

Parliamentary question + answer

10 January 2012

P-012666/2011

Question for written answer
to the Commission

Rule 117

Peter van Dalen (ECR)

► Subject: Torture and deaths during detention in India

The report ‘Torture in India 2011’, recently published by the Asian Centre for Human Rights and co-financed by the European Commission, states that 14 231 persons died in police and judicial detention between 2001/2002 and 2009/2010. This figure is based on cases reported to the Indian National Human Rights Commission (NHRC). According to the report, the majority of cases are a direct consequence of torture during detention. Moreover, this only represents the tip of the iceberg given that most deaths resulting from torture are not reported to the NHRC. The NHRC also does not have any jurisdiction over the armed forces and does not register cases of torture which do not result in death.

India has not yet ratified the UN Convention against Torture (UNCAT) and does not have any anti-torture legislation. Although a law on this matter has been drafted by the relevant committee in the Rajya Sabha (Upper House of the Indian Parliament), it has not yet been presented by the Government to parliament.

1. What has the Commission done so far to raise the issue of systematic torture and deaths in detention with the Indian authorities and in international advisory bodies?
2. Is the Commission prepared to raise the issue of systematic torture and deaths in detention at the highest level and as a matter of utmost urgency with the Indian Government?
3. Is the Commission prepared to put this item on the agenda of the next EU-India Summit in February 2012 and to reach agreement on anti-torture measures to be adopted in India?
4. Is the Commission prepared, based on the report ‘Torture in India 2011’ and various other publications, to launch an investigation in the context of the GSP Regulation (of which India is the main beneficiary) aimed at establishing whether there is actually proof of systematic human rights violations, and if so, to withdraw India’s trade preferences?
5. Is the Commission prepared to raise this issue as part of the negotiations for an EU-India trade agreement and to make progress on this issue (including the adoption of an anti-torture law in accordance with UNCAT) a condition for the successful conclusion of the negotiations?

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Answer given by High Representative/Vice President Ashton
on behalf of the Commission
(28.2.2012)

The High Representative/Vice President has been following this matter closely and is aware of the Asian Centre for Human Rights' report.

Torture and custodial deaths have been regularly addressed at the annual local EU-India Human Rights Dialogue. During the last Dialogue in 2011, the Prevention of Torture and Rehabilitation of Victims of Torture Bill was discussed and the authorities informed that following its adoption by the Lower House, it was pending with the Upper House. If approved by the Upper House, the Bill would subsequently be adopted and ratification of the UN Convention against Torture would follow. The adoption of the Bill is still awaited and the matter will again be discussed at the next Dialogue on 22 March 2012.

As regards the Generalised System of Preferences (GSP), preferences granted can be withdrawn in cases of "serious and systematic violations" of principles laid down in the core international conventions on human, social and labour rights, on the basis of the conclusions of the international monitoring bodies. Although India has not ratified the UN Convention against Torture, there are UN charter-based bodies that have rights to examine, monitor and report on human rights situations in specific countries.

As regards discussions on a Free Trade Agreement (FTA), the adoption of an anti-torture law is not part of or a pre-condition for concluding the negotiations. The EU aims to include in the FTA a chapter on sustainable development. This should be based on labour-related human rights issues with reference to the ILO's Decent Work Agenda and fundamental rights at work. The EU's approach to sustainable development is based on dialogue and cooperation, coupled with a civil society mechanism. A more general human rights clause is included in the current Cooperation Agreement.