

Compliance with the International Human Rights Standards and the High Court's Guidelines for Prohibition of Torture: An Effective Way to Curb Torture in Bangladesh

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Abstract: The most significant impact of torture and other inhuman and degrading treatment is that it hampers the dignity of human rights values. Although, a comprehensive legal regime for prohibition of torture have been embodied in numerous international human rights instruments and every democratic state has accepted it, as fundamental values but the practice is still going on defying the violation of human rights. Accordingly, the prohibition against torture and other cruel, inhuman and degrading treatment appears in the Constitution of Bangladesh. But, the state of prohibition of torture is far from satisfactory. Rather, torture and inhuman treatment is occurring everyday by the law enforcing agencies ignoring the Constitutional prohibition and High Court's landmark judgment. Within the international law framework and the guidelines of the Supreme Court of Bangladesh, this study examines how the state on one hand ensures its compliance with international and national legal standards and on the other hand facilitates torture by law enforcers. In the light of that examination conclusion has been drawn with the reference of the government's role.

Key words: Compliance with international and national standards, facilities for and safeguards against torture, practice of torture, human rights, Court of Bangladesh

INTRODUCTION

The practice of torture is one of the most serious human rights abuses. No country in the world asserts the right to torture its own citizens (Hoffman and Brackins, 1985). The prohibition of torture enshrines one of the most fundamental values of democratic society (Chahal v United Kingdom). The right against torture flows from the inherent dignity of human beings which is one of the fundamental properties of human beings. It is a safeguard against violation of the human person by the state, its organs and agents through torture that takes away the dignity of the human person (Oluoch, 2005). Consequently, the prohibition of torture is treated by all countries as being *jus cogens*. No country may permit any form of torture or create state or individual immunities for its practice, nor make any law that permits torture (Kotwal, 2010). It is clear that any use of torture, as an instrument of state policy violates established tenets of international law.

Over the past several decades, adoption of many international human rights instruments opened new vistas for the protection of human dignity. One of the most

fundamental aspects of international human rights law is the universal proscription of torture. Torture is absolutely forbidden. The prohibition against it is total and unconditional (Kotwal, 2010). Despite these facts, the continued existence of torture as an instrument of state policy is well documented (Hoffman and Brackins, 1985). In Bangladesh, torture is a violation of fundamental rights. Article 35(5) of the Constitution provides that no person shall be subjected to torture or cruel, inhuman or degrading punishment or treatment. Despite Constitutional prohibition and the High Court's landmark judgment in the case of Bangladesh Legal Aid and Services Trust (BLAST) and others v Bangladesh, torture and violence in police custody is routine and widespread. Custodial death is common phenomenon. This study attempts to examine, torture under police custody in Bangladesh and obligations to comply with international human rights standards with reference to torture. This study will analyze the Constitutional and other procedural safeguards as to torture as well as the provisions of the Penal Code taking into account of numerous cases of the Supreme Court of Bangladesh and some recent death in police custody.

THE LEGAL NORM ON TORTURE

International legal standards to prohibit torture: Torture is a serious violation of the physical and psychological integrity of a human being. In the light of this, the scope of the prohibitions on torture is broad. No single human rights violation has been subject to more Conventions and declarations than torture. Torture is regarded as an affront to human dignity and thus proscribed by international human rights law (Smith, 2007). It is marked in the Universal Declaration of Human Rights (UN, 1948) which is considered a fundamental face in the concretization of human rights and fundamental freedoms. One of the standards that achieved under the UDHR is the absolute prohibition of torture of every human being (Oluoch, 2005). Article 5 of the UDHR provides that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Despite not being a treaty, the provision of UDHR is still the cornerstone of human rights law. After UDHR many global and regional human rights treaties have been concluded and prohibition of torture has also been expressed in those instruments. Article 7 of the International Covenant on Civil and Political Rights (ICCPR, 1966) provides that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'. This right is absolute and no derogation is allowed by a state party under any circumstances. Notwithstanding these remarkable efforts by the international community towards prohibition of torture, neither the UDHR nor the ICCPR defines torture. The most important treaty in regulating and prohibiting torture is the Convention against torture and other cruel, inhuman or degrading treatment or punishment (CAT, 1984).

