

**Evaluation of Litigants Pertaining to
Writ Petition(Crl.) No. 447/95
Committee for Information and Initiative on Punjab vs. State of Punjab**

I. Introduction/Background

At the request of Ensaaf, a non-profit organization based in Santa Clara, California, Physicians for Human Rights (PHR) and the Bellevue/New York University School of Medicine Program for Survivors of Torture (Bellevue/NYU) conducted an independent assessment of family members of victims of who were killed and illegally cremated by Indian security forces, and many of whom were themselves survivors of related abuses. The family members evaluated are complainants in an ongoing public interest lawsuit currently pending before India's National Human Rights Commission (NHRC), which is acting as a designated body of the Indian Supreme Court. According to publications by Ensaaf and other human rights organizations, a large number of Punjabi citizens were tortured, "disappeared," extra-judicially executed, and illegally cremated during the late 1980s and early 1990s, often following arrest. These deaths were often accompanied by news reports attributing the death to militant activity in the Indian state of Punjab. Many of the decedents were reportedly cremated by Indian security forces, often without notification to the family or an opportunity to retrieve the ashes of the deceased.

According to Ensaaf representatives, the Supreme Court appointed the NHRC to determine the veracity of these allegations, investigate liability, and award compensation as deemed appropriate. In 1999, the NHRC decided to limit its investigation to issues of compensation and liability for roughly two thousand cases of disappearances that also involved illegal cremation in Amritsar. The assessment included 1) a detailed account of abuse of the deceased and his or her family members, 2) the psychological impact of the reported abuses on the family members interviewed, 3) the physical health impact of the abuses reported, 4) the financial impact of losing the deceased, injuries and disabilities among family members and/or destruction of property, and 5) attitudes regarding reparations. The assessments consisted of structured interviews and diagnostic evaluations of a random sample of surviving family members.

II. Method

All interviews were conducted by the Bellevue-NYU/PHR research team during a 10-day period in May and June of 2005, in Amritsar. Among the 756 deceased individuals included in the civil suit, we obtained a systematic probability sample of 189 cases by selecting every 4th individual listed on the case roster. This sampling method was employed to provide a representative cross-section of the surviving family members. Ensaaf's local staff was able to contact family members from 160 of the 189 identified victims (84.7%), all of whom agreed to participate in the assessment. Of the 160

individuals who were contacted, 131 arrived for interviews (81.9%). Twenty-nine family representatives did not appear for their scheduled appointment. Several of these individuals subsequently explained that they were unable to arrange for transportation to Amritsar or had other obligations that precluded participation at their scheduled time. There were no significant differences on any available data (i.e., age, gender, relationship to decedent) between individuals who did not keep their scheduled appointment and those who were interviewed.

The research team consisted of three psychologists, one psychiatrist, and two primary care internal medicine physicians, all of whom had extensive experience with torture survivors and/or investigating human rights abuses. In addition to gathering extensive historical and clinical information, the researchers developed and implemented a structured survey to assess the effects of the alleged disappearance and illegal cremation on family members, as well as the effects of family members' own individual experiences of abuse by police and other authorities.

Family members were administered a series of instruments to assess major depression (the Major Depressive Episode module of the Structured Clinical Interview for Diagnostic and Statistical Manual of Mental Disorders–Fourth Edition (DSM-IV), or SCID-MD), posttraumatic stress disorder (Clinician-Administered Posttraumatic Stress Disorder (PTSD) Scale, or CAPS), and self-reported psychological functioning (Brief Symptom Inventory, or BSI). Team members also assessed possible symptom exaggeration with the Dot Counting Test (DCT). All of these instruments were translated into Punjabi and back-translated into English in order to ensure accuracy prior to initiation of the study. Finally, individuals who reported the presence of physical injuries, scars, and/or physical disabilities related to alleged torture or ill-treatment by law enforcement officials were physically examined by one of the study's physicians. The physical examinations enabled the team to assess whether the descriptions of abuse were consistent with observable clinical evidence.

Whenever possible, interviews were conducted by clinicians of the same gender as the participants. Because none of the research team members spoke Hindi or Punjabi, interpreters were recruited by Ensaaf and trained by the study personnel prior to beginning the study. Interpreters included three physicians, two teachers, and three attorneys, all of whom were fluent in both Punjabi and English. Interviews and evaluations typically lasted between two and three hours. When more than one family member arrived for the appointment, clinical evaluations were conducted on the individual who reported being the most knowledgeable about the relative who had disappeared and/or been cremated. The other family members were asked to provide additional information concerning the decedent and family history. Whenever time and scheduling permitted, interviews and evaluations were conducted by two staff members jointly in order to assess consistency among interviewers.

Human Subjects Protections

Prior to each interview, participants were informed of the nature and purpose of the interviews and that anonymous information would be compiled into a summary report for use in legal proceedings and possibly for publication in scientific journals. Each participant provided verbal consent to be evaluated. The NYU School of Medicine's Institutional Review Board approved the study.

A. Measures

The SCID-MD and CAPS are clinician-administered structured interview instruments used to generate diagnoses (both current and lifetime) of Major Depressive Episode (MDE) and PTSD, respectively. These structured interviews systematically assess for clinical diagnoses according to the DSM-IV criteria. These measures represent the “gold standard” for clinical diagnosis in both research as well as clinical settings. The DCT is a simple cognitive test used to identify individuals who may be exaggerating the severity of their psychological difficulties (i.e., malingering). Subjects are asked to count a series of dots printed on a card and scoring is based on the length of time required to count the dots as well as the accuracy of counting. This measure was selected because of its relative insensitivity to cultural factors (discussed further below) and brevity; although, to date no normative data on non-Western samples have been published. Nevertheless, because of the possibility that some individuals may have been motivated to exaggerate the severity of their distress (i.e., to buttress a claim of psychological damage), identifying a measure of symptom exaggeration was considered important to ensuring the validity of self-reported and interview-based data.

