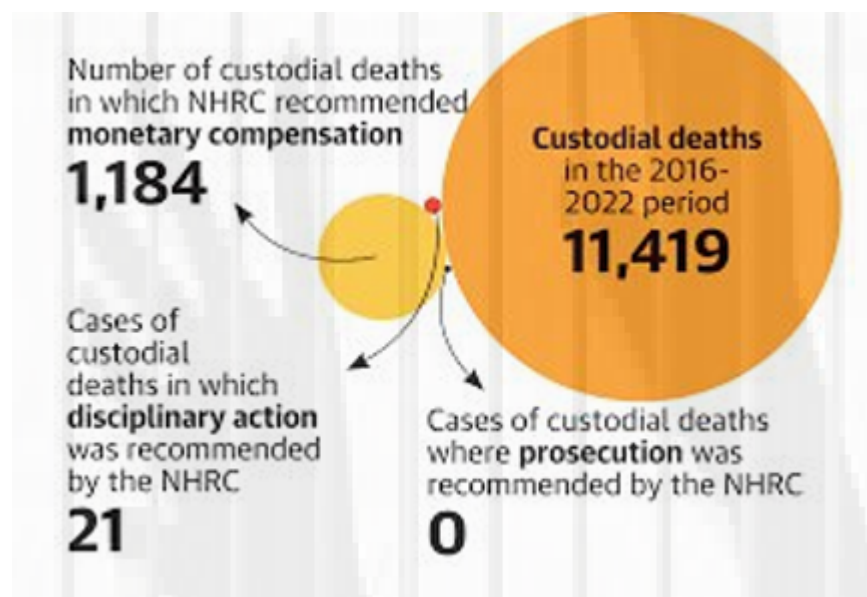
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STATISTICS: State has highest custodial death in India: From 2017-22, the highest number of custodial deaths have been reported in Gujarat followed by Maharashtra, Uttar Pradesh, Tamil Nadu and Bihar.



According to Henri report, 31 custodial deaths have occurred in Tamil Nadu in the past four years, with not a single officer being punished. “Every custodial death violates the Supreme Court’s guidelines in the D.K. Basu case



RELATED CASES AND JUDGEMENTS:

1. Ajith kumar case {TN-2025}
2. Sathankulam double murder case {2021}
3. D.K. Basu vs. State of West Bengal- the Supreme Court held that the rights guaranteed under Article 21 of the Constitution could not be denied to convicts, under-trials, and other prisoners in custody, except according to the procedure established by law.
4. Selvi vs. State of Karnataka- it was observed that the state could not perform narco-analysis, polygraph, and brain-mapping tests on any individual without their consent.
5. Kishore Singh v. State of Rajasthan (1981)- The court emphasized that prison authorities must adhere to constitutional principles, including humane treatment and the prohibition of torture, and that their actions are subject to judicial review.

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Concerns associated with Custodial Deaths:

Violation of Fundamental Laws:

Articles 20, 21, and 22 of the Indian Constitution are implicated

Severe Offenses by Police Misusing Custody

The infamous Mathura Rape Case involved the alleged rape of a tribal girl by two policemen in Gadchiroli district, Maharashtra.

Ethical Concerns

Violation of Human Rights and Dignity:

Custodial violence disregards the inherent dignity of every person.

It inflicts physical and psychological harm, denying basic human rights.

Presumption of Guilt:

Torturing individuals before conviction violates the principle of “innocent until proven guilty.”

Fundamental rights to a fair trial and due process are compromised.

Way Forward To Prevent Custodial Deaths in India:

Implement the Directives laid down in *Prakash Singh vs. Union of India*, 2006:

- 1.Establishment of a Police Establishment Board
- 2.Formation of the National Security Commission
- 3.Formation of a State Security Commission
- 4.Formation of a Police Complaint Authority.

More Monitoring & Enquiry:

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 and also the jurisdiction should be expanded on human rights violations by armed forces with appropriate measures.

Learn from Other Countries' Best Practices:

The Torture and Custodial Death (Prevention) Act, 2013 is an Act passed by the Jatiya Sangsad in 2013 to prohibit torture in custody in Bangladesh.