

TORTURE, CONFESSIONS, AND CRIMINAL PROCEDURE: LEGAL AND ETHICAL CONCERNS

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Abstract

Torture and coerced confessions continue to challenge the integrity of criminal justice systems despite their absolute prohibition under international law. Although instruments such as the United Nations Convention Against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR) provide clear normative frameworks, their enforcement across domestic jurisdictions remains inconsistent. This article applies a qualitative comparative methodology to examine six jurisdictions: Germany, the United Kingdom, Pakistan, India, Nigeria, and South Africa through analysis of constitutional provisions, statutory rules, judicial decisions, and secondary literature. Using a doctrinal and governance-based approach, the study evaluates how procedural safeguards, judicial oversight, and institutional accountability mechanisms function in practice, and whether local self-government plays any meaningful role in curbing abuses. The findings reveal that Germany and the United Kingdom maintain comparatively robust protections, yet even they face pressures under exceptional circumstances such as counterterrorism or urgent criminal investigations. Pakistan and India demonstrate systemic weaknesses, including limited access to counsel and reliance on confession evidence, while Nigeria and South Africa highlight the disjunction between constitutional prohibitions and persistent institutional impunity. Most significantly, the study identifies a governance vacuum at the local level: across all six jurisdictions, municipal or community-based mechanisms are either absent or underpowered, leaving victims with little immediate recourse. The article concludes that the prohibition of torture cannot be secured through criminalization alone; it requires active judicial enforcement, empowered oversight bodies, and strengthened local governance structures to transform international commitments into practical guarantees of human rights.

Keywords: Torture, Coerced Confessions, Criminal Procedure, Human Rights, Local Self-Government

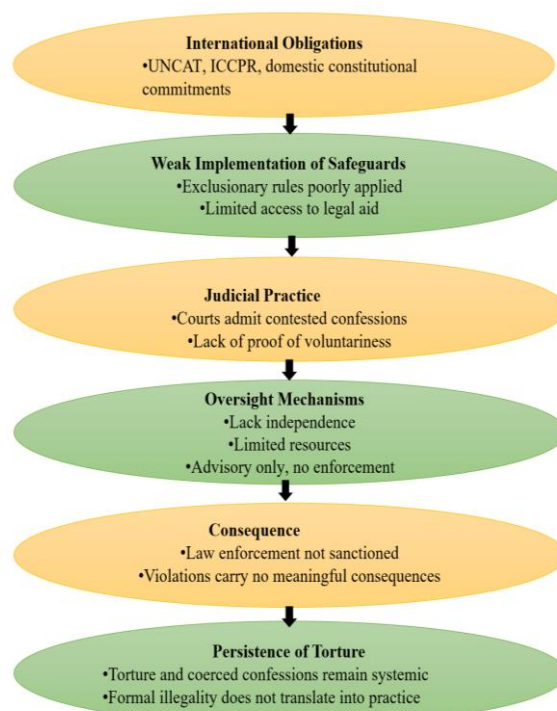
1. Introduction

The ban on torture is one of the most absolute principles of international law, but the fact that the practice continues to exist in criminal justice systems reflects a disturbing lack of alignment between policy and practice. Although the United Nations Convention against Torture has been widely ratified, and human dignity as a non-derogable right is recognized, the use of physical and psychological pain to extract confessions still emerges in police custody units, interrogation, and pre-trial detention units. According to scholars, it is not the operation of a few individuals who do this, but the fact that criminal procedure, the evidentiary role of confessions, and the lack of mechanisms of accountable institutions all contribute to this (Katner, 2021; Hasim, 2022).