CAT which has 33 articles begins by a definition of torture in Article 1 that means 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 for an act he or a third person has committed or is suspected of having committed or intimidating or coercing him or a third person or for any reason based on discrimination of any kind when pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It appears to be the first international agreement to attempt to define the term. Article 2 of the Convention requires that each state party shall take effective legislative, administrative judicial or other measure to prevent acts of torture in any territory under its jurisdiction and no derogation from this obligation is allowed under any circumstances. Article 4

of the Convention provides that each state party shall ensure that all acts of torture are offences under its criminal law. Article 10 is the most important provision for the prevention of torture. It states that each state is obliged to ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment and the prohibition of torture must be included in the rules or instructions issued to such person. Towards preventing any cases of torture, State parties must subject to systematic review interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment (CAT, Article 11). State parties are also obligated to establish competent authorities capable of conducting prompt and impartial investigations of allegations of acts of torture and provide safe and simple procedures for lodging of complaints by individual victims of acts of torture (CAT, Articles 12 and 13). Article 14 requires state parties to ensure that victims of torture obtain fair and adequate forms of compensation. Article 15 requires that any statement established to have been made as a result of torture should not be admitted as evidence in any proceedings against the victims.

In addition to those measures, CAT also establishes institutions and procedures to effect implementation of its goals. It establishes a committee against torture under Article 17 and outlines the committee's functions in Article 18. Among others the committee against torture is empowered to examine reports from state parties to the Convention and to inquire into allegations of systematic practices of torture (CAT, Articles 19 and 20). The committee against torture is also empowered to accept complaints from states alleging a particular state's non-compliance with the Convention (CAT, Article 21). However, this power might only be exercised with the explicit consent of the State alleged to be in non-compliance. Under Article 22, the committee against torture may receive complaints from individuals against the state and is to report annually to state parties and to the UN General Assembly.

Apart from these, to prevent torture a number of more specific instruments have been adopted by the United Nations, such as Standard Minimum Rules for the Treatment of Prisoners (UN, 1955), Basic Principles for the Treatment of Prisoners (UN A/RES/45/111, 1990), Body of Principles for the Protection of All persons under Any Form of Detention and Imprisonment (UN A/RES/43/173,

1988), Code of Conduct for Law Enforcement Officials (UN, 1979) and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN, 1990). The most important provision found regarding prohibition of torture is no person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstances may be invoked to justify torture or other cruel, inhuman or degrading treatment or punishment (Article 2 (2) of the CAT, Principle 6 of the Body of Principles and Article 5 of the Code of Conduct). International standards restrict the use of force on detainees by law enforcement officials. Law enforcement officials may use force only when strictly necessary and to the minimum extent required in the circumstances (Article 3 of the Code of Conduct, Principle 15 of the Basic Principles (Officials) and Rule 54 of the Standard Minimum Rules).

It is true that implementation of human rights treaties within the domestic legal system primarily lies on the state party. State party has an obligation to comply with all the treaty provisions and to take all effective necessary measures including legislative measures to give effect of obligations under international Conventions.

Legal framework in Bangladesh to prohibit torture:

Though, Bangladesh has an international obligation to prohibit torture in its domestic law but the process is not complete. In addition to the ICCPR, Bangladesh also ratified the CAT which codifies an absolute prohibition of torture. Notwithstanding, the ratification of international legal instruments on torture it has not become a punishable crime in Bangladesh. Rather, ill-treatment and torture have become so entrenched that no one can assume any arrest without being abused (FIDH, 2010). In Bangladesh, existing law can not provide sufficient safeguards from torture.

Torture is a violation of fundamental rights in Bangladesh. Article 35 (5) of the Constitution of Bangladesh provides that No person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment. Despite express Constitutional prohibition on torture, there is no specific law that defines torture rather allows impunity of law enforcers to engage in torture. The criminal laws prevailing in Bangladesh do not have any specific definition of torture. In Penal Code 1860, the definitions of some offences are narrowly covered this area. The relevant sections for criminalizing offences against a person enshrined in Sections 319-338A for offences causing physical pain and Sections 339-358 for offences relating to wrongful confinement. Specific section for causing hurt for the purpose of

extorting confession or information from any person to lead to the detection of an offence is provided in Sections 330 and 331.