Participants were also administered the BSI, a 53-item self-report rating scale that quantifies overall psychological difficulties (the Global Distress Index or GDI) and nine different symptom areas: somatization, obsessive-compulsive symptoms, interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism. The BSI is widely used in both research and clinical settings and is supported by strong reliability and validity data. It has been translated into numerous languages and several studies have demonstrated the validity of these translated versions, although no research exists on a Punjabi translation of the BSI.

B. Participants

In total, the team conducted 130 separate interviews, representing 131 cases (one individual had two family members identified in cremation records, both of whom were randomly selected). Three other individuals were excluded because their scores on the DCT raised questions about the accuracy of their report. Although a strong possibility exists that these elevated scores on the DCT were the result of limited education, cultural factors, or poor vision, we elected to exclude these three cases in order to provide a more

conservative estimate of the symptoms and difficulties reported by the sample. Thus, the results described below are based on a sample of 127 participants.

The final sample included 76 males (60%) and 51 females (40%). Family members ranged in age from 20 to 85, with an average age of 53. Roughly half (48%) of those interviewed were parents of the deceased individual; 26% were siblings, 18% were spouses, 4% were children of the deceased, and 4% were more distant relatives. Almost all of the individuals interviewed were Sikh (98%), with the exception of two Hindus and one Muslim. Most individuals (63%) were married at the time of the interview, though 35% were widowed. More than half of the sample (57%) had never attended school (i.e., no formal education) and the most common occupations were farming (36%), homemaking (25%), unskilled labor (16%), and skilled labor (8%). Roughly 25% reported having stopped working, typically for reasons unrelated to persecution or problems with the authorities (i.e., advancing age or retirement). However, two individuals reported having stopped working specifically because of persecution by the authorities, four attributed their unemployment to psychological symptoms resulting from their traumatic experiences, and seven because of continued physical disabilities attributed to the authorities.

Missing data

All study procedures were not completed in every case, as a result of time or other logistical constraints. For example, the CAPS and/or SCID were not completed in several cases because of time limitations, resulting in 10 missing cases for measures of current PTSD, 14 for lifetime PTSD, eight for current MDE, and 13 for lifetime MDE. Several individuals were unable to complete the DCT because of poor eyesight (20%) or other logistical problems (e.g., loss of electrical power during administration).

Inter-rater reliability

Paired ratings were available for 9% of the cases (n=11). Inter-rater reliability estimates based on these paired ratings indicated a high degree of agreement between clinicians regarding diagnoses based on these measures. Kappa coefficients (a measure of inter-rater agreement) were .86 for current Major Depressive Disorder and .70 for past Major Depressive Disorder (based on the SCID-MD), 1.00 for current PTSD and .79 for lifetime PTSD (based on the CAPS). The few discrepancies noted among these diagnoses were typically due to disagreement on a single symptom rating.

III. Results: The Effects of a Family Member's Disappearance/Illegal Cremation

A. Traumatic experiences described by participants

Most participants reported experiencing numerous traumatic experiences in addition to the disappearance and/or illegal cremation of their relative. In order to determine the effects of this specific traumatic incident on the subsequent psychological and social functioning, we first assessed the range and extent of traumatic experiences to which

family members of the interviewees were exposed. These experiences included their own personal history of torture and physical abuse, as well as their knowledge of other family members, besides the decedent named in this case, who were reportedly imprisoned, tortured, and killed. The array of traumatic experiences reported varied considerably. Some individuals described the disappearance and/or illegal cremation of the named relative as their sole traumatic experience, while others described having numerous family members tortured and killed. Other study participants reported being the victims of extensive, repeated torture. These traumatic experiences are summarized below.

Experiences of the Decedent

Many participants had little information regarding what happened to their deceased relative prior to his or her death. Nevertheless, participants described a number of traumatic events that were known to them or had been acknowledged by the police.

Roughly 30% of all participants indicated that their deceased relative had no previous contact or difficulties with the police prior to their disappearance and death. However, the remaining 70% of participants described a range of prior problems between their relative and the police, with 58% reporting that their relative had been previously arrested and 48% reporting that their relative had been tortured at least once *prior* to their final arrest and/or death (i.e., during a previous arrest). Likewise, although many participants were unaware of what had occurred in the days or weeks before their relative's death, 52% stated that they learned that their relative was tortured by the police while in custody during the time period between their final arrest and subsequent death; an additional 7% reported that their relative was tortured by another authority (e.g., military). Family members who had direct contact with the decedent while he or she was incarcerated typically learned this information.

A 44 year-old man described having witnessed the torture of his brother:

They did everything to my brother in front of my own eyes. He was stripped and totally naked. Electric shocks were put on his genitals. He was beaten with sticks, and rollers were put on his thighs. Then they took him to a nearby room; from where I could hear his shrieks. I did not see my brother after that. They did not even give us the body.

Other participants provided detailed accounts of the torture experienced by their deceased relative, both before and during the final incarceration.

A 53 year-old man recalled what his brother had told him after the first time he was arrested:

He was tortured and kept in custody 10-12 days at a stretch. When he came home, his feet were swollen, his legs were swollen, and he told us that they beat him on

the soles of his feet; they used rollers on his body. They applied electric shocks. They stretched his legs. We had to bribe the police in order to get him released, every time.

A 45 year-old widow described the abuse of her deceased husband:

During his detention, they cut his thighs and put chili in the wounds. He had wounds on his legs. The skin on his thighs was burned with objects. His legs were stretched, and he couldn't walk. He had to be driven home after his release. His feet were also badly swollen. They beat his feet with rods. Most of his injuries were related to his feet and legs, so he couldn't walk. A roller was also used on his thighs so that he became disabled and was unable to run away.

A 70 year-old woman described the abuse that her deceased son and husband (subsequently deceased) were put through after they were arrested together:

Salt and chili were put into their open wounds (cuts on the body). Their legs were stretched and were given electric shocks. They were badly beaten and suspended upside down. My son's finger nails were pulled out with some instrument. The hands were tied behind his back and shocks were given to his shoulders and temples. They forcibly took away his religious symbols [e.g., turban, kirpan].

