Outlawing torture

BY A L I H A I D E R H A B I B | 2/13/2020

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| IT is remarkably unfortunate that there is no specific law criminalising torture in Pakistan. The inhumane practice is so common that it is widely accepted as a routine part of criminal investigation. `The police were not going to offer him tea and biscuits,` one state lawyer told me when asked about allegations of his client being torturedintoconfessionbythe pohce.  The violence takes many forms. Police beat victims, hang them by their arms or feet for hours on end, force them to witness the torture of others, and strip them naked and parade them in public, damaging their basic human dignity.  There is an entire vocabulary to describe thedifferentmethodsof tortureinPakistan: cheera, in which the perpetrators make the victim sit and then stretch their legs apart either suddenly or gradually; chittar, a leather strap about a metre long, used to whip victims with; danda, a thick wooden stick routinely carried by police of ficers and used to beat victims; falaka/falanga, in which the perpetrators beat the soles of the victim`s feet with a wooden stick; jack, in which the perpetrators force a victim`s leg backwards until they touch the victim`s back. There are many more. Listing them all here would leave this paper with little space for anything else.  In Pakistan, bothfederal and provincial agencies perform policing tasks. Within the federal government, nearly 20 major lawenforcement agencies have responsibilities ranging from intelligence gathering to border and coast surveillance. Both Pakistani and international law prohibit torture and other forms of abuse of prisoners. Our Constitution also guarantees individual rights, including the right not to be tortured. But though the National Assembly has passed various statutes that outlaw police brutality and torture, there is no consolidated and comprehensive legislation specifically criminalising torture. In fact, there is no comprehensive definition of torture either, or the punishments that should be prescribed therein.  Internationally, Pakistan is a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to the International Covenant on Civil and Political Rights. The treaties impose duties on states to act affirmatively to prevent torture and punish perpetrators. These legal protections, however, have not been effective at preventing police abuse as the m any recent incidents of torture bear testament.  In September last year, a young man named Salahuddin Ayubi was arrested after CCTV footage caught him mockingly sticking his tongue out at the camera afterstealing from an ATM. He was reportedly beaten so badly in police custody that when they took him to the hospital, the doctors pronounced him dead upon arrival. The forensic report later confirmed he had been tortured to death. While this was not a rare occurrence by any stretch of the imagination, it caught media and public attention like no other recent case, perhaps because of who the victim was: a mentally ill man, with his name and emergency contact details tattooed on his arm. It was a telling tale into the dark side of policing.  The government has not undertaken the reforms necessary to address the prevalence and severity of police violence. The police often face no consequences and enjoy impunity for their abusive conduct. This lack of accountability not only robs victims of justice, but also perpetuates the pattern of police violence by keeping offending of ficers in the force and signalling to others that such behaviour is acceptable.  Thankfully, a bill by Senator Sherry Rehman the Torture and Custodial Death (Prevention and Punishment) Bill, 2020 could finally change this culture of impunityby criminalising torture by the police for the first time in this country`s history.  Tabled this week, the bill not only addresses torture in its rawest form, but also defines and lays out mechanisms of accountabilityregarding custodial rape and death.  Moreover, it highlights protocols regarding special protection from officials who one might have filed a complaint against. Most of all, it is gender inclusive: it highlights certain methods of torture exclusively used against female victims and addresses every aspect of it meticulously.  Police reforms is a long-term goal, but for the short term, it is vital to criminalise all forms of torture, introduce legal safeguards for the protection of witnesses and torture victims, and form independent bodies to investigate torture cases. Unremarkably, though, it has taken four months for the upper house to debate the bill since it was first submitted in October last year. But now that it has finally been taken up, we can only hope that it sails through smoothly without any more obstacles.  Only then will we be one step closer to ensuring no more Salahuddins die in police custody.  The writer works for Justice Project Pakistan.  Twitter: @haiderhabib |