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## An Empirical Study on the Factors Contributing to Torture in Prisons Concerning India

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*Torture within the confines of prisons is a grave violation of human rights that demands our utmost attention and scrutiny. Prisons are intended to serve as institutions for rehabilitation, reformation, and, above all, the protection of society. However, in many instances, they become breeding grounds for physical and psychological abuse, where the rights and dignity of inmates are compromised. The empirical study presented herein delves into the intricate web of factors contributing to torture within the prison system in India. Through a systematic examination of prison conditions, the treatment of inmates, and the institutional dynamics, this research aims to provide a comprehensive understanding of the root causes of torture in Indian prisons. Additionally, the absence of effective oversight mechanisms and a culture of impunity further exacerbate this problem. This study underscores the urgent need for systemic reforms within the Indian prison system and calls for a broader societal awareness of the issue. The empirical research method is used for the study. In this study, the primary data were collected from the people through questionnaires and thus, it examined the factors contributing to torture in prisons in India. A convenient sampling method is used in this study for collecting the samples. Samples are collected based on the ease of availability of respondents. In this survey, the Sample size is 200 and is collected for this study. The Independent variables used in this study are Gender, educational qualification, and occupation. The dependent variables are the prevalence of torture, major factors contributing to torture in prisons in India, best preventive measures, major potential consequences, and awareness. Findings reveal that overcrowding, inadequate infrastructure, and resource constraints are significant institutional factors that exacerbate conditions within prisons.*

**Keywords:** *torture, human rights, rehabilitation, reformation, abuse.*

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## INTRODUCTION

In the Historical period, torture in Indian prisons was often characterised by physical brutality, forced labour, and degrading treatment. During the colonial era, British authorities used torture as a means of control and punishment, employing methods like flogging, chaining, and solitary confinement. These practices aimed to instil fear and maintain authority over incarcerated individuals. Post-independence, India embarked on a journey towards establishing a more humane and just criminal justice system. The Indian Constitution enshrined fundamental rights and protections against torture, reflecting a commitment to uphold human dignity. However, in practice, these ideals have not always translated into reality. Reports of custodial deaths, abuse, and torture have continued to surface, highlighting the persistence of such practices in some instances.

The Indian Constitution guarantees certain fundamental rights to all citizens, including those in custody. Article 21 of the Indian constitution, referred to as the 'right to life and personal liberty,' ensures that no person shall be subjected to torture or inhuman treatment. This constitutional provision serves as a foundation for protecting individuals from custodial abuse. The Prevention of Torture Bill was introduced in 2010 <sup>1</sup>to address torture and custodial abuse explicitly. The bill aimed to provide a comprehensive legal framework to prevent and punish torture. It defined torture broadly, encompassing both physical and mental harm inflicted by public servants or persons acting in an official capacity. However, the bill has not yet been enacted into law. India ratified the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>2</sup> in 1997. CAT obligates states to take effective measures to prevent torture, investigate allegations, and ensure remedies for victims. The National Human Rights Commission is an autonomous body which is established under

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<sup>1</sup> The Prevention of Torture Bill 2010

<sup>2</sup> United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984

the Protection of Human Rights Act 1993. It plays a vital role in monitoring and investigating allegations of human rights violations, including torture in prisons. Indian courts have consistently emphasised the importance of upholding human rights and preventing torture. Landmark judgments like *D.K. Basu v State of West Bengal (1997)*<sup>3</sup> have established guidelines for the arrest and detention of individuals to avoid custodial abuse. The guidelines issued in this ruling clarified that arrested individuals do have the fundamental right to life as stated in Article 21 of the Indian Constitution. As such, it is the responsibility of the appropriate authorities to uphold the inmate's fundamental rights. Torture in prisons remains a grave concern that challenges the integrity of India's criminal justice system and its commitment to human rights. Despite legislative measures, constitutional safeguards, and international agreements aimed at preventing torture, numerous factors contribute to its persistence within Indian prisons. Overpopulation of prisons is a significant factor that exacerbates the risk of torture. Indian prisons are often overcrowded, leading to inadequate living conditions, limited access to essential services, and heightened tensions among inmates. Many law enforcement personnel and prison staff lack proper training in human rights principles and modern methods of inmate management. This lack of exercise can lead to instances of abuse, as staff may resort to coercive methods to maintain control. Pressure to extract confessions from suspects, sometimes through coercion and torture, has been reported. Weaknesses in the investigative process, reliance on confessions obtained under duress, and a presumption of guilt rather than innocence can contribute to a cycle of abuse. Marginalised and vulnerable populations, such as the poor, minority communities, and lower-caste individuals, are disproportionately affected by torture in prisons. Prolonged judicial delays can result in individuals spending extended periods in pre-trial detention. In addition to causing detainees to be more crowded, this system leaves them vulnerable and unknown for a prolonged amount of time. The absence of proper mental health facilities within prisons can exacerbate the risk of torture. Many detainees lack access to legal aid and are unaware of their rights. Strengthening training programs for law enforcement personnel, improving prison infrastructure, expediting judicial processes, providing mental

