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TACKLING POLICE TORTURE IN CUSTODY

Victims are Mostly Poor and Accused of Minor Crimes

Dear Readers,

I am happy to share the findings of the Status of Policing in India Report (SPIR) 2025 on 'Police Torture and (Un)Accountability'. The study is focused on violence in police custody, a problematic and under-researched subject. This issue of your journal summarises the report and the event that marked its release.

The SPIR 2025 is the sixth in the series of data-driven reports since 2018. It is by far the most challenging of policing reports involving mixed methodologies. We believe it is also one of the most policy-relevant studies on police torture in India. The SPIR series was conceived as a tool to monitor the impact of policing on the ground and its inherent problems.

The report unpacks police torture, high-handedness, and custodial violence through surveys with police personnel, analysis of trends and patterns, and interviews. It seeks to fill a huge gap in the availability of authentic data on police attitudes about the unlawful use of force and deaths in custody. It is based on surveys with over 8000 police personnel across 17 states/UTs. The study also involved an analysis of official data and in-depth interviews with other stakeholders—judges, lawyers, and doctors— whose job is to be a safeguard against police torture.

Besides condensing the 215-page report into a few short articles, this special issue also sums up the launch event at the India International Centre, New Delhi, on March 26, 2025. The keynote address was delivered by former Chief Justice of Orissa High Court, Justice S Muralidhar, which was preceded by a panel discussion with former DGP, Mr Prakash Singh, medico-legal expert, Dr Amar Jesani, and human rights lawyer, Ms Vrinda Grover. Please visit commoncause.in for a video recording of the event and a soft copy of the report.

What we know for sure is that incidents of police torture go unreported, unless they are exposed due to public outcry or occasional bad press. The officers tend to blame heinous crimes or terrorism to justify their violent methods of interrogation. On the contrary, a typical victim is accused of a relatively minor crime and belongs to poor or marginalised sections of society. A large number of police personnel believe that being violent is necessary to extract confessions, which they consider part of their job.

Torture is explicitly banned under the Universal Declaration of Human Rights of 1948. While most countries have ratified the UN Convention Against Torture (UNCAT, 1984) by making domestic laws, India's successive governments have failed to do so for over 75 years. The UNCAT makes the prohibition of torture, like slavery, a compelling law or *jus cogens* that other laws or circumstances cannot overwrite. A sure consequence of India's evasion is that our own people suffer the most at the cost of dehumanising our police forces.

The SPIR 2025 covers problems we neither concede nor study institutionally. The surveys bring out the cops' attitudes about torture and their approaches to law enforcement. It is designed to offer insights for policy and advocacy and as a building block for more research.

As always, your feedback will be greatly appreciated.

Vipul Mudgal
Editor

THE STATUS OF POLICING IN INDIA REPORT 2025

Its Scope, Methodology and Findings

Radhika Jha*

Police officers use physical force against an activist (19th November, 2016. Ahmedabad, Gujarat). Credits Ajit Solanki, Associated Press

The Status of Policing in India Report 2025 examines the issue of police torture and violence through empirical data. While the true extent of police torture in India remains difficult to quantify, this report offers a comprehensive overview of how the police themselves perceive and report the use of torture, in ways that sidestep established legal protocols.

The study explores police attitudes towards torture and the extent to which its use has become normalised. These perspectives are contrasted with those of key institutional actors meant to serve as safeguards against police torture and excesses—namely, lawyers, judges, and doctors. The report also analyses official data on custodial torture and police excesses to identify broader patterns in the reporting and disposal of such cases.

The findings reveal a troubling trend of significant sections of the police justifying the use of torture, viewing it as acceptable in all cases, including minor offences. This attitude is accompanied by a disregard for legal procedures and the rule of law, with police often overstepping their role to act as not just the investigator, but also the judge and the executioner.

There is an urgent need for broad public debate on torture, to push against the prevailing unwillingness to better understand, engage with, and advocate against torture.

In this article, we use extracts from Chapter 9 of SPIR 2025 to give a snapshot of the major findings from this report.

Methodology

We used mixed methodological tools in this study. The study included a survey of 8,276 police personnel of all ranks across 82 locations from 16 states and one UT (Delhi). These states were pre-decided based on their population size as per 2011 census of India to ensure regional representation across all parts of the country. The sample ensured proportionate representation of police officers across ranks, gender, caste and religions.

In addition to this, we conducted in-depth interviews with other accountability actors—lawyers, judges and doctors—to gauge their perceptions and experiences with cases of police torture. We interviewed a total of 28 such actors, comprising seven doctors, 12 lawyers (including one Public Prosecutor), and nine judges. The interviews were coded and analysed to identify patterns and interviewee's observations.

** Radhika Jha is Lead Researcher, Status of Policing in India Report (SPIR) series and Project Lead (Rule of Law) at Common Cause.*

Lastly, the study also examined government reports, National Human Rights Commission (NHRC) data, National Crime Records Bureau (NCRB) statistics, and utilised the Right to Information (RTI) to obtain crucial data from the concerned departments. The data points for this analysis were taken from NCRB, NHRC, and a civil society organisation, National Campaign Against Torture (NCAT).

Some of the broader findings of this study are given in the following sections.

Disregard for Rule of Law

At the outset, the survey data reveals that a significant proportion of the police respondents prefer extrajudicial measures over due process and systemic checks. This mindset is reflected in their attitudes towards the efficiency of the criminal justice system, with 28 percent believing it is too weak and slow to address crimes. A notable proportion of the respondents said that police should be allowed to arrest and detain suspected criminals without any judicial oversight.

A concerningly high proportion of police personnel exhibit a clear preference for summary justice imparted by the police, both in minor as well as serious offences. For instance, nearly two out of five police personnel (38%) believe that minor punishments should be handed out by the police instead of going through a legal trial. On the other hand, for more serious offences, more than one in five police personnel go so far as to justify police killings, with 22 percent agreeing with the statement that for the greater good of the society, killing dangerous criminals is sometimes better than giving them a legal trial.

Compliance with Arrest Procedures

There are several procedural safeguards which the police are required to comply with in all cases of arrests. Failure to do so in any case will render the arrests illegal. Yet, we found that non-compliance with these provisions was significant. The police reported "always" identifying themselves with a visible name tag at the time of arrest, and informing the arrested person of their right to contact a lawyer, in less than 70 percent of cases. Worryingly, police reported "rarely or never completing" an inspection memo and an arrest memo with all the required signatures in up to nine and ten percent cases

> ***"Nearly two out of five police personnel (38%) believe that minor punishments should be handed out by the police instead of going through a legal trial."***

respectively. Overall, just 41 percent police personnel said that arrest procedures are always complied with, while 35 percent said that they are sometimes complied with. As many as one in four police personnel (24%) said that these procedures are rarely or never complied with. Further, only 62 percent police personnel said that arrested persons are "always" released on bail immediately, at the police station, in bailable offences. Anyone arrested for a bailable offence who is kept in police custody is being illegally detained.

The surveyed personnel also exhibit strong resistance to institutional checks that are in place to check against arbitrary police actions and excesses. Only 56 percent of the police personnel believe that it is always feasible to produce an arrested person before a magistrate within 24 hours of arrest, when this is a constitutional mandate.

The right of arrested persons to legal counsel is also undermined by the police, with 20 percent believing that an arrested person should never be allowed to talk to a lawyer in private, and as many as 30 percent saying that a lawyer should never be allowed to be present during interrogation, running completely contrary to Article 22 of the Constitution and Section 38 of BNSS, 2023.

Justification for Torture

The police in India have a strong

reliance on a culture of fear and the use of "tough methods", as is emerging from the survey data findings. More than half of the interviewed police personnel feel that it is important for the police to use "tough methods" to create fear among the public, with 20 percent strongly agreeing, and 35 percent saying that it is somewhat important.

As many as 30 percent police respondents justify the use of third-degree methods towards accused in serious criminal cases. A smaller proportion of nine percent said that it is justified while investigating petty offences like theft, etc. Further, twenty percent strongly agree that torture is necessary and acceptable to gain information in theft cases. This figure goes up to 42 percent when it comes to the investigation of crimes against national security. Overall, as many as 30 percent police personnel have a high propensity to justify torture, while another 32 percent have a moderate tendency to justify it.

Another disconcerting trend is police's willingness to use violent techniques against non-accused persons such as witnesses, or family members of arrested persons. Eleven percent of police personnel feel that hitting or slapping family members of an absconding suspect is absolutely justified, while another 30 percent feel that it is somewhat justified. Nine percent of police personnel justify the use of third-degree methods against "uncooperative witnesses".

"As many as 30 percent police respondents justify the use of third-degree methods towards accused in serious criminal cases. A smaller proportion of nine percent said that it is justified while investigating petty offences like theft, etc."

Police Training in Human Rights

Two positive trends stand out among the police responses. One, there was overwhelming agreement on the need for more training on various aspects of policing that are aimed at limiting, if not completely abolishing, the use of torture. 79 percent police personnel felt that training on human rights is very important and the same proportion also said that training on evidence-based interrogation techniques is very important. A slightly lesser but significant majority of 71 percent also said that training on prevention of torture is very important.

"79 percent police personnel felt that training on human rights is very important and the same proportion also said that training on evidence-based interrogation techniques is very important."

Secondly, there is similarly high support for the mandatory reporting of torture by police witnesses. Given that police torture is most often witnessed by other police officers, 39 percent respondents said that it should always be mandatory for police witnesses to report torture, while another 41 percent said that it should sometimes be mandatory. Four out of five police personnel also said that if they have legal protection, junior police officers would feel comfortable complaining against their seniors for the use of violence—44 percent said always, and 36 percent said sometimes.

State-Level Variations

There is significant variation across states in the responses of the police officers, particularly on the questions of compliance with legal procedures and their views on the use of torture. Two states that stand out on polar extremes are Gujarat, where the police are significantly more likely to justify torture and other violent techniques, and on the other end is Kerala, where the police report both better compliance with legal procedures, as well as much lower inclination to justify torture.

For instance, 63 percent of the police personnel from Gujarat said that torture is necessary and acceptable to

gain information across various categories of crimes, against just three percent in Kerala. Again, in the overall propensity to justify torture, nearly half of the police personnel from Gujarat justify it (49%), while just one percent of the police personnel from Kerala justify torture. In Gujarat, the police also exhibit a high tolerance for the public taking the law into their own hands and resorting to violence, with 57 percent of respondents from Gujarat saying that mob violence is justified to a great extent, against zero respondents from Kerala. On the other hand, in Kerala, 91 percent of police personnel felt that mob violence is not at all justified.

The problematic opinions emerging from Gujarat are in line with official figures on custodial deaths and custodial violence, which, although highly likely to be under-reported, depict larger trends when seen across years and states. According to both NHRC as well as NCRB data, Gujarat reported the highest number of deaths in police custody in 2020, which is also reflected in the compilation of cases by the National Campaign Against Torture (NCAT) in the same year. An analysis of the NCRB data in fact shows that 96 percent of deaths in police custody in Gujarat from 2018-22 took place before the arrested person was put on remand, that is, within 24 hours. At the national level, the corresponding figure in 2022 was 54.7 percent.

“An analysis of the NCRB data in fact shows that 96 percent of deaths in police custody in Gujarat from 2018-22 took place before the arrested person was put on remand, that is, within 24 hours. At the national level, the corresponding figure in 2022 was 54.7 percent.”

Disaggregation of Responses by Ranks

A concerning trend emerging from a cumulative look at the findings of this report is the support for the use of torture and the disregard for established procedures amongst the highest echelons of the police - the IPS officers.

