

**Bill No. 206 of 2022**

THE PREVENTION OF TORTURE  
BILL, 2022

By

SHRI E.T. MOHAMMED BASHEER, M.P.

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BILL

*to prevent the custodial torture, ensure award of compensation to the victims  
and making the erring public officials liable for the punishment and  
for matters connected therewith.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Torture Act, 2022.

(2) It extends to the whole of India.

5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State, and in all other cases, the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

(c) words and expressions used but not defined in this Act shall have the same meanings respectively as assigned to them in the Indian Penal Code, 1860; and 45 of 1860.

(d) any reference in this Act to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law if any, in force in that area. 10

Intimation of arrest of a Person.

3. (1) Whenever a person is arrested by a police officer, intimation of such arrest along with the place of detention shall be immediately communicated by the concerned police officer to a relative, if such relative is present at the time of arrest or, in his absence, to such other person as mentioned by the person who is being arrested in such manner as may be prescribed. 15

(2) The intimation under sub-section (1) shall be communicated by telephone or by such other means which shall be recorded by the police officer and the signature of the arrested person be obtained in such manner as may be prescribed. 20

(3) After the arrest of a person under sub-section (1), the police officer shall prepare a custody memo and body receipt of the person arrested duly signed by him and by two witnesses of the locality where the arrest has been made and forward a copy of such custody memo and body receipt to a relative, if such relative is present at the time of arrest or, in his absence, to such other person as mentioned by the person who is being arrested in such manner as may be prescribed. 25

(4) The custody memo prepared under sub-section (3) shall contain the following particulars:—

(i) name of the person arrested and father’s or husband’s name; 30

(ii) address of the person arrested;

(iii) date, time and place of arrest;

(iv) offence for which, the arrest has been made;

(v) property, if any, recovered from the person arrested and taken into charge at the time of the arrest; and 35

(vi) any bodily injury which may be apparent at the time of arrest.

Presence of legal practitioner.

4. During the interrogation of the arrested person his legal practitioner shall be allowed to remain present.

Entry in police diary regarding arrest.

5. It shall be the responsibility of the police officer to inform the person arrested, as soon as he is brought to the police station, of the contents of the section under which he has been arrested and shall make an entry in the police diary about the following facts: 40

(a) the person who was informed of the arrest;

(b) the fact that the person arrested has been informed of the reasons of his arrest; and 45

(c) the fact that a custody memo has been prepared under sub-section (3) of section 3.

2 of 1974. 6. (1) Notwithstanding the provisions of section 357 of the Code of Criminal Procedure, 1973, where the court convicts a public servant for an offence committed by him resulting in death or bodily injury of a person in his custody, such public servant shall be liable to pay such amount of compensation to the person who has sustained bodily injury or has died during the period of custody as may be awarded by the Court. Compensation in custodial offences.

10 (2) The court while awarding compensation under sub-section (1) shall order that the appropriate Government under which such public servant was employed at the time when such act was committed, be liable jointly and severally with such public servant to pay, by way of compensation such amount as may be specified in the order.

15 (3) An order for payment of compensation under sub-section (2) may also be made by an appellate court or by the High Court or Court of Session while exercising powers of revision.

(4) While awarding compensation in any subsequent suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

20 (5) The amount of compensation to be awarded under this section shall not be less than,—

(a) rupees two lakh in the case of bodily injury, not resulting in death;

25 (b) rupees ten lakh in case of death or such higher amount as decided in the judgment of decree.

(6) The Court shall, while fixing the amount of compensation under this section, take into account all relevant circumstances, including (but not limited to) the following:

- 30 (a) the type and severity of the injury suffered by the victim;
- (b) the mental anguish suffered by the victim;
- (c) the expenditure incurred or likely to be incurred on the treatment and rehabilitation of the victim;
- (d) the actual and projected earning capacity of the victim and the impact of its loss on the persons entitled to compensation and other members of the family;
- 35 (e) the extent, if any, to which the victim himself contributed to the injury; and
- (f) the expenses incurred in the prosecution of the case:

40 Provided that in case of death or permanent disablement of the victim, the court may take into account the estimated annual income of the victim as multiplied by the number of years of his estimated span of life.

(7) The Court may, pending final determination of the proceeding, award, by way of interim relief, such compensation as it may think proper in the circumstances of the case at any stage of the case, even before judgment of conviction is passed.

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(8) The appropriate Government may recover any amount paid by it as compensation under this section wholly or partly as it may think proper, from the delinquent public servant in such manner as may be prescribed.

Power to  
remove  
difficulties.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: 5

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Power to  
make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act. 10

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 15 20

## STATEMENT OF OBJECTS AND REASONS

Complaints of abuse of power and torture of suspects in custody by the police and other law enforcing agencies have been the concern of the society. Custodial crimes and torture of persons in police custody are heinous and revolting as they reflect betrayal of custodial trust by a public authority against the defenseless citizen. Such practices violate fundamental rights and human rights. There is a pressing need to control this malady.

Investigation of crime and apprehension of an offender is extremely necessary to ensure peace and order. For the implementation of laws and maintenance of law and order, police and other law enforcing agencies are necessary, but no civilised country can permit the use of torture and third degree methods during interrogation and investigation of an offence. The police and other Governmental agencies, while enforcing the law, are required to respect the constitutional commitment to the individual's fundamental rights.

The existing law is inadequate and ineffective in dealing with the custodial crimes and in many cases the erring officers go scot-free on account of the complainants inability to prove the case against them. The Supreme Court has commented upon the inadequate statutory provisions dealing with the custodial crimes in India and it has made several suggestions for reforms in the existing laws. Besides this the victims of custodial crime should be given adequate compensation, and the erring officials should be liable for due punishment.

Hence this Bill.

NEW DELHI;  
10 August, 2022

E.T. MOHAMMED BASHEER

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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