

Victim of Torture in Police Custody: A Case Study

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Introduction:

Torture, as one of the gravest crimes possible, is protected by a wall of silence and denial. Perpetrators do not admit it, and may take measures to avoid leaving evidence such as scars, or to dissuade victims from talking. Governments have reasons to downplay the scope of torture. Victims are left traumatized, ashamed and frightened; they are often reluctant to talk about their experience, or lay complaints against their torturers. Breaking this silence, and giving victims a voice, is a necessary first step towards reducing the use of torture. This report is an attempt to begin to break this silence. In a country and a world in which so many people are torture survivors, it must be noted from the start that the author of this report is not one of them. Any attempt to comprehend torture, and the trauma it wreaks, by someone who has not experienced it will inevitably be inadequate. The experiences, emotions and thoughts of torture survivors can by no means be fully and properly described. The research included a review of torture cases in Licadho investigation, medical and prison research files. Additional information was gathered through interviews with torture victims, and with others – government and law enforcement officials, and the staff of non-government organizations (NGOs) – with knowledge of torture. Torture is a disturbing and depressing subject. One of the pitfalls of researching and writing about it, into which the author of this report undoubtedly falls, is to neglect to see or to show the many glimmers of light in what is otherwise a very bleak picture. There are many across all sectors of society who not only refuse to close their

eyes to torture, but who actively work against it: the dedicated and talented staff of numerous NGOs who try to care for the victims and investigate the perpetrators; the many so-called ordinary people in villages and towns throughout India who, often at risk to their own safety, are willing to help the victims and provide information to investigators; and those officials within the government, police, military and courts who are prepared, each in his or her own way, to assist the fight against torture. Finally, and most importantly, there are the torture survivors who in picking up the pieces of their shattered lives serve as inspiration to us all. Torture is one of the most grievous acts of brutality practiced by mankind. While the word conjures up visions of the Dark Ages or the Inquisition, torture is by no means relegated to the ancient past. It is still commonly practiced in dozens of countries. Cambodia is one of them. In police stations and prisons, on military bases, in brothels of sexual slavery, and in private homes, torture is an everyday occurrence. People are regularly and routinely beaten black and blue with punches and kicks. They are hit with batons, iron bars, gun butts, and pieces of wood or other objects, subjected to electric shocks, whipped with wire, bamboo, rope or belts. Some are nearly suffocated with pieces of plastic, or have their feet crushed under wooden or iron bars. For many victims, torture includes rape or other sexual abuse. Aside from physical torture, methods of psychological torture include prolonged unlawful detention, verbal intimidation and death threats, mock executions and physical assaults or threats against relatives of victims.

Definition: 1. to cause extreme physical pain to, esp. to extract information, etc.; to torture prisoners. 2. To give mental anguish to. 3. To twist into a grotesque form. 4. Physical or mental anguish. 5. The practice of torturing a person. 6. a cause of mental agony.”

– ‘Torture’, as defined by the Collins Concise Dictionary, third edition, 1992.

“For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession,

punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

- The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The applicable legal definition of torture as a concept, rather than the individual actions that may comprise an instance of torture, comes from the UN Convention against Torture, which Cambodia ratified in 1992. A broader definition, designed for medical doctors, is that of the World Medical Association. The key difference between the two definitions is whether the participation or complicity of a State official is necessary for physical or mental pain to be categorized as torture. The UN convention requires the consent or acquiescence of a public official “or other person acting in an official capacity”, while the World Medical Association refers only to “one or more persons acting alone or on the orders of any authority”.

METHODS OF TORTURE: Torturers, whether they are State agents or civilians, politically motivated or not, use similar methods. (One exception is electric shock torture inflicted with electric batons, which is used primarily by police and military police officers.) The following are some common torture techniques:

- Beating: Beating (and kicking) is the most common form of torture, in India and around the world. Palms, fists, elbows, knees and feet can be used, and/or solid objects, most often guns, truncheons, pieces of wood or iron, etc.
- Whipping: Whipping, a form of beating, appears particularly prevalent in Cambodia. It is often inflicted with an electrical wire or cable, like those used for

household appliances or industrial uses, or with several wires wound together. The thickness of the wire varies, and it is often coated with plastic. (References to whipping with electric wire in this report do not refer to electrical shock, unless explicitly stated.) Ropes, belts and chains are also common whipping instruments.

