



Human Rights in India



Joint Stakeholders' Report*

United Nations

Third Universal Periodic Review India

Submitted by the Working Group on Human Rights in India and the UN (WGHR)

The Working Group on Human Rights In India And UN (WGHR) is a national coalition of 12 human rights organisations and independent experts from India. WGHR works towards the realization of all civil, cultural, economic, political and social rights in India and aims at holding the Indian government accountable for its national and international human rights obligations.

Members

• Citizens For Justice And Peace • Commonwealth Human Rights Initiative • FIAN India • HAQ: Centre For Child Rights • Housing And Land Rights Network • Human Rights Alert • India Alliance For Child Rights • Lawyers Collective • Multiple Action Research Group • National Campaign On Dalit Human Rights • Partners For Law In Development • People's Watch

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**"Report endorsed by 1000+ organisations and individuals"*

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I. Introduction (Methodology and Consultation Process)

1. Since 2009 the Working Group on Human Rights in India and the UN (WGHR) has been actively monitoring and making submissions on India's UPR along with several hundred others across India's 29 states.¹ During the period following the adoption in 2012 of India's second UPR recommendations, WGHR has been active in preparing a monitoring tool and in supporting collective consultations across the country and including through thematic consultations that led to the formulation of a mid-term report.²
2. Thematic and regional consultations held in 2016 in which over 1000 grassroots organisations and individuals from 20 states have participated, have resulted in the present collective submission which was jointly agreed at a national convening on 9 and 10th.³

II. Implementation of UPR I & II Recommendations and Overview of Human Rights Situation

A. Economic Social and Cultural Rights

Development and Poverty

3. As per UPR I Recommendation 10 and UPR II Recommendation 134, India committed to address socio-economic inequities between rich and poor. Despite being the world's fastest-growing large economy with a growth rate of 7.6 per cent in 2015-16⁴, the average decline in the poverty ratio was recorded at 2.18 percentage points per year during the 7-year period 2004-05 to 2011-12.⁵
4. The poor accounted for 29.6 per cent (363 million) of the total population in 2011-2012.⁶ India's economic policies perpetuate 'exclusion' resulting in inequalities and a widening gap between urban and rural areas.⁷

5. India needs to spend USD 61.11 billion a year, or 3.77% of its gross domestic product, to tackle extreme poverty and rural distress.”⁸
6. There has been a sharp reduction in expenditure⁹ in most rural programmes to address rural poverty such as for MGNREGA¹⁰ which has affected the rural poor.¹¹

Rights to Adequate Housing and Land¹²

7. In both UPR I and II, only one recommendation was made on housing¹³; there was no recommendation on land.¹⁴
8. India has the world’s largest number of homeless and landless persons.¹⁵ The national housing shortage was 18.78 million houses for urban areas¹⁶ and 40 million for rural areas; 96 per cent for low-income groups. In the absence of affordable/public housing, 13.75 million households live in inadequate settlements/‘slums’ without access to basic services.¹⁷
9. Though India has launched several schemes, including Housing for All–2022,¹⁸ it has not made significant progress in realizing the rights to adequate housing and land, especially for the most marginalized. This is largely because India does not recognize housing as a human right and is pursuing a macro-economic paradigm that promotes homelessness, forced evictions, land grabbing/alienation, and displacement.
10. Displacement from rural areas resulting from large dams, mining projects, and construction of roads, ports, and industrial corridors, is rampant. Since 1947, at least 70 million people have been displaced for ‘development’ projects;¹⁹ the majority has not been resettled.²⁰ For the minority that qualifies as ‘eligible’ for resettlement, relocation is provided in remote sites without access to basic services, livelihoods, education, and healthcare.²¹
11. Land ownership is highly inequitable. Fifty-six per cent of rural households do not own any land while 53.7 million households consist of landless labourers.²² SC/ST, including nomadic/semi-nomadic/De-notified tribes, and women face

discrimination while asserting claims to land. These marginalised groups have no rights to homestead land.

12. Discrimination in access to housing is widespread,²³ especially for religious²⁴ and sexual minorities, and single women. People living in enclaves,²⁵ plantation workers, migrants, sex workers, and persons with disabilities face housing rights violations.
13. Between 2008 and 2014, 30 million people were displaced from natural disasters.²⁶ Delayed/failed/exclusionary rehabilitation of disaster-affected persons is a major concern.²⁷
14. The Smart Cities Mission that plans to create 109 'smart cities' by 2020, focuses more on technology than inclusion, and is likely to promote segregation and evictions.²⁸

□ **Recommendations:**

- Promulgate a national right to housing law, which commits to ending homelessness and evictions and segregation and ghettoisation. Implement progressive laws²⁹ and ensure that policies/schemes³⁰ adopt the human rights framework.
- Promulgate a national land reform act, ensuring land to the landless, especially SC/ST and women.³¹ Promulgate a right to homestead law.³²

Right to Food

15. India accepted recommendations 136 and 138 made during UPR II cycle to introduce a strategy to promote food security and strengthen the Public Distribution System (PDS) system. But despite having a number of food entitlement programmes,³³ food subsidy schemes³⁴, livelihood and the required available grains, India tops world hunger list with 194.6 million undernourished³⁵ people which is over 15 per cent of India's population³⁶. India also has the world's highest number of malnourished and hungry children.³⁷ Fifty-one percent of women are anaemic³⁸.

16. Since 2001, over 150 Supreme Court interim orders have treated the right to food as justiciable. The National Food Security Act, 2013³⁹ (NFSA) enacted by Indian Parliament on September 12, 2013 created a broad framework of legal entitlements for 67 percent of the Indian population⁴⁰ covering 75% of rural and 50% of urban Indian households respectively. India's Public Distribution System (PDS),⁴¹ the largest distribution network of commodities through the Fair Price Shops (FPS) failed to bring expected benefits due to corruption, inefficiency and discrimination in distribution.⁴²
17. Agrarian crisis and the largest wave of farmer's suicides in recorded history⁴³ warrant systemic solutions such as land reform, access to irrigation water, low cost inputs and organic way of agricultural practices. According to data from the National Crime Records Bureau (NCRB) as many as 5,650 Indian farmers committed suicide in 2014, or 15 farmers a day.⁴⁴

□ **Recommendations**

- Ensure conformity of the National Food Security Act, (NFSA) 2013 with India's human rights obligations.
- Expand the ambit of the NFSA to strengthen and implement effectively legislation and programmes dealing with the right to food.⁴⁵

Right to Health

18. The Right to Health is firmly established in international and national laws.⁴⁶ Despite having 30% of the world's poorest people, out-of-pocket expenditure on health continues to be one of the highest in the world⁴⁷. The public health budget has stagnated at 1.2% in the last few years.⁴⁸
19. De-emphasizing of provisioning of service through the public health system as a key role of the government and a tangible shift towards privatization of healthcare⁴⁹ is a failure of India's obligation to protect the Right to Health.⁵⁰ There has been a steady deterioration of access to determinants of health. Non availability of water even in several health centers for safe deliveries and neonatal care, malnutrition in children, adolescents⁵¹ and women, including

anaemia, continues to be a serious challenge. Food and Nutrition Security and Sovereignty must be ensured.⁵²

Communicable diseases (TB, malaria, etc.) continue to be a leading cause of morbidity and mortality⁵³ even as non-communicable diseases (diabetes, hypertension). The WTO - TRIPS Agreement which mandated product patents also allowed flexibility in the implementation of domestic law to enact pro-poor and public health provision like compulsory licenses. This provision has not been invoked till date to increase affordable access.⁵⁴ India's new Intellectual Property (IP) policy shifts away the needed emphasis on advancing public health and interest towards an IP maximalist approach.

□ **Recommendations**

- Increase public health budget to 5% of GDP with substantial investment in primary healthcare.
- Institutionalize National Health Policy based on principles of Comprehensive Primary Health Care.
- India's IP regime must prevent bio piracy of traditional knowledge and traditional resources.

Right to Education

20. The Right of Children to Free and Compulsory Education Act, 2009⁵⁵ was a milestone in pursuing the purpose of education as enshrined under various national and international mechanisms⁵⁶.

21. Despite that serious gaps exist. There are approximately 10.12 million working children in 5-14 years age group, out of school children^{57,58} 59 low retention rates of students⁶⁰, closure of government schools on grounds of rationalization⁶¹, state and non-state occupation of schools⁶² and non-implementation of RTE Act in conflict areas like Jammu & Kashmir⁶³, Chhattisgarh⁶⁴ remain a challenge⁶⁵.

22. Wide spread discrimination faced by children with disabilities, children infected and affected by HIV/AIDS, children of nomadic, semi-nomadic and de-notified tribes, LGBTQ, Dalit, tribal, and Muslim communities in government schools.⁶⁶
23. The implementation of Act has remained underfunded and total public expenditure for education, at less than 3.5 per cent of GDP is below the 6 per cent commitment in National Education Policies.⁶⁷ The existing education policy legitimises parallel education systems.⁶⁸

□ **Recommendations:**

- Expand the scope of Fundamental Right to Free and Compulsory Education Act from 0-18 years⁶⁹ ensuring equitable quality⁷⁰, inclusion and non-discrimination⁷¹.
- Evolve a National policy on human rights education in line with World Programme of Human Rights Education promoting cultural diversity and age-appropriate comprehensive sexuality education⁷² in curriculum.

B. Militarization, Security Laws and Torture

24. The situation in conflict zones – particularly Kashmir, north-eastern states, and central Indian states⁷³ – remains challenging. In response the state has increased the deployment of security forces⁷⁴, and intensified militarization.⁷⁵ The army has established new military camps in the northeast;⁷⁶ and increased military presence in Kashmir.⁷⁷ In Chhattisgarh the government has promoted self-styled vigilante groups and started arming local *adivasi* youth.⁷⁸
25. There are many grave complaints against security forces from conflict areas of:
 - Rape and sexual assaults;⁷⁹
 - Enforced disappearances;^{80,81}
 - Extrajudicial killings;⁸²
 - Arbitrary arrests and detentions;⁸³
 - Torture;⁸⁴

26. Complaints of torture and extrajudicial killings have also emerged from other regions.⁸⁵
27. In Chhattisgarh (2015-16), there have been multiple cases of rape and sexual violence of adivasi women and an unprecedented number of encounter deaths by security forces in the name of counter insurgency operations.⁸⁶ Traditional ceremonies, festivals cannot be held by *adivasi* communities for fear of encounters and arrests.⁸⁷
28. Kashmir valley has witnessed large scale violence and deaths in 2016.⁸⁸ Pellet guns have caused grievous injuries particularly blindness among children.⁸⁹
29. AFSPA has been further extended in Nagaland (2016), Manipur (2015) and imposed in Arunachal Pradesh along the Assam border. Despite reports of the AFSPA being lifted in Tripura, no Notification to this effect has been issued.
30. Journalists⁹⁰, lawyers⁹¹ researchers⁹² and activists⁹³ highlighting violations in conflict areas are also targeted and implicated in false criminal cases.
31. Several security laws (central and state) operating in these conflict areas also apply in the rest of the country.⁹⁴ International and national bodies - noting that laws like AFSPA⁹⁵ give security forces arbitrary powers - have recommended their repeal or revision.⁹⁶
32. People living close to international borders, such as the Indo-Bangladesh border, are subjected to torture and extrajudicial killings by the Border Security Forces⁹⁷ and face conflict related displacement.⁹⁸
33. Several people remain incarcerated for long periods of time as under-trials, and are found innocent at the end of the trial.⁹⁹
34. In most cases, security laws requires that the Executive grant sanction before a member of the security forces can be prosecuted in a civilian court. Sanction is rarely if ever granted.¹⁰⁰
35. Laws governing armed forces allow human rights violations by security personnel to be tried in military not civilian courts, further entrenching

impunity.¹⁰¹ India's National Human Rights Commission has no power to enquire into a complaint against the armed forces.¹⁰²

□ **Recommendations:**

- Repeal the Armed Forces Special Powers Act and Other Security Laws¹⁰³
- Ensure that all allegations of human rights violations are promptly and independently investigated, and that perpetrators are prosecuted in civilian courts, and victims and their families receive reparations;
- Ratify the Convention against Torture
- Ratify the Convention against Enforced Disappearances.

C. Access to Justice

(Unreformed laws, Human rights violations by the police, Police Reforms and legal aid)

36. Access to justice remains under-resourced and elusive. Every third sanctioned post in the higher judiciary¹⁰⁴ and every fourth in the lower courts is vacant.¹⁰⁵ Court arrears amount to over 12.5 million and growing.¹⁰⁶ 68% of the total prisoners are in pre-trial detention, some without conviction¹⁰⁷. Police staff shortages stand at 24%¹⁰⁸ and prison staff at 34%.¹⁰⁹
37. Accessing justice is particularly problematic for women, vulnerable groups¹¹⁰ and those caught in conflict.¹¹¹ At the gateway, the absence of policewomen¹¹² to register complaints of sexual offences results in delays.
38. Police and prison systems continue to function under laws enacted in the 1800¹¹³. Latest government sponsored reformed model laws on police and prisons remain neglected¹¹⁴. 2011 Ministry of Home Affairs (MHA) advisory mandates the appointment of Non-Official Visitors across the country, but only about 1% of prison Boards of Visitors¹¹⁵ are fully compliant with.

39. Custodial torture, deaths, illegal arrests, deaths in custody and unexplained extrajudicial killings are frequently reported.¹¹⁶ Prosecution of police officers and state agents is immensely difficult due to in-built protections in law.¹¹⁷
40. The 2006 Supreme Court guidelines on police reform and to set up Police Complaint Authority (PCA)¹¹⁸ are neglected constantly. Only 17 States have passed new Police Acts since 2006, and 9 PCAs are operational till now.¹¹⁹
41. Despite legislative framework¹²⁰, issues like lack of awareness of free legal aid services; lawyers' duties, and clients' rights; no application of standards of effective legal representation;¹²¹ gaps in existing National and State Legal Service Authorities regulations¹²²; and inadequate legal services at the police station,¹²³ persists. India lacks a law or a scheme for witness protection¹²⁴ despite guidelines from the Indian Supreme Court.¹²⁵

□ **Recommendations:**

- Ensure that Boards of Visitors are constituted in all jails across states in compliance with the 2011 MHA advisory and remove undue restrictions on access to prisons from the 2015 MHA advisory and ensure legal aid clinics in every prison.
- Ensure that National Legal Services Authority issues guidelines for prompt legal services to persons in police and judicial custody.

Death Penalty

42. By hanging Yakoob Memon (2015),¹²⁶ Afzal Guru (2013)¹²⁷ and Ajmal Kasab (2012)¹²⁸ India broke the undeclared moratorium after the hanging of Dhananjay Chatterjee in 2004.¹²⁹ The 2013 Criminal Law Amendment Act¹³⁰ introduced the death penalty as a possible punishment for certain categories of rape.
43. The Law Commission of India's report on death penalty in 2015 recommended to abolish "death penalty for all crimes other than terrorism related offences and waging war".¹³¹

44. Despite several recommendations made to India in UPR II cycle India did not accept any recommendation or abide by any international moratorium or resolution or ICCPR that requires to eradicate death penalty.¹³² In 2014¹³³, India voted against a UN General Assembly resolution calling for moratorium on death penalty.¹³⁴
45. The Supreme Court of India has been increasingly commuting death sentences to sentences of life imprisonment even in cases of murder and rape.¹³⁵

□ **Recommendations**

- Sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of death penalty and endorse the UN call for a worldwide official moratorium on the use of the death penalty.

Women¹³⁶

46. Despite Constitutional guarantees, gender discrimination continues to violate a range of women's human rights across the country. With very low budgetary allocations to women specific schemes, serious concerns arise with respect to empowerment of marginalized women.¹³⁷
47. In relation to sexual violence, law reform¹³⁸ has introduced gradation of sexual offences, compensation and scientific approaches to medical evidence.¹³⁹ Despite policies and measures for healing and recovery of victims of violence¹⁴⁰ compensation schemes are not uniform; interim compensation is conditional upon criminal prosecution, thereby excluding many women.
48. Social security laws for workers do not apply to the unorganised sector workers¹⁴¹, denying women workers of maternity benefits, minimum wages, or other welfare schemes for workers.¹⁴²
49. For the protection of women and children in conflict zones, the Justice Verma Committee recommended the review of AFSPA and the 2014 CEDAW Report also recommended India to comply with Justice Verma's recommendations.¹⁴³

□ **Recommendations**

- Ratify ILO Convention 189, and ensure minimum wages, fair work conditions, protection from all forms of abuse for domestic workers.
- Allocate adequate resources and create mechanisms for implementation¹⁴⁴ of laws to protect women from sexual harassment.¹⁴⁵
- Adopt a gender sensitive national policy to deal with Violence against Women in conflict regions in compliance with CEDAW and its general recommendations No 30.

