

Custodial Torture: A Two Years Prospective Study

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Abstract

Torture and violence are known since ancient times. The torture essentially is the cruelty committed by the persons in power over the helpless and the weak. Custodial torture means torture in police custody, jails or in custody of other governmental authorities. It is gross negation of the human rights and is violative of the article 21 of the constitution of India. To find out the various methods of torture employed in custody, present prospective study was conducted in the Department of Forensic Medicine and Toxicology, Govt. Medical College, Amritsar. Over a study period of two years, a total of 21 (16 male and 5 female) patients of alleged custodial torture, who were admitted in the emergency of Shri Guru Nanak Dev Hospital associated with Govt. Medical College, Amritsar were studied in detail. The maximum no of cases, 15 (71.4%) were from jail custody, 5 (23.8%) were in police custody and 1 (4.8%) patient was a victim of domestic violence who was detained in her own house. The maximum no of patients of custodial torture (33.3%) were in the age group of 21-30 years. 9.5% of the custodial patients suffered physical torture, 57.1% of the patients suffered mental torture and 33.3% of the patients were victims of both physical and mental torture. This study outlines the various methods of torture employed in custody with the aim of creating awareness in the society about the menace of torture and to help in the prevention of torture by the authorities.

Keywords: custodial torture, methods of torture, prevention of torture.

Introduction

Torture is the intentional infliction of severe mental or physical pain or suffering by or with the consent of the state authorities for a specific purpose. It is often used to punish, obtain information or a confession, take revenge on a person or create terror and fear within a population. Torture of a fellow human being by another human being is essentially an instrument to impose the will of strong over the weak¹. The aim of application of torture is to dehumanize the victim. Even in the modern era of civilized society, torture continues to be the handiest implement to terrorize and vanquish the weak.

Custodial torture is a matter of grave concern and is perhaps one of the worst crimes in a civilized society governed by the rule of law. It is further aggravated by the fact that this torture is committed by the persons who are supposed to be the protectors of the citizens. It is committed under the shields of “uniform” and “authority” within confines of a police station, lock up or prison, where the victim is totally helpless².

The practice of torture has been widespread and predominant in India since ages. It has become a ‘normal’ and ‘legitimate’ practice of police functioning all over the country. In the name of investigating crimes, extracting confessions and punishing individuals by the law enforcement agencies, torture is inflicted upon the people in the form of cruel, inhuman and degrading treatment, grossly derogatory to the dignity of the human person³. Torture in custody flouts the basic rights of the citizens and poses a serious threat to an orderly civilized society⁴.

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An important element in the prevention of torture is the effective investigations of torture allegations and the prosecution of those responsible. The insignificant conviction rate of the police personnel for the gory crime of torture has only encouraged more policemen to inflict torture. Under these circumstances, there is an urgent need to examine and analyze the issue of custodial torture in depth, so as to develop criminal jurisprudence and also to make the police officers accountable for their actions. In view of the skill with which health professionals can contribute to the investigations of human rights violations in general and torture in particular, the medical investigation of torture and cruel inhuman treatment assumes greater importance. Considering the moral or ethical value of a doctor, it is imperative on his part to protect the individuals from such treatment by effective investigation and documentations to provide evidence of torture and ill treatment, so that the torturers are made accountable for their actions⁵.

Material and Method

The present study was a two years study of the custodial torture cases, i.e. from 1.5.2008 to 30.4.2010, conducted in the emergency of the Guru Nanak Dev Hospital, Amritsar associated with Govt. Medical College, Amritsar. The custodial patients, who were brought to the emergency for treatment during the period of study, and who alleged physical or psychological torture of some kind, were included in the study. They were thoroughly evaluated as regards their history,

physical examination, examination of the injuries as well as their allegation of torture. The written consent of the patients was obtained before examination. The patients of domestic violence, which is also a kind of torture, were also included in the study, as even if they were tortured, they could not report because of the fear of their spouses. They were evaluated in the same way as in the case of other custodial patients. The categorization of torture was done as physical torture, mental torture or a combination of the two.

Observations

In the present study, a total of 21 patients, who alleged custodial torture, and were admitted in the emergency of the Guru Nanak Dev Hospital, Amritsar were studied.

Table I: Distribution of cases of custodial patients

Type of Custody	No. of cases	%age
Jail Custody	15	71.4
Police custody	5	23.8
Domestic custody	1	4.8
Total	21	100.0%

A total of 21 custodial patients alleged torture of some kind, physical or mental. Out of these 15 (71.4%) were in jail custody, 5 patients (23.8%) were in police custody and 1 (4.8%) patient was in domestic custody.

