

Workshop on Custodial Torture at Mumbai - DAY- I

Introduction by HRLN and MASUM

Mr. Kirity Roy (Moderator), Mr. Kamal Kumar Roy (HRLN) , Mr. A. S. Prasad (Former Judge, Bihar, State Director on Preventing Torture in India)



Mr. Kamal Kumar Roy – Constitution and other legal safeguards do NOT translate into action. Custodial death is highest in Uttar Pradesh. The people who die in custodies, they are scheduled caste, lower strata of society women, and other such people.

MASUM has done tremendous work in combating illegal acts by the police. *The medical reports are essential to prove or disprove the facts as related to torture – we tend to leave this aspect out, yet doctors are hand in hand to making a case.* The doctors help police to prove that torture did not occur by giving faulty medical reports.

Need to create a special network with HRLN and MASUM and others, look at the work of all adjoining states, so that even one instance of torture is not unnoticed.

We need swift intervention after arrest by lawyers, so it is brought to notice of the courts– it is essential to have this. We need a mechanism to fight this among our organizations.

Mr. Prasad – Most of the cases go because of *medical negligence*.

Deaths in judicial custody are the same thing as death in police custody – they are result of medical negligence. Every death in judicial custody is connected to judicial negligence, police and medical negligence.

Mr. Kirity Roy – Police is encompassing CID, enforcement force, GRP, Railway protection force, CRP, the border security force (BSF), IPDP, the military. We want to discuss “torture by the State” – “people who are being paid by the State and they are torturing us.” – People AGREE.

Serious cases of torture and violence maybe done by individuals or groups (private entities) but they are police forces that are supporting them. For example, Salwa Judum is killing tribal people in Chattisgarh. And in Assam ULFA or surrendered ULFA killing the civilians.

Right to Information Act is available but it is not working.

Presentation – Mr. Kirity Roy



Definitions

Torture – a noun. It means the anguish of body or mind, agony or pain, infliction of pain, via burning, sadistic pleasure, distortion.

Torture – verb. 1. to cause intense suffering. 2. to punish or coerce by inflicting excruciating pain. 3. to twist or wrench out.

Arrest – depriving a person their liberty in relation to the investigation and prevention of crime.

Police – a body sanctioned by local, state, or national government to enforce laws and apprehend those who break them. They are to maintain law and order and to investigate crimes.

Prosecution- The government attorney is responsible for charging and trying the case against a person accused of a crime. (Police is part of the prosecution of the crime)

Lock-up – a room in an Indian police stations used to hold prisoners till they are produced before a magistrate.

Prison/Jail/Correctional Home – Public building used for the confinement of people convicted and not convicted prisoners of crimes.

Problem is – Accused and prosecution are hand in glove, the victim who filed the case has no say in the court of law.

I would like to know the regulations in each state of India which governs lock-up requirements.

Discussion

Shakeel - The support of the government to the police dept. is so intense that they can change the police record.

Example 1- AP Vishakapatnma – courier of the naxalite – TSP retained him – the hamlet people, complaint that these people were doing something, the women were raped by the STF people raped the women of the village. When the matter was taken up to the HC the court said that the STF people do not visit such areas. The records were tampered with and none of the police officers were punished.

Example 2 - Instance of 2 women on whom the acid was thrown. Boys were picked up and subsequently killed them. The people were congratulating them.

Dipmoni – There is impunity among the judiciary in Assam. The executive is the judiciary in the Assam. There are no jails in Assam. They are being kept in 6X6 rooms.

Example 1 - Anthony was detained in the room. The executive magistrate and the judicial officer and police and kept for one and half year.

AFSPA in north east state. If the army tortured, you have no right to file a case against the army person. You have to take permission from the judiciary.

Example 2 - In 1993, the district of Hoogly, West Bengal, and habeas corpus petition was filed by the father of the victim and NGO. CBI inquiry report was filed with the High Court. The policemen involved were promoted and though they were found guilty, they honorably acquitted the main person.

If every institute is corrupt what do we do?

We have to have a strong understanding of the institutions in order to fix them.

India did not ratify the Convention against Torture. We should have a domestic law against torture. There is no provision that says we cannot torture in the broad definition.

