

# Torture, Terrorism & Police: A Need for Harmonizing of Human Rights

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*Abstract: There can be no benefit in suggesting that an individual's liberty must yield to the state's protection. In the interests of the welfare of the State, the Courts have retained the right of preventive arrest of persons in the particular cases prescribed by the respective statutes. The freedom to challenge prisoners, suspects or arrestees in the service of the country must take precedence over the right of a citizen to personal liberty. The Latin maxim *salus populi est suprema lex* (safety of the citizens is the supreme law) and *salus reipublicae est suprema lex* (safety of the State is the supreme law) co-exist and are not only necessary and significant, but are at the center of the philosophy that an individual's protection must be given to that of the nation. However, "right, just and fair" must be the action of the State. It would not be 'right or honest or equitable' to use some kind of torture to extract any kind of information and would thus be impermissible, being offensive to Article 21. Such a perpetrator of a crime must be interrogated in compliance with the rules of the statute - yes, subject to prolonged and scientific questioning. However, in order to gain intelligence, extract confession or drive knowledge of his accomplices, weapons, etc., he should not be abused or exposed to third-degree methods or removed.*

**Keywords:** Arresting, Human Rights, Policing, Security, Terrorism, Torture, liberty, Protection.

## INTRODUCTION

Torture is forbidden by statute and confessions extracted by coercion are usually inadmissible in court; however, torture has also been used by police during interrogations. Officials have tortured prisoners in other cases to extort money and even as summary punishment. The U.N. Special Rapporteur on Torture stated that in Jammu and Kashmir, security forces routinely tortured individuals to coerce confessions of terrorist involvement, expose information about alleged terrorists, or impose punishment on militants for suspected support or sympathy. In a paper from 1996, the U.N.

The Special Rapporteur on Torture observed that torture tactics involved punching, raping, smashing wooden roller leg muscles, burning heated objects, and electric shocks. Since several suspected victims of torture died in prison and some were unable to speak out, there were few first-hand accounts, while the corpses of dead prisoners were frequently found to be marks of torture. For example, protests took place in the villages of Handwara and Trial in February, after a unit of the Rashtriya Rifles captured two villagers, reportedly tortured them for two days and then released them. In each of these examples, there were no records of action taken. The Home Ministry did not extend an invitation to the U.N. again, as in 2001. Special Rapporteurs on Torture and Extra-judicial Execution [1].

The prevalence of police torture in holding centers around the world has been demonstrated in the number of police custody deaths. The Tihar prison in New Delhi was infamous for the mistreatment of inmates, with nearly 10 percent of custodial deaths happening there nationally. Usually, cops and jailers assaulted incoming inmates for cash and personal items. Police have often regularly tortured prisoners during custodial questioning. While police officers have been convicted under the Criminal Code for such crimes, the government has also refused to keep them responsible. Torture typically happens in two situations: during routine police investigations and after illegal and arbitrary arrests. For instance, police have also resorted to torture during criminal trials to obtain information from criminals whilst in detention.

In 2001, the family of a 14-year-old girl reportedly kidnapped, abducted and raped for six days by the Patiala police in Punjab submitted a complaint to the state authorities calling for the conviction of the police officer responsible. The state government took no action at the end of years. At the National Police Academy, civil rights training began for new hires, middle ranks, and long-serving officers. The teaching has increased

police awareness of civil rights, and the use of physical force by the police has declined considerably. Complaints of police assault and violence usually decreased over a 3-year stretch, according to the NHRC. In April, the Home Ministry announced that 28,765 complaints were filed against the police from 2002 to April, compared with 29,964 in 2001-2002 and 32,123 in 2000-2001. In the northeast, several terrorist groups used rape as a tool to terrorize the population; no cases were registered during the year, however [2].

