

DOCTORS AND TORTURE

We, in the Indian Medical Association (IMA) are happy to note that the World Medical Association Declaration of Hamburg has been deservedly highlighted. We feel that this Declaration has to be brought home not only to the members of the medical profession through their respective National Medical Associations but also to all the Governments and Human Rights Commissions of all Nations.

We have been putting this message across to the medical fraternity and public in India on every possible occasion and through several forums including the National Medical Conferences. The response from the Press has been encouraging. Doctors and torture was the subject of an International Congress jointly organized by the Overseas Doctors' Association of the United Kingdom and the Indian Medical Association (IMA), (Feb. 1998) in Bangalore as well as the Annual Conference of the Indian Medical Association (Dec. 1997) at Daman.

Victimization of Doctors

According to *The Times of India*¹, the Indian Medical Association deserves to be congratulated for the courageous stand it has taken against torture and the collaboration—sometimes voluntary, often forced—of doctors and healthcare professionals in this inhuman and barbaric practice. In a recent decision, the IMA has called upon doctors to “turn down any administrative order, verbal or written, calling for any kind of assistance in the torture of prisoners”. And in the event of doctors being victimised for their stand, the Association has emphasised that it will stand by them.

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In a move of equal significance, the IMA—which functions as the national body of practising physicians—has also entered into discussions with the National Human Rights Commission with a view to opening a rehabilitation centre for torture victims at a designated hospital. Torture is a deliberate form of cruel, inhuman and degrading punishment inflicted primarily with the purpose of eliciting information or a confession from a person under detention. Though torture is illegal and India has been a longstanding signatory to the Universal Declaration on Human Rights which prohibits the practice, cases of third-degree treatment in the country’s police stations and jails are legion. And sadly, doctors have often been closely involved with such illegality. According to the IMA, “doctors serving in the military, police and prisons have the highest risk of either being involved in or asked to cover up cases of torture as all custodial torture victims or deaths are to be examined by this section of the medical profession”.

Definition of Torture

“The deliberate, systematic or wanton infliction of physical and mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information to make a confession or for any reason.”

*Declaration of Tokyo, 1975.
World Medical Association (WMA)*

Historical: Ancient Indian Outlook

Punishment for offences is an important topic in ancient and medieval books on policy and administration such as Kautilya’s Arthashastra, Manu-dharma-sastra, Yajnavalkya-smriti and Kamandakiya-niti-sara; there are discussions about this issue in Mahabharata (Raja-dharma-parva section in Shanti-Parva) and in Agnipurana and Matsyapurana, from the history of ancient India.

Torture as an aspect of punishment and a corrective technique is an old practice widely prevalent in India. But the ancient texts prescribe it as an extreme case and do not generally favour it. Torture for political reasons is certainly condemned. Punishment is meant to instil fear and warning in the minds of people not to transgress the laws. “*raajadandabhayaallokaa paapaah paapam na kurvate*”

But the offenders must be treated with due justice; even if the offender is devoid of kindness and finer feelings, the administrator cannot afford to be without compassion. He must set an example.

"Adharma vyavaashanaanu nyaayavruthena vaarayet
nirdyasyapi dayaa kartavyaa
maryaadaa sthapyet"

The purpose of administration is to suppress the wicked folk who cause trouble to the law-abiding citizens and to protect the good folk who are not capable of defending themselves otherwise. "dushtanigraham kuryat shistaparipalanam cha"

The ruler must first inform the offender what is right and proper, and educate him. If the person who offends against the law persists, the ruler must try and pacify his motivations. If that fails to bring him back to the mainstream of law and justice, then he must be threatened and afforded a chance to correct himself. At the next level, the criminal may be imprisoned (physically), isolated from others, fettered (preventing free movement), set to engage himself in activities in isolation, and finally driven out of the country (Artha-sastra, Vinayadhikarika section II).

"dharmamayam chopaashet avineetam saanthvayet
trasayet bhedayet badhneeyaata karmaanteshu
yojayet pravaasyedvaa "

Torture

Torture is a deliberate form of cruel, inhuman and degrading punishment. It is an act by which severe pain or suffering whether physical and/or mental is intentionally inflicted on a person to obtain a confession of information. Torture is the punishment for an act he/she or a third person has committed or is suspected of having committed. Torture is systematic destruction of personality and tends to damage individuals without causing them to die. Survivors of torture suffer many a time even for years, from depression, anxiety, shame, guilt and lack of concentration, with many subjective symptoms such as headache, loss of memory and fatigue, etc. The only document of torture is the testimony of the victims, together with denials

by those who are responsible for it.

