

Joint Report on the International Day in Support of Victims of Torture

Asia Alliance against Torture and Ill-treatment

June 2021



I. Background

The Asia Alliance Against Torture (A3T) is a collaborative movement to build and connect a community of human rights lawyers against torture in the Asia region and foster the sharing of advocacy strategies and experiences to build capacity for reform and ensure freedom from torture in Asia. A3T was created with various similarities of context and challenges in different member countries in Asia, perpetuating an impunity environment. However, at the same time, member countries have a rich experience of human rights advocacy and litigation, which provides opportunities to work collaboratively to fight systemic issues of torture and inhuman, degrading, and other forms of ill-treatment. It also enables countries in the region to learn from one another through shared strategies and tools and build meaningful collaborations.

Torture seeks to annihilate the victim's personality and denies the inherent dignity of the human being. Torture certainly has a negative impact on many aspects, such as physical health and mental health. Victims also suffered material and immaterial losses.

The international community has condemned torture from the outset as one of the vilest acts perpetrated by human beings on their fellow human beings. In the international human rights context, efforts to provide human rights protections related to the right to be free from torture are obligations that every country must fulfill as a state obligation. In its report on the Peremptory Norms of General International Law (*Jus Cogens, the International Law Commission*) lays out a non-exhaustive list of what are considered peremptory norms of general international law prohibition of torture.

In addition, there are already established instruments related to the prohibition of torture, namely through the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol and The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Despite the absolute prohibition of torture under international law, torture persists in all world regions, including Asia. The sea of impunity creates an insufficient condition for survivors of torture. The national mechanisms have not fulfilled their promise of justice. The victim experiences atrophy of justice. Although many long for some form of justice, they adjust their expectations and become helpless. Their genuine participation in the long journey to justice is the key to breaking the cycle of impunity.

From the general explanation above, there is still a trend of torture practices in several countries in Asia. The laws and regulations do not help to decrease this trend. To make matters worse, the law enforcement members are the agents that often execute torture practices. Therefore, the following chapters will elaborate on the legal framework and case studies on torture practices in Asia.

II. Legal Framework

According to the Universal Declaration of Human Rights, no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment. Hence, to prohibit the practice of torture that violates human rights values, the United Nations adopted Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in 1984. With 170 countries that became the state parties, the laws and regulations regarding torture in each country should be adequate to prevent the acts and punish the perpetrators justly. Even though most countries in Asia have ratified the convention, the practice of torture still occurs every day. They have not signed the Optional Protocol to the Convention against Torture; hence there is no national mechanism to monitor the practice of torture. The perpetrators get away with the torture, and the impunity protects them and fails the victims.

A. Indonesia

Indonesia has ratified the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (known as CAT) or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, through Law no. 5 of 1998. Unfortunately, Indonesia has not ratified the OPCAT.

Law enforcer does not deter perpetrators of torture. In fact, in some cases, perpetrators escape punishment and enjoy spaces of impunity. Torture which is part of the culture of violence, is still normalized in society. The community paradigm still supports the apparatus to carry out acts of torture with the motive of punishment; for example, in the case of the perpetrators of robbery, Indonesia's positive legal instruments have not accommodated acts of torture or criminalized torture by law enforcement officers. In the Criminal Code (KUHP), the offense of torture has not even

been regulated. The majority of cases of torture carried out by the apparatus are usually only charged with ordinary criminal acts of torture.

B. Pakistan

Pakistan has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Unfortunately, Pakistan has not signed the Optional Protocol of the Convention.

Pakistan does not have any specific law relating to torture, though Article 14 (2) of the Constitution expressly prohibits torture for extracting evidence. However, many jurists and academics maintain the opinion that the provisions in Chapter XVI of the Penal Code (particularly Sections 339, 340, and 349) cover the aspect of torture. But, torture, within the meaning attached to the 'act of torture' as prescribed in the Convention against Torture, is not a specific crime in Pakistan.