LGBTI – non-discrimination on grounds of sexual orientation and gender identity

50. In its landmark judgment, the Delhi High Court declared Section 377 Indian Penal Code unconstitutional in 2009¹⁴⁶, thereby decriminalising same sex sexual relations. On appeal the Supreme Court (SC) overturned this decision in 2013 in *Suresh Kumar Koushal v. Naz Foundation case*¹⁴⁷ and re-criminalised LGBT lives. It left the door open for Parliament to repeal the law if it so decides.¹⁴⁸
51. The Supreme Court in *NALSA vs Union of India* in 2013,¹⁴⁹ affirmed the equality of trans persons by recognizing the right to self-determine gender, calling for welfare and protective duties of the state toward trans people, including affirmative action (as part of constitutionally recognized Other Backward Classes).
52. The central government tabled the Transgender Persons Protection of Rights Bill, 2016, which contradicts the Supreme Court judgment on trans persons. The Bill denies self-determination of gender identity, instead pathologizing it.¹⁵⁰

□ **Recommendations**

- Repeal Section 377 of the IPC.
- Enact a law protecting the rights of the transgender community in conformity with the judgment of the Supreme Court.¹⁵¹

Children¹⁵²

53. The status of children in India has not seen any meaningful improvement since UPR-2¹⁵³. The vital child rights indicators like child sex ratio¹⁵⁴, under 5¹⁵⁵ and infant mortality rate¹⁵⁶, status of birth registration¹⁵⁷, education¹⁵⁸, crimes against children¹⁵⁹, corporal punishment¹⁶⁰, child labour¹⁶¹, child marriage¹⁶² continue to show disturbing trends.
54. The Government still continues with a reservation on Article 32 of the UNCRC¹⁶³ & the new law on child labour¹⁶⁴ is weak¹⁶⁵ and flawed¹⁶⁶.
55. The new Juvenile Justice (Care and Protection)¹⁶⁷ Act includes a regressive provision of waiver of 16-18 year olds into the adult criminal justice system for serious offences & has led to the lowering of standards for dealing with children in conflict with the law¹⁶⁸.
56. Child trafficking¹⁶⁹ is still widespread and continues to be a major human rights violation in India¹⁷⁰ due to the absence of efficient mechanisms¹⁷¹ and poor implementation¹⁷².
57. Although included in finance bill¹⁷³ at national level, children's budgeting needs to be adopted throughout the country as per General Comment 19¹⁷⁴. Despite the recognition, the share of the budget for children is inadequate¹⁷⁵ lower than 5% of the total national budget¹⁷⁶ and continues to decline¹⁷⁷.

□ **Recommendations:**

- Review the current Juvenile Justice Act to bring in line with the principles of Constitution of India, UNCRC and General Comment No. 10¹⁷⁸
- Develop national standards consistent with General Comment 19¹⁷⁹ on public budgeting for the realization of children's rights¹⁸⁰,
- Develop effective monitoring mechanisms to keep a check on child labour violations in small and medium scale industries including family based enterprises.

DALIT RIGHTS¹⁸¹

58. Caste based discrimination in India triggers intergenerational poverty wherein the Scheduled Castes are frequently confined to hereditary, low-income employment, and deprived access to agricultural land¹⁸² and credit, battling high levels of indebtedness, and labour bondage with no access to income generating assets.
59. The discrimination is seen rampant in educational structures^{183 184 185} which manifests itself in skewed literacy¹⁸⁶, enrolment, and drop rate^{187 188} and impediment^{189 190 191} in the access to health services¹⁹², gravely impacting health indicators^{193 194 195 196 197} amongst Dalits.
60. They are systemically denied access to basic fundamental rights¹⁹⁸ despite protective measures and institutional arrangements. Impunity continues as a result of ineffective implementation of SC/ST (Prevention of Atrocities) Amendment Act, 2015^{199 200 201 202 203} and violation of PCR rights²⁰⁴.
61. Dalit women particularly face barriers to justice, public policy and services and are victims of brutal instances of violence²⁰⁵.
62. Moreover, Dalit community constitutes majority of casual wage labourers^{206 207}, having limited access to organised labour force^{208 209 210 211} despite affirmative action^{212 213 214}.
63. Policy measures such as, SCSP²¹⁵ are not effectively implemented.^{216 217 218}.
64. Dalits are critically vulnerable and discrimination continues in relief, response and rehabilitation processes^{219 220 221 222}.
65. Despite the innumerable atrocities perpetuated by dominant caste, Dalits are increasingly asserting their citizenship rights^{223 224 225}.

□ **Recommendations**

- Adequate measures to guarantee and monitor the effective implementation^{226 227} of SC/ST (Prevention of Atrocities) Amended Act 2015²²⁸.

- Proportionate budgetary allocation for development of Dalit community²²⁹ and enactment of a comprehensive legislation on Schedule Caste Sub Plan²³⁰.

Tribal Rights

66. Tribal communities in India face widespread breach of constitutional guarantees and protective legislations such as the Panchayat Raj Extension to Schedule Areas (PESA) Act 1996²³¹ and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.²³²
67. The Constitution entrusts the State Governors the task of ensuring 'peace and good governance' in Fifth Schedule areas. However, Governors have been neglecting their constitutional duties to uphold the provisions.²³³
68. Tribals have been disproportionately impacted by development-induced displacement²³⁴ from large infrastructure projects. In India's North East alone, more than 200 mega dams are still being pursued.²³⁵ Similarly, 30 major, 135 medium, and 3000 small dams, were granted approval for construction, including raising the height of the Sardar Sarovar Dam in Madhya Pradesh. These dams submerged vast tract of indigenous peoples' agriculture land, wetlands and forest²³⁶.
69. Number of laws, policies and programs implemented by the Ministry of Environment and Forests potentially dilute protective legislation (FRA, PESA)²³⁷ and violate rights of tribals.²³⁸

□ Recommendations

- Ensure effective implementation of protective legislation, the PESA and Forest Rights Act.
- The Government of India should ratify ILO Convention No. 169 on Indigenous Peoples.

Persons with Disabilities

70. According to 2011 census of India the population of persons with disability is 2.21%.²³⁹ The figure does not reflect the actual numbers due to differences in definition of disability. India spends only a meagre of 0.0009% of its GDP on disability which is not proportionate to the population.²⁴⁰
71. India signed and ratified the UNCRPD in 2007 by which it was bound to modify and harmonize the four disability-specific legislations.²⁴¹ The rights of persons with disabilities bill of India 2014 has many inadequacies.²⁴² Scores of Indian laws disqualify persons with disabilities from marrying, inheriting, voting and deprive legal status for persons with psychosocial and cognitive disabilities in particular.²⁴³
72. Limited rights guaranteed by the Persons with Disabilities (PWD) act of 1995 and other disability specific legislations have not been implemented in full.²⁴⁴ Only 49.50% of disable population identified by the 2011 census have disability certificates.²⁴⁵ Certain laws prevent disabled people from contesting elections including panchayat raj act of many states.

□ *Recommendations*

- Amend laws to ensure compliance with United Nations Convention on the Rights of Persons with Disabilities (CRPD).
- Ensure that the obligations on accessibility of public places are implemented in a time bound manner.

Religious Minorities

73. The status of Religious Minorities in India, mainly Muslims and Christians worsened after the last UPR in 2012.²⁴⁶ Data of the Indian Ministry of Home Affairs in February 2014 reveals a steep 30 per cent rise in the number of communal violence incidents as compared to 2012.²⁴⁷ The mounting attacks include physical attacks, lynching, murder after fuelling beef hysteria²⁴⁸, Love Jihad²⁴⁹, 'GharWapsi'²⁵⁰ and false tests of patriotism.²⁵¹

74. The attack on minorities in the name of trading in and consuming of beef, using of dormant Cow Protection Laws,^{252 253} is also an attack on the livelihoods of both Muslims and Dalits²⁵⁴. Places of worship of Muslims and pastors and churches²⁵⁵ of Christian community were targets of mob violence and state impunity²⁵⁶ across the country. Training by armed militias of right wing organisations²⁵⁷ have further accentuated threats to the security of religious minorities.²⁵⁸
75. Criminal cases²⁵⁹ where minorities are victims are left to collapse.²⁶⁰ The continuance of Part (iii) of Article 341 of the Constitution effectively denies millions of Dalits the Rights to Freedom of Faith and Belief. Anti-conversion laws enacted by many Indian states have prompted grave insecurities²⁶¹ among the religious minorities.²⁶² Youth from India's religious minorities, both Muslims and Christians have been falsely implicated in terror related cases and after acquittal they receive no reparation nor are law enforcement held accountable for wrongful or malicious prosecution.²⁶³

□ **Recommendations**

- Enact the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013²⁶⁴ approved by the Indian Cabinet in December 2013. ²⁶⁵
- Formulate a national policy for dignified reparation of all individuals acquitted in terror related cases.

Nomadic, Semi-nomadic and De-Notified Tribes (NT-DNTs²⁶⁶)

76. As per the Renke Commission Report, 2008 there are nearly 1500 nomadic and semi-nomadic and 198 De-notified tribes, comprising 150 million NT-DNT in India. The Indian Constitution however does not officially recognize²⁶⁷ the NT-DNT communities in India which further leads to denial of citizenship rights, social protection, and affirmative development action programs²⁶⁸.
77. Human rights situation of NT-DNT is deplorable. They are subjected to atrocities everyday by the police, civic and revenue administration, and civil

society²⁶⁹. Media is one of the major enhancers of stigma wrongly attributed to them while reporting crime in their daily columns.²⁷⁰

□ **Recommendations:**

- Repeal the Habitual Offenders' Act, 1952²⁷¹ and the Prevention of Begging Act 1959²⁷² for de-criminalization of the NT-DNT.
- Formulate a social protection framework focusing on access to entitlements, land, housing livelihood, education and health of NT-DNT Communities.

D. Freedom of Assembly, Association and Expression

78. The Indian government routinely uses Section 144 of the Code of Criminal Procedure to prevent peaceful public gatherings and stifle people's movements.²⁷³ The authorities use excessive force during anti-government protests, in conflict-zones such as Jammu and Kashmir.²⁷⁴
79. The government's regulatory regime for civil society organizations is discriminatory.²⁷⁵ The Foreign Contribution Regulation Act (FCRA) and its rules impose restrictions on funding for non-governmental organisations that in practice threatens their rights to freedom of expression and association.²⁷⁶ In 2015, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association, Maina Kiai analyzed the FCRA and said it appeared to "contravene the Union of India's obligations under the ICCPR."
80. The authorities use broadly-worded laws such as sedition for speech that is critical of government actions, including on social media.²⁷⁷ There are increased attacks on journalists covering and exposing corruption and government wrong-doing.²⁷⁸ Indian authorities resorted to blocking access to mobile Internet services across the country during political unrest²⁷⁹ in violation of international norms.²⁸⁰

□ **Recommendations:**

- Amend or repeal the provisions of FCRA that restrict freedom of association in violation of India's international human rights obligations.
- Respect the right of civil society organisations to have unimpeded access to legitimate funding for their work, including from sources abroad.

Right to Information

81. India enacted the Right to Information Act (RTI Act) in 2005²⁸¹ to enable citizens to demand greater transparency and accountability in the working of public authorities. Since 2012, an average of 4.5 to 5.5 million formal information requests are made to various public authorities every year, indicating the immense popularity of RTIA 2006.²⁸²

82. Between 2005 and 2015 more than 40²⁸³ advocates of transparency are reported to have been murdered and More than 250 others have been physically assaulted or harassed for seeking information.²⁸⁴ The Whistle-blower Protection Act enacted in 2014²⁸⁵ does not provide any protection to information seekers and instead the Government is pressing amendments to severely restrict whistleblowing and also prosecute whistle-blowers under the draconian *Official Secrets Act*.²⁸⁶

83. Frequent delays in filling up vacancies²⁸⁷ in Information Commissions have resulted in the pendency of information access disputes on a large scale.²⁸⁸ The procedure to appoint mostly retired bureaucrats as Information Commissioners raises serious questions about institutional integrity and efficiency despite the Supreme Court's advisory on selection process.²⁸⁹ Information Commissioners rarely impose penalties for non-compliance which leads to unreasonable delays in furnishing information.²⁹⁰ Further, information access disputes often take between 1-3 years for resolution defeating the very purpose of the RTI laws.²⁹¹

□ **Recommendations**

- Enact legislation to protect RTI activists from harassment and attacks.
- Withdraw retrograde amendments to the whistle-blower protection law and expand it to protect RTI users.

Human Rights Defenders ²⁹²

84. The dangers faced by HRDs²⁹³ throughout India continue unabated. The UN Special Rapporteur on Human Rights Defenders, after her visit to India in 2011²⁹⁴, pointed out that “*HRDs are often labelled as “Naxalites” (Maoists),²⁹⁵ “enemies of the State²⁹⁶” “militants”, “anti-nationalists” and “members of underground” and their rights to freedom of expression, peaceful assembly, association and movement is unlawfully restricted.*” Defenders in conflict areas face abuses by the security forces including extrajudicial killings.²⁹⁷
85. A disturbing new trend is the targeted killings of HRDs using Right to Information Act.^{298,299} Journalists,^{300,301} writers³⁰², students³⁰³, and lawyers providing legal aid to HRDs³⁰⁴ were not only targeted with threats or physical attacks by the non-state actors³⁰⁵ but illegally arrested³⁰⁶, evicted, restricted to travel abroad³⁰⁷ even killed³⁰⁸ by the state authorities.
86. Tribal HRDs³⁰⁹ and HRDs working on issues of natural resources, land and environment have faced increasing risks of arrests under fabricated cases³¹⁰, torture³¹¹, killings³¹² and excessive use of force.³¹³
87. The National Focal Point on HRD at the National Human Rights Commission (NHRC) has no specific powers to ensure justice for HRDs.³¹⁴ India refused to adopt UN General Assembly resolution on human rights defenders in November 2015 calling for a domestic law to protect human rights defenders.³¹⁵

□ **Recommendations**

- Enact a law, in compliance with international standards, for the protection of human rights defenders.

- Ensure that Focal Point on HRDs be made a full member of the Commission with powers as recommended by the UN SR on HRDs.

National Human Rights Institutions³¹⁶

88. India has nine national³¹⁷ and over 180 state human rights institutions (N/SHRIs) entrusted with protecting and promoting human rights. Most of them lack compliance in law and practice with the Paris Principles³¹⁸ adopted by the UN General Assembly in December 1993. These institutions face systematic impediments in matters related to patterns of appointments,³¹⁹ composition³²⁰, pluralism,³²¹ transparency³²², mandate³²³ and powers³²⁴ which affect their effective functioning.

89. Despite UPR I Recommendation 3, India did not accept the recommendations of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC), Sub-Committee on Accreditation (SCA) made in 2011.³²⁵

90. The SCA recommended that the NHRC advocate³²⁶ to amend the PHRA 2006 to remove the anomalies as it does reflect the pledges made by India in 2011 to the UN General Assembly before presenting its candidature to the Human Rights Council for the term 2011-2014.³²⁷

□ Recommendations:

- Amend the Protection of Human Rights Act, 1993 in accordance with the Paris Principles.³²⁸
- Adhere and comply with the observations and recommendations of ICC-SCA review of 2011.

E. Collaboration with the UN Human Rights System

91. As per UPR I Recommendation 4 and UPR II Recommendation 70 and its 2011 pledges, India committed its constructive engagement with international human rights bodies. India has not yet ratified several major human rights conventions.³²⁹
92. India's reporting record with UN Treaty Bodies is dismal. With the exception of reports submitted in accordance with India's obligations under the CRC and CRPD, India's reports are overdue for periods ranging from five to ten years.³³⁰ The most egregious is the long overdue report to the Human Rights Committee. India last submitted a report to the HRC in 1995.³³¹

Special Procedures

93. In its 2011 pledge, India announced³³² to extend standing invitation to Special Procedures mandate holders. The Special Rapporteur on violence against women, Rashida Manjoo visited India from 22 April to 1 May 2013. Since that time a gap of three years followed until the Special Rapporteur on Adequate Housing, Ms. Leilani Farha, visited India in April 2016.
94. As per latest information, already fourteen requests, including five reminders, from the UN seeking permission for its Special Mechanisms are pending with the Indian Ministry of External Affairs.³³³ In addition three visits have been planned for 2017 but no dates are available.