Discussion

The Kashav case - the custodial torture in the Taj case is ok? The eight pictures indicate that they are being brutally tortured. We do not support terrorism but the police must follow our own laws. If torture is not sanctioned, it should not be happening.

The CJI gave a speech, where the CJI said that, every person has a right to free and fair trial no matter how terrible that person may be. Torture after terror attacks, gives police even more power to be corrupt and behave in a non-judicial manner, it further encourages this cycle.

In Kashmir, any military personnel can go into any home and hold anyone in custody for any amount of time without any judicial proceeding. We have lost so many Kashmiris due to torture, lack of employment, voting issues are issues to reckon with. Kashmir would like to have self-determination, why does India not give this to Kashmir?

Do you free to approach the magistrate and you are hopeful to get justice in the case of custodial rape, torture etc.?

Police regulations vary with each state. Lawyers are not aware of the differences between each state's regulations.

State discussions should include for each state: 1. laws 2. cases 3. leading judgments in each state.

State Discussions

Bihar

General situation

The changes that have occurred with the police and the special force SAP, in that, the retired military, police, SAP, and Nepal area border they working together. Jharkand or Bihar border, it is a jungle area, CRPF, they give shelter to dacoits.

The police frame criminals for their own criminal actions. For example the police will kill civilians when common people deny shelter to them. Political groups in any developing area will be murdered. The police will then frame innocent people for those murders. They will then take those people and torture them and force them to confess in front of the media.

North Bihar area - along the border area, the change in Nepal. The accused Bangladeshis come as terrorists, but are not accused of those crimes, but rather innocent people instead of those people will be accused of those crimes. The police will assist them by providing them vehicles.

Example 1 - In one case, one girl, around Holi she had holiday, and she was walking and she was gang raped. The police did not make a case of this. They said, "Go home; we will take care of this." The police detained him for a small amount of time and let him go. The police did not take the case. The lawyer did not give us a good report from that district so we got another lawyer from another district. When trying to get the charge sheet, without listening to anything, the court tried to dismiss the case. They tend to dismiss cases when they are related to the police, they do not ask the victim anything.

Manipur

General situation

There are a lot of central forces operating there. The police commanders and central forces are responsible for killing innocent civilians. A person is carrying a good amount of money and is asking for police protection, he definitely will be killed.

The doctor creating the medical report will not accurately describe the victim's wounds. There are visibly marks of torture but it is not reflected in the report.

Witnesses are also problematic. Even if they are killed in the market area, none will give testimony.

When you approach High Court what is result? The high court asks district court to do fact finding. Then court determines compensation.

Andra Pradesh

General situation

We have a displacement problem and terrorism problem in our state. The state is at total lawlessness. The Andra Pradesh police will kill and torture anyone in the name of terrorism or national interest. Police is targeting the dalit community. They wanted to do mining there and to terrorize those people they raped the women in the community.

Human rights activists are booked under Public Security Act. When terrorist actions occur and the human rights activists raised their voice, they were booked under the Public Security Act.

Legal situation

DP Guidelines are not followed, we can file for implementation of those guidelines.

We submitted PIL for the police who was directly shooting the innocent civilians. 8-10 people died due to police firing. The matter is pending.

Colin Gonsalves- Founder and Executive Director of HRLN



In February 2008, we met in Delhi, and there were 50 – 70 people who had personal incidents of torture. We documented the incidents and wrote a book entitled, “State Terrorism.”

What is the role of the activist?

Is it just to document the incidents or is there something more. We made a promise at that meeting that we would follow up the cases of torture and provide legal aid.

How to handle torture cases.

1. The moment a torture is given in the news, a lawyer or activist must go to the jail and find out what happened to that prisoner. If the advocate or activist comes to the jail early, the torturous acts may reduce or stop completely – this action alone could save lives.
2. Provide immediate legal aid. Put on record and document what the lawyer did and also start creating a medical record as well.
3. Extensive professional documentation must be made. Very important to keep records safe. Find appropriate ways to document cases.
4. We should help to rehabilitate or provide services for torture victims. Perhaps create a small home for victims which have the relevant mental and medical facilities. Find existing organizations, such as medical NGOs and groups and ask them if they can provide free medical service to victims of torture. Relatives of victims must be taken care of as well.

