

Peoples Forum for UPR in India

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INDIA: Stakeholders' Report under the UPR

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1. NGO Consultation on the UPR

This stakeholders' submission has been prepared through "India National Consultation for Preparation of Stakeholders' Report under the Universal Periodic Review" organized by Asian Centre for human Rights, Forum Asian and Peoples Watch Tamilnadu in New Delhi on 13-14 November 2007. An estimated 192 civil society organisations and 13 human rights defenders endorsed this submission.

Unfortunately, the government of India failed to hold consultation with civil society stakeholders before 20 November 2007, the deadline for submission by the stakeholders.

2. Human rights situation on the ground

I. Impunity: The root cause of massive and flagrant human rights violations

There is virtual impunity for "public servants" and politicians from President to the head of the Village Council, *panchayat*. Even for prosecution of the law enforcement personnel accused of rape and murder, "prior sanction" from the government is mandatory under Section 197 and section 132 of the Criminal Procedure Code and Section 6 of Armed Forces Special Powers Act. Most Acts provide immunity for "acts done on good faith". The executive in India acts as the supra judicial body.

Especially for mass killings and massacres, accountability has not been established. When faced with public outcry, the government usually sets up Commissions of Inquiry which may identify causes of these crimes and even pinpoint the culprits but do not result in prosecution. **First**, the government establishes more than one inquiry commissions. There were nine inquiry commissions concerning the anti-Sikh riots of 1984. There are two inquiry commissions headed by Justice S N Sarma and Justice K N Saikia into the secret killings of the members of the armed opposition groups United Liberation Front of Assam and their relatives in late 1990s. Justice K N Saikia in his report submitted on 15 November 2007 reached different conclusions. **Second**, some commissions like the Liberhan Commission investigating into the demolition of Babri Mosque in 1992 are yet to complete its investigation and only in November 2007 another extension was provided. **Third**, the findings of majority inquiry commissions like the Justice Upendra Commission of Inquiry into the killing of Ms Thangjang Manorama Devi on August 2004 in Manipur is yet to be published. **Fourth**, when reports of commissions of inquiries such as the Justice Sri Krishna Commission inquiring into the Mumbai program in 1992-1993 are made public, no action has been taken. **Fifth**, even when the High Court orders to place the reports of inquiry commission such as the massacre of the Dalits in Kuhmer in Rajasthan, the government in contempt of the High Court order even refused to place before the State Assembly. **Sixth**, during the investigation processes by the Inquiry Commissions such as the Nanavati Shah Commission of Inquiry into the Gujarat

genocidal carnage of 2002, all attempts are made to ensure that the truth never comes out.¹

The culture of impunity exacerbates human rights violations as the public officials consider themselves beyond the reach of the law. It is often the marginalised sections of the society like the Dalits, tribals, minorities who are victims of more human rights violations.

II. Key civil and political rights issues in India

a. Right to life

The violations of the right to life through custodial deaths, encounter killings, indiscriminate and disproportionate use of fire-arms and enforced disappearances are rampant. The National Human Rights Commission reported 136 deaths in police custody and 1,357 deaths in judicial custody and 122 cases of encounter killings during 2004-2005. The data is only the tip of the ice berg.

In a rarest case, the Kolkata High Court on 16 November 2007 in its judgment termed the shooting of 14 persons by the West Bengal Police on 14 March 2007 as “wholly unconstitutional” and “not provocative enough to warrant police firing”.² In majority of the cases of police firing, no investigation is conducted.

The right to life of women and girl child are also violated within the family structure and society in general and within ‘communities’.

The denial and deprivation of the economic, social and cultural rights also led to violations right to life through suicide, hunger and starvation. A staggering 89,362 *farmers* committed suicide between 1997 and 2005. Since 2002, there has become one suicide every 30 minutes.

The award of death penalty is the norm; the application of the “rarest of the rare case” principle is an exception. In this overall scenario where human rights are violated with impunity, the human rights of marginalized sections, indigenous peoples, depressed castes and religious minorities are in greatest threat. Women among those sections are victims of being thrice oppressed.

b. Armed conflicts, public emergency and derogation

¹ The Concerned Citizens Tribunal, Crimes Against Humanity Gujarat 2002 headed by Justices V. R. Krishna Iyer, Justice P B Sawant and Justice Hosbet Suresh. (www.cjponline.org)

² . Shot down: firing story – March 14 Nandigram mob not provocative to justify bullets, says HC, The Telegraph, 17 November 2007.

About 21 out of 28 States are afflicted by internal armed conflicts. Many of these States are heavily militarised and the use of special laws such as the Armed Forces Special Powers Act of 1958 that provides the power to shoot to kill to a non-commissioned officer with virtual impunity has unleashed a vicious cycle of violence and has buried the original political disputes that triggered the violence. While the government of India justified the use of AFSPA because of the war like situation before the UN Human Rights Committee, it denied existence of any armed conflict before the CEDAW Committee to deny applicability of the Security Council Resolution 1325 on protection of women victims. The AFSPA can be applied after declaration of certain areas as “disturbed” which is in fact declaration of public emergency within the meaning of article 4(3) of ICCPR and even non-derogable rights such as right to life, right against torture are routinely violated. Research and solidarity visits by the international human rights organisation are severely restricted due to imposition of laws like the Foreigner Protected Area Order and Restricted Area Permit in the North East. Even respected international humanitarian organisations like the ICRC are denied access except for a limited access to Jammu and Kashmir.

c. Rights of the prisoners

According to the National Human Rights Commission, there were a total of 3,32,112 prisoners against the total capacity of 2,38,855 prisoners in the 1315 jails of the country as on 31 December 2004. Out of them, 2,32,731 inmates were undertrials, comprising of staggering 70% of the total inmates.³ Condition in these prisons for undertrials or inmates does not meet bare human rights standards.

