

Workshop on Custodial Torture at Meghalaya

The workshop for Meghalaya state on Programme against Custodial Torture and Impunity was held at Elshwar School premises in Shillong from 6th February to 7th February; the Meghalaya Human Rights Organization (MHRO) was the organizers of the same. Mr. Kirity Roy, the national Convener of the said project and Secretary of MASUM was present as resource person, Mr. Jai Singh of HRLN was also present to monitor the programme and Mr. Biplab Mukherjee of MASUM was there to assist the resource person during the session and on strategic parts of the programme.

Ms. Irene Hujume welcomed the participants and informed the house that the initiative is in primary in nature and made a brief introduction about her organization; MHRO and its fields of activities, in her brief speech she said that the justice delivery is very slow in Meghalaya and police and judiciary both are equally responsible for the same.

57 persons registered them as participants; among them majority were women and a good number were practicing lawyers, law students and members from civil society organizations. Apart from Meghalaya, a few participants were there from Arunachal Pradesh, Manipur and Assam. Basically they were the activists from HRLN's state chapter.

Then the workshop was officially inaugurated by Mr. Sanbor Shullai, Deputy Speaker of Meghalaya Legislative Assembly and Member of Legislative Assembly from Laban. He thanked the organizers for inviting him to inaugurate the workshop and opined for judicial reforms, he further said that the corruption within criminal justice system enabling affluent to manipulate judicial and other related proceedings. He stressed for awareness generation initiative among the common mass.

Mr. Kirity Roy in his introductory speech said that our is a vast country with a voluminous Constitution and it had been amended for nearly 100 times, though the Constitution and Indian Penal Code failed to define torture yet. It is an example of insensitivity of legislation. He referred about the fact that the India government got highest votes and got elected in United Nations Human Rights Commission but not even ratified the Convention against Torture, though signed way back in 1984. He also pointed out on the diversities of our country and its regional nature related about the criminal justice system's practices and problems. According to him the Criminal Procedure Code has been amended in 1973 with an objective to separate the judiciary from executive but still it is a distant dream. In Meghalaya, executive magistrates are performing the duties of judicial officers. He said now the time has come while the citizen should have to challenge the judiciary and legislation about this rampant and gross impropriety. He also drew the schedule for coming two day with subjects; as criminal justice system, law and strategies to evolve with to address the issue.

Mr. Jai Singh of HRLN then in brief stated about the objectives of the programme and wished for a network which can strategize for victims meeting, providing medical and legal assistance to the victims and media attention.

All of the participants then introduced themselves with their commitments for the forthcoming initiative. Ms. Hasina Kharbhih; Impulse NGO Network, Mr. Sumar Sing Sawian; Indigenous Peoples' Association and Ms. Fenella L Nonglait; Vice Chairperson of Meghalaya State Law Commission were some of the distinguished participants with few activists who are physically challenged and working on the disability rights. While introducing themselves they all talked about their specific area of work but Ms. Fenella categorically pointed her version on separation of judiciary from executive and Mr. Sumar Sing Sawian put an in depth opinion on the historicity, formation and very uniqueness of Meghalaya and its people.

Then a constructed interactive session on different subjects/issues of criminal justice system, specifically related with torture, has been discussed, while Mr. Kirity Roy introduced the components with its legal meaning and related delinquencies, the discussed components were custody, arrest, torture, police, prosecution, lock up, prison, magistrate, court and government hospitals. Many of the participants from different states made the house acquainted with practices in their respective states. Then the house discussed about failure of criminal justice system to address torture in the country. Mr. Kirity Roy facilitated the whole process as resource person.

The next issue was documentation of incident in a proper and constructed fact finding questioner. A proposed fact finding format has been produced before the house, the questioner has been developed by the MASUM.

Mr. Kirity Roy then exhaustively detailed the fact finding questioner and spoke about the importance of such questioner and filing of the same which is not only required for documenting torture incidents but also to intervene on these incidents. He discussed the role of court/ judiciary. It drew a lot of interaction and a detail discussion on in any given condition or preposition, whether an accused having the right to defend properly before a court of law; irrespective of the gravity of crime as according to the accusation.

Ms. Poonam Yadav, a leading advocate and additional public prosecutor strongly defended the position of having proper facility of defense for all and strongly objected to capital punishment.

07.02.09, the next day was totally devoted for strategy and planning to carry forward the initiative. Before the initiative of participatory process to strategize the programme in Meghalaya, a brief presentation on UN mechanism and other intervening process relating with international human rights organizations was made by Mr. Kirity Roy. In this context he imparted an analytical opinion on article 1 of United Nations Convention against Torture and fixes the nature of the incidents which will be taken up by the programme as an incident of torture. In this list house decided to incorporate the police

torture, custodial violence, police atrocities during eviction, extra judicial killings, custodial deaths, illegal detention and enforced disappearances.

After taking consent of all present for their association with the programme the under mentioned resolutions have been taken up.

- 1. 3 fact findings in every month with detail documentation and complaint from the victim/ family of the victim/ witnesses will be done and obtained.**
- 2. Meghalaya Human Rights Organisation can make district and state level complaints**
- 3. National Office will make complaints before the national/ regional/ UN/ international bodies. MHRO will be furnished by the complaints made within a fortnight**
- 4. MHRO has to make satisfied with their fact findings and documentation to national office, after national office nod it will be accepted as a fact finding and Rs. 1000 will be given to the fact finder for conveyance.**
- 5. Every fact finding has to be done within the 5 days of the occurrence**
- 6. Programme will provide legal support to the victim in criminal defense as well as complaint under 156 (3) & 200 Cr. P.C.**
- 7. MHRO has to keep files in a proper way in their office**
- 8. Programme has to explore for medical assistance to victims by networking with other resources**
- 9. State office has to keep contact details of district officials and every district key person has to open an email ID**
- 10. Translation of posters on torture and other rights; published by HRLN should be translated in local languages and used as resource material during the district and village level awareness campaigns**

At the end, Ms. Irene made a vote of thanks and assured the house that with assistance from HRLN and MASUM; the initiative will be more fearless and can address the issue with more vigor.