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<sup>3</sup> *D.K. Basu v State of West Bengal* AIR 1997 SC 610

health services, promoting accountability, and raising awareness about human rights are all crucial steps.

## OBJECTIVES

1. To know the best preventive measure that could be taken to address the issue of torture in Indian prisons effectively.
2. To analyse that overcrowding is the major factor contributing to torture in prisons in India.
3. To find the major potential consequence of torture on inmates' physical and mental well-being.

## REVIEW OF LITERATURE

**Piggott F (2008):**<sup>4</sup> This paper looks at the legacy of a justification doctrine evident in early international jurisprudence that set the threshold for treatment prohibited under international law as torture, cruel, inhuman, or degrading treatment or punishment [hereafter the prohibition], excusing from its reach deliberately inflicted, potentially severe, suffering proportionately inflicted for a legitimate purpose.

**Sadr S and Amin S (2012):**<sup>5</sup> This report, based on the first phase of the research project, 'Crimes without Punishment', aims to document the cases of rape and other forms of sexual torture used against female political prisoners in the 1980s. The second report will cover the subsequent period between the 1990s-2009, and the third will cover events following the 2009 elections.

**Cubillos-Vega C (2023):**<sup>6</sup> This study explores the gendered violence dimension present in the torture exerted in Chile and the problems that continue to affect the reparation policies. The analysis covers the cases of political prisoners during the Chilean dictatorship (1973–1990) and that of the people detained within the context of the social protest of October 18, 2019. The

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<sup>4</sup> Piggott F, 'Justification Doctrine in the Prohibition on Torture, Cruel, Inhuman or Degrading Treatment' (2008) 18(2) *Torture* 116-129 <<https://pubmed.ncbi.nlm.nih.gov/19289890/>> accessed 15 August 2024

<sup>5</sup> Sadr S and Amin S, *Crime and Impunity: Sexual Torture of Women in Islamic Republic Prisons* (Aida Book 2012)

<sup>6</sup> Carla Cubillos-Vega, 'Reparation Policy in Gendered Political Violence: Gendered Torture During the Dictatorship and the Recent "Social Explosion" in Chile' (2023) 8(1) *Journal of Human Rights and Social Work* 205-215 <<https://doi.org/10.1007/s41134-023-00248-1>> accessed 15 August 2024

methodology used for this study includes desk research on secondary sources on gendered political violence and torture, such as scholarly books, journalistic and academic articles, and non-governmental organisation reports, analysing their contents from a perspective based on human rights and gender.

**Payne-James J, Beynon J and Vieira D (2017):**<sup>7</sup> This landmark practical guide assists all those involved in monitoring detention conditions and investigating and preventing torture. The prestigious global author team identifies the medical, legal, and professional frameworks and international instruments applicable to those detained. It highlights how torture or other cruel, degrading treatments or punishments are identified, investigated, and should be prevented.

**Cakal E (2022):**<sup>8</sup> This article presents a doctrinal review consolidating normative understandings of adequate prisoner food. A systematic full-text search was made of international and regional normative standards, case law, and commentary using the keywords. These were then selected based on their relevance for regulatory and explanatory specificity and pertinence to detention contexts.

**Kuchewar SV and Others (2020):**<sup>9</sup> This paper discusses postmortem examination in cases of custodial deaths and the incidence of custodial death in India as well as other parts of the world. The cases of custodial deaths for which autopsy was conducted at AIIMS have also been discussed. The present study attempted to analyse the different causes of custody-related deaths and associated factors and identify the areas of intervention for the prevention of such deaths. Custody-related death is an internationally key sensitive issue concerning Human Rights. The causes of death and associated factors in this vulnerable population vary according to country and region.

