

'Physical torture remains the main form of interrogation'

Part I

By [JYOTI PUNWANI](#)

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'One police officer told me that trials take forever, conviction rates are low.'

'So one way to judge states' performance on handling crime is through the 'recovery rate' of their police.'

'The fastest way to get recovery is by torturing the accused.'



Illustration: [Dominic Xavier/Rediff.com](#)

Why is police torture so commonplace in India? Have scientific methods of interrogation worked?

These and other questions are dealt with in *The Truth Machines: Policing, Violence, and Scientific Interrogations in India*, Professor **Jinee Lokaneeta**'s latest book which is co-winner of the prestigious C Herman Pritchett Award, given annually by the American Political Science Association.

"Police have always been extremely nervous about deaths in custody," Lokaneeta, *below* -- the India-born professor, who is Chair of Political Science and International Relations at Drew University, Madison, New Jersey -- tells Rediff.com's Senior Contributor **Jyoti Punwani**. The first of a multi-part interview:

What do you mean by 'Truth Machines'?

'Truth Machines' refer to the three scientific techniques of interrogation -- one of which has been there since the 1960s -- but which collectively came into the limelight in the late 1990s and early 2000s in India: Lie detectors, brain scans and narco analysis. Suddenly, they were being used everywhere: In the Telgi scam, the Aarushi murder, and the 2006 Mumbai bomb blasts.

One reason for this I suggest is that it was important to show that a 'technological' solution to custodial violence existed. This was the 1990s: The NHRC (*National Human Rights Commission*) had just been formed, the D K Basu judgment had been delivered (*on guidelines to be followed for arrest and detention*). Civil liberties and democratic rights groups had been active through the 1980s.

All of this came together and the need was felt to come up with a way to show that the issue of custodial violence was being addressed. These 'truth machines' were seen to be able to extract the truth out of people through the help of science and expertise. They were seen as a quick solution to torture.

Even the ministry of home affairs began to emphasise these techniques.

Did they work in the way they were projected?

No. These techniques have always been challenged. In the US, research in the 1930s and 1940s showed that neither lie detectors nor narco analysis helped get to the truth.

There was another flaw in them: They were inherently coercive. That's why medical ethics scholars such as Dr Amar Jesani called narco analysis 'pharmacological torture'. They were invasive techniques which went against the central tenet of the legal system: voluntariness. They created another site for getting information coercively.

Why then did they become so popular?

One reason was the recognition that third degree was commonly used.

Police have always been extremely nervous about deaths in custody. They've always given some excuse for a dead body in custody -- suicide, escape, illness ... Truth machines were seen as a way to continue to use torture and coercion and yet not have the liability.

But while lauding these scientific techniques, popular culture and even the courts did not recognise that even in cases where narco analysis was being used, physical torture continued.

Ultimately, narco analysis was used only in a fraction of cases, and ended up playing only a symbolic role -- to show that interrogation can take place without torture, in medical contexts under the supervision of doctors. Occasionally even the accused felt this was a better option.

Even though it didn't work, the emphasis given to it showed how the State was forced to negotiate its relationship with legal violence.

From 2000 to 2010, forensic psychologists became important figures. My interviews with police, lawyers, activists and forensic psychologists across five states showed that they were seen as independent. They were trying to prove their own role in contributing to legal investigation. They saw themselves as using their training to play almost a therapeutic role, helping the person being interrogated.

There was a shift -- they were saying 'We are not the police, so we cannot use physical torture. We are responsible to see that the person is not injured.'

The State also started setting up labs; a forensic science university came up in Gandhinagar. The claim was that we are now more modern and humane.

What wasn't said was that even through these techniques, you end up recreating the basic problem with torture: you force a body to give information involuntarily.

Why then did this craze fade away?

In 2010, the Supreme Court ruled that these techniques could not be used without consent, and that evidence got from them could not be admissible. Immediately, the State's efforts to popularise them went down.

