

AMNESTY INTERNATIONAL

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India: Concerns with Protection of Human Rights Act

Amnesty International is writing to the Government of India outlining its concerns regarding the amendments to the Protection of Human Rights Act (PHRA). The human rights organisation understands that these amendments have been passed by the Rajya Sabha (Upper House of Parliament) today.

Amnesty International welcomes that the amendments suggested to section 12 of the PHRA would enable the National Human Rights Commission (NHRC) to visit prisons without advance warning or permission.

However, in its letter the organisation highlights a number of concerns about amendments which would weaken rather than strengthen the framework within which the NHRC operates.

These concerns include:

- the failure to address restrictions imposed on the NHRC's ability to investigate abuses committed by the armed forces under section 19 of the PHRA;
- the inability of the NHRC or State Human Rights Commissions (SHRCs) to investigate conditions in institutions under the control of the Central Government, such as interrogation centres run by the armed forces;
- the inability of the NHRC to investigate complaints which are over a year old;
- new provisions which allow for the transfer of cases from the NHRC to SHRCs. The latter often lack the resources and skills to investigate complaints effectively and often function in an ad hoc manner;
- the failure to make explicit mention of the "Paris Principles" which are the standards by which the NHRC should be assessed. (These principles set out areas of competence and responsibilities for national institutions as well as guidelines for "composition and guarantees of independence and pluralism" and "methods of operations").

Amnesty International is further concerned to learn that the NHRC's own Non Governmental Organisations (NGO) Core Group and domestic human rights organisations were not consulted on the Bill.

The organization is disappointed that the amendments included in the Bill do not appear to reflect the pledge made by the Government of India prior to the election of the UN Human Rights Council in April 2006 that it "*will continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all of its citizens*". Amnesty International believes that the Government of India must move beyond rhetorical promises to action by ensuring that the NHRC is able to effectively assist in the promotion and protection of human rights in India.

Amnesty International understands that the PHRA will now be submitted to the Lok Sabha (Lower House). The organization urges the authorities to ensure that the concerns highlighted by domestic human rights organisations as well as Amnesty International are urgently addressed.

Background

In November 1998 Amnesty International submitted its recommendations to the Advisory Committee – constituted under the chairmanship of Justice Ahmadi -- which had been established to review the PHRA (Amnesty International Index: ASA 20/026/1998). The review of the Act was a welcome step in light of repeated calls by national and international bodies to address and remedy the law's limitations. It was hoped that the amendments would empower the NHRC, ensure its independence and effectiveness. The amendments which have been passed today however fail to reflect the range of recommendations made by the NHRC itself, the Advisory Committee, as well as other national and international human rights bodies.