TABLE II: Age wise distribution of custodial patients

Age in yrs	Jail custody		Police custody		Domestic custody		Total	
	No. of cases	% age	No. of cases	% age	No. of cases	% age	No. of cases	% age
11-20	2	9.5%					2	9.5%
21-30	4	19.0%	2	9.5%	1	4.8%	7	33.3%
31-40	3	14.3%	3	14.3%			6	28.6%
41-50	2	9.5%					2	9.5%
51-60	3	14.3%					3	14.3%
>60	1	4.8%					1	4.8%

As is shown in the above table, maximum No. of patients of custodial torture were in the age groups of 21-30 years (33.3%), followed by the age group of 31-40 years (28.6%). Minimum no. of patients were in the age

group of above 60 years. All patients in police custody were in the age group of 21-40 years. The only patient of domestic violence, who was in domestic custody, was a 28 years old married female.

Table III: Sexwise distribution of custodial patients

Type of custody	Male patients		Female patients	
	No. Of cases	% age	No. Of cases	% age
Jail custody	14	66.7%	1	4.8%
Police custody	2	9.5%	3	14.3%
Domestic custody	-	-	1	4.8%
Total	16	76.2%	5	23.8%

76.2% of all the cases were males, while 23.8% of all the cases were females. Except one case of jail custody, all were male. In police custody, 2 out of 5 patients (9.5%) were males and the rest were females.

Table IV : Distribution of patients according to their Education status

Education status	Jail custody		Police custody		Domestic custody		Total	
	No. Of cases	% age	No. Of cases	% age	No. Of cases	% age	No. Of cases	% age
Illiterate	2	9.5%	-	-	-	-	2	9.5%
Primary	8	38.1%	1	4.8%	-	-	9	42.9%
Matric	2	9.5%	-	-	1	4.8%	3	14.3%
Under Graduate	2	9.5%	4	19%	-	-	6	28.6%
Graduate	1	4.8%	-	-	-	-	1	4.8%
Total	15	71.4%	5	23.8%	1	4.8%	21	100%

The maximum no of cases i.e. 9 cases (42.9%) were educated upto the primary level, while only one case (4.8%) was graduate. The maximum no. of patients in police custody were undergraduates. The only patient of domestic violence was a female educated upto the matriculate level.

Table V: Distrubution of patients in relation to the type of torture

Type of custody	Type of torture					
	Physical		Mental	Combined		
	No. of cases	% age	No. of cases	% age	No. of cases	% age
Jail custody	1	4.8%	8	38.1%	6	28.6%
Police custody	1	4.8%	4	19.0%	-	-
Domestic custody	-	-	-	-	1	4.8%
Total	2	9.5%	12	57.14%	7	33.3%

As shown in the above table, 9.5% of custodial patients were subjected to physical torture in the form of beating and slapping over minor things, beating with canes and leather strips. One patient reported kicking on the chest with the shoes on, while he had fallen down due to beating. 57.14% patients were subjected to mental torture in the form of delaying of medical treatment and abusive and obscene language. One case reported that he was denied food as a punishment for speaking loudly. More than one kind of mental torture was reported by some patients. 33.3% of patients were victims of both physical and mental torture.

Table VI: Types of injuries observed in physical trauma patients

Type of injury	No. of cases	% age
Bruise	1	4.8%
Abrasion	1	4.8%
Fracture	2	9.5%
Stab wound	1	4.8%
BURNS	1	4.8%
TOTAL	6	28.6%

In one case, there was a painful bruise on the right side of chest. In another case, there was an abrasion on the left forearm. While in one case there was a fracture of the right clavicle, in another there was fracture of the femur. In one case, a prisoner was assaulted by his jail inmate leading to stab injuries in the abdomen. In one case, a prisoner was burnt alive by the prison inmates due to scuffle, as a result of which he later died in the hospital.

Discussion

In the present study, out of a total of 21 patients of alleged custodial torture studied, 16 (76.2%) were males and 5 (23.8%) were female. In a study of torture patients from six countries, Moisander and Edston (2003)⁶ reported that there was a strong male dominance in the torture victims in all six countries except in the Ugandan group where 43% were woman. The male dominance in torture victims also reflects in the present study, in which 76.2% of torture victims are males.

The maximum no of patients of custodial torture were in the age group of 21-30 years (33.3%), followed

by the age group of 31-40 years (28.6%). The minimum no of patients were in the age group of above 60 years (4.8%). A study of people's watch (2007)⁷, a human rights organization in Bihar reported that 11.4% victims of torture in police custody were children of age between 0-14 years, while 28.3% were between 15-30 years. In the present Study, 40% of the police custody patients were in the age group of 21-30 years. A study by Laws and Lacopino (1997)⁸ of police torture victims in Punjab, reported that average age of the victims at the time of torture was 37 years. In the present study, the average age of victims of torture in police custody was 30 years.

