AFAD Commemorates the International Day in Support of Victims of Torture

26th June 2020

Manila: Today, in observance of the International Day in Support of Victims of Torture, the Asian Federation Against Involuntary Disappearances (AFAD) stands in solidarity with the victims of torture across the globe and unequivocally condemns this egregious practice.

Despite 170 parties and 83 signatories to the Convention against Torture (CAT) which came into force over three decades ago, torture persists across continents. States continue to perpetrate this offense routinely and countless people become victims. Torture is a contemptible act that causes extreme and irreversible psychological and physical damage on the individual. It is an inhumane, degrading and cruel treatment or punishment to which no human being should be subjected.

In Asia, inflicting torture on detainees is an ordinary phenomenon. Acts of torture are also common. The victims are invariably stripped naked, kicked, punched, hit with heavy objects, hung in various positions, burned with cigarettes, immersed in salt water, given electric shocks especially on genitals, and other forms of sexual violence against both men and women. Most often, cases are rarely investigated, perpetrators are not brought to justice, and a culture of impunity prevails. The victims are denied reparation including psychosocial rehabilitation and have almost no legal recourses.

In Bangladesh, the use of physical and psychological methods of torture and ill-treatment by security forces is widespread, despite being prohibited under the Torture and Custodial (Death) Prevention Act, 2013. According to Odhikar, from 1 January to 15 June 2020, 11 persons, including one woman, were tortured to death in police custody. Law enforcement agencies enjoy complete impunity for their inactions and the justice delivery system is dysfunctional, resulting in delayed investigation and prosecution.

The Indonesian Government ratified the CAT on 28 September 1998. The Convention has become part of Indonesian law. However, in reality, the Indonesian Government never actually made a commitment to eradicate the institutionalised practice of torture.

In Indian Administered Jammu & Kashmir (J&K), torture has been one of the most commonly perpetrated violations of human rights. Hundreds of civilians in J&K have faced torture, inhuman, and degrading treatment or punishment aimed at intimidating the entire community and coercing them into silence. Harassment and intimidation had been commonly reported by the people since the abrogation of Article 370 and the bifurcation of the erstwhile state of Jammu & Kashmir last 5 August 2019 by the Government of India. These incidents saw little media coverage as local journalists were repressed and their movements controlled. The Indian State signed the CAT in 1997 but has failed to ratify it and there is no domestic law in India that criminalizes the use of torture. Impunity for human rights violations is prevalent and the perpetrators never get punished.

In Nepal, torture survivors who suffered during the ten-year-long conflict in the country continue to struggle for justice. Nepal acceded to the CAT on 14 May 1991. The lone legal measure addressing torture is the Torture Compensation Act, 1996. This law however fails to meet international human rights standards in preventing torture. According to Advocacy Forum, women are more likely to experience torture and ill-treatment than men.

Pakistan has ratified the CAT in 2010. Article 14(2) of the Pakistan Constitution prohibits the use of torture for extracting evidence. But torture in custody is a persistent and commonly used method of extracting information as there is no criminalization of torture. Despite the passage of the Torture and Custodial Death (Prevention and
Punishment) Act, 2019 which penalizes torture committed by the police, several incidents of torture and custodial death have been reported. It is yet to be seen what steps the government of Pakistan will take to prevent torture.

In 2009, the Philippines criminalized torture and other cruel, inhuman, or degrading treatment or punishment. But to date, inflicting severe physical and psychological pain on persons deprived of liberty by custodial officers is presumed regular in the conduct of investigation. Human rights defenders protesting the enrolled anti-terror bill certified by the President are already alarmed by a likely spike in the number of suspected terrorists under warrantless arrest and detention who may be subjected to torture. In the implementation of the COVID-19 emergency measures, Task Force Detainees of the Philippines (TFDP) has recorded 16 cases of beatings, shamings, and allied indignities used in punishing violators of emergency protocols and directives.

In Sri Lanka, Under Article 11 of the Constitution, freedom from torture is a fundamental right: ‘No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment’. According to Article 15, there shall be no derogation from the rights declared and recognized in Article 11 in times of public emergency. In Northeast Sri Lanka, the allegations of torture have been made mainly against the army, the navy and the Special Task Force (STF) of the Police. In this context, torture has been routinely committed following arrests under the Emergency Regulations (ER) or the Prevention of Terrorism Act (PTA), often in unauthorized places of detention.

The Republic of Korea has ratified the CAT in 1995 and it came into effect in the same year. Although the Republic of Korea has not yet ratified the Optional Protocol to the CAT, several Articles in domestic law criminalise acts of torture.

In Timor-Leste justice for victims of killings and other human rights abuses during the Indonesian occupation remains elusive. Indonesian security forces committed serious human rights violations including arbitrary killings, enforced disappearances, rape and other crimes of sexual violence, and torture during the occupation (1975-1999) and in the context of the 1999 Timorese independence referendum.

AFAD believes that enforced disappearance is a form of torture perpetrated not only on an individual but the entire family. Disappearance is a continuing crime that has deep psychological effects on the family who keeps looking for the whereabouts of their loved ones, often without obtaining a sense of closure.

On this day, AFAD brings the attention of the global community towards the rampant use of torture and urges governments to criminalize its use and ensure that perpetrators are brought to justice. It also urges governments to make reparations to victims of torture including restitution, satisfaction, monetary compensation, psychosocial rehabilitation, and guarantees of non-repetition.

Signed by:

Khurram Parvez
Chairperson

Nilda L. Sevilla
Secretary-General

The Asian Federation Against Involuntary Disappearances (AFAD) is a regional federation of human rights organizations working toward a world without desaparecidos. AFAD members are based in Bangladesh, Indonesia, Kashmir, Laos, Nepal, Pakistan, Philippines, South Korea, Sri Lanka, Thailand, and Timor-Leste. It advocates truth, justice, redress, repairation, and empowerment for the victims and the reconstruction of the historical memory of the disappeared towards the eradication of enforced disappearances.