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<sup>7</sup> Payne-James J, et al., *Monitoring Detention, Custody, Torture and Ill-Treatment: A Practical Approach to Prevention and Documentation* (CRC Press 2017)

<sup>8</sup> Ergun Cakal, 'Hunger and Torture. Assessing the Adequacy of Prison Food under International Law' (2022) 32(3) *Torture: quarterly journal on rehabilitation of torture victims and prevention of torture* <<https://doi.org/10.7146/torture.v32i3.128479>> accessed 15 August 2024

<sup>9</sup> Sharad V Kuchewar et al., 'Custody-Related Deaths in Maharashtra State of India - Analysis of Autopsies Performed at a Medical Teaching Institute during the Period 2000-2018' (2020) 70 *Journal of Forensic and Legal Medicine* <<https://doi.org/10.1016/j.jflm.2020.101915>> accessed 15 August 2024

**Guin S (2015):**<sup>10</sup> The study explores health care services in these prisons and problems experienced by inmates in India living with HIV, as well as their staff and caregivers. Through this preliminary study, the researchers shed light on the experiences of inmates in Indian prisons to present questions for future research.

**Braswell M, Montgomery RH and Lombardo LX (1994):** The readings in this anthology examine the different kinds of prison violence, from riots - the most visible and newsworthy form of prison violence - to the everyday violence that faces both prisoners and correctional personnel. They discuss the complex interrelationships that link personalities, social attitudes, and organisational conditions that support or permit outbreaks of violence and the methods and tools that help to prevent it.

**Butler AM (1999):**<sup>11</sup> In this study, Anne M. Butler shows that the distinct gender disadvantages already faced by women within Western society erupted into intense physical and mental violence when they became prisoners in male penitentiaries. *Gendered Justice in the American West* places the injustices women prisoners endured in the context of the structures of male authority and female powerlessness that pervaded all of American society.

**DeLisi M and Conis P. (2011):**<sup>12</sup> This study's Second Edition is a compilation of original scholarship from an international collection of applied and academic criminologists. It provides students with a realistic view of why people commit violent crimes and how our criminal justice system, as a whole, responds to these offenders and these violent acts.

**Delisi and Conis PJ (2017):**<sup>13</sup> The study continues to lead with cutting-edge material on all types of violent offenders, including gangs, serial killers, sex offenders, career criminals, and conventional street criminals. The numerous case studies featured throughout the text have

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<sup>10</sup> Sayantani Guin, *Prison Inmates Living with HIV in India: Case Studies from Prisons in Maharashtra* (Springer 2015)

<sup>11</sup> Anne M. Butler, 'Gendered Justice in the American West: Women Prisoners in Men's Penitentiaries' (1999)

100(3) *Oregon Historical Quarterly* <<https://www.jstor.org/stable/20614985>> accessed 15 August 2024

<sup>12</sup> Matt DeLisi and Peter J. Conis, *Violent Offenders: Theory, Research, Policy, and Practice* (Jones & Bartlett Publishers 2011)

<sup>13</sup> *Ibid*

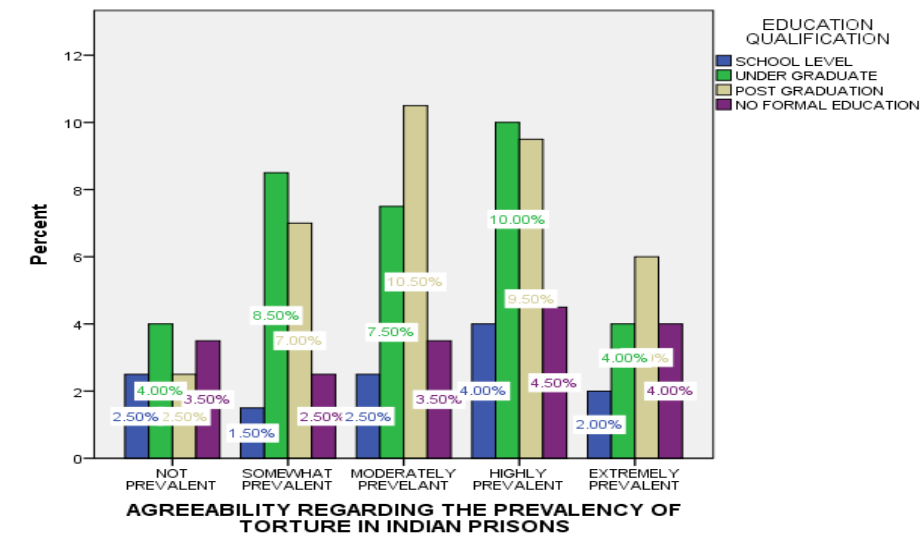
been updated to reflect the contemporary and relevant information that students encounter in the news and media.