In HRLN – there will be one lawyer that will focus on torture alone in each state. Full time 8/9 lawyers. There is no anti-torture network, if we create a system, it will be a model for the world.

Different courts have established that we should not defend certain terrorists – this is a controversial issue, here are some of my thoughts:

1. We know it is a constitutional right to defend the terrorist.
2. But suppose that Kashap does not get a lawyer, no trial will start. If the lawyer is useless, there is no cross-examination, the trial will get thrown out and there will be a retrial or he will be acquitted. It is in the national interest to have a defense attorney for the terrorist!
3. Without a fair trial, the public shall not know definitively that we have the right terrorist, this hurts the national security.

We need to make a plan of action even in the midst of the corrupt police, judiciary and other corrupt institutions. *We need suggestions within the system how to build the anti-torture network.*

Release "State Terrorism" book in a public setting with the media.

Presentation - Dr. Kirty Roy

We need information from you

1. Sources of intimations of torture, both primary and secondary
2. Socio-economic and political background of the torture survivors
3. Actions - individually or as groups
4. How much time it takes to reach the place of occurrence.
5. Are you using the camera or audio recorder
6. Whether when you get some information, whether you are ready to give some assistance to the torture survivor
7. Testimonials of the survivors and witnesses.
8. What type of protection facilities for the survivor. Medical, psychological, shelter etc.
9. What network do you have to get resources?
10. Police - what are the state guidelines/regulations on torture, arrest etc.
11. Remshankar Shukla Guidelines
12. Any complaints filed to court, local, national and international human rights institutions.
13. To what extent are cases taken to the court and what is the success rate, what are the problems as well.

Individual State Presentations

Northeast India - Rabina Shuba

Customary law - one girl was raped who belongs to a tribal community, there is customary laws that only require fine of 50 rupees. Customary laws override the state or national constitution. The Indian Constitution should protect everyone.

Naga state - here the customary law came and intervened when a girl was gang raped. The state law will not prevail, but the local customary laws prevailed for only a fine of 5000 rupees. We would like to reform customary laws, but not eliminate them completely. If the customary laws hurt the rights of women, children and other such groups should be amended.

How do you handle paramilitary torture versus a police force?

Jammu, Kashmir -



Slides

1. Primary Source
 - a. You have to get medical reports, witnesses and so on to file a complaint. The victim is not able to file complaint often times.
 - b. We need to educate activists how we can help him personally, not just filing a complaint. It may put the people at risk for the activist and the victim.
 2. Secondary Source
 - a. Newspaper
 3. Socio-political background of survivors
 - a. Mandoor Ahmad Bhat, he was disabled by torture. Lawyers approached him to file the case, but the lawyer was threatened.
 - b. DC Anantnarg - he was killed, he is now contesting the death.
 4. Actions
 - a. We have to cooperate with other organizations to put pressure so the life of the activist or lawyer is not threatened. More POWER by NETWORKING of several organizations.
 5. Protection of survivors
 - a. People who participate in rallies for freedom and other such protests they were tortured.
 6. Specialized in medical/psychologist facilities
 - a. Lots of doctors are available to give free service but sometimes the government does not allow it. Doctor advised that someone should have operation immediately, the court rejected the bail for the sick prisoner.
 7. State actors
 - a. Old laws such as the police can stop anyone at anytime is not just.
 8. PIL
 - a. A number of PILs were filed but they are all pending in the courts.
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Utter Pradesh -

FIR in the UP are not properly registered, by the time it is registered, the victim is killed by that time. We only have procedure to file 156.

Under section 303 of CRPC. Private counsel can only assist the case, they cannot argue it. All parties should be able to have private counsel.

