International Day in Support of Victims of Torture Observance

26 June 2020 | 03:30pm to 06:30pm

Background

Following the proclamation that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” in the Universal Declaration of Human Rights, on 26 June 1987, the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment came into force. A decade later, on 12 December 1997, the United Nations General Assembly decided to mark this historic date and designated 26 June each year as the International Day in Support of Victims of Torture.

On the occasion of the International Day in Support of Victims of Torture, Ain o Salish Kendra (ASK) organised an online discussion on 26 June 2020 to share their concerns about the current situation in Bangladesh with regards to torture, extrajudicial killings and custodial death, and a possible solution to further reduce such instances of torture.

ZI Khan Panna, Advocate, Supreme Court of Bangladesh and Chairperson, Ain o Salish Kendra (ASK) was the chair of the discussion while Nina Goswami, Senior Deputy Director, Ain o Salish Kendra (ASK) moderated the session.

Existing Concerns & Way Forward

Abu Ahmed Faijul Kabir
Senior Coordinator
Advocacy and Networking, ASK

Mr. Kabir shared a presentation on the existing scenario with respect to the situation of torture, custodial death and extrajudicial killing in a presentation titled, ‘Stop Torture: Ensure Justice’.

He shared that since the enactment of the Torture and Custody Death (Prevention) Act 2013, only 17 cases have been registered under it, and none of the cases have been resolved yet. This is because most times, the victim or his family does not get the courage to sue the perpetrators for their own safety. Many who have had filed cases became victim of harassment and threats and continue to face various obstacles in the way of getting justice.

Most times, especially regarding the sensational cases, the government holds departmental investigation against the allegations. However, the departmental punishments of mere exemptions or transfers is a matter of concern due to its lack of impartiality and acceptability. Lately, many are being detained and/or arrested without following the Supreme Court Guidelines on Remand and Arrest.

There have been multiple hundreds of allegations of torture in police custody and multiple allegations of custodial death as a
result of physical torture by the police. In multiple instances ASK sent letters and notices to the relevant authorities either demanding neutral and fair investigation or seeking update on any such investigation that may have taken place. Unfortunately, no response has been received from them yet.

Md. Asaduzzaman
Advocate, Supreme Court of Bangladesh
Member, ASK

Advocate Asad shared that it is the fear that grasps the minds of the victims and their family member that acts as the ultimate challenge to bring justice to them. The situation in Bangladesh is extremely disappointing as the government has already set torture as an administrative tool to induce fear and discipline within the society according to its own whims. This shows how this fear instigated within the minds of these people assists these members of the security agencies to enjoy the culture of impunity.

Advocate Asad further shared the case details of Journalist Shafiqul Islam Kajol and the treatment he faced during this COVID-19 situation. He also stated that one of the invisible forms of torture is thus, the restriction and curtailing of the freedom of expression and opinion under the Digital Security Act.

Finally, he expressed that despite having a strong legal framework to prevent and protect victims of torture and their family members, the lack of proper implementation and political will to be bound by the law evinces their unwillingness to be accountable. He recommended a thorough discussion with the political higher ups in order to enhance their political will.

Abu Sayeed Khan
Deputy Editor
Daily Samakal

Mr. Khan shared that in these times, the journalists have reached a status where they are having to self-censor their own reports. Many are falling victim to the culture of fear while a few others ignoring this culture and are continuing to being vocal about the concerned issues.

He expressed his disappointment on how Bangladesh has failed to make itself into a democratic country or establish rule of law and accountability in its governance, and how the one who comes to power uses the state tools to their own benefit. And how due to such acts, these agencies start to take advantage of the situation and commits wrongful act with due confidence of being immune to all accountability mechanisms. With this culture of impunity, they are yet to be brought under trial and the judicial process.

Abu Sayeed recommended in such times, that states should promote free speech and should not to curtail or restrict dissenting opinions. Moreover, for a healthy democratic society, a strong opposition party and also a strong civil society must is required to provide the check and balance in governance. With regards to the weak political presence of the opposition party on the field, he noted that the freedom of press may be automatically ensured if there is a strong opposition party exchanging dialogues, debates and dissenting opinions out on the field. Although lengthy, but in order to prevent torture, strong legal space, active political platforms and a strong civil society with a healthy democratic civic space is required.
Md. Nur Khan
Human Rights Activist
Executive Committee Member, ASK

Md. Nur Khan shared his experience regarding the current context of Bangladesh with regards to torture. He shared how on the field, it has been evident that in most instances of the extrajudicial killings, there were evidence of them being inflicted with torture prior to supposedly killing them in the cross-fire. The usage of torture as a tool to strengthen one’s political ground and take advantage of the administrative power has been quite evident across governments. He noted how during the COVID-19 pandemic, cross-fire, gunfight, extrajudicial killings, torture and restriction of freedom of expression and opinion, continues to exist. Frustratingly, this pandemic has changed the types of torture/violence as well as increased its rate in certain contexts not limiting the perpetrators to only state actors but non-state actors as well.

