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Ending torture, seeking justice for survivors

TORTURE NORMALISED: STATE VIOLENCE IN INDIA

Report Summary

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Torture and ill-treatment in India are not isolated occurrences – they are systemic, deeply entrenched, and frequently carried out by State authorities with impunity. Although India signed the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (UNCAT) in 1997, it remains one of only 21 countries globally that has yet to ratify the treaty.

The lack of a specific offence of torture under Indian law results in the absence of comprehensive official data on acts that constitute torture or ill-treatment under international law. Reports of State violence compiled by the National Human Rights Commission (NHRC) highlight a disturbing pattern, and yet they fail to capture the full extent and severity of the issue – partly due to concerns about the NHRC's independence and effectiveness. Meanwhile, Indian civil society organisations (CSOs) and human rights defenders continue to document and expose the widespread practice of torture and other grave human rights violations, despite significant risks of reprisals.

Building upon the important work and activism of these civil society actors, this report demonstrates that in practice, torture has become normalised in India.

Police and security forces routinely use torture and ill-treatment as a tool of law enforcement. Instances of physical and sexual violence, as well as other forms of custodial abuse, are far too common. Alarming rates of deaths in custody have been recorded for years, yet they remain largely unaddressed. Extrajudicial killings in so-called police 'encounters', during counter-terrorism operations, and in specific regions of the country, are similarly prevalent. Torture is commonly employed by authorities during investigations to extract confessions or information from alleged offenders, or to target individuals from marginalised communities.

To prevent such abuses, India's legal framework provides certain safeguards for individuals deprived of liberty, such as the right to legal counsel, medical examination upon arrest, and presentation before a magistrate within 24 hours. The Supreme Court has issued additional protections, including the installation of CCTV cameras in police stations. However, recent reforms of criminal laws have been criticised for expanding police powers and diluting protections. Additionally, the gap between India's legal framework and its implementation – including due to systemic disregard for due process and weak judicial oversight – is alarming.

State violence in India also unfolds in an increasingly hostile context characterised by the shrinking of civic space. Restrictions on the operation of civil society organisations and curbs on freedom of speech, association, and assembly, have been accompanied by the use of arbitrary arrests and torture to silence dissenting voices, including human rights defenders, activists, and journalists. During peaceful demonstrations, authorities have shown complete disregard for international standards on the use of force, with both lethal and less-lethal weapons used indiscriminately against protesters – resulting in hundreds of deaths. Misuse of counter-terrorism legislation against dissidents has become common, as vague and overly broad provisions enable abuse. The Unlawful Activities (Prevention) Act (UAPA) allows individuals – and not only organisations – to be designated as "terrorists" and criminalised for "unlawful activities" such as causing disaffection against India. The law permits extended pre-trial detention and imposes stringent bail conditions that make release significantly difficult.

Ultimately, the very process of bogus criminal prosecution under the law often becomes a form of punishment itself, as recognised by the Supreme Court.

Marginalised communities, particularly Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis), are significantly impacted by State violence. Despite constitutional and legislative protections, these groups continue to experience systemic discrimination, torture, and other forms of violence. Discriminatory social norms drive civilian violence against them and impunity for such acts further exposes them to abuse by police and security forces. Reports detail severe beatings, sexual violence, caste-based verbal abuse, and other forms of ill-treatment in custody – some of which result in death.

Religious minorities, including Muslims, Christians, and Sikhs, also face heightened risks of torture, extrajudicial killings, and other forms of abuse by State actors. Discriminatory and nationalist rhetoric and policies have made such violence increasingly acceptable. Torture of individuals from religious minorities in custody remains a serious concern. State actors have also been implicated in violence against these groups during protests, in response to intercommunal unrest, in law enforcement operations, and under the guise of preventing alleged "cow-smuggling". Additional punitive measures against religious minorities, such as demolishing homes and places of worship, deepen their marginalisation.