The showpiece of India's prisons, Tihar Jails is so overcrowded that Delhi High Court in June 2007 that observed “You (jail authorities) wait till the prisoner is in his deathbed to give him medical attention”. A three-member probe committee appointed by the High Court found that the prison cells were highly overcrowded, medical facilities were virtually “non-existent” and acute shortage of water and fans in the prison.⁴ On 7 November 2007, the Delhi High Court directed Tihar jail authorities to put “petition box” in the jail where the inmates could drop their complaints to be considered by National Human Rights Commission.⁵ But, under the Human Rights Protection Act, the NHRC must give prior information to the state authorities before visiting the prisons! Official figures show that India's largest minority, the Muslims suffer worst at the hands of the criminal justice system. A quarter of under trials in Gujarat's jails, 33% in Maharashtra and 19% in Karnataka are Muslims. Institutionalized bias operates at the stages of arrest, torture, lack of access to legal aid, and a prejudiced judicial authority.⁶

³. Available at “Prison Population Statistics” at NHRC website, <http://www.nhrc.nic.in>

⁴. To decongest Tihar Jail, High Court says release 600 inmates immediately, The Indian Express, 19 June 2007

⁵. Put complaint boxes for prisoners, HC tells Tihar, Sahara Samay, 7 November 2007, available at <http://www.sahasasamay.com/samayhtml/Articles.aspx?NewsId=88551>

⁶ Official figures submitted to the Justice Sachar Committee that were not used.

III. Key economic, social and cultural rights issues in India

a. Development and exclusion: Implications on ESCR rights of the Excluded

As India achieves 8 to 10% growth rate, the issue of the Excluded has come to mean. The Special Economic Zones, constructions of dams and leasing of areas for mining etc have become virtual “conflict zones” as the government takes away private lands of the people without free, prior and informed consent under the “public purpose” and sell them to the private companies for profit. Now coastal zones have become the target.

As on 2 December 2006, as many as 237 Special Economic Zones (SEZs) have been approved by the Ministry of Commerce and Industry. The state governments have been primarily allotting prime agricultural lands for the private companies. The land owners are being forced and induced to manufacture consent for approval of the SEZs. Violence continues to erupt in Singur and Nandigram in West Bengal in protest against forcible acquisition of land of the farmers.

In armed conflict situations, militarisation and military oriented development are being encouraged. Public hearing for approval of the projects is held inside army barracks with selected participants in the North East. Private sectors have been hiring security agencies/anti-social elements for human rights violations of the victims.

Despite of having around 450,000 conflict-induced internally displaced persons as a result of conflict mainly in Chhattisgarh, Assam, Jammu and Kashmir, Mizoram, Tripura and Gujarat. India has no policy on conflict induced IDPs and the Kashmiri Pandits are provided better facilities than the other conflict induced IDPs.

The disaster response whether in Tsunami or recent floods were marked by caste bias.

Once displaced, all other rights including the right to adequate housing, food, health, education etc are violated. Their livelihoods are destroyed. Women, children and persons belonging to vulnerable groups remain prone to violence.

IV. State of the vulnerable groups

a. Violence against women

Women in India continue to face physical, sexual, emotional and economic violence. According to the 2005 Annual Report of the National Crime Records, 1 crime was committed against women in every 3 minutes, 1 rape in every 29 minutes, 1 molestation in every 15 minutes, 1 dowry death case in every 77 minute in the country during 2005. The NCRB recorded a total of 1,55,553 cases of Violence Against Women (VAW) including 18,359 cases of rape involving 18,376 victims, 34,175 cases of molestation and 58,319 cases of torture in 2005. Out of total 22,832 cases reported for kidnapping and

abduction of women 43% were for marriage only and 56,709 cases investigated by police during 2005 were of cruelty by husband and relatives.⁷ It is worth noting that NCRB seldom collects the data on offences committed by the armed forces.

Women, particularly those from tribal, dalit and religious minorities, face sexual and gender based crimes during/after caste or communal conflict situations. There are rampant child marriages - while the legal age of marriage for women is 18 years, 2% of girls of 10-14 years age group and 24% of 15-19 age group are married (Source Census 2001). Women's right within family and marriage, specially her rights to property, inheritance, maintenance are not ensured. In the age of liberalisation, there is increased feminisation of poverty especially with males committing suicide. Poor socio-economic indicators, deplorable educational, reproductive and sexual health statistics highlight that women are increasingly being marginalized in the development and political agenda. Across North India, there is inverse juvenile sex ratio because of female foeticide.

b. Rights of the child

The situation of children remained vulnerable with the lack of effective programmes for the child labourers, recruitment as child soldiers, sexual violence against girl child and deplorable conditions of the juveniles in conflict with the law. Dalit and tribal children are more vulnerable to abuses and face problems for access to education. The government remains a mute witness to recruitment as child soldiers. Torture and corporal punishment are rampant.