The domestic jurisprudence concerning the use of torture is underdeveloped in Pakistan. As envisaged under Article 14 (2) of the Constitution, exercising the right has thus far been minimal. To make matters worse, in a claim against torture, the victims have the burden of proof. There are no independent investigating agencies that are empowered to inquire on a complaint against torture.

C. Thailand

Thailand became a State party to the Convention against Torture (UNCAT) in 2007. It stated its intention to ratify its Optional Protocol (OP-CAT) by 2015 during the Committee Against Torture (CAT)'s first review of Thailand in 2014. Thailand is not the party to the Optional Protocol on establishing an independent body (a 'National Preventive Mechanism'). A draft Prevention and Suppression of Torture and Enforced Disappearance Act was presented to the Cabinet on 12 January 2015; however, the legislative process of legislation has been disrupted with the instability of Thai politics. Thailand has ratified CAT but only signed CED.

Till today, torture is not recognized as a criminal offense in Thai domestic law (however, only causing harm to a person is penalized under the Criminal Code). There is no mechanism for an independent investigation on allegations of torture to bring perpetrators to justice. It is challenging to secure independent investigation in cases of torture in normal circumstances. Meanwhile, cases of deaths in custody, torture, arbitrary detention, non communicado detention and enforced disappearances continue to be reported. Psychological torture is widespread and no redress and rehabilitation support to victims. Currently, there is no mechanism to prevent, redress

and support victims when they submit complaints or investigate these complaints. Our research into these practices in the protracted conflict in Southern Thailand has shown that torture and other ill-treatment are both widespread and systematic in the context of counter-insurgency operations.

D. Malaysia

Of the 197 states recognized by the United Nations, Malaysia is only among the 21 states that have not acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and its protocol. Despite Malaysia's insistence, it prohibits all forms of ill-treatment or torture, as stated in its National Report to the Human Rights Council in November 2018. Through the National Human Rights Action Plan prepared by the government of Malaysia in 2018, the government has only committed to undergo a thorough study to determine whether Malaysia is suitable to ratify the UNCAT.

The government thus far has only committed to conducting an in-depth study and review of detention without trial laws where police torture has been most prevalent if individuals are arrested under such laws. Regarding the use of force and ill-treatment by the police, the government has announced that relevant SOPs have been incorporated that adhere to human rights standards within the training of law enforcement officials. The Inspector-General of Police had also issued an SOP to this end, including on Security Offences (Special Measures) Act 2012 – one of the four detention without trial laws in Malaysia.

There are also existing provisions in Malaysia's penal code that criminalizes torture and causing hurt: section 330 of the Penal Code penalizes whoever voluntarily causing hurt to extort confession. Other than that, section 319, 320, 321, 322 penalizes the illegitimate use of force and causes harm to some degrees. However, these Penal Code still falls short as it has failed to define torture adequately. Malaysia still lacks a legal and explicit definition of what constitutes the acts of torture or ill-treatment, as UNCAT has spelled out in Article 1.

E. India

Despite signing the United Nations Convention Against Torture (UNCAT) in 1997, India didn't ratify the convention yet. Neither did India sign the Optional Protocol for the convention (OPCAT).

India doesn't have domestic legislation describing torture. On several occasions, the Supreme Court of India has ruled against various incidents of torture. According to Article 141 of the Constitution of India, the ruling declared by the Supreme Court of

India is the law of the land within Indian territory. However, these laws against torture are not being implemented by the government. During the 2017 Universal Periodic Review, India faced about 250 questions from several countries about why it didn't ratify CAT. India again made empty promises but didn't ratify CAT yet; hence India doesn't regard any international instrument against torture.