Just under half of the family members (n=58, 45.7%) reported having directly asked the police for information about their relative; many cited fear of repercussions as the reason for not asking. Of those who did inquire, the explanation most frequently offered for the death of the decedent was an "encounter killing" (reported in 67% of all cases), in which the decedent was killed in some type of spontaneous incident. The types of "encounters" typically described included crossfire with militants (24%) or escape attempts (13%), but in many cases, the nature of the encounter was not specified.

The majority of families (77%) stated that they were not notified of their relative's cremation in advance, and therefore were typically unable to attend the cremation. In 54% of cases, the participant stated that the family was unable to obtain the ashes of the decedent. In nearly half of all cases (48%), the family member indicated that they knew the identity of the person or persons responsible for the arrest of their relative (prior to death), and in 38% of cases, the family was able to identify the specific individual who they believe killed their relative (typically a police officer).

Traumatic Experiences of Other Family Members

Most participants described far more extensive knowledge of trauma experienced by relatives other than the decedent. For example, 83% of all participants reported that family members besides the decedent had experienced substantial harassment by the government or police. Family members were arrested in 74% of cases, with an average of

1.8 arrests per family and a maximum of 13 arrests. Torture of family members other than the decedent was reported in 56% of cases, with an average of 1.4 family members tortured per respondent and a maximum of nine. In 22% of cases, at least one family member in addition to the decedent named in the present investigation was also reportedly killed by the government, though the number of family members reportedly killed by the government ranges from 0 to 8.

Traumatic Experiences of the Interviewee

Of the 127 participants interviewed, 75% reported harassment (e.g., surveillance, intimidation, physical assault) by the authorities during the period of time surrounding their relative’s death. About half of those interviewed (47%) reported having been physically assaulted by the authorities and 54% reported verbal harassment, such as threats to themselves or family members, insults, and monitoring or surveillance. Almost two-thirds (63%) of the interviewees reported having been arrested at some point, and most of these arrests (and assaults/harassment) occurred after the decedent’s death. Almost half of those interviewed (48%) described abusive experiences consistent with torture as defined in the United Nations Convention Against Torture. The torture reported by participants was typically described as being inflicted by the police, but other government officers (e.g., military) were occasionally identified as having engaged in

Table 1: Summary of types of abuse

Beating or Torture	Frequency	%
Slapping, kicking or punching	43	46.2
Death threat to self	35	37.6
Assaulted with an object	33	35.5
Suspension by rope or cord	27	29.0
Stretching legs laterally	26	28.0
Rolling wood or iron bars over body	20	21.5
Death threat to family	19	20.4
Beating on soles of feet	15	16.1
Deprivation of food or water	15	16.1
Stress to senses	15	16.1
Electric shock	10	10.8
Forced postures	9	9.7
Placed in isolation	8	8.6
Sleep deprivation	7	7.5
Mock execution	4	4.3
Sexual assault	3	3.2
Threats to colleagues	3	3.2
Forced to disrobe	3	3.2
Burned	2	2.2
Forced ingestion of non-food substance	2	2.2

Asphyxiation	1	1.1
--------------	---	-----

the violence. The length of time that had elapsed between the last torture or abusive incident by authorities and the study interview varied considerably, with 84% of individuals who reported torture experiences estimating that at least 10 years had elapsed since the last torture or abusive incident. However, four individuals reported harassment within the past year and one individual reported that the most recent harassment incident occurred in May 2005. Moreover, a number of interviewees (11%) reported that they have had continued contact (ranging from intimidation and harassment to accidental encounters) over the past decade with the same authorities that they believe were involved in the death of their relative.

Forms of torture that participants reported they had experienced are summarized in Table 1. Common types of torture included assault with an object (36%), suspension from the ceiling by a rope that bound their hands behind their back (29%), stretching legs laterally (outward) toward a 180-degree angle (28%), and repeatedly rolling a heavy iron or concrete cylinder over legs or arms (22%). Although less frequent, interviewees also described the insertion of hot chili into open wounds, being dragged by the hair, electric shocks to the testicles, and being forced to ingest excrement.

Many participants provided vivid descriptions of the torture they experienced. Three participants' narratives follow:

A 75 year-old man described the torture inflicted on his younger son and himself:

My self and younger son were picked up by police and asked the whereabouts of my now deceased son... I was not given food for days, hung and suspended by my hands bound behind my back, and beaten on the ear. My left arm was broken when my arms were tied behind my back. They put me on the ground and pulled my arm back and broke it. They tied hot objects to my feet and I couldn't stand. They took the five K's [five religious symbols of Sikhism]. They opened my underwear and put red chili powder and gas in my anus. They asked me to give them information so they could arrest my other son. They treated us like this for one month. Every alternate day this happened. Always banging on my ears, puss came out, especially from my right ear. And some of my teeth fell out when I was beaten.

A 34 year-old brother of one of the decedents reported a series of brutal events he experienced:

On the first day I was arrested, they used a roller on my body, then they hung me upside down, they stretched my legs apart, and they beat me up with sticks, including beating the soles of my feet. Still I feel the pain, and during the winter, I

cannot wear shoes because my feet swell, and I cannot put them under covers because they get hot. The next day they hung me upside down, and danced around me drinking liquor, saying they had killed my brother, who used to threaten them... then they ordered us to run. I refused. The other seven ran, but I was unable to run because of the torture. They killed the seven who ran. They struck me in the back with the butt of a rifle to make me run, but I refused...He poked a spike into my left arm, and after pulling it out, several began beating me repeatedly with sticks on my left arm. This fractured the bone of my left arm, which came out of the arm [shows interviewer puncture scar associate with an obvious deformity resulting from a compound fracture]. My arm was hanging there, fractured. Then they tied my hair with a rope to the back of a vehicle, and they dragged me for quite some time. I was unconscious by that time, and I don't know where they took me. I asked for water, but they threw a handful of soil into my mouth...They interrogated me by giving me electric shocks in my temples and ankle joints and by beating me with the butts of their guns.

