

REFORM, NOT COMPLIANCE

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The writer is central information commissioner.

Common Cause's recent survey on the Status of Policing in India is said to have affirmed that the black sheep in the police force find nothing wrong with beating up criminals to extract a confession. It is still, however, too judgemental to suggest that torture is endemic to Indian policing, as Maja Daruwala does (['Exorcising third-degree'](#), IE, September 27). There is still an overwhelming majority of IPS and other police officers in the country who abhor torture and have faith in human dignity. Torture is not justified under any circumstance. It is a wound in the soul that demeans the society.

India signed the UN Convention Against Torture on October 14, 1997, but is yet to ratify it by enacting the law on torture. It does, though, have instruments in place to take immediate action in torture cases. Any custodial or other case of death in police custody is enquired into by a magistrate and in some cases, a judicial enquiry can also be ordered. Criminal cases under substantive sections can also be instituted against the accused policemen. Complaints against policemen have been filed in courts, which have taken severe action in such cases. Installation of CCTV cameras covering hawalat rooms in police stations has been made mandatory. In addition, the National Human Rights Commission acts as the watchdog of human rights. Why then are such cases still coming to light? The state must take the responsibility of fixing these instruments to ensure that they deliver justice to the victims of human rights abuse. And it must implement the Supreme Court's directive on setting up a Police Complaints Authority in every state of India.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the United Nations General Assembly (UNGA) on December 10, 1984, and came into force on June 26, 1987. In November 2017, the Law Commission of India in its 273rd report recommended that the government ratify the convention. The Commission also presented a draft of a new Prevention of Torture Bill to the government, which has not yet been adopted.

But ratification of the global human rights treaty alone is not a panacea for the ills of torture. Cases of police torture still surface in all the 160 nations that have enacted laws on torture to ratify the treaty. In South Asia, detainee torture and custodial deaths remain at a disturbingly high level— in Pakistan (which signed the convention on April 17, 2008, and ratified on June 3, 2010) as well as in Afghanistan (signed the convention on February 4, 1985, and ratified on April 1, 1987). China, for instance, signed the Convention on December 12, 1986, and hurriedly ratified the treaty on October 4, 1988. Yet, the country is condemned for horrific state repression while interrogating detainees and suppressing political dissent. It will be unfair to infer that we are amongst the worst in this respect because India has not yet adopted the Prevention of Torture Bill.

On the other hand, it is about time we took a closer look at the reality of policing in India. Police stations in outlying rural areas lack even the basic technology, forensic aid and materials for crime detection. Many of them are located in signal gap zones, where mobile phones barely work and internet connectivity is weak or non-existent. The roads are unmotorable. A single big

police station looks after 70 to 80 villages in large states. Crime is rampant. The building infrastructure in many cases is still poor and unliveable — forget about interrogation or detention cells. Life there is torture anyway, even when one is held in custody for 24 hours.

With a severe manpower deficit, India's police force is grossly overworked. The heavy pendency of work is coupled with brazen political interference. Work stress is inordinately high and the quality of life poor and demotivating. The urgency to improve the crime detection rate is a matter of constant worry. All this, regrettably, does make the police lose patience in trying to bring cases to a quick culmination.

These are not “pocketful of ready excuses” as Daruwala suggests but debilitating conditions. Rickety infrastructure with rudimentary facilities cannot inspire high grade, enlightened policing. All police stations need to be provided with modern-day amenities and connectivity. A dire need is the state-of-the-art technology and equipment to promote hassle-free interrogation and crime detection. The police force needs to be trained at regular intervals and special training should be imparted to the state police personnel by the CBI on questioning suspects. But more often than not, they cannot be spared for refresher courses.

Working on the identified but long pending gaps in criminal justice system that may disincentivise torture — like separation of the law and order and investigation wings at police stations, strengthening the prosecution apparatus and provision of legal advisors in the district police set up — will enable the police supervisory structures to reduce torture to a great extent. It may sound ironical but a sustained focus on Ease of Doing Policing and measures for empowering the police within a well-established accountability framework could prove to be the biggest step towards reducing this practice. Finally, the recruitment process for the police has to be equipped with modern psychoanalytical tools to shun the entry of those with a grain of brutality. This will help weed out the instinct to torture from the core of the system.

Ratification of the UN convention against torture needs to be done in letter and spirit. Unless we upgrade our infrastructure, ramp up our capacities, strengthen our police force, enacting the Prevention of Torture Bill will be just another exercise of official compliance to free our conscience.

The writer is a former IPS officer and Central Information Commissioner

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