Type of torture

In the present Study, 9.5% of the custodial patients suffered physical torture, 57.1% of the patients suffered mental torture and 33.3% of the patients were victims of both physical and mental torture.

In the study of Laws and Lacopino (1997)⁸, all the victims of police torture reported physical torture of different types as well as mental torture and humiliation in the hands of the police. In our study, only one person reported physical torture in police custody, while most of the cases reported mental torture. 7 out of the 15 cases (46.6%) in jail custody reported physical torture. The only patient of domestic violence complained of both physical and mental torture. It is evident that the incidence of physical torture is less in the present study as compared to their study. It can be concluded that over the years, the use of physical torture has been on the decrease by the police.

Methods of torture

In the present study, the methods of physical torture in custody were found to be beating, slapping on minor offences, beating with canes and leather straps and kicking. In one case, a prisoner was stabbed by his jail inmates in a fight. In another case, a prisoner was burnt alive by his jail inmates after a scuffle. The methods of mental torture included abusive and obscene language, threats, delaying the medical treatment, refusal to give food, humiliation and insulting and not allowing to meet the relatives. The methods of torture in the female patient of domestic violence were beating, slapping, kicking with shoe on, beating with canes, abusing and humiliating, restraining the patient in her house, not allowing her to go out or talk to anybody and not giving food to her.

In the study of laws and Iacopino (1997)⁸, the methods of custodial torture in living persons were beating (95%), leg stretching (75%), suspension (63%), roller torture (over the thighs) (62%), electric shock (27%), falanga (beating the soles of the feet) (15%) and burning (6%).

In the study by Moisaner and Edston (2003)⁶, the methods of physical torture were found to be beating with fists, sticks and truncheons, beating with lathis, whipping with electric cords, rape and genital torture, suspension, falaka i.e. beating of the soles and burn injuries due to cigarettes. In the present study, only beating, slapping and kicking were reported as the methods of physical torture. It can be concluded that the traditional barbaric methods of torture have decreased in police and jail custody.

Moisaner and Edston (2003)⁶ in their study described sensory deprivation by isolation and blind folding as methods of mental torture. These methods were also not found in the present study. Thus methods of mental torture in custody in this region are limited to abusing, threats, humiliation and insulting, delaying the medical treatment and refusing the prisoners to meet their relatives.

Type of injuries

In the present study, the types of injuries noted were abrasions, bruise, stab wounds, burns and fractures. The abrasion was present on the left forearm in one person in police custody, which he sustained due to falling when he was pushed by the police personnel. In one case, a person was stabbed by his jail inmates in a fight. In another case, a prisoner was burnt alive by his jail inmates due to scuffle. In two cases, the prisoners in jail sustained fractures after the accidental falls.

In the study of Laws and Iacopino (1997)⁸ injuries were found on victims of custodial torture in the form of scars or other physical findings such as broken bones, thigh indentations, and joint abnormalities.

Moisaner and Edston (2003)⁶ in their study found injuries in the form of fractures, scars, subjectively reported symptoms especially joint pain and ear, nose and throat symptoms and Post Traumatic Stress Disorder. These types of injuries due to custodial tortures were not found in the present study. Thus, it can be concluded that traditional barbaric and third degree torture methods

have decreased in this region of the country.

Conclusion

The Article 21 of the constitution of India guarantees all persons the fundamental rights of life and personal liberty. The custodians should respect the human rights of the persons in custody. They should also abide by their legal duty to provide necessary amenities for the health and safety of the individuals. The prisoners should be provided proper medical care and humane living conditions. Undoubtedly, the incidents of custodial torture are a blot on the face of human society. However, it is heartening to note that in the present study, the incidence of custodial torture has shown a decreasing trend. The reasons for this are the activism of the National Human Rights commission, media awareness regarding custodial torture and deaths, general public awareness, the constant fights of various NGO's against the custodial torture and the last but not the least, the role of medical fraternity in the proper documentation of various torture cases.

The inmates of prisons are prone to various diseases due to unhealthy, crowded and stressful living conditions and they also suffer from various mental health problems due to anxiety, depression and lack of interaction with their families. The authorities should improve the living conditions of the prisoners and do periodic psychological counseling to prevent violent behavior in them. The doctor has a pivotal role in the diagnosis and treatment of these physical and mental conditions. The role of doctor in the suppression of torture cannot be overemphasized. The forensic pathologist is in a unique position to foster the prevention of torture. By effectively investigating and documenting medical evidence in cases of custodial torture, he can greatly improve communication between health professionals and the regulatory authorities as well as facilitate the proper evaluation of information on the subject.

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