A 44 year-old brother was arrested three times. The first two times he was released.

I was arrested three times. The first two times I was released. The third time, the police from Haryana arrested me, stripped me naked, and beat me. They tied my hands behind my back and put rollers on my thighs. Then I was hung upside down from the ceiling fan. They put pig excrement in my mouth, and they tied a cloth over my mouth. They said that a known militant had kept an assault rifle with me. I said I was innocent.

Nakedness was also used as humiliation. The younger brother (age 37) of one of the deceased described how police used his religious beliefs during his torture:

They forced me to remove all my clothes in front of a picture of the first guru of Sikhs and said, 'This is your guru, show him your naked body.'

Participants also described types of ill-treatment while in custody, commonly characterized as “psychological torture.” A 59 year-old farmer described the threats made to him and his eldest son at the time of the disappearance of a younger son:

We were not physically tortured, but we were held many times and given little food, of very low quality. They would threaten to kill the whole family and showed us thick ropes that were used to hang people... We never witnessed anyone else being tortured. They wanted our help to locate our son, to kill him. They said this.

More than half (64%) of those individuals who reported having been abused also described physical injuries or disabilities, either past or permanent, that they attributed to these experiences. The extent of disability from the reported injuries varied. In many

cases (35%), individuals described permanent muscle weakness, scarring, and other chronic physical sequelae.

A 66 year-old man described injuries sustained shortly before his son was killed:

They kicked me with the heel of their boot on my right ear, many times with the heel of their boot, so then blood started coming out of my ear. And since then I have lost my hearing from that ear. My whole body used to feel pain. It seemed to me like somebody was pinching my whole body. My whole body was very weak. Even now there is pain in my legs. Since then I have difficulty walking. I walk very slowly, and if I walk faster I get dizzy. I fall if I walk too fast.

A 35 year-old brother of one of the decedents described physical complaints that have left him unable to work for most of his adult life:

I'm essentially unable to work. My body hurts and my side hurts when I turn. But mostly it's my right leg that gives me a lot of problems. I have needed three surgeries on my legs due to the bullet wound, it hurts a lot, and as you can see, I'm still nursing my injuries.

Physical examinations were conducted with 35 of the participants who reported long-term physical injuries resulting from torture or physical abuse. These 35 individuals represented 77.2% of those reporting chronic physical complaints because of their torture (n=44); nine individuals could not be evaluated because of time constraints. The purpose of these examinations was to both assess and document the extent of physical injuries as well as to determine whether any observable evidence existed to either support or contradict the individual's self-report. Of the 35 examinations conducted, 31 individuals had findings that the evaluating physician considered consistent with the reported

Table 2: Results of physical examinations of those reporting abuse

Complaint	Findings not present (as would be expected)	Findings present		Total number of complaints
		Consistent	Highly consistent	
Dermatological	0	7	12	19
Face/head	7	2	2	11
Eyes, ears, nose, & throat	1	2	4	7
Oral cavity/teeth	0	4	0	4
Chest/abdomen	0	2	0	2
Genitourinary tract	1	1	0	2
Musculoskeletal	4	25	2	31

Nervous system	2	4	0	6
----------------	---	---	---	---

injuries. The remaining four individuals reported chronic physical complaints that are not necessarily observable upon physical examination (e.g., chronic headaches). In none of the cases was there evidence that contradicted the reported history. Table 2 presents the types of complaints observed by study physicians.

B. Psychological Impact to the Participant and Immediate Family

Despite the passage of more than 10 years since the death of their relative, and in many cases, the traumatic events they had personally experienced, the family members interviewed reported an extremely high degree of current psychological distress. Not surprisingly, virtually all of the participants interviewed described even greater amounts of psychological distress during the years immediately following the death of their relative. For example, nearly 40% of those evaluated (47 of 122) revealed symptoms consistent with a diagnosis of Major Depression at the time of the present evaluation. An additional 37% of participants (45 of 122) reported a past episode of Major Depression following the death/illegal cremation of their family member (SCID interviews were not conducted or incomplete for 13 cases). In total, 75% of the family members evaluated reported symptoms of Major Depression at some point since the traumatic event. In addition to depression, 33% of those interviewed reported current symptoms consistent with a diagnosis of PTSD (39 of 117) at the time of the evaluation. An additional 20% (23 individuals) reported symptoms consistent with a diagnosis of PTSD at some point following the death/illegal cremation of their family member. In total, more than half of all individuals evaluated (62 of 117, or 53%) appeared to meet diagnostic criteria for PTSD at some point since the death of their relative. Table 3 summarizes the prevalence of major depression and PTSD among participants.

Table 3: Major Depression and Posttraumatic Stress Disorder among participants

	Frequency	Percent
Major Depression (n=122)		
Current Major Depression	47	39%
Past Major Depression only	45	36%
Past or current Major Depression	92	75%
PTSD (n=117)		
Current PTSD	39	33%
Past PTSD only	23	20%
Past or current PTSD	62	53%

In addition to these standardized diagnostic interviews, nearly 80% of the 127 individuals interviewed had “significantly elevated” scores (at or above the 95th percentile) on the BSI Global Severity Index, a measure of overall psychological distress. The proportion of

individuals who had elevations on the individual BSI subscales ranged from 83% for Paranoid Ideation to 46% for the General Anxiety subscale. In total, 95% of those interviewed were elevated on at least one BSI subscale. Table 4 details the means and proportion of individuals elevated on the BSI subscales.