Eastern Region – Biplab



Slides

9. Our testimonials
 - a. We are getting testimonials from the victims, friends, political organizations etc.
 10. Secondary
 - a. Newspaper and periodicals, electronic media
 11. Action Plan
 - a. Networking through individual groups and individuals
 12. Social – eco-political identity of victims
 - a. Most victims are marginalized members
 - b. Political opponents of ruling party
 - c. Underground political organizations
 13. Actions
 - a. Immediate reaching out to survivors
 14. Documentation
 - a. Document incidents and testimonies, legal and medical documentation
 - b. Immediate complaints should be lodged
 - c. Testimonies must be detailed!
 15. Reaching to PO in time
 - a. Immediate if possible, they reach generally in 48 hours.
 16. Assistance
 - a. Medical
 - b. Legal – complaint before higher official and HR organizations, complaints before courts.
 - c. *No network with government doctors! Need this in order to give proper documentation. Major problem.*
 17. DK Basu – non-compliance
 18. *We need more knowledge how to file and draft complaints. We also need the addresses of where to send complaints.*
 19. Immediate consultation with pro bono advocates.
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South (Kerala) – Akash



Slides

- Kerala Anti-Social Activities Prevention Act
Unconstitutional – punish police malafides
Economically backward
Socially backward
Educationally backwards

- e. Black in color
- 21. Judicial attitude
 - a. Anti- PIL
- 22. Human Rights Act 1993
 - a. Human rights courts
- 23. Strategies
 - a. Networking with other organizations
 - b. Be in touch with media.

Recommendations – Legal

- We need swift intervention after arrest by lawyers, so it is brought to notice of the courts– it is essential to have this. The moment a torture is shown in the news, a lawyer will go to the jail and find out what happened to that prisoner. If the advocate or activist is there in the jail, the torture may reduce or stop the torture immediately.
 - Fix Right to Information Act, as it is not working.
 - Create centralized place which describes the laws and regulations for police behavior and judicial recourse in each state of India.
 - Create Anti-Torture Network and use some tools as given below
 - Provide immediate legal aid. Put on record what the lawyer did and start the medical record as well.
 - Extensive professional documentation must be made. Very important to keep records safe. Find ways to appropriate ways to document cases.
 - A small home for the victims, mental and medical aid may be necessary. Take existing organizations, such as medical groups, they will do free medical service to victims of torture. Relatives of victims must be taken care of as well.
 - Use national and international human rights organizations as a means to implicate change. File complaints with these organizations.
 - Analyze differences between customary laws and constitutional law – make sure that the customary laws do not violate the human rights of the people. Reform customary law.
 - Eastern states - We need more knowledge how to file and draft complaints. We also need the addresses of where to send complaints.

Recommendations – Non-Legal

- Need to create a special network with HRLN and MASUM and others, look at the work of all adjoining states so all instances of torture are noticed. Greater social power by coordination with multiple organizations together. NETWORKING = POWER.
- Medical negligence lead to death in prisons – find a way to have better medical documentation in jail.
- Release “State Terrorism” book in a public setting with the media.
- Eastern States – Presently, there is no network of government doctors. Need this in order to give proper medical documentation.
- Greater collaboration with media.

DAY- II

Mr. Biplab - He recapped the day before events. He mentioned that we need to create an anti custodial violence network and also release the book "State Terrorism" publicly.



Mr. Biplab

Mr. Kirity Roy- Network with other human rights organization as we need their support.

Fact Finding- Badkin

Some of the hazards which we face in fact-finding. We need primary or secondary information. Any time whenever we get information from any source, we have to plan out who is available in your network to assist. You have to contact them and present at the occurrence place and interact with the family, victim and witnesses.

You need to document at that point - his medical condition and other such information. You have to train the volunteers as to get the real information/documentation at the place of occurrence. Document everything.

You must first win over the victim and the witnesses. You have to understand the victim, what we did was we would start counseling the victim and family. Don't harass them, try to help them.

Discussion

Daani - Each violation/action of the perpetrator should be described in one paragraph. When making the final statement after listening to the witness make sure to take down each piece of information and put it into separate paragraph. It should be clear. This helps the case, and all organizations are willing to support you. Make it concise, chronological, clean simple in layman language. It can be any language since it can always be translated.

Jved Iqbal (Kashmir)



There is a village where there are all widows and no men. When activist/journalists come there to collect facts they feel like these people are simply rubbing salt in their wounds. Hundreds of NGOs go asking for their story to everybody. Nobody from these organizations ever helped these people. Since there are so many cases pending and no action has been taken, the people have little faith in the judicial system.