This is aggravated by the centrality of confessions in criminal justice. Confessions have a clear evidentiary worth in most jurisdictions, which far surpasses any other evidence, and in some jurisdictions, it is called the queen of proofs (Ho, 2021). Such an impression encourages law

enforcement agencies to seek confessions as the most direct path to conviction. The use of torture was historically explicitly authorised by European legal systems in the absence of other evidence, in which coercion was part of the logic of proof (Langbein, 2024). Although such practices were officially dismissed, the structural bias in favour of confessions is maintained, which provides significant motives to make the subjects make confessions under duress. Rapidity often prevails over respect for due process, and force becomes an acceptable method of investigation (Langbein, 2019). The ethical consequences are severe. Torture is incompatible with the dignity of the person and the legitimacy of the justice system. Evidence obtained under duress is inherently unreliable, often leading to false confessions that result in wrongful convictions and miscarriages of justice (Mensah, 2024; Le et al., 2024). Scholars highlight that the use of torture undermines not only the truth-seeking function of trials but also the very foundation of the rule of law, eroding public trust in institutions designed to administer justice fairly (Bronsther, 2019; Wolfendale, 2019). Beyond the immediate act of violence, torture raises broader questions of complicity. Professionals such as psychologists, medical practitioners, and legal advisers have at times contributed to or legitimized coercive interrogation practices, illustrating how institutional and professional cultures allow abuses to persist (Evans, Sisti & Moreno, 2019).

The endurance of torture reflects more than individual misconduct; it is shaped by systemic features of authority and governance. Kelman (2019) observes that torture flourishes in contexts where authority structures demand obedience and where accountability is weak. The German child abduction case, in which officials threatened the use of torture to secure a confession, demonstrates how even in jurisdictions with robust legal safeguards, principles can bend under the weight of urgency and public pressure (Prahassacitta, 2023). Beyond Europe, similar dynamics are evident. In South Asia, detainees frequently report physical abuse during interrogations, exacerbated by inadequate exclusionary rules and weak access to counsel (Hasim, 2022). In Africa, systemic abuse by police in Nigeria and South Africa has been documented, including both physical and sexual violence, with little chance of accountability or redress for victims (Aborisade & Oni, 2020; Hadebe & Gopal, 2021). These examples reveal that torture is sustained not only by legal shortcomings but also by institutional cultures and governance failures that normalize coercion as an investigative shortcut.



Despite clear international obligations, domestic enforcement of the prohibition remains inconsistent. Safeguards such as exclusionary rules and access to legal aid are often poorly implemented, undermining their ability to prevent coerced confessions (Ismaili & Sulejmani, 2024; Shahnawaz & Abad, 2021). Courts frequently admit contested confessions without demanding rigorous proof of voluntariness, thereby perpetuating impunity and signaling to law enforcement officers that violations will not carry meaningful consequences (Ho, 2021). Oversight mechanisms, when they exist, often lack independence, resources, or binding authority, limiting their ability to deter abusive practices (Katner, 2021). In practice, these institutional weaknesses allow torture to endure, despite formal acknowledgment of its illegality.

Figure 1: Systemic Weaknesses Sustaining Torture and Coerced Confessions

This flowchart illustrates how weak safeguards, permissive judicial practices, and ineffective oversight mechanisms create a cycle of impunity, allowing torture and coerced confessions to persist despite international prohibitions and formal legal commitments.

The gaps are especially severe on the local level. Although municipal and regional governments are closest to affected communities, they are normally lacking the mandate or resources to monitor police and prosecutorial practices. In cases where there are ombudsmen or human rights commissions, they often lack the power to enforce, which often makes them merely consultative bodies with little practical effect (Prahassacitta, 2023). Such a lack of governance will not only dilute accountability but also erode confidence in the institutions of justice on the ground. On the other hand, the example of the contexts where local institutions carry authority proves that decentralization of control may play a crucial role in the detection of abuses at the earliest stage, protection of the victims, and maintenance of law enforcement within the confines of legality.

The continuation of torture and forced confessions is therefore not just a legal and even a moral issue, but also a governance issue. This paper will be a contribution towards the current argument and help close the gap between criminal procedure, human rights, and local self-government. It does this by integrating legal theory with moral research and theory of governance hence giving a multidimensional view of the causes of why torture persists and how it can be resolved. Its originality is that it places the local self-government in the limelight. Although the majority of the scholarship has been on the international standards or the frameworks of the nations, little has been done regarding how the municipal and local government can influence accountability. Through the joint prism of law and ethics, as well as governance, the article highlights that the best way to prevent torture is not through legislative prohibitions but through the independent eye of scrutiny, empowered local institutions, and at the local level of participation.

