Joint Press Release by Coalition against Torture – June 26, 2009

Organizer

NHRC

Co-organizers

Criminalize Torture

On the occasion of UN International Day in Support of the Victims of Torture – 2009, Coalition against Torture, comprising of the National Human Rights Commission (NHRC), UN OHCHR-Nepal, International Commission of Jurist (ICJ), Advocacy Forum (AF), INSEC, CVICT, INHURED International, PPR and Accountability Watch Committee (AWC), urge the government to criminalize torture and reaffirm its commitments to fight against torture and impunity.

Nearly eighteen years have elapsed since the government of Nepal ratified the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) in 1991. However, Nepal is yet to introduce legislation that criminalizes torture and provides adequate redress to victims.

The existing torture legislation has proven to be almost totally deficient in addressing the grave problem of torture in Nepal. It has completely failed to prevent and remedy widespread and systematic torture and illegal detention during the period of the armed conflict. To everybody's utter chagrin and despite thousands of victims of torture desperately seeking justice and redress, not a single perpetrator has been prosecuted till date.

Though the available statistics shows a marked decrease, torture still continues in Nepal. According to AF's custody monitoring statistics between June 2008 to May 2009, a total of 842 detainees out of 4328 visited in police detention centers claimed that they were subjected to torture and ill treatment. Similarly, INSEC documented a total of 294 cases of torture by state and non-state actors during the year 2008. Likewise, the NHRC reported 72 cases of torture by state actors during the period of April 2008-May 2009. NHRC similarly documented 39 cases of torture by non-state actors, whereas AF documented 95 cases by non-state actors. An analysis of the data shows that most torture victims are criminal suspects abused by police during interrogations.

As part of their concerted attempt to combat torture, Nepali civil society organizations have jointly prepared a report entitled "Criminalize Torture" to mark the International Day in Support of Victims of Torture. The report discusses many of the issues surrounding the continuing torture in Nepal and proposes a solution by presenting comprehensive model legislation on torture. The model legislation is a product of national and international expertise and the experiences of the members of Nepali Civil Society to provide guidelines to the government vis-a-vis basic elements to be considered in preparing the legislation to criminalize torture

The report also addresses the fact that torture is still not a criminal offence in this country. The Interim Constitution requires that torture be defined as a crime, but there are no guidelines that allow for offenders to be imprisoned.

Over the course of the 18 years since Nepal ratified the Convention against Torture in 1991, the state has ignored repeated calls from national and international sources to take a stronger stance against torture and other human rights violations. In the recent past, some efforts have been made at the administrative level; however, an adequate political will is yet to be achieved. Therefore, the time has come for the legislature to fulfill the promise of the People's Movement by criminalizing torture, creating a mechanism to investigate the allegation of torture and developing a comprehensive approach to the provision of reparations and a broad range of legal guidelines to end impunity once and for all.

On this occasion, we also urge the government to:

- Initiate a democratic legislative process to criminalise torture;
- Immediately ratify the Optional Protocol to the Convention Against Torture;
- Establish an independent national monitoring mechanism to investigate the practice of torture in Nepal

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Accountability Watch Committee