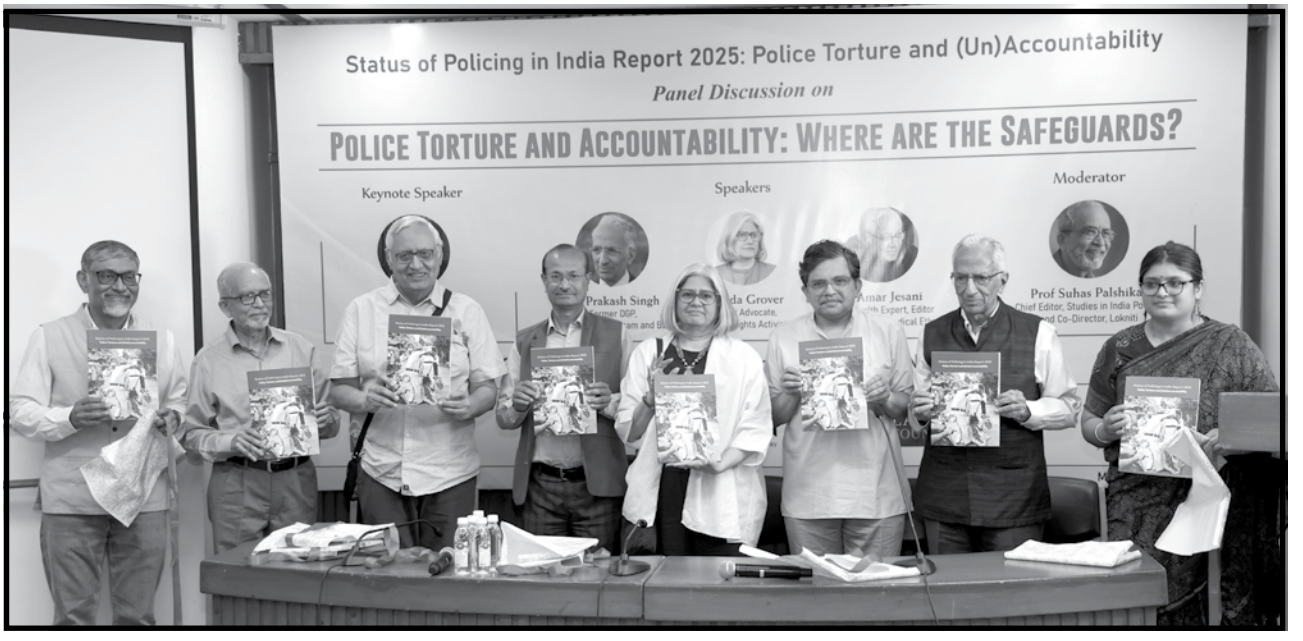
When asked about the feasibility of complying with arrest procedures, the IPS were the least likely to say that it is always feasible or practical to produce an arrested person before a magistrate within 24 hours of arrest. On the overall adherence with arrest procedures, IPS officers were the least likely to say that they are “always” complied with, while upper subordinate officers, i.e. personnel from the ranks of Assistant Sub Inspector (ASI) to DySP (Deputy Supreintendent of Police), were the most likely to say so.

Similarly, when it comes to the use of third-degree methods, as understood by the respondents, IPS officers were the most likely to justify it against arrested persons as well as the most likely to justify it against “uncooperative witnesses” (28% IPS officers, compared to 8% upper subordinate officers). On propensities to justify torture, ranks converged largely in consensus - IPS officers showed the highest propensity to justify torture (34%), followed by constabulary (32%), and 26 percent of personnel of the upper subordinate rank with a high propensity to justify torture.

Another trend emerging is that those police officers who are most frequently directly involved in conducting arrests, investigating cases, or interrogating suspects are also the ones who are most likely to discount legal safeguards and justify the use of torture. Police officers who frequently conduct interrogations are five times more likely to say that IOs frequently use third-degree methods many times (15%), compared to those who never conduct interrogations (3%). Those who frequently conduct interrogations also have the highest propensity to justify the use of torture (37% have a high propensity, against 16 percent among those who never conduct interrogations).

POLICE TORTURE: WHERE ARE THE SAFEGUARDS?

Excerpts of Speeches at the Launch Event



SPIR Launch Event: (Left to Right) Dr Vipul Mudgal, Prof Suhas Palshikar, Dr Amar Jesani, Prof Sanjay Kumar, Ms Vrinda Grover, Justice S. Muralidhar, Mr Prakash Singh, Ms Radhika Jha

The SPIR 2025 was launched on March 26 at an impressive function at the India International Centre, New Delhi. The event was attended by lawyers, activists, students, former civil servants and police officers. After brief introductions by the Director of Common Cause Dr Vipul Mudgal, and the co-Director of the Lokniti programme, Prof Sanjay Kumar, the findings of the report were presented by Ms Radhika Jha, who leads the Common Cause chapter on police accountability.

The event featured a panel discussion titled **"Police Torture and Accountability: Where are the Safeguards?"** The panellists were Mr Prakash Singh, former DGP of UP, Assam, and BSF; Dr Amar Jesani, a public health expert and Editor of the Indian Journal of Medical Ethics; and Supreme Court lawyer and activist, Ms Vrinda Grover. The meeting ended with a Keynote address delivered by Justice S. Muralidhar, former Chief Justice of the Odisha High Court. A recording of the event is available at the Common Cause YouTube Channel. Edited excerpts of the speeches are given in the following pages.

Please Scan QR Code to access recording of the event.

YouTube Link to access the recording of the event:
https://www.youtube.com/watch?v=QhMEUDkpZeI

Mr. Prakash Singh

It [the Report] is a painful reading for me because it exposes the weaknesses of the police. I need hardly say that all is not well with the police, and that is why I have been campaigning for police reforms for more than three decades since my retirement. Not much has been achieved, but yes, we have made a dent. We have brought this issue into the public domain, and people are now talking about it and debating it. I would like to thank Common Cause for the immense interest they have taken in various aspects of police functioning by bringing out reports almost every two years on different aspects of police work.

The Other Side of Policing: Understanding Force and Excesses

I said all is not well with the police, but even then, I think things have to be viewed in a perspective that helps you understand two things — a.) The other side of the picture, and b.) Why do these things happen? Why are there excesses by the police? Why is there brutal use of force by the police?

Firstly, we are talking mostly about torture. But what is the definition of torture? Nobody is clear about it in India. The UN Convention does define torture, but in India, there has been no official definition. Would giving a slap amount to torture? I don't think so. Torture is much more serious — there has to be grievous hurt, there has to be solitary confinement, there has to be waterboarding, there has to be a threat of death — things like that, very, very serious matters. So, torture is to be distinguished from a lot of other things.

I would say tough methods need to be distinguished from torture… When you are dealing with hardened criminals…you have to be firm, you have to be tough. Now where is the border line and where do you cross it, that's a different matter. When does tough line degenerate into torture, that has to be understood. You need to adopt tough methods without talking of torture.

The report itself talks of police officers saying that great emphasis needs to be given to training in human rights. Seventy-nine percent of them [surveyed police personnel] are giving importance to human rights. Seventy percent say that we need to educate our force about the prevention of torture. Again, 79 percent say that interrogation should be evidence-based. So, under all these three heads, the percentage is above 70 — of policemen supporting human rights, supporting the prevention of torture, and supporting evidence-based interrogation.

> ***"Tough methods need to be distinguished from torture… When you are dealing with hardened criminals… you have to be firm, you have to be tough. Now where is the border line and where do you cross it, that's a different matter."***

So this is the other side of the picture. I mean, as I said, the glass is 70 percent full. Only 25 percent is contrary to expectations.

Now, there's another crucial point — the use of force without fear of punishment. Why should there even be a debate about it? Why is the danda [police baton] given to you [the police force]? Why are rifles given to you? Why is even more sophisticated equipment coming into the force? They are to be used in certain situations. But in those situations, if you are diffident or hesitant in the use of force, then you are abdicating your duty.

A Day Without the Police

I'll put it differently. Let's say that tomorrow, IAS officers go on leave — nobody performs their functions. Would life be very much disturbed? Let's say the Customs Department goes on leave — maybe there'll be some

smuggling. But can the police say, "We are on leave for 24 hours, and we will not take any action against criminals"? Can you even visualise that situation for one day?

The reason is that the fear of the police is there—and the fear of the police has to be there. If you completely remove that element of fear, then you are heading for chaos. You are heading for anarchy. You won't be able to step out of your house and feel safe. Women, girls — they will not feel safe going out.

The police has to be — and should be — able to use force in situations that warrant the use of force. Of course, the quantum of force used should not be excessive.

Police Force: A Tool to Uphold the Law

The police are meant to use force to maintain law and order. And India is a country where you have all kinds of problems — there is Naxal violence, there is Kashmir, there is violence in the entire Northeast…you have violence everywhere — caste riots, communal riots. How do you deal with them except by using force?

Of course, preventive action should be taken wherever possible. But if the use of force is inevitable and unavoidable, and when you are using that force legitimately, in the proper discharge of your duties, in a bona fide manner, you should have the assurance that you will not be punished for it. There is no question of any debate on this point.

> ***"There's enormous political or public pressure for quick results that leads to excesses. There's a lack of faith in the criminal justice system. I'm not justifying police torture, but I'm just trying to explain the circumstances under which these things happen. Lack of accountability, deficiencies in training, constraint of resources—these are the factors which contribute to this."***

Police Confession

The report is totally against confessions [before the police]. Why is it so? Is anyone sitting here — a lawyer, a judge, or a magistrate — more trustworthy than I am? I would like to know. I challenge that notion. The Malimath Committee, which examined reforms in the criminal justice system, clearly stated that, with certain safeguards, confessions made before a police officer should be admissible. It was all right in British India that you did not trust the police officer. But now, these are your own boys — they are the cream of the country. They come from the best families, with the best backgrounds, and they are among the most qualified people. In fact, Indian police officers are more qualified than police officers anywhere in the world.

Reasons Behind Police Torture

There's enormous political or public pressure for quick results that leads to excesses. There's a lack of faith in the criminal justice system. I'm not justifying police torture, but I'm just trying to explain the circumstances under which these things happen. Lack of accountability, deficiencies in training, constraint of resources—these are the factors which contribute to this. I am not justifying torture at all, and the kind of instances which have been quoted in the book are absolutely revolting. But I'm saying that the use of force has to be understood in certain circumstances, and the circumstances under which excessive force is used, need to be understood.

Dr. Amar Jesani

For a very long time in India, we have talked about deaths in police custody, but we have not talked about torture at all. Worldwide, if you see the history, in the 70s, 80s, and 90s, after Amnesty International was formed in the early 1970s, torture became a major area of campaign internationally.

Unfortunately, in India, both the official agencies as well as the human rights organisations have neglected this whole issue of torture. As a consequence, you'll find that there has been very little discussion about it.

Even here, what we are talking about in this report is torture in a very strong moral sense, saying that torture is bad. That's the premise — if you read the whole report, it is very simple: torture is bad.

Well, yes, it is an ethical problem, and it's definitely a moral issue.

Torture's Efficacy in Crime Prevention

I think the fundamental issue that we need to ask is: Is torture actually efficacious in controlling crime or in bringing criminals and terrorists to justice? And that's where we find no data. I have been looking for it for a very, very long time — and except for anecdotal evidence, you won't find anything concrete.

We are worried about the conviction rate being very low in criminal cases. Why is it so? If torture were really effective — and if it were being used in every police station — then we should have a 100 percent conviction rate, right?

I remember the debate that took place in the early 2000s when narco-analysis was being used (extensively). Narco-analysis emerged as part of the broader post-9/11 response, which advocated for more "sophisticated" means of coercion. The idea was: don't torture in a way that evokes public outrage — do it in a clinical, scientific manner.

> ***"IPS officers don't like the constables who do random beatings. Random beating is bad because you get emotionally carried away, some kind of a sadistic tendency comes out, and the person dies, and there's a big outcry and a scandal."***

In political science, you'll even find certain papers discussing concepts like "liberal democratic torture." I was reading an article on this in the British Journal of Political Science. It argued that this form of torture involves specialists — medical professionals — who inflict suffering without leaving physical signs, using medical science to extract information.

Now, if we have a truth serum, do we really need a judge like the honourable Justice sitting here? Because, apparently, if the "truth" is already out, then there's nothing more to adjudicate. Right?

You also have brain mapping and other such techniques. So, this is fundamentally one area that we need to look at: Is torture efficacious? And why have we not asked that question to the policemen in this report? They may say they do it, but do they have anything to back it up with? Any argument, any evidence, to show it has efficacy?

Why are IPS Officers the Biggest Supporters of Tortures?

The Indian Police Service officers are among the most trained and elite people, right? And I'm sure they are being trained in a very scientific manner — even when it comes to torture. One of the roles of the medical profession has historically been to provide ideas on how to conduct torture. There's no better torturer, arguably, than a group trained to

carry out scientific torture in an "efficacious" manner.

I had an experience of being in the police station and being arrested and watching how they work, and IPS officers don't like the constables who do random beatings. Random beating is bad because you get emotionally carried away, some kind of a sadistic tendency comes out, and the person dies, and there's a big outcry and a scandal. I remember being in the police station where the inspector, since I was in preventive detention a long time ago, was taking me around. He pointed things out, and at one point said, "This is not the way to torture." According to him, the right way of torturing was a focused, scientific method. If done that way, he claimed, you'd get information quickly.

What I saw, though, was that you rarely get information — what you mostly get are confessions, or people being implicated by others under duress. And perhaps that explains why IPS officers, paradoxically, are among the biggest supporters of torture — not necessarily because it works, but because it's seen as a tool of control, systematised and "rationalised."

Doctor's Role in Torture

I would say we need to talk more about doctors and their role. I've been involved with this issue since the 1980s, more at the international level, because at the national level, I found a troubling pattern. If you conduct a human rights investigation and find that a doctor neglected their duty — for example, failed to help an accused person who had been beaten and brought to the hospital — and you include that in the report, the human rights organisation will often say: "We are fighting against the police. The police are the enemy. We don't want to make doctors the enemy, too." So, it gets underplayed at press conferences or when things are being taken forward publicly.

