

PRESS RELEASE

Human Rights Situation in India Deteriorating; Say New Report and Experts

New Delhi, December 7, 2012: At a press conference to mark the occasion of International Human Rights Day on 10 December, the **Working Group on Human Rights in India and the UN (WGHR)** released the “Human Rights in India – Status Report 2012” (Updated and Revised).

WGHR published the first edition of the report as preparatory material for India’s second Universal Periodic Review (UPR) that was held at the UN Human Rights Council (HRC) in May 2012. The UPR is a unique peer review process during which the HRC reviews the human rights record of all 193 UN member states, once every four and a half years. The new edition of the WGHR report includes updates on the human rights situation since India’s second UPR in May 2012, as well as the list of recommendations made to the Government of India (GoI) by the HRC during the second UPR.

Miloon Kothari, WGHR Convenor and former UN Special Rapporteur, spoke about the importance of UPR for monitoring the realisation of human rights in India. Mr. Kothari stated that: *“The UPR process at the UN offers a fresh opportunity for the GoI to fulfill its national and international human rights commitments. The new report from WGHR outlines steps that the GoI need to urgently take to ensure the respect, protection and fulfillment of the human rights of people and communities all across India.”*

The WGHR report discusses the human rights situation in India under three broad themes: 1) Economic, Social and Cultural Rights (ESCR) and Right to Development; 2) Militarisation and Security Laws/Apparatus; and 3) Access to Justice. Speakers at the press conference highlighted key issues of concern under each theme.

I) Economic, Social and Cultural Rights (ESCR) and Right to Development

Shivani Chaudhry, Associate Director, Housing and Land Rights Network, commented that: *“The prevalent economic policies and overwhelming preoccupation of the government on increasing GDP growth rate has contributed to increased violations of economic, social and cultural rights in India, with poverty, hunger, malnutrition and inadequate housing and living conditions affecting a large percentage of the population.”*

- Right to adequate housing and land: Homelessness, landlessness, forced evictions, land grabbing and distress migration are on the rise. India faces an acute housing shortage affecting 99% of economically weaker sections, and is estimated to have the highest number of people displaced annually as a result of ostensible ‘development’ projects.
- Right to food: Despite food entitlement programmes and subsidy schemes, India remains home to 50% of the world’s hungry and has the highest number of malnourished and hungry children (46%). Starvation deaths are still regularly reported in India, though officials refrain from acknowledging their occurrence.
- Right to work: Major challenges for the realization of labour rights in India include: a) erosion of real wages due to continuous price rise and failure to compensate for inflation; b) absence of basic services and social security; and, c) difficulty to unionise due to the hostility and failure of the state to respect freedom of association.
- Right to health: India has the world’s highest rate of child mortality. The country’s healthcare infrastructure is inadequate and substandard with a health budget of only 4.4%, far below the

global median (11.5%). There are 6 doctors and 9 hospital beds per 10,000 people, while only 15% of the population has health insurance.

- Right to education: The adoption of the *Right of Children to Free and Compulsory Education Act, 2009* is a significant step in ensuring the right to education for all. However, the Act doesn't encompass children between 0 to 6 years old as yet.

II) Militarisation and Security Laws/Apparatus

For Vrinda Grover, lawyer and activist: *"The last four years have seen a marked increase in the deployment of security forces and draconian laws by the Indian Government, to deal with socio-economic uprisings and political dissent. Conflict is no longer confined to Kashmir and states in the North East, but also many parts of Central India. In all these areas, human rights violations are overlooked and even condoned. The legal framework and practice have entrenched the culture of impunity. People are increasingly losing faith in systems of justice and governance."*

The WGHR report highlights that:

- Various UN human rights bodies and government committees have repeatedly called for the repeal of the *Armed Forces Special Powers Act (AFSPA)*, one of the draconian laws widely used in conflict areas.
- The military approach and the ongoing conflicts contradict India's stated position in the UN, that *"India does not face either international or non-international armed conflict"*.
- Torture is routinely practiced as a law enforcement strategy throughout India. It is even more widespread and violent in conflict areas. Enforced disappearances, arbitrary arrest and detention, extrajudicial killings, sexual violence as well as the use of lethal force in dispersing largely peaceful protests remain entrenched in these areas.
- Militarisation is also being used to forward the state's 'development' agenda. In the Northeast of India, dams are being guarded by armed forces to suppress protest. Schools and hospitals are occupied by the military and agricultural land is being grabbed, denying farmers their right to livelihood. Militarisation has also caused large-scale displacement.

