

PRESS RELEASE**India's Second Universal Periodic Review at the UN Human Rights Council:
Government's Unfulfilled Promises, Unmet Challenges**

New Delhi, May 21, 2012 – India's human rights record will be reviewed on May 24, 2012 in Geneva by the inter-governmental Human Rights Council (HRC) of the United Nations (UN). The appraisal of India's human rights situation will take place under a peer review process known as the **Universal Periodic Review (UPR)**, whereby the human rights record of all UN member states is reviewed every four and a half years on a rotational basis.

On the occasion of India's second UPR, the Working Group on Human Rights in India and the UN (WGHR) organised a side-event today in Geneva, where a panel of human rights experts and activists from India highlighted the major human rights challenges confronting India. A new report on the status of human rights in India was also launched at the event (available at: www.wghr.org).

At India's first UPR in 2008, the government received 18 recommendations for the improvement of human rights in the country, including the ratification of the *UN Convention against Torture* and the *Convention on Enforced Disappearances*. An updated chart assessing India's compliance with the 18 recommendations was released by WGHR at the event (annexed to this press release). In the second cycle of India's UPR, the HRC will assess the status of implementation of those recommendations as well as other developments in the situation of human rights in India over the last four years.

According to WGHR, the report submitted by the Government of India (GoI) for the UPR is disappointing, as it lacks critical analysis of the actual realisation of rights and implementation of laws and schemes in India. Background documents prepared for the UPR by the UN and submissions by the National Human Rights Commission (NHRC) and civil society point towards serious failures of the state in promoting and protecting human rights. India is, therefore, expected to face some serious questioning by other UN member states during the HRC session on May 24. Eighty-seven countries are scheduled to speak during India's UPR.

Commenting on the status of economic, social and cultural rights in India, Mr. Miloon Kothari, WGHR Convenor and former UN Special Rapporteur, observed that, *"While the average growth rate in India over 2007-2011 was 8.2%, poverty declined by only 0.8%, which is extremely disturbing. India still ranks 134 out of 187 countries on the UN human development index. What makes matters worse is that India's standards for measuring poverty are not consistent with global standards and do not follow a human rights approach. As pointed out by numerous authoritative and independent sources, if global standards such as those used by the Human Development Report 2011 were used, India's poverty rate would be close to 55% of the population."*

The right to adequate housing is severely violated in India, as the country faces growing homelessness and an acute housing shortage, especially for economically weaker sections. During the side event, it was highlighted that despite the existence of food entitlement programmes, India still has the world's highest number of malnourished people; 21% of its population is undernourished and 42% of children under the age of five are underweight. Mr. Kothari observed that, *"The refusal of GoI to universalise the public distribution of food grains despite overflowing food stocks is unacceptable."*

Speaking on the impact of compulsory land acquisition for private corporate projects, Mr. Prafulla Samantra, President, *Lokashakti Abhijan* (People's Empowerment Movement), highlighted that, *"Forced land acquisition has caused large-scale displacement and dispossession of adivasis/tribals and Dalits. Economic growth is taking place by destroying livelihoods and further impoverishing the most marginalised groups."*

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Mr. Samantra also spoke about the vulnerability of human rights defenders who were targeted and implicated in false criminal cases. This has been detailed by the UN Special Rapporteur on the situation of human rights defenders in her report to the UN on her mission to India.

Expressing serious concern, human rights lawyer, Ms. Vrinda Grover, attributed the widespread human rights violations in the Northeast, Jammu and Kashmir (J&K) and central India to heavy militarisation and use of security laws such as the *Armed Forces Special Powers Act (AFSPA)* in these areas. Despite calls for the repeal of the draconian AFSPA by UN human rights bodies, committees appointed by the Indian government and human rights groups, the government has regrettably, in its report for the UPR stated that, “*as long as deployment of armed forces is required to maintain peace and normalcy, AFSPA powers are required.*” In sharp contrast, the NHRC report for the UPR states that AFSPA confers an “*impunity that often leads to the violation of human rights*”. Ms. Grover remarked that: “*The use of arbitrary and excessive force and impunity awarded to the armed forces by AFSPA is not only responsible for human rights violations but also deters any political dialogue in the ‘disturbed areas’.*”

Ms. Grover also stated that India will have to explain why it has failed to ratify the *UN Convention against Torture (CAT)* even 15 years after signing it, despite accepting to do so during its first UPR in 2008. She pointed out that the lack of urgency on the part of Gol to pass a domestic law against torture, which is compliant with CAT, was worrying as, “*torture is routinely used as an investigating practice and for law enforcement across India. Its use is particularly systematic and brutal in conflict areas. Enforced disappearances, arbitrary arrests and detention, extrajudicial killings, sexual violence as well as the use of lethal force in dispersing largely peaceful protests, remain entrenched in these areas.*”

Ms. Madhu Mehra, Director, *Partners for Law in Development*, expressed grave concern over the condition of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, women, children, persons with disabilities and religious minorities, particularly Muslims and Christians. Ms. Mehra pointed out that, “*The inadequate implementation of laws and gaps in legal entitlements for all these marginalised communities remains a challenge for access to justice in India.*” She also drew attention to the fact that women continue to suffer targeted violence both in public and private spaces. According to official figures, two women are raped every 60 minutes in India and a young woman is found beaten to death, burnt or driven to suicide, every six hours. Ms. Mehra commented that Indian law does not penalise all forms of sexual violence, thereby encouraging impunity. The *Protection of Women from Domestic Violence Act, 2005* lacked effective implementation. The pervasive prejudice against women in the police force, legal system, medical establishment and the political class, impedes the dispensation of justice.

Children constitute 41% of the population in India, yet indicators for children – high levels of mortality, morbidity, child marriage, child trafficking and child labour – are very worrying and raise serious questions on the impact and outcomes of existing laws, policies, programmes and schemes. If these are not addressed, India will not be able to gain from the ‘demographic dividend’ it is looking forward to.

Asha Kotwal, General Secretary, *All India Dalit Mahila Adhikar Manch* (Dalit Women’s Rights Forum) pointed out that the presence of a caste-based discriminatory mindset is a major problem affecting the implementation of most of the constitutional, legal and fiscal measures taken up by the government for the protection of Scheduled Castes.

The conviction rate under the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989* (PoA Act) seeking to prevent atrocities against Scheduled Castes and Scheduled Tribes continues to be very low, providing no deterrence for crimes. Though India has designed an excellent policy of empowering Dalits and *adivasis* through targeted budgetary allocations, the central government and respective state governments have failed to implement the policy. During the last five years, the central government has denied Dalits and *adivasis* USD 28.57 billion entitled to them through budgetary allocations. According to Ms. Kotwal, “*Unless the Indian government initiates an intense campaign for equality and urgent steps in addressing this mindset, Dalits and adivasis – especially the women and girls among them – will continue to be exposed to extreme forms of violence and be excluded from access to development.*”

In closing, Mr. Kothari noted that, “Given the enormous human rights challenges faced by India, as outlined by speakers at this event, the second UPR offers a major opportunity for India to admit its shortcomings, move from a defensive to a constructive engagement with the UN, and offer to work with the UN, civil society and independent institutions in India towards a radically new approach that focuses on the implementation of national and international human rights commitments. It is our hope that the recommendations emanating from this UPR will assist India in moving in the urgently required new direction.”

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- **Official documents for India’s second UPR** are available at: www.ohchr.org/EN/HRBodies/UPR/Pages/INSession13.aspx
 - **Annex A:** WGHR Assessment of Implementation by India of UPR I Recommendations

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