## METHODOLOGY

The primary source of data was obtained by conducting an empirical study on seeking responses from the general public in Chennai. The data was collected through questionnaires and also relied on secondary sources of data such as books, journals, e-sources, articles, and newspapers. The present research is conclusive, descriptive, and based on empirical design. The sampling size of the paper is 200. The sampling frame is that the respondents belong to all kinds of age groups. The independent variables are gender, education qualification, and occupation of the respondents. The dependent variables are the prevalence of torture, a major factor contributing to torture in prisons in India, best preventive measures, major potential consequences, and awareness. The sampling method used is convenient sampling. The statistics/tools used for analysis are graphs.

## ANALYSIS AND INTERPRETATION

**Figure 1 - Clustered bar chart percentage between agreeability regarding the prevalence of torture in Indian prisons and the education qualification of the respondents.**

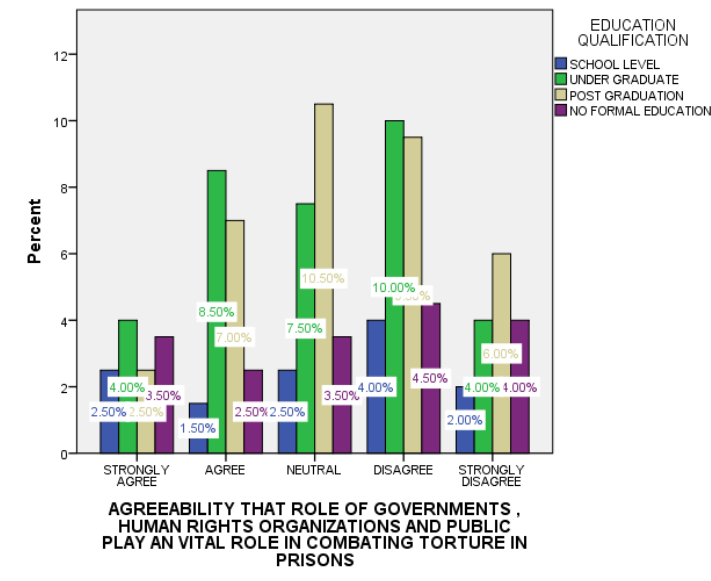


**Legend:** The above figure is a clustered bar chart between agreeability regarding the prevalence of torture in Indian prisons and the education qualification of the respondents. **(Fig 1)**

**Results:** On a complete analysis, the majority of the respondents have said prison torture is prevalent in Indian prisons.

**Discussion:** Most of the respondents, be they educated or not having formal education, said they agree that torture is prevalent in Indian prisons. Incidents of torture in prisons often receive significant media coverage, which can amplify public perception of the issue.

**Figure 2 - Clustered bar chart percentage between agreeability that the role of governments, human rights organisations, and the public play a vital role in combating torture in prisons and the education qualification of the respondents.**