Significantly, the Supreme Court recommended the Law Commission of India to make domestic law on torture, which the Law Commission did. Still, unfortunately, the recommendations of the Law Commission are resting at the government's table without being implemented. The NGOs and CBOs of the country, including MASUM, created a draft bill on torture and placed it in the Rajya Sabha (Upper House). However, that too was not presented on the floor for discussion. In national security, the government is implementing various draconian laws, which are giving more power to the police and armed forces. India also didn't ratify the Rome Statute. Moreover, the country's medical officers and judicial officers don't know about the Istanbul Protocol and the Minnesota Protocol. They are acting as a shield for the perpetrators instead of bringing them under justice. Indian judiciary is also shrinking day by day. The lower court (Criminal side) is not independent, instead fully controlled by the police administration.

F. Philippines

Article III (Bill of Rights), Section 12 of the 1987 Philippine Constitution stipulates that "2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited"; and '(3) any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him."

The Anti-Torture Law or Republic Act No. 9745, Section 3. Definitions. - For purposes of this Act, the following terms shall mean:

(a) "Torture" refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as them from them or third person information or a confession; punishing him/her for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing them or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in charge. It does not include pain or Buffering arising only from, inherent in, or incidental to lawful sanctions.

(b) "Other cruel, inhuman and degrading treatment or punishment" refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under their custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.

Article 125 of the Revised Penal Code (RPC) provides that the investigating officer legally detain a suspected person for the allowable period of "12-18-36 hours." A person subject to an arrest without a warrant must be delivered to the proper judicial authorities within 12-36 hours, depending on the gravity of the alleged offense.

Under the Anti-Terrorism Act (Republic Act No. 11479), the police or law enforcement officer who has taken custody of the person suspected of terrorism may detain such person for fourteen (14) days from apprehension or arrest, and the period of detention may be extended by a maximum period of ten (10) days.

G. Nepal

Nepal ratified the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention Against Torture (UNCAT) on 14 May 1991. Only in 1996, Nepal passed the Compensation Relating to Torture Act, with several shortcomings. First of all, this Act is fully guided by providing compensation to torture victims, not for the prevention of torture and punishment to the perpetrator/s. The victim needs to file a complaint at court within 35 days of torture or release from detention. If proved, s/he could be compensated at the maximum 100,000 NPR [Approx. 850 USD], but it could not prove torture, s/he could be fined 5000 NPR [Approx. 50 USD]. However, the perpetrator/s do not have any responsibility because the government attorney defends s/he, and if proved, the compensation would be provided for the state coffer. S/he can be punished with warnings or departmental action.

The interim constitution 2007 and the present constitution, the Constitution of Nepal 2015, prohibit torture. Article 22(1) states, "No person in detention shall be subjected to physical or mental torture, or be treated in a cruel, inhuman or degrading manner." Article 22(2) continues that victims of torture have a right to compensation while perpetrators face punishment under the law. However, until 2018, the anti-torture sentiment embodied in the Constitution had no teeth. In August 2017, Nepal passed Penal Code with effect from August 2018 that termed torture and enforced disappearance as criminal offenses. However, in the absence of an anti-torture law, there are several shortcomings in the Code. The victim or relatives have to file a First Information Report (FIR) within six months of torture at the nearest police facility, which is often the same police facility where the torture occurred, leading to apparent

conflicts of interest. There are documented cases of police refusing to register the FIR. Even if it is registered, there is no investigation with due diligence. Furthermore, the proximity of the police facility jeopardizes witnesses and compromises the safety of victims.

H. Bangladesh

Bangladesh ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 5 October 1998. However, it has not ratified the Optional Protocol to the Convention against Torture (OPCAT) and has not established a National Preventive Mechanism (NPM) against Torture. Bangladesh refrains from accepting the individual complaint procedures of the CAT and other Treaty Bodies. Since its accession to the Convention, Bangladesh did not submit its initial report for nearly twenty years. Its initial report was received on 23 July 2019, one week before the date of its consideration to the Committee Against Torture.