Government record says 6000 people have disappeared. But in Kashmir unofficial records only 10000, people they have disappeared. That means something. For Kashmir that's a large percentage.

We are talking about atrocities in the rest of India, but in NE and Kashmir the security forces carry out the killings. You cannot approach security forces to ask them any questions. It is hazardous for the human rights activist to do fact finding. If you try to ask them questions, the security forces may enter your house in the middle of the night.

Saquil (AP) - It is important to give the victims and families hope that there is some value in giving information and/or filing a complaint. It is also important to involve the neighbors as well.

Jai (Gujrat) - There was one activist who reported about some mass graves, but he disappeared afterwards. Courts admit there have been custodial deaths, but they don't want to go into the details of the deaths that occurred as result of police responsibility. The courts are not interested in bringing these cases forward. What will we do? The media is creating an environment where the public is interested in giving the police more power instead of less to deal with terrorists or dangerous areas.

Some solutions are:

1. Legal recourse
2. Create international/national attention in the media

Saquil - Some suggestions for fact-finding - 1. Don't go alone to do fact-finding, 2. Get some permission from some higher official, so you have some support.

Jharkand - There was a boy named Kali Mond, he was missing for 3 days, he was with MCC commander, they didn't know that he was in custody. He was only in 8th class, and he was horribly tortured. We contacted the media about this case and HRLN team went there. After that they stopped torturing him. The boy and his family did not want to bring charges on the police because of fear of retribution.

Mr. Kirity Roy - Create local network, not national. We have the greatest need for doctors because it is a crucial to get medical reports to prove that the person has been tortured before the court.

Colin Gonsalves- Founder and Executive Director of HRLN



We are looking to get some feedback from the last couple of days. We want to work in a more scientific matter.

Discussion

Kashmir – How can you provide relief for victim when activist is the victim? How will we provide relief to the victim?

Colin – you are saying we need a way to protect human rights activists. Perhaps we can start a police station watch, where we can create a team of people who are responsible to check on victims in prisons the moment they get notice of an arrest and torture.

Nikhil – Doctors that are not willing to give accurate reports. Doctors are not knowledgeable about how to write reports according to WHO guidelines. Because of the vested interest of the doctors, they have their own interest in protecting government worker. Is there a way to make sure there is more transparency? Identify which doctors have integrity. Have standard formats made for the testing for torture victims. That way if there is a standard for testing, doctors cannot, for example, deny evidence as shown in x-rays.

Colin – We can address this by PIL, perhaps we can file something about medical standard for examination for post mortem. Is there is a standard?

Nikhil – There is requirement to have the post mortem examination for custodial deaths videographed. The procedures that are being done must be videographed.

Chadavari, Journalist – I publish a human rights newspaper. Eight years ago, I was taken to a police station, they beat me. MASUM came and other groups came to rescued me and they stopped.

Colin – There must be a journalist in the committee as well to deal with these torture cases. Chadavri's case is a good example of a working system in West Bengal. Several groups came and stopped the torture from occurring, this must happen in other cases too.

Nikhil – According to the CDC guidelines, there are a list of causes of death that doctor's must choose from. I will look into whether it has torture also included in the guidelines.

Mr. Kirity – Doctors in government hospitals are not conducting proper post mortem examinations.

Nikhil – Anyone who is MBBS qualified is expected to conduct post mortem cases. There is some surgeon, ideally, he should do it. Only a government hospital can do these examinations. A RM is only qualified if they are first a MBBS. However, ideally you should have a post graduate doing it. There isn't a career in forensic medicine, and so less qualified people take on forensic medicine.

Colin – There is a breakdown of the system with respect to post mortem examinations. Doctors in India, do not say that torture was involved. Is there a system like that abroad? There are no cases in India where a doctor will say torture was involved in a death.

Discussion – State wise

Colin

1. HRLN should be willing to allocate to one fulltime person to this subject only.
2. Crisis response – there should be someone to immediately go to PO
3. Extensive Documentation
4. Form of a Committee – lawyer, journalist, activist etc.
5. Create rehabilitation home for victims and their families

Kashmir- Javed

1. Doctors should be trained to do the post mortem examination properly according to legal standards.

2. It is important to start an organization with the goal to "Defend the Defenders."

Colin – is there any doctor who is trained in post mortem examination standards? Keep in mind. We need the best scientific theory and best ideas for examination for a PIL. Is there a group that can do rehabilitation?