But we have to remember that if we want justice and accountability, there are multiple actors involved. If the system is not made accountable at every level, we may win a few cases here and there, but we will not be able to stop torture at the ground level. In other words, prevention becomes impossible.

Now, what happens to a person who is tortured? Because of physical injuries, that person definitely comes into contact with the medical system. Either the police bring them to a hospital, or they go on their own after being released. And the doctor, in most cases, can identify that the injuries are due to torture.

But there's another aspect that often gets left out, and that's mental health. You must have heard of PTSD — Post-Traumatic Stress Disorder. This term was first used for GIs [soldiers of the US Army] returning from Vietnam, who had either engaged in or witnessed extreme violence. Similarly, people who are tortured also suffer from post-torture syndrome. I have seen survivors go to doctors months later, seeking help for mental health issues. But doctors often fail to recognise the symptoms or connect them to the torture experience.

This is why I say, whenever someone is severely tortured, they do come across the medical system somewhere, and that must be one of the key points of intervention for those fighting for accountability. Doctors must be

Attentive audience at the SPIR Launch Event on 26th March 2025, at IIC, New Delhi

allies in this struggle.

Torture Victims and Examination

I think you interviewed quite a few forensic experts, and their views have come through quite strongly. One, that there are not enough forensic experts available; and two, that doctors don't really know forensic medicine. But the fact is — if you've done an MBBS, you are supposed to know it. Forensic medicine is a subject you are required to study.

The reality, however, is that these things are not taught properly, and that's something we will have to overcome.

What actually happens at the ground level is this: most of the time, people who've been tortured or injured are not examined by forensic experts. Instead, they are seen by the practising doctors at the hospital. This could be a general practitioner or a specialist in any branch. And I think this is quite justified — it's not just in India.

> ***People who are tortured also suffer from post-torture syndrome. I have seen survivors go to doctors months later, seeking help for mental health issues. But doctors often fail to recognise the symptoms or connect them to the torture experience.***

You will find the same thing in the UK. A general practitioner may be doing the same kind of medical examination. So, globally too, it's quite common for a regular doctor to perform the role of a forensic examiner.

Even with autopsies — at the level of Primary Health Centres, Community Health Centres, or District Hospitals — it is not the forensic experts conducting them. It is other doctors who carry them out, because they're supposed to have basic knowledge of forensic medicine.

Here, I think we need to shift the focus. It's not only about the lack of forensic experts — it is about the existing doctors not doing their job properly. That's where the problem lies.

> **Custodial death is perhaps one of the worst crimes in civilised society governed by the Rule of Law. The rights inherent in Articles 21 and 22(1) of the Constitution require to be jealously and scrupulously protected. The expression "life or personal liberty" has been held to include the right to live with human dignity and thus it would also include within itself a guarantee against torture and assault by the State or its functionaries.**
>
> ***DK Basu vs State of West Bengal, SCR [1996] SUPP. 10. S.C.R.***

Ms. Vrinda Grover

We were told by the government that the [criminal] laws are being decolonised. And therefore, three new laws have been brought in: as we know, the BNS [Bhartiya Nyaya Sanhita 2023], the BNSS [Bhartiya Nagarik Suraksha Sanhita 2023], and the BSA [Bhartiya Sakshya Adhiniyam 2023].

One of the things that was absent from the "colonial law", the Indian Penal Code, was the offence of torture, despite the fact that it was committed excessively by the colonial rulers and regime. One would have imagined that this was the right time to introduce torture as an offence. Its silence and omission today are very striking, and therefore compel us to ask: Why did the government not want to make torture an offence?

The Indian state signed the UN Convention Against Torture as far back as 1997. We now find ourselves in the company of a handful of states — states we do not usually like to associate ourselves with — that have only signed, but not ratified, the Convention.

We think of ourselves as belonging to a very different domain. So why has ratification not taken place? The reason, we are told, is that under the Indian Constitution, a domestic law must first be passed before ratification can follow.

This is a conversation that the Government of India has been having — both at the domestic level, including in the Indian Supreme Court, as well as at the United Nations — for a very long time.

Accountability over Reform

I don't like the phrase "police reform." I think the appropriate phrase is "police accountability". It's not an institution that needs to be reformed, it is an institution that serves the people of the country and therefore must be accountable to the law of the land. Not to the political class, but to the law of the land.

> ***"I don't like the phrase "police reform." I think the appropriate phrase is "police accountability". It's not an institution that needs to be reformed, it is an institution that serves the people of the country and therefore must be accountable to the law of the land. Not to the political class, but to the law of the land."***

The issue of police accountability, particularly in the context of encounters, was brought into focus by democratic rights groups. The guidelines we have today in the NHRC were originally brought forward by democratic rights groups in the (undivided) Andhra Pradesh.

The importance and significance of civil society in creating mechanisms of accountability in our democracy cannot be undermined. It is groups of that kind that have actually moved various institutions, including the courts, and Common Cause does this extensively.

The definition of torture is neither a mystery nor (is) ambiguous. It is clearly defined in the UN Convention Against Torture, which states:

"Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for purposes such as obtaining information, punishment, intimidation, or for discriminatory reasons, by or at the instigation of, or with the consent or acquiescence of, a public official."

Rape as a Tool of Torture

One big gap that I do find in the report is the absence of a clear recognition that, across the world today, including in India, sexual violence, particularly rape, is a

form of torture, and is recognised as such.

I'm presently on a UN Commission, and we are actually documenting, in times of armed conflict, the kinds of sexual violence — on both male and female detainees — that are taking place. We are describing it, even under international law, as a form of torture.

And I think there is a gap. It's not being explicitly said, but if you read the report, this part is actually missed altogether. I think it's very important to always have a gender lens when we are doing this kind of work.

Rape in custody, as we know, is already recognised as an offense — and therefore, it is not just a sexual offense. It must also be understood as a form of custodial torture.

Institutional Bias as an Enabler of Torture

We are a plural society, a society of equal citizens. We cannot have a force that is authorised by law if there is bias, and that bias is clearly showing. Not only against Muslims, but also against the poor. It has always been there, against Dalits, against Adivasis. There is enough evidence.

Perhaps those who are in positions to take corrective measures will not do so. Therefore, it becomes our responsibility. How do we initiate those measures? How do we campaign for those measures?

> ***"We are a plural society, a society of equal citizens. We cannot have a force that is authorised by law if there is bias, and that bias is clearly showing. Not only against Muslims, but also against the poor. It has always been there, against Dalits, against Adivasis. There is enough evidence."***

That is what I have been doing for some time.

A case — or rather, a video — that many of you would have seen is of Faizaan, being beaten by policemen. It's a video that went viral. The men were in police uniform, so it becomes hard to claim they weren't doing it. Nobody else was roaming around wearing Delhi Police uniforms during the February 2020 Delhi riots.

It took us from 2020 to the end of 2024 just to get the investigation transferred to the CBI from the Crime Branch — all very elite, premier agencies.

That video went viral. What does it show? Forget the custodial killing — the boy is dead. It shows bias. Institutional bias.

Did any senior police officer in Delhi acknowledge there is a problem in the force? Why were they beating an unarmed young Muslim man, who, by their own records, did not participate in the riots? They checked every CCTV footage they could find. He didn't pick up a stone. And had he done so, there would have been no chance for us to carry this conversation forward. So why was the Delhi Police Commissioner not alarmed? Why is it not bothering him? Is it all right for Delhi Police to beat, thrash, and illegally detain an unarmed young Muslim man?

This is not just individual bias anymore. There is institutional bias in the police force — one we are refusing to acknowledge, and therefore, we don't remedy it. We don't correct it. But we cannot run away from it.

Targeting Torture in the Name of Crime Control

In this country, there is undeniable anxiety about crime. All of us feel it — in our homes, for our children, for our daughters. Crime is on the rise. And with increasing impoverishment and unemployment, crime will continue to rise.

So, what are we going to do?

Are we going to keep eliminating people, torturing people, locking them away, and handing out harsher punishments?

Has that reduced crime?

Who, then, is preying on

our anxieties? And who is accumulating more power in this entire process? That is something we need to think about very seriously.

There is a very insidious — and yet relentless — process underway:

A narrative that says, "Courts are useless, courts take time, let's get on with it, let's get rid of the legal process — it's for our own benefit."

That is exactly what a police state thrives on. And that's what the police want us to believe. But ask yourself: Who is defying the law in this country?

> ***This is not just individual bias anymore. There is institutional bias in the police force — one we are refusing to acknowledge, and therefore, we don't remedy it. We don't correct it. But we cannot run away from it.***

And who is the police beating?

We all read the newspapers. We see the visuals. We walk around our cities. I've witnessed it — even in 1984. I've always lived in this city. The police did nothing when Sikh homes were being burnt. So this is not about any one regime.

Today, ask: Who is being lynched? Who is being harassed? Whose homes are being raided?

Whose shops are being burnt?

The police? They are bystanders. They have the force, they have the authority — but they will not use it. These are the difficult truths we must reckon with. And torture, today, is no longer random. It is targeted torture. And that is what we need to start asking tough questions about.

Torture remains endemic, institutionalised, and central to the administration of justice and counterterrorism measures. India has demonstrated no political will to end torture.

Asian Centre for Human Rights (ACHR). (2011). Torture in India 2011. P. 1

KEYNOTE ADDRESS BY JUSTICE MURALIDHAR

A Standup Comedy Show Enthrals Audience

Rishikesh Kumar*

"I Am Foxed," Said the Bear: When Satire Exposes the Brutality of Confession.

It began with laughter. A forest. A fox. A bear. A police competition that sounded absurd—until it wasn't.

The speaker knew exactly what he was doing. In a room full of legal scholars, activists, students, and policy wonks, he chose satire over statistics, storytelling over speech, and delivered a scathing critique of police torture. It went something like this:

The competing cops were challenged to find a fox in a French forest as fast as possible. The American went in first, mimicked its mating calls, and the fox came running. The French lured the animal in minutes with its scent. Our cops from the sub-continent went in next but weren't out for eternity. They were busy thrashing a bear to pulp to confess that he was indeed a fox!

As the audience got the chilling metaphor, the laughter grew thinner by the time the bear whispered, "I am foxed". Confessions mattered more than the facts, he said, "in our real-world forests of law." What started as a comic tale soon slipped into dark humour at its best!

> ***Despite rising cases of custodial violence, bulldozer justice, and unlawful encounters, the NHRC often fails to register or act on complaints.***

The opening evoked an applause, but the Justice wasn't finished: "I Have to Apologise…"

And he continued after a pause:

"I have to apologise. I actually wrote out a detailed keynote address for this event. But at the same time, I was also drafting a letter to my dear friend Justice Ramasubramanian. In a hurry, I seem to have brought the letter instead. With your kind permission, may I read that instead?

The letter (to the Chairman NHRC), of course, seemed to be no mistake. It was another satirical device— pointed, and deeply political

An Open Letter to the NHRC Chair

- On institutional decay: NHRC — From Watchdog to Bystander

In his 'letter', Justice Muralidhar reflected on the slow erosion

** Rishikesh Kumar is a Research Executive (Legal) at Common Cause. This article presents an edited version of the keynote speech delivered by Justice S Muralidhar.*

of the NHRC. He pointed out that the selection process for the head of the NHRC — intended to be independent and transparent — has increasingly been driven by political favoritism, weakening its credibility. Despite rising cases of custodial violence, bulldozer justice, and unlawful encounters, the NHRC often fails to register or act on complaints. He also underlined the lack of transparency, with crucial custodial death records and CCTV footage kept away from public scrutiny. He warned that without urgent reform, an institution meant to protect rights risks becoming irrelevant — offering neither protection nor accountability.

- On torture — Changing Forms, Unchanging Reality

Justice Muralidhar brought attention to a harsh truth: police torture has not disappeared — it has merely changed form. Where earlier there was overt physical violence, today more sophisticated psychological methods are used to break individuals, often without leaving visible marks but with devastating effects.

Drawing from the SPIR findings, he outlined, among others, the techniques commonly employed:

- Threats of imprisonment under stringent laws
- Denial of access to family members, or taking them hostage
- Withholding basic needs like food, water, medical care, and toilet access
- Forcing acts against an individual's religious beliefs
- Enforced nakedness and verbal humiliation

> ***"the NHRC, once a shield for the vulnerable, now seems adrift — losing its voice when it is needed the most. The death of a sanitation worker hardly moves the system, exposing a deeper neglect."***

Justice Muralidhar stressed that these methods are designed to achieve the same old goal — forced confessions and submission — but without physical evidence, making accountability far more difficult.