The use of torture and ill-treatment is an integral part of law enforcement in Bangladesh and a means of cracking down on the opponents of the ruling party, the Awami League. Despite the existence of the Torture and Custodial Death (Prevention) Act of 2013, which criminalizes torture, in practice, there remains no effective remedy for custodial torture, and the culture of impunity has worsened. Law enforcement officers continue to inflict torture on persons held in custody and pretrial remand to extract confessional statements or extort money. No measures have been taken to stop forced confessions from criminal suspects through torture or ill-treatment, as this has long been practiced in policing and in the criminal justice system. As a result, investigations are conducted by officers from the same units or within the same official hierarchy as the alleged perpetrators and thus cannot be neutral.

III. Case Studies

A. Indonesia

Based on data collected by KontraS through media channels information, advocacy, and KontraS networks in the regions, on period June 2020 – May 2021, there were 80 cases of torture, other cruel, inhuman, or degrading treatment or punishment degrading human dignity has occurred in Indonesia. Of course, this does not rule out the possibility of the more significant number of actual cases, the greater one.

As for 80 cases of torture, from a total of 80 cases of torture recorded by KontraS, taken from data from media monitoring, advocacy, and networks, the police are still the main actor in torture cases, with 36 incidents. After that, the prosecutor's office followed 34 cases, which were dominated by the caning incident in Aceh. Furthermore, cases of torture are still being carried out by military institutions in 7

cases and wardens in 3 cases. The 80 cases resulted in 182 victims, with details of 166 injured and 16 dead. Meanwhile, the distribution area of the practice of torture and humane acts in Indonesia is very diverse. The highest cases of torture occurred in Aceh (34 cases), Papua (7 cases), and North Sumatra (5 cases). There are various forms, ranging from torture in detention, wrongful arrests, arbitrary arrests, inhumane acts to the omission of torture practices.

If we look at the trends in torture practices that have been described above, starting from the actors, motives, methods, locations of torture, over the years, the pattern formed is still the same. This shows that the State has made no significant and serious improvement efforts. We also see that the trend of impunity is getting stronger. This can be reflected in settlement of cases of torture that were not carried out fairly. The majority of cases stop at mere internal institutional mechanisms that do not provide justice for the victims. Apart from that, other ways such as being forced to make peace, the lack of response and answers from the authorities, and being intimidated to withdraw the report are harsh realities that must be accepted by the victims and their families.

B. Pakistan

There is no credible data available on custodial deaths in Pakistan, but human rights groups point to a spike in police torture cases. They say that the "culture" of police torture is more prevalent in Pakistan's most populous Punjab province than in other parts of the country.

The death of Salahuddin Ayubi, a mentally disabled person who is allegedly tortured to death in police custody. Punjab police denied torturing Ayubi and said he died a natural death. The authorities said he behaved like a "mad person" and fell unconscious when they brought him to the hospital. Ayubi's death has put a spotlight on the issue of custodial deaths in the South Asian nation. Lack of accountability in police excesses has fostered a culture of impunity. Pakistani police are often under-resourced and ill-equipped to deal with the challenges of the modern world.

C. Thailand

There is an ongoing failure on the part of the authorities to investigate torture allegations and prosecute suspected perpetrators. In addition, there is an urgent need to promote understanding of the absolute prohibition of torture and other ill-treatment and put in place safeguards, preventive, and investigative mechanisms, as well as ensure knowledge of the respective duties of security service personnel, the judiciary, lawyers, forensic doctors, health personnel and psychologists to strengthen reporting, documentation, and adequate provision of redress to torture survivors and their families.

Amnesty International stated their submission to UPR on Thailand on 1-13 NOVEMBER 2021 that the 'National Committee for Managing Cases relating to Torture and Enforced Disappearance' established in 2017 by a Prime Minister's Order has yet to report publicly or keep alleged victims and their families informed of progress into its investigation. Relatives' and victims' right to seek redress for violations by security forces remains limited under military procedure codes.

