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Mauritius: Anti-terrorist legislation must not undermine fundamental human rights

As members of parliament of Mauritius debate on government anti-terrorist legislation, including the Prevention of Terrorism Bill, the Prevention of Terrorism (Denial of Bail) Bill and the Constitution (Amendment) Bill, Amnesty International is urging all parliamentarians to put human rights at the centre of their discussions.

"While it is true that states have the right to adopt measures to fight "terrorism", this exercise must not undermine the fundamental human rights of the people. The legislation to be passed must conform with Mauritius' international human rights obligations such as the African Charter on Human and People's Rights and the Convention against Torture and Other Cruel, Inhuman and Degrading Torture and Punishment", the organization said.

Amnesty International is concerned that most of the provisions of the bill are too broad and fall short of international standards of fairness. The definition of offences described as "acts of terrorism" may be broadly interpreted to undermine the fundamental rights of the people. Persons accused of "acts of terrorism" must have the right to a fair trial and to appeal according to international standards.

Among Amnesty International's particular concerns are:

the right of the Mauritian authorities to extradite persons suspected of "acts of terrorism" at the request of foreign states. Such provision must take into account the risk of their facing serious human rights abuses including the death penalty, torture, or cruel, inhuman and degrading treatment in their country of origin or any other country;

the right of the Mauritian authorities to deny suspected "international terrorists" the opportunity to apply for asylum. Amnesty International is concerned that this may result in returning them to countries where they may be at risk of human rights abuses;

The power given to police officers not below the rank of Superintendent of Police to detain anyone suspected of "terrorism" for 36 hours without granting him access to legal counsel. The person arrested could only have access to a government medical officer upon his request. The Bill provides for an amendment to the Constitution of Mauritius to allow for incommunicado detention without counsel for 36 hours of persons suspected of "terrorism".

"Denying any detainee the right to immediate access to legal counsel is unacceptable. Given the record of allegations of torture or ill-treatment against the police in Mauritius, incommunicado detention without counsel would only facilitate these for those in custody. We urge members of parliament not to adopt a constitutional amendment that would contradict Mauritius' international legal obligations," Amnesty International said.

Background

Anti-terrorist legislation was introduced by the government on 31 January and discussed at the National Assembly on 4 February. A motion to delay the discussions proposed by opposition parliamentarians, in order to study the legislation better, was refused. Opposition parliamentarians walked out of the Assembly and the legislation was adopted. Following strong opposition from civil society groups, the President of Mauritius did not give his assent to the legislation and asked for it to be discussed again in Parliament. If today the legislation is adopted a second time by Parliament, it will not need the President's assent to come into force.

Amnesty International has received many allegations of torture or ill-treatment of persons under police custody, including some resulting in deaths. The organization wrote to the government in 2001 urging it to investigate all allegations of torture by police and to bring promptly perpetrators to justice.

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW web : <http://www.amnesty.org>