Javed – There are too many victims.

Colin – Let us start.

Nagaland

Colin – Can you have one lawyer do exclusive work on torture? Or is there a place that will have a rehabilitation center? Such as a small hospital etc. Tell me in one month.

Nagaland – We can find out. We need an awareness program for these torture programs and practically teach the people.

Goa

Our doctors need some training about WHO guidelines – they do not know what procedures to follow. We need a group that comes together of different professions, we can do this in Goa.

Triti- Meghalaya

Example 1 - There were many people who were gunned down in a meeting who were student activists. The police said that there were murdered in a crossfire, but the media found that the boys were shot in the head. The families did not want to proceed because the police will always win.

Example 2 - There was the murder of a 12th standard student. The student saw a murder and went to police station to report, he was taken to the police custody. He was crippled because of the abuse in the police cell. The lawyer left. Dipti approached the police, he said that there is no evidence of torture. He was taken to juvenile home, went to lock-up at eighteen, and then went insane.

Colin – says we need a professional group with a good reputation, than the families will be willing to bring the cases. We need documentation of the winning of cases. We need a coordinated group who is part of a national network.

The moment you saw the boy you have to go to the network. We will create a mechanism to have resources/people to help.

First meeting will be in Meghalaya.

Assam

We are committed to do anything required. It is possible to have a trauma center, we have established. There are two lawyers there as well.

Colin – There are hundreds of cases in Assam. We have to keep our commitment to help torture victims in the long term.

Manipur

We don't have any resources to start trauma center. We will try.

We cannot obtain post-mortem report officially, they cannot share the information they get permission from court. Until charge sheet is filed you can't get post-mortem. It is a problem here. In Assam, you can get post-mortem before charge sheet.

Colin – we need to get provision which is stopping the getting of the post-mortem – this should be challenged in the High Court. We also need to get this report soon, it should not be delayed. Let's find out what the international standards for post mortem examinations are.

Kerala

I can commit to do networking and work. State Human Rights Commission is not working to meet people's needs, so we are working with them to fix this.

Colin – Kerala unit is weak; you have to commit to fix this and commit to do more work on torture.

File PIL to set up Human Rights Court. Social legislation will have "may" interpreted as "shall." Go to High Court and file this PIL.

Utter Pradesh

Three copies of post-mortem examinations are given before charge sheet is given.

Colin – keep one full time person for torture.

Bihar

We have a network but we don't have rehabilitation center. We have a network of lawyers, doctors etc.

Colin – we have to work with all organization when dealing with torture victims.

Jharkand

There is no problem in getting post-mortem exam, if we don't get it in 15 days, then we ask the doctor what the problem is. It will reach the court and thanadhar, who will then show it to the victim.

We have a very good network so police is scared to torture.

Discussion on the two bills- what are the amendments?

Colin Gonsalves

After the Bombay attacks what was the main demand from the middle class got who went mad. National investigation agency and the UPIA. Human activists do not say that terrorists should not get the Act. But all political parties must immediately then provide protection to the politicians. The slogan is security for the people and not the politicians. What is the difference between the CBI and NIA. CBI is a NSI. Today the CBI has to take permission before going into the state. NIA in every state. You have to just change the law merely amend it.

People think if you change in the law will they will be safer. POTA angered the public because they thought it would make them unsafe. The Supreme Court upheld it which made the people angry. It was a strong law, but public got upset. We wrote a book on the topic called "Terror of POTA." Does a strong law result in safety?

What is the most important thing for public safety?