Table 4: BSI Subscales (N=127)

	Average Raw Score	% Significantly Elevated
Global Severity Index	1.62	78.6
Paranoid Ideation	2.33	82.5
Depression	1.91	69.8
Interpersonal Sensitivity	1.99	66.7
Phobic Anxiety	1.27	52.4
Somatization	1.58	54.8
Obsessive-Compulsive	1.91	54.8
General Anxiety	1.52	46.0
Psychoticism	1.07	50.8
Hostility	1.47	46.8

When asked to describe their psychological difficulties, participants provided a number of poignant descriptions. A 45 year-old widow reported symptoms of severe depression that persisted to the time of the study:

Because of the stress on my mind, I was in a state of despair, so I took the medicine for two years from the mental hospital. Both my daughters also were there in the mental hospital with me because they were also not well. They charged us 10,000 rupees for 10 days. My daughters would also get thinking that we have lost our father what will we do, and how will things move ahead? Because of this, they went into this kind of state. Then I lost so much weight that my arms became so thin; when they used to look at me, they thought even more and were in a state of despair. Yes, sometimes, even now, I get mentally disturbed. I would beat myself and pull my hair, and only after taking my medicine would I return to normal. I have to take medicines that cost 800 rupees a week. I have a complete loss of appetite. I just don't feel like taking any food. The children say, "If you don't take anything this will cause more problems for us."

Another widow (age 33) described somatic symptoms associated with psychological distress:

I have lost my health because of the stress. I cannot go to sleep and then I have the worries about my daughters.

The sister (age 38) of one of the deceased described having a "sinking heart" and other psychosomatic symptoms:

My husband lost his ability to speak. Something keeps happening to my heart—the sinking heart, fluctuation of blood pressure, and even my head. It seems that everything is moving. My legs and arms don't function right. We are wasting away.

Distress was not limited to those who had direct experiences of harassment or abuse. Indeed, even among those few whose experiences of abuse were limited to the deaths of the cremated individuals, psychological distress was prevalent. In order to understand the specific effects of the death/illegal cremation on psychological functioning, we analyzed psychological distress among the subset of participants (n=9) whose only reported direct exposure to a traumatic event was the death and/or illegal cremation of their relative. These individuals did not report any personal experiences of violence or abuse, or any other family members (other than the decedent) who had been victimized. Psychological distress among these participants was nonetheless extremely high. Seven of the nine (78%) reported symptoms of PTSD at some point following the death of their relative and five (56%) reported symptoms of Major Depression. Eight of the nine were significantly elevated on the Global Severity Index of the BSI.

Narratives of those whose experiences were limited to the death of one family member described such long-term anguish. A 75 year-old farmer whose son had been killed described continuing anguish years after his disappearance:

Yes, it affected our brains. When the memories of those bad days come, my heart starts sinking, it seems that whole body is without energy and it has become of clay. When we go to bed thinking about him, sleep is not near, but eventually we sleep.

A 33 year-old son of a deceased man described ongoing tension within the family due to his father's death:

We have had a lot of tension. Our life is full of pain now, pain and tension. We worry a lot, because we could not study and we would never get good jobs. My sister worries a lot about what's going to happen to her brothers. And she has not given birth. We think it's because of her mental situation and stress.

A 63 year-old professional man reported persistent, recurring fear related to the death of his only son:

We are scared of everything. They have uprooted us. There is nothing left behind. I don't know what to do in the future. He was the only son we had. Mentally, it has affected us very badly. We don't know what to do next... There is always stress on my mind. I just feel that I am helpless and that one day they are going to

kill me too. He was my only son, and parents live by seeing their children's faces. I am always under distress and I feel that I am not well like other people. I feel like I am something less than they are.

Table 5 provides rates of PTSD and depression which persisted to the time of the evaluation across types of harassment or abuse by authorities. Although clearly not all who suffered at some point following the illegal cremation of their relatives still suffered, it is evident that suffering was still prevalent and that suffering was not particular to specific types of experiences.

Table 5: Types of harassment by psychological diagnosis

Experiences	Current PTSD		Current MDE	
	Number	Percent	Number	Percent
Death/Illegal cremation only (n=9)	4	44%	5	56%
Other family arrested (n=23)	6	30%	6	27%
Personally harassed (n=31)	3	12%	8	31%
Personally tortured (n=61)	26	43%	25	42%

Psychological Effects on Other Family Members

Interviewees were also asked to describe what adverse effects they observed in other family members as a result of the decedent's death (see Table 6). Virtually all of the family members interviewed (91%) described some type of psychological suffering by other family members. The most common psychological problems reported were depression, reported by 73% of the interviewees, anxiety, described by 65% of interviewees, sleep disturbance (49%), and a wide range of physical ailments that appeared likely to reflect psychosomatic complaints (e.g., headaches; 46%). In addition, 16% described family members who suffered from a "sinking heart," a psychosomatic symptom frequently reported by individuals from Punjab. Of note, many interviewees described multiple family members experiencing each of these psychological reactions. Because it was not possible to reliably assess the psychological damages to family members without an individual interview and review of symptoms for each family member, we did not attempt to ascertain the precise number or percentage of family members who may have suffered each reaction. As such, these findings are likely to substantially underestimate the psychological harm experienced by the family members of the decedent. Nonetheless, many participants described severe psychological suffering on the part of their family members. A 62 year-old mother of a deceased described the anguish and eventual suicide of her dead son's widow:

My daughter-in-law died because of all the shock. After my son was killed, she worried about where she would stay and how she would eat. As a result, she and her child consumed poison and died.

A 75 year-old farmer discussed the numbing that accompanies thoughts of his deceased son:

Nothing improves; things just get worse, including health... I don't enjoy anything now. My heart has been turned into a paper wall. If someone talks to me about death, I feel like fainting.

Several participants described psychotic symptoms among other family members that began following the disappearance of the cremated individuals. A 35 year-old widow of one of the decedents described her father-in-law:

[My] father has gone sort of mad. He never goes to sleep and keeps shouting. Sometimes he will run after someone, and even if he is given medicine, he keeps sitting, shouting, chasing after people and talking all the time.