## DISCUSSION

Torture cases were inadequately handled in Punjab, and claimants often refused to seek compensation for fear of retaliation. Human rights groups' claims that victims have been abused and harassed by government officials are widespread. A significant proportion of the deaths in judicial custody reported to the NHRC in March involved deaths from natural causes that were caused in some cases by inadequate jail facilities. Police custody deaths, which usually happened within hours or days of initial arrest, more explicitly indicated brutality and torture through aggression. However, the NHRC recommended in January 2001 that the Commission be informed of any custodial death within 2 months and of any custodial death within 2 months.

His constitutional right cannot be abbreviated except in the manner permitted by law, although there would be a qualitative difference in the method of interrogating such a person as compared to an ordinary criminal in the very nature of things. Innovative ideas and approaches must meet the challenge of terrorism. State terrorism is not a solution to the war against terrorism. State terrorism will only provide 'terrorism' with credibility. For the state, the community and, above all, the rule of law, that would be bad. Accordingly, the State must ensure that the various institutions deployed by it to fight terrorism operate beyond the scope of the law and not become laws against them [3].

The fact that the terrorist violated the human rights of innocent citizens may make him liable for punishment, but except in the manner permitted by law, it cannot justify the violation of his human rights. Therefore, it is important to improve scientific forensic techniques and to better prepare investigators to interrogate in order to face the task. I am of the opinion that, in addition to the statutory and constitutional requirements to which I have referred, it would be useful and efficient to structure adequate machinery for the contemporary recording and notification of all cases of arrest and detention in order to bring transparency and accountability.

It is desirable that, at the time of arrest, the officer arresting a person should prepare a memo of his arrest in the presence of at least one witness who may be a member of the arrested person's family or a respectable person from the place where the arrest is made. There shall be a record of the date and time of arrest [4]. That must also be counter-signed by the arrestee in the memo. In different cases, all these rules of law have been proclaimed by the Honorable Supreme Court and must be strictly enforced in order to render society's law and order as well as the rule of law and here the position of human rights organizations comes into the picture. In the case of a void in domestic law, international conventions and norms, where there is no conflict between them, have been used as a canon of construction to fill the void or to extend the meaning and content of fundamental rights [5]. The grant of compensation as a remedy under public law, different from and in addition to the remedy under private law for tort or injury, was deemed to be a way of upholding a constitutional right. In this way, the payment of liability is accepted as a relief for custodial death in public law [6].

## CONCLUSION

It must be noted that the clause to grant immediate temporary relief is applicable to the NHRC under Section 83 of the Protection of Human Rights Act 1993. In addition to the authority to prescribe, pursuant to Section 18(1), the commencement of criminal proceedings or any other action which the Commission may deem fit against the individual responsible for the violations of human rights or neglect in the prevention of human rights. Almost 57 years have elapsed since the implementation of the UDHR. This time was the period in

which civil rights moved all over the world. During the Second World War, this movement emerged as the world's response to Nazi massacres and large-scale human rights abuses. This worked to make civil rights a permanent feature of domestic law and international law. Today, the only hope that can save this advanced civilization from extinction is the world threatened by weapons of mass destruction, nuclear weapons, widespread violence, terrorism, torture, etc., respect and observation of human rights. To this end, the opening speech of the former UN Secretary-General, Boutros Boutros Ghali, at the World Conference on Human Rights, 14 June 1993, is remarkable.

No day passes at the scene of warfare. Without the justification for the assault on the most important rights, not a day goes by. With examples of bigotry and the atrocities it spawns, intolerance and the excesses it produces, under construction and the destruction it causes, not a day goes by. We will also appreciate the vitality of human rights and numerous human rights organisations from the aforementioned findings of the former Secretary General of the UN. Yet at the same time as we are battling insurgency, the question of Naxalites as well as community riots over which we had to have a stringent method of investigation to save the lives of innocent civilians. If we can see, extremism is moving across the walls of one country to another today, which is a troubling situation for the world and needs tougher punishment for it. We can't take one corner, either defend human rights with one side or give them a license to do whatever they want. We had to take a balancing approach to overcome the issue of extremism and human rights for this reason.

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