

20 September 2012

India fails to comply with key recommendations of UN Human Rights Council - ICJ

The Indian government must do more to comply with key human rights reforms suggested by the United Nations Human Rights Council today, the International Commission of Jurists said. The ICJ particularly criticized India's continuous failure to tackle the widespread problems of torture and the unaccountability of its armed forces.

Appearing at the second Universal Periodic Review of its human rights record, India accepted only 67 of the 169 recommendations put forward by the UPR Working Group.

"Regrettably, many of the key issues and recommendations put forward today were the same issues noted in 2008, indicating little or no improvement over the last time India appeared at the UPR, four years ago," said Sheila Varadan, ICJ's International Legal Advisor for South Asia.

"Particularly disappointing have been India's failure to address the epidemic of torture in the country, and to address the ongoing, systematic impunity of its armed forces."

Of the eighty countries participating in the Review, twenty-two States strongly urged India to immediately ratify the United Nations Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (CAT). Despite signing the Convention in 1997, India has failed to enact any legislation criminalizing torture in domestic law.

Torture and ill-treatment are common and widespread in India. According to the Report of the Working Group on Human Rights in India, a coalition of human rights organisations and independent experts, 1.8 million people each year are victims of police torture and violence in India. Citing the National Human Rights Commission, the Report also indicated that as many as 43 people in police custody or prison died everyday between 2001 and 2010 as a result of torture.

"Torture and other forms of cruel, inhuman or degrading treatment are absolutely prohibited under international law. Under no circumstances is torture or any form of involvement in it, ever legal. India must adhere to its obligations under international law and enact specific legislation to criminalize torture and other forms of ill-treatment by ratifying the international Convention Against Torture," said Sheila Varadan.

The Indian government has previously claimed that torture is already criminalized under Indian penal law. In fact, the provisions in the Indian Penal Code, 1860 (sections 330 and 348) do not specifically criminalise torture, rather they penalize certain acts that involve torture. Further,

police officers, armed forces personnel and all public servants are largely immune from any prosecution, unless the government approves prosecution.

In 2010, India tabled *The Prevention of Torture Bill* in an attempt to ratify the CAT. Despite significant shortcomings in the Bill, it was passed by the Lower House (Lok Sabha). The Upper House referred it to a Select Committee, which proposed amendments to make the Bill more compliant with the CAT. The Revised Prevention of Torture Bill has been pending before the Ministry of Home Affairs for over a year.

"If India does not institute substantial changes in The Prevention of Torture Bill in its current form, they will fail to fulfill their obligations under the UN Convention and ultimately not be able to meet their commitment to ratify the instrument. Unfortunately, the Indian government shows no urgency to enact a revised Prevention of Torture Bill," said Sheila Varadan.

India also rejected the recommendation to repeal the Armed Forces Special Powers Act (AFSPA), which immunizes armed forces from accountability and has enabled Armed Forces to perpetrate human rights abuses in the Northeast of the country and Kashmir.

"The government's reluctance to address the issue of systematic and widespread impunity under the AFSPA, despite the numerous recommendations by international bodies, Government appointed committees and UN Special Rapporteurs demonstrates a tragic failure to listen to the consistent criticisms from inside and outside the country, " says Vrinda Grover, Senior Legal Advocate for the ICJ.

The Universal Periodic Review is an interactive process in which UN member states are reviewed for their human rights record every four years.

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