It is important to mention that according to ‘torture’ definition under CAT both physical and mental suffering can constitute torture if such suffering is inflicted purposefully. Further, acts of torture covered under the Convention must be committed by someone acting under color of law. But, Sections 330 and 331 of the Penal Code are inadequate to cover the offence of torture in Bangladesh because not only in neither of these sections, there is absence of use of the term torture or explicitly mention that public officials are similarly culpable under the law but also mental suffering is excluded from the provision to meet the standards of the CAT. According to CAT, for example if a private individual causes intense suffering to another in the absence of instigation, consent or acquiescence of a public official such action does not constitute torture.

Legal facilities for and procedural safeguards against torture including the high court’s guidelines:

While, the Constitution of Bangladesh guarantees fundamental human rights and specifically prohibits torture, a number of laws provide immense power to the police which facilitate torture. Section 54 and 167 of the Code of Criminal Procedure 1898 enables the police to arrest any person whom it suspects to be involved with any crime without warrant and to keep them in police custody for interrogation in name of remand for investigation of the case that facilitate torture in police custody. It is to mention that though ‘remand’ is an important step in the criminal process but in the name of interrogation in remand, the police usually have the wide scope to torture the arrested person to obtain information, confessional statement, bail money, etc. This power of arrest is not unqualified in Bangladesh. It is contingent upon the existence of any one or more of the nine grounds expressly specified in the section which clearly identify the persons coming within its ambit (Rafiqul and Solaiman, 2003). Under the Constitution and Code of Criminal Procedure, specific ancillary rights and procedural guidelines are laid down to ensure Constitutional obligations of Article 35 (5). Article 31 of the Constitution affords all citizens their inalienable right to be treated only in accordance with law and no action detrimental to the life, liberty, body, reputation or property shall be taken beyond the purview of law.

On the one hand, Article 33 (1) and (2) of the Constitution provides some specific procedural safeguards to which each arrested person is entitled by law against arbitrary arrest and detention namely the right

to be informed as soon as possible of the grounds of arrest, the right to consult and be defended by a lawyer of his/her choice, the right to be produced before a nearest magistrate within 24 h of arrest and the right not to be detained for longer period than 24 h without the authority of the magistrate. On the other hand, Article 33 (4) of the Constitution gives the executive authority an unlimited power to arrest and detain a person. The Special Powers Act 1974, also allows arbitrary detention for long periods of time without charge that facilitates torture in custody.

Although, Article 35 (4) of the Constitution clearly provides that no person accused of an offence shall be compelled to be witness against himself. By the application of this Constitutional provision, it means that any information which is obtained or extorted by applying torture cannot be considered as evidence and cannot be used against an accused person. Accordingly, Section 161 (2) of the Code of Criminal Procedure also requires that any person supposed to be acquainted with the facts of the case shall be bound to answer all questions relating to such case put to him by any police-officer making an investigation other than questions the answer to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture. Section 163 of the Code of Criminal Procedure, also prohibits police officers from offering any inducement or from making any threat or promise to any accused while obtaining statements under Section 161 of the code.

Despite procedural safeguards, torture and to make bound to give confessional statements of an arrested person in police custody are not being stopped. In order to prohibit torture and custodial death the Supreme Court of Bangladesh has proven its capacity to act as a powerful mechanism by delivering a landmark judgment in the case of Bangladesh Legal Aid and Services Trust (BLAST) and Others v Bangladesh. In 1998, Shamim Reza Rubel, a university student was arrested under Section 54 of the Code of Criminal Procedure by police and died in the police custody due to alleged torture by the police. After that incident, a writ petition was filed by BLAST challenging the abuse of police power under Section 54 and remand and torture in police custody under Section 167 of the Code of Criminal Procedure. In this case, the High Court issued some directions as procedural safeguards taking into consideration of police actions relating to arrest without warrant, police remand, torture and death in police custody. Furthermore, the court delivered the verdict on issuing 15 point directives on the government to be followed by the law enforcement

agencies in arresting, detaining, remanding and treating suspects. The High Court elaborated its judgment observing that Sections 54 and 167 of the Code of Criminal Procedure are not fully consistent with Constitutionally guaranteed freedoms and safeguards. Both sections are totally against the spirit of the Constitution. The court has laid down a comprehensive set of recommendations as safeguards to prevent torture, or cruel or inhuman treatment during interrogation in remand. These include:

Immediately upon arrest, the arresting police officer has an obligation to disclose his identity [Recommendation A, 3 (a)] record the reasons for arrest [Recommendation A, 3 (b)] and make an entry in special diary kept in the police station [Recommendation A, 3 (c)] provide the details to the arrested person [Recommendation A, 3 (e)] and inform the relatives of the arrestee.