□ **Recommendations:**

- Ensure regular visits of SRs to India, including, with priority, mandates that have already made repeated requests³³⁴, including the SR on torture (UPR II Recommendation 69), whose request to visit has been pending since 1993;
- The government must spare no efforts to bring its obligations to UN Treaty bodies up to date.

CONCLUSION

During India's second Universal Periodic Review (UPR) in May 2012, a total of 169 recommendations were made to India to improve compliance with its human rights obligations. India has made some progress by initiating a number of progressive policy initiatives including legal amendment especially for the protection of the rights of women and children. At the same time progress on human rights in India continues to suffer due to lack of implementation of policies and laws to protect marginalized communities, particularly Dalits, tribal groups and religious minorities. India's current development and economic policies, moreover, continue to increase inequality, landlessness and homelessness resulting in large-scale violations of economic, social and cultural rights.

Reports of human rights abuses by armed groups in regions like Jammu and Kashmir, north-eastern states, Maoists affected central Indian states, attacks on human rights defenders along with reported incidents of communal violence, restrictions on the free speech and expression, right to protest, police abuses including use of torture and extrajudicial killings persist in various parts of the country. WGHR hopes that, through the type of information contained in this and other stakeholders' reports, more concerted action will result on the part of the Indian state to diligently implement its human rights commitments. WGHR hopes that, in the implementation of the UPR recommendations emerging from the third cycle, the Indian state will meaningfully engage with civil society in a collective effort to build a just society for all.

Endnotes

¹ See WGHR's stakeholders report on India's UPR II at: www.wghr.org

² In 2015 WGHR organised five regional consultations and five national thematic consultations (comprising of 250 human rights organisations, CSOs, individual activists, academics and media activists) to assess the progress achieved in the implementation of recommendations given to India during the first and second cycles of Universal Periodic Review (UPR). The outcome was the "WGHR-India-Stakeholders Assessment Report 2015 on the Implementation of UPR I and UPR II Recommendations. see: www.wghr.org

³ During July and August 2016, State Consultations for UPR III were organized in nearly 20 states across the country, including Maharashtra, Gujarat, Karnataka, Bihar, Tamil Nadu, Kerala, 8 North Eastern states, Haryana and Uttar Pradesh, in which approximately a thousand grassroots level human rights organizations, activists and state experts took part

⁴ India's gross domestic product (GDP) grew 7.6 per cent in 2015-16, powered by a rebound in farm output, and an improvement in electricity generation and mining production in the fourth quarter of the fiscal. Economic growth was estimated at 7.2 per cent in 2014-15. See: GDP: At 7.6%, India's growth points to fastest growing large economy, Express Economic Bureau, June 1, 2016, New Delhi <http://indianexpress.com/article/business/economy/gdp-7-9-percent-its-official-india-is-now-the-fastest-growing-economy-in-the-world/>

⁵ Poverty ratio in the country has declined to 21.9% in 2011-12 from 37.2% in 2004-05 on account of increase in per capita consumption. The percentage of persons below poverty line in 2011-12 has been estimated at 25.7% in rural areas, 13.7% in urban areas and 21.9% for the country as a whole. See: Poverty declines to 21.9% in 2011-12: Planning Commission, Times of India, July 23, 2013 <http://timesofindia.indiatimes.com/business/india-business/Poverty-declines-to-21-9-in-2011-12-Planning-Commission/articleshow/21276053.cms>

⁶ Defining poverty has been a controversial exercise in India. The new Niti Ayog has also not developed any poverty-related standards. See, 'A govt panel on poverty doesn't know what it is,' Hindustan Times, 11 September 2016.

The Rangarajan committee in its report submitted in 2014, which has retained consumption expenditure as the basis for determining poverty, has pegged the total number of poor in the country at 363 million or 29.6 per cent of the population against 269.8 million (21.9 per cent) by the Suresh Tendulkar committee. See: Yogima Seth Sharma, India has 100 million more poor: C Rangarajan Committee, ET Bureau July 7, 2014. http://articles.economictimes.indiatimes.com/2014-07-07/news/51133608_1_poverty-line-consumption-expenditure-tendulkar-committee

⁷ The percentage of persons below the Poverty Line in 2011-12 has been estimated as 25.7% in rural areas, 13.7% in urban areas and 21.9% for the country as a whole. The respective ratios for the rural and urban areas were 41.8% and 25.7% and 37.2% for the country as a whole in 2004-05. It was 50.1% in rural areas, 31.8% in urban areas and 45.3% for the country as a whole in 1993-94. See: Press Note on Poverty Estimates, 2011-12, Planning Commission, Government of India, July 2013 Available at http://planningcommission.nic.in/news/pre_pov2307.pdf

⁸ International Labour Organization's (ILO) flagship report 'World Employment and Social Outlook (WESO) 2016—Transforming Jobs to End Poverty', May 2016

⁹ If we look at the data on amount sanctioned, it shows a similar steep decline under the NDA government, from Rs. 27,484 crore in 2013-14 to Rs 17,074 crores in 2014-15. While the government might argue that this reflects falling demand, testimonies from the field reports indicate that it is the delay in payments that is turning people away from this programme. See: G. Sampath & Rukmini S, "Is the MGNREGA being set up for failure?", The Hindu, May 31, 2015 <http://www.thehindu.com/sunday-anchor/is-the-mgnrega-being-set-up-for-failure/article7265266.ece>

¹⁰ "The largest public employment programmed the world has ever seen is in trouble. 2013-14, 74 million individuals in 48 million household in rural Indian were employment under the Mahatma Gandhi National Rural Employment guarantee act programme. But One know who will suffer if the Mode government succeeds in weakening MGNREGA - And Union Rural development Minister, Nitin Gadkari, proposed to limit MGNREGA programmed within tribal and poor areas. He also proposed to change the labor: material ratio from 60:40 to 51:49". See: Ram Babu and Dr. A.N. Panda, "Performance Assessment Study of Mahatma Gandhi National Rural Employment Guarantee Scheme: An Overview", Global Journal of multidisciplinary Studies Volume 4, Issue 02, January 2015, Page 211 Available online at www.gjms.co.in

¹¹ The result has been a sharp decline in employment generated, which fell from 2.84 billion person-days in 2009-10 to 1.66 billion person-days in 2014-15. This was also the case with the average number of days of employment provided, which fell from 54 person-days per household in 2009-10 to just 40 person-days per household in 2014-15. Whereas seven million households completed 100 days of employment in 2009-10, it was down to only 2.5 million in 2014-15. See: Himanshu, "A decade of MGNREGA", Live Mint, Feb 03 2016 <http://www.livemint.com/Opinion/IfCOJJUL4MrKmsJgV0LiCM/A-decade-of-MGNREGA.html>

¹² For a full treatment of the housing and land rights situation in India see the report *The Human Rights to Adequate Housing and Land in India* submitted to the UN by the Housing and Land Rights Network, member WGHR, for India's Third Universal Periodic Review. The report is available at: www.hlrn.org.in

Also see, mid-term assessment of India's UPR recommendations related to housing and land, Housing and Land Rights Network, 2015. Available at: http://www.upr-info.org/sites/default/files/document/india/session_13_-_may_2012/hlrn_india_mid-term_upr_september_2015.pdf

¹³ The recommendation made to India in UPR I was: “Continue efforts to allow for a harmonious life in a multi-religious, multi-cultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one-fifth of the world's population to be well fed, well housed, well cared for and well educated.” (emphasis added)

The recommendation in UPR II was: “Continue to implement plans adopted in the area of housing and rehabilitation, particularly the plan launched in 2011 aimed at preventing the construction of new slums.”

¹⁴ See Housing and Land Rights Network's report for UPR III, Annexure I, for a table on UPR I and II recommendations relevant to housing and land, and the status of their implementation in India. Available at: www.hlrn.org.in

¹⁵ According to the Socio-economic and Caste Census, 2011 (data for which was released in July 2015), 56 per cent (100.3 million) of rural households are landless, and 30 per cent (53.7 million) of rural households are landless labourers, deriving a major part of their income from manual labour. See: <http://secc.gov.in/reportlistContent>

Also see, *Housing and Land Rights in India: Status Report for Habitat III*. New Delhi: Housing and Land Rights Network, January 2016. Available at: http://hlrn.org.in/documents/Housing_and_Land_Rights_in_India_Report_for_Habitat_III.pdf

¹⁶ Report of the Technical Group on Urban Housing Shortage (2012-17) (TG-12), Ministry of Housing and Urban Poverty Alleviation, National Buildings Organisation, Government of India. Available at:

http://mhupa.gov.in/W_new/urban-housing-shortage.pdf

¹⁷ Housing Stock, Amenities and Assets in Slums, Census of India 2011, Ministry of Home Affairs, Government of India. Available at: http://www.censusindia.gov.in/2011census/hlo/Slum_table/Slum_table.html

¹⁸ Pradhan Mantri Awas Yojana was launched in 2015 with the aim of constructing 20 million houses in urban areas and 30 million houses in rural areas by the year 2022.

¹⁹ Estimate by independent experts. Of those displaced, 40 per cent are indigenous/tribal peoples while 20 per cent are Dalits/Scheduled Castes (Planning Commission of India, 2012). See: *Housing and Land Rights in India: Status Report for Habitat III*: Housing and Land Rights Network, New Delhi, January 2016. Available at: http://hlrn.org.in/documents/Housing_and_Land_Rights_in_India_Report_for_Habitat_III.pdf

²⁰ The National Human Rights Commission in 2012, in its submission for UPR II, stated that, “...usually those displaced are given neither adequate relief nor the means of rehabilitation.” See: <http://nhrc.nic.in/Documents/Reports/UPR-Final%20Report.pdf>.

²¹ *Forced to the Fringes: Disasters of 'Resettlement' in India*, Housing and Land Rights Network, New Delhi, July 2014. Available at: [http://hlrn.org.in/documents/Forced_to_the_Fringes_\(combined\).pdf](http://hlrn.org.in/documents/Forced_to_the_Fringes_(combined).pdf)

Also see the 2015 report by the Internal Displacement Monitoring Centre (IDMC), *Pushed Aside: Displaced for "Development" in India, 2015* at: <http://www.internal-displacement.org/publications/2016/pushed-aside-displaced-for-development-in-india>

²² Dalits own the lowest percentage of land in rural India (9.23 per cent); the average area of land owned per SC household is 0.27 hectares. The share of land owned in rural India by ST is 13.06 per cent, while the average area of land owned per ST household is 0.65 hectares. Socio-economic and Caste Census 2011, Ministry of Rural Development, Government of India. Available at: <http://secc.gov.in/reportlistContent>

²³ See press statement with preliminary observations of the Special Rapporteur after her mission to India in April 2016. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19861&LangID=E>

²⁴ ‘Urban Rental Housing Market: Caste and Religion Matters in Access,’ *Economic and Political Weekly*, June 2015.

²⁵ Along the India-Bangladesh border.

²⁶ Global Figures: Disaster-induced Displacement,’ Internal Displacement Monitoring Centre, Geneva, 2015. Available at: <http://www.internal-displacement.org/global-figures#natural>

²⁷ For more details, see report: *Housing and Land Rights in India: Status Report for Habitat III*. Housing and Land Rights Network, New Delhi, January 2016. Available at: http://hlrn.org.in/documents/Housing_and_Land_Rights_in_India_Report_for_Habitat_III.pdf

²⁸ An analysis by Housing and Land Rights Network, India of the 33 shortlisted Smart City Proposals reveals the absence of a focus on human rights and social justice. Cases of forced eviction for implementation of the

Smart Cities Mission have been reported from different cities, including Indore (Madhya Pradesh), Kakinada (Andhra Pradesh), Dharamshala (Himachal Pradesh), and Delhi. Reportedly, 50,000 people will be evicted from 24 informal settlements as per the implementation plan of the smart city in Bhubaneswar (See: 'Slum demolition for smart city opposed,' *The Pioneer*, 24 June 2016. Available at: <http://www.dailypioneer.com/STATE-EDITIONS/bhubaneswar/slum-demolition-for-smart-city-opposed.html>)

²⁹ These include the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and the Real Estate (Regulation and Development) Act 2016.

³⁰ Including Pradhan Mantri Awas Yojana, Smart Cities Mission, National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless, and Atal Mission for Rejuvenation and Urban Transformation.

³¹ This should include land for agriculture, forestry, and non-farming livelihoods.

³² An act to provide landless rural families with land for housing and livelihood.

³³ Food entitlement programmes such as - Sampoorna Gramin Rozgar Yojana, a food for work scheme; Antyodaya Anna Yojana, meant to provide food security for the poorest families; the Midday Meal Scheme to give children a nutritious meal on all working days. Manoj Joshi, Everybody loves an entitlement in India, *India Today*, October 5, 2011, Available at <http://indiatoday.intoday.in/story/montek-singh-ahluwalia-jairam-ramesh-bpl-politicians/1/153768.html>

³⁴ Targeted Public Distribution System (35 kilogrammes (kgs)/ month of subsidised food grains), Annapurna (10 kgs of free food grain for indigent senior citizens of 65 years or above who are not getting old age pension)

³⁵ In India, **about 194.6 million people** were undernourished in 2014-16, which was 15.2% of the population. www.dnaindia.com/india/report-152-of-india-s-population-is-undernourished-un-repor. Also, according to latest FAO estimates in 'The State of Food Insecurity in the World, 2015' report, 194.6 million people are undernourished in India. By this measure India is home to a quarter of the undernourished population in the world

³⁶ India ranked 80 out of 104 in Global Hunger Index in 2015.

<http://ebrary.ifpri.org/utils/getfile/collection/p15738coll2/id/129681/filename/129892.pdf>. Page 18

³⁷ The RSoC-Rapid Survey on Children of 2013-14 was conducted by the Ministry of Women and Child Development found 29.4 per cent of children (aged less than three years) to be underweight (low in weight for their age), while 15 per cent were wasted (low weight for their height) and 38.7 per cent were stunted (low in height for age). On the face of it, this compares well with the NFHS-3 data, in which the corresponding figures were 40.4 per cent (underweight), 22.9 per cent (wasted) and 44.9 per cent (stunted).

³⁸ As many as 59% women were found to be anaemic in the country, with the eastern region having a significantly higher prevalence at 72.12% than the rest of the country. Around 45% women from the western region were found to be severely lacking in adequate haemoglobin levels in blood. Around 25 lakh women had undergone testing for anaemia between 2012 and 2014. *Times of India*, TNN | Mar 17, 2015.

³⁹ For more information, refer to The Gazette of India, The National Food Security Act 2013, September 10, 2013, available at: http://egazette.nic.in/WriteReadData/2013/E_29_2013_429.pdf

⁴⁰ Priority households are entitled to 5 kgs of food grains per person per month, and 2.43 crore 'Antyodaya' households to 35 kgs per household per month. The combined coverage of eligible households shall extend "up to 75% of the rural population and up to 50% of the urban population"

⁴¹ The Public Distribution System (PDS) is a major scheme in India meant to ensure availability of selected commodities at affordable subsidized prices. It operates under the joint responsibility of the central and state governments. The state's responsibilities include the distribution of food grains to consumers through —Fair Price Shops (FPSs), the identification of families below poverty line (BPL), the issuance of BPL cards, as well as the movement and the storage of food grains. - Ministry of Consumer Affairs, Food and Public Distribution, available at: http://fcamin.nic.in/dfpd/EventListing.asp?Section=PDS&id_pk=1&ParentID=0

⁴² Observations were made by the central vigilance committee in its report led by retired Justice D. P. Wadhwa, which was set up by the Supreme Court of India in 2006 to monitor its orders in the PIL on the right to food.