These consequences are concrete to the policymakers, such judges, as well as local government actors. Enhancement of exclusionary regulations, judiciary review of confessions and the provision of more access to counseling are necessary in order to ensure that the rights of suspects are not violated. The development of the ability to have the local self-government agencies to monitor law enforcement practice, provide redress to the victims, and promote transparency is also important. Without the above, the prohibition of torture will be nothing but not a pledge, but a promise (Mensah, 2024; Wolfendale, 2019). The necessity to solve the problem of the persistent usage of torture and forced confessions is, therefore, not only critical to uphold the rights of the individuals, but also urgent to take care of the validity of the rule and enhance the integrity of the institutions, which are supposed to deliver the justice.

Research Objectives

1. To evaluate the effectiveness of legal frameworks in preventing torture and coerced confessions across six jurisdictions

2. To analyze the ethical and procedural challenges that sustain the use of coerced confessions in criminal justice systems
3. To examine the role of local self-government in strengthening accountability and preventing torture

Methodology

2.1 Research Design

The research design that this study will assume is a qualitative and an interdisciplinary research design which integrates the doctrinal legal research, the socio-legal inquiry research and the governance analysis research. This assimilation could be explained by the fact that forced confessions and torture are complicated. All these are institutional failures, legal violations and ethical violations. The scope of the outlawing of torture and admissibility of confessions under international and national law also has a description in the doctrinal studies. But doctrinal analysis should be enough to run the risk of coming up with an abstract account of rules on the books, without reflecting the difference between law and practice. As a measure to address this, the study incorporates the application of socio-legal inquiry, which is premised on the empirical global research, human rights discoveries, and scholarly accounts to document how torture flourishes despite the legal safeguards that have been in existence. Governance analysis is a different dimension because the issue is put in the context of the institution, in particular in the local self-government, where accountability and control are located in the majority of democracies. The combination of these methods would provide a holistic framework, which would be very suitable to answer the research questions.

2.2 Sources of Data

The research uses first-hand and secondary sources. The primary ones are the international legal acts such as the United Nations Convention against Torture (UNCAT), the International Covenant of Civil and Political Rights (ICCPR), and the European Convention on Human Rights (ECHR). Jurisprudence of such bodies as the European Court of Human Rights and UN Human Rights Committee is referred to in order clarify the interpretive practices of torture and coerced confessions. Domestically, constitutions, criminal procedure codes and case law by the appellate court are reviewed to determine how international obligations are reflected in national law and how the courts determine the admissibility of confessions challenged.

The secondary sources are used to complement such sources with evidence on the operation of legal norms in practice. The history of the institutionalization of torture within evidentiary frameworks is followed by academic scholarship, the contemporary debates within doctrines by exploring the issues, and the evaluation of the ethical justifications of the illegality of torture. The reports by human rights organizations, including Amnesty International and Human Rights Watch, in addition to reports of national commissions, are used to discover common trends of abuse, accountability failure, and institutional cultures that support or condone torture. Empirical research on police misconduct in South Africa, Nigeria, and Pakistan offers more detailed information about the practices in the field and points to the systemic nature of the conditions that enable coercion to be a persistent issue.

2.3 Comparative Case Selection

The study employs a structured comparative design. Jurisdictions were chosen according to three criteria: legal diversity, documented prevalence of torture or coerced confessions, and the presence or absence of governance mechanisms relevant to accountability. Germany and the United Kingdom represent European systems, one civil law and one common law, with strong safeguards but distinct approaches to confessions. Pakistan and India provide examples from South Asia, where custodial

torture remains widespread and judicial oversight is inconsistent. Nigeria and South Africa represent African contexts where systemic police brutality and weak accountability mechanisms persist. The comparative analysis is conducted thematically rather than descriptively. Each jurisdiction is examined along three dimensions: the legal framework prohibiting torture, the effectiveness of procedural safeguards such as exclusionary rules and access to counsel, and the role of oversight institutions, especially at the local or regional level. This structured comparison allows for both cross-system contrasts (civil vs. common law, Global North vs. Global South) and identification of recurring global patterns. The aim is not to provide an exhaustive survey, but to generate lessons about why torture persists and what governance structures make a difference.

