



PRESS RELEASE

International Day in Support of Victims of Torture ***Nothing can justify torture and ill-treatment under any circumstances***

INDIA: The Government, Parliament and the NHRC need to work hard to make the abolition of torture a reality through law

New Delhi – Geneva, 26 June 2010. The Government of India has just got passed the Prevention of Torture Bill 2010 before the *Lok Sabha* (Lower House of Parliament) and is to introduce it in the *Raja Sabha* (Upper House) for its approval. On the occasion of the International Day in Support of Victims of Torture, the World Organisation Against Torture (OMCT) and its Indian member organisation, People's Watch, wish to point out that this Bill falls sharply short of expectations from the human rights community both from within and outside the country and urgently call upon the Government to immediately reconsider its present version of the Bill.

It is time that the Government considers the expansion of the 'definition of torture' to definitely conform to the obligations of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). Although custodial deaths are highly prevalent in almost all states within the country, the Prevention of Torture Bill 2010 makes no reference to death as a result of torture. OMCT and People's Watch jointly reject the proposed maximum punishment of 10 years imprisonment under the Bill for torture as being highly inadequate and further reject the six months limitation prescribed under the Bill. There is no reference to "other cruel, inhuman or degrading treatment or punishment" anywhere in the present Bill, nor is intimidation and coercion. This means that acts of serious violence – that do not constitute torture - will not be covered. It equally means that death threats including to a victim's family may not be covered.

In order that the Bill is compliant with the UNCAT, OMCT and People's Watch urge that at least the following provisions are included 1) to ensure that an order from a superior officer or a public authority may not be invoked as a justification for committing torture; 2) for providing an effective mechanism to promptly investigate any allegation of torture; 3) for providing the right to compensation to the victims of torture and; 4) to ban the use of evidence obtained through torture in the courts.

OMCT and People's Watch would like to take this occasion to remind the Government that on the basis of a study undertaken by People's Watch and completed in 2008, it had been pointed out that the projection of torture and ill-treatment in India worked up to almost 1.8 million cases a year calling for an urgent and effective law that also incorporates the rights of victims and witnesses.

OMCT and People's Watch also wish to remind the National Human Rights Commission (NHRC) of India on its role under the Paris Principles of 1993 to advise the Government on matters related to human rights as well as its own role under Sec 12(d) and (e) of the Protection of Human Rights Act 1993 to address the Government on its present Prevention of Torture Bill 2010. Indeed, the NHRC was also consulted by the Government of India prior to the drafting of the present Bill. Remaining silent on such a Bill, particularly in the context of thousands of victims of torture and custodial deaths patiently waiting for many years before the NHRC for its final recommendations, will only indicate the culpability of the NHRC. It is also time that the NHRC urgently studies in what forms the present Bill falls short of the UNCAT and firmly establishes its 'independence' under its new Chairperson, Justice K.G. Balakrishnan, by calling upon all Parliamentarians to reject the present Bill and refer it to a

Parliamentary Committee for deeper consideration with the participation of the public and civil society organisations.

OMCT and People's Watch also wish to urge the NHRC on this specific day to recommend to the Government the implementation of the Minimum Interrogation Standards (MIS) contained in the 'Reference on Torture' passed by the Asia Pacific Forum of National Human Rights Institutions (NHRIs) in the year 2005 to which the NHRC has also been a party. The MIS may well in the meantime be introduced by the NHRC as part of its own guidelines so that adherence to the same may actually contribute to the Prevention of Torture throughout the country.

Finally, it is time for the NHRC to also call for an urgent meeting of its Deemed Members along with the Chair of the National Commission on the Protection of the Rights of the Child to discuss this present Bill and obtain their combined support to opposing the present form of the Bill to Prevent Torture in India of 2010.

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