

<b>Special Rapporteur on extrajudicial, summary or arbitrary executions</b> <b>Mr. Christof Heyns</b>	
<p>Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns on his mission to India in 2012</p> <p>April 2013</p> <p><a href="#">A/HRC/23/47/Add.1</a></p>	<p><b>Summary</b></p> <p>The Special Rapporteur on extrajudicial, summary or arbitrary executions conducted an official visit to India from 19 to 30 March 2012. This report presents his main findings and proposes recommendations to ensure better protection of the right to life in India. India’s human rights situation has many positive elements. However, the level of extrajudicial executions in this country still raises serious concern. This includes deaths resulting from excessive use of force by security officers, and legislation that is permissive of such use of force and hampers accountability. The role of various non-State actors in the violation of the right to life is also examined. This includes killings by armed groups and those in the context of communal violence. Vulnerable persons, including women, are at particular risk of killing. Impunity represents a major challenge. The Special Rapporteur’s recommendations include a series of legal reforms and policy measures aimed at fighting impunity and decreasing the level of unlawful killings in India.</p> <p><b>Deaths resulting from excessive use of force</b></p> <p>17. Several victims who made presentations to the Special Rapporteur on this issue emphasized the need to know the truth, and to “clear the names” of loved ones who had been labelled terrorists” and killed in “fake encounters”. The NHRC also acknowledged the problem of encounters in India, and expressed its agreement with the view that encounter killings “have become virtually a part of unofficial State policy”.<sup>5</sup></p> <p>The Special Rapporteur reiterates therefore the importance of shedding light on the acts committed during encounters and of bringing the perpetrators to justice in all cases.</p> <p>(Foot note 5) NHRC, Report on Prevention of Atrocities Against Scheduled Castes &amp; Scheduled Tribes, 2004, p.106</p> <p><b>Killings related to communal violence</b></p> <p>45. The Special Rapporteur was informed that attacks of communal violence are often planned in order to target members of a particular group or acquire its property. For instance, Hindu fundamentalists reportedly carried out attacks against Dalits, who had changed religion to escape the degrading treatment associated with being a Hindu Dalit. The Special Rapporteur was informed of the severe communal violence against Dalit and Adivasi Christians in Orissa, between 2007 and 2008 when, according to non-governmental sources, approximately 100 individuals were killed. In this regard, the Government of India commented that, in the communal violence between Hindus and Christians, three persons were killed in 2007, and 40 persons were killed in 2008.</p> <p><b>Honour killings</b></p> <p>58. So-called “honour” killings are committed against persons believed to have sullied the honour of a family. They are almost always directed against women, usually for having exercised their right to choose a partner whom the family does not approve of. There are reports of a strong correlation between “honour” killings and inequalities of castes and gender.</p> <p><b>Fight against impunity</b></p> <p>65. The fight against impunity in India is faced with challenges at various stages of the accountability process. At the stage of reporting a crime, the Special Rapporteur has heard numerous allegations that the security forces refuse to register FIRs, including those related to killings or death threats. Persons attempting to register FIRs</p>

	<p>are often subjected to threatening treatment or to the fact that their complaints are not given serious consideration.</p> <p>The Special Rapporteur heard that in particular the Dalits, the representatives of lower castes, tribes and poorer communities, as well as women are exposed to difficulties in registering FIRs. Individuals who wish to report violations by security officers face similar challenges which dissuade them from complaining and impede the accountability of State agents.</p> <p><b>Killings of vulnerable persons</b></p> <p>Scheduled castes and tribes and other marginalized communities</p> <p>77. Discrimination on the basis of caste is prohibited in India, and some positive steps have been taken to improve the situation, although the impact on lower castes and tribes in practice so far is limited. According to NCRB, there were 35 murders registered in 2011 due to caste-related reasons. Non-governmental organizations indicate that 3,593 murders against scheduled castes or tribes occurred between 1995 and 2007.