III) Access to Justice:

The majority of India's population remains marginalised with many groups facing entrenched discrimination, violence and neglect, including: women; children; Scheduled Castes (SCs) and Schedules Tribes (STs); Lesbian, Gay, Transgender, Bisexual and Intersex (LGBTI); persons with disabilities; and religious minorities. Ms. Madhu Mehra, Director, Partners for Law in Development, expressed grave concern stating that: *"Discrimination against women continues to be intrinsic to family law, justified by state as a necessary facet of multi-culturalism. Despite homosexuality being decriminalised in 2009, no proactive steps have been taken to legally protect the LGBTI persons from discrimination in housing, employment, education and other fields of life. It is absolutely imperative for the state to go beyond piece meal 'welfarism', to a comprehensive framework of rights, to fulfil its promise of human rights to all."*

- Women: Despite piece-meal legal reform, women face unequal succession and guardianship rights, and no right to matrimonial property. Women face violence on many grounds, including sexuality, caste and disability. Penal law does not cover all forms of sexual assault. *The Protection of Women from Domestic Violence Act, 2005* lacks effective implementation.
- LGBTI: Despite homosexuality being decriminalised by Delhi High Court in 2009, multiple levels of stigma, discrimination, and violence continue without recourse to law. The High Court's judgment is currently under appeal in the Supreme Court.

- **Children:** Child trafficking is endemic in India, which ranks among the worst countries in tackling trafficking. Protection of children continues to receive only 1.26% of the national budget.
- **Persons with disabilities:** Despite the *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*, all major issues affecting persons with disabilities, including accessibility, education, employment, and health continue to remain neglected.
- **Religious minorities:** The adoption of the *Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011* is key to protecting victims of communal violence and addressing impunity that has accompanied communally motivated violence in the past.
- **Human rights defenders** and their families are increasingly targets of threats, persecution, arbitrary arrest and detention, false charges, raids, torture and even, in extreme cases, murder.
- **SCs and STs:** The *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*, meant to prevent violence and atrocities against SCs and STs, is not adequately implemented, and has a low conviction rate. Despite a law prohibiting it, the inhuman practice of manual scavenging continues in India, involving 770,000 manual scavengers, 80% of which are Dalit women. Srivella Prasad from the National Campaign for Dalit Human Rights states that: *“We are encouraged by the several stakeholders including Gol to look at several issues concerning non-discrimination and inclusion in whole UPR process. Given the growing nature and extent of discrimination and violence, we urge the Gol to address the Dalit, Adivasi and other marginalised communities issues more strongly and take appropriate policy and legislative changes. There is a need to strengthen the Prevention of Atrocity Act through amendments and ensure its effective implementation.”*

Justice J.S. Verma released the new report during a panel discussion organised by WGHR with Chairs and Members of several national human rights institutions on December 6, at India International Centre, Delhi. Panelists shared their views and analyses of the human rights situation pertaining to their respective mandates, and presented plans to implement the UPR recommendations accepted by India. They also admitted to the need for greater autonomy and for better collaboration and discussion among themselves.

According to Mr. Miloon Kothari *“We urge the Gol to engage in a genuine dialogue with all stakeholders and adopt an inclusive and participatory process regarding the monitoring of the implementation of all UPR recommendations. We urge to Gol to release, through this process of consultation, a mid-term review of the UPR in 2014. WGHR hopes that the state of human rights in India 2012 report will contribute to the process of fundamental change required for the realisation of human rights for the vast majority of the residents of India”.*

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The Working Group on Human Rights in India and the UN – a national coalition of fourteen human rights organisations and independent experts – works towards the realisation of all civil, cultural, economic, political and social human rights in India and towards holding the Indian government accountable to its national and international human rights obligations. For information on WGHR, please visit: www.wghr.org

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