c. Violence against Dalits

The Scheduled Castes, known as "Dalits", continued to face atrocities and caste based discrimination in all spheres of life. The 2005 Annual Report of the National Crime Records Bureau reported a total of 26,127 cases - 8,497 cases under the Protection of Civil Rights Act and 291 cases under the SC/ST (Prevention of Atrocities) Act of 1989 (Atrocities Act)- against the Scheduled Castes. Although the average charge-sheeting rate for the crimes against the SCs was 94.1 per cent, the average conviction rate was only 29.8%. A total of 46,936 persons (82.4%) out of 57,804 persons arrested for crimes committed against Scheduled Castes were charge-sheeted but only 28.3% were convicted consisting of 12,691 persons out of 44,842 persons against whom trials were completed.⁸ As the Dalits assert the rights, they faced increased violence. But their complaints are seldom registered. The enactment of the SC/ST Act in 1989 became necessary after the earlier Civil Rights Act was found to be ineffective. The purpose behind this specific legislation that gave greater protection to Dalits has been neutralized by the police and judicial machinery by not applying the empowering sections of the law when such crimes

7. <http://ncrb.nic.in/crime2005/cii-2005/CHAP5.pdf>

8. 2005 Report of National Crime Records Bureau, Ministry of Home Affairs, available at <http://ncrb.nic.in/crime2005/cii-2005/CHAP7.pdf>

are committed. Institutionalised prejudice (casteism and communalism) prejudices the criminal justice system against Dalits and the religious minorities further.⁹

The Dalits continue to be denied access to public places including places of worship, electricity and water. Women face ill-treatment and there are higher mortality rates among Dalit women and children and less access to vaccination.

d. Indigenous peoples

Over 84 million indigenous/tribals peoples of India, known as the Scheduled Tribes, continued to be disproportionate victims of “development”, displacement and dispossession.

Many tribal communities including Birhores of Jharkhand¹⁰; Karbongs of Tripura¹¹; the Great Andamanese, Onges, Shompens, Jarawas, and Sentinelese of Andaman and Nicobar¹² have been facing extinction. In 2002, the Supreme Court ordered the closure of the Andaman Trunk Road that run along and through the Jarawa Tribal Reserve as it threatens their survival. But the Andaman Trunk Road continued to remain open in gross violation of the Supreme Court orders.¹³

According to the 2005 Annual Report of the National Crime Records Bureau, a crime against the tribals was committed in every 29 minutes. In 2005, a total of 5,713 cases against Scheduled Tribes (STs) were reported in the country as compared to 5,535 cases in 2004 showing an increase of 3.2% in 2005 from 2004. These included 1,283 cases reported under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 and 162 cases under the Protection of Civil Rights Act. Although the average charge-sheeting rate for the crimes against the STs was 91.6 per cent, the average conviction rate was only 24.5%. A total of 8,273 persons (83.8%) out of 9,870 persons arrested for crimes committed against Scheduled Tribes were charge-sheeted but only 24.2% were convicted consisting of 1,934 persons out of 7,981 persons against whom trials were completed.¹⁴

The Ministry of Tribal Affairs in its Draft National Policy on the Tribals stated that nearly 8.6 million tribals were displaced until 1990 on account of mega development projects like dams, mining, industries and conservation of nature etc.

⁹ Minority for Social Justice, Dr Mena Kumar's study.

¹⁰ Birhore tribe, may soon become extinct in J'hkhand, The Hitavada, 4 July 2005

¹¹ Only 23 families still surviving, The Sentinel, 25 June 2005

¹² Andaman tribes at risk of extinction, The Statesman, 17 May 2005

¹³ Andaman activists allege sexual exploitation of Jarawa women, The Kashmir Times, 20 August 2005

¹⁴ 2005 Report of National Crime Records Bureau, Ministry of Home Affairs, available at <http://ncrb.nic.in/crime2005/cii-2005/CHAP7.pdf>

e. Religious minorities

The religious minorities in India who constituted 18.6 % of the total population as per 2001 census¹⁵ face serious discrimination from majority Hindus and the state has turned distinctly majoritarian. The religious minorities face persecution, stigmatisation and marginalisation in economic, social and political spheres. The Justice Ranjinder Sachar Committee in 2007 has highlighted the same. Women and girls among the religious minorities face three levels of deprivation – of gender, class and community.

Freedom of faith is violated under the Freedom of Religious Acts. The religious minorities cannot control their places of worship. The Bodh Gaya temple where Lord Buddha gained enlightenment is still managed by the Hindus in contraventions of the directions of the National Commission for Minorities. 297 places of worship – Mosques and Dargah's were destroyed during the Gujarat Genocidal carnage of 2002. Only a few have been repaired.¹⁶

India having born out of communal riots during the partition in 1947 continues to witness regular communal violence, mass crimes, ethnic cleansing and genocide. There has not been any law to deal with such communal violence. A special law to deal with genocidal crimes has been demanded by rights activists and minority groups. At present, the Communal Violence Bill is being examined by the Rajya Sabha but the Bill does not define mass crimes, genocide etc. Nor does it ensure punishment to the chain of command, the man or woman at the helm who masterminds carnage. It further strengthens the State but there are no provisions for witness protection, reparation, command responsibility. The Bill is extremely gender insensitive and the crimes under the Bill are already covered under the Indian Penal Code!

f. Stigmatisation and denotified tribes

Various religious groups, Muslim clerics, pastors etc continue to be victims of human rights violations at the hands of the law enforcement personnel as a result of prejudices.