He also warned that this evolution of torture represents a clear defiance of the Supreme Court's DK Basu guidelines on arrest procedures. While CCTV cameras have been mandated for all police stations, in reality, cameras are often non-functional, poorly maintained, or footage is kept inaccessible, turning a critical safeguard into a mere formality.

In essence, Justice Muralidhar argued, torture has not declined — it has simply learned to hide. Without genuine commitment to transparency and reform, abuses will continue unchecked, buried deeper behind institutional walls.

He highlighted the fact that we often get entangled in reclassifying threats —

Naxals becoming new categories, new dangers being invented, while the everyday citizen, like the sewage worker risking his life daily, remains invisible. He said, the NHRC, once a shield for the vulnerable, now seems adrift — losing its voice when it is needed the most. The death of a sanitation worker hardly moves the system, exposing a deeper neglect.

Challenging the popular slogan "imagine life without police," Justice Muralidhar flipped the narrative: *"If all the sewer cleaners stopped to work, you would have a real health crisis."*

Summing Up

Justice Murlidhar closed the letter that wasn't with a direct appeal to the NHRC:

"Could you file a report and tell us—how many complaints have you registered? How many prosecutions? How many convictions? And how many have you quietly allowed to disappear?"

In a span of 20 minutes, Justice Murlidhar entertained, exposed, and demanded action.

His message, through metaphor and mockery, was that justice cannot be coerced; confession is not compliance; and silence from institutions meant to protect rights is the loudest indictment of all.

POLICE PERCEPTIONS OF TOUGH METHODS

Views on Crime, Criminality and Mob Violence

Even though torture is deemed unconstitutional, the police continue to use and justify its practice. This article seeks to explore whether it is possible to draw broad linkages between police attitudes or perceptions of routine crime control with the propensity towards torture or illegal force. It sheds light over police personnel's understanding of the propensity for violence, and its use as a measure to control crime and maintain law and order, i.e. preventive arrests, instilling fear among communities, and supporting mob violence.

It also investigates the inherent biases of police personnel regarding proclivity for crime among communities. In this article, we also look at how the police perceive the criminal justice system, and particularly their role within its checks and balances. This article presents extracts from Chapters 2 and 3 of the report to look at police perceptions of the law-and-order situation in their locality and how it relates to the use or justification for violence.

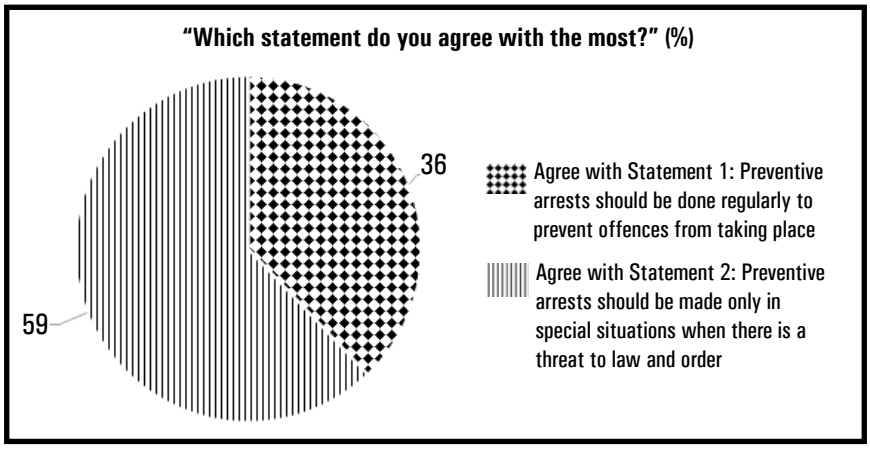
Police Opinions on Measures for Crime Control

Police personnel were asked their opinions on the usefulness of a variety of measures to reduce crime in their areas. Notably, some of the measures suggested would be clearly violative of legal standards, yet received significant support from the police. In fact, the survey brought out that a significant number of respondents regard preventive arrest as a reliable action to prevent crime.

Nearly half of the respondents (48%) feel that more preventive arrests of 'anti-social elements' would be a very useful measure for crime control even though as stipulated in law, preventive arrests are to be used in very limited circumstances. Forty-three percent respondents also strongly agree with forming special squads that can indefinitely detain people, while another 28 percent somewhat agree—a measure which is not legally permissible.

More than one out of three police personnel (36%) hold the opinion that preventive

Figure 1: More than one out of three police personnel believe that preventive arrests should be done regularly



Note: All figures are in percentages. Rest did not respond.

Question asked: Now I will read out two statements, please tell me which one you agree with the most.
Statement 1: Preventive arrests should be done regularly to prevent offences from taking place.
Statement 2: Preventive arrests should be done only in special situations when there is a threat to law and order.

arrests should be made regularly, contradicting the limited use allowed by the law (**Figure 1**). On the other hand, almost three in every five respondents (59%) agreed with the second statement, that these arrests should be made only in special situations.

More than half (55%) of the personnel believe that it is important for the police to use tough methods to create fear amongst the public, with 20 percent regarding it as "very important" and 35 percent "somewhat important" **(Table 1)**. On the other hand, 30 percent believed that there is no need to instil fear and the police should be a friendly force.

Table 1: More than half of the police personnel believe that it is important for the police to use tough methods to create fear amongst the public

"How important is it for the police to use tough methods to create fear among the public?"	%
Very important	20
Somewhat important	35
Not much important	13
Not at all important, police should be a friendly force, no need to instil fear	30

Note: All figures are in percentages. Rest did not respond.

Question asked: In your opinion, how important is it for the police to use tough methods to create fear among the public – very important, somewhat important, not much important, or not at all important?

> ***Close to two in every five respondents (38%) believed that violent punishment by mobs to the suspects of cow slaughter was justified to either "great" or "some" extent***

Police Perceptions Regarding Mob Violence

Almost half of the police respondents believed that mob violence was justified to either "a great extent" or "some extent" in the cases of sexual harassment and assault (49%), child lifting or kidnapping (47%) and petty thefts like pick-pocketing or chain-snatching (46%, **Figure 2**). Close to two in every five respondents (38%) also believed that violent punishment by mobs to the suspects of cow slaughter was justified to either "great" or "some" extent.

It is very alarming that such a significant proportion of police personnel justify mob violence.

Seen across ranks, while more than a quarter (29%) of the constabulary rank respondents "highly" justified the occurrence of mob violence in the four listed kinds of cases, 21 percent of the upper subordinate rank officers justified such violence to a great extent. IPS rank officers displayed almost as high support as constabulary rank respondents to mob violence, with 27 percent IPS personnel responding that it is "justified to a great extent".

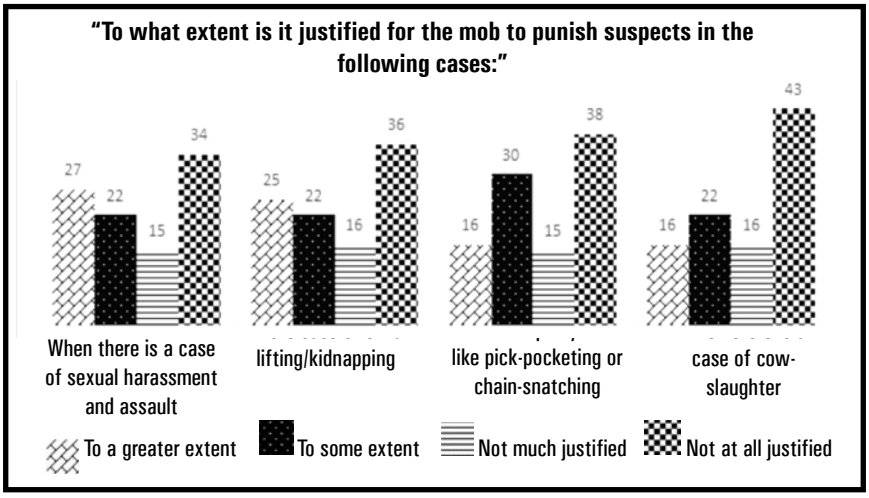
Police Perceptions of the Functioning of the Criminal Justice System

To understand the police perceptions of the overall working of the justice system, the respondents were asked to choose a statement they most agreed with between two contradicting statements—the first, that the criminal justice system is too weak and slow to address crimes, and the second that the system has its problems but it still addresses crimes. The study found that two in every three police personnel (66%) supported the latter statement. However, notably, more than a quarter (28%) of the respondents felt that the system is too weak and slow to address crimes **(Table 2)**, indicating their lack of faith in the criminal justice system.

Summary Justice or Legal Trials? —Police Perceptions

To gain an understanding of police attitudes towards their role in the investigation of allegations, police personnel were asked whether they believe in following a complete legal trial or administering minor punishments in dealing with minor offences. The objective was to examine

Figure 2: More than a quarter of the police personnel justify mob violence to a "great extent" in cases of sexual harassment and of assault and kidnapping of children



Note: All figures are in percentages. Rest did not respond.

Question asked: Sometimes there are instances when mobs punish crime suspects with violence. In your opinion, to what extent is it justified for a mob to punish suspects in the following cases - justified to a great extent, justified to some extent, not much justified, or not at all justified?

Table 2: More than a quarter of police personnel believe that the criminal justice system is too weak and slow to address crimes

The criminal justice system	%
Is too weak and slow to address crimes	28
Has problems but it still addresses crimes	66

Note: All figures are in percentages. Rest did not respond.

Question asked: Now I want to know your views on the functioning of the criminal justice system as a whole. I will read out two statements that people often make about their experiences with the criminal justice system. Please tell me which statement you agree with the most. Statement 1 – "The criminal justice system is too weak and slow to address crimes." Statement 2 – "The criminal justice system has problems but it still works to address crimes."

the police's belief in established legal procedure, and also their perception of their role in the criminal justice system.

The survey revealed that three in every five police personnel (60%) were in favour of legal trials. However, close to two in every five police personnel (38%) expressed the opinion that minor punishment by the police is preferable to legal trials **(Table 3)**. It is concerning that a significant proportion of police personnel, 38 percent, report their preference for extra-judicial resolutions rather than following due process.

Moreover, in terms of rank, upper subordinate rank officials (64%) were most likely to support legal trial, whereas, constabulary ranks (41%) were relatively in favour of minor punishment. Disconcertingly, two in five IPS level officers (40%) also subscribed to the idea of police giving minor punishment.

This survey sought responses on killing 'dangerous criminals' for the "greater good of society" vis-à-vis adherence to established legal procedures. The data revealed that three-quarters of the police respondents (74%) concurred that following a legal trial is imperative, regardless of how precarious a situation is. Contrastingly, 22 percent of the police personnel were in favour

> ***The study indicates that even though the police largely believe in the effectiveness of the criminal justice system, a significant proportion, 28 percent, dismissed the system as too weak and slow to address crimes.***

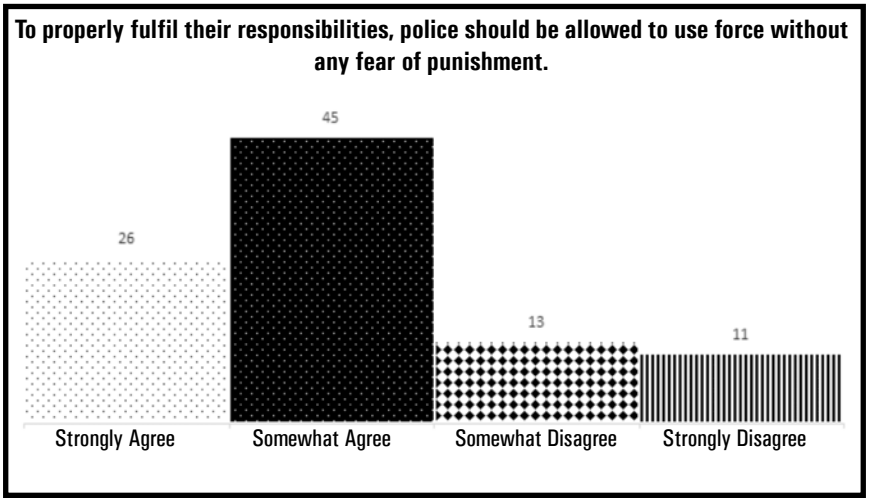
Table 3: Nearly two out of five police personnel prefer giving a minor punishment instead of a legal trial for minor offences

For minor offences, police personnel should...	%
Follow a complete legal trial	60
Give a minor punishment instead of a legal trial	38

Note: All figures are in percentages. Rest did not respond.

Question asked: I will read out two statements, please tell me which statement you agree with the most? Statement 1- "For small/minor offences, police should follow a complete legal trial."
Statement 2 - "In case of small/minor crimes, it is better for the police to give minor punishment to the criminal instead of following a legal trial."

Figure 3: More than 70 percent of the police personnel believe that police should be allowed to use force without any fear of punishment



Note: All figures are in percentages. Rest did not respond.

