

**GOVERNMENT OF INDIA  
MINISTRY OF HOME AFFAIRS  
RAJYA SABHA  
QUESTION NO 681  
ANSWERED ON 08.02.2017**

**Ratification of the Convention Against Torture**

681                      Shri Rajeev Shukla

Will the Minister of HOME AFFAIRS be pleased to state :-

(a) whether Government is aware of a report by Human Rights Watch, 'Bound by Brotherhood: India's failure to end killings in police custody' which states that police officers often bypass arrest procedures and use fatal torture tactics;

(b) if so, whether any remedial action has been taken by Government, if so, the details of such action;

(c) whether Government is planning to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance; and

(d) if not, the reasons therefor?

**ANSWER**

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS  
(SHRI KIREN RIJJU)

(a) & (b) : The Report has not been received in the Ministry of Home Affairs. However, police and public order are state subjects under the 7th Schedule of the Constitution of India and it is primarily the

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responsibility of the State Government /State police and jail authorities to appropriately prevent and ensure non-occurrence of custodial deaths, police atrocities/violation and protect the human rights of the citizens. In view of this, the Central Government does not intervene directly but issues advisories to the State Governments. The NHRC issues guidelines and recommendations to be followed by the States/UTs in all cases of deaths in the course of police action. In addition, workshops/seminars are also organized by NHRC from time to time to sensitize officers in State Governments for better protection of human rights and particularly protection of rights of persons in custody. Further, section 176 of the Criminal Procedure Code has been already amended vide Code of Criminal Procedure (Amendment) Act 2005 to provide that in cases of death or disappearance of a person or rape of a woman while in custody of the police, there shall be a mandatory judicial enquiry. Section 357 of Cr.P.C empowers the courts to grant compensation to the victim and order for payment of cost of the prosecution. The Hon'ble Supreme Court in the case of Dr. D.K. Basu Vs

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State of West Bengal 1997(1) SCC 416 had laid down certain basic requirements to be followed in all cases of arrest or detention, as a measure to prevent custodial violence.

(c) & (d): India signed the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment on 14.10.1997. For ratification of the Convention the domestic laws of India are required to be brought in tune with the provisions of the Convention. The Prevention of Torture Bill was passed by the Lok Sabha on 07.05.2010. While pending in Rajya Sabha, the Bill lapsed on dissolution of 15th Lok Sabha on 18.05.2014. However, the proposal to suitably amend Section 330 and section 331 of Indian Penal Code to define the words "Torture" and "Public Servant" is under active examination in this Ministry in consultation with the concerned Ministries. The matter in respect of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance is also under examination.

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