D. Malaysia

Most torture cases have been largely unreported by the media due to limited data and police often operating with little accountability. Furthermore, it is difficult to provide the appropriate medical evidence to prove that torture has been inflicted as detainees are locked away until their next court appearance and subject to threats of further violence by investigation officers if they were to reveal what has been inflicted upon them. While evidence of torture can be challenging to ascertain, the gruesome and often dubious official cause of deaths due to detainees suggests that police have utilized torture and ill-treatment. SUARAM has documented a total of 3 torture cases (Lim Xiang Hui, Mitheswaran A/L Kumar, and Jelevu 21) in the year 2021 and 12 deaths in custody cases from the period of June 2020 – June 2021.

The pandemic situation has granted extraordinary powers to law enforcement officials in the name of controlling the pandemic. And as such, there has been a large-scale crackdown of undocumented migrants by the immigration department while Malaysia is in lockdown during 2020. The detained undocumented migrants are often detained in overpopulated and unsanitary detention centers, which may increase the risk of infection. There are also reports by numerous media where detained migrants are forced to disinfectant being sprayed on them while under law enforcement custody.

One notable case happened in the 1st half of 2021, and it is related to 21 inmates detained under SOSMA – detention without trial law - in the Jelevu Prison. Their family members have since revealed that the detainees were being beaten with pipes, canes, chairs, and belts, stripped naked, and their genitals were sprayed with pepper.

There are very few punitive actions against law enforcement who have allegedly tortured because of the lack of an independent external oversight body that could investigate and discipline police misconducts. Thus far, only two bodies could deal with police misconduct on torture: the Bukit Aman Integrity and Standard Compliance Department (JIPS) and the Enforcement Agency Integrity Commission (EAIC). Still, the former is under the jurisdiction of the police while the latter directly reports to the Prime Minister's Department.

E. India

The exact data of torture in India is not available. However, the National Crime Record Bureau (NCRB) data shows only 1 case of police brutality during 2019 in the country. However, our organization alone recorded six instances of bodies of police torture during 2019 in West Bengal itself. There are 16,671 police stations across the country, and our understanding states that at least 1 case of illegal detention and 2 cases of torture and ill-treatment occur daily in each of these police stations. Incidents of torture are rampant during the pandemic.

The marginalized sections of society were the primary victims of torture during the pandemic. Several migrant laborers lost their jobs due to the unplanned lockdown and turned into illegal activities. Moreover, the judiciary, mainly the writ courts and the high courts, are not functioning properly during the last one and half years due to the lockdown, which has again victimized the country's marginalized people.

There are notable cases in India of torture and ill-treatment. The first one is the Sitalkuchi firing incident. During the West Bengal Assembly elections in April 2021, the CISF, a paramilitary force responsible for policing the elections, opened fire at a mob in Sitalkuchi of Cooch Behar district in West Bengal. None of the perpetrators were arrested/prosecuted. BSF personnel attached with Kalaighati and Sachinandan border outpost, Battalion 129 in Cooch Behar district ransacked the house of Kached Ali, a minority Muslim person. His family members were also beaten up severely by the BSF personnel. It has also been alleged that the perpetrators looted 21 thousand rupees from his house.

Second is the torture of Ahmed Ali, a marginalized Muslim who was beaten up brutally by the BSF personnel attached with the Balabhut border outpost in Cooch Behar district when he went to work in his agricultural field across the border fencing. The perpetrators stopped him and beat him up as he requested them to let him into his field. Later the BSF personnel lodged a fabricated case in the Tufanganj police station impersonating the victim as a cross-border smuggler.

In India, the judiciary is highly influenced by police administration. Therefore, when the perpetrators belong to the police or the armed personnel, most of them are not convicted under the law due to lack of proper investigation or evidence. On the other hand, the Human Rights Institutions of the country, particularly the National Human Rights Commission (NHRC), are disposing of several complaints of torture by stating that the case is sub judice. Moreover, the recent appointment of the NHRC

chairperson, who has corrupt track records, proves that it doesn't regard human rights.