Record up an 'inspection memo' finding any marks of injury on the body of arrested person and to take him to the nearest hospital for treatment [Recommendation A, 3 (d)].

It is the duty of the Magistrate who authorizes detention in police custody to comply with all the recommendations, such as interrogation of the accused if necessary for the purpose of investigation is to be done in a glass wall room in the jail, within the view but not within hearing of a close relatives or lawyer of the arrestee [Recommendation B, 2 (b)].

In the application, for taking the accused in police custody for interrogation, the investigating officer shall state reasons for taking the accused to the custody [Recommendation B, 2 (c)] and to ascertain that the arrestee was given the opportunity to consult lawyer of his own choice [Recommendation B, 2 (d)]. If the Magistrate is informed about any allegations of torture in custody, the Magistrate shall proceed against the investigating officer without any petition of complaint by the arrestee [Recommendation B, 3 (b-d)].

Any person who dies in police custody or in jail, the investigating officer or the jailor shall inform the nearest Magistrate of such death [Recommendation B, 3 (e)] and a Magistrate shall inquire into the death immediately after receiving information of such death [Recommendation C, (1)].

These provisions of the judgment cumulatively create a very positive steps towards a more effective procedural design aimed at ensuring that the danger of torture, ill-treatment and death in police custody are minimized.

OBLIGATIONS TO COMPLY WITH INTERNATIONAL STANDARDS AND HIGH COURT'S GUIDELINES AND CULTURE OF IMPUNITY

As a state party to the ICCPR and CAT, Bangladesh has legal obligation to comply with the international standards to ban torture in its domestic law. Compliance with international human rights obligations is considered a key component of modern statehood and indicates not only willingness and ability to abide by treaty obligations but a state committed to principle of justice and appropriate Codes of Conduct (Zartner and Ramos, 2011). But, unfortunately to comply with international obligations, no specific legislation criminalizing torture has so far been made in Bangladesh. Although, a draft law titled Torture and Custodial Death (Prohibition) Bill-2009 remains pending before National Parliament.

From the earlier discussion, it can be argued that the guidelines of the High Court highlighted effective policing to prevent torture and maltreatment in custody. According to High Court directives in the BLAST case, there is no amenity for the police to torture an arrestee. Unfortunately, to implement High Court guidelines and to prevent torture in police custody, no initiatives were taken after 10 years of delivery of judgment. Rather, the government preferred an appeal against this judgment which is still pending before the Appellate Division. However, the Appellate Division has not granted any stay order against the judgment and hence the guidelines are in force. Despite the High Court guidelines are in force, Constitutional prohibition and international obligations to provide effective protection against torture, torture and death in police custody are still persist violating these provisions (Biswas, 2012).

In Bangladesh, how human rights are being ignored and torture, inhuman or degrading treatment are being applied to an accused person which cause death may be seen in a recent incidents by the law enforcing agency. A police team had nabbed two persons from locality named Shamim Sarker, a land trader and his nephew Saiful at night on 5th June and doctors declared Shamim dead after he was admitted into the coronary care unit in a hospital in the morning on 6th June. According to deceased brother Biplab Sarker, Sub-Inspector (SI) Akidul called him and said Shamim and Saiful were arrested over a 2002 murder case. He (SI) said my brother and nephew will be left unscathed if paid Tk 200,000. Biplab claimed he 'heard' that Shamim was tortured somewhere outside the police station late on 5th June night. After the incident six policemen have been placed under arrest for alleged torture in custody.

Just before 15 days of this incident a youth of 26 years old named Shamim Reza, a sand trader, also had been picked up by a team of law enforcers of Sonargaon Police Station on May 14, 2013 on the charge of four murders in Sonargaon upazila of Narayangaj, died at Dhaka Medical College Hospital on 22nd May, 2013 while he was in jail custody. The magistrate's inquest report says Reza had marks of injuries in his face, hands and legs. He died of injuries inflicted by beating. The victim's relatives claimed that he died after police had tortured him for his failure to pay the money demanded for his release. At the hospital, Reza told his family members how police had tortured him to make him confess in court. It has now become a practice by the police that they demand and take money from the arrested person in consideration of not to torture.

