

Bill No. 58 of 2010

THE PREVENTION OF TORTURE BILL, 2010

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BILL

to provide punishment for torture inflicted by public servants or any person inflicting torture with the consent or acquiescence of any public servant, and for matters connected therewith or incidental thereto.

WHEREAS India is a signatory to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

AND WHEREAS it is considered necessary to ratify the said Convention and to provide for more effective implementation.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Torture Act, 2010.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by
5 notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

45 of 1860.

(a) words and expressions used in this Act shall have the same meanings respectively assigned to them in the Indian Penal Code; and

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(b) any reference in this Act to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

Torture.

3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally does any act for the purposes to obtain from him or a third person such information or a confession which causes,—

(i) grievous hurt to any person; or

(ii) danger to life, limb or health (whether mental or physical) of any person, 5

is said to inflict torture:

Provided that nothing contained in this section shall apply to any pain, hurt or danger as aforementioned caused by any act, which is inflicted in accordance with any procedure established by law or justified by law.

Explanation.—For the purposes of this section, 'public servant' shall, without prejudice 10
to section 21 of the Indian Penal Code, also include any person acting in his official capacity 45 of 1860.
under the Central Government or the State Government.

Punishment
for torture.

4. Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, tortures any person—

(a) for the purpose of extorting from him or from any other person interested in 15
him, any confession or any information which may lead to the detection of an offence
or misconduct; and

(b) on the ground of his religion, race, place of birth, residence, language, caste
or community or any other ground whatsoever,

shall be punishable with imprisonment of either description for a term which may extend to 20
ten years and shall also be liable to fine.

Cognizance of
offences.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no 2 of 1974.
court shall take cognizance of an offence under this Act unless the complaint is made within
six months from the date on which the offence is alleged to have been committed.

Previous
sanction
necessary for
prosecution.

6. No court shall take cognizance of an offence punishable under this Act, alleged to 25
have been committed by a public servant during the course of his employment, except with
the previous sanction,—

(a) in the case of a person, who is employed in connection with the affairs of the
Union and is not removable from his office save by or with the sanction of the Central
Government, of that Government; 30

(b) in the case of a person, who is employed in connection with the affairs of a
State and is not removable from his office save by or with the sanction of the State
Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him
from his office. 35

STATEMENT OF OBJECTS AND REASONS

The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment was adopted by the United Nations General Assembly on 9th December, 1975 [Resolution 3452(XXX)]. India signed the Convention on 14th October, 1997. Ratification of the Convention requires enabling legislation to reflect the definition and punishment for "torture". Although some provisions relating to the matter exist in the Indian Penal Code yet they neither define "torture" as clearly as in Article 1 of the said Convention nor make it a criminal offence as called for by Article 4 of the said Convention. In the circumstances, it is necessary for the ratification of the Convention that domestic laws of our country are brought in conformity with the Convention. This would necessitate either amendment of the existing laws such as Indian Penal Code or bringing in a new legislation.

2. The matter was examined at length in consultation with the Law Commission of India and the then Learned Attorney General of India. After considerable deliberations on the issue, it was decided to bring in a stand alone legislation so that the aforesaid Convention can be ratified. The proposed legislation, *inter alia*, defines the expression "torture", provides for punishment to those involved in the incidents of torture and specifies the time limit for taking cognizance of the offence of torture.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

P. CHIDAMBARAM.

The 19th April, 2010.

LOK SABHA

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to provide punishment for torture inflicted by public servants or any person inflicting torture with the consent or acquiescence of any public servant, and for matters connected therewith or incidental thereto.

(Shri P. Chidambaram, Minister of Home Affairs)

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