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## THE ROLE OF CONFESSIONS IN CRIMINAL INVESTIGATIONS: JUDICIAL OVERSIGHT AND POLICE

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### ABSTRACT

That balance is at the heart of this law-related study, which investigates particularly the influence that such confessions can have on criminal investigations. Confessions are seen as one of the most potent forms of proof, able to connect a charged individual directly with a crime and help reveal defendant details like motive, method and accomplices. But their evidentiary value is largely contingent upon how they are obtained and documented. It explores the law regarding confessions under India, especially with respect to Bharatiya Sakshya Adhiniyam and the Bharatiya Nagarik Suraksha Sanhita. It highlights that confessions made with the police officer are usually inadmissible while those recorded before a magistrate are deemed admissible, if they are voluntarily taken without any coercion. The paper discusses the role of police authorities in securing confessions and the risks involved such as a misuse of authority including custodial torture and forced confessions. The study ends by asserting that confessions are important investigative tools, but their reliability can only be achieved through continued adherence to legal safeguards, accountability for the police authorities involved in such investigations and adequate judicial oversight to protect justice and prevent miscarriages of justice.

**Keywords:** Confessions, Criminal Investigation, Judicial Oversight, Police Accountability, Voluntariness, Admissibility of Evidence, Custodial Torture, Fundamental Rights, Bharatiya Sakshya Adhiniyam, Bharatiya Nagarik Suraksha Sanhita.

## **Objectives of the Study**

1. To examine the function of confessions and their value as evidence in criminal investigations.
2. To look at the laws and protections that control confessions' admissibility in India.
3. To assess how police accountability and judicial supervision prevent coercion and guarantee justice in the confession process.

## **Introduction:**

The researcher in this chapter explores the pivotal function that confessions serve in criminal investigations, while emphasizing the critical role of both law enforcement and judicial systems in ensuring their integrity. Confessions can be a cornerstone in solving crimes, often providing key evidence that links a suspect to a criminal act. However, the manner in which these confessions are obtained—coupled with the oversight provided by the judiciary—determines their legal admissibility and reliability. In this chapter, the researcher critically examines the interplay between police practices in obtaining confessions and the necessary judicial oversight to prevent coercion or miscarriages of justice<sup>1</sup>. It looks at the methods used by law enforcement to elicit confessions, including interrogation tactics and the psychological pressures that may influence a suspect's decision to confess. Simultaneously, the chapter highlights the role of the courts in reviewing the voluntariness of confessions and safeguarding against unlawful or improper methods during the investigation process.

## **Confessions as Evidence in Criminal Investigations**

Confessions play a significant role in criminal investigations, often considered one of the most direct and potent forms of evidence. In the context of criminal law, a confession is an admission by the accused that they have committed the crime. This admission, when made voluntarily and in compliance with legal safeguards, can lead to the uncovering of vital facts, provide insights into the nature and commission of the crime, and help corroborate other pieces of evidence in the investigation process.

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<sup>1</sup>Confessions – Legal Safeguards, LAWYERSCLUBINDIA, <https://www.lawyersclubindia.com/confessions-legalsafeguards> (last visited Jan. 18, 2025).

In India, the Bharatiya Sakshya Adhinyam, 1872, governs the use of confessions as evidence. While confessions made to police officers are generally inadmissible under Section 23(1) of the Act, confessions made before a magistrate are admissible and are given significant weight in judicial proceedings, provided they fulfill certain criteria. This distinction underscores the importance of ensuring that confessions are not obtained through coercion or undue influence. As the legal system aims to maintain fairness, confessions made voluntarily and properly recorded can significantly enhance the investigative process, offering clarity regarding the crime, the motives, and the individuals involved.