On 23rd March, 2011 Rapid Action Battalion, a paramilitary law enforcing body which is termed by the Bangladesh government as an Elite Force shot a college student named Limon Hossen causing his permanent disability on the suspicion that he was a terrorist. It is learned that they did not even verify the identity of limon regarding his innocence or involvement in any kind of offence. This is caused due to lack of minimum efficiency of law-enforcers. Kader, a student of the Dhaka University was reportedly picked up and tortured by police in custody in 2011. Khilgaon police detained Kader on July 15, 2011 and later showed him arrested in a case filed over an attempted robbery.

These are the examples of incidents of torture by law enforcers that have become regular occurrences in the country, ignoring a High Court judgment, Constitutional and the international covenants formulated to safeguard and protect human rights. Despite Constitutional prohibition, torture has not been prohibited in the country rather police brutality is increasing in our country day after day unexpectedly for their unchecked power.

There are many instances where police personnel are punished through departmental action for negligence and corruption. But, action is hardly taken for infringement of fundamental rights through torture during police custody. The legal remedy against police in such cases is very insignificant to be mentioned (Akther, 2005). In this regard, it can be mentioned that the Constitution of Bangladesh is ambiguous on torture. On one hand, Article 35 (5) prohibits torture, on other hand Article 46 of the Constitution empowers the government to extend immunity from prosecution to any state officer on any grounds. This provision allows the Parliament to indemnify human rights violations of State officials including torture by enacting legislation. Apart from this, in a similar manner, Code of Criminal Procedure 1898, encourages a culture of impunity and protects the

perpetrators of torture. Under Sections 132 and 197 of the Code of Criminal Procedure, no prosecution can be made unless prior government approval is obtained. Although, in *Rokeya Begum v Shafikur Rahman*, 2 BCR, 04, case the High Division has dismissed the provision of Section 197 of the code issuing the following rule:

No sanction under Section 197 of Criminal Procedure Code is necessary for taking cognizance of the offence alleged in the case, even if the police officer and involved police constable committed the offence while setting or purporting to act in the discharge of official duty. Protection of Section 197 is not available to accused police officials as available to other public servants.

These provisions not only incompatible with international standards but also reflects the deficit of country's willingness to curb torture.

CRIMINALIZING TORTURE AND STRENGTHENING NATIONAL HUMAN RIGHTS COMMISSION

In any democratic society which is founded on rule of law, no one can live out of the purview of law. The law enforcers are no exception. Since, their duty in respect to protect the life and liberty of the citizens of the state is much so must be the responsibility in case they fail to do so. It is pertinent to mention that violation of human rights by law enforcing agencies is increasing for lack of proper action or inaction against them. The practice of torture is increasing because of impunity. Except in a few cases, there is lack of examples in prosecuting the law enforcement personnel involved in acts of torture or other human rights violations. Rather by making reservation to implement Article 14 (1) of the Convention against Torture which stipulates the right to redress, compensation and rehabilitation for a victim, only in accordance with existing laws, government not only negates its obligation to the entire treaty but also facilitates torture. As there are no existing laws for redress, compensation and rehabilitation for torture victims in Bangladesh, it is not difficult for the government to say that it has fulfilled its obligation by doing nothing.

Torture continues unabated because of present complaint mechanism, it is very difficult to file a criminal case against a law enforcer accused of any offence because people fear to lodge a complaint against a law enforcer due to further persecution. If any complaint is made, there is a general fear of getting justice from, such complaint as the law enforcers themselves inquire the complaint and in most cases, they have the control on the

prosecution in the Magistrate's court. In this regard, it should be mentioned that if any complaint is made regarding torture and custodial death, any external eyewitness except police for custodial deaths or torture could not be practically found. It is unlikely that a police officer will testify that an arrestee was tortured to death by his/her colleague (s) (Rafiqul and Solaiman, 2003). Regarding this, in the case of *Shaikh Baharrul Islam v State*, 43 DLR (1991) 336, the Supreme Court of Bangladesh held that it was not possible to prove the cause of death of a person in the police station because only those who beat him had special knowledge how he was beaten to death.