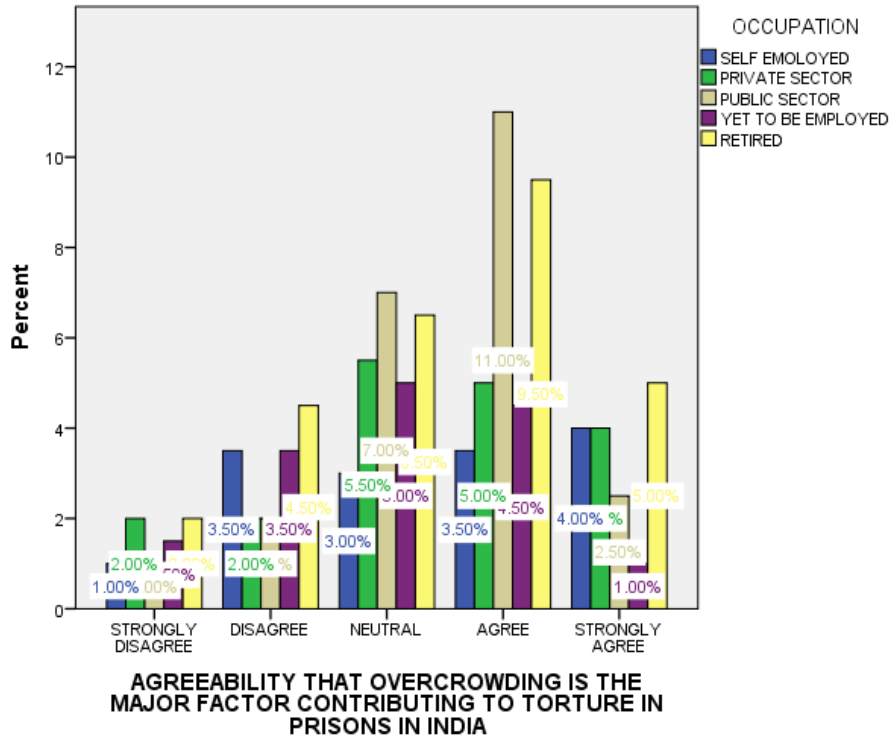
**Legend:** The above figure is a clustered bar chart between agreeability that the role of governments, human rights organisations, and the public play a vital role in combating torture in prisons and the education qualification of the respondents. **(Fig 2)**

**Results:** On a complete analysis, the majority of the respondents have agreed that the role of government, human rights organisations, and the public play a vital role in combating torture in prisons.



**Discussion:** It is observed that most educated respondents know about the functioning and role of government, human rights organisations, and the public's role in combating torture in prisons. This data underscores the critical role of the executive in the state.

**Figure 3 - Clustered bar chart percentage between agreeability that overcrowding is the major factor contributing to torture in prisons in India and occupation of the respondents.**



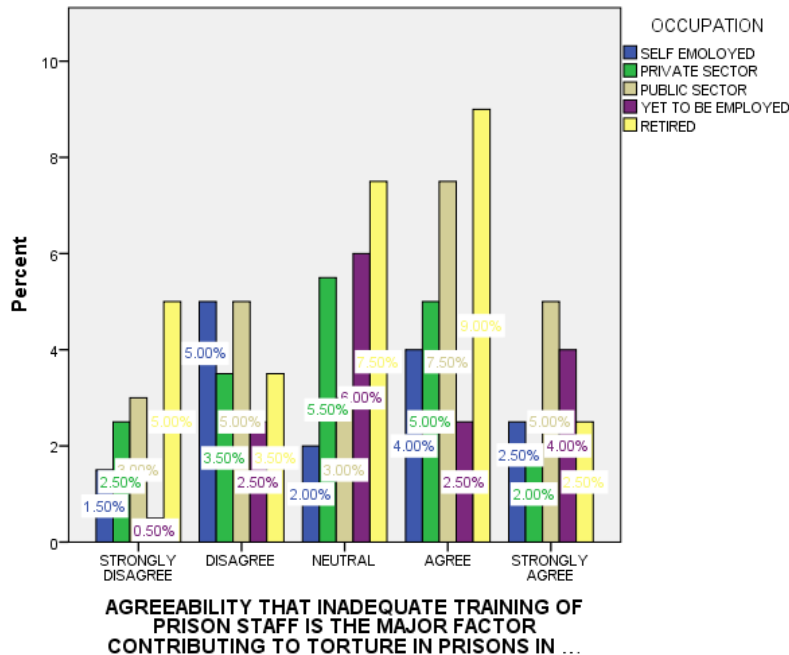
**Legend:** The above figure is a clustered bar chart between agreeability that overcrowding is the major factor contributing to torture in prisons in India and the occupation of the respondents. (Fig 3)

**Results:** On a complete analysis, the majority of the respondents agreed that overcrowding is the major factor contributing to torture in prisons in India.

**Discussion:** Respondents from all the different kinds of occupations agreed that overcrowding is the major factor as other sub-factors are also combined with it. When there is not enough space

for the prison inmates, the living conditions are affected, along with increased heightened tensions among the inmates. It also leads to increased violent behaviour.