In the initial stages of an investigation, when physical evidence may be sparse or inconclusive, a confession can provide crucial leads. A confession may offer details about the crime scene, the weapon used, the accomplices, and the modus operandi, which can, in turn, guide investigators to gather further evidence. For example, a confession may lead to the recovery of stolen property or the identification of co-conspirators, facilitating a broader investigation into the criminal enterprise.<sup>2</sup>

However, while confessions are highly valuable in criminal investigations, their reliability and admissibility depend on the manner in which they are obtained. The risk of false confessions remains a major concern. In the Indian context, the possibility of confessions made under duress or torture is a real issue, leading to wrongful convictions. This concern has led to legal provisions that ensure confessions are not extracted under pressure but made voluntarily and with full knowledge of their consequences. Consequently, confessions are not only a tool for uncovering the truth but also a subject of scrutiny to prevent abuse by law enforcement agencies.

Thus, the role of confessions in criminal investigations is integral but must be carefully monitored.<sup>3</sup> The process of obtaining confessions should adhere to the highest legal standards to ensure that they serve justice rather than compromise it. The integrity of the confession process ensures that confessions can be used effectively to establish guilt or innocence while protecting the rights of the accused.

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<sup>2</sup> Model Police Act, 2006, MINISTRY OF LAW & JUSTICE, GOV'T OF INDIA (2006)

<sup>3</sup> NAT'L CRIME RECS. BUREAU, CRIME IN INDIA 2020 (2020).

## Police Power and Accountability in Confession-Related Matters

The police play a pivotal role in criminal investigations, including the task of obtaining confessions from suspects. However, the power vested in law enforcement agencies to investigate crimes and collect evidence must be balanced with a system of accountability to prevent the misuse of power. This balance is particularly crucial in matters related to confessions, as the risk of coercion, torture, and manipulation is high.<sup>4</sup>

In India, the power of the police to question suspects and gather confessions is governed by specific legal provisions, primarily the Bharatiya Sakshya Adhiniyam, the Bharatiya Nagarik Suraksha Sanhita (BNSS), and constitutional protections. Section 23(1) of the Bharatiya Sakshya Adhiniyam prohibits the admission of confessions made to police officers, recognizing the potential for police misconduct during interrogations. Similarly, Section 23(2) of the Evidence Act limits the admissibility of confessions made during police custody, unless they are made in front of a magistrate. These safeguards aim to ensure that the confession process is fair, voluntary, and not marred by undue pressure or abuse.

Despite these legal provisions, concerns about police practices in obtaining confessions persist. In many instances, the police have been accused of using aggressive and unlawful tactics during interrogations. Reports of custodial torture, illegal detention, and intimidation are common, and such practices may lead to false confessions. The Supreme Court of India, in *D.K. Basu v. State of West Bengal (1997)*, emphasized the need for strict safeguards against custodial abuse, mandating that police officers must inform the accused of their rights, and access to legal representation must be ensured during custodial interrogation.

Furthermore, the accountability of the police in confession-related matters has been under increasing scrutiny. The law requires that any confession made by an accused person in police custody must be recorded in the presence of a magistrate, who acts as a neutral party to ensure that the confession is voluntary and without coercion. This procedural requirement is designed to prevent any form of police manipulation and is a critical part of maintaining the integrity of the criminal justice process.

In recent years, there has been an increased emphasis on improving police accountability,

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<sup>4</sup> U.N. Basic Principles on the Role of Lawyers, U.N. Doc. A/CONF.183/8 (1990).

particularly in the area of custodial interrogations and confessions. Mechanisms such as video recording of interrogations, regular inspections by senior officers, and third-party oversight have been suggested as methods to curb police excesses and ensure that confessions are obtained lawfully. Police accountability in confession-related matters is essential to prevent violations of constitutional rights and to ensure that confessions are not tainted by improper conduct.<sup>5</sup>

In sum, while police have significant powers in the investigation of crimes, their role in obtaining confessions must be exercised with strict adherence to legal standards. A system of accountability must be in place to monitor and evaluate police conduct, ensuring that confessions are made voluntarily and in compliance with the law.