2.4 Analytical Framework

The analysis proceeds along three interrelated strands. The doctrinal strand examines whether national legal systems conform to international obligations, focusing on the admissibility of confessions, the design of exclusionary rules, and the robustness of procedural safeguards. The ethical strand interrogates torture as a violation of human dignity and considers the problem of professional complicity, drawing on philosophical and rights-based perspectives. The governance strand emphasizes institutional design and accountability. It pays particular attention to the role of local self-government, asking how municipal ombudsmen, regional human rights commissions, and community-level monitoring mechanisms contribute to or fail in preventing abuse. By foregrounding local governance, the analysis highlights an often-neglected dimension of accountability and underscores the importance of decentralization in making legal prohibitions effective.

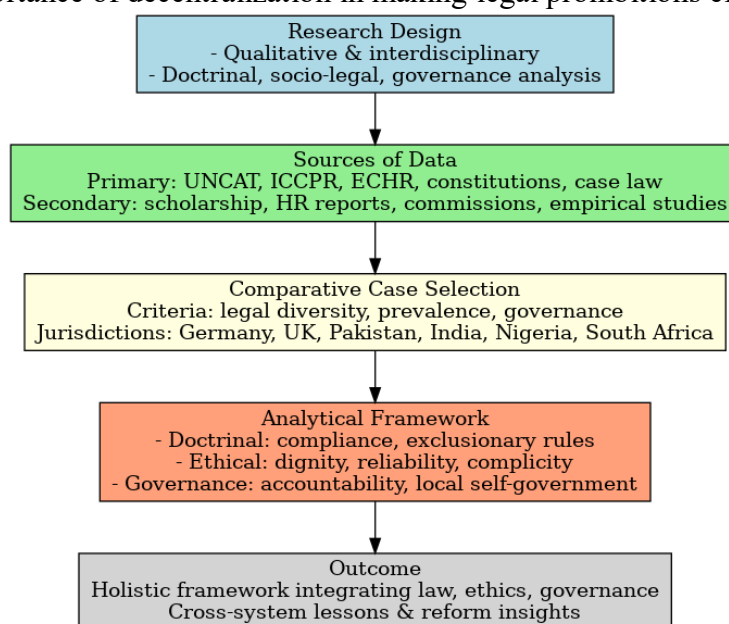


Figure 2: Methodological Framework of the Study

This flowchart illustrates the interdisciplinary design, sources, comparative selection, and analytical strands that structure the research on torture, confessions, and governance.

The methodology has a number of limitations that should be mentioned. Firstly, it is based more on secondary data as opposed to field work or original empirical research. Despite the fact that the problem of this limitation is reduced by triangulation between legal text, human rights reports, and academic studies, it implies that the study will rely on the quality and breadth of available sources. Second, the level of comparative scope is selective. Although the selected jurisdictions are a matter of standard legal variety as well as a location variety, they cannot possibly be able to reflect the full range of experiences in the world. Third, NGO reports and secondary studies may have some biases,

as such sources typically focus on the most outrageous instances of abuse. Finally, the asymmetry in the analysis can be occasioned by disparities in the availability of data such as richness of the case law in the European region compared to the limited judicial transparency in the South Asian region. These limitations never damage the validity of the research but indicate that the findings are descriptive and not comprehensive.

The methodology is a combination of the doctrinal, ethical and governance methodologies in the bid to have the complexity of the torture and forceful confessions to light. The study provides a comprehensive record of the legal provisions and actualities with the assistance of foreign and national legal materials, studies and reports on human rights. The comparative design employed is designed in such a way to ensure that similarities and differences in legal traditions are appropriately analyzed. Most of all, the focus on the local self-government introduces new input showing that accountability does not only depend on the international standards and national legislation but also the efficiency of institutions, which is closest to the communities. It is this multi-layered framework that will position the study in such a manner that it will add to the concept of law, human rights, and governance, both theoretically and practically.

