

Amnesty International

Oral statement on the outcome on India under the Universal Periodic Review

10 June 2008

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Mr. President,

In the interactive dialogue, the Indian delegation highlighted a range of measures to protect human rights in the country. However, Amnesty International would like to take this opportunity to comment on their implementation. Amnesty International has concerns regarding two areas raised during the review: the National Human Rights Commission's lack of independence and authority, and the continuing impunity of armed forces under the Armed Forces Special Powers Act.

Amnesty International questions the statement by the government that the National Human Rights Commission of India is as powerful and independent as India's Supreme Court. Amnesty International has had concerns about its independence and authority since its establishment in 1993. These concerns were compounded by the August 2006 amendments to the Protection of Human Rights Act, which authorizes the Chairperson of the Commission to delegate powers and functions to its Secretary General, a government appointee.

The National Human Rights Commission has indicated that the government often fails to act on its recommendations to address serious human rights violations and that its own powers to enforce its recommendations are inadequate.

Amnesty International calls on the government to uphold its commitment to establish a national human rights institution in line with the Paris Principles including by giving the National Human Rights Commission more authority, a broader mandate and adequate resources.

Mr. President,

During the interactive dialogue India stated that it would deal expeditiously with any violations by the armed forces. However, the Armed Forces Special Powers Act continues to grant de facto impunity to members of the armed forces. Section 7 of the Act specifies that "no prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any

person in respect of anything done or purported to be done in exercise of the powers conferred by this Act". This is compounded by provisions in Sections 45 and 197 in the Code of Criminal Procedure, 1973 which stipulate that no member of the armed forces or the police can be prosecuted without the prior sanction of the central and state government.

Justice for victims of violations facilitated by the Act is further undermined by the inability of the National Human Rights Commission to conduct its own investigations into alleged violations committed by the armed forces. Section 19 of the Act allows the Commission only to seek a report from the government on such allegations rather than conduct its own investigation. This confines the Commission to the government's version or the version of events given by the alleged perpetrators themselves.

Amnesty International calls on the government to commit to ending impunity for human rights violations by the police and the security forces and to remove all legislative provisions which might prevent accountability for such violations.

Thank you Mr. President.

MORE INFORMATION

- See a representative from Amnesty International deliver this statement at the Human Rights Council. Watch the video on:
<rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610am3-eng.rm?start=00:30:40&end=00:33:00>
(UN webcast - www.un.org)
- This oral statement is based on a written statement prepared by Amnesty International to the 8th session of the Human Rights Council. See the statement at: <http://www.amnesty.org/en/library/info/ASA20/012/2008/en>