Apart from prejudices, certain communities continue to suffer from stigmatization. The colonial British government identified certain tribal groups as “born criminals” under the racist Criminal Tribes Act of 1871. The government of India only amended the nomenclature of the Act in 1952 by rechristening it as ‘Habitual Offenders Act’ and denotified certain tribal groups. However, the basic thrust of the Act – identifying certain tribal groups as “habitual offenders” or “born criminals” – continues even today. The

¹⁵. The figure excludes Jammu and Kashmir and Assam. National Minority Commission, http://ncm.nic.in/minority_population.pdf.

¹⁶ The Concerned Citizens Tribunal, Crimes Against Humanity Gujarat 2002 headed by Justices V. R. Krishna Iyer, Justice P B Sawant and Justice Hosbet Suresh. (www.cjponline.org)

government set up a National Commission on the Denotified Tribes which has the worst mandate in terms of powers and functions in comparison to other statutory bodies.

g. Refugees under the government of India

According to Annual Report 2005-06 of Ministry of Home Affairs, there were 1,08,414 Tibetan refugees and the government of India reportedly spent an amount of about Rs. 18.17 crore on their resettlement.¹⁷ About 80,000 were in northeast Indian state of Mizoram, which borders Myanmar's Chin State, while 10,000 were in Manipur and 2,000 in Delhi.¹⁸ They constantly live under fear of deportation.

V. Overarching Issues

a. State of Judiciary

Judiciary despite its independence has virtually collapsed in terms of quantitative and qualitative deliverance of justice, long ago. There are at least 28.6 million cases pending before the courts in India.¹⁹ According to Chief Justice of India K.G. Balakrishnan there is a need for at least 5,000 more courts²⁰, 1,539 more judges in the High Courts and 18,479 more judges in subordinate courts to clear the backlog cases within one year. Presently, India has only 10.5 judges per million population.²¹ In addition, vacancies are seldom filled up on time. There were four vacancies in the Supreme Court of India (out of sanctioned strength of 26 judges, there were only 22 judges) as on 10 July 2007, 142 vacancies in the 21 High Courts of the country (there were 583 judges against the sanctioned strength of 725 judges) as on 1 July 2007 and 2,768 vacancies in the district and subordinate courts (there were 11,951 judges against the sanctioned strength of 14,719 judges) as on 31 March 2007.²² The issue however is not only of absence of courts. An inherent lack of accountability and transparency from the judiciary, especially in cases related to severe human rights violations is made worse by the existence of an outdated and undemocratic Contempt of Court Act.

There is no law to ensure judicial accountability. The Contempt of Court Act is often used to silence the truth.

In addition, legal aid system has collapsed.

17. Ministry of Home Affairs, Annual Report-2005-06, <http://mha.nic.in/Annual-Reports/ar0506-Eng.pdf>

18. Chin-Burmese refugees in India air woes, available at: http://www.indoburmanews.net/archives/archive06/aug_06/273

19. The Monthly Statement Of Pending Cases For The Month Of October, 2007, Supreme Court of India, available at http://www.supremecourtindia.nic.in/new_s/pendingstat.htm

20. More courts required to clear pending cases: CJI, The Tribune, 5 November 2007

21. CJI blames govt for backlog, The Hindustan Times, 8 April 2007

22. Source: Court News, April - June 2007, Supreme Court of India, available at http://www.supremecourtindia.nic.in/Apr_Jun_2007.pdf

b. Attacks on domestic and international human rights defenders

Human rights defenders continue to face repression. On 17 July 2007, Subash Mahapatra, Director of Forum for Fact Finding, Documentation and Advocacy (FFDA) was handed over to the police in Raipur, Chattisgarh by the Chhattisgarh State Human Rights Commission where he went to inquire about the status of his complaints of human rights violations filed with the commission.

On 26 October 2006 at 9 am, Mr Hebal Abel Koloï, Chairman of Borok Peoples Human Rights Organization was arrested by Tripura Police without any "Memo of Arrest" and was subsequently charged under section 120-B (waging war against the state) of Indian Penal Code, the Arms Act and the Unlawful Activities (Prevention) Act. When Mr Koloï was granted bail in these cases, the police slapped a notice under the National Security Act of 1980 to detain him further. He has been since released on bail.

On 24 August 2006, Leitanthem Umakanta Meitei, Secretary General of the Threatened Indigenous People's Society of Manipur was arrested by the police from his house in Imphal, Manipur under the Unlawful Activities (Prevention) Act, 2004. His colleague, Yengkokpam Langamba Meitei alias Thabi was arrested on 23 August 2006. On 4 October 2006, both of them were released and all charges against them were dropped as the police could not produce any evidence.

Since 14 May 2007, Dr. Binayak Sen, General Secretary of the Chhattisgarh State Branch of the Peoples Union for Civil Liberties (PUCL) and the Vice-President of the National PUCL has been detained under the Chhattisgarh Special Public Security Act, 2005 and the Unlawful Activities (Prevention) Act, 1967 on the charges of having links with the Maoists. On 23 June 2007, Dr Sen was denied bail by the Chhattisgarh High Court. He continues to be imprisoned.