F. Philippines

The investigation of torture allegations has reached a dead end and even perpetuated further impunity. Examples are the torture cases in 2010 of Evangelista, Cabais, Salas, et al. and 2011, of Ajid. There was no proper investigation, hence no prosecution of perpetrators. Jeremy Corre's case remains the only torture case filed in court that was successfully prosecuted in April 2016. A police officer was convicted for violating the Anti-Torture Law (Republic Act No. 9745). On 27 April 2021, the Ombudsman's Office dismissed charges against Manila police officers involved in the supposed secret detention facility for drug suspects, which the Commission on Human Rights (CHR) uncovered in 2017.

G. Nepal

Advocacy Forum's findings show that around 20% of detainees claim torture and ill-treatment in police detention centers. Since the criminalization of torture, Advocacy Forum filed FIRs in 18 cases on behalf of victims; however, only 8 FIRs were registered after the Office of the District Attorney or higher authority. As all cases are pending, in two cases, the court decision decided against the victims. In one case, despite having clear video footage of torture and medical records, the Kaski District Court agreed that the claim of torture could not be established. In both cases, the Attorney General's Office decided not to appeal at the higher court despite the general practice of appealing to one level up.

As the global COVID-19 pandemic continues to affect the lives of people all around the world amid concerns over the spread of the pandemic, the Government of Nepal announced a nationwide lockdown from 23 March to 17 August in 2020 and from April 29 to 21 June in 2021. During the lockdown, many people and service providers like doctors and hospital staff were beaten up and ill-treated by police. Likewise, a case of rape was reported in the quarantine facility. During the lockdown, reports of domestic violence and one abduction and hostage case were reported; however, police became inactive and didn't take timely action.

There are some notable cases. The first one is the torture of Bijay Ram Mahara. On 15 August 2020, Nirajan Ram, 19, was staying in a nursery farm where he used to work, but the following morning he was found dead near the nursery. Instead of arresting the nursery owner, the police arrested Nirajan's neighbors and relatives, including Bijay Ram, in the middle of the night by beating and terrorizing the villagers. A total of

8 boys were arrested by police and detained at Area Police Office, Garuda. On 20 August 2020, he was admitted to a hospital, and on 26 August 2020, he died during the treatment. Before his death, he recorded a video explaining how police tortured him. Other detainees also described how police had tortured them and Bijay Ram. The victim's family, villagers, local activists, and human rights lawyers from Kathmandu visited the District Police Office, Rautahat, to register the First Information Report (FIR), but police refused to write it. The district attorney's office requested to register the FIR; however, no investigation is taking place yet.

The second one is the torture of Raj Kumar Chepang. Raj Kumar Chepang, 19, an indigenous boy, and six other youths (total seven people, five males, two females) went to the jungle of Chitwan National park in search of wild fruits and Ghongi (a type of snail) 16 July 2020. In the wilderness, an army man encountered them. He was wearing pants and a t-shirt and a cap, an army uniform. Before they could say anything, he came from behind and started verbally abusing them, saying, why were they there? He made the males lined up on the river bank and kicked them with his boots. He verbally abused the two females who were with us. He picked the stick from the jungle and hit them with it for 10-15 minutes. They were beaten with multiple sticks until those sticks fell apart. They were ordered to carry heavy logs kept being carried by elephants. When they could not carry logs, they were beaten up. After a while, they met five more army men, and there too, they were tortured for around 25 minutes and taken to the forestry office, where they were fined approximately 5 dollars each after a bargain. While returning home, Raj Kumar needed support from friends. After four days of torture, he started vomiting blood, but his family could not take him to the hospital due to a lack of money.