⁴³ In the last 20 years, nearly 300,000 farmers have ended their lives by ingesting pesticides or by hanging themselves. Maharashtra state - with 60,000 farmer suicides - tops the list. Suicide rates among Indian farmers were a chilling 47 per cent higher than they were for the rest of the population in 2011. In some of the State's worst hit by the agrarian crisis, they were well over 100 per cent higher. Five States account for two-thirds of all farm suicides in the country, as NCRB data show. These are Maharashtra, Andhra Pradesh, Karnataka, Madhya Pradesh and Chhattisgarh. The share of these 'Big 5' in total farm suicides was higher in 2011 than it was in 2001. The suicide rate among Indian farmers was 47 percent higher than the national average, according to a 2011 census. Forty-one farmers commit suicide every day, leaving behind scores of orphans and widows. In 2015, the

collective figure of suicides in all eight districts of Marathwada stood at 1,130 – three suicides every day and throughout the year. In past 16 months, 1,548 distressed farmers have been reported dead in the Marathwada region, which is witnessing fourth successive years of drought with wells, rivers and dams having gone dry. Indian Express, May 17, 2016

⁴⁴ A staggering 3,228 farmers committed suicide in Maharashtra in 2015, the highest since 2001, according to data tabled in the Rajya Sabha on March 4, 2016 – that is almost nine farmers every day. Farmer Suicides Averaged 9 a Day in Parched Maharashtra, IANS, 06th April 2016 available at <http://www.newindianexpress.com/nation/Farmer-Suicides-Averaged-9-a-Day-in-Parched-Maharashtra/2016/04/06/article3366563.ece>

⁴⁵ It includes the National Rural Employment Guarantee Act (NREGA), the Integrated Child Development Services (ICDS), Mid-day Meals (MDM) scheme, and the Public Distribution System (PDS).

⁴⁶ Article 12 of the ICESCR and Indian Supreme Court Judgements reading the right to health under Article 21 of the Indian Constitution.

⁴⁷ Spending on medicines constitutes nearly 70% of this expenditure

⁴⁸ National Health Accounts 2015

⁴⁹ Privatization of healthcare and medical education has led to focusing on lucrative secondary and tertiary healthcare services and has resulted in complete neglect of primary healthcare services, the foundational level of any healthcare system. Private hospitals that have received state land at concessional rates have to reserve a certain percentage of beds for the poor. However, this provision is not complied with. Homeless and other poor residents in urban areas are repeatedly denied admission in public hospitals, often because they do not have identity documents. This has forced homeless women to deliver on the streets. Shortage of healthcare workers, particularly in rural areas continues to be rampant.

⁵⁰ Clinical Establishment Act 2010 meant to regulate ... Some States have not adopted the Clinical Establishment Act and others have not formulated Rules. Further, lack of regulation of the private actors has driven up healthcare costs and also led to inappropriate and exploitative medical treatments becoming a rampant issue- e.g. TB drug resistance.

⁵¹ All programmes for adolescents are on a pilot basis. Rashtriya kishore Swasthya karyakrm-2013; Reproductive Maternal and Child Health and Adolescent Approach 2012; SABLA-2010 National Food Security Act not fully implemented

⁵² This point has also been stressed, in their reports, by the UN Special Rapporteur on the Right to Food, Mr. Olivier De Schutter and the UN Special Rapporteur on the Right to Health, Mr Anand Grover.

⁵³ TB, particularly DR-TB has become serious public health concern which has revealed glaring gaps in the RNTCP programme to ensure treatment service for all. Unofficial estimates show that there are around 8 million people living with chronic Hepatitis C in India (Hatzakis A, Chulanov V, Gadano AC et. Al. The present and future disease burden of hepatitis C virus (HCV) infections with today's treatment paradigm – volume 2 Journal of Viral Hepatitis, 2015, 22, (Suppl. S1), 26–45.) but a majority do not have access to testing and treatment services despite effective medicines being available in the market. In HIV, despite the government rolling-out a free treatment programme, there continues to be stock out of drugs and testing kits, restricted access to 2nd line treatment and no access to 3rd line.

⁵⁴ There have been several reports documenting the constant pressure by the US industry and government to dilute public health safeguards under the Indian patent law, particularly the demand for a freeze on the grant of compulsory licenses. See Compulsory licensing: India gave 'private reassurance', says US business council, India Express, 8 March 2016

⁵⁵ The Right of Children to Free and Compulsory Education Act (RTE), 2009 came into force on 1 April 2010. It entitles each child aged 6 to 14 years to free and compulsory elementary education as a fundamental right. The law is derived from the 86th Constitutional Amendment Act, 2002. See: Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: Year Four (2013-14), Report by RTE Forum http://www.rteforumindia.org/sites/default/files/Year%204%20Stocktaking%20Report_RTE%20Forum.pdf

⁵⁶ For example: the UN Convention on the Rights of the Children (UNCRC), Article 26 of Universal Declaration on Human Rights (UDHR), Committee on the Elimination of Racial Discrimination (CERD), National Policy for Children, Guiding Principles of National Curriculum Framework

⁵⁷ <http://ourview.in/English/75percentofallchildrenoutofschoolareDalits-AdivasisandMuslims>

⁵⁸ According to Annual Status of Education Report, 2014, India achieved close to 96 per cent or above enrolment ratio in elementary schools. See: ASER 2014: ANNUAL STATUS OF EDUCATION REPORT by PRATHAM available at

<http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/National%20PPTs/aser2014indiaenglish.pdf>

⁵⁹ Forced evictions and relocation to remote sites outside cities result in a large number of children being forced to drop out of school, thereby violating their right to education.

⁶⁰ In 2012-13, nearly 41% female students had dropped out of the schools without completing elementary education, as against 40.3% male students. The gender gap in dropout within a year appears to be more profound in the upper primary classes (5-8). The figures are based on provisional data of Unified District Information System for Education. See: Kanchan Srivastava, "More boys than girls dropping out of schools in India", DNA, 8 Aug 2015 <http://www.dnaindia.com/india/report-more-boys-than-girls-dropping-out-of-schools-in-india-2112206>

⁶¹ Rationalization of Schools in SC/ST areas in Andhra Pradesh - <http://www.thehindu.com/news/national/andhra-pradesh/rationalisation-process-to-close-down-govt-schools-draws-flak/article8000398.ece>

⁶² Safe Schools Declaration and Guidelines - <http://www.protectingeducation.org/draft-lucens-guidelines-protecting-schools-and-universities-military-use-during-armed-conflict>

⁶³ "Schools in Kashmir turn into armed fortresses as students watch in muted horror"; Yasir Sameer; August 29 2016; First Post; <http://www.firstpost.com/india/schools-in-kashmir-turn-into-armed-fortresses-as-students-watch-in-muted-horror-2980890.html>

⁶⁴ "Schools as Battlegrounds"; Human Rights Watch; http://www.protectingeducation.org/sites/default/files/documents/hrw_schools_battlegrounds.pdf

⁶⁵ Even the schools are being occupied by security forces in times of conflict, which is in complete violation of the RTE Act.

⁶⁶ Jayshree Bajoria, "Millions of Indian children are being denied school education due to discrimination", Scroll In, May 19, 2015 • <http://scroll.in/article/728103/millions-of-indian-children-are-being-denied-school-education-due-to-discrimination>

⁶⁷ Right to Education Act: Claiming Education for Every Child, Oxfam India Policy Brief, No. 12 | March 2015 <https://www.oxfamindia.org/sites/default/files/PB-Right-to-Education-Act-Claiming-Education-120315-EN.pdf>

⁶⁸ Navodaya Schools, Kendriya Vidyalayas, Sainik Schools, Govt.-Aided Schools, CBSE and ICSE Curricula etc.

⁶⁹ Experiences has shown that ending education at 14 years leaves the children over 14 years as "nowhere children". This level of education does not make children eligible for admission into any other skill or higher education that can help them get a job. With some level of education and no further prospects, these are the children who come in conflict with the law, or get into labour, and in the case of girls also married off underage. There is a critical need to raise the level of education to which children have a right that harmonise it with the level of education that allows for children to gain admission to the next level of technical training etc.

⁷⁰ According to ASER 2014, there is a sharp decline in the number of children in standard V who can read a textbook of standard II in both government and private schools. In Government schools, the decline is from 56.7 per cent in 2007 to 42.2 per cent in 2014, and the percentage of children who can do division in standard V has declined from 41 per cent in 2007 to 20.7 per cent in 2014 in rural areas. In the case of standard V children in private schools who can read a standard II textbook, the decline is from 69 per cent in 2007 to 62.5 per cent in 2014. The percentage of children who can do division in standard V has declined from 49.4 per cent in 2007 to 39.3 per cent in 2014 in private schools. The decline in educational outcomes in private schools warrants equal attention since there is an increase in the share of private providers of schooling and education across India; Economic Survey of India: 2015-16; <http://indiabudget.nic.in/es2015-16/echapvol2-09.pdf>

⁷¹ "They Say We're Dirty: Denying an Education to India's Marginalized"; Human Rights Watch; April 2014 https://www.hrw.org/sites/default/files/reports/india0414_ForUpload_1.pdf

⁷² 146th Recommendation of Asian and Pacific Ministerial Declaration on Population and Development: Design, ensure sufficient resources and implement comprehensive sexuality education programmes that are consistent with evolving capacities and are age appropriate, and provide accurate information on human sexuality, gender equality, human rights, relationships, and sexual and reproductive health, while recognizing the role and responsibilities of parents; http://www.un.org/en/development/desa/population/publications/pdf/policy/Compendium/Volume%20II/i_Chapter%204.pdf

⁷³ This includes the whole or part of the states of Chhattisgarh, Jharkand, Orissa and Maharashtra.

⁷⁴ In this section, the term security forces include the armed forces, police, paramilitary, and other forces with a security mandate.

⁷⁵ Emergency laws, such as the Armed Forces Special Powers Act, 1958 are enforced to subdue the ongoing movement for Right to Self Determination in Kashmir and States in North East India like Manipur, Assam, Tripura

etc. In the central Indian states, the indigenous peoples (adivasis) are being further impoverished by the systematic alienation of their land and natural resources due to corporate and state acquisition of minerals, land and other natural resources. In Chhattisgarh, by end of 2016, there will be one lakh security forces in the Bastar region, making it the most militarized zone in the country. Continuous search, cordon and area domination operations are being carried out by security forces. During these operations they stay in villages for days often resulting in looting of houses, destruction of houses and cattle, and in some cases extreme exploitation of women. [www.economictimes.com/news/politics-and-nation/government-to-send-2000 -Naga-paramilitary-men-of-naga-unit-to-fight-against-maoists-in-bastar/articleshow/40383919.cms](http://www.economictimes.com/news/politics-and-nation/government-to-send-2000-Naga-paramilitary-men-of-naga-unit-to-fight-against-maoists-in-bastar/articleshow/40383919.cms), published in the Economic Times, 19 August 2014. Every year, more central security forces and India Reserve Battalions are sanctioned for Chhattisgarh, www.ndtv.com/india-news/17-new-battalions-for-jammu-and-kashmir-naxal-violence-hit-states-1270719, published on NDTV.com, 27 January 2016.

⁷⁶ Militarization has intensified in central and North East India. New Firing range for Assam Rifles is coming up in Manikpur area of Tripura, which will affect the livelihood and land rights of at least 32 villages. New military camps are established in Tawang and Pasighat in Arunachal Pradesh. Many education institutions like Manipur University continues to be occupied by Assam Rifles. Schools and colleges are often targeted for military occupation to deal with any situation, such as in conflicts in Bodoland, Assam.

⁷⁷ <http://indianexpress.com/article/india/india-news-india/kashmir-protests-violence-burhan-wani-crfp-troops-2907024/>

⁷⁸ In its judgment and order dated 05.07.2011, reported as *Nandini Sundar & Ors. v. State of Chhattisgarh* (2011) 7 SCC 547, Supreme Court of India directed the State of Chhattisgarh to “take all appropriate measures to prevent the operation of any group ... that in any manner or form seek to take law into private hands, act unconstitutionally or otherwise violate human rights of any person”. The Court also held that the arming and use of untrained, poorly paid, tribal youth motivated by revenge to combat Maoists was unconstitutional and violative of Article 14 and Article 21. The Court ruled that the former members of vigilante groups like Salwa Judum must be disarmed and not allowed to take part in any combat operations against Maoists. Since last two years, in spite of the Court’s clear injunction against the use of local youth and surrendered Maoists in counter insurgency, the state continued to arm and use local youth under the name of the ‘Armed Auxiliary Force’ and recently formed District reserve guards (DRG’s). Report by PTI, ‘District Reserve Group adds impetus to anti-Naxal operations in Chhattisgarh’, published in the Economic Times, dated 5 February 2016. They are being extensively used in combat operations. Rashmi Drolia, titled, ‘Mission 2016: DRG force pressed into Anti-Naxal ops in Chhattisgarh’, published in The Times of India, dated 5 February 2016. <http://m.ndtv.com/india-news/in-maoist-heartland-a-banned-vigilante-group-may-have-been-revived-to-silence-dissent-1291878>; <http://www.caravanmagazine.in/vantage/kalluri-chhattisgarh-samajik-ekta-manch-vigilante-media-freedom>; <http://indianexpress.com/article/india/india-others/chhattisgarh-salwa-judum-redux/>; <http://www.thehindu.com/todays-paper/salwa-judum2-is-born-in-bastar/article7172167.ece>

⁷⁹ “NCST report on Chhattisgarh: Complaints of Sexual Violence by Security Forces Credible”, May 12, 2016. Available at <https://www.sabrangindia.in/article/ncst-report-chhattisgarh-complaints-sexual-violence-security-forces-credible>

⁸⁰ For examples from Kashmir, see “Structures of Violence” <http://www.jkccs.net/structures-of-violence-the-indian-state-in-jammu-and-kashmir-2/>; and “Alleged Perpetrators” http://kashmirprocess.org/reports/alleged_perpetrators.pdf.

⁸¹ See: Submission by the Association of Parents of Disappeared Persons to the UN HRC for III Universal Periodic Review of India.

⁸² <http://www.deccanchronicle.com/nation/crime/060916/naxal-killed-in-encounter-with-security-forces-in-chhattisgarh.html>; http://www.satp.org/satporgtp/countries/india/maoist/data_sheets/fatalitiesnaxal05-11.html.

The Government of India has failed to conduct any impartial investigation into the case of discovery of mass graves in Tombisana High school in Imphal, Manipur in December 2014. In its Annual Report, the Working Group on Enforced and Involuntary Disappearances said that it had not received a response from the government of India to a letter asking to stop constructions on a mass grave site in Manipur. The presence of 2,700 mass unmarked graves in Kashmir was confirmed by the J&K State Human Rights Commission in 2011. However, no inquiry or investigation has been initiated and the perpetrators are yet to be held to account. International People’s Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK), Buried Evidence, available at: <http://www.kashmirprocess.org/reports/graves/BuriedEvidenceKashmir.pdf>. CITE: SHRC investigation. A case of over 1,528 fake encounter killings was filed in 2012 by the Extrajudicial Execution Victim Families’ Association, Manipur, and Human Rights Alert in the Supreme Court. In 2013, a court-appointed commission – the Justice Santosh Hegde Commission – conducted an inquiry into six of the cases mentioned in the petition, and found them all to be unlawful. The report is available at: <http://www.hrln.org/hrln/criminal-justice/reports/1501-santosh-hegde-commission-submits-report-on-manipur->

extra-judicial-killings.html. In a 2015, the Supreme Court reiterated the need for accountability in all cases of extrajudicial killings, and the case is still pending. http://supremecourtfindia.nic.in/FileServer/2016-07-08_1467967629.pdf.

⁸³ Amnesty International, Lawless Law: <https://www.amnesty.org/en/documents/ASA20/001/2011/en/>; Amnesty International, Still a Lawless Law: <https://www.amnesty.org/en/documents/asa20/035/2012/en/>

⁸⁴ The practice of torture is widespread and routinely resorted to by the police. A study concluded that 1.8 million people are victims of police torture in India every year. From 2001-2010, 14,231 people died in police and judicial custody, largely as a result of torture. The National Crime Records Bureau (NCRB) reported 97 cases of custodial deaths during 2015 from every state of India, the highest reported from Maharashtra 19. As per UPR 1 Recommendation No 1 and UPR 2 recommendation No 15 and its 2011 pledge, India committed to expedite ratification of the Convention against Torture (CAT). Ratification requires the enactment of a domestic law. The Prevention of Torture Bill, 2010 (PTB) was referred to a Parliamentary Select Committee of the Upper House in August 2010. Considering representations from human rights groups, the Committee substantially revised PTB, which now partially complies with CAT. Since then there have been no efforts taken to enact this law.