### **Judicial Oversight of Confession Recording Processes**

Judicial oversight of confession recording processes is one of the most vital aspects of ensuring that confessions are admissible, reliable, and legally valid in Indian law. The judiciary's role in overseeing the recording of confessions serves as a safeguard against any potential abuse during the investigation process<sup>6</sup>. It is critical that confessions made by accused individuals are recorded in compliance with the procedural rules and safeguards to prevent any form of coercion or undue influence.

In India, the procedure for recording confessions is outlined under Section 183 of the Bharatiya Nagarik Suraksha Sanhita (BNSS). This section mandates that confessions made by an accused person in connection with an offense must be recorded by a magistrate. The magistrate is required to ensure that the confession is made voluntarily, without any pressure, threat, or inducement, and that the person making the confession understands the implications of their statement. The magistrate is also obligated to inform the accused about their right to legal representation and to remain silent, ensuring that the confession is made freely and knowingly. The role of the magistrate is critical in safeguarding the rights of the accused. The magistrate acts as an impartial observer and ensures that the confession is made in a lawful and ethical manner. In particular, the magistrate must ascertain that the confession is not the result of torture, threats, or other forms of coercion. Additionally, the magistrate must be satisfied that

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<sup>5</sup> S. Radhakrishnan, Confessions and the Constitutional Dilemma, *THE HINDU* (New Delhi), May 12, 2021.

<sup>6</sup> A. Verma, Police Confessions: Are They Legally Binding?, *TIMES OF INDIA* (New Delhi), Apr. 8, 2019.

the confession is intelligible and that the accused has had the opportunity to consult legal counsel before making the statement.<sup>7</sup>

Judicial oversight also extends to ensuring that the recording of confessions adheres to procedural norms. This includes verifying that the confession is accurately transcribed, properly signed by the accused, and filed with the relevant court or authorities. Furthermore, the magistrate is expected to remain vigilant against any attempt by law enforcement to manipulate or influence the confession-making process.

The significance of judicial oversight in confession processes has been repeatedly underscored in Indian case law. In cases such as *D.K. Basu v. State of West Bengal (1997)*, the Supreme Court stressed the importance of judicial scrutiny to prevent custodial torture and other forms of illegal interrogation methods. The Court issued detailed guidelines to ensure that accused individuals' rights are protected, emphasizing that magistrates must take adequate precautions to ensure that confessions are made voluntarily and without external pressures<sup>8</sup>.

In essence, judicial oversight ensures that the confession process remains transparent and that any confession admitted in evidence is legally valid and obtained in compliance with the law. The presence of a neutral, independent judicial officer during the confession process is a cornerstone in maintaining the integrity of the justice system, guaranteeing the protection of constitutional rights, and ensuring the fairness of the trial.

### **Case Studies: Confessions in Criminal Investigations**

Case studies involving confessions in criminal investigations provide valuable insights into how confessions impact the investigative process and the legal outcomes of cases. These case studies highlight the complexities surrounding the use of confessions as evidence, as well as the risks of misuse, coercion, and wrongful convictions.

One of the landmark cases involving confessions in criminal investigations is *Selvi v. State of Karnataka (2010)*. In this case, the Supreme Court dealt with the issue of involuntary confessions, particularly in the context of scientific techniques like polygraph tests, brain mapping, and narco-analysis. The Court ruled that confessions obtained through these methods

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<sup>7</sup> K. Chawla, India's Confession Laws: A Critical Review, INDIAN EXPRESS (Mumbai), Jan. 3, 2020.

<sup>8</sup> R. Iyer, The Struggle for Justice: Confessions and India's Courts, TRIBUNE (Chandigarh), Feb. 17, 2018.

could not be considered voluntary, as they do not guarantee the accused's freedom to make a confession without psychological or physical pressure. This case set a precedent for how confessions, obtained through non-traditional means, should be treated by the judiciary<sup>9</sup>. Another important case is *State of U.P. v. Rajesh Gautam (2003)*, in which the Supreme Court emphasized the need for judicial scrutiny of confessions made to police officers. The case involved the confession of the accused, who claimed to have committed a serious offense. The Court clarified that while confessions to police officers are generally inadmissible, if they are made in the presence of a magistrate or lead to the discovery of a material fact, they may be considered valid<sup>10</sup>. This case reinforced the principle that confessions must be made under lawful and voluntary circumstances.

