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India: Government should ensure torture law meets international standards

Amnesty International is today urging the Indian government to help end the routine torture of those held by police and prison authorities by ensuring the new Prevention of Torture Bill in India, 2010 meets international standards before adopting it.

The Bill, which is expected to be considered by the Select Committee of the Upper House (Rajya Sabha) of the Indian Parliament on 17 October 2010, will address many forms of torture routinely employed by Indian police and prison officials. The Bill was passed by the Lower house (Lok Sabha) on 6 May 2010.

“If India is serious about its aspiration to be a regional and global power, it needs to address the issue of torture and ensure that the human rights of those it arrests and detains are protected”, said Madhu Malhotra, Amnesty International’s Asia-Pacific Deputy Programme Director.

Amnesty International says the Bill must be amended to bring it in line with international standards, including limiting torture to practices causing physical suffering, keeping a six-month deadline for making complaints about torture and not annulling current provisions which allow law enforcement officials and security forces virtual immunity against prosecution for perpetrating torture and recommends solutions.

Torture in state detention is endemic in India, involving a range of practices including shackling, beatings and the administration of electric shocks. Disadvantaged and marginalized groups including women, Dalits, Adivasis and suspected members of armed opposition groups are those most commonly abused.

According to official reports, 127 people died in police custody in India in 2008-09, although the figure could be higher since several states failed to report such deaths.

Torture is also reportedly widespread in prisons. The National Human Rights Commission registered 1,596 complaints of torture of prisoners in 2008-09. The number of deaths due to torture is not routinely reported.

The vast majority of cases of torture inflicted on detained people in India are unlawful and punishable under current Indian law, however prosecutions are extremely rare.

Law enforcement personnel enjoy virtual immunity from prosecution for torture and other human rights abuses, and prosecutions remain sporadic and rare. In ‘disturbed areas’, such as Jammu and Kashmir and the north-eastern states where the Armed Forces Special Powers Act is in effect, Armed Forces personnel enjoy additional immunity protection and there is virtually no accountability for violations.

In 1996, the Indian Supreme Court issued specific guidelines to authorities safeguarding detainee’s rights in all cases of arrest or detention, however they are seldom enforced. There is also a lack of effective systems to independently monitor the conduct of the authorities with regards to torture and other forms of mistreatment.

The Prevention of Torture Bill in India, 2010 is meant to bring India closer in line with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. India signed the Convention in 1997 but has yet to ratify it.

“The Indian government should adopt this Bill to help address key issues, but more needs to be done to ensure India is able to meet international conventions against torture”, said Madhu Malhotra. “The Indian government further needs to ratify the UN Convention Against Torture ensuring people are no longer mistreated while they are detained”.

Background

Amnesty International has submitted a briefing paper about the Bill to the Select Committee of the Upper House of the Indian Parliament as part of a consultation exercise.

The briefing paper can be found at: <http://www.amnesty.org/en/library/info/ASA20/030/2010/en>