

A. RAJA

Member of Parliament
(Lok Sabha)

Chief Whip

DMK Parliamentary Party in Lok Sabha



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July 2, 2020

Respected Shrim. Amilk Shahji,
Vanakkam.

It is unfortunate that contrary to the optimistic statement made by yourself in good faith and trust on the 50th foundation day of the Bureau of Police Research and Development that 'the age of the third degree torture by police was over' the incident of the custodial death of one Jayaraj and Bennix, Father-Son duo at the Sathankulam Police station in the Tuticorin District of Tamil Nadu have raised the eye-brows due to the sheer scale of torture and violence perpetrated by the Tamil Nadu police. Custodial death is one of the worst crimes in a civilised society governed by the rule of law.

The Hon'ble Supreme Court of India had categorically held in D.K. Basu Vs. State of West Bengal (AIR 1997 SC 61) that, the right of the life of a citizen cannot be put in abeyance on his arrest and a citizen of this country does not shed off his fundamental right to life as enshrined in the Article 21 of the Constitution when the policeman arrests him. The court issued detailed guidelines/propositions to safeguard the detenus. These guidelines were laid down to protect the rights of an arrestee as well as to curb the unauthorised arrests or tortures by the police officers. Arrests should be made to secure the orchestration of law, but the safeguarding of human rights- be it of an innocent or an accused- is paramount.

In 1994, the Law commission of India, after taking note of abysmal rates of conviction in cases of custodial Violence, had recommended the insertion of the provisions vide Section 176(1A) and 176(5) in the Criminal Procedure Code in its 152nd report. They were inserted a decade later in 2005 through an amendments by the parliament enabling a parallel Judicial inquest as well as enquiry apart from the police investigation.

In addition to these efforts, in view of the Torture Declaration and the torture convention adopted by the General Assembly of United Nations in 1975 and 1984 respectively, the prevention of Torture bill, 2010 was passed in the Lok Sabha.

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सत्यमेव जयते

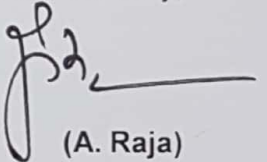
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However, since it was felt that still issues were yet to be addressed to prevent such inhuman brutality, the Law commission headed by Justice(Rtd) B.S. Chauhan in its 273rd report recommended the implantation of the Torture Convention by way of a new bill namely, " The Prevention of Torture Bill, 2017". It will be noteworthy to recall few sentences from the report, "While deciding on as to what amounts to torture by a public Servant, the commission had suggested definition of torture wide enough to include inflicting injury, either intentionally or involuntarily, or even an attempt to cause such an injury, which will include physical, mental or Psychological injury" Even after considerable time has elapsed from the date of Law Commission report, the prevention of Torture Bill, 2017 has not been introduced in the House of the Parliament.

In these circumstances, on behalf of the DMK, it is prayed that the Prevention of Torture Bill, 2017 may be processed Judiciously and enacted in the parliament with additional provisions (if necessary) to address the issues emerged in the Sathankulam, (Tamil Nadu) incident in the forthcoming session itself or promulgate an ordinance through presidential route.

With kind regards,

Yours sincerely,



(A. Raja)

Shri Amith Shah,
Hon'ble Minister for Home Affairs,
Government of India,
North Block, New Delhi-01