Victims of the Gujarat carnage of 2002 and human rights defenders supporting their struggle have faced threats of arrest by the state government of Gujarat. Latifa Begum in Godhra, Ameenabi from Pandharwada, Gujarat are too examples. Rais Khan Pathan and Teesta Setalvad of Citizens for Justice and Peace have been threatened with arrest and are now on anticipatory bail.

The threats are no longer limited to human rights defenders in India. On 26 September 2007, Additional Chief Metropolitan Magistrate in Bangalore issued arrest warrants against seven Netherlands-based human rights defenders including Ms. Ineke Zeldenrust, Ms. Esther de Haan, Ms. Christa de Bruin and Mr. Evert de Boer of Clean Clothes Campaign (CCC), an organisation which struggles for the improvement of working conditions in garment industries and Mr. Gerard Oonk, Mr. Hans Maas and Ms. Pauline Overeemand of the India Committee of the Netherlands (ICN), an NGO raising awareness on the negative impacts of globalisation policies on human rights in India. Fibres and Fabrics International (FFI) and its subsidiary company Jeans Knit Pvt Ltd

(JKPL) – two subcontractors of big brands such as G-Star, Armani, RaRe, Guess, Gap and Mexx, which have been accused of physical and verbal abuse on employees, forced labour, unpaid overtime working hours, non-deliverance of contracts, confiscation of identity cards, etc filed a petition alleging the Netherlands based human rights defenders of “cybernetic crimes”, “racist and xenophobe acts” and “criminal defamation” under Articles 499 and 500 of the Indian Criminal Procedure Code and under Articles 2 to 6 of the Additional Protocol to the Convention on Cybernetic Crime.²³

3. State's Obligations/Commitments

I. National level obligations

India has plethora of laws – laws almost on every subject and very issue except possibly torture and accountability of the State. India's commitment cannot be measured by the Constitution, various national laws, or judgments of the Supreme Court. India's commitment must be judged from its commitment to implement which stands exposed from the report on human rights situation on the ground.

The government of India also failed to implement Supreme Court judgment in the case of *Salem Advocate Bar Association of Tamil Nadu Vs Union of India* (2003 1 SCC 49) which directed the government of India to conduct “judicial impact assessment” and provide finance and infrastructure to deal with additional cases every time a new law is enacted.

There are implementation mechanisms and therefore, the judgements like the DK Basu judgement which the government of India “loves to quote” or recent Supreme Court judgement on police reforms have not been implemented.

The government failed to comply with the Paris Principles on National Human Rights Institutions with regard to the National Human Rights Commission, National Commission for Minorities, National Commission for Scheduled Tribes, National Commission of Scheduled Castes, National Commission for Women, National Commission for Children, National Commission for the De-notified Tribes and various State level bodies because of failure to provide powers, funds and resources, and autonomy. The guidelines of the NHRIs including on rape, custodial deaths and encounter killings are not implemented.

On the administration of justice apart from failure to register the First Information Reports especially by the vulnerable groups and judicial delay, the government failed to take any administrative or legal measures to address the problem under which the Post Mortem Reports are still treated as State secret!

²³ .Opening of judicial proceedings against several members of CCC and of ICN IND 003 / 1107 / OBS 137 Harassment / Judicial proceedings India, OMCT, Geneva, 6 November 2007

The government of India also failed to enjoin upon professional associations like Bar Council, Medical Council, Press Council etc on human rights issues. The government of India has failed to ensure good practices in terms of international human rights standards when it comes to basic investigations and medico-legal practices like post mortems.

The government of India failed to take adequate measures for implementation of the programmes like Special Component Plan for the Dalits and Tribal Sub-Plan for indigenous peoples.

The Government of India is yet to officially release the Report of the Committee to Review the Armed Forces Social Powers Act (AFSPA) submitted to the Government on June 2005; neither has it implemented the recommendation no. 8.5.17 of the 5th Report of the Second Administrative Reform Commission to repeal the AFSPA submitted to the Government in June 2007.

II. International obligations

The government of India made no concrete voluntary pledges and it is certainly not only because of the fact that only the Ministry of External Affairs is involved in preparing the pledges.

The government failed to ratify the following key international human rights and humanitarian law standards: Optional Protocols to the International Covenant on Civil and Political Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, International Convention for the Protection of All Persons from Enforced Disappearance, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women New York, 6 October 1999, Mine Ban Treaty, Additional Protocols II to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflict of 8 June 1977.

Considering that international laws are not self-executing, the government of India failed to bring conformity with the ratified treaties at domestic level

In addition, periodic reports are not submitted regularly. The report to the Human Rights Committee has been pending since December 2001.

Once the report is submitted, the recommendations of the Treaty Bodies are neither implemented nor are any mechanism established to implement the same. The government failed to implement the recommendations on the Armed Forces Special Powers Act.

In addition, the government has failed to withdraw the reservations to the Treaties ratified by it.

The government of India also failed to implement the Right to Information Act as pledged before the Human Rights Council.

Physicians for Human Rights, Amnesty International and Human Rights Watch are not allowed easy access in terms of domestic situation. For example Amnesty International was refused permission to visit Gujarat since 2002.

