

# Prevention against Custodial torture

- Forensic science is an important tool in **detecting evidence of torture and other cruel, inhuman or degrading treatment or punishment.**
- In India, National Human Right Commission has issued guidelines for medical officers to deal with cases involving human right violation
  - The arrestee has been remanded to police custody under the orders of the court, the arrestee should be subjected to medical examination by a trained Medical Officer every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. At the time of his release from the police custody, the arrestee shall be got medically examined and a certificate shall be issued to him stating therein the factual position of the existence or nonexistence of any injuries on his person.

## • **Prevention against Custodial torture**

In death cases the guidelines to be followed includes

- **District Magistrates and Superintendents** of Police of every district that they should report to the **Secretary General of the Commission** about incidents of death in police or judicial custody within 24 hours of occurrence or of these officers having come to know about such incidents.
- **Video-recording of postmortem examination in such cases is mandatory.**
- **Postmortem examination is to be conducted by board/panel of doctors.**

# Mental Health and Human Rights

- **The Mental Health Act 1987** does not permit the mentally ill persons to be put into prison.
- **NHRC has been deeply concerned** about the conditions prevailing in the mental hospitals all over the country.
- Many of them function as **custodial rather than therapeutic institutions.**
- In addition, there are problems of overcrowding, lack of basic amenities and poor medical facilities.
- In some places, ECT is administered even today without anesthetist.
- **Deaths in mental asylums are investigated** and opinion of forensic expert is taken regarding circumstances of death.

# Drugs of addiction

- In India **NDPS Act 1985**, is the statutory framework for drug law enforcement in India.
- **Forensic toxicologist** helps in examination of counterfeit or spurious medications.
- **Forensic pharmacists** play an integral role in legal cases relating to malpractice, drunk and drugged driving and adverse side effects of certain drugs.

## Forensic Expert and Rights of children

In India, **National Commission of protection of Child Rights (NCPCR)** and **Child Welfare Committees (CWC)** refers the cases with suspected violation of child rights for forensic evaluation.

- Rights pertaining to children includes
  - **The right to Nutrition-** reporting of malnourishment
  - **The right to Health & Care- vaccination and treatment of illness.**
  - **The right to protection from Abuse:** reporting of sexual and physical abuse
  - **The right to protection from Exploitation:** this includes child labor, occupation in hazardous industries. In India, a child less than 14 years of age cannot be engaged as domestic servants.
  - **The right to protection from Neglect:** exploitative and inhuman conditions.

# Forensic Expert and Rights of elderly

- In India elderly abuse is underreported because of socio-cultural reasons.
- Documentation and reporting of elderly abuse is an important task in forensic practice.
- The regulations related to for elderly care includes, **Maintenance and welfare of parents and senior citizens act 2007.**
- Further as per **section 125 of CrPC 1973** maintenance of parents is mandatory.

# Domestic Violence

- Section 3 of the **Domestic Violence Act 2005** says any act/conduct/omission/commission that harms or injures or has the potential to harm or injure to family or member will be considered 'domestic violence'. Under this, the law considers physical, sexual, emotional, verbal, psychological, and economic abuse or threats of the same.
- Documentation and reporting by forensic expert plays significant role in getting justice for the victim.
- Various protocols for forensic assessment of the any harm consequence of domestic violence against women have been prepared all over the world .

## Gender based violence (Preconception and Prenatal

- Sex ratio is one of the most important indicators for study of population.
- Some of the reasons commonly put forward to explain the consistently low levels of sex ratio are son preference, neglect of the girl child resulting in higher mortality at younger age, **female infanticide, female feticide**, higher maternal mortality and male bias in enumeration of population.
- Easy availability of the **sex determination tests** and abortion services may also be proving to be catalyst in the process, which may be further stimulated by pre-conception sex selection facilities.
- Provisions of **Preconception and Prenatal Diagnostic Techniques Act** prohibit such practices of sex selection.

# Forensic expert and criminal abortion

- Criminal abortion is performed with intention to get rid of product of conception.
- However abortion can be legal or justifiable if carried out with the provisions of **MTP Act**.
- The law regards criminal abortion as a serious antisocial act and punishable under section **312-316 IPC**.
- A forensic expert may have to examine cases of abortion following an assault or in case of concealment following complications or fatal outcome.
- Abortion may ensue following an accident and expert may be contacted for compensation purposes.
- Examination of living or dead female following criminal abortion and examination of aborted material by forensic expert may provide vital clues for investigation.

# Sexual exploitation/ Sexual Offences

- Forensic expert conducts medical examination, document injuries and collect and preserve samples in cases of natural and unnatural sexual assault.

# **Scientific Interrogative Techniques and Human Rights**

**Recently the honorable supreme court of India has ruled (5th May 2010) that narco-analysis, polygraphs and brain mapping are illegal and violation of personal liberty. Court ruled that tests cannot be conducted on any person without their consent Use of scientific interrogative techniques like brain mapping and narco-analysis has started a debate among medical/forensic fraternity about violation of constitutional right.**

# Role in Human Trafficking

- Forensic expert play an important role in medical examination of trafficked victims that include **Immoral Trafficking Prevention Act.** and
- Age estimation required for various legal provisions (Labor law, **Juvenile Justice Act etc**).

# Forensic expert and Mass Disasters

- Disasters results in large number of deaths in a short span of time placing overwhelming stress on individuals and society.
- Appropriate **recovery, retrieval and storage of dead bodies** is an important and essential component of humanitarian response in any disaster situation.
- **Positive identification** of the deceased is essential for proper disposal, financial compensation, property rights, inheritance etc.
- Further **disposal of the dead bodies** is of great importance according to religious, cultural, ethnic and psychosocial needs of the affected community.
- Forensic expert play significant role in proper disposal of dead bodies in mass disasters, construction of temporary mortuaries for preservation, establishing identity of dead bodies by **DNA FP** and other tools and preserving important trace evidences of medico-legal importance for investigation.

## **Euthanasia**

- Forensic expert analyze legal clauses or provisions in prevailing legislations in the country and guide the legal and administrative agencies in these matters.

## **Surrogacy and Forensic expert**

- Important contribution could be in legal protection to surrogate mothers and to prevention of commercialization of this right to life.
- However other legal issues are also of importance where forensic expert can play a role includes adultery, legitimacy, and implications of provisions of Artificial Insemination Bill etc.

# Independent Inquiry

- Forensic pathologist play a significant role as independent expert in investigation of situations like communal or political conflicts.

## **Communal/cultural/political conflict**

- In a developing country like India particularly due to high rate of illiteracy and poverty there are Communal/cultural and political conflicts among people even resulting in violence.
- Forensic / medical experts plays a significant role in redressing these issues in the society.
- This department played a significant role in Godhra violence to solve the problems.

## **Conclusion**

- There has been strong association between poverty and crime as well as poverty and health.
- Improvement in socioeconomic status of individuals will reduce the crime rate in India as people with good health, well protected human rights; feeling secured and thereby will contribute with much better and increased output in uplifting of society and country at large.

**THANK YOU**