3. Results

3.1 International and Domestic Legal Frameworks

The international law, such as the UNCAT, ICCP, and ECHR, highly prohibits torture. Such standards have been successfully applied in Germany and the United Kingdom but the Daschner case in Germany and counterterrorism legislation in the United Kingdom reveal the problems with the protection. Pakistan and India in South Asia criminalize torture but do not have powerful exclusionary regulations, which enable the courts to admit questionable confessions. In Nigeria, a weak system of impunity discourages the Anti-Torture Act (2017), whereas there is laxity in rural regions of South Africa. These differences are summarised in Table 1, listing the discrepancies between the legal commitments and practice.

Table 1. International and Domestic Legal Frameworks

Jurisdiction	International Commitments	Domestic Framework	Illustrative Gap
Germany	UNCAT, ICCPR, ECHR	Exclusionary rules upheld	Daschner case (2002)
UK	UNCAT, ICCPR, ECHR	PACE excludes coerced confessions	Counterterrorism exceptions
Pakistan	UNCAT, ICCPR	Criminalization weakly enforced	Disputed confessions admitted
India	ICCPR; signed UNCAT	No explicit exclusionary rule	Reliance on confessions
Nigeria	UNCAT, ICCPR	Anti-Torture Act 2017	Police impunity
South Africa	UNCAT, ICCPR	Constitutional prohibition	Rural enforcement gaps

3.2 Procedural Safeguards and Judicial Practice

Safeguards work best where courts are independent. The UK applies PACE consistently, while Germany enforces exclusionary rules but showed vulnerability in the Daschner case. Pakistan and India demonstrate weak access to counsel and frequent admission of disputed confessions. Nigeria and South Africa, though formally protective, suffer from judicial deference to police and uneven oversight. These findings are condensed in Table 2, underscoring that safeguards are ineffective without judicial activism.

Table 2. Procedural Safeguards

Jurisdiction	Right to Counsel	Exclusionary Rules	Judicial Oversight	Key Implication
Germany	Guaranteed	Strict rule	Strong but tested	Effective yet fragile
UK	Guaranteed	Robust under PACE	Consistently applied	Judicial strength key
Pakistan	Weak in custody	Weak enforcement	Courts admit disputed confessions	Safeguards fail
India	Limited access	No explicit rule	Inconsistent	Over-reliance on confessions
Nigeria	Guaranteed	Mandated by law	Courts defer to police	Weak in practice
South Africa	Guaranteed	Exclusion required	Uneven regionally	Structural limits

3.3 Ethical and Human Rights Implications

The ethical cost of coercion is evident across contexts. In Germany and the UK, high-profile debates centered on necessity versus dignity. In South Asia, wrongful convictions linked to coerced confessions show severe human rights impacts. In Nigeria and South Africa, torture disproportionately affects marginalized groups, deepening inequality. Table 3 summarizes how coercion erodes legitimacy across all jurisdictions.

Table 3. Ethical and Human Rights Impacts

Jurisdiction	Ethical Tension	Human Rights Outcome
Germany	Necessity vs. dignity	Rights affirmed but tested
UK	Security vs. liberty	Protections upheld
Pakistan	Weak ethical debate	Frequent wrongful convictions
India	Expediency vs. fairness	Disproportionate harm to the poor
Nigeria	Normalized coercion	Inequality reinforced
South Africa	Systemic abuse	Trust in institutions eroded

3.4 Institutional Accountability and Governance Gaps

Oversight mechanisms exist, but are weak. The UK's Independent Office for Police Conduct is more effective than most, but delays and bias undermine confidence. Germany's ombudsmen and committees rarely tackle torture directly. South Asia's commissions lack independence, while Nigeria's Anti-Torture Committee and South Africa's IPID remain underfunded. Table 4 shows that institutional presence is insufficient without autonomy and enforcement powers.