4. Enhancement of State's capacity/technical cooperation

The following areas should be considered for technical cooperation to increase capacity of the existing mechanisms:

- Capacity building programmes for National Institutions which has not received or benefited from any cooperation like the National Commission for Scheduled Tribes National Commission for Scheduled Castes, National Commission for Women, National Commission for Minorities, National Commission for Denotified Tribes etc;
- Considering the discrepancies in the data collected by the National Human Rights Commission and National Crime Records Bureau, collection of disaggregated data on human rights violations is an area which requires technical cooperation;
- Increased understanding of human rights for judiciary through judicial colleges;
- Technical cooperation and assistance to address judicial delay;
- Prison reforms;
- Involvement of professional organizations like Bar Council, Medical Council etc on human rights issues.

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5. Cooperation with HRC, Treaty Bodies and OHCHR

Ratification of international instruments is construed as reporting obligations and not an opportunity to improve human rights situation on the ground. The government of India did not cooperate with the mechanisms of the Commission on Human Rights and it has shown no indicate of cooperation with the mechanisms assumed by the Human Rights Council.

The largest democratic country has failed to extend Standing Invitation to the Special Procedures. It has not extended invitations to the key Special Procedure on Civil and Political Rights i.e. Special Rapporteurs on Torture (since 1992), Special Rapporteur on Extrajudicial Executions, Working Group on Enforced Disappearances, Working Group on Arbitrary Detention, Special Rapporteur on racism and Special Rapporteur on the indigenous peoples. Only the Special Rapporteur on religious intolerance was invited.

The periodic report to the Human Rights Committee has been pending since December 2001.

The government of India seldom respond to the interventions of the Special Procedures. As the OHCHR will examine such issues, the same are not being mentioned.

Annexure I: List of the NGOs endorsing this submission

.No.	Name of the Organisation
1.	Asian Centre for Human Rights, New Delhi
2.	Asian Forum for Human Rights and Development, (Forum Asia) Bangkok
3.	ALLI, Lucknow, Uttar Pradesh
4.	Association. for Awareness Dev. & Human Rights (ADHAR) Bihar
5.	Association of Parents of Disappeared Persons, (APDP) J&K
6.	All India Crime Prevention League, Hyderabad, Andhra Pradesh.
7.	Awareness building & Community Development Educational Trust (ABCD Educational Trust) Madurai, Tamil Nadu.
8.	Action Aid India, Gujarat Region, Ahmedabad, Gujarat
9.	Action Aid India, Chennai Region, Chennai, Tamil Nadu.
10.	Action Aid India, Karnataka Region, Bangalore, Karnataka
11.	Action India, New Delhi
12.	Adarsh Seva Trust, Baroda, Gujarat
13.	Agami Lok Kalyan Sangh (ALOK), Gajapati, Orissa
14.	All India Catholic Union, Delhi
15.	ANANDI, Vadodara, Gujarat
16.	Annai Kasthuribai Mahalir Mandram, Devakottai, Tamil Nadu
17.	ANVESH, Thiruvalla, Kerala
18.	AKSHARA, Dadar, Mumbai, Maharashtra
19.	Apana Theatre Samajik Sanskritik Sahitiyak, Sanstha, Kanpur, Uttar Pradesh

20.	All India Dalit Mahila Adhikar Munch (AIDMAM) New Delhi
21.	Aman Samajik Sangthan, Saharanpur , Uttar Pradesh
22.	Association of Secular Initiatives for Social Humanism, Gajapati, Orissa
23.	Astha Sansthan, Udaipur, Rajasthan.
24.	Astitva Samajik Sanstha, Saharanpur, UP
25.	Asmita Resource Centre for Women, Hyderabad, Andhra Pradesh.
26.	AWAG, Ahmedabad, Gujarat
27.	APSA, Bangalore, Karnataka
28.	Awaz-E-Niswan, Mumbai, Maharashtra
29.	Azad Sewa Ashram, Purana Kanpur, Uttar Pradesh
30.	Bombay Catholic Sabha, Mumbai, Maharashtra
31.	Barh Sukhar Mukti Andolan, Patliputra Colony, Patna, Bihar
32.	Bachpan Bachao Andolan, Patna, Bihar
33.	Behavioral Science Center, Ahmedabad, Gujarat
34.	Borok Peoples Human Rights Organisation. Tripura.
35.	BIRDS, Karnataka
36.	Coastal Action Network, Nagapattinam, Tamil Nadu.
37.	Campaign for Custodial Justice and Abolition of Torture, Madurai, Tamil Nadu.
38.	Citizens for Human Rights Movement, Madurai, Tamilnadu
39.	CEC, Bangalore, Karnataka
40.	Campaign Against Sex Selective Abortion (CASSA), Madurai, Tamil Nadu.
41.	Campaign Against Child Trafficking, Avinashi, Tamil Nadu.

