



Working Group on Human Rights in India and the UN (WGHR) calls for repeal of AFSPA on its 55th anniversary

New Delhi, 11 September 2013: Working Group on Human Rights in India and the UN (WGHR) - a coalition of Indian civil society organisations and independent experts – calls for an immediate repeal of the Armed Forces Special Powers Act (AFSPA) 1958, on its 55th anniversary.

The AFSPA has continued to be an excuse for suppression and impunity for the last 55 years. The law and the violence and illegality committed under its protection have alienated the people of the North Eastern States and Jammu and Kashmir. For 13 years force-fed and forgotten, Irom Sharmila, has determinedly laid her life on the line for its repeal.

The Supreme Court did uphold its constitutionality in 1997 but at the same time warned that prolonged and too frequent deployment of armed forces for handling such situation is likely to generate a feeling of alienation amongst the armed forces.

Earlier this year, Justice Verma, the architect of 1997 judgment, sitting as Chair of *Committee on Amendments to Criminal Law* pertaining to violence against women recommended, in a change of heart, that so far as sexual offences are concerned, the need to obtain sanction from the central government for prosecution, suit or other legal proceeding shall be dropped. The government has ignored the recommendation. This is despite the affirmation of Union Home Ministry's *Committee to Review Armed Forces Special Powers Act's* recommendation that AFSPA's constitutional legality is "*not an endorsement of the desirability or advisability of the Act (...) the Act, for whatever reason, has become a symbol of oppression, an object of hate and an instrument of discrimination and high-handedness. It is highly desirable and advisable to repeal this Act, altogether (...).*" The same position is endorsed by the 2nd Administrative Reform Commission.

Most recently, following a PIL filed by the *Extrajudicial Execution Victim Families Association, Manipur* on 1528 alleged extrajudicial killings, the Supreme Court appointed Justice Santosh Hedge Commission, also agreed with the official Committee and Commission and observed that "*though the Act gives sweeping powers to the security forces even to the extent of killing a suspect with protection against prosecution etc. the Act does not provide any protection to the citizens against possible misuse of these extraordinary powers*".

After his 2012 visit to India, Mr. Christof Heyns, UN Special Rapporteur on Summary, Arbitrary and Extra-Judicial Executions, presented a report¹ at the 23rd session of the Human Rights Council, Geneva, in which he concluded, "*that retaining a law such as AFSPA runs counter to the principles of democracy and human rights. Its repeal will bring domestic law more in line with international standards, and send a strong message that the Government is committed to*

¹ The full version of the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, is available at:

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf



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respect the right to life of all people in the country.” He also observed that “the powers granted under AFSPA are in reality broader than that allowable under a state of emergency as the right to life may effectively be suspended under the Act and the safeguards applicable in a state of emergency are absent.

Babloo Loitongbam, Director Human Rights Alert, Manipur, a constituent member of WGHR, adds that *“Enough has been said about the negative impact of AFSPA nationally and internationally. It is time for the Government to Act and halt any further erosion of democratic space in the country”.*

Miloon Kothari, Convenor, WGHR and Former UN Special Rapporteur, reiterated that “Continued reluctance to repeal AFSPA, in the face of unequivocal demands from a range of credible international human rights² and numerous national bodies, indicates a policy paralysis in the government. Such a paralysis tragically reinforces the climate of impunity in the country amongst India’s armed forces. There is no excuse, whatsoever, for a country that claims to be a democracy and a responsible member of the United Nations to continue to have a law like AFSPA on the books”

WGHR strongly recommends the Government of India that it initiates the necessary legal reforms and policy measures in order to end impunity and diminish the level of unlawful killings. WGHR, therefore, once again calls for the repeal of the Armed Forces Special Powers Act.

For more information, please contact the WGHR Secretariat at contact@wghr.org / 011-24358492; or,

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Advisors | Mr. Anand Grover, Special Rapporteur on the right to health, UN Human Rights Council | Ms. Indira Jaising, Member, CEDAW Committee

² Extracts from Concluding Observations of United Nations’ Treaty Bodies on the AFSPA are available at” : <http://www.wghr.org/pdf/compilation-AFSPA.pdf> ; For recommendations from India’s Universal Periodic Review (UPR) on the AFSPA, refer Human Rights in India: Status Report 2012 (Revised and Updated), available at: <http://www.wghr.org>