

Why Are Torturers Never Punished?

Case of Archana Guha

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Archana Guha was arrested in July 1974 and subjected to 27 days of torture in the hands of the police. She was not charged formally but was made to believe that the arrest was because of her association with the Naxalite movement. After her release a physically shattered Archana filed a case against her torturers which has yet to be decided upon. This article was first published in the Danish Medical Bulletin, 1988.

UNTIL recently, little was known about the various aspects of symptomatology or about treatment of torture victims. At the Rehabilitation Centre for Torture Victims in Copenhagen (RCT), over the past five years we have treated torture victims and compiled information about the essential aspects of treatment of these most unfortunate human beings.

These experiences have made it increasingly clear that the end-purpose of torture is to 'break' the person, i.e. to transform a formerly healthy member of society into an individual broken in spirit and unable to function efficiently in any aspect of personal or public life. An appalling insight by the torture victims is that the vast majority of people are indifferent about what has happened to them; even more horrifying is the understanding that the torturers continue to perform whatever duties they are assigned (perhaps including torture) and are never brought to justice, often in spite of a change of national regime or the election of new political parties.

This has been seen in various places and at various times in the world. International attention has focused on the very limited trials of only a few of the accused torturers in Greece after the fall of the military government [1], the strange circumstances surrounding the death of Steve Biko in South Africa [2], and the impotence of the newly elected government in Argentina to deal with criminals who were torturers under the former military junta [3].

A case that will illustrate such occurrences is the story of Archana.

In 1980, an Indian national by the name of Archana Guha was flown to Copenhagen to receive treatment at Rigshospitalet, one of our University Hospitals. Thirty-nine years old, she arrived on a stretcher, had years before been tortured, and was now suffering the consequences. With the help of Amnesty International, she was transferred to Denmark to receive treatment at the centre later to be developed into the Rehabilitation Centre for Torture Victims (RCT). Following is a review of the circumstances of the case and the sad recognition that now, many years later, Archana's case against her torturers is still pending before the court in Calcutta.

The early 1970s were a violent time in West Bengal. A militant Marxist group, the Naxalities, were ravaging the

countryside, and many people were caught in the crossfire between it and a government using all means to fight it. One such person was Archana Guha. Educated as a school teacher, in 1967 she was appointed head mistress of Kolorah Girls Junior High School outside Calcutta.

Arrest and Torture

On July 17, 1974, Archana was arrested in the middle of the night together with her sister-in-law and a friend staying in the house. No formal charges were brought against them, but they were made to believe that their arrests were due to some connection with the Naxalite movement. The matter was never brought to court.

Twenty-seven days of torture followed at Lalbazar, headquarters, of the Calcutta police. First, Archana was made to witness the assault on and torture of her sister-in-law and her friend. She was then tied, hands and feet, slung upon a pole, head down, and severely beaten on the feet (falanga). The five policemen involved took turns hitting her and kicking her on the hips, and later they burned her toenails with cigars. She was threatened with rape and made to understand that her family would also be tortured if she did not cooperate. When she was not in the torture chamber, she was kept in a small, dark isolation cell. During the torture she was forced to sign several blank papers. She was suspended by her hair and, later, 'brain washed'—a term used by torturers for a procedure in which they begin a movement to bang her head against the wall, but at the very last moment before her head struck the wall, pull her back. This was done 10-20 times.

It seems likely that the three women were arrested because of Archana's brother Saumen. He was also accused of involvement with the Naxalite movement. He was arrested on the August 6, 1975, and when Archana's torturers learned of his arrest, they stopped torturing her. Saumen, himself, was allegedly on two occasions subjected to torture for periods of six and 14 days.

Archana never came before a judge, even though the law specifically states that this must take place within 24 hours of the arrest. On August 13, 1974, Archana was brought to the Presidency Jail. In September 1974 she was released, but immediately after was again detained under the Maintenance of Internal Security Act (MISA). She was

released on parole in November 1976 and on May 3, 1977 was also released from MISA detention. The Left Front (a coalition of left wing parties) was now in power in West Bengal.

After the torture, Archana had multiple symptoms. She suffered headache, swelling around the left eye, a burning sensation in the head, difficulty breathing, irregular periods as well as bleeding from the rectum. She suffered several infections in the urogenital system. She also suffered difficulty sleeping, had no appetite, and poor concentration.

Her condition deteriorated, and gradually she lost muscle strength in her arms and legs, grew weak and also lost sensation. She was confined to bed and to a wheelchair. From December 1975 to February 1976, she was hospitalised in the SSKM Hospital—was under round-the-clock police guard—but did not improve. She was later transferred to the Medical College Hospital, still under police guard, still paralysed, and was told that she could expect no major improvement. An X-ray at that time showed a fracture of the seventh cervical vertebra.

Upon arrival in Denmark four or five years later, Archana was still suffering from a number of symptoms. She had constant headache, nausea, and muscular pain in the neck and shoulders. She was constipated and slept poorly, suffered tremors, and was still unable to concentrate. She was mostly confined to bed, being unable to walk without human support.