⁸⁵ CHITTOOR ENCOUNTER KILLINGS – FACT FINDING REPORT: May 2015 People’s Watch, Madurai, Tamil Nadu. (“The fact finding team believes that this case of 20 killings of poor and innocent labourers is a case of illegal arrest, arbitrary detention, custodial torture and extra-judicial killing, with premeditated effort to allow those initially injured in the killings to die without medical attention and serious attempts to cover up the evidences.”)

⁸⁶ <http://www.caravanmagazine.in/vantage/bastar>;

⁸⁷ <http://www.newindianexpress.com/cities/hyderabad/Human-Rights-Body-seeks-CBI-probe-into-Edesmeta-carnage/2013/05/30/article1611693.ece>; <http://archive.indianexpress.com/news/day-after-encounter-villagers-say-no-maoist-among-those-killed/968892/0>; <http://archive.indianexpress.com/news/sarkeguda-encounter-year-later-three-probes-but-still-no-report/1135394/0>; <http://scroll.in/article/713603/police-firing-that-killed-17-chhattisgarh-villagers-three-years-ago-was-unprovoked-inquiry-suggests>

⁸⁸ 79 people have died and over 10,000 have been injured due to use of life threatening weapons by security forces in response to large-scale public demonstrations across Kashmir valley in 2016.

<http://www.greaterkashmir.com/news/front-page/day-64-toll-79-injured-11-500-kashmir-continues-to-bury-its-young-2-more-killed/228177.html>

⁸⁹ For over three months, since the killing of Burhan Wani on 8 July 2016, there have been large-scale public demonstrations across Kashmir valley, with large rallies raising slogans of freedom and instances of stone pelting. In retaliation, security forces used so-called “non-lethal pellet guns” – inherently indiscriminate and arbitrary weapons - which sprayed pellets on demonstrators and bystanders, as well as fired on demonstrators. More than 79 people have died as a result, and 10,000 people are injured. Pellet guns alone have caused blindness and eye injuries in over 600 people. Security forces have attacked ambulances and hospitals. The government has also imposed a curfew that lasted over 60 days. Further impositions on the freedom of expression, assembly and association have included a 3-day ban on the printing of newspapers, cutting phones of non-government service providers for over 20 days, and blocking mobile internet for over 60 days. See: <http://www.nytimes.com/2016/07/19/world/asia/news-crackdown-in-kashmir-leaves-locals-surrounded-by-rumors.html>; <http://www.greaterkashmir.com/news/front-page/pellet-plight-1-of-2-victims-hit-in-eyes-aged-under-20/227818.html>; <http://www.thehindu.com/news/national/other-states/jammu-and-kashmir-political-crisis-curfew-lifted-from-kashmir-after-51-days/article9045150.ece>

⁹⁰ Four journalists – Santosh Yadav, Somaru Nag, Prabhat Singh and Deepak Jaiswal – were arrested on politically motivated charges since July 2015, and one journalist – Malini Subramaniam – left her home in Chhattisgarh in February 2016 after she faced attacks and police pressured her landlord. <https://www.amnesty.org.in/show/news/india-repression-of-media-and-civil-society-in-chhattisgarh-deepening>; <http://m.hindustantimes.com/india/anti-maoist-group-bastar-police-compel-journalist-to-leave-jagdalpur/story-EIOsLGMc7FcIyOg7JmeFiP.html>; <http://scroll.in/article/805866/not-a-single-journalist-working-without-fear-or-pressure-editors-guild-on-bastar>; <http://m.timesofindia.com/city/raipur/Yet-another-Chhattisgarh-journalist-held-in-Bastar/articleshow/51565818.cms>; <http://scroll.in/article/805596/how-journalist-prabhat-singh-became-the-target-of-chhattisgarh-police>

⁹¹ Human rights lawyers of the Jagdalpur Legal Aid Group (all women lawyers) were forced to leave their home in Jagdalpur in February 2016 following police pressure on their landlord. The Jagdalpur Legal Aid Group (JagLAG) has been working in the Bastar region since July 2013 providing free legal assistance to Adivasi pre-trial detainees, in five districts in Chhattisgarh, many of whom are members of Adivasi communities accused of being part of Maoist armed groups.

⁹² <http://m.thehindu.com/news/national/why-chhattisgarh-wants-this-researcher-out/article8410459.ece>

⁹³ <http://m.ndtv.com/india-news/unidentified-men-allegedly-hurl-acid-like-chemical-on-soni-sori-in-chhattisgarh-1279564>

⁹⁴ Governments at the state level are also passing, and trying to pass, regressive legislations. In April, 2015 the legislative assembly of Gujarat passed an anti-terror bill containing several provisions which violated international standards. However the President did not accord assent to the same for the fourth time. <http://indianexpress.com/article/india/india-news-india/third-president-to-return-bill-pranab-has-queries-gujarat-anti-terror-bill-sent-back/>. Stringent laws as in force in Maharashtra and Karnataka states, which infringe on human rights.

⁹⁵ The recommendations of first and second UPR on AFSPA, 1958 are not accepted. The AFSPA, 1958 continues to be enforced and there are no processes for repeal or review. The AFSPA, 1958 is also freshly introduced in Twelve Districts of Arunachal Pradesh, bordering Assam, despite wide objections. The Government of Tripura announced removal of AFSPA from Tripura in 2015 but no notification was issued and there is no demilitarization processes.

⁹⁶ The Justice Santosh Hegde committee, appointed by the Supreme Court in 2013, advocated for the repeal of the AFSPA. The UN Special Rapporteur on Extra-judicial killings also called for the repeal of AFSPA. The Justice J.S. Verma Committee, set up in 2013 recommended a review of the continuance of the Armed Forces (Special Powers) Act (AFSPA) to extend legal protection to women in conflict areas, and the CEDAW committee report of 2012 asked India to implement the recommendations of the Verma Committee within 2 years. When asked in December 2015, the Union Home Minister stated that as yet no decision has been taken on the recommendations of the Jeevan Reddy Committee, including to repeal AFSPA. In 2015, the former Home Minister P Chidambaram wrote a piece stating that while he was in office, he wanted the AFSPA repealed but “the Ministry of Defence and the defence forces opposed repeal, and the defence minister was unwilling to overrule them.” See: <http://indianexpress.com/article/opinion/columns/across-the-aisle-even-to-the-causing-of-death/>

⁹⁷ http://googleweblight.com/?lite_url=http://www.frontline.in/social-issues/compensation-for-bangladeshi-girls-family/article7645431.ece&ei=peJNE9HW&lc=en-IN&s=1&m=311&host=www.google.co.in&ts=1473523507&sig=AKOVD67gJBbwmhOSUtn4m_-0LiW5-EiR5Q

⁹⁸ Concern is about internally displaced persons living in precarious conditions in Assam. The total of the IDPs is 113,000 of which women could be a larger percentage as they have no access to mobility. For more information see: North East Network Annual Report 2014-2015, “Given the alarming situation of displacement and special vulnerabilities of women, NEN conducted a primary level need assessment in February 2015 amongst the IDPs and IDP returnees of areas of Kokrajhar affected by violence in 2012. Further, community level intervention regarding access to entitlements and justice was mapped. NEN has advocated for a state level IDP policy addressing critical gender needs of women.”

⁹⁹ See from the report of the High Level Panel on Socio-Economic, Health and Educational; status of Tribal Communities in India, Ministry of Tribal Affairs, May 2014: In Chhattisgarh, for instance, the committee found that a large number of tribals have been languishing in jails for long years without their trial concluding. When the under-trial women in Jagdalpur jail were asked to explain with what offences they had been charged, the answer almost invariably was ‘naxal offence’. There is of course, no such offence defined in law. Here too, after the first FIR lodged against them, there would be further FIRs filed over a period of time implicating them in various episodes of violence. Persons charged with naxal offences find it extremely difficult to get bail, and so end up spending long years in jail. Trials do not conclude in many cases because official witnesses were absent. This may happen because a member of paramilitary force cited as a prosecution witness had been repatriated with his unit and was no longer in the state. The committee also met with criminal lawyers in Dantewada courts. They assessed that over 95 percent of the cases were baseless and it was no surprise that the acquittal rate in cases where trials ended, resulted in acquittal. In reply to an RTI application, the court registers for all cases disposed of between 2005 and 2012 revealed that average rate of acquittal over these years was 95.7 percent,

¹⁰⁰ DENIED” Failures in accountability in Jammu and Kashmir, Amnesty International 2015

¹⁰¹ http://googleweblight.com/?lite_url=http://m.thehindu.com/opinion/op-ed/actions-that-border-on-the-barbaric/article5171113.ece&ei=XdlqzHHX&lc=en-IN&s=1&m=311&host=www.google.co.in&ts=1473523888&sig=AKOVD65rSo1VhCwl09o0TOvnE822LGx3sQ; In 2010 three civilians were extra judicially executed by Indian soldiers in Machil, Kashmir and later falsely identified as militants. In 2013, a court martial prosecuting army personnel for their involvement in the Machil killings found six of them guilty and recommended life imprisonment. See “Six Army men sentenced to life in Machil fake encounter case” The Hindu 8 September 2015, available at <http://www.thehindu.com/news/national/other-states/court-martial-sentence-in-machil-fake-encounter-confirmed/article7625081.ece>; In 2012, the Supreme Court in General Officer Commanding v CBI and Anr,

affirmed the authority of the Armed Forces to elect to handle allegations involving enforced disappearance within the military justice system as well as clarified when that authority should be exercised.

¹⁰² Section 19, Protection of Human Rights Act, also CITE affidavits of NHRC in recent EEVFAM case at the Supreme Court and Concluding Observations of the Human Rights Committee, India, 4th August 1997, CCPR/C/79/Add.81, para 22, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.79.Add.81.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.79.Add.81.En?OpenDocument).

¹⁰³ Armed Forces Special Powers Act 1958 (North East India); Armed Forces Special Powers Act, 1990 (Jammu & Kashmir); the Unlawful Activities Prevention Act 1967, Jammu and Kashmir Disturbed Areas Act 1992; the Chhattisgarh Special Public Security Act; the National Security Act, the Punjab Disturbed Areas Act 1983; Maharashtra Control of Organized Crime Act 1999; Jammu and Kashmir Public Safety Act 1978; and sedition Sec 124A Indian Penal Code; as they are in contravention of India's international human rights obligations;

¹⁰⁴ 841 vacancies.

¹⁰⁵ 1721 vacancies.

¹⁰⁶ Report No. 245, Law commission of India, 2014. The current Chief Justice of India, Justice T. S. Thakur, has repeatedly raised concerns over the issue of pendency of cases in the court and the glaring lack of judges.

¹⁰⁷ Prison Statistics India 2014, National Crime Records Bureau; Incarceration of Scheduled Caste is disproportionate at 22% of the whole prisoners. According to 2013 prison statistics, Dalits make up 22% of all the prisoners, almost one in four. Police also routinely sexually abuse Dalit women during police raids as a means of exerting pressure on their male family members to surrender, give false evidence, retract their complaints, or silence their protests regarding police mistreatment.

¹⁰⁸ Bureau of Police Research and Development, Data on Police Organisations, 1 January 2015, Chapter 3, page 29. This is the shortage in both civil and armed police

¹⁰⁹ Prison Statistics India 2014, National Crime Records Bureau.

¹¹⁰ Particularly persons with disabilities, LGBT, IDPs, homeless people, minorities, refugees, and people living near border areas to Bangladesh (West Bengal, Assam, Tripura & Meghalaya). People living near border areas to Bangladesh live under extraordinary perpetual laws enforced by paramilitaries and have no available redress to normal civilian remedies. People displaced due to river erosion have no authority to appeal for compensation or rehabilitation. In Tamil Nadu, Muslim prisoners who are in jail for more than 10 years, are not released on religious grounds, while others are released (See, The Hindu, Release convicts in jail for more than 10 years < <http://www.thehindu.com/news/cities/Madurai/release-convicts-in-jail-for-more-than-10-years-mmk/article8208287.ece> >; Asian Age Reporting, Tamil Nadu Minister denies bias against Muslim prisoners < <http://www.asianage.com/india/tamil-nadu-minister-denies-bias-against-muslim-prisoners-165> >).

¹¹¹ In conflict areas enforced disappearances by agents of state are common. In Kashmir most of the complaints related to enforced disappearance are not entertained. Since Enforced Disappearance is not criminalized in our legal system, any complaints that have been lodged are under abduction clauses (section 364 or 365 of Ranbir Penal Code); See "Denied" Failures in Accountability for human rights violations by security force personnel in Jammu and Kashmir [https://www.amnesty.org.in/images/uploads/articles/Kashmir_Report_Web_version_\(1\).pdf](https://www.amnesty.org.in/images/uploads/articles/Kashmir_Report_Web_version_(1).pdf). Complaints are rarely allowed to be lodged.

¹¹² As of 2015, the representation of women in the police across India was at 6%. Bureau of Police Research and Development, Data on Police Organisations, 1 January 2015.

¹¹³ Police Act 1861 and the Prisons Act 1894.

¹¹⁴ Three high-level Committees have drafted model police legislation (1981, 2005, 2013), none have been adopted. Model Prison Acts were formulated in 1996, 1998 and most recently in 2016, but the majority of State prisons are still being run by the 1894 Act.

¹¹⁵ A 2015 study on prison monitoring by CHRI found that not even 1% of jails are properly monitored. Only 4 States have boards of visitors constituted in all their jails: <http://www.humanrightsinitiative.org/publication/looking-into-the-haze-a-study-on-prison-monitoring-in-india#sthash.eo9DLWSm.dpuf>

¹¹⁶ There have been 4644 deaths in prisons in 3 years from 2012-14 and 436 of them have been unnatural, Prison Statistics India, NCRB.

¹¹⁷ This is with specific reference to the requirement in Section 197 of the Code of Criminal Procedure (CrPC) for prior sanction from the government to prosecute any offences committed by public servants in the course of "official duty". Similarly, section 7 of Armed Forces Special Powers Act, 1990 does not allow for prosecution of the armed security personnel without sanction of prosecution from the Central Government and the sanction is

rarely granted. In addition, all the legislations governing security forces allow their trial in military courts for human rights violations, which compromises the independence of trials.

118 *Prakash Singh and Others v. Union of India and Others*, (2006) 8 SCC 1.

119 Alarminglly, many of the new Acts give statutory sanction to excessive political control of the police, curtailing of existing legal safeguards, and the dilution of independent police oversight.

120 Legal Services Authorities Act, 1987.

121 Please see two CHRI studies: (<http://goo.gl/VO84YB>) and (<http://goo.gl/dHMqqK>).

122 Policy gaps include unnecessary time lag between the application and appointment of legal aid lawyer, lack of any mechanism to obtain client feedback, responsibility of lawyers to provide written records of case proceedings, and timely appraisals by magistrates and legal aid bodies.

123 Section 41D of the CrPC states the right of every arrested person to a lawyer during interrogation. No guidelines have been laid down to operationalize this.

124 See: Supreme Court, *NHRC v. State of Gujarat* (2003): — no law has yet been enacted, not even a scheme has been framed by the Union of India or by the State Government for giving protection to the witnesses. Over 560 witnesses have been given central paramilitary protection by the Supreme Court before, during, and after the trial, following the implement application by Citizens for Justice and Peace (CJP).

125 *Neelam Katara v. Union of India*, 9 ILR (2003) II Del 377, *Bimal Kaur Khalsa v. Union of India & Ors*, AIR 1988 P&H 95 (protection of witness from media).

126 The full text of the sentence on Yakub Memon can be accessed here: http://supremecourtindia.nic.in/FileServer/2015-07-31_1438358472.pdf

127 The full text of the sentence on Afzal Guru can be accessed here: <http://www.judis.nic.in/supremecourt/imgs1.aspx?filename=27092>

128 The full text of the sentence on Ajmal Kasab can be accessed here: <http://www.nia.gov.in/acts/Ajmal%20Kasab%20-%20Supreme%20Court%20Judgment.pdf>

129 Make no mistake- India needs to step up and abolish death penalty, Death Penalty News, January 4, 2016 <http://deathpenaltynews.blogspot.in/2016/01/make-no-mistake-india-needs-to-step-up.html?view=flipcard>

130 The text of the 2013 Criminal Law Amendment Act can be accessed here: <http://indiacode.nic.in/acts-in-pdf/132013.pdf>

131 LAW COMMISSION OF INDIA, Report No.262, the Death Penalty, August 2015

132 Gurdhyan Singh & Aratrika Choudhuri, “Why we need to abolish the death penalty”, the Tribune, Aug 26, 2015 <http://www.tribuneindia.com/news/comment/why-we-need-to-abolish-the-death-penalty/124430.html>

133 Resolution adopted by the General Assembly “Moratorium on the use of the death penalty” A/RES/69/186, 4 February 2015.