An 85 year-old father described desperate measures to control his remaining son:

My son who lives with us is psychotic. He becomes violent. We have taken him to the hospital, but he was not admitted. We have no money to pay for treatment. We were given medicine that we try to give to him, but we can't always afford it. We have that son chained to a bed at home so he doesn't hurt anyone.

A 50 year-old mother of one of the decedents reported that her eldest son “has gone mad” as a result of the death of his sibling:

The elder son who had gone mad after the killing of the younger son hit me and broke my leg. After that, I sold off some of my property and spent about 35,000 rupees for medical care. Even now, my elder son has gone mad, runs after us, yelling, “I will kill you.”

Table 6: Psychological effects on other family members (n=124)

Symptoms classification	Frequency	%
Depression	82	73.2
Anxiety	73	65.2
Sleep Disturbance	57	49.1
Somatic Symptoms	51	45.5
Concentration Problems	36	32.1
Sinking Heart	20	17.9
Suicidal	18	16.1
Drug and Alcohol	9	8.0
Paranoia	6	5.4
Loss of Appetite	4	3.6

C. Financial Hardship and Compensation

Yet another aspect of suffering described by virtually all study participants was due to financial hardship related to the death of their relative. Financial hardship among the family of the decedents was often attributed to two sources: extortion and loss of the decedent's income. Extortion of family members was commonly reported by the participants, with 56% describing payments made to the police for the release of the decedent during prior arrests, for their own release from incarceration, or for the release of other relatives. Most individuals described these extortion payments as having caused significant financial hardship for their family. In addition, 77% cited the loss of the decedent's income as another source of financial hardship.

Examples of financial hardship resulting from extortion, loss of the decedent's income or continued persecution/fear of persecution include the following:

A 33 year-old widow of one of the decedents described futile attempts to buy her husband's freedom:

We tried everything to get him rescued, and when the police asked us for 2 lakhs [200,000 rupees], we could only gather 1.5 lakhs. Some people from the village gave 1.5 lakhs to the police that night and were told that he would be released in the morning, but at four in the morning, he was killed.

A sister-in-law (age 42) described the cost associated with fleeing the family home:

We had to leave our home and live somewhere else, because we were afraid of the police. Whatever cattle we had, we left behind. Because of this, we lost 60,000-70,000 rupees. Then, we also had to bear the relocation expenses. When we weren't at our home, the police would come, break the locks and take things from our house. The neighbors were very nice, so they took care of the house.

A 50 year-old man described the hardship that resulted from living in hiding following the disappearance of his brother:

After he disappeared, we had to live in hiding for many years. Now the family is so much poorer... If he had been alive, we would have been two brothers in a business making money. The police didn't allow us to sow the field. The land became barren. The police were always around so they used to keep a watch and beat us if we went into the field.

A 35 year-old man reported:

He was my only brother. I have suffered a heart attack three times. Because of financial matters we cannot even buy medicine. It is because of this event only. If my brother were still alive, we'd have twice as much money.

A 45 year-old man:

We gave 25,000 rupees to police. We are losing money as well as the means to earn. There are losses from every side because if they [children] go outside, the police will take them away, and if they sit at home, they don't earn anything.

A 75 year-old father of the deceased described multiple sources of financial loss suffered by the family:

The police came and damaged and destroyed the house, and we had to sell off property because we incurred a lot of expenses. We had to pay for the bribes and to challenge the false accusations in court against our family. Defending ourselves cost money. We could not cultivate the land since we had to leave because of the police raids, so we had a lot of debt and had to sell off three or four acres of land to repay that debt.

Attitudes Concerning Reparations

When asked what the government should do for reparation, the majority of individuals indicated that they did not know what response would be appropriate. Of those participants that did suggest some governmental response, 61% indicated that the government should provide financial compensation for the death of their relative. However, few individuals suggested an actual amount of compensation. A number of interviewees suggested that the surviving family members should be provided a pension, similar to what would be provided to a soldier killed in the line of duty. Other responses included government sanctions for those responsible for the death of their relative (22%), being given a job (20%), and some form of public acknowledgement of the illegal cremations by the government (8%).

Among the responses offered were the following:

A younger brother, age 30, noted that families of police who were killed during that time had been compensated:

The policemen who were killed during these times, their families receive pensions and their family members have gotten good jobs. I believe the same should be done for us, because we lost all our businesses, we lost income and we lost our support. We're barely making ends meet. I also believe the people who did this need to be held accountable, and justice needs to prevail, because, you see, my brother did not do anything wrong. He did not harm any innocent person, like the

police were doing. Had he been hanged for what he did, we would accept his death, but they shot him and that's a cowardly act.

A 35 year-old man urged that reparations be made to his brother's children:

We are entirely helpless. It is entirely on you to get justice. We should get monetary compensation for the children. My deceased brother had two children and they should have money. They have nothing now.

A 30 year-old brother wanted assurance that the period of persecution had passed:

First and foremost, the government needs to reassure us that there is nothing we need to worry about, because we are still scared. Second, we suffered a lot of loss—our family members and property—and they need to compensate us for our losses. We're not in a position to say how much, because the government does what it wants. They should compensate us with what they think is fair, because obviously the lives cannot be replaced. This is something concrete. If you just think, the house that they destroyed was worth approximately 1,200,000 rupees. Of course the ones who are guilty should be punished. For example, a lot of police or government employees have killed at least 10 people, but they still roam the streets and there is no justice. Because they roam free, that's why we are scared. We have never heard of any case where justice has been given. We want the government to acknowledge what they have done. But to this day, the government has never asked us anything.

A 70 year-old father described his own idea of justice:

The person who has done my son wrong should be executed and there should be justice. I don't want money—money comes and goes, I want justice. Two years ago they came to offer me money for a compromise. I told them I would give them five lakhs, "but first let me kill your son."

