

## Acting against torture

Students along with SICHREM members taking part to observe the UN International Day in Support of Victims of Torture. File | Photo Credit: [K. Murali Kumar](#)

“Torture is a wound in the soul so painful that sometimes you can almost touch it, but it is also such intangible that there is no way to heal it”. The Supreme Court reproduced the words of Adriana P. Bartow in its *D.K. Basu* judgment to explain the negative effect of torture on human dignity.

The Law Commission of India in its 273rd report has proposed a new anti-torture law, the Prevention of Torture Bill, 2017, which provides a wide definition to torture not confined to physical pain but also includes “inflicting injury, either intentionally or involuntarily, or even an attempt to cause such an injury, which will include physical, mental or psychological”.

The Commission has suggested India’s ratification of the UN Convention Against Torture. The proposed standalone anti-torture law directly makes the state responsible for any injury inflicted by its agents on citizens. Under it, the state shall not claim immunity from the actions of its officers or agents.

The recommendation of the Commission headed by former Supreme Court judge, Justice B.S. Chauhan, will allow human rights advocates to pressurise the government to recognise torture as a separate crime. So far, neither the Indian Penal Code nor the Code of Criminal Procedure specifically or comprehensively addresses custodial torture.

Though India had signed the UN Convention against Torture in 1997, it is yet to ratify it. Efforts to bring a standalone law against torture had lapsed. The National Human Rights Commission has been urging the government to recognise torture as a separate crime and codify punishment in a separate penal law.

Recently, while hearing a PIL filed by former Union Law Minister Ashwani Kumar, the Supreme Court had described torture as an instrument of “human degradation” used by the state. It was after the scathing remarks that the government had referred the question of a law on torture to the Law Commission.

The Commission has asked the government to ratify the UN convention to tide over the difficulties faced by the country in extraditing criminals. The draft Bill has recommended punishment for torture ranging from fine to life imprisonment. In case a person in police custody is found with injuries, it would be “presumed that those injuries have been inflicted by the police”.

The Bill proposes to give the courts the scope to decide a justiciable compensation for a victim, taking into consideration his or her social background, extent of injury or mental agony.

The definition of harassment needs to be constantly updated, and the process for justice made more robust

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