**Figure 4 - Clustered bar chart percentage between agreeability that inadequate training of prison staff is the major factor contributing to torture in prisons in India and occupation of the respondent.**



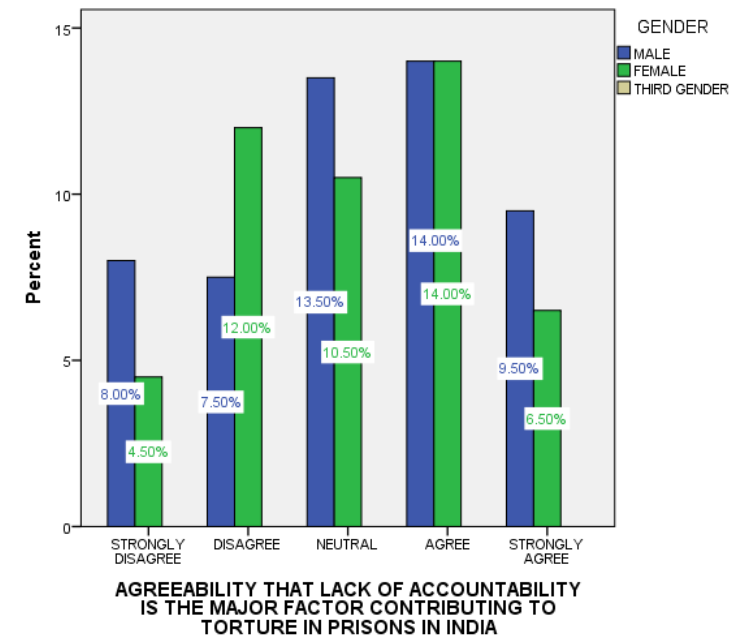
**Legend:** The above figure is a clustered bar chart between agreeability that inadequate training of prison staff is the major factor contributing to torture in prisons in India and the occupation of the respondents. (Fig 4)

**Results:** On a complete analysis, the majority of the respondents have a neutral opinion towards inadequate training of prison staff as the major factor contributing to torture.

**Discussion:** This neutrality suggests a lack of strong consensus or conviction among respondents, indicating that while they may acknowledge the role of inadequate training, they do not view it as the most critical factor. Without adequate training, prison officers may resort to inappropriate methods, including torture, due to a lack of understanding of proper protocols,

stress management, and human rights standards. Proper training is crucial for equipping prison staff with the skills and knowledge necessary to handle inmates humanely.

**Figure 5 - Clustered bar chart percentage between agreeability that lack of accountability is the major factor contributing to torture in prisons in India and the gender of the respondent.**

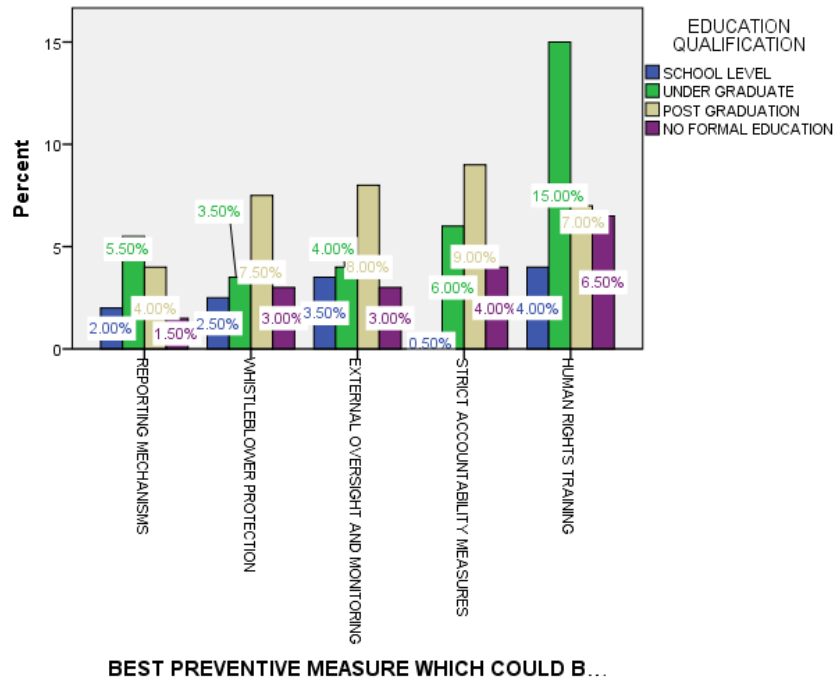


**Legend:** The above figure is a clustered bar chart between agreeability that lack of accountability is the major factor contributing to torture in prisons in India and the gender of the respondents. (Fig 5)

**Results:** On a complete analysis, the majority of the respondents, both male and female, agreed that lack of accountability is the major factor contributing to torture in Indian prisons.