Question asked: "To properly fulfil their responsibilities, police should be allowed to use force without any fear of punishment." Do you agree or disagree?

Table 4: Twenty-two percent police personnel feel that killing 'dangerous criminals' is better than following proper legal procedures

Which of the two statements do you agree with the most:	%
For the greater good of the society, killing dangerous criminals during encounters is sometimes more effective than giving them a legal trial.	22
No matter how dangerous a criminal is, the police should try to catch them and follow proper legal procedures.	74

Note: All figures are in percentages. Rest did not respond.

Question asked: I will read out two statements, please tell me which statement you agree with the most? Statement 1 – "For the greater good of the society, killing dangerous criminals during encounters is sometimes more effective than giving them a legal trial." Statement 2 – "No matter how dangerous a criminal is, the police should try to catch them and follow proper legal procedures."

of killing 'dangerous criminals' **(Table 4)**.

Across ranks, upper subordinate rank officials (78%), are most likely to support following legal procedures over encounter killings, while the IPS officers as well as constabulary (24% each) are more likely to support encounter killings **(Table 5)**.

On being asked whether the police should be allowed to use force without any fear of punishment, a significant majority—71 percent—stated that to properly fulfil their responsibilities, the police should be allowed to use force without any fear of punishment, with 26 percent strongly agreeing with the statement and 45 percent agreeing moderately **(Figure 3)**. The high number of responses for the use of force "without fear of punishment" is a strong indicator of a lesser regard for accountability.

Conclusion

The findings suggest that police are not free of societal biases.

Table 5: Nearly one out of four constabulary-level and IPS-level police officers support encounter killings of 'dangerous criminals'

Rank	Dangerous criminals should be...	
	Killed during encounters	Caught while following all legal procedures
Constabulary ranks	24	71
Upper subordinate ranks	19	78
IPS level ranks	24	69

Note: All figures are in percentages. Rest did not respond.

Question asked: I will read out two statements, please tell me which statement you agree with the most? Statement 1 – "For the greater good of the society, killing dangerous criminals during encounters is sometimes more effective than giving them a legal trial." Statement 2 – "No matter how dangerous a criminal is, the police should try to catch them and follow proper legal procedures."

Thus, there is an urgent need not only to ensure better training, but also in-job reorientation and increased oversight of police personnel, to ensure that they remain free of biases, while also abiding by legal standards in imparting their duties.

The study further indicates that even though the police largely believe in the effectiveness of the criminal justice system, a significant proportion, 28 percent, dismissed the system as too weak and slow to address crimes. Yet, there is a tendency amongst the police to resort to extra-judicial ways of dealing with crimes and suspected criminals. The police preference for instant justice in the form of killing in "encounters" also speaks volumes about police's inclination to resort to extreme forms of violence.

Rather, police torture is an entrenched system with strong structural ties to class, caste, and communal dynamics, political power, and patriarchal attitudes that ensure the continued subjugation of women and children. The intersectionality of these factors adversely impacts the most vulnerable sections of the people.

People's Tribunal on Torture (Andhra Pradesh). (2008). Interim Observations of the Jury. p.1.

POLICE COMPLIANCE WITH LEGAL PROCEDURES

Views on Custody, Confessions, and Safeguards

Torture by the police occurs most often during the earliest stages of suspects being brought into custody, i.e., during and following the arrest *(Human Rights Watch, 2016)*. While India does not have a specific torture prevention law, there are numerous legal safeguards and procedures designed to prevent custodial torture. Police need to adhere to those safeguards and procedures to uphold the rights of the accused and ensure the legality of the arrest. The Constitution of India also extends fundamental rights to arrested persons that are meant to act as shields against torture.

There are several procedural requirements to be followed by the police at the time of arrest. There are safeguards obligating the police to ensure that arrested persons have access to key actors/authorities soon after their arrest—a lawyer, doctor, and a judicial magistrate. These actors/authorities are duty-bound to ensure that the arrested person is not being tortured or being subjected to violence and/or ill-treatment in custody. Beyond the arrest, confessions made to the police are inadmissible in court as evidence based on the very principle that the police may obtain such confessions through torture, coercion, or inducement.

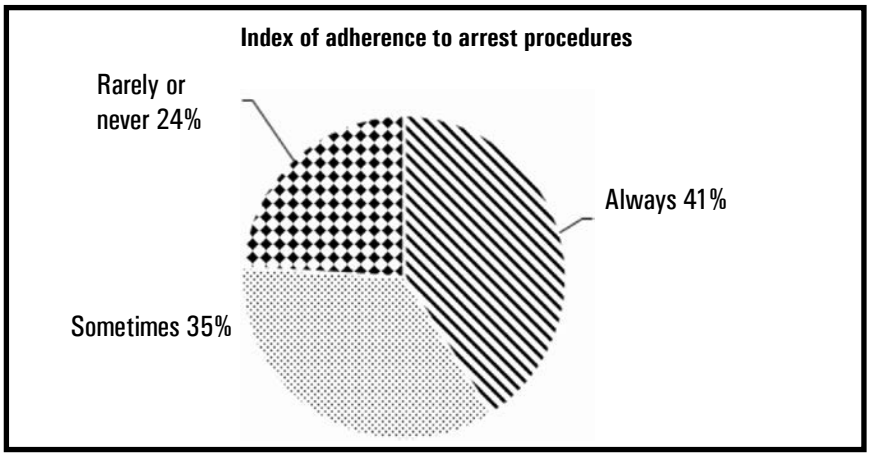
This article garners police's opinions on adherence to arrest and other legal procedures and upholding the safeguards against torture. It also examines police's views on the duration of police custody, confessions to the police and aims to understand whether the present safeguards are seen as important.

Extracts from Chapter 4 of SPIR 2025 are given below to present some of the main findings of the chapter.

Compliance With Arrest Procedures

The police respondents were asked how often, in their experience, various arrest procedures are adhered to when a person is being arrested. It is important to note that the legality of any arrest is dependent on *full* compliance with *all* of these procedures. As per this threshold, compliance is poor.

Figure 1: Only two out of five police personnel reported the arrest procedures always being adhered to when a person is being arrested



Note: All figures are in percentages. The categories of "rarely" and "never" were merged while creating the index. Please refer to Appendix 5 of the SPIR 2025 to see how the index was created.

Question asked: In your experience, how often are these procedures followed when a person is being arrested – always, sometimes, rarely, or never? : Inform them of the reasons for the arrest; Complete an arrest memo with all the required signatures; Identify yourself as a police officer with your name tag visible; Inform their family members about the arrest; Inform them that they can contact a lawyer; Complete an inspection memo; Take the arrestee to a doctor for a medical examination; Have a female police personnel present at the time of a woman's arrest; Release the person on bail immediately at the police station in bailable offences.

Eleven percent said that the family members are "rarely or never" informed about the arrest (17 percent said "sometimes", 70 percent said "always"). Twelve percent said that the arrestee is "rarely or never" taken to the doctor for a medical examination, while 70 percent said they are "always" taken. Nine percent police personnel said that the inspection memo is "rarely or never" completed, against 72 percent who said that it "always" happens. In a similar vein, nine percent of the police respondents said that arrestees are either "rarely or never" informed of the reasons for their arrest, against 72 percent who said that it "always" happens. Just 65 percent of the respondents said that they "always" identify themselves as police officers with name tags visible at the time of arrest. Further, 80 percent said that a female officer is "always" present at the time of a woman's arrest.

It is settled in law that accused persons have a statutory right to be released on bail in bailable offences on fulfilling bail conditions (Section 478, BNSS, 2023). However, only 62 percent police respondents said that the arrested person is "always" released on bail immediately at the police station in bailable offences, while 19 percent said they are "sometimes" released, 9 percent said "rarely" and four percent said "never".

An index was created to cumulatively measure the rates of compliance with the various arrest procedures mentioned above.

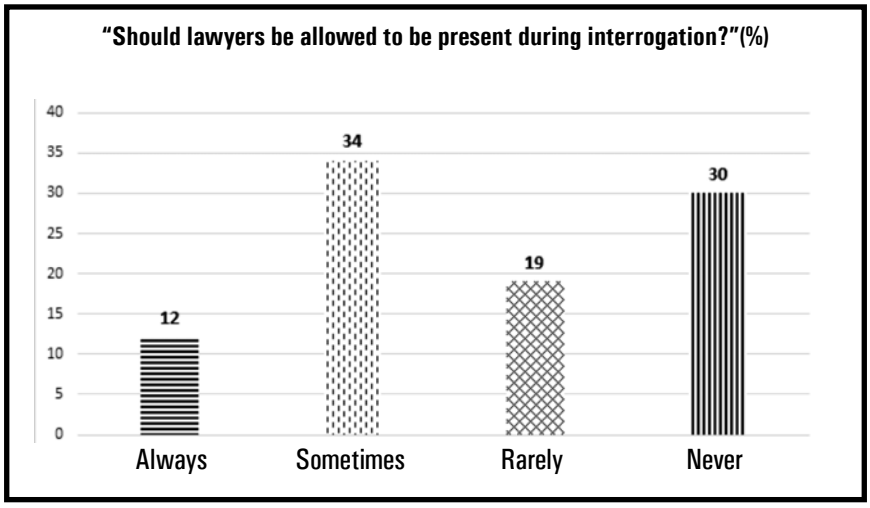
> ***"Overall, only two out of five police personnel (41%) reported that arrest procedures are "always" followed, while 35 percent reported that they are "sometimes" adhered to"***

Overall, only two out of five police personnel (41%) reported that arrest procedures are "always" followed, while 35 percent reported that they are "sometimes" adhered to. Worryingly, close to a quarter of the respondents (24%) said that the arrest procedures are "rarely" or "never" followed **(Figure 1)**. Police personnel from Kerala report the highest likelihood of adhering to arrest procedures, with 94 percent saying that arrest procedures are "always" followed. Contrastingly, only eight percent of police personnel from Jharkhand report "always" adhering to arrest procedures.

Access to External Safeguards: Lawyers, Doctors and Judicial Magistrates

On being asked how soon after an arrest, the arrested person is generally allowed to meet their lawyer, one-third of police personnel (32%) expressed the view that it is decided by the investigating officer in the case.

Figure 2: Thirty percent of police personnel believe that lawyers should never be allowed to be present during interrogation



Note: All figures are in percentages. Rest did not respond.

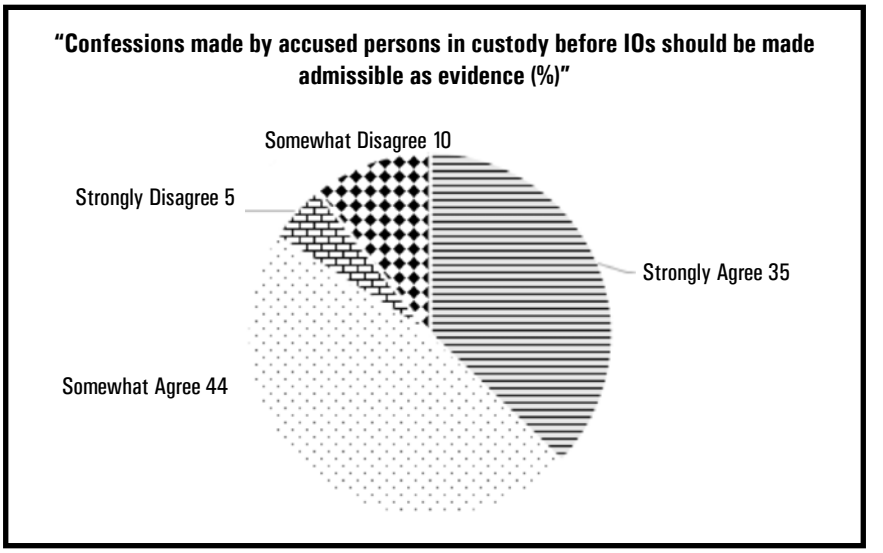
Question asked: Should lawyers be allowed to be present during interrogation – always, sometimes, rarely, or never?

Another 32 percent said that arrested persons are allowed to see a lawyer "immediately". Seventeen percent said that it is generally allowed only once the arrested person is taken to the judicial magistrate. Seven percent said that lawyers are not permitted before the person is produced before the magistrate.

The police respondents were also asked if they think that lawyers should be allowed to be present during interrogation. Only a little more than one-tenth of them (12%) said that lawyers should "always" be allowed to be present during interrogation, while only one-third of them (34%) said that lawyers can "sometimes" be allowed. Strikingly, a significant proportion of the respondents—30 percent—thought that lawyers should "never" be allowed to be present during interrogation, in complete violation of the law **(Figure 2)**.

