

**Bill No. XXIX of 2017**

**THE PREVENTION OF TORTURE BILL, 2017**

A

**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 herewith 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 the Parliament in the Sixty-eighth Year of the Republic of India as follow:—

1. (1) This Act may be called the Prevention of Torture Act, 2017.

(2) It extends to the whole of India.

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

Short title,  
extent and  
commence-  
ment.

Definitions.	<p><b>2.</b> In this Act, unless the context otherwise requires,—</p> <p>(a) words and expressions used in this Act shall have the same meanings respectively assigned to them in the Indian penal Code; and</p> <p>(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.</p>	<p>45 of 1860.</p> <p>5</p>
Torture.	<p><b>3.</b> 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 punish or to obtain information from any person, whether in police custody or otherwise, which causes,—</p> <p>(i) grievous hurt to any person; or</p> <p>(ii) danger to life, limb or health (whether mental or physical) of any person, is said to inflict torture:</p> <p>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.</p> <p><i>Explanation.</i>—For the purposes of this section, ‘public servant’ shall, without prejudice to section 21 of the Indian Penal Code, also include any person acting in his official capacity under the Central Government or the State Government.</p>	<p>10</p> <p>15</p> <p>45 of 1860.</p> <p>20</p>
Punishment for torture.	<p><b>4.</b> 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—</p> <p>(a) for the purpose of extorting from him or any other person interested in him, any confession or any information which may lead to the detection of an offence or misconduct;</p> <p>(b) for the purpose of punishing him for any act; or</p> <p>(c) on the ground of his religion, race, place of birth, residence, language, caste or community or any other ground whatsoever,</p> <p>shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine.</p>	<p>25</p> <p>30</p>

## STATEMENT OF OBJECTS AND REASONS

India signed the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (as adopted by the United Nations General Assembly on 9th December, 1975) on 14th October, 1997. To ratify the Convention, it is necessary to enact any enabling legislation to reflect the definition and punishment for “torture”, and bring domestic laws in conformity with the Convention.

2. The proposed legislation, *inter alia*, defines the expression “torture”, and provides punishment for those involved in the incidents of torture.

3. The legislation fulfils India’s commitment, as confirmed to the United Nations, to reaffirm that “torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights.”

4. According to the National Crime Records Bureau, as many as 308 people died in police custody between 2011 and 2013 but less than forty per cent of these deaths led to a case being registered. By providing punishment for the violation of these human rights, the legislation strengthens the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment.

5. Out of 170 signatories to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, India remains one of the only eight countries yet to ratify the Convention. Ratifying the Convention reaffirms the Government of India’s commitment to the protection of basic universal human rights.

6. The One Hundred and Fifty Second Report of the Law Commission on ‘Custodial Crimes’ (1994) had also recommended changes to the law to prevent custodial crimes, including torture.

7. The Supreme Court, in 2017, observed that India’s efforts to extradite suspects from abroad are impeded due to the fact that India does not have an anti-torture law. The legislation, once enacted, will expedite India’s extradition attempts and the due process of law.

8. The Bill seeks to achieve the above objects.

V. VIJAYASAI REDDY

RAJYA SABHA

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*(Shri V. Vijayasai Reddy, M.P.)*