**Discussion:** The agreement among both male and female respondents underscores the pervasive recognition of this problem and suggests that addressing the lack of accountability could be a crucial step toward mitigating torture and improving conditions in Indian prisons. Without proper oversight and responsibility, prison staff may engage in abusive practices without fear of consequences. Strengthening accountability mechanisms is essential for ensuring the humane treatment of inmates and upholding justice and dignity in Indian prisons.

**Figure 6 - Clustered bar chart percentage between the best preventive measure which could be taken to address the issue of torture in Indian prisons effectively and the education qualification of the respondents.**

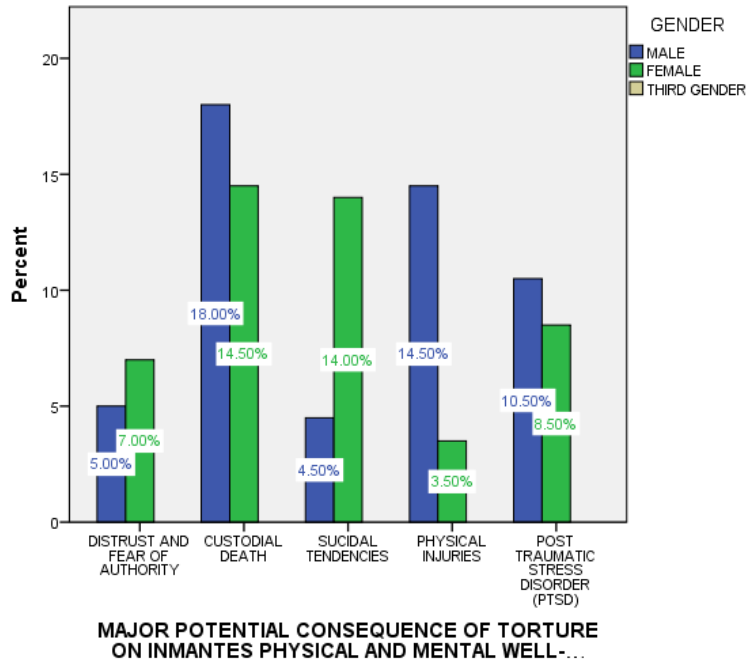


**Legend:** The above figure is a clustered bar chart between the best preventive measures that could be taken to address the issue of torture in Indian prisons effectively and the education qualification of the respondents. (Fig 6)

**Results:** From this graph, the majority of the respondents’ undergraduates have said the best preventive measure is human rights training to address the issue of torture in prisons.

**Discussion:** This suggests a strong belief among the undergraduate population that educating prison staff about human rights principles and practices is crucial for reducing torture and promoting humane treatment within the prison system. Implementing such training programs could be a key strategy in fostering a culture of respect and accountability in prisons.

**Figure 7 - Clustered bar chart percentage between the major potential consequences of torture on inmates' physical and mental well-being and the gender of the respondents.**

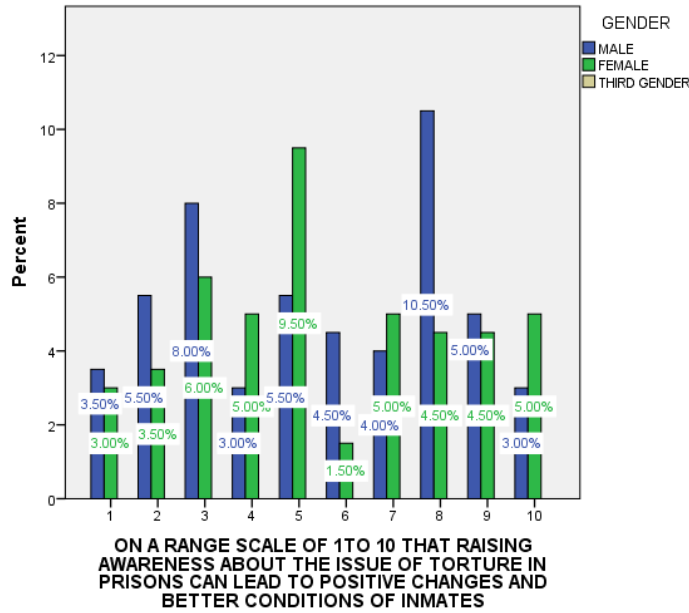


**Legend:** The above figure is a clustered bar chart between the major potential consequences of torture on inmates' physical and mental well-being and the gender of the respondents. (Fig 7)