It is true that a strong and independent human rights institution can play an important role to protect human dignity. Although, the country has established National Human Rights Commission (NHRC) which has begun its journey by the National Human Rights Commission Ordinance 2007 giving effect from 1 September, 2008. Actually, the NHRC was established during the caretaker government. In the process, the National Human Rights Commission Act, 2009 was passed by the parliament on 14 July, 2009 and a retrospective operation of the Act was given from 1 September, 2008. From June, 2010 seven members Commission including a chairman was reconstituted.

Undoubtedly, the establishment of the Commission is a milestone for human rights and fundamental freedoms in the country. Protection and promotion of human rights violations will be enhanced through the proper functions of the Commission. Under Section 12 (1) (a), the law authorizes the Commission to inquire into complaint of violation of human rights by a person, state or government agency or institution or organization (NHRC Act). The Commission can do it suo-moto or on a petition presented to it by a person affected or any person on his behalf. A legislative mandate that allows the NHRC is only to make recommendations to government in relation to human rights violations that do not have any binding effect. In this situation, there is a doubt that whether the Commission can effectively perform its responsibility in the absence of adequate support from the government and without government's interference. Moreover, the recruitment of persons having loyalty to the government in the NHRC has made this rights body one of the most ineffective institutions of the country. The NHRC is incapable of conducting credible investigations in cases of human rights abuse. It has constantly failed to fight any human rights causes that could meet normative principles of internationally

recognized human rights. For example, the NHRC's previous body compelled the Ministry of Home Affairs to conduct credible probe into only two cases of extra-judicial killings during its tenure. By the time the probe reports were prepared, the incumbent body assumed office. Since, then the reports have been shelved. The NHRC did not proceed with the reports leading to prosecution of the perpetrators of the Rapid Action Battalion. There has not been any credible investigation conducted by the current leadership of the NHRC regarding gross human rights violations, such as torture, enforced disappearance and extrajudicial killings by committed by state agents, let alone filing litigation before any court (ALRCO, 2013).

It will remain incomplete if it goes unmentioned that the Commission's role in the Lemon's case that was referred earlier was very commendable but after that Commission's role was not same in other similar or more serious cases (Biswas, 2012). This observation has become more rooted when in a recent speech, Chairman of NHRC said that the NHRC has no ability to prove human rights violations occurring in the custody of law enforcement agencies. He also mentioned that at first, state became scared when the Commission pursued against the state's violence. Then a question was raised by the state? Is there any need of such a Commission? From that the Commission has been slow speeds. Undoubtedly, the chairman of the NHCR expressed the substantially real position of the Commission and situation of human rights protection by the country.

CONCLUSION

From this discussion, it is imperative to note that Bangladesh has failed to curb torture as a serious violation of human rights due to use of existing legislation and justice system that facilitate to violate international human rights standards. Although, BLAST guidelines are very positive steps towards safeguarding vulnerable persons from the threat of violence in police custody but in order to incorporate the guidelines following initiatives need to be undertaken to give effect to the guidelines.

Government should address all the factors of the High Court's guidelines, review and amend all the laws that facilitate torture, death, ill-treatment, etc., and allow impunity of perpetrators of torture.

In order to bring the perpetrators of torture into justice, there is an urgent need to make legislation criminalizing torture and custodial death according to the standards of CAT. Government should immediately pass the draft bill in the parliament to criminalize torture.

As the purpose of establishing, NHRC is to contribute to the embodiment of human dignity and integrity, protect fundamental human rights of all individuals and improve the standards of human rights in the country. So, the government should give the NHRC full independence to establish its purpose for which it was established. Mere having such a splendid institution without effective powers and functions cannot bring any fruitful outcome. It is true that only effective and strengthen human rights institution can help bridge the protection gap between the rights of individuals and the responsibilities of the state.

To prevent torture, law enforcement personnel must be given proper training on human rights law. Last but not the least, in preventing acts of torture the primary role lies on judges and magistrates.

They should be strong in will and independent, not to yield up to pressures or influences of power and committed to the matter of human rights. The judiciary has to be vigilant to repel all attacks, gross or subtle, against human rights. They have to guard against the danger of allowing themselves to be persuaded to attenuate or constrict human rights out of misconceived concern for State interest or concealed political preference or sometimes ambition or weakness or blandishment or fear of executive reaction (Bhagwati, 1992).

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