



वकालत मञ्च-नेपाल ADVOCACY FORUM- NEPAL

Lawyers forum for human rights and rule of law

Press Statement

26th June 2018

On the Occasion of International Day in Support of Victims of Torture

Kathmandu: Nearly three decades after Nepal ratified the UN Convention against Torture, it has finally criminalized torture through to be enforced Penal Code 2074. However, a separate law in line with international standards to deal with torture issues is still not in place. It is required not only to prosecute torture but also to provide reparation to the victims and contribute to prevention of torture. Although the successive Governments have promised a number of times that it would do so by enacting legislation, it has not been materialized. After a Nepal Army Officer Colonel Kumar Lama was arrested in the UK on charge of torture during the conflict period, the Nepal government prepared an anti-torture bill in haste and presented before the parliament in September 2014. However, after Colonel Lama was acquitted, the government has never reintroduced it in the parliament again for the parliament to pass into law.

For the last 18 years, Advocacy Forum (AF) has been visiting detention centres to provide legal assistance to needy detainees. During the course it is also documenting cases of torture. AF's record from 2001 to 2015 shows a decreasing trend in torture in Nepal. As per AF's data 53.8% detainees would claim being subjected to torture in 2002, which is now dropped down to 17.2% in 2015. However, in the aftermath of the arrest of Colonel Lama in the UK, Nepal Police has prevented access to lawyers in detention. As a result we are not able to collect data in a systematic manner so we could analyse the trend. Lately, AF is focusing on the issues of juveniles as they are vulnerable to illegal detention, torture and ill-treatment. In 2017, AF lawyers interviewed 250 juveniles among whom around 20% had complained torture and ill-treatment in police detention centres, which is a serious concern.

AF believes that the gradual reduction in the rate of torture is influenced by the daily presence of lawyers in police detention centres, monitoring the observance of constitutional safeguards, sharing these information by AF to all stakeholders, and regular briefing. AF is concerned about the continuous prevalence of torture and ill-treatment and denial of access to lawyers in detention. So, on the occasion of International Day in Support of Victims of Torture, Advocacy Forum would like to make **following recommendations to the government for prevention of torture in**

Nepal:

- Implement Children's Act, 2048 (1992) and Juvenile Justice Procedural Rules of 2063 (2006) to prevent illegal detention, torture and ill-treatment of juveniles in detention,

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- Ensure all detainees have access to AF lawyers and other organizations that offer free legal support to needy detainees,
- Table the anti-torture bill that ensures the compliance with Nepal's international obligations,
- Implement the recommendations made by the member states during the Universal Periodic Review,
- Establish a basket fund to provide immediate support to the victims of torture and other human rights violations and provide compensation as per order of the court,
- Establish required infra-structure for investigation and prosecution of allegation of torture, enabling effective prosecutions under the Penal Code,
- Introduce an independent National Monitoring Mechanism to monitor the human rights of detainees in all detention facilities of Nepal,
- In addition to financial compensation, introduce provisions to ensure victims of torture have access to all forms of reparation, including rehabilitation and medical and psychosocial support from the state,
- Modernize the policing system and provide adequate training, resources and modern equipments for evidence based investigations.

We also make the following recommendations to the international community:

- Advocate for the constitutional rights of detainees such as access to lawyers to respect in Nepal,
- Support monitoring of protection against detainees, including children,
- Advocate for a system of systematic monitoring of places of detention by the NHRC and other organizations,
- Support the Nepal government to modernize the policing system in Nepal including at the provincial level,
- Consider visa vetting to ensure that police and other security personnel involved in torture are not allowed to travel and benefit from training abroad and initiate cases under the Universal Jurisdiction if any alleged perpetrator from Nepal is found in their territory.