**Results:** From this graph, the majority of the respondents, both males and females, said custodial torture is the major potential consequence of torture on inmates' physical and mental well-being.

**Discussion:** Custodial torture is identified as the major potential consequence impacting the physical and mental well-being of inmates. The severe effects of such torture include physical injuries, psychological trauma, and long-term health issues. Addressing and preventing custodial torture is crucial for protecting the rights and well-being of inmates, ensuring their humane treatment, and maintaining the integrity of the prison system.

**Figure 8 - A clustered bar chart percentage on a range scale from 1 to 10 that raising awareness about the issue of torture in prisons can lead to positive changes and better conditions for inmates and the gender of the respondents.**



**Legend:** The above figure is a clustered bar chart on a range scale from 1 to 10 that raising awareness about the issue of torture in prisons can lead to positive changes and better conditions for inmates and the gender of the respondents. (Fig 8)

**Results:** From this graph, the majority of the respondents, both male and female, said on a scale of 10, recorded '8' to the statement.

**Discussion:** This high rating reflects a strong belief among respondents that increasing awareness about prison torture can significantly contribute to positive reforms and improvements in the treatment and living conditions of inmates.

## LIMITATIONS

The major limitation of the study is the sample frame. The sample frame is collected through surveys by giving the respondents the questionnaire; the real field experience is carried out. The survey was conducted in Chennai. The collection of data through actual surveys decreased the limitations of the researcher to collect data from the field. Since the data is collected on an offline platform, the original opinion of the respondent is found out. The researcher can come to a conclusive opinion of what the respondent's view is. Gaining access to Indian prisons can be challenging due to security concerns and bureaucratic hurdles. Some facilities may be off-limits

to researchers, limiting the scope of your study. Respondents may provide answers they think are socially desirable rather than reflecting their true experiences, potentially skewing the data.

## CONCLUSION

In conclusion, our study has shed light on the multifaceted factors contributing to torture within the prison system in India. This issue is deeply rooted and influenced by a complex interplay of social, institutional, and systemic factors. The overcrowding of prisons, lack of proper training for prison staff, inadequate resources, and a flawed judicial process have all contributed to the prevalence of torture in these settings. Moreover, the absence of effective oversight mechanisms and a culture of impunity further exacerbate this problem. Addressing these issues requires a holistic approach that involves not only reforms within the prison system but also broader societal changes, including legal reforms and a shift in public perception. Ultimately, the eradication of torture in Indian prisons is a pressing moral and human rights imperative that demands immediate attention and concerted efforts from all stakeholders involved in the criminal justice system. Only through such comprehensive efforts can we hope to create a prison environment that upholds the principles of human dignity, justice, and rehabilitation for all inmates.

## SUGGESTIONS

This study seeks to delve into the intricate web of factors contributing to the pervasive issue of torture within the prison system of India. With a nation as vast and diverse as India, the prison landscape exhibits considerable heterogeneity, reflecting regional, cultural, and socio-economic variations. Introducing community service as an alternative to traditional punishments in the criminal justice system of India in *Bharatiya Nyaya Sanhita*,<sup>2023</sup> could be an effective strategy to decrease the prison population and address the issue of overpopulation in prisons. Community service can serve as a rehabilitative measure, allowing offenders to contribute positively to society while avoiding the negative consequences of incarceration. This approach not only helps reduce the burden on the prison system but also promotes the reintegration of offenders into the community, potentially leading to lower recidivism rates and more constructive outcomes for individuals and society as a whole. Addressing the issue of

overpopulation in Indian prisons is crucial for reducing prison torture and improving overall conditions. Overcrowded prisons often lead to inadequate living conditions, increased tensions among inmates, and strained resources, which can contribute to instances of torture and human rights abuses.