Why a separate anti-torture law?

Context:
- The alleged torture of a father-son duo in Sattankulam town in Tamil Nadu has given rise to the demand for a separate law against torture.

Background:
- In 2017, the Central Government admitted in the Supreme Court that it was seriously considering the 273rd Report of the Law Commission that recommended ratification of the UN Convention against Torture and other Cruel, Inhumane or Degrading Treatment (CAT).
- CAT was signed by India but is yet to be ratified.

Existing laws:
- Torture is not defined in the Indian Penal Code, but the definitions of ‘hurt’ and ‘grievous hurt’ are clearly laid down. Voluntarily causing hurt and grievous hurt to extort confession are dealt with in the Indian Penal Code.
- Under the Code of Criminal Procedure, a judicial magistrate inquires into every custodial death.
- The National Human Rights Commission has laid down specific guidelines for conducting autopsy under the eyes of the camera.

Judicial contributions:
- Though the definition of ‘hurt’ does not include mental torture, Indian courts through their judgments have included psychic torture, environmental coercion, tiring interrogative prolixity, and overbearing and intimidatory methods, among others, in the ambit of torture.
- The Supreme Court judgment in DK Basu v. State of West Bengal was a turning point in the evolving jurisprudence on custodial torture.
- The Court’s decision in Nilabati Behera v. State of Orissa

Issues
- The article argues that there being no deficiency in the existing law, the demand for a new law may be counter-productive.
Prevention of Torture Bill:

- A fresh draft of the Prevention of Torture Bill was released in 2017.

- The article argues that this bill, apart from being vague, was also very harsh for the police to discharge its responsibilities without fear of prosecution and persecution.

- By proposing for the death penalty for custodial death accused, the proposed quantum of punishment seems too harsh.

- The 262nd Law Commission Report recommended that the death penalty be abolished except in cases of ‘terrorism-related offences’.

- In the Bill, the proposed registration of every complaint of torture as an FIR and blanket denial of anticipatory bail to an accused public servant was not reasonable.

- As opposed to the intention of having a reformative law, the proposed Bill was not a reformative one. It was vague, harsh and retributive in nature.

Way forward:

- Except for minor discrepancies, the prevalent law in India is adequate and well in tune with the provisions of CAT and there is a need to further improve on its implementation. There is a need to improve the implementation of the existing laws instead of bringing in a new law.

- The investigations and the prosecution process are prone to concerns and these aspects need to be reformed.

- The police need to be trained better. The temptation to use third-degree methods must be replaced with scientific skills.

- The need of the hour is to strike at the root cause of the problem and implement recommendations of various commissions to bring in necessary reforms.