IV. Interpretation of Findings

Traumatic Experiences

The findings of this assessment indicate that “illegal cremations” were committed by law enforcement officials following deaths in custody that were not merely accidental or the unavoidable result of reasonable security measures. Our assessment of traumatic experiences indicates that law enforcement officials engaged in consistent patterns of abuse that included not only repeated arrest and torture of decedents, but arrest, harassment, extortion, and torture of their family members as well. The context within which “illegal cremations” took place is highly relevant to the findings of our assessment,

as it has direct bearing on the range and extent of physical and psychological damages observed among surviving family members.

Participants reported that the decedents often were repeatedly detained and tortured prior to their deaths in custody. Overall, 58% of the participants reported that their relative had been previously arrested and 48% were reportedly tortured at least once prior to their final arrest and/or death. Though relatives did not typically witness the death of their family member, they often witnessed the aftereffects of torture experiences and, in some cases, were present during the torture of their relative. Whether they witnessed such trauma directly or indirectly, feelings of helplessness, anger, guilt, and fear were common psychological reactions among family members and often manifested as recognizable constellations of psychological symptoms such as major depression and posttraumatic stress disorder, as we observed in our assessment.

The lack of accountability among law enforcement officials for the alleged crimes of torture and extrajudicial executions also appears to have contributed to the psychological distress of participants. The frequency with which police attributed deaths in custody to “encounter killings” (67% of those sampled) seems highly improbable from a statistical perspective. Given the prevalence of abuses attributed to law enforcement officials in this assessment and in other credible human rights investigations, the extremely high frequency of reported “encounter killings” more likely represents a pattern of denial by law enforcement of responsibility for deaths that occurred while the individual was actually in police custody.

We also assessed experiences of abuses among participants and their family members to better understand possible causes of psychological distress and financial hardship. Of the 127 participants interviewed, participants frequently reported a variety of abuses experienced by their family members and themselves by law enforcement officials including harassment (75%) threats and/or surveillance (54%), and physical assault (47%). In addition, 63% of those we interviewed reported having been arrested by law enforcement officials and 48% reported having been tortured. Many of the individuals interviewed also revealed long-standing, and often visible physical impairments and disabilities related to their own traumatic experiences. Of the 35 examinations that we conducted, 31 individuals had physical findings that were consistent with the reported injuries. In none of the cases was there evidence that contradicted the reported history.

In sum, the abuses detailed in this assessment demonstrate that illegal cremations were one aspect of a pattern of intentional harm inflicted by law enforcement officials against multiple family members.

Psychological Impact to the Participant and Immediate Family

We found startling rates of current and past psychological and physical suffering. Rates of depression, posttraumatic stress disorder, and global psychological distress were

extremely high, with nearly 80% of those individuals interviewed reporting a past or present major depressive disorder and more than half reporting symptoms indicative of posttraumatic stress disorder. Long-standing physical impairments and disabilities were also quite common, although typically related to direct physical abuse or torture inflicted on family members rather than because of the traumatic events experienced by decedents.

Indeed, because of the frequent reports of torture and other forms of abuse described by the family members interviewed, it is difficult to separate the effects of the disappearance, death and illegal cremation from the impact of physical violence directly inflicted on the interviewee. Nonetheless, the vast majority of individuals interviewed described severe psychological reactions, whereas only half the sample reported having been tortured themselves. Moreover, rates of depression and PTSD were high even among the subgroup of participants that had reported no personal exposure to abusive experiences themselves or among their family members. These reported symptoms are even more significant given the rigor of our assessment method, including systematic, standardized assessment techniques for each of the symptom areas assessed. Thus, it is clear that considerable psychological distress resulted from the disappearance and death of their family member, independent of other traumatic experiences.

Importantly, the distress reported by these individuals, while somewhat subjective, is bolstered by the application of a test specifically designed to assess symptom exaggeration. Although we excluded three subjects from data analysis because of extreme scores on this measure, these “outlier” scores may have simply reflected the visual impairments, illiteracy, and lack of education on the part of some interviewees. Nonetheless, we elected to exclude these three participants in order to present a conservative estimate of psychological distress in our sample. Likewise, our methodology, which relied heavily on open-ended questions, no doubt results in an underestimate of the actual extent of symptoms and traumatic experiences among our sample. Thus, the high rates of psychological distress reported are even more striking given the application of a methodology that underestimates these very reactions.

Financial Hardship and Compensation

The financial repercussions of the deaths and other traumatic experiences cannot be overstated. Many individuals described witnessing their family’s financial standing deteriorate markedly and irreparably. Virtually all of those individuals interviewed described substantial financial hardships related to the death of their relative. Although the range of financial losses varied widely, participants described substantial losses due to extortion, lost income from dead or persecuted relatives (sometimes including themselves), and destruction or confiscation of property. Unfortunately, our methodology, which focused primarily on psychological and physical repercussions, did not permit a comprehensive assessment of the financial losses suffered by each family. Nevertheless, there is little doubt that many participants suffered substantial financial

losses in addition to the many years of potential income that would have been earned by the decedent, which was present in every case and can be estimated.

Attitudes about Reparations

The attitudes expressed about reparations focused on several key themes, the immeasurable loss of a loved one, the need for some acknowledgement of wrongdoing on the part of the government, justice and accountability for the crimes committed, and the need for reasonable financial compensation for the many interrelated losses that families have experienced. A number of participants suggested compensation in the form of a pension, similar to what would be provided to a soldier killed in the line of duty, or the provision of a job to another family member. At a minimum, compensation to family members should take into consideration the multiple losses and abuse experienced by the families and the physical, psychological and financial effects these have had.

V. Conclusions

This assessment of a random sample of cases in the public interest lawsuit currently pending before India's National Human Rights Commission and Supreme Court reveals that deaths in custody and illegal cremations took place within a context of widespread human rights violations that included repeated torture, extrajudicial execution, and illegal cremation of the decedents. Furthermore, this assessment reveals a pattern of abuse by law enforcement officials of surviving family members including, harassment, destruction of property, detention, and torture. Not surprisingly, these experiences have had profound psychological effects among surviving family members.