Further, the police personnel were asked their opinion on how feasible or practical it was to take every arrested person for a medical examination. The responses of the police respondents revealed that only a little more than half of them (57%) said that it is "always" feasible to take every arrested person for a medical examination, while three in every ten (31%) also said that it is only "sometimes" possible. Cumulatively, one-tenths of the respondents even reported that it is either "rarely" (8%) or "never" (2%) possible to ensure the medical examination of every arrested person.

Figure 3: Four out of five police personnel believe that confessions made to the police should be admissible in court



Note: All figures are in percentages. Rest did not respond.

Question asked: "Confessions made by accused persons in custody before Investigating Officers of all ranks should be made admissible as evidence". Do you agree or disagree with this statement.

Presenting an arrested person before a magistrate within 24 hours of arrest is a constitutional mandate. Police personnel were asked how feasible is it to produce an arrested person before the magistrate within 24 hours of arrest. Fifty-six percent of respondents said that it is "always" feasible, 30 percent believed that it is "sometimes" feasible, and 11 percent said that it is "rarely or never" feasible. IPS officers were the least likely (39%) to believe that it is "always" feasible to produce a person before a magistrate within 24 hours of the arrest, while upper subordinate officers were the most likely (61%) to believe so.

> ***The police, rather than facilitating the safeguards and upholding the rights of the accused, prefer wide discretion during arrest and interrogation***

Duration of Police Custody

In this study, the police personnel were asked for their opinions on the duration of police custody of arrested persons. While 36 percent agreed that "15 days is

sufficient time for police custody of accused persons", another 31 percent were of the opinion that "in serious offences, time in police custody should be extended beyond 15 days". Further, 20 percent felt that "time in police custody should be extended beyond 15 days for all accused persons". Surprisingly, seven percent also went so far as to say that "15 days is too long, it should be reduced", which was a silent answer category.

The study also found that those officers who frequently conducted interrogations were in fact more likely to agree that the 15 days' time period for police custody was sufficient (41%), compared to those who never conducted interrogations (25%).

Reliance on Confessions

The police and criminal justice system's reliance on confessions has been amply documented (Lokaneeta, 2020).

This report finds that four out of five police personnel believe that confessions made before the police should be admissible in court, with 35 percent respondents "strongly agreeing" and 44 percent "somewhat agreeing" **(Figure 3)**. The centrality of confessions for the police was again reinforced when 70 percent of police personnel reported that confessions made by the accused persons are "very important" in cracking a case, while 21 percent said that they are "somewhat important".

> ***The legality of any arrest is dependent on full compliance with all the arrest procedures. As per this threshold, compliance is poor.***

Conclusion

This chapter brings to light the police's lack of compliance with constitutional and legal safeguards at the time of arrest and interrogation, as reported by police personnel themselves. It also draws attention to the police's reliance on confessions despite clear legal provisions regarding the inadmissibility of confessions in court. The failure to comply with procedures, as well as dependence on confessions, leaves scope for police to use torture against accused persons.

Seen together, these practices and views signal police propensities towards unbridled powers for coercive actions. This chapter shows that the police, rather than facilitating the safeguards and upholding the rights of the accused, prefer wide discretion during arrest and interrogation. The use of such discretion goes against established legal procedures and also paves the way for unbridled use of illegal force and torture in police custody.

References

Human Rights Watch. (2016). Bound by Brotherhood: India's Failure to End Killings in Police Custody. pp. 50-52.

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The Courts, must not lose sight of the fact that death in police custody is perhaps one of the worst kind of crime in a civilised society, governed by the rule of law and poses a serious threat to an orderly civilised society.

State Of Madhya Pradesh vs Shyamsunder Trivedi And Ors, 1995 AIR SCW 2793

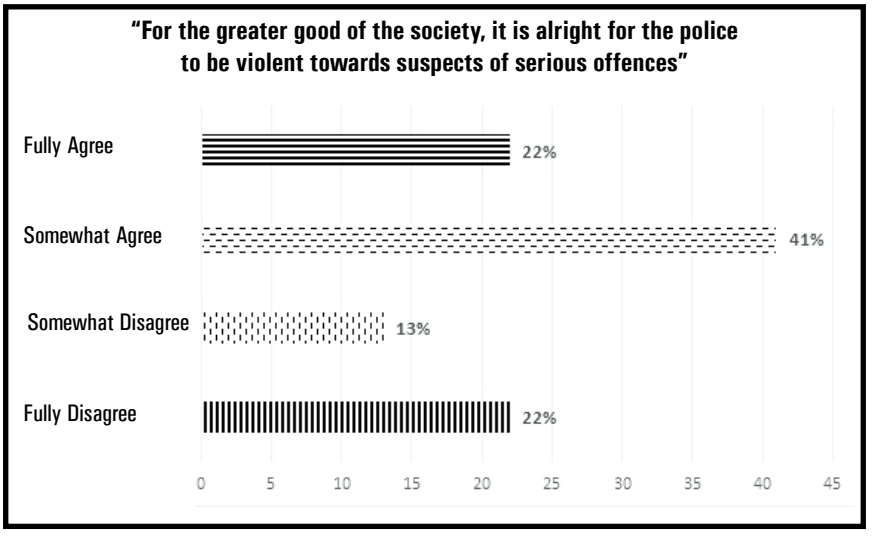
JUSTIFYING VIOLENCE AND TORTURE IN CUSTODY

Against Accused and Non-Accused Persons

In India, there is no domestic torture prevention law that defines, deters, and punishes the use of torture. While India has signed the UN Convention Against Torture, we have failed to ratify the Convention or enact a domestic law. In the absence of a comprehensive definition for torture, there exists wide and arbitrary interpretations of what constitutes torture, and importantly what is "not torture", with no coherence or consensus across the justice system and society at large.

In this article, we present some extracts from Chapter 5 of the report. This chapter looks at the extent to which police justify torture. It poses questions that cover a range of coercive and violent techniques—from verbal threats to slapping to 'third-degree' to torture. The chapter also explores the justifications for the use of coercive and violent tactics against non-accused persons who come in contact with the police. Lastly, it captures police perceptions on the frequency of coercive or violent tactics being used by Investigating Officers.

Figure 1: Nearly two out of three police personnel feel that it is alright for the police to be violent towards suspects of serious offences for the greater good of the society



Note: All figures are in percentages. The rest did not respond.

Question asked: Do you agree or disagree with the following statement: "For the greater good of the society, it is alright for the police to be violent towards suspects of serious offences."

Importance of Legal Procedures

When asked if it is alright for the police to be violent towards suspects of serious offences for the "greater good of society", 22 percent of police personnel "fully agreed", while another 41 percent "somewhat agreed". Thirteen percent "somewhat disagreed" and 22 percent "fully disagreed" **(Figure 1)**. This goes on to show that nearly two out of every three police personnel are alright with the use of violent methods against suspects of serious offences. Support for such violence remains consistent across ranks, with 24 percent constabulary personnel, 23 percent IPS officers, and 19 percent upper subordinate personnel "fully agreeing" that it is alright to be violent towards suspects of serious offences.

Support for Use of Violent Tactics

When the police personnel were asked if the use of verbal abuse or threats, actions like slapping, etc., and third-degree methods are justified during investigations, 30 percent police personnel justified the use of 'third-degree methods' towards accused in serious criminal cases, while 9 percent felt that the use of third-degree methods was justified while investigating petty

Table 1: Thirty percent police personnel justify the use of third-degree methods against the accused in serious criminal cases

Nature of offence	"Are the following methods justified?" ('Yes' responses only) (%)		
	Verbal abuse or threats	Actions like slapping, etc.	Third-degree methods
Towards the accused while investigating **petty offences** like theft, etc.	49	32	9
Towards the accused while investigating **serious criminal** cases like rape, murder, etc.	55	50	30

Note: All figures are in percentages. The rest either said that the above methods were not justified or did not respond.

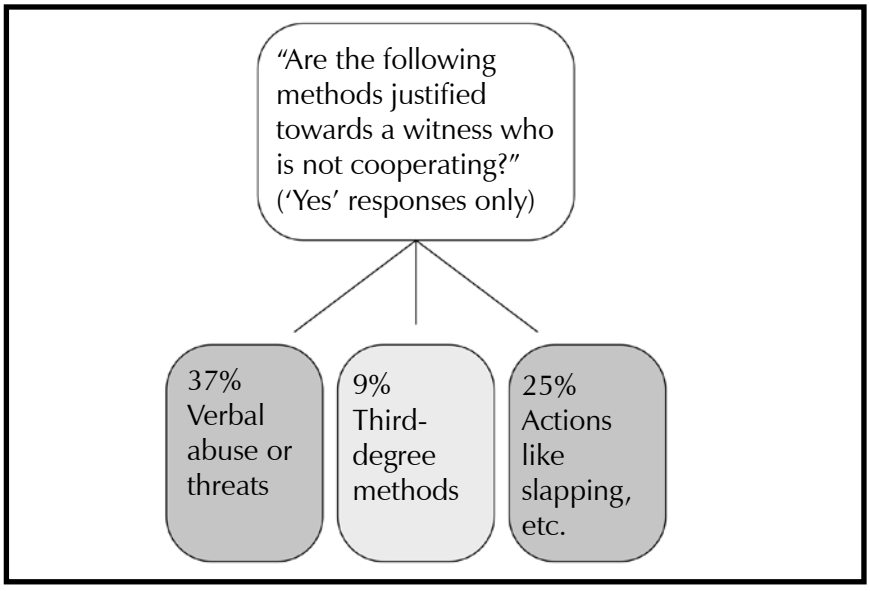
Question asked: We often hear that the police use various tactics to solve criminal cases, such as verbal abuse, threats, physical force such as slapping, etc. or third-degree methods. In your opinion, are these practices justified towards the following?

offences like theft, etc. As many as 49 percent of police personnel felt that the use of verbal abuse or threats were justified when investigating petty offences and the support rose to 55 percent when asked about serious criminal cases. One-third of the respondents (32%) also justified the use of actions like slapping, etc. in petty offences, while half the respondents (50%) justified it in serious criminal cases (**Table 1**).

When disaggregated by the rank of the police personnel, IPS officers were the most likely to justify the use of 'third-degree methods', with 45 percent justifying its use when investigating serious criminal cases, while 32 percent personnel of the constabulary rank and 26 percent personnel of the uppers subordinate ranks support the use of third-degree methods in serious criminal cases. Officers who frequently conduct interrogation of suspects were also the most likely (33%) to justify the use of 'third-degree methods' towards suspects in serious criminal cases, compared to those who never conduct interrogations, who were the least likely to support it, at 20 percent.

Police personnel were also asked how often Investigating Officers (IOs) use 'third-degree' methods such as beating on soles, applying red chilli powder to body parts, suspension of the

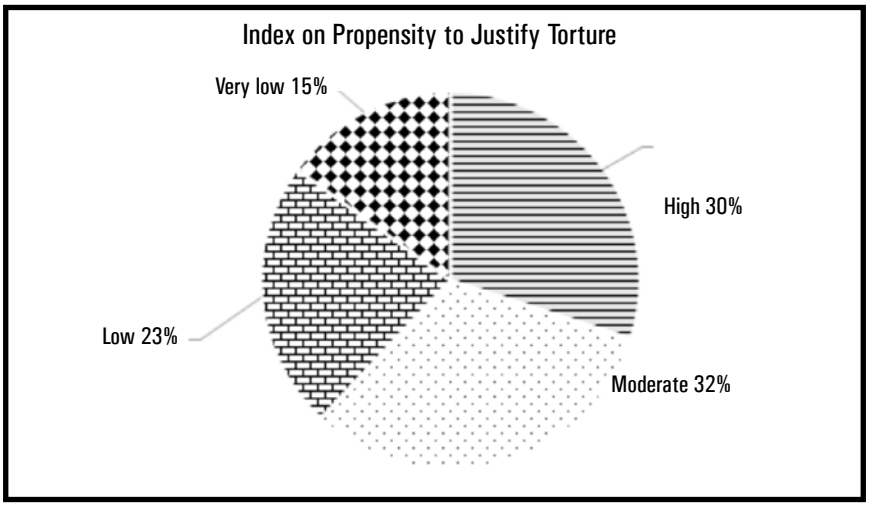
Figure 2: Almost one in every ten police personnel justify the use of third-degree methods against an "uncooperative" witness



Note: All figures are in percentages. The rest either said that the above methods were not justified or did not respond.

Question asked: We often hear that the police use various tactics to solve criminal cases, such as verbal abuse, threats, physical force such as slapping, etc. or third-degree methods. In your opinion, are these practices justified towards a witness who is not cooperating?

Figure 3: Thirty percent police personnel have a high propensity to justify torture



Note: All figures are in percentages. Please refer to Appendix 5 of the SPIR 2025 to see how the index was created.