Types of Torture

Torture can be physical or mental or both. Physical torture includes beating from head to foot with sticks, chain and cables, etc., by lit cigarettes, cigars, hot iron, electric shocks—to sensitive parts, nail pulling, lifting by hair (traction alopecia), suspension by arms, abnormal body positions, sexual violation, scratching by knife, flogging, pressure on the eyes, heavy weight on ear lobes, hung up naked, twisting of female breasts, striking blows at the ears, forced to eat chilly powder or excreta, repeated hitting on the soles of the feet with rods (falanga) or knuckles, deprivation of sleep, food and water and isolation. The list is endless.

Mental torture includes threats, sham executions, humiliation, etc. The worst experience for the victims is what may happen to them next.

Social deprivation includes not being allowed to see visitors, perform religious rituals, etc. Apart from these, we have cases of abduction, rape, naked parading, branding, dowry harassment, child abuse and similar cases perpetrated by members of society.

Torture After-Effects

Post-traumatic Stress Disorder (PSD) consists of anxiety, impaired memory, insomnia, fear, nightmares, somatisation disorders, numbing of responsiveness, sleep disturbance, confusion, suspiciousness, vertigo, etc. There is a deep personality change in most of the cases.

Prevalence

Torture is prevalent all over the world. Its prevalence tends to be in areas troubled by regional and religious conflicts, civil disobedience and political unrest.

Indian Scene

Torture of arrested victims by police is very common. In a first landmark judgment, the presiding judge in Calcutta Bankshall Court convicted on 5th June 1996, two officials of the Calcutta police on charges of:

1. The use of torture to extract confessions.
2. The illegal detention of a prisoner.
3. Outraging the modesty of a woman.

Another common social disgrace is the prevalence of domestic violence. Babies and children are victims of family members and parents. In the administration, subordinates are inflicted with mental torture.

Role of Doctors

Doctors have been involved in torture directly or indirectly throughout the ages. The medical profession probably is the one which is most likely to be confronted with torture victims. It might be a general practitioner when one of the patients complains of symptoms following torture. Torture victims are brought to the first-aid department in the emergency ward of a hospital and hospital doctors are in charge of the treatment. Forensic doctors see torture victims when a medical certificate is required by the police or at the autopsy of torture victims who have died. Prison doctors, police doctors, or military doctors who work in close contact with the institutions responsible for the torture are more than likely to see torture victims or even to collaborate with the torturers.

Doctors serving in the military, police doctors, and prison doctors have the highest risk of being either involved or asked to cover up the cases of torture as all custodial torture victims or deaths will be examined by this section of the medical profession.

Being on the payroll of the Government, doctors employed by the State willingly or unwillingly become a party in the torture, passively in most cases. This may take the form of false medical certificates, deliberately omitting medical information or tampering with post mortem reports. There are cases, where doctors actually participate in inflicting torture in the form of giving harmful drugs, delaying treatment, administering electric shocks, observing and certifying the medical condition of victims of torture, and giving advice as to whether or not it is safe to continue torture.

Thus participation of doctors in torture may be—

1. Evaluating the victim's capacity to withstand torture.
2. Supervising torture by providing medical treatment if complications

set in.

3. Providing professional knowledge and skills to the torture.
4. Falsifying or deliberately omitting medical information when issuing health certificates and autopsy reports.
5. Administering torture by directly participating in it.
6. Remaining silent in spite of the knowledge that abuse has taken place.

Doctors in private practice may simply refuse to provide treatment for victims in order to keep away from the troubles such as attending medico-legal cases. The reasons for participation of doctors in torture generally include inadequate understanding of medical ethics, identification with the cause of torture, fear of the consequences of refusal, and bureaucratic pressure.