On 22 July 2020, he was taken to a hospital, but he died on the way. After his death, his father filed a First Information Report (FIR) at the District Police Office, Chitwan. After a police investigation, police arrested an army man. Still, during court proceedings, an army major approached the victim's father and witnesses and asked them to soften their statement at the court. Victims' family members have received relief support from Municipality, Chitwan National Park. Now the victims' family members are not interested in following up on the case.

H. Bangladesh

In Bangladesh, acts of torture and ill-treatment by security forces are widespread, despite being prohibited by the Constitution and other domestic laws. There are numerous allegations of torture and deaths due to torture in custody against law enforcement agencies. It is complicated to figure out the actual number of torture victims as most cases are not reported. According to data gathered by Odhikar, from

June 2020 to May 2021, at least 12 persons were tortured to death in custody by members of various law enforcement agencies. However, the actual number of persons tortured or tortured to death is higher than that reported, as incidents are often unreported. Victims do not speak out for fear of reprisals.

Law enforcement agencies continue to perpetrate torture, degrading treatment amid the novel coronavirus (COVID-19) pandemic. On many occasions, victims of torture are intimidated or forced by the police not to file complaints. Members of law enforcement agencies continue to enjoy impunity for using torture and ill-treatment. Human rights defenders, journalists, and political activists have been subjected to enforced disappearance and torture for exposing the government's inaction on various issues, including the COVID-19 pandemic.

For example, a trainee lawyer named Rezaul Karim Reza (30) was found dead in Barishal after being reported tortured by the Detective Branch (DB) of Police. Reza's father Yunus Munshi alleged that on 29 December 2020, three policemen in plainclothes arrested his son from in front of him, from Hamid Khan Road in the city, and beat him. Reza was then taken to the DB office. When he was produced before the court the next day, Reza told his brother in court custody that two DB police officers, including Sub Inspector Mohiuddin, had beaten him all night. Reza urinated due to the severe torture. He was not given any food at night. He was later sent to jail custody by the court. On the night of 1 January 2021, Reza fell seriously ill due to the torture and was sent to Sher-e-Bangla Medical College Hospital. After the prison authorities informed Yunus of the matter, he and other family members went to the hospital. They found Reza bleeding from his injuries, and he was groaning in agony. Reza died that night.

Allegations of torture in custody and incidents of deaths due to torture while in detention have regularly been reported, and members of law enforcement agencies continue to torture due to impunity. The Torture and Custodial Death (Prevention) Act, 2013, remains in force merely on paper. Police stations are reluctant to file complaints under this Act. The citizens are forced to go to court to file a complaint. However, courts usually order members of law enforcement to investigate the incidents of torture and custodial deaths. As a result, there are allegations that such investigations can never be impartial, and the citizens are being deprived of justice.

IV. Recommendation

1. Immediately put an end to torture and ill-treatment
2. Adopt UNCAT and OPCAT if there are countries that have not adopted it
3. Amend its legal substance to accommodate better international standards regarding the elimination of torture and ill-treatment.

4. Reform its legal structure by reforming law enforcement officials with a more preventive perspective on torture and ill-treatment and to break the chain of impunity by holding the perpetrators accountable through a transparent and efficient mechanism
5. Reform its legal culture by educating the public on not tolerating a culture of violence
6. Establish an independent national mechanism to prevent torture and ill-treatment
7. Independent state institutions that have a mandate to carry out strict supervision, monitoring, protection, and recovery functions must use reliable measuring tools (one of which is the vetting mechanism) to narrow the space for perpetrators of the crime of torture.
8. Provide full reparation for the victims of torture and ill-treatment
9. The Attorney General must also act upon any findings and recommendations from relevant bodies to ensure not only justice be done, but be must be seen to be done
10. In revamping Correctional Institutions, the Ministry of Law and Human Rights as the competent authority must formulate a particular strategy to reduce violence in prisons.
11. Effective protection mechanisms should be introduced and strengthened to encourage survivors, families of victims, and witnesses to come forward and file their complaints without fear of intimidation from law enforcement agencies.