Table 4. Accountability Mechanisms

Jurisdiction	Oversight Body	Effectiveness	Limitation
Germany	Ombudsmen, committees	Moderate	Limited scope
UK	Independent Office for Police Conduct	Moderate-high	Delays, bias
Pakistan	National HR Commission	Weak	Political limits
India	National/State Commissions	Weak-moderate	No enforcement
Nigeria	Anti-Torture Committee	Weak	Underfunded
South Africa	IPID	Weak-moderate	Lacks reach in rural areas

4. Discussion

The paper shows that the prevalence of torture and forced confessions cannot be attributed to the existence or lack of legal prohibitions. On the level of international law, the stand against torture has been established long ago, but the questioning of it at the domestic level is not the same in terms of extent and efficiency. International standards have been formally adopted into the criminal procedure of jurisdictions like Germany and the United Kingdom, but even in these countries, the experience of tension proves how easily the safety nets can be breached. The Daschner case in Germany, where a high-ranking policeman threatened torture to obtain information in a child kidnapping case, demonstrated that the principle of human dignity, albeit being anchored in the constitution, can be put to the test when institutional agents feel there is an urgency. The United Kingdom in the Police and Criminal Evidence Act (PACE) statutory measures have enhanced judicial processes by ensuring that evidence gathered under duress is inadmissible but anti-terrorism legislations have provided exceptions to these provisions. With South Asia, this scenario is quite different because in Pakistan and India, the notion of torture is illegal yet the act is thriving. The dependency of confession evidence, poor statutory exclusionary regulations and lack of counsel access have led to the situation where forced confessions have become an important component of the criminal process. Similarly, in Nigeria and South Africa, it is possible to find enforcement lapses because the prohibition is constitutional, but institutionalised impunity of the police, resource constraints, and judicial reluctance to challenge state actors undermine it. These findings are reflective of the assertion that has been raised by Berlin (2023) that the mere criminalization cannot prevent acts of torture without implementation by plausible mechanisms.

That is why the use of coercion is still prevalent despite the unlawfulness of such measures, bearing in mind that the fact of using confessions in the majority of criminal justice systems is still central. Long ago, confessions have been regarded as the ultimate evidence, and torture was the established truth-making process in Europe and other regions of the world, as Langbein (2024) and Mercier and Boyer (2021) argue. This historical heritage is still evident in current times, especially regarding the inquisitorial traditions where confessions are still considered to be strong sources of evidence. The findings demonstrate that law enforcement agents in South Asia and Africa still view confessions as the quickest road to conviction, and they can be quite easily tolerated by the judiciary. What makes it dangerous, as Lackey (2020) and Mensah (2024) believe, is that false confessions are normalized, and false confessions are the force that creates false convictions, which trigger a lack of trust in justice in society. The professional literature about the problem of testimonial injustice lays stress on the ethical aspect of the given phenomenon: the so-called forced confessions not only distort the truth but also put a gag on the suspects by forcing them to engage in their own guilt.

The ethical implications of such practices are great. According to Peters (2018), torture is a normal evil, which destroys the legitimacy of institutions, and the results of his study in Nigeria and South Africa confirm it to be an ordinary aspect of police work and not an exception. Similar comments on the role of professionals, including psychologists and doctors, in enlisting support to provide legitimacy to the abusive practices are made by Annas (2021) and Evans, Sisti, and Moreno (2019). The rhetoric of civil society and media criticism in Germany and the UK after high-profile cases indicates that at least the civil society and media can create ethical awareness, making the legal actors face the dilemma of utilitarianism of necessity and the categorical taboo on torture. Comparatively, there is a low level of debate about ethics in South Asia and most parts of Africa, where coercion is institutionalized in overstretched justice systems that espouse efficiency rather than justice. These oppositions imply that although torture is invariably deplored, its moral topicality is determined by the power of civil control and the readiness of cultures to face unpleasant realities.