42.	CARES, Chittoor, Andhra Pradesh,
43.	CEDA Trust, Dindigul, Tamil Nadu.
44.	Centre for Peace and Development
45.	Centre for Social Justice, Ahmedabad, Gujarat
46.	Civil Society Womens Organization, Tripura
47.	Centre for Study of Society and Secularism, Mumbai, Maharashtra
48.	Centre for Human Rights, Ahmedabad, Gujarat
49.	Centre for Dalit Rights, Jaipur, Rajasthan
50.	Centre for World Solidarity, Hyderabad, Andhra Pradesh
51.	Civil Society Women's Organization, Meghalaya
52.	Centre for Budget and Governance Accountability , New Delhi.
53.	CISRS, Bangalore , Karnataka
54.	Commonwealth Human Rights Initiatives, New Delhi
55.	Communalism Combat, Mumbai, Maharashtra .
56.	Campaign Against Child Labour - India
57.	Centre for Peace and Development, Mizoram
58.	Chirgealam Education Trust, Mahemdabad
59.	Citizens for Justice and Peace, Mumbai, Maharashtra
60.	CIEDS, Bangalore, Karnataka
61.	C R W D , Ilayangudi, Tamilnadu
62.	Cultural Action & Rural Development Society, Ramanathapuram , Tamil Nadu
63.	Dalit Foundation, New Delhi
64.	Dalit Bahujana Shramaika Union, Andhra Pradesh

65.	Dalit Watch-Bihar , Patna, Bihar
66.	Development Initiative, Bhubaneswar, Orissa,
67.	Dalit Assn. For Social & Human Rights Awareness (DASHRA), Patna, Bihar
68.	Dalit Mukti Mission, Banka, Bihar
69.	Dalit NGO Voice of Orissa, Balasore, Orissa
70.	Dalit Samanwaya-Bihar, Patna, Bihar.
71.	DARSHAN, Ahmedabad , Gujarat
72.	DISHA, Ahmedabad, Gujarat
73.	Dynamic Action Group, Lucknow, Uttar Pradesh
74.	EQUATIONS, Bangalore, Karnataka
75.	ECHO, Bangalore, Karnataka
76.	EKTA, Madurai, Tamil Nadu.
77.	Forum for Human Rights, Hyderabad, Andhra Pradesh
78.	Fireflies, Bangalore, Karnataka
79.	Friends of Society, Mumbai, Maharashtra.
80.	FORWORD, Kanchipuram, Tamil Nadu
81.	FFDA India, Raipur, Chhattisgarh
82.	Forum for Indigenous Perspectives and Action
83.	Gramya Resource Centre for Women, Secunderabad, Andra Pradesh
84.	GUIDE, Kanchipuram, Tamil Nadu
85.	Harijan Adivasi Seva Sangha, Baleshwar, Orissa
86.	Help Age India, New Delhi
87.	Human Rights Forum for Dalit Liberation (HRFDL – TN) ,

	Mayiladuthurai, Tamilnadu
88.	Housing & Land Rights Network, New Delhi
89.	Human Rights AIMF, Imphal, Manipur
90.	Human Rights Alert, Imphal, Manipur
91.	Hum Safar Trust, Ahmedabad, Gujarat
92.	Indian Social Institute, Lodi Road, New Delhi.
93.	Indian Institute of Dalit Studies, New Delhi
94.	Institute of Human Rights Education, Madurai, Tamil Nadu.
95.	Indegenous Tribal Peoples Development Centre
96.	India Campaign on International Criminal Court, Mumbai, Maharashtra
97.	Indian Dalit Solidarity Committee, Raisen, Madhya Pradesh
98.	Insight Foundation, New Delhi
99.	ITPDC, Agartala, Tripura
100.	Jan Kalyan Sansthan, Gorakhpur, Uttar Pradesh
101.	Janvikas, Ahmedabad, Gujarat
102.	Janodhayam, Chennai, Tamilnadu
103.	JAGORI, New Delhi
104.	Khoj, Mumbai, Maharashtra
105.	Kuki Movement for Human Rights, Imphal, Manipur
106.	Lohia Karpuri Institute of Technology for Social Change (LKIT), Madhubani, Bihar.
107.	Lok Shakthi Sangathan Bharat, Patna, Bihar
108.	Mahila Sadan, Guntur, Andra Pradesh
109.	Marudhar Ganga Society, Jodhpur, Rajasthan

110.	Mumbai Amman Committee, Mumbai, Maharashtra
111.	MASUM, Kolkotta, West Bengal
112.	Mahila Sarvangeen Utkharsha Mandal, (MASUM), Pune, Maharashtra
113.	MAWLA, Perungudi, Madurai , Tamilnadu
114.	NARI GUNJAN, Danapur, Patna, Bihar
115.	National Alliance of Women's Organisations (NAWO), New Delhi
116.	National Centre for Advocacy Studies, Pune, Maharashtra
117.	National Campaign on Dalit Human Rights (NCDHR), New Delhi
118.	National Federation of Dalit Women, (NFDW), New Delhi
119.	Naga Peoples Movement for Human Rights, Nagaland.
120.	National Centre for Labor, (NCL) Bangalore, Karnataka
121.	National Federation for Dalit Land Rights Movement, Bhubaneswar, Orissa
122.	NAVCHETHANA, Thiruvalla, Kerala
123.	North East Network, New Delhi
124.	OLAKH, Baroda, Gujarat
125.	Prevention of Crime and Victim Care, (PCVV) Chennai, Tamiulnadu
126.	People's Watch, Madurai, Tamilnadu
127.	Peoples Organization for Hill Area Reconstruction for Awareness, Orissa
128.	PARIVRTAN, Kanker, Chhattisgarh
129.	Pradipan, Betul, Madhya Pradesh
130.	People's Council for Human Rights, Chhattarpur, Madhya Pradesh