However, the emphasis has not disappeared. Recently the Delhi high court asked why there was no narco analysis facility in Delhi and forced the Delhi government to set up one. This is something that's been rejected all over the world!

But even now, it has only a symbolic impact. For instance, in the **hit-and-run case which killed a judge in Dhanbad** recently, it was suggested that narco analysis be tried out. They weren't getting anywhere, so this was seen as a magic bullet that could help solve the case even when everyone knew it wouldn't.

When the Hathras case happened, the UP government suggested that narco analysis be done of everybody involved.

The fact that this technique has not disappeared means that confessions remain the primary mode of investigation in India.



And physical torture remains the main form of interrogation?

Yes, for many reasons.

One is that even within the law, there are incentives for this. Look at the importance given to recovery (of stolen goods, weapons, dead bodies.) It's the one exception to non-admissibility of evidence extracted from the accused while in custody.

One police officer told me that trials take forever, conviction rates are low. So one way to judge states' performance on handling crime is through the

'recovery rate' of their police. The fastest way to get recovery is by torturing the accused.

As the officer said, the magistrate knows this, those complaining about torture know it too.

If you allow recovery to be such an important part of the legal process, it means the law itself enables torture.

The same applies to the rule that an accused must be produced before a magistrate within 24 hours of arrest. So, officers told me, they have very little time to get information -- though we know that torture is not used only to get information but also as a form of punishment.

So what is meant to be an important safeguard against torture is being used as an excuse to torture. The reality, of course, is that even this safeguard is not followed -- there is often a difference between when a person is detained and when the detention is recorded.

In the discussions on torture, these conditions which allow it are not addressed.

Till the 1990s, there was not even any discussion on the fact that methods of interrogation were not part of police training. To think that there could be no training on how to avoid torture is remarkable.

'No government can ignore police violence' Part II

By [JYOTI PUNWANI](#)

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'An international survey has shown that India figures high in the list of countries on people's approval of torture.'

'What is surprising is that even if you look at the many vibrant social movements we've had, there's been no campaign that predominantly focuses on police torture.'



In the space of seven weeks, four people have died either in police custody or due to alleged police torture in UP.

In Maharashtra, cops suspended because of their alleged role in custodial deaths, have been reinstated.

Why is police torture so routine in India? Professor **Jinee Lokaneeta** of Drew University in the US, who has written two books on the subject of policing and torture in India, discussed the possible reasons with Rediff.com Senior Contributor **Jyoti Punwani** in the second part of multi-part interview:

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Why do you think torture is not a topic of concern in India?

One reason is the routine nature of torture.

But another is also the tendency historically among activists and scholars, of thinking of the police as just another instrument of the State and hence inherently violent.

In the process, we have developed a monolithic understanding of the police which has not allowed us to look at police more carefully, as an institution, and at aspects of police work.

Civil liberties and democratic rights groups have been documenting instances of torture and custodial deaths since the 1980s. But that didn't lead to a lot of public conversation or even critical scholarship by academics on the police, prison and state violence, as sites to be studied.

In the last few years, however, there seems to be a greater focus on trying to understand the police as an institution, and on torture in India.

The outrage after the **custodial deaths of the father and son P Jayaraj and J Bennicks** in Tamil Nadu last year, was reflective of the beginning of this conversation. We didn't see this earlier.

In the last few years, there have been three or four books on policing, including mine; accounts have been written by those who've been in prison, like Abdul Wahid Sheikh's *Begunah Qaidi*. (Sheikh was the only one to be acquitted in the 2006 Mumbai blasts case.) The Tamil film *Visaranai* has an explicit focus on torture; and then there's the campaign on the Anti-Torture Bill.

Organisations such as the Criminal Justice and Police Accountability Project have brought attention to police and caste, specially the police's attitude towards denotified tribes.

Yet, custodial deaths continue and no policeman gets punished.

