

FORENSIC MEDICINE AND HUMAN RIGHTS

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ABSTRACT

Human being was created on this planet by the Almighty to live a dignified life better than any other creature in this universe. He gave rights to him, not to be abused even by himself.

What is amazing is that even those rights which cannot be violated by the creator himself, are being violated by his creatures, and being done so with impunity. It is not astonishing that a voice against this torture is being raised by only a few noble creatures of the divine power.

I need not define human rights as these are well described by 'Universal Declaration of Human Right's in its 30 articles which states that all human beings are born equal in dignity and rights, and that there cannot be any criterion whatsoever for distinction, may have equal rights to life, liberty and security; have freedom of thought and opinion; have right to work, rest and leisure; right to education, religion and culture and are therefore equal before the law. It is good to know these rights but article 30 of this declaration should also not be forgotten. It states that nothing in this declaration may be interpreted as implying for any state, group or person, a right to engage in any activity, or to perform any act, aimed at the destruction of any of the rights and freedom set forth herein. When we go through the list of these right, article 5 lays emphasis that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment [1]. Forensic Medicine expert has definite role to play for effective implementation of this article. For persons new to Forensic Medicine, I would like to define Forensic Medicine. Forensic Medicine relates to application of medical knowledge for disbursement of justice in a Court of law [2]. Though forensic medicine expert has no power as such, to stop such incidents, he can play a great role in preventing their repetition by helping in booking the culprits. He can do so by effectively documenting the signs and symptoms of

torture and cruel treatment. For doing this one must know "what is torture?"

"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 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 and 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 accidental to lawful sanctions; as per United Nations Convention Against Torture [3].

Whenever such a victim is brought for examination, Forensic Medicine expert should never be swayed by the emotions and circumstances leading to torture but should behave like a professional. He should give sympathy, courage and respect to the human being in front of him, forgetting the credentials of the victim present there who may be criminal, a rapist, a terrorist, a dacoit, a spy or a refugee etc. etc. He should see him only as a fellow creature of this universe. Of course this is easy to say, hard to do but one has to stick to this.

Process of examination is best started by an interview with the alleged victim and other witnesses. Informed consent of the victim must be taken prior to the actual examination. A proper environment should be provided so that person feels safe, secure and in competent hands. It is best to have the history both from the person alleging torture and from the victim. It is useful to go through the perpetrator version. If there is a language problem, an interpreter may be used. If the victim is a female, interview and examination should preferably be done by a female doctor or in the presence of a female to make her feel secure. Trust of the victim should be earned by meticulous communication, courteousness, empathy and honesty. The victim should be made to believe that confidentiality will be maintained regarding whatsoever the victim discloses. Human contact and ability to identify with the subject are the

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important factors to get the truth. Detailed medical history is a must to correlate the things.

Acute symptoms after torture should be noted first and also their intensity, frequency and duration is important. Then chronic symptoms and associated disability should be recorded.

On physical examination pretorture and posttorture lesions should be recorded which may be in the form of abrasions, contusion, lacerations, puncture wounds, burns, electrical injuries, alopecia and nail removal. Anatomical drawings and photography are quite helpful in properly documenting the injuries.

Proper examination of eyes, ears, nose, mouth, chest, abdomen, genitourinary system, central and peripheral nervous system should never be omitted.

Blunt trauma to the sites of feet, hands or buttocks should be particularly taken care of which may cause close compartment syndrome. The effects of suspension in different forms, if any, should be noted as well as those of near asphyxiation by suffocation.

As far as sexual torture is concerned, if the victim wants that sexual abuses should not be disclosed, the investigator has the obligation to co-operate in maintaining the secrecy. Proper genital and anal examination should be carried out and proper samples taken as required for evidence purposes.

It is easy to record physical evidence of torture but psychological aspect of torture should not be forgotten. The aim of torture is to dehumanize the victim and break the will of the person and at the same time set possible examples for those who come in contact with the victim e.g. during torture the victim may be made nude. Nudity enhances the psychological terror of every aspect of torture. The most important thing likely to happen is post traumatic stress syndrome (PTSD) and major depression. PTSD is a diagnosable syndrome amenable to treatment both biologically and psychologically [4]. Common psychological responses are re-experiencing of trauma, avoidance and emotional numbing, hyper arousal, symptoms of depression, damaged self concept, dissociation, depersonalization and atypical behaviour. Victim may also develop some somatic complaints, sexual dysfunctions, psychosis, neuropsychological impairment and substance abuse.

If during examination there is any doubt, consultations may be had with the specialists of different fields.

Radiological imaging, ultrasonography, CT-scan and MRI are very useful to document the injuries.

Consistency between allegations of torture and ill treatment on one hand and physical & psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports etc. should be observed. It may be reported as non-consistent, consistent with, highly consistent, typical of or diagnostic of a particular type of torture alleged. If the subject was in custody, a note should be recorded whether examiner was allowed to work freely and independently or under some restrictions.

The most important aspect of this whole exercise is that a doctor should not be recognized as a part of the torture team by the victim but as a noble, honest and sympathetic professional in whom he can put trust, confide in him, tell the truth with the hope that this person may help to bring to an end his agony. Medical professional should never be a party to the torture machine, and should never assist in interrogation which is not good for physical or mental health of the person concerned, or issue a certificate of fitness for interrogation. Even public emergencies should not prompt him to violate medical ethics.

Here I would like to warn the medical fraternity that they should not do any distinction on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, otherwise they themselves may become party to violation of human rights and medical ethics. We should also strive for that information and education on human rights, torture and other cruel, inhuman or degrading treatment or punishment and it should be the part of medical curriculum.

Bibliography

1. Universal Declaration of Human Rights Adopted & Proclaimed by United Nations General Assembly Resolution, 217 A(III) on Dec. 10, 1948; International Instruments, Resolutions, Declarations and Statements on Torture; International Rehabilitation Council for Torture Victims, Copenhagen K, p.28.
2. Nandy Apurba: Principles of Forensic Medicine, New Central Book Agency (P) Ltd., Calcutta, 1996, P.1.

3. The Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1999, P.6.

4. Friedman M and Jaranson J: The Applicability of Post-traumatic Concept to Refugees in Marsell. 1a, Tet al (Eds). Amidst Perils and Pain: The Mental Health and Wellbeing of the World's Refugees, Washington DC: American Psychological Association Press, 1994 PP.207-27.

