



## Custodial Torture and Ethical Concerns

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

**For Mains:** Custodial Torture and ethical arguments against it.

### Why in News?

Recently, the Delhi High Court has upheld the conviction and **10-year sentence** (awarded in 2019) of **five Uttar Pradesh policemen for [Custodial Torture](#)** of a 26-year-old man causing his death in 2006.

### What is Custodial Torture?

#### ▪ About:

- Custodial torture is the **infliction of physical or mental pain or suffering** on a person who is in the custody of the police or other authorities.
- It is a grave violation of [human rights](#) and dignity and often leads to [custodial deaths](#), which are deaths that occur while a person is in custody.

#### ▪ Types of Custodial Death:

- **Death in Police Custody:** Can result from excessive force, torture, denial of medical care, or other forms of abuse.
- **Death in Judicial Custody:** May occur due to overcrowding, poor hygiene, lack of medical facilities, inmate violence, or suicide.
- **Death in the Custody of Army or Paramilitary Forces:** Can happen through torture, extrajudicial killings, encounters, or crossfire incidents.



## Constitutional Provisions Related to Custodial Torture:

- **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(1)** states that no **person shall be convicted of any offence**, except those which are in contravention of the law in power at the commission of the Act.
  - **Article 20(3)** prohibits a person to be compelled to be a witness against himself. It is an extremely instrumental law as **it protects the accused from giving confessions** when the accused is **coerced or tortured to do so**.
- **Related International Conventions:**
  - **International Human Rights Law, 1948** contains a provision which **protects people from torture and other enforced disappearances**.
  - **The United Nation Charter, 1945** also (clearly) calls for **treating prisoners with dignity**.
  - **The Nelson Mandela Rules, 2015** were **adopted by the UNGA to treat prisoners with inherent dignity** and to prohibit torture and other ill-treatment.

## What are the Ethical Arguments against Custodial Torture?

- **Violates Human Rights and Dignity:**
  - Every individual possesses **inherent dignity and should be treated with respect** and fairness. Custodial violence **violates this fundamental principle by subjecting individuals to physical and psychological harm, stripping them of their dignity, and denying them the basic Human Rights**.
- **Undermines Rule of Law:**
  - Custodial violence **undermines the principles of the rule of law** and due process.
  - Law enforcement officers **have a duty to uphold and enforce the law**, but engaging in violence **contradicts the very principles they are meant to uphold** - justice, equality, and **protection of human rights**.
- **Presumption of Guilty:**
  - Custodial torture **undermines the principle of "innocent until proven guilty"**. Torturing individuals before they have been convicted of a crime violates their **right to a**

**fair trial** and due process.

- It is the responsibility of the justice system to determine guilt or innocence, not to inflict punishment through torture.
- **Against Professionalism and Integrity:**
  - Police officers and authorities are **expected to adhere to high ethical standards**, including professionalism, integrity, and respect for human rights.
  - Custodial violence violates these ethical principles and **tarnishes the reputation of the profession as a whole**.
- **Targets Vulnerable Individuals:**
  - Custodial violence often targets individuals **who are already vulnerable**, such as suspects, detainees, or prisoners. This includes **marginalised populations, minorities**, or those lacking social power.
  - Ethically, it is crucial to **protect and support the rights of these vulnerable individuals** rather than subjecting them to further harm.
- **Betrays Legal and Moral Responsibility:**
  - Law enforcement officers and **authorities have a legal and moral responsibility to protect the welfare** and rights of those under their custody. Engaging in violence or abuse represents a **betrayal of this responsibility and a violation of the ethical obligations** inherent in their roles.

## Way Forward

- Strengthening legal systems involves **enacting comprehensive legislation that explicitly criminalizes custodial torture**, ensuring prompt and impartial investigations, these measures can be taken to combat custodial torture.
- Police reforms **should focus on training programs that emphasise** protection of human rights besides maintaining professionalism and instilling empathy.
- Oversight mechanisms should **be established to monitor and address such cases** effectively.
- Civil society and human rights **organizations should advocate for victims**, provide support and legal assistance, and collaborate with international bodies for redress and justice.

## UPSC Civil Services Examination, Previous Year Question (PYQ)

### **Prelims:**

#### **Q. With reference to India, consider the following statements: (2020)**

1. Judicial custody means an accused is in the custody of the magistrate concerned and such an accused is locked up in a police station, not in jail.
2. During judicial custody, the police officer in charge of the case is not allowed to interrogate the suspect without the approval of the court.

#### **Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (b)**

**Exp:**

- In Judicial custody, an accused is in the custody of the concerned Magistrate and lodged in jail. While in the case of police custody, an accused is locked up in a police station. **Hence, statement 1 is not correct.**
- During judicial custody, the police officer in charge of the case may interrogate the suspect but

with prior permission from the magistrate. In the case of police custody, the police officer can interrogate the suspect but must produce him before the court within 24 hours. **Hence, statement 2 is correct.**

- **Therefore, option (b) is the correct answer.**

**[Source: IE](#)**

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