He further shared that the lack of progress on the 17 cases registered under the Torture and Custodial Death Prevention Act 2013 evinces not only the fear that resides in the minds of the victims’ family members but also that of the judiciary. It also shows the government’s lack of political will to keep the law in-force and not make it effective. He recommended initiating a social movement against torture with the participation of every single individual of Bangladesh.

Arpeeta Shams Mizan
Assistant Professor
Department of Law, University of Dhaka

According to her, merely demanding that the government needs to be made aware of the prohibition of torture will be redundant until the people of Bangladesh themselves are aware of the wrongness of it. She suggested that a reform in the justice administration system is required. If the people believe that they may never get justice through the existing, judicial system, they will continuously try, justify and defend the unlawful killings through unlawful methods. Until and unless the issues of case logging and criminal justice system are dealt with, expecting rate of extrajudicial killings to reduce is unrealistic. This complicated cycle allows the state to continue the usage of torture. She further identified that torture will co-exist alongside all the types of systematic discrimination as torture is the ultimate reflection of what happens when an individual feels discriminated against.

Advocate Pitu Khan
Naogaon Bar Association Member, HRDF

According to Advocate Khan, in order to fight against the system, and go in stride with a social movement, one must be brave to be vocal and we must create that space for the next generation and prevent them from adapting to this culture of fear within them. Corruption, discrimination, economic freedom, all these issues are directly or indirectly connected and contribute towards instances of torture.

SM Azad
Chief Reporter
Kaler Kantha

Mr. Azad emphasised on demanding for neutral and fair investigation for every instance of torture and killing. He shared his concerns regarding the anti-drug campaign and how this campaign resulted in the boom
of a high death count as a result of cross-fire/gunfight. He recommended the law enforcement agencies to carry out investigations on all forms of torture, custodial death and such types of extrajudicial killings.

Advocate Liakat Ali  
Ex-Editor, Dinajpur Bar Association  
Member, HRDF

Advocate Ali recommended that network of human rights organisations shall be strengthened. Furthermore, he also suggested human rights activists and organisation to consider bringing instances of torture under the eyes of the Court under the Torture and Custodial Death (Prevention) Act as third party individuals.

Tapas Kanti Baul  
Barrister  
Supreme Court of Bangladesh

Mr. Baul reiterated how torture is no longer limited to the physical and mental torture, but also extends towards the restrictions to freedom of expression and speech. The marginalised people, especially the ethnic, religious, gender, sexual minority, all are subjected to systematic violence, which needs to be reduced in order to prevent torture. During this pandemic, it has also come to light how the human rights defenders are the ones who are facing the most challenges. He further shared that besides legal and judicial advocacy, social and cultural movement is required.

Many journalists shared the need for arranging a social movement by getting together stakeholders across platforms into a single one, all standing up against torture, custodial death and all types of extra-judicial killings. They further reiterated the demand to hold fair, neutral investigation to ensure justice.

Tamanna Hoq Riti  
Assistant Coordinator  
ASK

She shared that during her experience in the first ever CAT review session of Bangladesh that took place in Geneva back in July 2019, the committee members shared with CSOs that Bangladesh must go much deeper than drafting laws, where the commitment from the highest level and the political will of the government is required so as to strengthen the monitoring & follow up mechanism of such instances of torture.
Recommendations

1. Establish justice by stopping extrajudicial killings and torture and ensuring transparency and accountability within law enforcement agencies by taking legal action against those involved through departmental investigations as well as impartial investigations and providing adequate compensation to victims;
2. Urge Government to instruct law enforcement agencies at the highest levels of government to respect the constitution, human rights and the rule of law in order to stop extrajudicial killings and torture;
3. Ensure justice by forming an independent and impartial commission to investigate all allegations of disappearances, abductions and extrajudicial killings so far, and to empower the commission to carry out its mandate;
4. Recognise ‘disappearance’ as a crime by law in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance and signing this charter
5. Ensure transparency and impartiality at every level of the judicial process, including medical examinations, and ensuring the safety of victims and their families;
6. Implement the recommendations given by the UN Committee against Torture in 2019 on an urgent basis.

All the participants of the discussion agreed that the government must come together in consensus of the following: no more extrajudicial killing, no more enforced disappearance, no more custodial torture and death, no more misuse of Digital Security Act, no more restriction on freedom of expression, speech and opinion.