134 In 2007, the UNGA called on states to “progressively restrict the use of the death penalty, reduce the number of offences for which it may be imposed” and “establish a moratorium on executions with a view to abolishing the death penalty.” In 2008, the GA reaffirmed this resolution, which was reinforced in subsequent resolutions in 2010, 2012 and 2014. Many of these resolutions noted that, “a moratorium on the use of the death penalty contributes to respect for human dignity and to the enhancement and progressive development of human rights.” LAW COMMISSION OF INDIA, Report No.262, the Death Penalty, August 2015, Page: 51-52

135 <http://www.livelaw.in/september-blow-death-penalty/>

136 For a full treatment of women rights situation in India see Status of Women’s Rights and Gender Equality: 2012-2016 - Joint Stakeholder Report to the UNHRC for India’s UPR—III -On behalf of 138 organizations, networks and individuals Submitted by Partners for Law in Development (PLD), New Delhi (Member of WGHR)

137 Gender Responsive Budgeting in India: Time to ask Questions, Jamb and Mishra, EPW, Dec 12, 2015 pg. 54.

138 The (Prevention, Prohibition and Redressal) Sexual Harassment of Women at the Workplace Act, 2012 and the Criminal Law Amendment Act of 2013 and Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989.

139 Criminal Law Amendment Act, 2013, Prevention of Children from Sexual Offences, 2012, and Guidelines for the Medico-Legal Examination of victims of sexual violence <http://www.mohfw.nic.in/showfile.php?lid=2737>

140 The Centre’s plan for district wise one-stop crisis centers has seen establishment of centers in about 14 of the 653 districts, with most lacking necessary funds or personnel for effective functioning. Shelter homes have poor conditions; professional psycho-social counseling is lacking.

141 Female Employment Trends in India: A disaggregated Analysis by Anand Sharma and Sanjoy Saha, http://www.nehu.ac.in/Journals/Journal_VolXIII_No2_Jul-Dec2015_A2.pdf accessed on 12th September 2016

¹⁴² <http://indianexpress.com/article/cities/90-indian-workforce-in-unorganised-sector-deprived-of-welfare-schemes-says-justice-t-s-thakur/>

¹⁴³ CEDAW Report of 2014 recommended India to comply with Justice Verma's recommendations within a period of two years (i.e by March 2016) however the same has not been done.

¹⁴⁴ <http://www.deccanherald.com/content/496824/97-pc-firms-not-aware.html>; http://www.business-standard.com/article/pti-stories/97-pc-firms-not-aware-of-sexual-harassment-at-workplace-law-115082300088_1.html

¹⁴⁵ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

¹⁴⁶ *Naz Foundation vs. Govt. of NCT Delhi*, 2010 CriLJ 94

¹⁴⁷ *Suresh Kumar Koushal and another v NAZ Foundation and Others*, CIVIL APPEAL NO.10972 OF 2013

¹⁴⁸ Para 31 (ii), *ibid*

¹⁴⁹ *National Legal Services Authority vs. Union of India and others*, WRIT PETITION (CIVIL) NO.400 OF 2012

¹⁵⁰ The Transgender Persons (Protection of Rights) Bill, 2016

¹⁵¹ See op. cit. no. 138.

¹⁵² See [1] CHILD RIGHTS IN INDIA Stakeholder's Report on Universal Periodic Review III, Submitted by HAQ: Centre for Child Rights, New Delhi, India, www.haqcrc.org, (member of WGHR).

[2] "First" Rights and the "Last" Children: Survival and Inclusion, Joint Stakeholders' Report to UN Human Rights Council for UPR III – Submitted by National NGO Child Rights Coalition – India coordinated by India Alliance for Child Rights, New Delhi, (Member of WGHR).

¹⁵³ India has 49 special and local laws for children, and 78 legal provisions in the IPC, the CrPC and the Indian Evidence Act for children. There are 9 policy documents, of which 4 are specific to children. Poor implementation of the laws and gaps still remain a matter of serious concern.

¹⁵⁴ The overall sexratio of the Country is showing a trend of improvement, whereas the child sexratio is showing a declining trend. Child Sex Ratio (0-6 Years) declined from 927 girls per 1,000 boys in 2001 to 914 girls in 2011. The decline in Child Sex Ratio (0-6 years) during 2001-2011 in rural areas is more than three times as compared to the drop in urban India.

¹⁵⁵ Under 5 Mortality Rate has declined to 49/1000 live births in 2013 (SRS) (<http://nrhm.gov.in/nrhm-components/rmnch-a/child-health-immunization.html>).

¹⁵⁶ Infant Mortality Rate currently stands at 39 /1000 live births (Sample Registration Survey 2014). The infant mortality rate in rural India is 43 which is 17 points higher than that of Urban India (26), It has been observed that, Infant mortality among female children is higher.

¹⁵⁷ Birth registration is an absolute basic right to ensure both ESCR and CPR of children mandatory in Indian law since 1969. As per the national population policy 2000, India should have achieved universal birth registration by 2010, but has failed to achieve it universally. In 2012, the level of registration of births in the country stands at 84.4% and has gone up from 82.0% in 2010. The level of performance is disparate across states/ provinces. The extent of birth registration varies from the highest of 99 percent in Goa to the lowest of 28 percent in Manipur. (Rapid Survey on Children (RSOC) 2013-14; National Report; UNICEF; <http://wcd.nic.in/sites/default/files/RSOC%20National%20Report%202013-14%20Final.pdf>). While some states have shown very good progress, others remain behind. In Himachal Pradesh and Bihar, there have been positive instances of birth registration. The State/ UTs which have achieved 100% level of birth registration in 2007 are Arunachal Pradesh, Himachal Pradesh, Kerala, Meghalaya, Mizoram, Nagaland, Punjab, Tamilnadu, Chandigarh, Lakshadweep and Puducherry (Children in India 2012: A Statistical Appraisal, GoI, Social statistics Division, 2012)

¹⁵⁸ There is a declining trend in percentage of enrolment in government schools in rural areas from 72.9 per cent in 2007 to 63.1 per cent in 2014. According to ASER 2014, there is a sharp decline in the number of children in standard V who can read a textbook of standard II in both government and private schools. In Government schools, the decline is from 56.7 per cent in 2007 to 42.2 per cent in 2014, and the percentage of children who can do division in standard V has declined from 41 per cent in 2007 to 20.7 per cent in 2014 in rural areas.

In the case of standard V children in private schools who can read a standard II textbook, the decline is from 69 per cent in 2007 to 62.5 per cent in 2014. The percentage of children who can do division in standard V has declined from 49.4 per cent in 2007 to 39.3 per cent in 2014 in private schools. The decline in educational outcomes in private schools warrants equal attention since there is an increase in the share of private providers of schooling and education across India; Economic Survey of India: 2015-16; <http://indiabudget.nic.in/es2015-16/echapvol2-09.pdf>

¹⁵⁹ There is a significant rise of 5.3% in crimes against children in 2015 against 2014. According to data compiled by NCRB for 2015, 8,800 cases of rape on children were registered across the country under the Protection of

Children Against Sexual Offences Act (POCSO). According to estimates, 2015 witnessed 94,172 cases of crimes against children of which 76,345 were either related to sexual offences or involved kidnapping. The year also saw an increase of 5.3% in crimes against children as compared to 2014, when the figure was 89,423. National Crime Records Bureau data, 2015: Slight dip in rape, crime against women <http://indianexpress.com/article/explained/national-crime-records-bureau-data-2015-slight-dip-in-rape-crime-against-women-3004980/s>.

¹⁶⁰ India reaffirmed its commitment to prohibit corporal punishment in all settings during the second cycle of UPR in 2012. The Right to Education Act and some of the state laws protect children from corporal punishment in schools. The Juvenile Justice Act, 2015 contains a provision¹⁶⁰ identifying corporal punishment as crime against children. However, measures to deal with corporal punishment in all settings are very inadequate.

¹⁶¹ Data on child labour continues to be a challenge. Under reporting on child labour obfuscates the gravity of the problem. A 2015 report by the International Labour Organization (ILO) put the number of child workers in India ages 5 to 17 at 5.7 million, out of 168 million globally (Nita Bhalla, “Parliament passes controversial child labour bill,” Reuters, July 27, 2016. <http://in.reuters.com/article/india-children-labour-idINKCN10619V>). On the contrary, according to GOI there are 4.3 million working children in the age group pf 5-14 years. While according to Census 2011 there are 10.12 million working children (main+ marginal worker) according to in the age group 5 – 14 years, the government claims that there are 4.3 million working children in all its public pronouncements and claiming a reduction in the number of working children. This is because they are not counting the children in marginal work, which they did in 2001.

In the year 2014, only 1027 cases of violations were reported under Child Labour (Prohibition and Regulation) Act, out of which only 792 cases went for prosecution resulting into 754 cases for conviction. (Government of India, Ministry Of Labour and Employment, Lok Sabha, Unstarred Question No.1285, Answered on 01.12.2014, Conviction under Child Labour Laws.<http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=6668>

¹⁶² Census 2011 data shows an alarming 103 million girls (30.2%) of all married women, were married before they had turned 18. (Sagnik Chowdhury, “30% women married under age 18”, Indian Express, May 31, 2016, New Delhi <http://indianexpress.com/article/explained/child-marriage-women-india-census-data-2011-2826398/>)

The National Policy for Children, 2013, does not address the issue of child marriage specifically. The only mention of married children is found in the section on education and development, where the Policy talks about tracking, rescuing and rehabilitating out of school children, including married children and ensuring them access to their right to education. Registration of Marriages is still not compulsory in all states

¹⁶³ GOI argues “... that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions of article 32, particularly paragraph 2 (a), in accordance with its national legislation and relevant international instruments to which it is a State Party”

¹⁶⁴ The Child Labour (Prohibition and Regulation) Amendment Act, 2016

¹⁶⁵ The weak definition of hazardous occupations and the reduction in the number listed as hazardous occupations will prove detrimental to all efforts to curb child labour. There were 16 occupations and 65 processes listed as hazardous in the 1986 law. The 2016 amendment reduces them to 3 occupations and 29 processes that are in the Factories Act, which covers only the organized sector.

¹⁶⁶ Section 3 of the Bill outlines the circumstances under which child labour is legal permitting children to work in order to *help* their family, or their “family enterprises” or “as an artist in an audio-visual entertainment industry”. Further, since the Bill does not define the hours of work or the site of work in the so-called “family enterprises”, and most occupations are not hazardous, children may be engaged range of family based activities - weaving, pottery, bidi or even to a plastic sheet near a garbage dump or even a home-based brothel as is common among many communities in the country. Is that what the government means when it says - *striking a balance between the need for education for a child and the reality of the socio-economic condition and social fabric in the country...* (PIB release 16 May 2015) as long as they work “outside of school hours or during vacations”. By implication, this law restricts children to traditional caste-based occupations, reinforces caste based occupations and perpetuate social injustice as most family based occupations in India are caste based, and children are already engaged in them. The law legalises this.

¹⁶⁷ The Juvenile Justice (Care and Protection of Children) Act, 2015

¹⁶⁸ In the absence of proper tools of assessment, training and infrastructure, children are already being subjected to arbitrary treatment.

¹⁶⁹ Till 2013, there was no legal framework to define trafficking holistically. Prior to 2013, There was no comprehensive legal framework to cover trafficking of children for labour, begging, pornography etc. Trafficking was defined only in terms of trafficking for prostitution under Immoral Trafficking Prohibition Act, 1956 (ITPA). The inclusion of Section 370 in the Indian Penal Code through Criminal Law Amendment Act 2013, has expanded

the definition of human trafficking in keeping with the Palermo Protocol. This also applies to children. Apart from the earlier law, the Immoral Traffic (Prevention) Act, 1956 which is long awaiting amendment, The Juvenile Justice (Care and Protection of Children) Act 2015 prohibits sale and procurement of all children upto the age of 18 years for any purpose, making it a cognizable and non-bailable offence.

¹⁷⁰ Women and children from India are trafficked across 18 countries with new purposes for their being trafficked being added every day; Child Trafficking in India. HAQ: Centre for Child Rights and CACT. 2016

¹⁷¹ The Ministry of Home Affairs (MHA) is the nodal agency for the implementation of the ITPA 1956 and other human trafficking initiatives, through its Anti-Trafficking Cell. The Ministry of Women and Child Development (MWCD) continues to be the nodal ministry for tackling this crime with respect to children and is also responsible for inter-ministerial coordination. The United Nations Office of Drugs and Crime (UNODC) Regional Office for South Asia (ROSA) has been involved in initiatives to address human trafficking in collaboration with the Government of India, particularly the MWCD and the MHA. Since the child victims of trafficking are children in need of care and protection under JJ Act, their responsibility vests with the Child Welfare Committee (CWC) set up under the juvenile justice system and also the mechanisms laid down in the Integrated Child Protection Scheme (ICPS). Both of these are the responsibility of the central MWCD and the departments in charge of women and children in the states. In addition, the National Commission for Protection of Child Rights (NCPCR) has undertaken some initiatives to address child trafficking. Each year questions are asked in Parliament on issues concerning trafficking. District task forces are there for tracking trafficking but these mechanisms should devolve up to the village/sub district levels by engaging Local Self Governance units respectively.

¹⁷² However, most of the AHTUs are non-functional and they lack dedicated and trained staffs and their roles are also not clearly defined.

¹⁷³ Government of India's 22 Ministries have identifiable schematic budget heads addressing children through 82 schemes presented as a special budget statement (Statement 22) on children.

¹⁷⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/162/31/PDF/G1616231.pdf?OpenElement>,t

¹⁷⁵ The concern of inadequacy of financial resources towards children has also been resonated by the concluding observations made by the UNCRC on 13 June 2014, based on India's report presented to the Committee on 3 June 2014 in Geneva. The Committee noted "*The budgetary allocations do not adequately take into consideration child protection needs. There is also mis-management of allocated resources, a problem which is exacerbated by a high level of corruption and the lack of effective monitoring and evaluation systems*". (full document available at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=843&Lang=en)

¹⁷⁶ According to the government's own admission in India's third and fourth combined periodic report on the Convention on the Rights of the Child "*many of the outcome indicators for children point to the disadvantaged status of children, the proportion of Child Budget in the Union Budget seems inadequate*" (http://wcd.nic.in/crc3n4/crc3n4_1r.pdf)

¹⁷⁷ Share of financial resources for children has fallen to an all-time low of 3.26% in the 2015-16 budgets since the introduction of fiscal federalism in 2015. (*Politics, Paisa or Priorities: Where do Children Fit into the Union Budget 2015-16?*), HAQ: Centre for Child Rights, New Delhi <http://haqcrc.org/new-at-haq/politics-paisa-or-priorities-where-do-children-fit-into-the-2015-16-union-budget/>)

¹⁷⁸ Children's Rights in Juvenile Justice (2007); CRC/C/GC/10; <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

¹⁷⁹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/162/31/PDF/G1616231.pdf?OpenElement>,t

¹⁸⁰ Article 4 of the UNCRC

¹⁸¹ See UPR-III JOINT STAKEHOLDERS' REPORT ON CASTE BASED DISCRIMINATION IN INDIA Submitted by National Dalit Movement For Justice-NDMJ (NCDHR), New Delhi, member WGHR, ...<http://uprdoc.ohchr.org/index.aspx>

¹⁸² It is a very shocking fact that while in 1991, 70% of the total Dalit households were landless or near landless (owning less than one acre) which increased to 75% in 2000. (as per the India chronic poverty report: IIPA 2011).