For historical and political reasons, certain regions in India have experienced widespread systematic violence by security and armed forces. These include Chhattisgarh, the India-Bangladesh border region, the Union Territory of Jammu and Kashmir, and India's northeastern border region, including the state of Manipur. Often under the guise of fighting insurgency and terrorism, authorities have reportedly committed torture, extrajudicial killings, and enforced disappearances on a regular basis. Indian authorities routinely justify these violations by relying on the Armed Forces Special Powers Act (AFSPA) and the UAPA, which – despite having the features of emergency measures – operate absent a formal declaration of a state of emergency and remain in force for prolonged periods. Through the AFSPA, state Governments or the national Government can designate certain areas as "disturbed", thus granting the armed forces extensive and unchecked powers to arrest, search, and use lethal force against people in these areas. The AFSPA thus facilitates widespread killings and acts of torture by the armed forces and allows for such acts to be committed with impunity. UN bodies and experts, as well as CSOs, have repeatedly called for the repeal or amendment of the AFSPA and the UAPA, which are still in force, unchanged.

Impunity for torture in India remains the norm. Although mechanisms exist to receive complaints and conduct investigations into torture and other State abuses, justice and accountability remain largely out of reach for victims and survivors. Many face harassment, intimidation, or even further violence for attempting to report complaints. Police authorities frequently delay or refuse to register First Information Reports, a necessary step for investigations to proceed. Where investigations do occur, they are often marred by delays, poor documentation, and lack of independence, with police officers often interfering or trying to cover up their own abuses. External complaints bodies such as the Police Complaints Authorities – which were meant to be independent –, where operating, continue to heavily rely on police personnel to investigate their own colleagues, undermining impartiality. Similarly, the NHRC has proven largely ineffective; despite receiving a high volume of complaints, it issues recommendations in relatively few cases, rarely calling for disciplinary action, and has not recommended prosecutions of perpetrators. Although compensation has been awarded to some victims, the NHRC is unable to enforce its recommendations.

Additional barriers to accountability are the requirement of prior sanction before State authorities can be prosecuted, and the wide immunities applied to the armed forces and to State officials carrying out counter-terrorism operations. Under the Bharatiya Nagarik Suraksha Sanhita (BNSS) – which replaced the Indian Code of Criminal

Procedure – proceedings cannot be commenced against public servants, including police officers, without permission from the state or central Government. This is a major obstacle to accountability as such permission is rarely granted. At the same time, the broad immunities provided for military personnel and other security forces under the AFSPA and the UAPA allow for human rights violations to be committed with impunity.

This context of normalisation of torture and impunity for perpetrators in India has drawn growing concern from UN treaty bodies and experts. However, the international community's response has been limited. While several States made recommendations on this issue during India's 2022 Universal Periodic Review (UPR), many States have refrained from publicly criticising India's human rights record in bilateral settings. India's strategic and geopolitical position and importance in global trade have contributed to a reluctance among States to exert meaningful diplomatic or economic pressure, allowing patterns of abuse to persist largely unchallenged.

To address the crisis of torture and ill-treatment in India, this report offers a set of targeted recommendations for the Indian Government and the international community, calling for urgent and concerted efforts to undertake legal and policy reforms to prevent torture, ensure justice and reparation for survivors, and take any other measures needed to eradicate torture and other grave crimes in the country.

Recommendations

To the Government of India

International commitments and legislative reform

- Establish a clear and time-bound roadmap for the ratification of UNCAT.
- Ratify the Optional Protocol to UNCAT and establish an effective and independent National Preventive Mechanism (NPM) to regularly monitor all places of detention.
- Criminalise torture as a separate offence in domestic law, in line with UNCAT, for instance by amending the Bharatiya Nyaya Sanhita (which replaced the Indian Penal Code).
- Amend sections 148-150 of the Bharatiya Nagarik Suraksha Sanhita (which replaced the Code of Criminal Procedure), to clearly define when assemblies may be dispersed and ensure any use of force meets the principles of legality, necessity, and proportionality, strictly prohibiting lethal force, in line with the UN Guidance on Less-Lethal Weapons, the UN Model Protocol on Protest Management, and other international standards.
- Immediately amend or repeal counter-terrorism legislation to ensure compliance with international law, including legal certainty, necessity, proportionality, and the protection of fundamental rights. In particular, the Unlawful Activities (Prevention) Act, the Armed Forces Special Powers Act, the National Security Act, and the Jammu and Kashmir Public Safety Act should be reviewed to ensure that:
    a. Provisions that grant unchecked powers to authorities and allow for prolonged pre-trial detention are repealed.
    b. These laws do not include vague or overly broad language that may allow their misuse to target human rights defenders, activists, and others who dissent or who belong to marginalised communities.
    c. Individuals suspected of terrorism-related offences are provided all legal safeguards, including protection from arbitrary detention, access to prompt and impartial judicial review, and fair trial rights.
    d. The use of security measures in 'disturbed areas' is limited, temporary, proportionate, necessary, and subject to independent judicial oversight.