- Electrical torture: Shocks are delivered either by electric baton or by an electric wire directly from a power source. Electric batons are mainly possessed by police and military police.
- Handcuffing/shackling/tying: Many torture victims' hands and/or feet are cuffed or shackled (with leg irons) or otherwise restrained during beatings or other torture. Other victims, particularly in prisons, may not be physically assaulted but simply left cuffed, shackled or otherwise tied up for long periods of time. Such restraints – particularly shackles – often cut into the flesh, restrict blood circulation and prevent movement, causing severe pain; they can cause permanent disability.
- Limb-crushing: This appears to be mainly used by police and military police. Usually, a wooden or iron bar is placed across the victim's feet or lower legs, and the police stand or jump on top of the bar to create downward pressure. In a different version, the police, often wearing boots, stomp on the arms or legs of a victim who is lying down.
- Rape/sexual abuse: Repeated rape is a common element in the torture of victims of sexual trafficking and domestic violence. Rape/sexual abuse has also been reported of girls and women in police stations, prisons or other official custody. The occasional case of sexual assault against males, usually in the form of deliberate injury to the genitals, has been reported.
- Verbal threats/psychological abuse: The ubiquitous death threat – often at gunpoint – is the most common form of psychological torture; virtually all torture victims are threatened with death. Mock executions and threats to injure or kill the relatives of victims are also used. Most torture victims, in State or civilian

custody, are subjected to prolonged unlawful detention and denial of access to outside world; some are kept in solitary confinement.

This list is not comprehensive. Examples of these, and other, types of torture are featured throughout this report. Many, if not all, of these forms of torture have long existed in India. A version of limb-crushing was practiced in the late 13th Century, when adulterers had their feet squeezed between two splints of wood. Several of the commonest forms of torture today, such as whipping and electric shock, were widely used during the Pol Pot era and the subsequent PRK and SOC regimes.

CASE

Torture by Police Is Frequent and Often Deadly

MEERUT (UP), India -- Rajeev Sharma, a young electrician, was sleeping when police barged into his house a month ago and dragged him out of bed on suspicion of a burglary in the neighborhood, his family recalled. When his young wife and brother protested, the police, who did not show them an arrest warrant, said they were taking Sharma to the police station for "routine questioning." "Little did we know that we would lose him forever," said Sunil Sharma, Rajeev's brother, recounting how he died while in police custody. "Their routine questioning proved fatal," he added, sitting beside his brother's grieving widow. Rajeev Sharma, 28, died at the police station within a day of his detention. Police said he committed suicide, but his family charges that he was beaten and killed. The case highlights the frequent use of torture and deadly force at local police stations in India, a practice decried by human rights activists and the Indian Supreme Court. A little more than a decade after Parliament established the National Human Rights Commission to deal with such

Abuses, police torture continue unabated, according to human rights groups and the Supreme Court. According to the latest available government data, there were 1,307 reported deaths in police and judicial custody in India in 2002. "India has the highest number of cases of police torture and custodial deaths among the world's democracies and the weakest law against torture," said Ravi Nair, who heads the South Asia Human Rights Documentation Center. "The police often operate in a climate of impunity, where torture is seen as routine police behavior to extract confessions from small pickpockets to