¹⁸³ Prejudice against and harassment of Dalits are equally prevalent in institutions of higher education. The caste bias manifests itself in the way teachers ignore Dalit students and unjustly fail them in exams and in the unwillingness of the university administration to assist and support Dalits. Reportedly, as a grave consequence of this harassment, a disproportionate number of Dalit students have committed suicide in some countries. (Source-Special Rapporteur on Contemporary Forms of Racism. (2013). Report to Human Rights Council on Racism and Implementation of the Durban Declaration and Programme of Action. UN Doc. A/HRC/23/56, para. 46)

¹⁸⁴ In 2012, 41 independent monitoring institutions submitted reports to the Ministry of Human Resource Development detailing instances of discrimination and untouchability during the midday meals in 186 schools

across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat. SC children were routinely segregated from other children while eating. Additionally, many children or their parents often refuse food cooked by SC cooks. There are also cases where Dalit students are served from a distance, and several students bought their own plates for fear of utensils being touched by Dalit classmates¹⁸⁴ (Source- Vishnoi, A. (2012, 26 Nov). 'Report says caste, gender discrimination rampant', Indian Express)

¹⁸⁵ In January 2012, 25 Dalit children from Karandipatana village in Kendrapada district, Orissa were forced to obtain school leaving certificates and get admitted into another school after facing abuse and threats from dominant caste villagers, as part of a continuing land dispute in the village (Source- Times of India. (2012, 19 Jan). 'Dalit children 'ousted' from school in Kendrapada')

¹⁸⁶ Despite Government of India's focus on promoting education amongst SC, according to 2011 census, literacy rate amongst SCs continues to be lower than that of other castes, (66.1%). Further it records lower literacy levels amongst SC women (56.5%) as compared to SC men (75.2%).

¹⁸⁷ According to an NSSO survey, nearly two-thirds of male dropouts from school and college said that they were needed to supplement the household income while nearly half the female dropouts said that they were needed for domestic chores. The same survey also showed that attendance rates in educational institutions were about 50% in the poorest 10% families but rose to nearly 70% in the richest 10 per cent. Poverty is thus the biggest barrier to pursuing education, and poverty levels are highest among Dalits and Adivasis. Besides this, these groups also face social discrimination and sometimes, abuse. At a public hearing organized by the People's Trust and CRY in Salem, Tamil Nadu, a young Dalit girl, who dropped out of school, said students like her were often taunted and abused by teachers as well as students (Source- Enrol and dropout, education is a one-way street for Dalits, Times of India, 24 January 2016, <http://timesofindia.indiatimes.com/home/sunday-times/deep-focus/Enrol-and-dropout-education-is-a-one-way-street-for-dalits/articleshow/50701654.cms>)

¹⁸⁸ The Ministry of Human Resource Development (MHRD) statistics for the year 2007–08 for school education show that nearly 72.2 per cent of the girls and 66.6 per cent of the boys among the Dalits drop out of school during the period of entry beginning with class 1 till they reach class 10

¹⁸⁹ A national study on health services found that caste identity was important in accessing resources such as anganwadi services both as health service provider and recipient. Caste discrimination was reported in these services from almost all the study villages. In some instances, separate anganwadis in the 'upper' and 'lower' caste localities were a practical solution without, however, resolving the issue (Source- C. Sathyamala et al. (2012). 'Public Report on Health Some Key Findings and Policy Recommendations', Economic and Political Weekly 47(21), pp.43-54)

¹⁹⁰ A study undertaken in Vizianagaram district of Andhra Pradesh revealed that around 77.2% of respondents had no information regarding the structure and functioning of the Village Health and Sanitation Committees (VHSCs). A majority (75%) of the Dalit respondents said that the VHSCs do not give any importance to Dalit issues. While 55% of men interviewed said that VHSC members did come and inquire about the health-related issues of Dalits, only 4.3% of women said that this was true. Moreover, 74.4% of respondents said that there was hardly any participation by the Dalit community in the VHSCs (Source- Sesharatnam, P. and P. Chittibabu. (2012). 'Still some way to go: Communitisation of Health Services among Dalit Community'. Andhra Pradesh: People's Action for Rural Awakening)

¹⁹¹ Out of the 44 VHSC members interviewed, only 29 members said importance is given to the health issues of SCs. Only 36 (81.1%) knew that Rs.10, 000/- is allocated for Village Health Fund and has to be used for the implementation of the village health plan. Only 1 VHSC member said that there are activities in the plan to create awareness among Dalits on health and sanitation (Source- Sesharatnam, P. and P. Chittibabu. (2012). 'Still some way to go: Communitisation of Health Services among Dalit Community'. Andhra Pradesh: People's Action for Rural Awakening).

¹⁹² Many evaluation studies of the RSBY national medical insurance scheme do not provide details on the number of SCs receiving the benefits of RSBY. In a recent study of RSBY implementation in Chhattisgarh, though, it was noted that SCs (who represent 12.8% of the population in the state) formed 17.03% of RSBY registered households and 14.57% of households who had undergone hospitalization. This number was attributed to greater initiatives taken to cover a large section of SC and ST below poverty line households in enrolments under the scheme. (Council for Tribal and Rural Development. (2012). 'Evaluation of 'Rashtriya Swasthya Bima Yojana scheme' in Chhattisgarh', submitted to State Nodal Agency RSBY Chhattisgarh. Raipur: CTRD)

¹⁹³ Despite achieving a significant improvement in the IMR over the period 2000–10, the available figures of IMR by social groups for the year 2005–06 indicate that it is highest at 66.4 among the Dalits.

¹⁹⁴ With only 39.7% of the Dalit children having been immunised in 2005–06, the ratio was less than the national average by 4 percentage points.

¹⁹⁵ Both Dalits and Adivasis show a comparatively high prevalence of TB than Others, with the figures being 531 per lakh population for Dalits, 659 per lakh population for Adivasis, and 423 per lakh population for others in 2005–06.

¹⁹⁶ As per 2005/6 NFHS survey, about 58.3% of SC women suffered from anaemia compared to 51.3% among non - SC/ST women. Malnutrition of the mother impacts the health outcomes of children. About 21% of SC children under 4 years of age suffered from malnutrition-compared with 13.80% of other's children respectively. Nearly 72% of children from SC suffer from anaemia, compared to 63.8% among others. High level of malnutrition among the SC results in high morbidity and mortality. In 2005-06, IMR was 66.4 for SC - much higher compared to 49 for other respectively.

¹⁹⁷ The incidence of malnutrition is the highest among Adivasis (54.5%), followed by Dalits (47.9%), and other social groups (36.3%). The likelihood of Dalit children being malnourished is about 1.4 times higher than that of children belonging to other social groups even after controlling for education and the health of mothers.

¹⁹⁸ 'Discrimination and Social Exclusion: A Study on the Development Experience of Dalits in Karnataka' found that 13.7% of Dalit children from 50 villages had been asked to sit separately from dominant caste children in the classrooms and nearly 33% of parents reported that their children had been frequently given the task of cleaning classrooms and the school grounds (Source- The Hindu. (2012, 22 Oct.). 'Study reveals discrimination in Karnataka schools').

¹⁹⁹ In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014 and the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014 according to the NCRB data.

²⁰⁰ As per National Crime Records Bureau (NCRB) data, a total of 1,88,991 crimes against SCs were registered under different laws from 2011 to 2014. Overall, the year 2014 witnessed an increase of 19.4% in total crimes committed against SCs over the previous year, while the year 2013 witnessed an increase of 17.1% in total crimes committed against SCs over the previous year (Source- National Crime Records Bureau, 2011-2013. New Delhi).

²⁰¹ In 2014, the NCRB reported 2233 registered rapes of SC women—an average of 6 rapes per day. Moreover, the number of registered rapes of SC women has risen steadily over the years, from 1089 in 2003 to 2073 in 2013, marking a 47.5% increase over the past decade. One study of 500 Dalit women and girls who had experienced violence revealed that less than 1% of incidents of violence ended in convictions of the accused.²⁰¹ For 2014, the conviction rate for rapes of SC women stood at 34.9%, though this has to be understood against the backdrop of the high pendency rate of 81.6% for rape cases. The vulnerability of SC women is further exacerbated by their marital status. Widowed women face harassment, evictions, sexual exploitation and abuse from family members and other villagers. (Source- National Crimes Records Bureau 2014, Crimes in India 2014. Delhi: NCRB accessed online: <http://ncrb.gov.in/CD-CII2013/home.asp>.)

Police also routinely sexually abuse Dalit women during police raids as a means of exerting pressure on their male family members to surrender, give false evidence, retract their complaints, or silence their protests regarding police mistreatment. According to prison statistics in 2013, Dalits make up 22% of prisoners, almost one in four. Their proportion in population is about 17% according to Census 2011.

²⁰² Official statistics also show that over 2,500 women have been killed under the suspicion of practicing witchcraft in the past 15 years. All have been poor and most have been from marginalized scheduled caste and scheduled tribe communities and either owned property or rejected the sexual advances of dominant men in the community. The former UN High Commissioner for Human Rights, Navi Pillay, has noted that, "An estimated 90% of manual scavengers are Dalit women who face multiple vulnerabilities and discrimination based on their caste and gender, and who are often exposed to violence and exploitation." (Source- UN High Commissioner for Human Rights Navi Pillay, 2013 (31 Jan.). 'Pillay applauds Indian movement to eradicate manual scavenging', OHCHR News, available online:

www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E) (Source- Paul, S., 2012. Witches of India: Women without Defence, available at: <https://worldpulse.com/node/50282>.)

²⁰³ State protective and monitoring mechanisms like State Vigilance and Monitoring Committees SVMCs remain only on paper. The finding of a study conducted by NCDHR (Justice under Trial) reveals the prevalence of power based justice delivery in the special courts (Section 14 of the SC/ST PoA Act provides for a Court of Session to be a Special Court to try offences under the SC/ST PoA Act in each district for speedy trial) and the poor legal awareness that obviates these communities to access justice. The criminal judicial system as basic institution for justice delivery is severe disappointment for the Dalits/Adivasis due to the power centeredness and expensive justice administrative system. (Source- Several states are yet to constitute the SVMCs and others meeting less than 10% of the required frequency could be one of the main cause for impunity which needs to be strictly addressed (Source- Tamil Nadu has conducted only four out of 38 mandatory meetings of SVMCs – Info accessed under RTI – Ltr No. 5634/PA-1/RTI No.56/2016-2 dated 14.06.2016 – <http://hrf.net.in/1129-2/>))

204 The PCR Act attempts to eradicate ‘untouchability’ and restore the rights of victims of ‘untouchability’ in public life but leaves the private sphere untouched despite evidence to the contrary (Source- Kumar Tiwari, S. (2013). ‘Impact of Laws on the Abolition of Untouchability in India: A Critical Study.’ In Proceedings of 6th International Business and Social Sciences Research Conference, 3-4.01.2013, Dubai).

205 When it comes to crime against Dalit women, on an average, everyday 3 Dalit women are raped, 2 Dalits are murdered & 2 Dalits Houses are burnt in India, 11 Dalits are beaten and on weekly average, 13 Dalits are murdered and 6 Dalits are kidnapped or abducted.

206 A majority of them are working as casual wage labourers—51.2% in the case of Dalits and 42.5 per cent in the case of Adivasis during the year 2009–10, with abysmally low and irregular incomes.

207 Of the total rural SC workers, more than 60% are wage labourers and there is significant discrimination of SCs in hiring and wage payments (Source- Chandrapal. Action Points for Development of SCs and STs, Planning Commission. Retrieved 04.11.2013 from <<planningcommission.nic.in/plans/stateplan/scp.../82ACTIONPOINTS.doc>>.(para. 27,

208 Their access to regular salaried jobs is limited with only 14% of the Dalits and workers are employed in regular salaried jobs as compared to more than 19% from other caste groups.

209 A study among Dalit journalists revealed that many of these journalists stated that caste-based discrimination and antagonism against them is pervasive in the mainstream media, both print and electronic. They say this phenomenon is more rampant in Hindi and other language media than in the English media (Source- Ashraf, A. (2013, 13 Aug.). ‘Dalits in the Media feel the Sting of Caste Discrimination,’ Firstpost).

210 In the most sought after civil services, IAS, [IPS](#) and [IFS](#), the proportion of SC officers was below the mandated quotas. Out of 3,251 directly recruited [IAS](#) officers, SC officers made up only 13.9% (Reply of Minister of State in the Prime Minister's Office, V. Narayanasamy to the Rajya Sabha question no. 3040, answered on 20-11-2012).

211 There were 25,037 'backlog' posts for SCs lying vacant in 73 government departments and bodies. These are positions reserved for SC members that have not been filled over the years and thus have accumulated. They include both direct recruitment and promotion-based positions. Out of these, 4,518 positions were vacant because no candidate was available for promotion (Source- Reply of Minister of State in the Prime Minister's Office, V. Narayanasamy to the Rajya Sabha question no. 3040, answered on 20-11-2012).

212 As a part of affirmative action policy enshrined in the Indian Constitution, 15 % and 7.5 % of central government posts are reserved for Dalits and Adivasis respectively. In context of Dalits, only 10.15 % posts were filled in group A, in Group B it was 12.67 %, in Group C it was 16.15 % and in Group D it was 21.26 %. The figures for Adivasis were even lower at 2.89 %, 2.68 %, 5.69 % and 6.48 % for the four groups respectively.

213 There is a lack of a comprehensive employment anti-discrimination framework that adequately addresses the myriad ways in which discrimination operates. The existing legal protections against such discrimination include constitutional provisions mandating equality and a handful of criminal statutes. There is no umbrella anti-discrimination employment statute to regulate the private sector in India (Source- Sinoy, D. ‘Courting Substantive Equality: Employment Discrimination Law in India’. Retrieved Nov. 2013 from <<www.kentlaw.iit.edu/Documents/Institutes%20and%20Centers/).

214 The Indian Constitution prohibits discrimination in employment and commits to promoting the economic interests of SCs. In particular, Article 16(2) allows for 15% reservation for SCs to enable their participation in government services, educational institutions and political bodies. From this mandate, derives India’s elaborate quota system for public jobs, places in publicly funded colleges and elected assemblies for communities marginalized on the basis of caste or tribal status.²¹⁴ In addition, section 3(1) (v) Prevention of Atrocities Act punishes discrimination in access to employment on the basis of caste, such as wrongfully dispossessing an SC person from their land. Section 4(I), (IV) and (viii) of the PCR Act prohibits interference with the right to access water and other public services on the basis of untouchability. India also has numerous state and national-level social welfare schemes in place, including programmes to provide financial assistance and access to housing, water and sanitation, livelihood development training, legal aid and scholarships.

215 Schedule Caste Sub Plan

216 In order to bridge the gap between the Dalits/Adivasis and other castes, the government of India crafted a policy called the scheduled Caste Sub Plan and Tribal Sub Plan. This year, 2016-17, the allocations for SC under the Union Budget 2016 is only 7.6% when the due amount under SCSP (Scheduled Caste Sub plan) budget should be 16.8% which should amount to Rs.91,301 crore and 8.6% under TSP (Tribal Sub Plan) which should amount to Rs.47,300 Crs. Thus denying a total of Rs 75,764 crore (Source- Union Budget 2016-17-The Dalit Adivasi Perspective; http://www.ncdhr.org.in/Dalitsinnews/Final_Budget_Watch_2016-17_Union.pdf)

217 Funds are often not allocated under the SCSP in proportion to the population of SCs in the state/country. Moreover, a large amount of funds under SCSP are being allocated for general programmes and schemes, which

are not specifically designed for SCs with fixed, realistic targets. (Dalit Arthik Adhikar Andolan-NCDHR. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

218 The bulk of SCSP funds are more for social services (e.g. education, health) that are ‘survival in nature’. Large funds are not being allocated for economic sectors that are ‘developmental in nature’ (e.g. entrepreneurship, employment, land) and would ensure that Dalits obtain access to productive resources for their long-term development and empowerment (Source- Dalit Arthik Adhikar Andolan. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA)

219 <http://www.ncdhr.org.in/resources/publications/daaa-publication/NDW.pdf>

220 http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Key_Issues/Disaster_response/EqualityInAid_web_version.pdf

221 http://ndma.gov.in/images/ndma-pdf/DM_act2005.pdf

222 <http://nationaldalitwatch-ncdhr.blogspot.in/p/synthesis-of-ndw-ncdhr-flood-studies.html>

223 http://roundtableindia.co.in/index.php?option=com_content&view=article&id=8762%3Athe-kabali-has-roared-why-bapsa-was-the-real-winner-of-the-jnu-student-polls&catid=129%3Aevents-and-activism&Itemid=195

224 <http://scroll.in/article/814104/what-justice-can-we-expect-gujarat-dalits-returning-from-una-rally-are-beaten-vehicles-attacked>

225 <http://www.bbc.com/news/world-asia-india-35349790>

226 *Ensuring access to legal aid, impunity is eliminated, and special fast track courts and prosecution of officer found guilty of by the High Power Committee²²⁶ to be automatically prosecuted under Section 4 of Atrocities Act. Strict measures to be taken against the negligent officer.*

227 Set up high-power committees for the sensitisation, enforcement and monitoring of government line departments on protective provisions of the PoA Act to end the impunity currently enjoyed by perpetrators and officials and enforce punitive action for those denying the due benefits and relief to SC/ST women.

