

## **Public Statement**

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### **India: New ordinance raises concerns**

*Amnesty International is concerned at reports that a new ordinance, meant to grant enhanced powers of arrest and detention to law enforcement agencies, has been approved by the Union Cabinet and will be presented within a few days to the President, who has the constitutional right to ratify it.*

*The text of the ordinance has not yet been published, but the organization considers that the procedure chosen for enacting the new text is a matter of concern in itself. It would bring into existence provisions of a bill (the Prevention of Terrorism Bill) which was finally not even considered for discussion in the parliament last year, following sharp criticism from civil society and the National Human Rights Commission (NHRC).*

*The NHRC observed on that occasion that “the main problem facing the country today related to proper investigation of crimes, efficient prosecution of criminal trials and delays in adjudication and punishment in the Courts. However, these problems could not be solved by enacting laws that do away with the legal safeguards which are designed to prevent innocent persons from being prosecuted and punished. Nor can the problem be solved by providing for a different and more drastic procedure for prosecution of certain crimes, for making confessions before the police admissible in evidence contrary to the provisions to the Evidence Act, for raising the presumption of guilt as set out in the Bill, and creating special Courts. These provisions would seriously affect human rights guaranteed under the Constitution and*

*violate basic principles of criminal jurisprudence as internationally understood.”*

*Amnesty International believes that the government’s choice to enact a new but apparently similar text through an ordinance, before an opportunity is given to the human rights movement to discuss it and before it passes through the scrutiny of the parliament, fails to consider the crucial role consultation should have in the discussion of any security legislation. It would also fail to address the concerns openly expressed by different sections of civil society during the discussion of the Prevention of Terrorism Bill.*

*The organization is further concerned to learn through media reports that the definition of “terrorism” and of “terrorism-related” crimes contained in the new ordinance may be too vague. In times like these, when the tense international situation is likely to stimulate debate in the country, such a wide definition might expose non violent human rights defenders, minority communities and the media to a discriminatory enforcement of the new ordinance.*

*The safeguards reportedly proposed in the new ordinance, including a shorter time for the confirmation of the First Information Report and for the period of police remand, and the inadmissibility in courts of confessions made to an officer below the rank of Deputy Superintendent of Police would, if confirmed, still not contain the required guarantees to ensure that any misuse of the ordinance would be quickly redressed.*

*Amnesty International believes that the current political climate, when international tensions tend to be reflected within the country, should not justify the weakening of guarantees for the procedures of arrest, detention and interrogation and for bail provisions in any security legislation, in order to protect minority communities, non violent*

*opposition groups and human rights defenders from any form of victimization.*

*On 18 October the organization sent an appeal to the President of India highlighting these concerns and urging him not to give his consent to the enactment of the proposed ordinance.*

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