Question asked: We often hear that the police use various tactics to solve criminal cases. In your opinion, are third-degree methods justified – a) towards the accused while investigating petty offences like theft, etc. b) towards the accused while investigating serious criminal cases like rape, murder, etc. c) towards a witness who is not cooperating?

Question asked: To what extent do you agree that torture is sometimes necessary and acceptable to gain information in the following kinds of cases - strongly agree, somewhat agree, somewhat disagree, or strongly disagree: major theft cases, rape or sexual assault cases, serious violent crimes like murder, crimes against national security like terrorism cases, and cases against history-sheeters?

Question asked: Suppose a minor girl has been kidnapped, and the suspect is not cooperating. In such a situation, how justified is it to use third-degree to locate the girl?

Question asked: In your opinion, how frequently do Investigating Officers have to use third-degree to obtain information in serious offences to deal with an uncooperative accused – many times, sometimes, once or twice, or never?

body, etc., to obtain information in serious offences. Eleven percent of the respondents said it is used "many times", while 16 percent said that it is used "sometimes". In contrast, a little more than half of the respondents (52%) said that it is "never" used. Those who often conduct interrogations were the most likely to report that such 'third-degree methods' were being used frequently by the police (15%), compared to those who never conduct interrogations (3%).

Further, when asked about the support for use of torture in specific crime cases, 42 percent "strongly agreed" that torture was necessary and acceptable in crimes against national security, about one-third "strongly agreed" for its use in cases of rape or sexual assault and cases of serious violent crimes like murder (34% each), 28 percent "strongly" supported its use in cases against history-sheeters and 20 percent in major theft cases.

> ***"Officers who frequently conduct interrogation of suspects were also the most likely (33%) to justify the use of 'third-degree methods' towards suspects in serious criminal cases"***

Use of Violent Tactics Against Non-Accused Persons

When shifting the focus from suspects to non-accused persons in a case, such as family members of accused or witnesses in a case, police's support for the use of violence tactics against them is noteworthy. Eleven percent police personnel 'strongly justify' hitting/ slapping family members of an absconding accused and 30 percent 'somewhat justify' it.

In case of "uncooperative" witnesses, 37 percent police personnel justify the use of verbal abuse or threats, 25 percent justify physical force

such as slapping, etc., and 9 percent even justify the use of third-degree methods (**Figure 2**). IPS officers were the most likely (28%) to justify the use of third-degree methods against uncooperative witnesses, followed by constabulary rank officers at 10 percent and upper subordinate officers at eight percent.

Index on Propensity to Justify Torture

An index was created, using various questions from the survey on the use of torture and third-degree methods, to assess the propensity of police personnel to justify torture. The index indicated that overall 30 percent of police personnel have a 'high' propensity to justify torture, followed by 32 percent who have a 'moderate' propensity, 23 percent with 'low' propensity, and 15 percent with 'very low' propensity (**Figure 3**).

When disaggregated across ranks, it is found that one-third (34%) IPS officers have a high propensity to justify torture, the highest across ranks. This is closely followed by 32 percent constabulary rank personnel who have a high propensity, while a significantly lower proportion of 26 percent upper subordinate rank officers indicated a high propensity to justify torture. Consistent with previous trends, police officers who frequently conduct interrogations were also the most likely (37%) to have a high propensity to justify torture, while those who never conduct interrogations were the least likely to have a high propensity to justify torture, at 16 percent.

> ***One-third of IPS officers have a high propensity to justify torture, the highest across ranks. This is closely followed by 32 percent constabulary rank personnel***

When assessing the propensity to justify torture across states, police personnel from Jharkhand and Gujarat have the highest propensities to justify torture—50 and 49 percent, respectively. In contrast, 73 percent police personnel from Kerala have a 'very low' propensity to justify torture.

Conclusion

Overall, this chapter presents alarming findings. It provides empirical evidence, across each subsection, that the police respondents support the use of violence and torture in many ways. Such support also extends to the use of these methods towards non-accused persons such as family members of accused, or witnesses. IPS officers in almost all states have a high propensity towards justifying the use of torture.

Suspects of serious offences are most vulnerable, with nearly two out of three police personnel agreeing that for the greater good of society, police need to be violent towards them. The data shows the trend that police officers who often conduct interrogations are significantly more inclined to justify the use of torture and third-degree.

In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment.

Rule 43(1), United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

SAFEGUARDS AGAINST TORTURE

Perspectives of Lawyers, Judges, Doctors

Early and effective access to the three crucial safeguards against torture and ill-treatment in custody—lawyers, judicial magistrate, and doctors—plays a key role in preventing and dealing with cases of police torture. Unfortunately, the findings of this report indicate that police often disregard these safeguards. In this context, it was important to also look at the perspective of these actors who play an important role in ensuring police accountability and preventing custodial torture.

The study included in-depth interviews with a total of 28 such actors, comprising of seven doctors, 12 lawyers (including one Public Prosecutor), and nine judges, whose responses have been presented in this article, extracted from Chapter 7 of the report.

Victims and Purposes of Torture in India

Many interviewees consider torture to be frequent, emphasising that the victims of torture are mainly people from poor and marginalised communities. A lawyer described it as "all the faceless and voiceless' are targeted. The following groups are common targets of torture: Muslims, Dalits, Adivasis, people who cannot read and write, and slum dwellers. A lawyer candidly described it thus: *"The police know nobody is going to stand up for them. They do not have lawyers… At some level, the police know even if we do something to him, he is not going to take it to court nor is [he] in a position to complain to anybody. It becomes easier for them to do"*.

Interviewees said that the main causes of torture are to extract information from suspects, and also, often to mete out "punishment". Interviewees said police use force and violence to get information from suspects in custody. About this, two judges asked how the police are expected to get information without resorting to some force or "pressure", while in contrast, a lawyer pointed out the police have little knowledge of non-coercive interrogation techniques. Such a wide range of reactions indicates that there are differing levels of acceptance of forceful techniques even among accountability actors.

> ***"Many interviewees consider torture to be frequent, emphasising that the victims of torture are mainly people from poor and marginalised communities."***

Access to Lawyers

Lawyers also reveal that the police do not easily facilitate arrested persons' access to them. Some lawyers recounted being regularly stopped by the police from even entering the police station to assist an arrested person.

Lawyers from some states said they have to put in an application at the magistrate's court for access during interrogation, and such orders are not granted as a "matter of right". Two lawyers said that in their locations they may be allowed to be in seeing range, but not in earshot range of the police's interrogation, preventing them from intervening while it is ongoing.

Most people, the poor and marginalised in particular, do not know they are entitled to a lawyer during interrogation and the police do not inform them of this right. There was a consensus that the possibility of coercion or torture by the police increases without a lawyer. A retired High Court judge said the absence of a lawyer gives the police *"a free hand, they become like unbridled horses"*. A lawyer shared that even if severe acts such as beating do not always occur, acts such as slapping or applying

some force during interrogation are "normalised" in the absence of a lawyer.

First Production Before a Judicial Magistrate

A key constitutional safeguard against illegal detention and torture is the requirement of Article 22(2) that every arrested/detained person shall be produced before the nearest judicial magistrate within 24 hours of their arrest. Eight interviewees believe the judicial magistrate has the most important role in preventing torture in custody. Several interviewees outlined the questions a magistrate should asked the person produced before them; these include: whether the person is being treated properly, whether they have been injured or tortured by the police, whether they have seen a doctor, whether they have a lawyer, and if they cannot afford one, facilitate a legal aid lawyer for them. The interviewees also expressed that the magistrate should call for and examine key documents relating to each arrest, such as the First Information Report and case diary, among others.

However, when focusing on the lived experiences, ten interviewees recounted that it is "very rare" to see magistrates interacting with arrested persons. A lawyer described magistrates as "silent spectators" who "do not record anything or ask [arrested persons] where and when they were arrested". A retired High Court judge said that magistrates only check whether the produced person is alive. Even if magistrates see "visible marks of torture or physical discomfort of the person", they will not probe further.

There were also systemic problems that were highlighted by the interviewees that hinder a magistrate's envisioned role. A lawyer pointed out that the high number of productions in a day makes it "virtually impossible" for the court to individually interact with every arrested person. A retired district judge pointed out that dealing with the "large number" of productions and presiding over trial proceedings, makes it difficult for magistrates to give adequate time or judicial attention to productions.

Medical Examination of Arrested Persons

Another key safeguard against torture in the law is the requirement that an arrested person is to be medically examined "soon after the arrest is made", with the specific mandate that "any injuries or marks of violence" on the arrested person are to be recorded in the medical examination report. A key pattern that emerged from interviews with doctors is that medical examinations of arrested persons are often done by doctors without expertise in forensic medicine. This in turn leads to implications for the accused since the examining doctor is less capable of recognising signs of torture.

> ***"Most people, the poor and marginalised in particular, do not know they are entitled to a lawyer during interrogation and the police do not inform them of this right."***

Examinations are conducted by whichever doctor is available, even if they are an "eye specialist or anaesthesiologist". A doctor pointed out that there are no forensic doctors in district or taluk hospitals. It also emerged from the interviews that there is no routine protocol or practice in place that makes it compulsory for healthcare workers to photograph or sketch the injuries found on a person, and such documentation also depends on policies that may or may not be present in each medical institution.

Collusion of Accountability Actors With the Police

Interviewees talked about the partisan relationships, including informal social networks, and active collusion of police with lawyers, judicial magistrates, and doctors, and its impact on police accountability. A retired judicial magistrate candidly shared that *"judicial officers in every station, they want to get some service of*

> ***A retired High Court judge said that magistrates only check whether the produced person is alive. Even if magistrates see "visible marks of torture or physical discomfort of the person", they will not probe further***

the police officers for their safety and well-being" and in turn the police get "accommodated" by these judicial officers.

Several interviewees observed that due to the close proximity of these various actors of the criminal justice system, owing to their duties as well as their place of residence, friendly relations develop and impact a judicial magistrates' oversight of the police. Lawyers, on the other hand, maintain friendly relations with the police so that the latter will "give them cases". Lastly, police maintain good rapport with doctors and often stick to the same doctor for examinations so that doctors would not write "implicating reports" or will neglect to record injuries.

Postmortem Reports in Custodial Death Cases

Two doctors said they have observed that postmortems in custodial death cases are conducted by "untrained staff", such as attendants, and sometimes even sweepers. A doctor explained that due to "caste dimensions", particularly the refusal to touch dead bodies, "very often doctors do not even do the postmortem".

A lawyer recounted that in her experience, postmortem reports are frequently "manipulated", in that injuries on the body are not recorded, and the "underlying cause of death" is not reported.

The interviewees expressed divergent views on how the postmortems are carried out, indicating that there is a concerning lack of consistency in the conduct of postmortems across the country, and also that accountability actors in different states hold varying levels of trust in the accuracy and independence of postmortem reports.

Complaints Against Torture and the Role of NHRC

There was consensus among judges and lawyers that the NHRC is not effective in dealing with cases of torture. Three retired High Court judges reiterated this, with one describing the NHRC as a "paper tiger without any teeth". Two lawyers emphatically said they advise their clients to avoid filing complaints with the NHRC altogether. They both spoke of the waste of time, energy, and resources of the chance for relief or remedy from the NHRC, compared to courts.

Further, interviewees described numerous systemic hurdles that impede affected persons from filing complaints of torture, whether before the NHRC or any other institution, and taking them forward.

Interviewees commonly pointed to several challenges that prevent people in custody from even filing complaints of torture. These include, prominently, the fear of reprisal or retaliation from the police, which can range from verbal threats to physical attacks. Another deterrent repeatedly brought up is the reality that torture complaints will be investigated by the police itself and people doubt these investigations will proceed fairly. The lack of any independent witnesses, or the lack of willingness of witnesses to depose in court against police officers, was also stated. Judicial disbelief and apathy to torture complaints was also a recurrent factor in restraining complaints.

Confessions to the Police and the Need for Anti-Torture Law

There was consensus among lawyers and judges that confessions to police should never be made admissible. A retired judicial magistrate said that it would be "very dangerous to the life of accused persons". Lawyers said that this would go against the basic tenets of criminal jurisprudence, against fair trial principles, and particularly against the right against self-incrimination. Several

interviewees warned that making confessions admissible would effectively provide legal sanction to torture and coercion by police.

Eleven interviewees emphatically supported the need for a separate law against torture. A lawyer highlighted a larger point relating to such a law's purpose. She said, *"Law is not merely for punishment and for action after the incident. It is a code of conduct. You should not do this thing. The law must also have the intention to stop violence and torture"*.