- Repeal provisions that grant immunity to public officials or require prior Government sanction to prosecute public officials accused of torture and other grave crimes, such as extrajudicial killings, from all relevant domestic laws.
- Amend the Protection of Human Rights Act to make the National Human Rights Commission's (NHRC) recommendations binding and allow this body to investigate allegations of torture or other abuses by armed forces.
- Adopt comprehensive legislation prohibiting discrimination, including intersectional, direct and indirect discrimination, to protect religious minorities and other marginalised groups from torture and other forms of violence, ensure complaints are investigated, and perpetrators are held accountable.

Implementing and enforcing anti-torture standards

- Immediately release all those arbitrarily detained.
- Ensure the enforcement and regular judicial oversight of legal safeguards for all persons deprived of liberty from the moment of arrest, including prompt access to a lawyer, information on rights, judicial oversight, independent medical examinations, and the right to inform a family member, in line with international standards.
- Integrate human rights and anti-torture training into the regular curriculum for police, prison staff, security personnel, prosecutors, and judicial authorities, including on the Méndez Principles on Effective Interviewing, the Istanbul Protocol, and the Minnesota Protocol.
- Instruct judicial magistrates to proactively inquire into allegations of torture or ill-treatment during remand hearings in accordance with international standards, and exclude any torture-tainted evidence from any legal proceeding, except when used against the alleged perpetrator as evidence of the torture.

Addressing impunity

- Enable and safeguard the work of CSOs that document torture and support survivors, including by providing funding, ensuring an enabling legal and policy environment, refraining from the use of laws to restrict their operations, and protecting human rights defenders from intimidation, harassment, or reprisals.
- Ensure the systematic collection and publication of disaggregated data on allegations of torture and ill-treatment, active investigations, and sanctions imposed.
- Ensure all victims of torture and their families, including those in detention, can safely report complaints to independent bodies and are protected from reprisals.
- Ensure that all allegations of torture are documented in accordance with the Istanbul Protocol, including through mandatory, independent medico-legal examinations.
- Conduct prompt, impartial, and effective investigations into all allegations of torture, deaths in custody, extrajudicial killings, and other grave violations.
- Ensure that the NHRC can carry out its mandate effectively and independently, including by ensuring that personnel involved in the investigations are totally independent and have adequate training and expertise on the investigation of torture and other grave violations.
- Ensure the same high standards of investigation are adopted in all cases, including those involving human rights defenders, lawyers, journalists, members of religious or other marginalised communities; and that all victims and survivors in India have access to justice and reparation.
- Launch nationwide public awareness campaigns to challenge the normalisation of torture and promote accountability and respect for human rights.

To the international community

- Prioritise the eradication of torture and ill-treatment in engagement with India, including through bilateral and multilateral partnerships, development cooperation, and diplomatic dialogues.
- Integrate human rights benchmarks, including the prohibition of torture, into all trade, investment, and security cooperation agreements with India.
- Publicly and consistently raise concerns over the use of torture, ill-treatment, and extrajudicial killings to silence dissent and oppress religious or other minorities in India.
- Promote the investigation of torture and other serious human rights violations to ensure accountability for perpetrators through all available means, including under the principle of universal jurisdiction when appropriate.
- Support Indian CSOs working to document human rights violations, provide legal assistance, and advocate for justice and accountability, including through funding and protection mechanisms.
- Encourage and support India's ratification of UNCAT, including through diplomatic engagement and cooperation on legislative and institutional reform.
- Use diplomatic and multilateral forums, including the UN Human Rights Council, to call for independent investigations into allegations of torture in India, and to press for the implementation of recommendations from UN treaty bodies and special procedures.

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Photo cover by B Mathur/REUTERS A sandal lies near police during a protest in New Delhi against corruption and rising food prices. Authorities used batons, water cannons, and tear gas to disperse peaceful demonstrators.

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