



Asian Federation Against Involuntary Disappearances (AFAD)

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Eliminate Torture, Strengthen Preventive Mechanisms to Prevent Torture

A Call for Solidarity on the International Torture Survivors' Day

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"... Most of them lived the rest of their lives in the detention centers, hooded or blindfolded, forbidden to talk to one another, hungry, living in filth. The center of their lives - dominating the memories of those who survived - was torture. They were tortured, almost without exception, methodically, sadistically, sexually, with electric shocks and near-drownings, [some buried to their necks and left in the sun and the rain for days. They were] constantly beaten, in the most humiliating possible way, not to discover information - very few had any information to give - but just to break them spiritually as well as physically, and to give pleasure to their torturers." [Ronald Dworkin, in the introduction to "Nunca Mas, Argentina "]

Torture is a very degrading form of human rights violations. Torture is a crime under International law. Art. 1 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment defines torture as: "any act by which severe pain or suffering. Whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him or a third person information has committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such suffering is inflicted on a person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Art. 2 clearly states that all States shall take measures to prevent torture from happening under their jurisdictions. There are no exceptions whether States are in a state of war or any public emergency.

In cases where torture happens, States are required to investigate and prosecute perpetrators and provide reparation and rehabilitation of the victims.

Torture continues to plague many nations of the world especially those that are considered low and middle-income countries. Most victims are from the poor and underprivileged who barely have access to resources to protect themselves legally and fight for their human rights.

Many states have ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment (CAT) and legislated local enabling laws. The sad reality is that torture remains a practice as part of criminal investigation, punishment inside prisons and penitentiaries, a State's program for repression, a strategy in conflict situations, counter-insurgency and the fight against terrorism.

In Asia, many states have already acceded to the CAT, the International Covenant on Civil and Political Rights (ICCPR) and related UN human rights instruments and most have also passed pieces of Anti-Torture legislation. Some authoritarian regimes have also been transformed to democracies, but situations in Asian countries are still facing great challenges in strengthening democratic institutions and strict implementations of the UN Conventions and local Anti-Torture policies. As a matter of fact, issues of torture continue to prevail because of the gaps in legal and administrative implementation of the Anti-Torture laws.

States in some countries where **AFAD** member-organizations are based, such as Thailand, India, Pakistan, Philippines, Indonesia and Nepal have acceded to the ICCPR (International Covenant on Civil and Political Rights). Sri Lanka has gone further by acceding to the CAT together with Pakistan. In a study by the Asian Human Rights Commission, practices of torture are still a part of daily criminal procedures. Other problems that are causing vulnerabilities to torture include the non-guarantee of access to lawyers upon arrest, conduct of arrests by non-trained police forces in UN Standards of Arrests and Interrogations, the lack of non-refoulement policies as well as reparation of victims.

While India has built its democracy for decades, its democratic policies and implementation of human rights laws are faced with intricate challenges because of the existing conflicts in the country. From 2001 to 2010, the Indian National Human Rights Commission (NHRC) has documented 14,231 cases of death in custody. Most have reportedly died as a result of torture. Pakistan which had acceded to the CAT, has 8,000 documented cases of torture by the Police in 2011 according to the Society for Human Rights and Prisoners' Aid (SHARP).

The Thai Royal Police still faces accusations of massive torture as a result of the anti-drug campaign of the past. The Philippine National Police is facing the same issue with its new President who has also prioritized its intensive campaign against drug use. And worse, it has thousands of reported extra-judicial killings as a result of its police operations that have been bolder with a Presidential protection and order.

Because of its non-refoulement policy, Thailand has been deporting Burmese refugees fleeing from the infighting in the Burmese provinces. The Burmese who could not return to their hometowns because of the internal conflicts are currently living as refugees in the Thailand-Myanmar border for decades already.

On this special occasion of honoring torture survivors, we call on all states to eliminate torture in all forms. The **Asian Federation Against Enforced Disappearances (AFAD)** notes that victims of enforced disappearances (ED) are also victims of torture. Documented testimonies of ED victims show proofs that torture continues as a systematic approach to extract information, sow fear and suppress dissent.

AFAD urges all states to ensure safeguards against torture through:

1. Intensive training of police and armed forces on the prohibition of torture and respect for human rights based on the UN Code of Conduct for Law Enforcement Officials, the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (in addition to the relevant provisions contained in particular in the UNCAT, the ICCPR and regional human rights treaties;
2. Strengthening judicial systems to prosecute perpetrators of torture;
3. Strengthening State mechanisms together with the civil society organizations to provide protection, reparation and rehabilitation of victims of torture; and,
4. Institutionalization of measures to monitor the implementation of torture prevention measures.

In its vision for a world without *desaparecidos*, AFAD likewise hopes for a world without torture and a world where all humans enjoy their freedoms and human rights. AFAD calls on states to accede to the CAT and honor and implement the ICCPR and enact local laws to at least lower risks of the occurrence of torture and ill-treatment. But, it is not enough to ratify international treaties

and legislate local laws. Governments must commit to ensure the implementation of such and to the protection of every individual in their respective jurisdictions.

Signed and authenticated by:

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