



PRESS STATEMENT

Custodial killings show India needs to go beyond police reforms, must ratify Anti-Torture Convention: CHRI

The Executive Committee (India) of the Commonwealth Human Rights Initiative (CHRI), chaired by Wajahat Habibullah, former Chief Information Commissioner, has issued the following statement on the recent torture and deaths in custody of a father and son in Tamil Nadu:

New Delhi, June 29 – The murderous police assault, unending beatings and brutal torture which caused the death of two innocent traders, a father and son, in the city of Thoothukudi in Tamil Nadu, is an acute demonstration of a broken criminal justice system and failure to effectively uphold legal protection against police abuse.

The incident underlines afresh the urgent need for institutional correctives within the policing system in this country and underlines the acute need for India to enact a strong law to prohibit and prosecute torture and custodial death, in fulfilment of its legal obligations, both national and international, to guarantee/protect right to life. India remains among a handful of countries yet to ratify the UN Convention against Torture (UNCAT).

These are issues on which it has proclaimed a commitment including at the UN Human Rights Council, in 2017, in the memorable words of a former Attorney General, who proclaimed that “Ours (India) is a land of Gandhi and Buddha ... The concept of torture is completely alien to our culture and it has no place in the governance of the nation.”

Yet, we note the report by the National Human Rights Commission the previous year which declared that “custodial violence and torture continue to be rampant in the country. It represents the worst form of excesses by public servants entrusted with the duty of law enforcement.” The National Campaign against Torture said in its report released June 26, the international day to honour victims of torture, that a total of 1,731 people died in custody in India during 2019.

Given the reality and the circumstances of the recent deaths, we urge the Government of India to bring a draft law on Torture before Parliament as a top priority and announce its commitment to the UN Convention against Torture (UNCAT).

At a time when demands for police reforms are sweeping the world in the context of the Black Lives Matter movement, the killings of P Jayaraj and Bennix are a chilling reminder of how routine the excessive use of force has become in India, resulting in tragic loss of lives. It sends a chilling message about how broken the system is, the failure of police and political leaders to step up accountability measures for illegality.



It also lays bare brutally what happens to ordinary people who do not know their rights or that custodial violence is not normal behaviour but criminal conduct.

We need to go beyond condemning this outrage by police officers who violated their role as protectors of the public. The gross abuse of authority that caused the death of innocent citizens need to be prosecuted with the full weight of the law, if public trust is to be retained.

The reason for the detention and death of the men – that they were keeping their stores open beyond the authorized hours – is another example of the impunity with which police and government authorities have been functioning across jurisdictions during the pandemic, where restrictions on freedom of movement, assembly and expression have been enforced arbitrarily.

While initial violence and over-reaction by police forces in the first few weeks of the lockdown and response to the pandemic has been documented and appeared to have eased, this latest horrific incident strips the veneer of calm and discipline from the system.

The policemen, including the Inspector of Sathankulam PS, two Sub-Inspectors, several police constables and their accomplices who were involved in the brutal torture need to be arrested without delay and charged with murder. So far, while the two Sub-Inspectors have been suspended, a departmental proceeding has been initiated against the two Head Constables. No FIR has been registered against them. The Madurai Bench of the Madras High Court has taken suo moto cognisance of the matter, ordered the police to submit a status report and said that it is “closely monitoring the case.”

The harm inflicted on the deceased and the tragedy visited on their families cannot be eased by the Rs 20 lakh compensation and government jobs offer for relatives. The malaise goes far deeper.

Without the police reforms which have been advocated by successive Police Commissions in this country which strike at the root of the abuse, cultural and institutional bias that governs the conduct of policemen at different levels, such brutal episodes will continue to happen. The details of such reforms are known; what is required is the political will to implement them. Both police and political leaders have resisted change. What happened in a police station in Tamil Nadu that night is an outcome of that refusal to change.

The Government of India, especially its Ministry of Home Affairs, which oversees issues related to security and police, needs to engage seriously with the UNCAT which India had signed as far back as 1997. India has since pledged several times to ratify it, including as recently as 2018.

Despite two official bills which lapsed, a private member’s bill and a report by the Law Commission, the issue has not been a priority of the Central Government. We wish to point out that India is among the few countries that have not ratified the CAT – 170 have including Pakistan and China. India is in the company of 25 other nations which have not ratified.

Wajahat Habibullah, Chairperson, Sanjoy Hazarika, International Director

Members of the Executive Committee CHRI (India): **Justice Madan B Lokur, Justice AP Shah, Vineeta Rai, Poonam Muttreja, Nitin Desai, Kamal Kumar, Jacob Punnoose, Jayanto N Choudhury, BK Chandrashekar, Maja Daruwala, Kishore Bhargav.**