



वकालत मञ्च-नेपाल
ADVOCACY FORUM- NEPAL
Lawyers forum for human rights and rule of law

Press Release
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Kathmandu: On the occasion of the International Day in Support of Victims of Torture (26 June), Advocacy Forum-Nepal (AF) asserts the urgent need for an independent investigative mechanism to investigate and prosecute cases of police torture.

During 2020, AF was sadly unable to record testimonies of torture victims, provide free legal advice, and file cases on behalf of victims who suffered torture and ill-treatment due to the COVID-19 pandemic. This is the first year in 20 years that AF has been unable to conduct its usual visits to police detention centers to interview detainees and collect data on experiences of torture.

In this year's Annual Torture Report (2020) "*Countering Impunity in Torture: Need for Independent Investigative Mechanism in Nepal*", AF draws the attention to the police's very public beatings of civilians, including of elderly men and women, who were walking in the streets in breach of the nationwide stay-at-home orders. These tragic examples of police torture and ill-treatment serve to further demonstrate the degree to which the Nepalese police and security personnel operate without following due process and with no fear of repercussion.

The past 20 years have shown that the Nepalese police refuse to self-police. It is, therefore, high time that the country establishes a truly independent investigative mechanism. Fortunately, many other countries have successfully implemented an independent mechanism and can provide the Government of Nepal a blueprint to use to craft its own. There is no other way to ensure justice for victims of torture and their families.

Despite all the deep trauma and sadness of this past year, AF celebrates the victory in a recent Supreme Court case during which the Court called for an independent mechanism to investigate and prosecute acts of police torture and extrajudicial killings. Because police forces often refuse to investigate internal crimes of torture, much less investigate impartially, this is a decision that acknowledges the police system's shortcomings and suggests there is hope for change.

Adoption of the Penal Code which criminalized torture was a welcomed step. However, dozens of cases filed by AF alleging torture since the National Penal Code came into force in August 2018 have resulted in neither credible investigations nor a single convictions of a perpetrator. In many of the cases, the evidence has been both clear and compelling. Two cases were decided against the victims (Dilip Singh Bista and Pyam Bahadur Gurung), despite credible evidence of police torture being presented in court which included video recordings.



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In addition to an independent investigative mechanism and legal reform, police must face additional repercussions if they fail to cooperate with an investigation, the statute of limitations on reporting an experience of torture must be longer than the current six-months provided for in the National Penal Code, and victims must not be forced to file their First Information Report to the police station nearest to them, often the place where they were tortured.

Additionally, there must be a reform in medical education, ensuring sufficient level of courses enabling medical professionals to do conduct proper medico-legal examination of torture survivors. Until such reform is complete, medico-legal training of health care professionals is required so that the medical examinations at the time of intake and release (both of which every detainee is required to undergo by law) will be used to identify and record any physical signs of torture. Judges, as well, must be informed about the prevalence of torture—the 2019 rate was 20% of all detained adults and nearly 25% of all children. They also must understand their responsibility in making victims feel safe to tell the truth in court by ordering the absence of police personnel, in particular those who may have accompanied victims from the detention center.

Finally, AF calls on the Government of Nepal to speedily and adequately compensate victims of torture. The current law compelling police perpetrators to do so often encourages threats and continued violence. It also makes a victim's compensation reliant on a perpetrator's economic ability to pay.

Fundamentally, Nepal must do everything in its power to ensure that victims of torture have access to the rights they are guaranteed under international law. The right to compensation, non-repetition, reparation, healing, and justice are vital rights. We all have the responsibility to fight for victims of torture so these rights are respected. The Annual Torture Report (2020) continues this fight for justice.

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