political suspects." He said that laws governing police functions were framed under British colonial rule in 1861 "as an oppressive force designed to keep the population under control." Police records show that, two weeks before his detention, Rajeev Sharma made a electrician's service call at the home of a wealthy businessman. On that day, the man reported that \$500 worth of gold jewelry and about \$100 in cash was missing, police said. After Sharma's detention, his brother called the police station and was told that Sharma had confessed to the theft, he said. The brother said he and other family members rushed to the station and were able to see Sharma briefly. "His eyes were red, his mouth was bleeding and he could hardly walk. They had beaten him very badly. That was the last glimpse we had," said Sunil Sharma, 35. "By the evening, the police informed us that he had committed suicide in the lockup by hanging himself with a blanket. The suicide story is a coverup; my brother died of police torture." The death in police custody sparked two days of rioting and protests in Meerut, about 45 miles from New Delhi, in the northern state of Uttar Pradesh. Angry residents surrounded and threw stones at the police station, burned police vehicles and blocked traffic. Thousands participated in Sharma's funeral procession; protesters demanded an open inquest by a panel of physicians and the immediate arrests of those responsible. Police conducted an autopsy in private, lawyers close to the case said. But authorities did issue arrest warrants for the man who said he had been robbed and for six police officers, an apparent reaction to the unusual popular outcry, family members and lawyers said. The merchant is in jail, alleged to have participated in beating Sharma, but the police officers apparently have fled, authorities said. Although the Indian government signed the international Convention against Torture in 1997, it has not ratified the document. Some members of Parliament have argued against ratification, saying they oppose international scrutiny and asserting that Indian laws have adequate provisions to prevent torture. Human rights advocates said Uttar Pradesh ranks highest among Indian states in the incidence of police torture and custodial deaths. Some police officers justify the use of torture to extract confessions and instill fear. "The police in India are under tremendous pressure, as people need quick results. So we have to pick up and interrogate a lot of people. Sometimes things get out of control," said Raghuraj Singh Chauhan, a newly assigned officer at the station where Rajeev Sharma

died. "After all, confessions cannot be extracted with love. The fear of the police has to be kept alive -- how else would you reduce crime?" he added, fanning himself with a police file folder. A senior police officer in Meerut, on condition of anonymity, openly discussed torture methods with a visiting reporter. One technique, he said, involves a two-foot-long rubber belt attached to a wooden handle. "We call this thing samaj sudharak," the officer said, smiling, using the Hindi phrase for social reformer. "When we hit with this, there are no fractures, no blood, no major peeling of the skin. It is safe for us, as nothing shows up in the postmortem report. But the pain is such that the person can only appeal to God. He will confess to anything." Last September, in a written ruling in a case of police misconduct, the Supreme Court criticized the use of torture. "The dehumanizing torture, assault and death in custody which have assumed alarming proportions raise serious questions about the credibility of the rule of law and administration of the criminal justice system," the court said. "The cry for justice becomes louder and warrants immediate remedial measure." In addition, the severity of the torture problem is probably worse than statistics indicate, because victims, fearing reprisals, rarely report cases against the police, human rights advocates said. "About 40 percent of custodial torture cases are not even reported. They are just grateful for God's mercy that they are alive and free," said Pradeep Kumar, a human rights lawyer who has represented police torture victims in Uttar Pradesh. "Torture sometimes leads to permanent disability, psychological trauma, loss of faculties." The National Human Rights Commission, led by a retired Supreme Court justice, has faced criticism that it is too dependent on the government and lacks enforcement power. "We have not been able to build a human rights culture in the police force," said Shankar Sen, a former police officer and an ex-member of the commission. "It is not only individual aberration but a matter of systemic failure." The commission has ordered that cameras be installed in police stations to monitor and deter police brutality. "In the past year we have spent about \$600,000 to equip most of the police stations in New Delhi with a camera. This will make police functioning transparent and have a big impact on torture," said Maxwell Pereira, a senior police official in the capital.

But critics and families of victims said they had not seen changes. In a much-publicized case in New Delhi last fall, five policemen were charged with beating and killing Sushil

Kumar Nama at a police station. Nama had been detained on suspicion that he was working with neighborhood gamblers. Four of the police officers were arrested in April, but one remains at large, authorities said. Police officials denied that Nama was tortured, saying he died of a heart attack after he was released from custody. "My two children are so traumatized that now they run home scared every time they see a policeman on the street," said Nama's wife, Rekha, 29. "They know that danger lurks behind that uniform. They are not policemen, they are wolves."