Suggestions:

1. Intelligence should be strong.
2. Strong law.
3. Social strong.

I was debating with Arun Jaitely. Arun Jaitely was talking about strong law. It is important for us to know how to debate people with his point of view. Here are some relevant arguments below:

1. *Police reform will strengthen the people.* The police is non-professional – they should be able to conduct blood testing, DNA testing, finger printing etc. In addition, law and order should be separated from the investigation. *We want a 'police reform law' to be 'strong law'.*
2. Why is that BJP and Congress not saying that we want police reform? Because they will lose the election if they advocate for police reform. VIPs don't want to lose their police force.
3. ***Strong law is correct investigation - weak law is to conduct torture.***
4. Second in the ULPA Act – The police say we need time to complete investigation so there is a proposal to increase remand to 120 days. After 9/11, in the US, it is only 48 hrs. In UK it is only 28 days and they wanted to increase it to 42 days but there was a lot of public outrage.
5. Indian criminal law is the harshest and strongest in the world without the amendment. Even in search and seizure is illegal in India it is admissible in evidence. Remand of 90 days remand is the worst in the world.
6. If you are caught with weapons, bombs and evidence etc. it is presumed that you are a terrorist by the judge. Before the amendment, all the provisions of POTA have been added already.
7. If there is proper recruitment of police officers and if the ministers do not take bribes from police officers, with the existing system the people will become safe.
8. India is a strong and great country but it has become weak, but there is no unity. Why? Because like the British the Indian politicians are using the divide and rule policy by creating divisions among the people in order to get votes.
9. On national security issues the Congress and BJP have nothing to say? What we need security of nation, security of the masses and not security for big corporations and politicians. What about the security of the slum dwellers, the villagers, and the dalits. Argue from the point of view of the working class.

A human rights activist must develop a strong and effective perspective. It is very important.

Kirity Roy



Practically these bills have been passed by the Parliament. Under the NIA any constable can take charge anywhere in the country. An accused can be kept in the custody for 180 days without production.

One point from the people from Kashmir- UNO passed a resolution on Human Rights defenders. At the UN level, the government of India is sensitive if Indian cases come out in the public, because it may affect their ability to get funding.

Our goal should be for ratification of UN CAT and ICC.

We want to finalize the title of this program: **“Programme Against Custodial Torture and Impunity.”** All India office will be at the MASUM office in West Bengal. The office address will be HRLN office, Masjid Road. Mr. Jai Singh will be involved in this work and members of HRLN will be involved in this program.

Goal: Eradication of custodial torture from the society and impunity should not persist.

Objectives:

1. Fact finding and monitoring of custodial violence
2. Medical and psychological assistance to survivors, witnesses and families.
3. Anti-torture advocacy and lobbying for immediate ratification of UN CAT and ICC.
4. Campaign against all Special Power Acts, Preventative Detention Act including unlawful activities criminal bill
5. Making the HRIs of this country more effective and responsive in order to comply with Vienna Convention.
6. Newsletter on criminal justice system.

This program will be launched in January 2009.

All the states agree to launch the book “State Terrorism” sometime in January 2009.

Recommendations – Legal

- File a PIL which holds doctors to the correct standardized method for post-mortem medical examination in custodial torture cases.
- Analysis of international standard for post-mortem exams.
- Manipur – They will have to go to the High Court and challenge the provision which stops them from getting post-mortem reports before charge sheet, if there is such a law. They can also challenge them if there is a significant delay in receiving the post-mortem report in time.
- Kerala -File PIL to set up Human Rights Court.
- Criminal law training for human rights activists.

Recommendations – Non-Legal

- Set up committee of people to be available to go to the prison immediately upon hearing about any torture case. This committee must be made of people from different areas, such as journalists, doctors, lawyers, activists etc. in each state.
- Create a stronger network of organizations working together on torture related issues.
- Create a rehabilitation home for victims and their families in each state.
- Create a mechanism to protect human rights defenders nationally.
- Doctors need training about how to conduct custodial death post-mortem evaluations in keeping with the WHO guidelines.
- There needs to be strict standards/guidelines which doctors must follow in cases of custodial torture.
- Create a mechanism where there is transparency with the examinations, reports and methodology which the doctors create.
- Investigate whether in countries abroad doctors can officially say that torture was involved when examining a post-mortem case.
- Find doctors who are experts on post mortem examinations standards.
- Form an awareness group to help disseminate and train activists and lay persons in the field of custodial torture.
- Allocate full-time person to work on torture cases alone in each state.
- Learn how to debate with the public about human rights issues in an effective way.