War and Repression

In periods of war, the fundamental right to life is denied. During World War II, the medical profession in Europe and in the Far East was involved in a grand scale killing of the infirm, mass killing of human beings in general and medical torture in the form of pseudoscientific experiments carried out with total disregard to human suffering. Medical skills were extensively employed in torture. Torture continued with the participation of medical doctors during wars of liberation as well as in domestic repression. Such a level of sadism was reached that doctors supervised the torture.

In post war developments psychiatry is an area which was and can easily be abused. Capital punishment is also considered by many to be a form of torture. When repressive forces come into power, existing laws are changed or modified thus removing established legal protection for individuals or licensing powers of the medical profession. Even the Hippocratic Oath, which has been in existence for many centuries, has appeared in different forms, some of which stress the physician's responsibility to the State rather than to his/her patients.

Diagnostic Considerations

The doctor should be familiar with the injuries caused by torture and should be aware of the psychological and social issues confronting the

tortured patient. Concrete physical evidence includes skeletal and soft tissue abnormalities, evidence of sexual abuse, head trauma and diseases such as hepatitis and gastro-intestinal infections resulting from unhygienic and subhuman conditions. The gathering of evidence requires detailed physical examination and application of forensic methods, forensic anthropology, HLA typing and mitochondria DNA sequences, etc.

Psychological symptoms include re-experiencing the trauma, hyperarousal or avoidance or denial syndrome, depression, withdrawal, detachment, guilt, family difficulties and sexual abuse.

Limitations

The medical person is often emotionally unprepared to listen to the horrifying experiences of tortures victims. Patients themselves frequently will not reveal torture experience for reason of fear, reprisals, humiliation, reluctance to reveal painful memories, or fear of stigmatization to themselves and their families.

Doctor and Torture Victims

Medical science offers healing to sufferers. The medical profession is committed to relieving pain, to offer solace and promote healing. To be contrary to this is against humanity and medical ethics. Doctors are to be informed and educated with regard to their duties and medical ethics. Medical certificates and autopsy reports should reflect this. Treatment and rehabilitation of torture victims is the duty of medical doctors. Torture is illegal. The Hippocratic Oath states: "I will keep (the sick) from harm and injustice." The World Medical Association has adopted a modernised text of this pledge—The Declaration of Geneva—in which the doctor pledges himself "...to consecrate (his/her) life to the service of humanity... I will maintain the utmost respect for human life from its beginning, even under threat, and I will not use this medical knowledge contrary to the laws of humanity ..."

In the Declaration of Tokyo, October 1975, the WMA states: "The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused

or guilty and whatever the victim's beliefs or motives and in all situations including armed conflicts and civil strife. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment ... The doctor shall not be present during any procedure during which torture or other forms of cruel, inhuman or degrading treatment is used or threatened." A doctor must have complete clinical independence in deciding upon the care of a person for whom he/she is medically responsible. The doctor's fundamental role is to alleviate the distress of his or her fellow individuals and no motive whether personal, collective or political shall prevail against this higher purpose.

The international meeting of 'Doctors, Ethics and Torture' held on 23rd August 1996 in Copenhagen recommended: "To urge all national medical associations to ratify, publicise, and implement the WMA Declaration of Tokyo."

The fundamental guidelines adopted by the UN General Assembly, 18th December 1982, state in principle 2 : "It is gross contravention of medical ethics, as well as an offence under applicable international instruments for health personnel, particularly physicians, to engage actively or passively, in acts which constitute participation in, complicity in, incitement to or attempt to commit torture or other cruel, inhuman order degrading treatment or punishment." In fact, freedom from torture is among the Human Rights contained in the UN Universal Declaration of Human Rights.

The most important task is to create awareness. An awareness campaign has to be initiated among doctors. Doctors should be aware of the medical consequences of torture both physical and psychological and be trained to diagnose, treat and rehabilitate victims of torture. The agenda should be "Torture is a challenge to the medical profession," Doctors should be specially educated not only in identifying the signs and symptoms arising out of torture but also about their role and responsibilities concerning the torture victims. A nationwide and indeed, a world campaign on this issue is imperative.