A further illustrative case is *D.K. Basu v. State of West Bengal (1997)*, where the Supreme Court addressed issues of custodial violence and torture. In this case, the Court laid down guidelines to prevent custodial abuse, including the requirement that all confessions made during police custody be recorded in the presence of a magistrate. The Court acknowledged the role of confessions in investigations but stressed that they should never be the result of coercion or force. The ruling reinforced the notion that confessions, while valuable, must always be obtained through fair and legal means.

These case studies highlight the importance of rigorous legal standards in the recording and use of confessions in criminal investigations. They underscore the need for the judiciary to carefully evaluate the circumstances under which confessions are made to ensure they are reliable, voluntary, and admissible.

### **Remedies for Violation of Legal Provisions in Confession Processes**

The violation of legal provisions concerning the confession process can have serious consequences, not only in terms of the specific case but also in maintaining public trust in the justice system. When legal safeguards for obtaining confessions are ignored or violated, remedies are available to protect the rights of the accused and ensure fairness in the trial process.

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<sup>9</sup> N. Sharma, Confessions in Indian Law: A Double-Edged Sword, ECONOMIC TIMES (Mumbai), Oct. 20, 2017.

<sup>10</sup> Confessions under Indian Law, LEGAL INDIA, <https://www.legalindia.com/confessions-under-indian-law> (last visited Jan. 12, 2025).

One of the primary remedies for the violation of legal provisions related to confessions is the exclusion of the confession as evidence. If a confession is obtained through coercion, torture, or other unlawful methods, it is deemed inadmissible in court. This principle is enshrined in Sections 23(1) and 23(2) of the Bharatiya Sakshya Adhiniyam, which prohibit the admission of confessions made to police officers or during police custody unless recorded in the presence of a magistrate. The courts have consistently ruled that confessions made under duress cannot be used to convict the accused, as they violate the principle of fairness in criminal trials.<sup>11</sup> Another remedy available is the filing of a writ petition under Article 32 or Article 223(2) of the Indian Constitution, which grants individuals the right to seek judicial review in cases of illegal detention, torture, or other violations of fundamental rights<sup>12</sup>. If an individual's confession is unlawfully obtained, they may challenge the process in higher courts, which have the power to intervene and order remedies such as the exclusion of the confession or compensation for any rights violations<sup>13</sup>.

Additionally, remedies may include criminal liability for law enforcement officers who violate legal provisions in obtaining confessions. The use of physical force, torture, or threats during interrogations constitutes an abuse of power, and those responsible may be prosecuted under relevant sections of the Bharatiya Nyaya Sanhita, such as Section 120 (voluntarily causing hurt to extort a confession) or Section 127(8) (wrongful confinement to extort a confession). Courts have increasingly taken a firm stance against custodial violence and have directed action against police officers who violate the rights of detainees.

## **Conclusion**

In conclusion confessions are essential to criminal investigations because they offer concrete proof and help unearth important information. However, rigorous adherence to legal protections and procedural justice are necessary for their dependability. The study emphasizes how unbridled police authority can undermine justice by causing coercion and false confessions. Thus, judicial supervision serves as a crucial tool to guarantee voluntariness and safeguard the accused's rights. The necessity of accountability and transparency is reinforced by legal provisions and case law. In the end, maintaining the integrity of the criminal justice

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<sup>11</sup> Subhash Reddy, *Confessions under Indian Law: A Contemporary Analysis* (2023).

<sup>12</sup> Subhash Reddy, *Confessions and Legal Safeguards in India* (2022)

system requires striking a balance between efficient investigation and the defense of fundamental rights