



वकालत मञ्च-नेपाल

ADVOCACY FORUM-NEPAL

Lawyers forum for human rights and rule of law

Torture of Women Increasing in Detention

Press Statement

According to a newly-released report, "Torture of Women: Nepal's Duplicity Continues", torture of women in detention continues to rise in Nepal and the Government is not addressing the needs of women torture victims' despite its repeated commitments to do so. In the report released on the occasion of "the UN International Day in Support of Torture Victims-2012", Advocacy Forum (AF) for the second year in a row highlights its concerns about women victims of torture.

Data analyzed on a half-yearly basis show that torture of women detainees increased from 7% in the first half of 2010 to 13.3% in the second half of 2010, to 14.7% during the first half of 2011, and further to 16.2% in the second half of 2011. AF visited 4,247 detainees (419 females and 3,828 males; of whom 848 were juveniles) in 57 detention centers of 20 working districts. 25.6% of male detainees and 15.4% of female detainees claimed that they were subjected to torture or ill-treated. The percentage of children below the age of 18 reporting torture was 34.2%. Advocacy Forum visits detention centres as part of its comprehensive and integrated programme for the prevention of torture and promotion of fair trial in Nepal.

This report also focuses on torture, including rape, of women during the conflict. As impunity continues to prevail, women victims of torture and rape are finding it impossible to obtain justice. They face numerous barriers, including the lack of criminalization of torture, statutes of limitation on complaints relating to rape (35 days) and torture (35 days), lack of protection of victims, witnesses and evidence, etc.

There have been some positive developments relevant to addressing torture and Nepal's dysfunctional criminal justice system. The government introduced a draft Penal Code, Criminal Procedure Code and Sentencing Bill, tabled a Torture Bill and adopted a National Action Plan (NAP) to implement United Nations Security Council resolutions 1325 and 1820. Resolution 1325 deals with the inclusion and consideration of the special needs of women in post-conflict reconstruction, and resolution 1820

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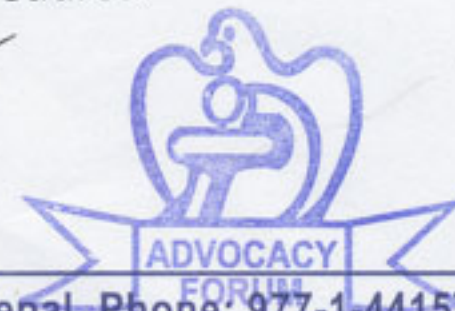
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confronts sexual violence in conflict and post-conflict situations. "With the dissolution of the Constituent Assembly and Legislative Parliament in May 2012, these legal reforms are now in jeopardy," said Dr. Hari Bansh Tripathi, Director of Advocacy Forum. "The government has also demonstrated very little commitment to implementing the NAP and to implement the Views of the expert body, the Human Rights Committee, in the cases of Yashoda Sharma and Yubraj Giri, which also found that the rights of the families of victims of torture and disappeared had been violated. The government cannot keep pledging commitment to the rights of women and then not living up to its commitments and keep ignoring expert Views. That is duplicity and needs to be exposed", added Mandira Sharma, Chair of AF.

The report makes the following key recommendations;

1. Recognize the particular risk of abuse that women face in pre-trial detention and adopt appropriate measures in policies and practice to guarantee women's safety during the time they spend in police custody.
2. Initiate independent investigations into all reports of torture and other ill-treatment against women and bring those responsible to justice.
3. Ensure that women in detention are systematically detained separate from men.
4. During arrest, transfer and detention, a female officer should be present. In accordance with the Standard Minimum Rules for the Treatment of Prisoners, women in detention should be supervised by women staff.
5. Enhance the internal accountability of police and implement clear procedures and standards to be followed regarding women in detention.
6. Ensure that all women detainees, while being processed for detention, are informed of their rights, including the right to consult a lawyer.
7. Provide for a comprehensive procedure to ensure health check-ups are compulsory, confidential and undertaken by physicians trained in the Istanbul Protocol procedures.

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8. Women detainees should be examined by women doctors in private without the presence of police.
9. Revise the policy on interim relief for conflict victims and ensure adequate relief is provided to victims of rape and torture.

Recommendations relating to torture in general:

10. As soon as a new Parliament is set up, re-introduce the bill to criminalize torture as a matter of priority and make necessary amendments to bring it fully in line with international standards.
11. Put in place an effective and impartial mechanism for the prevention and investigation of torture and rape.
12. Recognize the specific needs of the wives of the disappeared and victims of torture, rape and sexual violence and put in place policies to end the discrimination against them, including in terms of "interim relief".
13. Implement the recommendations relating to torture, gender-based violence and impunity made during the Universal Periodic Review.
14. Fully implement the Views of the Human Rights Committee in the cases of Surya Prasad Sharma and Yubraj Giri.
15. Immediately sign and ratify the Optional Protocol to the Convention against Torture, putting in place a mechanism for independent monitoring of all places of detention.
16. Criminalize enforced disappearances and ratify the Convention against Enforced Disappearances.

Dr. Hari Bansh Tripathi
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25 June 2012



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