

ENSURE JUSTICE TO JUVENILE TORTURED BY POLICE: THRD ALLIANCE

In yet another incident of police torture in Nepal, a 14-year-old boy who suffered from physical and mental injuries, had to be admitted to the Intensive Care Unit (ICU) of a hospital in Jhapa district. Although victim Sandip Prasai was already discharged from the hospital on 8 February 2018, he still suffers from panic attacks. According to his family, he will be taken for further treatment to BP Koirala Institute of Health Sciences (BPKIHS) based in Dharan.

Expressing its serious concern over the incident, THRD Alliance urges the government to take legal action against the members of law enforcement agencies responsible for torturing the juvenile, and ensure justice, including free treatment and proper compensation for the victim.

We also call upon National Human Rights Commission and the Office of Attorney General to intervene into the case for justice of the juvenile.

Incident details

On 1 February 2018, two police constables, who were in plain clothes, deployed by Area Police Office of Birtamod, arrested Sandip Prasai, a resident of Birtamod Municipality ward number 4 in Jhapa from the entrance of his house at 9.30 pm. The juvenile, who is a ninth grader, was accused of being a thief and a drug addict.

Following the arrest, policemen took the boy to the women cell of Birtamod-based Area Police Office. According to the witness, the boy was put in the police custody for 2 hours and 15 minutes from 9.30 pm to 11.45 pm and was tortured for half an hour on 1 February 2018. The police beat him on the feet and palm with a plastic pipe, and thrashed on ears and face, as told by the victim. After 11.45 pm, the police officers set him free near his house.

The victim's family informed us that after the boy returned his house at midnight, boy's families took him to a local health facility for primary health care. The next day on 2 February 2018, they admitted him to the Intensive Care Unit (ICU) of B and C Hospital based in Birtamod and he was discharged on 3 February 2018. His families admitted him again on 4 February and the hospital discharged him again on 8 February 2018. The juvenile, who has, however, no physical injuries due to the treatment, suffers from panic attacks.

THRDA Monitoring and Analysis

Human rights officers associated with THRD Alliance monitored the torture incident by visiting the hospital where the juvenile was admitted, and interviewing with him, his father and doctors involved in his treatment and spokesperson of Nepal Police in Jhapa.

The two police constables as informed us by the witness and the victim are Sujan Shrestha and Shyamdev Yadav. The victim told our monitors, "The police beat me on my feet and palms with a plastic pipe, and also thrashed on my ears and face".

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The police action for torturing the child violates the rights of children as guaranteed by the following provisions under Article 39 (Right of the Child) of 'The Constitution of Nepal 2015':

(7) No child shall be subjected to physical, mental or any other form of torture in home, school or other place and situation whatsoever.

(8) Every child shall have the right to juvenile friendly justice.

Our monitoring found that the police did not follow proper procedure while arresting Sandip. Since the arrestee is a juvenile, he should have sought permission or consent from his parents while taking him under their custody. His arrest, which has not been registered with Area Police Office of Birtamod, may be taken in the form of abduction. The police also erred since they neither registered the arrest of the boy nor issued any arrest warrant. They have failed to comply with the arrest procedure as guaranteed by The Constitution of Nepal 2015, under the Article 20 (Rights relating to justice).

(1) No person shall be detained in custody without informing him or her of the ground for his or her arrest

On top of that, the juvenile, even after the arrest, should have been taken to a correctional home as per the law.

Against the milieu and as per the monitoring findings, THRD Alliance demands that the government must initiate the proper investigation into the allegation of torture incident and punish the accused members of the law enforcement agency if found guilty.

Deputy Superintendent of Police (DSP) Jitendra Kumar Basnet, who is also the spokesperson of Nepal Police in Jhapa informed THRD Alliance that the District Police Office has initiated the investigation process after the victim's family filed a complaint to the police office. However, the victim's family were not informed about the details of investigation process and particular action against the accused police personnel. We want this investigation process to be transparent, credible and independent to avoid any conflict of interest.

We also urge National Human Rights Commission and the Office of Attorney General that justice to the juvenile must be ensured with legal action against the perpetrators and proper compensation to the victim along with treatment expenses incurred during the treatment.