

PRESS RELEASE

Civil society presents India's disturbing human rights record to the UN

New Delhi, December 7, 2011: The Working Group on Human Rights in India and the UN (WGHR) released the report it has submitted to the United Nations (UN) on India's overall human rights record today at the Press Club of India.

Every four years, the UN Human Rights Council examines the human rights record of all UN member states on a rotational basis. This takes place through a peer review process, called the "Universal Periodic Review" (UPR), where states evaluate each other's human rights record. Reports sent by civil society, human rights institutions, UN agencies, and the country under review are the key documents used during the UPR. India's first review took place in 2008 and the next one will take place in May 2012.

According to Miloon Kothari, Convener, WGHR and former UN Special Rapporteur: "*The report presents a very bleak scenario of the actual state of human rights across India. The second UPR cycle is an opportunity for the government to address the range of violations of human rights that are taking place. In this context, the report of WGHR should come as a wakeup call for the government as it finalizes its own UPR report. The UPR process provides a welcome opportunity for collaboration between the government, civil society groups and national human rights institutions. The government has shown positive signs in dealing with the UN human rights system in the past year, including through an open invitation to all UN Special Rapporteurs. We hope that this change extends to the UPR review in 2012 and beyond. Nothing but a radical shift in economic, security and social policy is needed to meet India's national and international human rights commitments*".

The WGHR report "*Human Rights in India: An Overview*" presents an assessment of the numerous human rights challenges faced in India as well as an evaluation of the status of implementation of the 18 recommendations accepted by India during its first UPR. The report has been endorsed by 86 organizations and individuals from across the country and is the result of a thorough consultative process, involving five regional and one national consultation.

The report looks at the overall human rights situation in India under three broad themes.

Economic, Social and Cultural Rights (ESCR) and Right to Development: Numerous progressive schemes and policies are in place for the realisation of ESCR but most of them are plagued with major problems of implementation and corruption.

For Babu Mathew, Visiting Professor at the National Law University, Delhi: "*Hunger, starvation, infant malnutrition and acute poverty continues unabated because 'Inclusion' is a pious platitude while 'Neo-liberal growth' is a daily pursuit.*"

- *Right to adequate housing and land:* There is an increasing trend in homelessness, migration and landlessness, together with forced evictions, land grabbing and failed agrarian reform. India faces an acute housing shortage affecting 90% of economically weaker sections. Ostensible 'development projects' have led to large-scale displacement, most of whom are *adivasis*/tribals and Dalits.
- *Right to food:* Despite food entitlement programs and subsidy schemes, India remains home to 50% of the world's hungry and has the highest number of malnourished and hungry children (46%). Agrarian distress and indebtedness have led to numerous farmer suicides to the baseline of 15,000 each year.

- *Right to work:* 92% of India's workforce belongs to the informal/unorganized sector and are not covered by basic services and social security.
- *Right to health:* India has the world's highest 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%). India's Free Trade Agreements threaten the rights to food, health, work and development, particularly for the vulnerable groups.
- *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 permissibility of child labour in non-hazardous occupations is a major concern as it directly contradicts the new fundamental right to education.

Militarization and Security Laws/Apparatus: The report analyzes the range of human rights violations resulting from heavily militarized responses to insurgency movements, particularly in the Northeast, Jammu and Kashmir (J&K) and Central India.

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."*

- 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.
- Militarization 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. Militarization has also caused large-scale displacement.

Access to Justice: 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 and Intersex (LGBTI); persons with disabilities; and religious minorities. Many laws have been enacted to protect some of these groups. However, their implementation remains a major challenge, alongside some legal gaps remaining.

According to Maja Daruwala, Executive Director, Commonwealth Human Rights Initiative: *"There can be no realisation of rights - even if they are all there on paper - without remedies being readily available. Today in India there is a great deficit in our ability to ensure that each one of us has access to speedy and effective justice. Our institutions are in disrepair and failing our needs. Our police need urgent reform. Our bar bench and our myriad commissions need much more vigour, commitment and accountability. They all need to gear themselves to providing the best service to all of us and attending to the context of the poorest and most vulnerable. Every moment reforms are neglected, thousands of tragedies occur and we cannot build a nation on that. We must do better. That is the duty of the state."*

- **Women:** Despite piece-meal legal reform, they face unequal succession, guardianship rights and no right to matrimonial property. Women face violence on many grounds, including sexuality, caste and disability. Every 60 minutes, two women are raped, every six hours a young married woman is found beaten to death, burnt or driven to suicide. 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 judgement is currently under appeal in the Supreme Court.

According to Madhu Mehra, Director, Partners for Law in Development: *"Discrimination against women continues to be intrinsic to family law, justified by state as a necessary facet of multi-culturalism. The reported figures on sexual violence are only a fraction of the actual violence that scars the lives of women across the country, primarily on account of inadequate laws and a hostile legal system. 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."*

- **Children:** Child trafficking is endemic in India, which ranks among the worst countries in tackling trafficking. India also lacks an effective implementation of the *Juvenile Justice (Care and Protection) Act, 2000*, leading to trial of children in adult courts. Protection of children continues to receive only 1.26 % of the national budget.
- **SCs and STs:** The *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*, meant to prevent violence and atrocities against SCs and STs hasn't been as effective as it should have been, with a low conviction rate. Despite a law prohibiting it, the inhuman practice of manual scavenging continues in India, involving 770,000 manual scavengers, including more than 80% Dalit women.
- **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: e.g. accessibility, education, employment, health etc. 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.

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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