

# Battering In Custody—Torture By Law Enforcement Authorities and Care for the Detainees

## **Definitions**

(i) "Deliberate and systematic infliction of physical and or mental suffering by one or more persons on another person....." (World Medical Association – Declaration of Tokyo 1975)

(ii) ".....Cruel, inhuman or degrading treatment or punishment....." (UN Definition).

Increasingly common in Sri Lanka.

## **Legal Status.**

\*\* Barred by the Article 5 of the Universal declaration of human rights.

\*\* 1978 Constitution of Sri Lanka (Article 11. Chap. 3 under Fundamental Rights)

'No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'.

\*\* The individuals subjected to infringement of fundamental rights can institute a "Fundamental Rights Petition" in the Supreme Court within one month of alleged infringement, ( had the infringement been done by executive or administrative action.) [The persons who committed such infringement and the Attorney General must be made respondents]

\*\* Torture Act No 22 of 1994.

## **Circumstances.**

- To yield information
- To make (false) confessions
- Political/Personal conflicts
- Other (?? Ragging in institutions of higher education)

## **Aims of torture**

- To cause: Maximum pain
- Minimum visible injuries
- No death

## How do they present to a doctor / JMO ?

- After being discharged by police
- Produced by police/prison officer (usually with a different story )
- Produced by police after self inflicted injuries.
  
- Following a court order (If a person is illegally detained, relatives can institute a petition asking for a *Writ of Habeas Corpus* from court of appeals)
- As an investigation of a death in custody/Exhumation of Mass Graves etc. (Suriyakanda, Chemmini, Bosnia, Uganda, Former Ugoslavia etc. etc.).

## Common Methods of Torture

\*\* Physical and or mental

\*\* Any method possible—but there are around 20 commoner methods well documented in the recent past in Sri Lanka.

### **Physical Methods.**

Suspension (upside down) with or without assault (**Palastinian hanging, Dharma chakra, Parrot perch etc.**), Avulsion of head hair, Irritants to eyes, Assault on ears (**TELEPHONO**), Inhalation of irritants. Near drowning and Asphyxia (**DRY AND WET SUBMARINO**), Removal of teeth, Assault with blunt weapons repetitively (avoiding vital areas like head abdomen anterior chest etc.), (mainly aim at back of chest, buttocks, limbs.—leading to multiple contusions of different ages and patterns.) Burns—Cigarette butts

Scalds

Immersion Burns

Hot irons (**BLACK SLAVE**)

Finger nails—avulsion with pliers, pricking with pins and needles.

Genitalia — Blunt trauma (eg. Blow over testicles)

Trapping testicles in drawers

Irritants

Insertion of objects

Horsing/Irrigation (Vagal inhibition due to irritation of cervix—death)

Electrical torture (using shock batons)

Rape/Gang rape / Sodomy.

Foot — Immersion in sewage/ice cold water.

Beating the soles with blunt weapons (**FALANGA**)

### Commonly used objects

Fist blows, Kicking (with feet or boots), Batons, Iron rods. Whips, PVC pipes, Rifle butts, (rarely more systematic equipments specially made for the purpose like shock

batons may be used)

## **Psychological Methods**

Isolation in a room with total darkness (can go insane if long enough)  
Deprivation of sleep, food etc.  
Get victims to watch others being tortured. (Said to be very effective!!)  
Injection of drugs (thiopentone—truth drug) to obtain confessions.

## **Possible Injuries** (In declining order of frequency)

[Ageneralization only!!]

Contusions (multiple, different ages and patterns)

Burns

Fractures

Abrasions, Lacerations, Incised wounds. Stabs and Gunshot wounds.

## **Sequae of Torture**

### (A) Psychiatric manifestations

Post traumatic stress disorder with neuroses, psychoses, depression, low self esteem, irritability, poor memory and concentration, somatoform disorders etc etc.

### (B) Physical Problems

Permanent or long lasting impairments of hearing, vision, sexual functions, Arthropathies, gait disturbances, disfigurements, unwanted pregnancies, sexually transmitted diseases, aspiration pneumonia, peritonitis, death.

## **How can they die after torture?**

Immediate: Neurogenic Shock (Vagal inhibition due to intense pain and variety of other causes)

Late: Rhabdomyolysis (Release of myoglobin leading to acute tubular necrosis, Acute renal failure and death.  
Rhabdomyolysis (hyperkalemia leading to cardiac arrest and death  
Hypovolaemic shock.

Remote-. Aggravation of pre existing illnesses (MI. Diabetic coma etc)  
Septicaemia / Disseminated infections, Fat embolism  
Tetanus / Gas gangrene / Aspiration pneumonia

## **Doctor's Role in Battering in Custody**

### **If alive**

Get the history from the alleged victim and the police separately and in detail.

Do a full physical examination after obtaining written informed consent where necessary.

Record all injuries each one separately and in detail preferably with photographs.

Admit the patient to hospital on clinical suspicion (eg. Anticipating ARF if pt. has passed red urine etc) and do all necessary investigations (Serum K<sup>+</sup>, blood urea, electrolytes, Serum creatinine, Cpk, maintaining fluid balance etc etc.)

Refer to relevant specialities-ENT, Eye, Orthopaedics, Radiology, Dental, Std. Psychiatry etc. etc., Re-view the patient.

Documentation and sending reports to Courts and expert evidence in courts.

**N.B** — If you are a clinician and the pt. has produced himself before you, you must also inform the police / JMO (→ MLEF → M/L Examination by a JMO)

### **If dead**

Request an inquest (The magistrate should conduct the inquest)

Complete post mortem with neck, spinal dissection, pelvic and musculo skeletal dissection.

Kidney histology / Histology of all other relevant organs and injuries.

Blood and urine for alcohol and toxicology.

Exclusion of Natural illnesses in Post mortem.

Documentation, sending the report to Courts.

### ***Point to ponder.***

***No one has the right to be indifferent in an affair which concerns suffering and exploitation of the fundamental rights of a fellow human being.—this should be doubly true for doctors!!***

## **Basic principles in the care for the detainees:**

Detainees are the people who are detained/kept by law-enforcement authorities against their free will. They may be detained for short periods as in police cells or for longer periods as in the remand custody or in prisons. Once a person is detained against his free will, a heavy responsibility falls on the shoulders of the state regarding his/her well being and fundamental rights.

The health and welfare of the detainee should be the priority while any forensic considerations are of secondary importance. The Forensic Clinician should be independent,

impartial and professional. Advise on administration of medications, condition of detention (food, ventilation, adequate rest, toilet facilities, temperature, illumination, humidity) medical problems (epilepsy, asthma, heart diseases, diabetes, head injuries, general injuries, infectious diseases etc.) mental health issues (general psychiatric illnesses, substance misuse, deliberate self harm, claustrophobia etc.) personal safety issues, intimate body searches, forensic sample collection, fitness to be interviewed, fitness to be detained, charged, discharged, released or transferred etc. are some of the main considerations of a Forensic Physician in the care of the detainees. (though it is highly questionable whether most of the doctors even understand that they owe these obligations towards detainees)

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DR. SANJAYA HULATHDUWA  
MBBS. DLM. MD. DMJ(Path)Lond. DMJ(Clin)Lond. Dip.Crim, MFFLM(UK)  
Senior Lecturer, Consultant Forensic Pathologist  
Dept. of Forensic Medicine  
FMS/USJP