131.	'PRAHAR', Assam
132.	PRASHANT, Ahmedabad , Gujarat
133.	PEUCUC, Bhuwaneshwar, Orissa
134.	People's Vigilance Committee on Human Rights, (PVCHR) , Varanasi, Uttar Pradesh
135.	Partners for Law in Development, New Delhi.
136.	People's Law Forum, Bangalore, Karnataka
137.	Savitiri Bai Phule Women Forum, Varanasi, Uttar Pradesh
138.	Rashtriya Janvikas Sansthan, Jaunpur Uttar Pradesh
139.	RDO, Karnataka
140.	REDS, Tumkur, Karnataka
141.	Rural Youth Educational Trust (RYET) Villupuram , Tamil Nadu
142.	Rural Institute of Comprehensive Education (RICE), Mayiladuthurai, Tamil Nadu
143.	Rural Development Society , Chengalpattu, Tamil Nadu
144.	Sanchetana Community Health and Research Centre Ahmedabad, Gujarat
145.	SANGAMA, Bangalore, Karnataka
146.	SOCO Trust, Madurai, Tamilnadu
147.	SAMEEKSHA, Ajmer, Rajasthan
148.	Save the Children., Bangalore, Karnataka
149.	SAFAR, Ahmedabad, Gujarat
150.	SAND Trust, Manamadurai, Tamil Nadu.
151.	Sabrang, Mumbai, Maharashtra
152.	Safai Karmachari Andolan, New Delhi

153.	Sudhanthra: Rehabilitation Centre for Torture Victims, Madurai, Tamil Nadu.
154.	Sahiyar – Stree Sangathan , Vadodara, Gujarat
155.	SAHR WARU: Women's Action and Resource Unit, Ahmedabad, Gujarat
156.	SAKSHI-A.P, Secunderabad, Andra Pradesh
157.	SANLAAP, Kolkota, West Bengal.
158.	SAMA, New Delhi
159.	SWAYAM, Kolkotta, West Bengal
160.	SANGAT, New Delhi
161.	SAKHI, Kerala
162.	Sakhi Kendra, Kanpur, Uttar Pradesh
163.	Social Awareness Society for Youths (SASY), Tindivanam, Tamil Nadu.
164.	Samaj Bikash Parishad, Balasore, Orissa
165.	Samaj Evam Paryavaran Vikas Sansthan Jodhpur, Rajasthan
166.	SAMERTH, Ahmedabad, Gujarat
167.	South India Cell for Human Rights Education and Monitoring (SICHREM) , Bangalore, Karnataka
168.	Social Watch – Tamil Nadu, Chennai, Tamil Nadu.
169.	SETU, Ahmedabad, Gujarat
170.	Shahid Bhagwat Jhadav Memorial Centre, Mumbai
171.	Shahpur Seva Samaj Trust, Ahmedabad, Gujarat
172.	STEPS, Pudukottai, Tamil Nadu

173.	South Asian Forum for Human Rights (SAFHR), New Delhi
174.	St. Xaviers Social Service Society, Ahmedabad , Gujarat
175.	Surat Young Muslim Graduates Association, Sagrampura, Surat, Gujarat
176.	Tamilnadu Womens Collective, Chennai
177.	Tamil Nadu Right to Information Campaign, Chennai, Tamil Nadu.
178.	Tamil Nadu Child Rights Protection Network, Nagapattinam, Tamil Nadu.
179.	Tamil Nadu Federation of Women Presidents of Panchayat Government, Chennai, Tamil Nadu.
180.	Tamilnadu Muslim Munnetra Kazhagam, (TMMK) Chennai, Tamilnadu
181.	THAMATE, Bangalore, Karnataka
182.	TIMBAKTU Collective, Karnataka
183.	Village Education for Downtrodden Upliftment (VEDU), Sivagangai, Tamil Nadu.
184.	Vigil India Movement, Bangalore, Karnataka
185.	Vaan Mukhil, Tirunelveli, Tamilnadu
186.	Vasundhara Seva Samiti, Barmer, Rajasthan
187.	Vizhuthugal - (Village People Good Life Society), Avinashi, Tamilnadu
188.	VIKALP, Berhampur, Ganjam, Orissa
189.	Voices from the Margins, Kanyakumari, Tamilnadu
190.	WIDA, Chetpet, Tamilnadu
191.	WITNESS, Bagepalli, Kolar, Karnataka
192.	YUVA, Mumbai, Maharashtra

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193.	Ms. Bhavna Ramrakhiani, Ahmedabad, Gujarat
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196.	Mr. K.G. KANNABIRAN, National President, PUCL, Hyderabad, Andra Pradesh
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198.	Prof. Pam Rajput, Chandigarh
199.	Dr. Ruth Manorama, Bangalore
200.	Ms. Sheila Jeyaprakash, Advocate, High Court, Chennai,
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202.	Dr. Ramakumari Panchal, Indore, Madhya Pradesh
203.	Dr. Vasanthi Devi, Former Chairperspon, Tamilnadu Womens Commission, Chennai
204.	Ms. Vrinda Grover, Advocate, High Court New Delhi
205.	Dr. Umakant, New Delhi