

# Prevention of Torture Bill, 2017

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The data on torture show that it is not only an **integral part of India's policing culture**; in some investigations (such as terror cases), it is treated as the centrepiece. The fact is that the current laws facilitate such torture, such as through the admissibility of confessions as evidence under the Terrorist and Disruptive Activities (Prevention) Act.

## Progress in Passing the Bill

Although India signed the UNCAT in 1997, it is yet to ratify it. In 2010, a weak Prevention of Torture Bill was passed by the Lok Sabha, and the Rajya Sabha later sent it to a Select Committee for review in alignment with the UNCAT. But the Committee's recommended law, submitted in 2012, never fructified, as the Bill was allowed to lapse.

In 2016, Ashwani Kumar, a senior advocate and former Union Minister of Law, sought the enactment of a torture law via a Supreme Court petition. **By 2017, the Law Commission had submitted its 273rd report and an accompanying draft torture law.** But the Supreme Court dismissed the petition on grounds that the government cannot be compelled to make a law by mandamus; treaty ratification was a political decision; and that it was a policy matter.

## Features of Draft Prevention of Torture Bill, 2017

- Any public servant or an individual authorised by him indulges in an **act of torture** if they inflict on another person: (i) grievous hurt, (ii) danger to life, limb, or health, (iii) severe physical or mental pain, or (iv) death for the purpose of acquiring information or punishment.

- **Punishment for torture** includes imprisonment up to 10 years and fine. In case torture leads to death, the punishment includes death or life imprisonment in addition to fine.
- The bill makes **state governments responsible for protecting victims** of torture, complainants, and witnesses against possible violence and ill-treatment. The state government will provide such protection from the time of submission of complaint till conclusion of trial for the offence.
- The Law Commission recommended **amendments to the Code of Criminal Procedure, 1973** to allow for **payment of compensation** in case of torture. It made this recommendation citing that courts have previously awarded compensation for various forms of torture including illegal detention, and custodial torture.
- The Law Commission recommended **amendments to the Indian Evidence Act, 1872** to ensure that in case a person sustains injuries in police custody, it will be presumed that these have been inflicted by the police. The **burden of proof** shall lie on the police authorities to explain such injuries.