A small fraction have got punished, their details are available with the Asian Centre for Human Rights. A doctor's report somewhere, a magistrate doing his/her duty somewhere... these have helped. An FIR was filed in the Jayaraj case and the trial is on.

Well, an FIR was filed in 2004 against Sachin Waze and three others in Khwaja Yunus' custodial death case too. The trial is still on, with the State having dismissed the public prosecutor. Doesn't the State always protect policemen?

True, the State can do so. The provision of sanction for prosecuting policemen is usually used to thwart prosecution and should be addressed. This is another instance of how the law facilitates police violence.

Even when sanction is granted, it is usually against lower level policemen though those at higher levels also enable torture.



Do governments protect such policemen also because people in general don't see police violence as wrong?

But what is surprising is that even if you look at the many vibrant social movements we've had, there's been no campaign that predominantly focuses on police torture. The issue comes to the fore only when there's police repression against a mass movement, like say, a movement against land acquisition. It's significant that the Anti-Torture Bill was drafted by NGOs, not progressive forces.

In contrast, in the US, the **Black Lives Matter** movement made police violence a moment of reckoning.

No government can ignore it. It has become a central issue of concern in the functioning of the US as a democracy. But the many human rights groups in India have not managed to make it a central issue of concern. Why?

'What enables police violence?'

Part III

By [JYOTI PUNWANI](#)

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'Why potentially anybody, not only Muslims and Dalits, can be subjected to custodial death?'



In the space of seven weeks, four people have died either in police custody or due to alleged police torture in UP.

In Maharashtra, cops suspended because of their alleged role in custodial deaths, have been reinstated.

Why is police torture so routine in India? Professor **Jinee Lokaneeta** of Drew University in the US, who has written two books on the subject of policing and torture in India, discusses the possible reasons with Rediff.com Senior Contributor **Jyoti Punwani** in the final segment of a multi-part interview:

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Maybe because those subjected to torture are the poorest, or they are Muslims branded as terrorists, or Dalits, or protesting workers -- all sections whom society doesn't care about? Jayaraj and his son didn't fall into any of these categories.

But that applies to African Americans in the US too, yet, today in the US you can't ignore the issue.

When do you think this will become an issue in society at large?

It's hard to say what will become a trigger. The Delhi rape made sexual violence such an important issue. Popular outrage and a tradition of women's movements and feminist scholarship forced the setting up of the Justice Verma Committee.

The kind of groundwork needed to make State violence a central focus of analysis must include every aspect. We need to start asking what is it that enables police violence. Why potentially anybody, not only Muslims and Dalits, can be subjected to custodial death? This universal critique of custodial violence has not been made, which would relate it to others besides certain groups, something that can impact everybody.

Right now I am struck even with the **response to Aryan Khan's custody**. How does one have a critique of a system where laws themselves don't allow bail easily, not just laws such as UAPA; where even ordinary laws allow for very punitive mechanisms. These conversations are important.



Do you think there is any way to stop police impunity? Even the recommendations of judicial commissions have not been implemented. And one can expect nothing from the NHRC now.

Judicial commissions do play a role because they end up creating some movement of fissure in the State's narrative. The Commission set up to inquire into the **killing of Thangjam Manorama Devi in Manipur** in 2004 gave a very strong report. That's why it was never released.

Its contents became public only in 2014 when it was handed over to the Supreme Court which was hearing a PIL seeking investigations into fake encounters in Manipur.

So Commissions do play a major role in delegitimising State versions of police violence.

Of course, you still have AFSPA in Manipur and other areas of the North East and Kashmir. But the more the State's justifications for AFSPA get challenged, the more it leads to a reckoning of whether it is necessary.

The NHRC has done some good work in the past, but its performance depends on who's in it at a particular time.

These are sites you have to engage with. You must remember these sites have come from people's pressure.

To stop impunity, the Anti-Torture law is one direction to go. But I do think the more students are taught about these issues in relation to democracy, the more teachers, researchers, activists and intellectuals work together on this, the more conversations and paths we would have on challenging State violence.

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