Doctors and Police Interrogation of Detainees

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Often in our part of the world there is a denial of any problem in the interrogation of detainees by the police or security agencies. This denial is followed by another denial, that although many doctors routinely examine and/or treat patients who are detainees, there is nothing problematic in this.

The denials do not mean that there is no knowledge about what happens during interrogation of detainees in our countries. There is hardly any police station where suspects and sometimes even complainants do not get beaten. The detainees are often subjected to what is universally called “the third degree” treatment. Our societies have coined many other terms for “the third degree”, but they scrupulously avoid the term “torture” for this phenomenon. In our debates and even in our laws, the term torture is conspicuous by its absence (1). Denial of the problem in police interrogation is also intimately connected to our acceptance of torture as a normal and legitimate method of interrogation.

However, torture is neither a morally correct nor practically efficient method. Internationally it is denounced as morally and legally wrong because it violates due process of law and makes the collection of testimonial evidence involuntary and thus not reliable. The United Nations adopted the Convention Against Torture (CAT) and other cruel, inhuman or degrading treatment or punishment in 1984 and brought it in force in 1987 (2). India signed the CAT in 1997 but has so far failed to bring its laws in line with its provisions.

The efficacy of torture is questioned because generally a tortured detainee confesses anything that the torturer wants. Courts normally do not accept confessions or statements made by detainees to the police, and criminal cases built on the forced confession of detainees are more likely to get lost in court. This is evidenced by the low conviction rates for criminal cases in our countries.

Nevertheless, torture is routinely employed in our countries and has massive social support, including that of the state while the judiciary turns a blind eye to it. As a consequence, the role of our police forces has been restricted to the maintenance of order and protection of the state - a role developed by our colonial rulers to subjugate people rather than to protect them.

Ethical obligations of doctors

Interestingly, this social support for torture includes support from doctors who often believe that some amount of torture may be necessary in order to obtain information from or confession from the detainee.

There are different ways in which the doctor gets “involved” in torture during police interrogation. The commonest is the situation when tortured detainees needing medical attention are brought to doctors in the hospital. My experience shows that normally when doctor-patient interaction takes place, the patient is in fetters and a police person is guarding the detainee. The doctor does not make any attempt to remove the police from

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the scene and as consequence, the detainee is not able to give cause of injuries as torture. Even if the detainee does not say anything about torture, the type and pattern/distribution of injuries should make the doctor suspicious about the torture, but that question is not asked. The minimum that a medical person should do is to put down detailed documentation of the torture related injuries using the Istanbul Protocol (3) and if possible, not allow the detainee to go back to the torture. The medical professional has an obligation to speak out but that hardly every happens. Not preparing a good medical record of torture and not making any effort to inform and/or protect the detainee may make the doctor complicit in the torture. The Tokyo Declaration (4) of the World Medical Association (first adopted in 1975, the last revision in 2006), prohibits doctors from sharing medical information of the detainees with the police, prescribes complete independence of the doctor from the police while treating a detainee-patient and stipulates that doctors not remain present or participate during torture.

Medical ethics teaches us that the doctor should maintain neutrality in respect to the background and alleged crime committed by the detainee while providing medical care. But in reality this neutrality is often violated or is absent. We come across many doctors unwilling to provide medical care to a “terrorist” or rather to persons detained under terrorism laws, violating the principle of non-discrimination and passing judgment on somebody not yet judged by the court of law. Some may be ready to provide direct assistance to the police or even advise the best way to carry out torture.

**Why doctors get involved in torture**

Doctors who get involved in torture are not unusually evil personalities but average, ordinary people. They may even be very compassionate in other areas of clinical practice but their acceptance of torture by the police as a normal way of interrogation means that they are ignoring their ethical obligations. Many get involved because their conception of professionalism is mechanical and technical, devoid of ethical commitment.

However, a more important reason is that social institutions not only tolerate torture but encourage it. Their ideology is used to overpower the ethical strictures against participation, and conforming to the system is rewarded in various ways. With the overwhelming social support to this phenomenon, the situation becomes very intimidating for those who try to uphold ethics and to not conform to the demands of the system.

**Dilemma: Abandon the patient or be complicit in torture**

Chiara Lepora and Joseph Millum in an article titled “Tortured Patient: A medical dilemma” in the Hastings Center Report, 2011 (5) describe a dilemma faced by doctors in certain circumstances where the tortured patient needs a doctor’s assistance and the provision of it could be construed as complicity in torture. For instance, when a detainee is being flogged or a convict is being amputated, should the doctor remain present to medically assist the patient? They argue that it is not the presence of the doctor but her/his presence without regard to the detainee’s condition, or assistance in enhancing the effect of torture that should be considered unethical. They suggest that three factors should be considered in judging the appropriateness of the doctor’s presence and assistance to the detainee: (a) the expected consequences of the doctor's action, (b) wishes of the detainee-patient, and (c) the extent of the doctor's complicity with the wrongdoings.

However, the essential point is that for
reasons of political ideology, religion or disapproval of the detainee’s acts, etc., the doctor must not willingly get involved in assisting police interrogation using torture. For the same reasons, in the provision of medical care doctors must maintain strict neutrality and provide medical care irrespective of the alleged crimes against the detainee.

References:


2) United Nations, “Convention Against Torture (CAT) and other cruel and inhuman or degrading treatment or punishment”, 1984, Available at: http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf (Accessed on 07 June 2016)