Postal Survey by Indian Medical Association

In a pilot study undertaken by the Indian Medical Association (HQ) under

Dr. A.K.N. Sinha Institute of Continuing Medical and Health Education and Research during 1995, 4000 members of IMA were approached (by postal survey) and information was obtained with regard to the awareness of current knowledge of physicians concerning torture. It was observed from this study that a large number of doctors had seen cases of torture and were willing to treat them. The majority of doctors in India are aware of various human rights institutions but are not aware of the human rights of detainees. A significant number of doctors justified the use of coercive techniques by law enforcement agencies. There was an unanimous opinion on the importance of medical ethics and the professional responsibility for its members. The majority answered that the Medical Association should take the responsibility of protecting the doctors who “Fearlessly testify against cases of torture”. The reasons for doctors’ participation in torture needed further study but most physicians were willing to take training and become counsellors for victims of torture.

Requirement of Physicians

A doctor should display a capacity of empathy and trust with the patients of torture. He should avoid overidentification or rejection of the victims of torture. Doctors should have a knowledge about the factors that predict short and long-term psychological disability. Every doctor should read the annual report or literature of Amnesty International, the Human Rights Commission, the International Rehabilitation and Research Centre for Torture Victims (IRCT), and reports of social and domestic violence, in order to obtain a broad knowledge of situations facing refugees and victims of torture.

Indian Constitution : The constitution of India guarantees: “No person can be deprived of his liberty. No person shall be detained in custody without being informed about the grounds of arrest. No person shall be denied the right to consult and be defended by a legal practitioner of his choice. Every person who is arrested and detained shall be produced before the nearest magistrate within 24 hours of arrest.”

RCT : The Rehabilitation and Research Center for Torture Victims is an independent, humanitarian, non-political organization established in 1982 to help victims of torture and to contribute to the prevention of torture. Its main objectives are to rehabilitate persons who have been

subjected to torture and rehabilitate their families, to instruct Danish health professionals in the examination and treatment of persons who have been subjected to torture, and to carry on research into the nature, the extent and the consequences of torture.

IRCT : The International Rehabilitation Council for Torture Victims is a private non-profit foundation, created in 1996 by the RCT. The objectives of the foundation are, on an international basis, to support research into all aspects of torture, to support education and training of health professionals and of other relevant personnel in the medical, social, legal and ethical aspects of torture, and to serve as an international clearing house for information about torture activities.

These organisations have their Headquarters in Copenhagen. The organisations have well-functioning and expanding global net work and have their activities channelised through 173 centres in different countries including India, Bangladesh, Pakistan and Sri Lanka. The number of centres is expected to rise to 200 by the year 1998 and 212 in 1999.

IRCT and RCT render possible dissemination of methodical knowledge about the rehabilitation of torture victims and technical and basic financial assistance during the initial phases of establishing rehabilitation programmes. They offer rehabilitation services to particular target populations within a specific scenario. The activities carried out by these centres and programmes focus mainly on medical, physical and psychological therapy and rehabilitation of victims of torture. Their programmes also involve research, methodical development and documentation, worldwide education and training of personnel and information activities.

The torturers' demands for cooperation

In torture, the involvement of doctors takes many forms. They may either issue false medical certificates or deliberately omit vital information from their medical or autopsy reports. Even worse, there have been cases where doctors have actually participated in torture by administering electric shocks and other pain-causing instruments or by giving a considered view to the torturers about the actual medical condition and pain threshold of their victims. Though doctors employed by the State are particularly

vulnerable to the torturers' demands for cooperation, private doctors are also not averse to inflicting pain on reluctant 'patients'—if the price they are paid is right. Thus, while stressing that it will vigorously back the case of any doctor who is victimised by the authorities for his or her refusal to cooperate with acts of torture, the IMA has also drawn attention to the lack of awareness of medical ethics among the country's doctors. Most medical courses in India have only a perfunctory reference to ethics and a postal survey by the IMA of its members revealed that a significant number of doctors felt the use of coercive techniques by the law enforcement agencies was justified. Now that the IMA has taken a bold stand against torture, the Medical Council of India (MCI) must also weigh in. There should be clear guidelines from the MCI that doctors who assist in torture will risk deregistration, apart from prosecution. Secondly, suitable steps should be taken to free prison doctors from the administrative control of the jail authorities and place them instead under either National Human Rights Commission (NHRC) or the city administration. This measure will go some way towards allowing doctors who find themselves in a difficult situation to do the right thing and just say "No".

Reference

1. Editorial (1997) Tending to torture. *The Times of India*, December 26, p. 10.