The interviews and psychological testing we conducted with 127 individuals demonstrates an extraordinary level of psychological distress among surviving family members. As a result of the death and illegal cremation of a close family member, most of the individuals interviewed demonstrated severe psychological disorders including depression and posttraumatic stress disorder, with nearly half of those interviewed continuing to describe these symptoms more than ten years after the traumas occurred. Regardless of whether family members suffered only the loss of the decedent or the additional traumas of detention, harassment, and torture of themselves or other family members, they exhibited extremely high rates of major depressive disorder, posttraumatic stress disorder, and other symptoms of psychological distress. In addition, many participants described long-standing physical pain and disability that were substantiated by physical examinations that supported their reported complaints. Indeed, many participants described permanent impairments and long-term disability related to the physical abuse inflicted by the authorities during the time period surrounding the death and cremation of their relative.

The persistent physical and emotional burdens that these family members continue to experience is compounded by significant economic hardship resulting from the loss of the decedent's potential income, the destruction of property by law enforcement officials, the

inability to resume work activities because of police intimidation and/or disabilities related to reported abuses, and relocation costs associated with flight from persecution.

In our opinion, considerations of compensation to family members should include not only the loss of decedents, but the emotional and financial impacts of such losses and the extraordinary context within which these losses occurred, namely the pattern of intentional abuse by law enforcement officials among multiple family members.

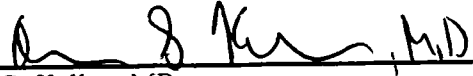
Furthermore, information gathered in the course of this assessment has revealed credible allegations of torture and other serious crimes by law enforcement officials that appear to warrant investigation and adjudication.

I declare under penalty of perjury, pursuant to the laws of India, that the foregoing is true and correct and that this affidavit was executed on 10/18/05 at New York, New York, United States of America.



Barry Rosenfeld, Ph.D.

Associate Professor of Psychology, Fordham University
Senior Research Consultant, Bellevue/NYU Program for Survivors of Torture



Allen S. Keller, MD

Assistant Professor of Medicine, New York University School of Medicine
Director, Bellevue/NYU Program for Survivors of Torture
Advisory Board Member, Physicians for Human Rights

Members of the PHR/Bellevue/NYU Research Team:

Allen S. Keller, M.D.
Assistant Professor of Medicine, New York University School of Medicine
Director, Bellevue/NYU Program for Survivors of Torture
Advisory Board Member, Physicians for Human Rights

Barry Rosenfeld, Ph.D.
Associate Professor of Psychology, Fordham University
Senior Research Consultant, Bellevue/NYU Program for Survivors of Torture

Andrew Rasmussen, Ph.D.
Director of Research, Bellevue/NYU Program for Survivors of Torture

Kim Reeves, M.A.
Research Coordinator, Bellevue/NYU Program for Survivors of Torture

Richard Kass, M.D.
Assistant Clinical Professor of Psychiatry, Columbia University
Volunteer, Physicians for Human Rights

Iris Bazing, M.D.
Volunteer, Physicians for Human Rights

Jinna Halperin, MPH
Research Associate, Physicians for Human Rights

Susannah Sirkin, M.Ed.
Deputy Director, Physicians for Human Rights

Vince Iacopino, M.D., Ph.D.
Senior Medical Advisor, Physicians for Human Rights
Faculty, University of Minnesota, Dept. of Medicine

Physicians for Human Rights

Physicians for Human Rights (PHR) mobilizes health professionals to advance the health and dignity of all people through action that promotes respect for, protection of, and fulfillment of human rights. PHR envisions a world in which all people enjoy health and well-being. The human rights principles contained in the Universal Declaration of Human Rights are a means of achieving that vision since they promote the dignity, worth and well-being of the individual. Their guarantees of political freedom and participation, protection from harms like torture and discrimination, and affirmative requirements to achieve the highest standard of health for everyone are all essential for health. In 1997, PHR shared in the Nobel Prize for Peace as part of the Steering Committee of the International Campaign to Ban Landmines.

PHR is a membership organization of physicians, nurses, public health experts, forensic scientists, human rights experts, and others dedicated to advancing health and human rights. PHR applies the specialized skills, rigor, knowledge and ethical commitments of health professionals to promote and protect human rights. Health professionals can make a unique, valuable and authoritative contribution to documenting and advocating against violations of human rights that significantly impair health, to developing evidence for justice and accountability, to designing mechanisms to prevent human rights violations from taking place, and to promoting and implementing systems that advance health and dignity.

Contact:

Jinna Halperin

Physicians for Human Rights

2 Arrow Street, Suite 301

Cambridge, MA 02138

Phone: 617.301.4200

FaxL 617.301.4250

e-mail jhalperin@phrusa.org website: www.phrusa.org

The Bellevue/NYU Program for Survivors of Torture

The Bellevue/NYU Program for Survivors of Torture provides comprehensive, multidisciplinary care for torture survivors and their families residing in the New York metropolitan area. The Program is jointly sponsored by Bellevue Hospital, the oldest public hospital in the United States, and New York University School of Medicine, a leader in medical education and research. Since the Program began in 1995, more than 1,500 men, women and children from over 70 countries have been cared for. Clinicians working with the Bellevue/NYU Program have extensive experience in conducting evaluations of individuals and groups who report having suffered torture and other human rights violations.

The Bellevue/NYU Program has established an international reputation for excellence in its clinical, educational and research activities. In 2003, The Bellevue/NYU Program, in collaboration with Physicians for Human Rights, completed a ground-breaking study, documenting poor mental health among asylum seekers in U.S. immigration detention centers. Earlier this year, the Program completed a study sponsored by the U.S. Commission on International Religious Freedom evaluating the treatment of asylum seekers at U.S. Ports of entry.

Contact:

Allen Keller, M.D.

Bellevue/NYU Program for Survivors of Torture

462 First Avenue, CD 710, NY, NY 10016

Phone: 212-994-7169

Fax: 212-994-7177

e-mail: allen.keller@med.nyu.edu website: www.survivorsoftorture.org