

EDITORIALS

Medical professionals and interrogation: lies about finding the 'truth'

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For some time now, a set of scientists has been glorifying the "magic" of a "truth serum". They insist it can make hard-core criminals talk and spill the truth about their misdeeds. Medical professionals are often involved in experiments, for many decades now, with the various technologies that are used in "lie detection", including brain mapping (polygraph and functional magnetic resonance imaging) and the so-called truth serum (use of sodium pentothal) in narco-analysis.

Experiments with narco-analysis were reported as far back as 1950 and with lie detection in 1953. The September 11, 2001 terrorist attack in the US was a turning point in scientific research on lie detection. A PubMed search found 26 references from 1997 to 2001 (or 5.2 publications per year), but in less than five years (2002 to July 2006) the number has more than tripled to 83 or 16.6 publications per year. Many of these are randomised controlled trials.

September 2001 may have marked a radical break from the human rights commitments of the powerful nations of the world, but the police and intelligence agencies have been interested in lie detection techniques for decades. In the 1950s and 1960s the Central Intelligence Agency (CIA) of the US funded and was directly involved, along with medical professionals, in covertly using drugs to study "behavioural modification".

In an infamous project called MKULTRA the CIA promoted the use of LSD on unknowing subjects, which resulted in the death of one subject. The uproar and subsequent investigations in the 1970s, some of them by committees appointed by the US senate, confirmed these activities of the CIA. But they could not provide evidence against individuals because, in 1973, at the order of the then chief of the CIA, important records of the experiment were destroyed (1).

Appendix A of the senate committee documents says that another experiment by the CIA called Project ARTCHOKE, using sodium pentothal, was "ended in 1956, but evidence suggests that the Office of Security and the Office of Medical Services' use of 'special interrogation' techniques continued for several years thereafter" (1). It was thus not surprising that after September 11, former CIA and FBI chief William Webster was quick to assert that the administration should look at the use of drugs such as sodium pentothal or other invasive tactics, which are just short of torture (2).

The Bangalore Forensic Sciences Laboratory (BFSL) has been conducting lie detection tests and narco-analysis in India since 2000. The turning point for narco-analysis in India came in 2002. In June 2002, three months after the burning of a train bogie by a crowd at Godhra in Gujarat, and the subsequent massacre of Muslims, seven persons accused of burning the train were brought to the Sree Sayaji General (SSG) Hospital in Vadodara.

They were interrogated and doctors from the medical college departments of anaesthesia, surgery and psychiatry carried out a narco-analysis. The chief of the SSG Hospital, Dr Kamal Pathak, reportedly said, "I can't reveal anything because this is something that pertains to national interest" (3). Dr S Malini, who left the premier National Institute for Mental Health and Neuro Sciences to join the BFSL, supplements this argument by stating that such tests have a "scientific and a humane approach" (4). This echoes the former CIA chief's assertion that they are "short of torture".

The efficacy and ethics of narco-analysis

Torture has made a renewed comeback in today's conflict-ridden world. However, sophisticated intelligence agencies know that torture is not only a violation of human rights; it also does not yield the desired results. A person who is being tortured usually admits to any crime attributed to him or her and gives information that the torturer would like to hear.

Lie detection techniques and narco-analysis suffer from the same problem. In these tests the interrogator is required to ask questions in the same way that the torturer asks questions. There is enough scientific evidence to show that a person under the effect of a drug often plays along with the suggestions made by the interrogator. The machines used for lie detection have also often led to the wrong conclusions. In 2005, in a case in the US, the company manufacturing a lie detection machine, the Computer Voice Stress Analyser, was sued by the accused and forced to make a hefty payment as compensation to settle the case outside the court (5).

Legal experts have argued about the issue of privilege against self-incrimination and the involvement of torture in the use of

narco-analysis. Judgements in India and the US on self-incrimination have given more importance to the evidentiary value of the information obtained in narco-analysis. But they have not given adequate weight to the fact that the law also places certain restraints on the government in obtaining information on the principle of "substantive due process".

From the legal angle we can thus ask if certain psychologically coercive interrogation techniques constitute a violation of substantive due process. Indian as well as American laws forbid torture tactics that "shock the conscience" but arguments such as Dr Malini's, that narco-analysis is a "humane method", are brought in as justifications.

The UN's definition of torture has four components: (a) it is an act causing severe physical and mental pain and suffering, that is (b) intentionally inflicted (c) for a certain purpose (information, confessions etc.), and carried out (d) by an official actor. As a result of the mind-altering effect of the drug, an innocent person may make a confession, or a machine may find his or her statement to be true or false; this is likely to lead to mental trauma for that person. Both the threat and the actual administration of narco-analysis are intentional and involve the participation of not only the police but also of doctors.

In addition to violating the laws related to torture, narco-analysis also violates the dignity of a person, a principle covered in the 1988 UN 'Body of principles for the protection of all persons under any form of detention and imprisonment'. Linda Keller (6) suggests that once we accept the truth serum as a legitimate or humane means of interrogation, we will be forced to adopt a completely new definition of torture. She argues that its use will open a slippery slope of ethics. If it is used for a "terrorist" or a Telgi today, tomorrow it could be anyone else.

The police in India have also started violating norms by airing videotaped statements made by the accused person under narco-analysis. This is a way of masking the police's inefficiency and asserting that if the courts fail to accept the statement as evidence, the judiciary is responsible for not providing justice.

Medical professionals and interrogation

As mentioned, these interrogation methods clearly and deeply involve health-care professionals in hospitals and in forensic laboratories. Luis Justo (7) has come down heavily on those participating in interrogation in the name of the "war on terror". He specifically targets the "biscuit" teams (behavioural science consultation teams), comprising psychologists, psychiatrists and other health workers, which operate in US military prisons. These are similar to teams in India's forensic laboratories. Justo writes that medical associations in the US have strongly spoken out against these unethical actions.

The World Medical Association recently revised its Tokyo declaration (against participation in torture). It now clearly states that "Physicians shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedure is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife."

Justo documents a recent statement of the American Medical Association: "Physicians must not conduct, directly participate in, or monitor an interrogation with an intent to intervene, because this undermines the physician's role as healer." The American Psychiatric Association has also reiterated its long-held position against the participation in or assistance to interrogation by psychiatrists.

Unfortunately, not a single medical association in India has spoken out against such participation. Legal battles about the admissibility in courts of information collected by using narco-analysis and lie detection continue even as physicians, psychiatrists and forensic doctors in India continue to violate medical ethics by participating and assisting in these interrogation sessions.

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