



DAILY EDITORIAL ANALYSIS

TOPIC

**TORTURE IN POLICE CUSTODY:
CHALLENGE IN INDIA'S JUSTICE SYSTEM**

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TORTURE IN POLICE CUSTODY: CHALLENGE IN INDIA'S JUSTICE SYSTEM

Context

- A recent report by **Common Cause** and the **Lokniti Programme** highlights the prevalence of police violence, revealing systemic issues that perpetuate custodial torture.
 - ♦ It surveyed 8,276 police personnel across 17 states and Union Territories, revealing systemic issues in law enforcement.

About Custodial Torture

- **Torture**, as defined by the **UN Convention (1984)**, is the intentional infliction of severe physical or mental pain on a person.
 - ♦ It is used to force confessions, punish, intimidate, or discriminate, and is carried out or approved by officials in positions of authority.
- **Custodial Torture** is governed by legal provisions under the **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**.
 - ♦ It defines the framework for detaining individuals during investigations while balancing individual liberty and effective law enforcement.

Key Provisions Under BNSS

- **Timeframe of Police Custody (Section 187(2) of BNSS)**: Police custody can now extend up to 15 days, but not necessarily continuous.
- **Judicial Safeguards**: Police must still present the accused before a magistrate.
 - ♦ A magistrate must approve police custody beyond 24 hours of arrest, ensuring legal safeguards against arbitrary detention.
- **Extension of Detention Beyond 15 Days**: Similar to CrPC, Magisterial (Judicial) custody beyond 15 days can continue up to:
 - ♦ 60 days for offences punishable up to 10 years.
 - ♦ 90 days for offences punishable by death/life/≥10 years.
 - ♦ But **police custody remains capped at 15 days**, albeit **flexibly spaced** under BNSS.

Why Police Torture Persists in India?

- **Legal Vacuum on Torture**: India has **signed but not ratified** the **UN Convention Against Torture (UNCAT), 1997** meaning it is not legally bound to implement its provisions.
 - ♦ The **Prevention of Torture Bill (2010)** lapsed in Parliament, and subsequent efforts to introduce legislation have been shelved or diluted.
- **Procedural Flaws and Delays**: Supreme Court of India, in *K Basu vs. State of West Bengal (1997) Case*, laid down crucial guidelines to prevent custodial abuse.
 - ♦ However, Courts often rely on magisterial inquiries — procedures riddled with procedural flaws and delays.
- **Institutional Incentives**: Confessions extracted through violence are still treated as evidence, despite being inadmissible under **Section 25 of the Indian Evidence Act**.
- **Weak Accountability**: Investigations into custodial deaths are typically conducted by the same department involved.
 - ♦ Even where judicial inquiries are initiated, they are often slow, opaque, and inconclusive.
- **Political Interference**: Policing in India is often influenced by political pressures, which weakens impartial action and shields errant officers.

Key Findings of Report

- **Justified Use of Police Force**: 55% of police personnel believe 'tough methods' are necessary to instill fear in the public.

- ♦ 30% justify third-degree torture in serious cases, while 9% approve of it even for petty offenses.
- **Mob Violence and Encounters:** 25% of police personnel support mob violence in cases like sexual harassment and child lifting.
 - ♦ 22% believe encounter killings are better than legal trials, though 74% support legal procedures for dangerous criminals.
- **Arrest Procedures:** 41% claim procedures are always followed, while 24% admit they are rarely or never adhered to.
 - ♦ Kerala reports the highest compliance (94%), while Jharkhand reports the lowest (8%).
- **Victim Demographics:** Victims of police torture predominantly belong to marginalized groups, including Dalits, Adivasis, Muslims, and slum dwellers.
- **Judicial and Medical Apathy:** Magistrates often act as 'silent spectators' and medical examinations are conducted by doctors without forensic expertise.
- **Custodial Deaths and Accountability:** Discrepancies in official figures highlight the underreporting of custodial deaths, with numbers ranging from 76 (NCRB) to 111 (NCAT) cases in 2020.
 - ♦ Between 2018 and 2022, zero convictions were recorded for custodial deaths, raising concerns about impunity.

Recommendations for Reform

- **Enact Comprehensive Anti-Torture Legislation:** India must pass a dedicated law against custodial torture with strict provisions for accountability, time-bound investigations, and victim compensation.
- **Strengthen Police Training:** 79% of police personnel support human rights training.
- **Independent Oversight Mechanisms:** Establish monitoring bodies to ensure transparency and accountability.
 - ♦ **69th Report (1977) of Law Commission of India:** It proposed introducing **Section 26A in the Indian Evidence Act** to make confessions before senior police officers admissible.
 - ♦ **273rd Report of Law Commission of India** recommended an anti-torture law, affirming that India's existing legal safeguards are insufficient.
 - ♦ **Malimath Committee:** It suggested that confessions made before a senior police officer of the rank of Superintendent or above should be admissible in evidence with safeguards to prevent coercion.
- **Mandatory Use of Technology:** CCTV coverage in interrogation rooms, digital records of questioning, and body cameras must become the norm.
- **Capacity Building & Sensitization:** Police training must emphasize human rights, ethical investigation techniques, and the psychological impacts of torture.
- **Judicial Reforms:** Fast-track courts for custodial crimes, along with stringent penalties for complicit officials, are essential.

Conclusion

- Custodial torture remains a deep-rooted issue in India's justice system, demanding urgent legal and institutional reforms.
- By ratifying the UNCAT, enforcing stricter accountability measures, and transforming policing culture, India can move toward a more humane and rights-based approach to law enforcement.

Source: IE

Mains Practice Question

[Q] Considering the prevalence of torture in police custody within India's justice system, do you think reforms in policing practices alone are sufficient, or should systemic changes in legal accountability and oversight mechanisms be prioritized?