Key Recommendations

The following are select key recommendations provided by the interviewees:

1. **Actions by judicial magistrate**

   1.1 Interact with arrested persons at first production.

   1.2 Order arrested persons to be medically examined throughout the duration of police custody.

   1.3 Independent enquiry and trial by lawyers and judges on allegations of torture.

   1.4 Judicial magistrates should conduct surprise inspections of police lock-ups.

2. **Mechanism for an independent investigation into torture:** Several interviewees recommended that investigation into torture complaints should not be done by the same police department whose personnel are implicated. One retired judge suggested that a separate investigating agency could be considered. A lawyer suggested that an independent body be formed, which is wholly insulated from police involvement.

3. **Select legal reforms and training:**

   3.1 Medical training of doctors on legal, moral and ethical aspects of torture and practical guidelines on how to recognise torture and give evidence in courts in torture cases.

   3.2 Improved police training on interrogation techniques and "modern scientific evidence analysis".

   3.3 The provision for lawyers to be present at interrogation must be expanded to ensure that a lawyer can be present "throughout the interrogation".

> ***"A key pattern that emerged from interviews with doctors is that medical examinations of arrested persons are often done by doctors without expertise in forensic medicine."***

There is a need for a law on medico-legal examination of "live persons including torture victims" which would fix liability on doctors and for streamlining autopsy procedures in cases of custodial deaths.

Conclusion

The findings of this chapter, gathered from lived experiences and insights from accountability actors themselves, sharply highlight that existing safeguards against torture are failing to prevent, protect effectively, or ensure redress for torture. These grave shortcomings are failing to dent the wide use of torture.

Torture is used by the police to target the poor and marginalised, ranging from extracting or coercing information from crime suspects to being expended as a means of control and punishment. The present constitutional protections against torture are ineffective in practice—magistrates are overburdened, access to lawyers is almost never facilitated, sometimes barring them from even entering police stations, and the doctors examining the accused are not always trained in forensic medicine.

The legal system is failing to provide constitutional protections against torture, and other institutional processes and mechanisms are also failing to limit or eradicate torture by the police.

COMMON CAUSE EVENTS

Edit-a-Thon at the National Law School of India University, Bangalore

On January 5, 2025, the Justice Definitions Project of Daksh organised an Edit-a-Thon at the National Law School of India University, Bangalore. Radhika Jha from Common Cause was one of the resource persons during the event. Fifty-four law students participated in teams during the event for drafting legal definitions of 15 legal terms across various thematic areas on the Justice Definitions Wiki Platform.

Campaign for Right to Information Act

On February 20, 2025, a meeting at Common Cause House was held on the Right to Information Act and the newly introduced Digital Personal Data Protection Act that surreptitiously tries to make the RTI Act meaningless. Common Cause offered a platform which brought together representatives of around 20 civil society organisations for the cause. Collectively, all the organisations agreed upon the strategy for saving the RTI and creating awareness about the recent changes.

Consultation and Lectures at the National Human Rights Commission (NHRC)

The NHRC invited Dr Vipul Mudgal, Director and Chief Executive of Common Cause, for a guest lecture on "Media and Human Rights" at a short-term internship program conducted between January 27 and February 7, 2025, New Delhi.

Lecture at Ashoka University

On March 28, 2025, the Ashoka Public Policy Society, in collaboration with the Ashoka Law Society of the Ashoka University, organised a conversation with Common Cause Director Dr Vipul Mudgal on Public Interest Litigation, judicial activism, and challenges in law advocacy. The interactive conversation with enthusiastic students from different departments covered some of the recent PILs, such as the Electoral Bonds case 2024 and Misuse of Section 124A and IPC on Sedition 2016, and the Status of Policing in India Reports.

Representations:

On February 28, 2025, Common Cause was a signatory to a letter addressed to the Principal Chief Conservator of Forests (Wildlife), Bhopal, against an alert order issued by the Forest Department regarding the search and surveillance of 'infamous hunting communities' in forest circles. The letter, drafted by the Criminal Justice and Police Accountability Project, Bhopal, highlighted the unconstitutionality of the alert order, asserting that it discriminates against tribal communities, violates their right to privacy and vitiates the principles of forest governance and criminal justice.

Representation on the DPDP Rule Act

On February 14, 2025, Common Cause submitted its recommendations for the Draft Personal Data Protection (DPDP) Rules, 2025. The recommendations highlighted the shortcomings in the Rules and sought clarity on them. A general comment on the crippling effect of the DPDP Act 2023, via the amendment made to Section 8(1)(j) of the Right to Information Act, 2005, was also included in the recommendations to voice the overwhelming concern shared by civil society organisations across the country of the Right to Information Act being transformed to the "Right to Denial of Information Act"

Second Surjit Kishore Das Memorial Lecture at Doon Public Library and Research Centre, Dehradun

On February 8, 2025, the Doon Public Library and Research Centre hosted the Second Surjit Kishore Das Memorial Lecture, in memory of the former Chief Secretary of Uttarakhand and mentor of the institution. Dr Vipul Mudgal, Director of Common Cause India, delivered the lecture on "Public Interest Litigation as a Tool of Social Change: The Civil Society Experience."

pic credit: Doon Library and Research Centre

Dr Vipul Mudgal, Director of Common Cause, delivers the Second Surjit Kishore Das memorial lecture at Doon Library and Research Centre

The prestigious and well-attended lecture shed light on some of the most meaningful PILs of our times, such as the revocation of the Electoral Bonds Scheme and the 2G and Coal Block allocation verdicts. The other cases highlighted at the lecture were of the patients' right to die with dignity (Living Will case) and the ecological concerns raised by the PIL challenging the Chardham Highway project. Dr Mudgal emphasised that transparency in elections and governance owes much to sustained civil society interventions. Tracing the roots of PILs to post-Emergency India, he stressed the urgent need to defend independent institutions to safeguard democracy.

The event also saw the launch of a book of poems by Surjit Das. Tributes were paid by Prof B K Joshi, Nicholas Hofland, Vibha Puri Das, Geeta Sehgal, and others. Dr Das was also associated with Common Cause after his retirement from the Indian Administrative Service.

It is a fact that majority of the victims of police torture belonged to the poor and marginalised sections of the society, who because of their social/economic status become the soft targets.

National Campaign Against Torture. (2019). India: Annual Report on Torture 2019. P. 8.

COMMON CAUSE CASE UPDATES

Supreme Court Cases

Petition Challenging the Electoral Irregularities and to Ensure Free and Fair Elections and the Rule of Law (W.P. (C) 1382/2019)

Common Cause, along with ADR filed a writ petition in 2019 to safeguard the democratic process from electoral irregularities, uphold free and fair elections, maintain the rule of law, and enforce the fundamental rights guaranteed by Articles 14, 19, and 21 of the Constitution.

The petitioners sought a direction from the Hon'ble Court to the ECI to not announce any provisional and estimated election results prior to the actual and accurate reconciliation of data. A direction to the ECI was sought by the petitioners to evolve an efficient, transparent, rational and robust procedure/ mechanism by creating a separate department/grievance cell.

Thus far, Common Cause has sought the Supreme Court to direct the ECI to publish on their website the voter turnout numbers and percentages from each polling station for the 18th Lok Sabha elections. In a subsequent hearing, IA no. 115592 was heard by Justice Dipankar Datta and Satish Chandra Sharma and the court was not inclined to interfere, owing to the similarity of prayers in the main writ petition and the application under hearing.

On March 18, 2025, the counsel for ECI suggested that the petitioners may file representation(s) and approach the ECI with their grievances and suggestion(s) and the ECI would inform them about the date of hearing so as to try to resolve the issues and contentions raised. Such representation(s) was required to be made within a period of ten days from March 18, 2025 and the ECI would hear the petitioner(s) and proceed to decide such representation(s). The registry was directed to relist the matter in week commencing July 28, 2025.

Petition Seeking Directions to Implement the Recommendations of the National Electric Mobility Mission Plan, 2020 (W.P. (C) 228/2019)

Common Cause partnered with CPIL and Jindal Naturecure Institute to seek directions for the implementation of the recommendations of the National Electric Mobility Mission Plan, 2020, promulgated in 2012 by the Ministry of Heavy Industries (nodal agency for the automobile sector), and the recommendations of Zero Emission Vehicles: Towards a Policy Framework, promulgated in September of 2019 by the Niti Aayog to curb the problems of Climate Change, Air pollution, and cost of importing fossil fuels to India.

Upon hearing the petition, the Court ordered the government to apprise it of the status of the implementation of the FAME India scheme. Subsequently, the Ministry of Road Transport and Highways of India, through its secretary, was impleaded as a respondent in the petition. In a later hearing, the Court taking cognisance of the multiple connected issues pending before it, sought the assistance of decision-making authorities concerned with electric, hydrogen, or any other alternate powered vehicles. In the hearings that followed, the Court granted respondents time to file counter-affidavits and place before it all the policy decisions that were taken by UOI to promote electric vehicles. The court also directed the respondent to inform the learned Attorney General for India to assist the court in the next hearing.

The matter was listed on April 22, 2025 when the government sought time to place on record the policy decision taken by it from time to time for promoting the electric vehicles and also for setting-up of the requisite infrastructure to facilitate the

consumers of electric vehicles. The Court granted four weeks' time and directed the registry to post the matter on May 14, 2025.

Contempt Petition against Lawyers Strike (Conmt.Pet. (C) 550/2015 in W.P.(C) 821/1990)

The contempt petition filed by Common Cause against the strike of lawyers in Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction has led to the submission of draft rules by the Bar Council of India (BCI).

On January 24, 2024, the BCI counsel had stated that the rules may be examined by the Court and the suggestion of the court, if any, shall be accepted by the BCI without any condition.

On February 6, 2024, arguments by the counsels were heard by the court. On February 9, 2024, the court appointed Justice Muralidhar, as Amicus Curiae, to examine the rules in the context of the existing judgments and objections and to submit his report.

Subsequently, Dr S Muralidhar submitted that he held a hybrid meeting with BCI and was given suggestions. The BCI requested that the Amicus Curiae forward his formal report to them, and the court granted the request. On December 10, 2024, on hearing the counsels and perusing the report on Rules made by the BCI, the court requested the BCI counsels and Chairman to convene and submit some suggestions on the rules, and present 'Draft Rules' within a period of four weeks.

On February 4, 2025, Chairman BCI and the Amicus Curiae assured the Court that they will have a meeting and the outcome of the meeting shall be apprised to the Court on the next date of hearing. On February 11, 2025 Chairman BCI and Amicus Curiae, assured the Court that the Rules would be finalised definitely within a period of four weeks. On April 2, 2025 three weeks' time was sought by Mr. Manan Mishra, when he apprised the Court that a committee has been formed and the committee is likely to give its result and opinion within that period. On April 30, 2025, the court directed that the matter be listed on May 7, 2025.

Writ for Supreme Court Directions on Police Reforms (W.P. (C) 310/1996)

The battle for police reforms has been going on for the last 26 years. The Supreme Court in 2006, gave a historic judgement in the petition filed by Prakash Singh, Common Cause, and NK Singh. Since then, it has been a struggle to get the Court's directions implemented. On July 3, 2018, responding to an interlocutory application filed by the Ministry of Home Affairs regarding the appointment of acting Director General of Police (DGP) in the states, the Supreme Court gave a slew of directions to ensure that there were no distortions in such appointments. It laid down that the states shall send their proposals to the UPSC three months prior to the retirement of the incumbent DGP. The UPSC shall then prepare a panel of three officers so that the state can appoint one of them as DGP.

In October 2022 and December 2022, the Court entertained applications filed by the State of Nagaland and the UPSC to finalise the names of DGP for the state. In January 2023, the matter was listed twice, when the Court decided on the IA filed by the State of Nagaland on appointment of DGP. This matter was listed several times.

On March 25, 2025 after hearing the counsels for the petitioners, the bench directed that an advance copy of the contempt petitions be served on the nominated/standing counsel for the State of Jharkhand. Mr. Prashant Bhushan, stated that he filed I.A. Nos. 150155/2023 and 67359/2023 in Writ Petition (Civil) No. 310/1996 on behalf of the petitioner, Prakash Singh, seeking appropriate orders/ directions as to compliance and for modification of the order(s) of this Court, which have been registered, but were not listed. Registry was directed by the bench to examine and list these applications on the next date and listed all pleas for hearing in the week commencing May 5, 2025.

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Status of Policing in India Report 2025

Police Torture and (Un)Accountability

Jointly prepared by Common Cause and its academic partner, Lokniti-CSDS, the Status of Policing in India Report 2025: Police Torture and (Un)Accountability, explores the nature, causes and factors that contribute to the perpetuation of police violence and torture in India.

SPIR 2025 surveyed 8,276 police personnel at 82 locations such as police stations, police lines, and courts across 17 states and UTs. Responses were gathered from urban and rural areas, state capitals, district headquarters, and other small, medium and big towns. The respondents cover the police personnel of constabulary ranks, upper subordinates, and IPS officers. The study includes in-depth interviews with stakeholders who are supposed to act as safeguards against police torture—judges, lawyers and doctors

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