</p> <p>78. The Special Rapporteur heard a number of cases on the killings of persons belonging to scheduled castes or tribes, as well as to other marginalized communities. The violence against them is more prevalent in rural areas, largely due to prejudices that are still firmly entrenched. Patterns of killings relate to condemnation of intermarriage between higher castes and scheduled castes, or witchcraft accusations. Tribal individuals may also be killed in the armed exchanges between the Government forces and armed groups, by any of the sides. In such contexts, members of tribes are sometimes labelled “terrorists” and killed, although later it becomes clear that they were ordinary civilians. Adivasis were moreover killed in ethnic violence in the 1990s, while their killing at present appears to be largely due to issues concerning land disputes and attacks in insurgency-affected areas.</p> <p>79.</p> <p>The low social status of these persons renders them vulnerable to violations of all their rights, including the right to life, and hampers their access to justice and redress mechanisms.</p> <p>80.</p> <p>The Special Rapporteur notes the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, adopted in 1989, which aims at dissuading violence by providing harsher punishment for persons committing offences against individuals protected under this Act. He is, however, concerned that Dalit Muslims and Dalit Christians have not been incorporated into the definition of scheduled castes under this Act, and thus do not benefit from its provisions. In addition, he wishes to underline the importance of ensuring the protection of all marginalized communities in practice through proper implementation of the related legislation, as well as the conduct of relevant education and awareness-raising campaigns.</p> <p><b>Recommendations</b></p> <p>104. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act should be reviewed with the aim of extending its scope to Dalit Muslims and Dalit Christians.</p> <p>105. The criminal legislation should be reviewed to ensure that all gender-based killings, as well as killings of any member of a tribe or lower caste receive high sentences, possibly under the form of life imprisonment.</p> <p>115. The protection of civilians in all instances of violence should constitute the ultimate priority. All sides involved in armed activities should immediately cease attacking civilians, including members of tribes and castes, human rights defenders and journalists. While having the duty to protect its people from the attacks</p>
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	<p>perpetrated by various non-State actors, the Indian authorities should ensure its acts do not target civilians by any means, and are directed in a very precise manner at neutralizing violent non-State actors.</p> <p>118. Information and awareness-raising campaigns should be launched to raise the level of knowledge of human rights and access to justice of the public at large, with a particular focus on vulnerable persons such as women and members of tribes and lower castes. Legal aid mechanisms for these vulnerable persons should be devised to enable them to seek protection, justice and redress in cases of violation of their rights.</p>
<p><b>Special Rapporteur on extrajudicial, summary or arbitrary executions</b></p> <p><a href="#">Press statement following country visit to India, 19-30 March 2012</a></p> <p>Issued 30 March 2012</p>	<p>Press statement: “India: Concern expressed about extrajudicial killings”</p> <p>The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, called on the Government of India to continue to take measures to fight impunity in cases of extrajudicial executions, and communal and traditional killings. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, concluded today his official visit to India, which took place from 19 to 30 March 2012. (...)</p> <p>While recognizing the size, complexity, security concerns and diversity of India, the Special Rapporteur remains concerned that the challenges with respect to the protection of the right to life in this country are still considerable. “Evidence gathered confirmed the use of so-called ‘fake encounters’ in certain parts of the country. Where this happens, a scene of a shoot-out is created, in which people who have been targeted are projected as the aggressors who shot at the police and were then killed in self-defence. Moreover, in the North Eastern States, and Jammu and Kashmir the armed forces have wide powers to employ lethal force.”</p> <p>The above is exacerbated by the high level of impunity that the police and armed forces enjoy, due to the requirement that any prosecutions require sanction from the central government – something that is rarely granted. “The main difficulty in my view has been these high levels of impunity”, stressed the Special Rapporteur.</p> <p>Other areas of concern relate to the prevalence of communal violence, and, in some areas, the killing of so-called witches, as well as dowry and so-called “honour” killings, and the plight of dalits (‘untouchables’) and adivasis (‘tribal people’).</p> <p>Christof Heyns proposed a number of provisional steps to be taken to address these concerns. In the first place, he called for the establishment of a Commission of Inquiry, consisting of respected lawyers and other community leaders, to further investigate all aspects of extrajudicial executions. This should entail a form of transitional justice.</p>