Another determinant comes in the form of institutional accountability. The findings indicate that in the majority of jurisdictions, there are oversight systems, be it commissions or ombudsmen, or investigative commissions, which exist but seldom perform effectively. Their vulnerabilities are in

line with the results of Hadebe and Gopal (2021) in South Africa and Aborisade and Oni (2020) in Nigeria, who report how underfunded and politically subjugated institutions do not control the police abuses. The Independent Office of police conduct in the UK is more operational than most of these but has been accused of being sluggish and supposedly biased, thus limiting its preventative power. Parliamentary committees and ombudsmen of Germany exist in a symbolic position and do not directly refer to the cases of torture. In South Asia, human rights commissions usually do not have the independence or enforcement capacity to affect police practice, and their recommendations are often overlooked. These statistics support the fact provided by Berlin (2023), according to which the ability to prevent torture is determined not by the formal existence but by enforcement capacity.

The novelty of this paper is the fact that local self-government has been identified as the missing component of accountability. Although much is given to the international and national structures, the results have shown that the local institutions that are nearest to the affected people are always missing or are weak. In Germany and the UK, there are also regional ombudsmen and policing boards, although they are more advisory and only provide transparency and not enforcement. The municipalities in Pakistan and India lack policing powers that form a governance gap in which detainees can never claim their rights in response to coercions. Decentralisation in Nigeria and South Africa has not resulted in effective local control, with municipal councils having a lack of resources and control. The literature, like that of Rehman, Bareech, and Zakir (2025) on Balochistan and Ahmed and Minhas (2024) on police interviewing practices in Pakistan, can be used to show how the lack of provincial and local power will not stop the abuses. In comparison, the low performance of German and British local mechanisms is indicative of the fact that even symbolic oversight can at least create awareness, although lacking enforcement authorities, their effect on the situation is relatively minor. This comparative trend confirms the argument of Katner (2021) and Prahassacitta (2023) that making the rights a reality on the ground requires placing responsibility on the local level.

Collectively, the findings strengthen the literature that already exists on the subject in two significant respects. To begin with, they demonstrate that procedural traditions and criminalization cannot be the sole factors behind the continuation of torture. The fact is more important that autonomous, well-endowed institutions exist which can put in place protections, especially the courts and regulatory authorities. Second, they emphasize that due to the necessity to address the accountability gap, a critical role belongs to local self-government. In the absence of militant local institutions, torture endures in the void between international bans, which exist at an abstract level, and national implementation, which is weak. This is in line with the observation by Mercier and Boyer (2021) that truth-making institutions change over the years, with societies ceasing trials and transitioning to judicial evidence; similarly, they are now facing the need to change to community-based accountability. The integration of human rights protections in local governance would make them available to the victimized as well as increase transparency and democratic legitimacy.

5. Conclusion

As the comparative analysis that is presented in this paper demonstrates, the absolute prohibition of torture that is firmly embedded in international law has yet to be consistently put to consistent use in domestic law. The examples of Germany and the United Kingdom are fairly good, and their rules that exclude confessions made under coercion and judicial restraints are in place to prevent confessions can being made under coercion, but even these measures have been demonstrated to be very weak in the face of unprecedented circumstances such as counterterrorism actions or police emergencies. Comparatively, Pakistan and India continue to rely on confessional evidence in large quantities, and limited access to legal services in custody has instituted the scenario in which the notion of coercion has become normalized. In both Nigeria and South Africa, there are constitutional protections against torture, but the presence of such protection has no use as the systemic impunity, corruption, and the inadequacy of resources prevent total implementation. These failures and the consequences of the

same are not only procedural in nature, but also rather ethical in their nature: Forced confessions not only undermine the credibility of evidence, but also facilitate the miscarriage of justice, as well as erode the trust in the legitimacy of the justice system. They further strengthen discrimination programs and marginalised and marginalized groups of people are at the end of the receiving end. The second exceptional input of the research is that the author concentrates on the phenomenon of local self-government, which is frequently neglected in terms of criminal procedure and human rights, in general. This is somewhat the case on the municipal level in Europe, but it is quite advisory, but not authoritative, and neither are such mechanisms in place in South Asia or Africa. This is a governance gap, as such a lack of empowered local control leaves no local community in a disadvantaged position of protection and redress. It is thus important to empower local institutions that possess enough power and resources, as well as autonomy, in case the prohibition of torture leaves the rhetorical scene and becomes a reality that is applicable in criminal justice systems.

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