Neurological examination showed a decrease in strength in the arms which were also somewhat atrophic. Her legs showed a decrease in strength bilaterally, both for flexion and for extension. Both legs were atrophic. The patient was unable to walk unless supported by two persons. The reflexes could not be elicited.

Examination of the skin revealed several scars and pigmentation changes compatible with the history of combustion and subsequent ulceration. The size of the scars were in accordance with the size of a scar caused by the glow of a small cigar. The patient also described pustulations and alopecia as well as discoloration after being suspended by her hair. This is also in accordance with known sequelae to traction alopecia.

Beyond doubt, most of the patient's symptoms and signs are the result of torture. It is equally clear that poor conditions in the prison (possibly a deficiency in protein) as well as the depressing effect of prison conditions in general and uncertainty about the future, sustained and possibly aggravated Archana's condition.

In August 1977, soon after she was released, Archana filed a petition accusing five policemen of having violated relevant sections of the Indian Penal Code. At that time, she was unable to walk and had to be carried to the courtroom to make a personal appearance. The accused were: Ranjiit Guha Neogi (Runu), officer in-charge of the in-

vestigation; Santosh De; Aditya Karriaka; Arun Banerjee; and Kamal Das, alias 'the golden hand', known for being able to make most people talk under torture.

Archana also requested a reasonable compensation for almost three years in jail and was offered a few hundred rupees. The authorities would not even bear the expense for her treatment at a major private clinic in Calcutta. With the help of Amnesty International and human rights groups as well as women's groups in India, attention was focused on the case. Finally, the government in West Bengal agreed to pay the expenses involved in transferring Archana to Rigshospitalet in Copenhagen.

After intensive treatment, rehabilitation, and physiotherapy, Archana's health improved and gradually she was able to walk again. She later returned to India. While under treatment, she became painfully aware that her torturers in no way were affected by her petition and that the authorities apparently did not believe her and wanted the whole thing to be forgotten. We believe this influenced her rehabilitation negatively. During her stay in Denmark, she had made the acquaintance of an employee at Rigshospitalet, and Archana later moved back to Copenhagen to settle permanently.

And what happened about the court case submitted in August 1977? Nothing much, I regret to say. None of the accused officers have been suspended. Death certificates have been produced for two of the accused (Aditya and Arun). Kamal Das (the golden hand) has disappeared and records seem not to indicate that he was employed by the Calcutta police in the first place. Every legal loophole has been used and abused to prolong the proceedings at the court. The accused have claimed that Archana's lawyer (A. P. Chatterjee) could not represent Archana because he was also the government's standing council. This was put to the high court as well as the Supreme Court twice before the legitimacy of his representing the client was confirmed. It appears that the evidence was misrepresented and the court misled the first time.

During the 1980s several human rights organisations and women's organisations followed the case and even demonstrated outside the court room—not for a verdict of guilt, but only for a speedy trial. Because of this, the accused filed a petition asking that these organisations be tried for contempt of court and that reportage of the trial be prohibited. The local magistrate did bar the newspapers from publishing the evidence of the witnesses. However, this was not abided by and was rejected by a higher court.

Aggrieved by the above-mentioned decision of the local judge, a new petition was filed by the accused requesting the transfer of the case to a new magistrate. And finally it appears that a new petition has been filed asking for change of judge as well as the place of trial. In addition to these obstacles, the accused have repeatedly requested

stay orders for various reasons, making it almost impossible for Archana to go on with the case, considering that she is living abroad.

Conclusion

Ten years have lapsed, the case lingers on and still no verdict is in sight. At the end of the 1970s many cases were brought against the police for torture; however, all other cases have been dropped. Very few people can keep a court case going for years; the legal expenses involved are astronomical. A very strong personality is needed to go through these ordeals with so little hope of success.

Archana's lawyer has taken on the case on a humanitarian basis. He, himself, has been threatened on many occasions, and threats have also been made against his family. The whole court case seems to be a clash of interests. However, it is difficult to see who the accused party represents. Very expensive lawyers have been helping the accused (and prolonging the court case) all these years, and a question has been raised as to who pays their fees. In whose interest can it be to suppress a court case like this, to keep it from reaching a verdict?

If it had not been for support from international organisations, local human rights groups, and women's organisations as well as the press and television, this case might also have been dropped years ago. This would not be in the interest of a democratic country like India, where torture is prohibited by law.

In this context, we must also consider the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (4), the United Nations convention prohibiting torture and setting up rules and regulations concerning international aspects of torture. So far, 43 states have signed the document, and of those, as of December 1987, 17 have ratified it. India has not yet signed this document, whose aim is to help progressive authorities bring about justice.

Archana was forced to spend three years of her life in prison, was brutally tortured, and only after intensive rehabilitation has been able to begin to live a reasonable life again. Three years of a lifetime is a long time. Cases of tortures being convicted and punished are virtually non-existent as are cases of compensation paid out to the victims. More than three weeks of torture cannot be undone; three years of a life cannot be given back. The duty of society must be to compensate at a realistic level as well as to use such occasions to better its control over and insight into various services in our society, including the police. We must remember that the police force reflects that society in general. The time has come to recognise torturers as the criminals they are.

References

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