228 The Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Amended Act, 2015

229 http://www.ncdhr.org.in/Dalitsinnews/Final_Budget_Watch_2016-17_Union.pdf

230 http://www.ncdhr.org.in/resources/publications/others/FINAL_Draft%20SCP%20%20TSP%20LEGISLATION.pdf

231 PESA Act 1996, under which a Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution.

232 The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, is a paradigm shift of Governance where people/Gram Sabha shall determine the nature and extent of forest rights. It has been recognised as a historic legislation to undo historic injustice made to the forest dwellers by the State has been acknowledged. Through observation of the process of implementation of FRA in Odisha there are rampant violations reported from the scheduled areas.

233 PESA, Left-Wing Extremism and Governance: Concerns and Challenges in India’s Tribal Districts by Institute of Rural Management, Anand Commissioned by Ministry of Panchayati Raj Government of India New Delhi.

234 Also see section in this report on ‘Right to Housing and Land’.

235 See, for example, “Mapithel Dam: Stop violating international standards”, Imphal Times, 11 April 2015

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http://manipurgovtpress.nic.in/uploads/EOG_264_29-10-2012.pdf

²³⁶ An Assessment of Dams in India’s NE seeking Carbon Credits under CDM of UNFCCC by Jiten Yumnam published by the International Rivers, USA, March 2012

<http://www.internationalrivers.org/resources/an-assessment-of-dams-in-ne-india-seeking-carbon-credits-from-clean-development-mechanism>

²³⁷ Manthan, Report of the National Committee on National Forest Rights Act, 2010 (A Joint Committee of MoEF and MoTA, Government of India).

²³⁸ Notable ones are the Compensatory Afforestation Act, 2016, the proposal for privatization of forests, notification of Village Forest Rules in the states of Maharashtra and Madhya Pradesh, promotion and strengthening of the Joint Forest Management, plantation in land occupied and used by tribals for livelihoods.

²³⁹ Global report on disability, by WHO

²⁴⁰ Moushumi Das Gupta, “Union budgets since 2008 show India spends 0.0009% of its GDP on disability”, Hindustan Times October 19, 2013

²⁴¹ The Mental Health Act 1987, Rehabilitation Council of India Act 1992, Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 and the National Trust Act 1999 with the letter and spirit of the UNCRPD.

²⁴² A hurried disabilities Bill will serve no purpose”, TNN, Feb 18, 2014.

<http://timesofindia.indiatimes.com/city/hyderabad/A-hurried-disabilities-Bill-will-serve-no-purpose/articleshow/30579944.cms>

²⁴³ Intellectual disability, autism, cerebral palsy and multiple disabilities (Harmonization of Indian laws with UNCRPD, Rajiv Raturi, HRLN)

²⁴⁴ Glimpses of PWD Act implementation by NHRC 2013

²⁴⁵ annual Report of Ministry for Social Justice & Department of Disability affairs

²⁴⁶ John Dayal (edited), “100 Days Under the New Regime: The State of Minorities”, A Report by ANHAD, 2014 Over 600 incidents of targeted religious minorities have taken place from May to September 2014 in several parts of the country, but especially which have seen, or will soon see, by-elections or elections to the Legislative Assemblies. In the first few weeks of the new government, by its own admission, A total of 113 communal incidents have taken place in various parts of the country during May-June in which 15 people were killed and 318 others were injured, Minister of State for Home Affairs, Mr. Kiren Rijiju told the Rajya Sabha. The extent of fear experienced can be adjudged from the remarks of a senior man of the police establishment, Julio Ribeiro who said in an article to a major national daily, “As a Christian, I am suddenly a stranger in my own country.” <http://indianexpress.com/article/opinion/columns/i-feel-i-am-on-a-hit-list/>

²⁴⁷ According to official statistics submitted by the state government to the Supreme Court in September 2013, at least 44 persons were killed, 97 persons injured and 41,829 people displaced across Muzaffarnagar and Shamli districts. According to district administration riots displaced 51,000 people - 27,198 from Muzaffarnagar and the rest from Shamli - from 150 villages. . Muslims have been the worst sufferers of communal orgy that swept Muzaffarnagar. The real truth about the Muzaffarnagar riots. See: <http://indiafacts.org/the-real-truth-about-the-muzaffarnagar-riots-part-1/>

²⁴⁸ These attacks have happened under the guise of cow protection

²⁴⁹ Hindu right-wing campaign against what they say is Muslim conspiracy to convert Hindu girls into Islam.

²⁵⁰ In December 2014, Hindu hardliner group the Rashtriya Swayamsevak Sangh (RSS) announced plans to forcibly “reconvert” at least 4,000 Christian families and 1,000 Muslim families to Hinduism under what it calls the ‘Ghar Wapsi’ (returning home) programme in Uttar Pradesh on Christmas day as part of a so-called ‘Ghar Wapsi’ (returning home) programme. According to RSS, “Christmas was chosen as the day for conversion because the event is a “shaktipariksha” (test of strength) for both religions. If their religion is better, they can stop them. It is a test for both of us. If they come to us on Christmas, it is the biggest rejection of the faith.”

²⁵¹ These false and coercive steps include compelling persons to utter slogans like ‘Bharat Mata ki Jai’ (Hail to the Mother’)

²⁵² Such laws exist in at least 28 Indian States. See: The economics of cow slaughter

<http://www.thehindu.com/opinion/op-ed/the-economics-of-cow-slaughter/article7880807.ece>

²⁵³ Angered By The Gau Rakshak Now PM must apply the same principle to all crime — including communal crime

<http://indianexpress.com/article/opinion/columns/narendra-modi-gau-rakshak-cow-vigilantes-beef-ban-cow-slaughter-gujarat-dalit-2964523/>

²⁵⁴ Ironically profits from beef exports are controlled by the high caste Hindus and Jains (vegetarians)

[1] 95% of beef traders are Hindus, says former chief justice of Delhi high court

<http://timesofindia.indiatimes.com/india/95-of-beef-traders-are-Hindus-says-former-chief-justice-of-Delhi-high-court/articleshow/49866811.cms>

[2] Out of six largest meat suppliers in India four are Hindus <http://muslimmirror.com/eng/out-of-six-largest-meat-suppliers-in-india-four-are-hindus/>

[3] BJP got Rs 2.50 cr in donations from firms exporting buffalo meat <http://timesofindia.indiatimes.com/india/BJP-got-Rs-2-50-cr-in-donations-from-firms-exporting-buffalo-meat/articleshow/50195323.cms>

[4] Meat production doubled in Gujarat in 10 years <http://www.thehindu.com/news/national/other-states/meat-production-doubled-in-gujarat-in-10-years/article5872923.ece>

[5] India on top in exporting beef <http://www.thehindu.com/news/national/india-on-top-in-exporting-beef/article7519487.ece>

[6] Can India afford to ban export of beef? <http://www.dnaindia.com/money/report-can-india-afford-to-ban-export-of-beef-2131979>

²⁵⁵ In March 2016 alleged right-wing activists attacked and vandalized a Church Situated in Kachana colony in Raipur in Chhattisgarh injuring five people including two women. A group of youth stormed the prayer hall, raising "Jai Sriram" slogans, and began attacking the worshippers. According to eye witnesses, around 15 people on 8-9 bikes arrived at the spot while the Sunday prayer was going on in the church, a red-coloured small room situated at the end of the road which further had just barren fields. Ishita Mishra, "Raipur church vandalised during Sunday service" TNN | Mar 7, 2016

²⁵⁶ See: Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, mission to India, 2009, A/HRC/10/8/Add.3, para 63

²⁵⁷ Ayodhya: Video allegedly showing Bajrang Dal workers receiving 'self-defence' training in weapons goes viral-The video of a mock drill purportedly showed some volunteers wearing skull caps at the camp held in Karsevakpuram—the VHP workshop in Ayodhya.

<http://indianexpress.com/article/india/india-news-india/bajrang-dal-self-defence-video-ayodhya-ram-naik-vhp-karsevaks-camp-2817657/>

²⁵⁸ Ayodhya: Bajrang Dal leader arrested over holding weapons training camp <http://indianexpress.com/article/india/india-news-india/mahesh-mishra-faizabad-bajrang-dal-chief-held-over-holding-weapons-training-camp-2819283/>

²⁵⁹ [1] Examples of Sikhs in 1984, Gujarat 2002, Muzaffarnagar 2013 explained in the footnotes detail how the criminal justice system is abused. Gang rape acquittal: <http://indianexpress.com/article/india/india-news-india/shamli-district-burhana-police-2013-muzaffarnagar-riots-4-acquitted-in-gangrape-case-after-victim-family-turn-hostile-husband-says-we-were-threatened/>

[2] Acquittals due to witnesses turning hostile- Feb 2016 <http://indianexpress.com/article/india/india-news-india/muzaffarnagar-case-families-of-boy-woman-killed-in-2013-riots-turn-hostile/>.

<http://indianexpress.com/article/india/india-news-india/three-more-muzaffarnagar-riots-cases-end-in-acquittal/>

[3] Even Gujarat 2002 cases after the present Regime came to power have taken a unique turn.

<https://www.sabrangindia.in/indepth/gulberg-massacre-conspiracy-telltale-mobile-call-records-february-2728-2002>

[4] Gulberg Massacre Conspiracy: The Telltale Mobile Call Records of February 27/28, 2002

<https://www.sabrangindia.in/indepth/judge-buys-police-sit%E2%80%99s-claim-private-firing-ahsan-jafri-triggered-gulberg-society-massacre>

[5] Judge Buys Police, SIT's Claim That Private Firing by Ahsan Jafri Triggered the Gulberg Society Massacre

²⁶⁰ [1] In Dadri Lynching Case, Victim Mohd Akhlaq's Mother, Wife Face Charges <http://www.ndtv.com/india-news/police-case-ordered-against-family-of-mohd-akhlaq-lynched-in-dadri-1431453>

[2] Running on fast track, 10 witnesses turning hostile, the Punjab and Haryana high court granting bail to mastermind Aseemanand and the Centre not challenging it before the Supreme Court is all that has been happening in the Samjhauta blasts trial. Most of the killed commuters on the train on February 18, 2007 were from Pakistan who were headed home. See: Is Samjhauta Express blasts trial turning towards acquittal?, Hindustan Times, Chandigarh, Aug 24, 2015 <http://www.hindustantimes.com/chandigarh/is-samjhauta-express-blasts-trial-turning-towards-acquittal/story-MPKdm24AddyhuAGDLOLKBK.html>

[3] Sohrabuddin Sheikh fake encounter case: NEW DELHI: In a huge relief to BJP president Amit Shah, the Supreme Court today upheld the clean chit given by the subordinate courts to him in the Sohrabuddin Sheikh fake encounter case and rejected the plea for its revival. "Rejected," said a bench comprising Justices SA Bobde and Ashok Bhushan while questioning the locus standi of former bureaucrat and social activist Harsh Mander for pursuing the case in which the victim's brother Rubabuddin Sheikh had preferred to withdraw the petition. <http://www.ndtv.com/india-news/sohrabuddin-case-supreme-court-upholds-clean-chit-to-bjp-chief-amit-shah-1438977>

²⁶¹As the US State Department's "International Religious Freedom Report 2014" shows (especially in the "Government Practices" section), "anti-conversion" laws, at the state level, have been used by state and local authorities to harass religious minority populations - usually with trumped-up charges. International Religious Freedom Report for 2014, Available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2014&dldid=238494#wrapper>

²⁶²Effectively, these laws target Christian and Muslim communities and provide opportunities for both local officials and Hindu supremacist organizations to harass and intimidate them. The anti-conversion laws, passed by a number of states, ironically titled the Freedom of Religion Act, violate freedom of religion guaranteed by the Indian constitution. But the same laws do not address forcible conversions to Hinduism such as 'Ghar Wapsi' ceremonies. See: Hate and Targeted Violence against Christian in India – Report 2014 by Evangelical Fellowship of India & Alliance Defending Freedom India.

²⁶³<http://muslimmirror.com/eng/gyarah-saal-salakhon-ke-peeche-mufti-abdul-qayyums-jail-book-released/>

[1] Gyarah Saal Salakhon Ke Peeche ' -Mufti Abdul Qayyum's jail book release

[2] A Classic Case of the Abuse of Power: Malegaon 2006 blasts <https://sabrangindia.in/article/classic-case-abuse-power-malegaon-2006-blasts>

²⁶⁴Sunil Prabhu, "After fierce debate, anti-communal violence bill is dropped. Here's why," NDTV, February 05, 2014. <http://www.ndtv.com/cheat-sheet/after-fierce-debate-anti-communal-violence-bill-is-dropped-heres-why-549881>

²⁶⁵India wilfully abdicated its responsibility to enact a national legislation in compliance with Article V²⁶⁵ of the International Convention on the Prevention and Punishment of the Crime of Genocide, 1948. India has ratified the Genocide Convention in 1958.²⁶⁵This wilful abdication of state responsibility for more than five decades has seen the 1984 Anti-Sikh Riots, the 2002 Gujarat massacre, killings of Christians in Kandhamal, Orissa²⁶⁵ in 2008 and many other continuing struggle for justice within the inadequate conceptual frame of Indian law.²⁶⁵

²⁶⁶ **DNT** - These are communities (or 'tribes') that, during the British regime, due to specific administrative as well as law and order reasons, were 'notified' as being 'born criminal' by the British Government under a series of laws starting with the Criminal Tribes Act of 1871. These laws were enacted as crime was considered a 'hereditary profession' and the enactment of the law and its entry into the working of police training as well as in the public arena slapped the brand of being 'born criminals' on the entire population of these communities. After Independence, this Act was repealed in 1952, and the communities were 'de-notified', hence the name.

NT and Semi-Nomadic Tribe - A nomad may be defined as 'one who is constantly on spatial movement.' A group (or society) of constantly moving (or migrating) people is nomadic, and the lifestyle and symbolic system the nomads have is known as nomadism. Here, people eke out their livelihood by migrating from one site to another within a specific territorial zone. The fact that people move should not be interpreted as meaning that they journey from one eco-zone to another, or, to put in empirical terms, the nomads from the Himalayas travel to central India. As a lifestyle, nomadism is always adapted to a habitat. Nomads have a specialized knowledge of an area and their economy is suited to that. Nomads are journeyers in a habitat; they process the resources that they find there. In other words, they are not parasites on nature.

²⁶⁷ The Indian Constitution does not mention the De-notified or Nomadic Tribes. It confines itself to the Scheduled Castes, the Scheduled Tribes and the Backward Classes. The De-notified & Nomadic Tribes have thus been largely out of focus of the social sector management except in a couple of States like Maharashtra and Gujarat. Further, the affirmative action program of the State is based on socio-economic backwardness of the settled communities; it has failed to include specificities of nomadism, stigmatization and criminalization within its ambit. As a result, it has also been painfully observed that even though a large number of these Tribes and Communities are in the lists of SCs, STs and BCs/OBCs, they have not been able to take advantage of the affirmative action programmes launched by the Union and the States from time to time due to non-inclusion of nomadism, stigmatization and criminalization. It is also important to note that about 16 percent (9 communities) of Nomadic tribes and 3 percent (2 communities) of De-notified communities do not belong to any of the existing constitutionally designated categories – SC, ST or OBC. Source: 2008 Renke Commission Report, 2008 available at [http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20\(1\).pdf](http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20(1).pdf)

²⁶⁸ Data on NT-DNT Communities based on the study by National commission for Semi-nomadic, Nomadic and De-notified Tribe, (Renke commission, June, 2008) in 11 states:

- *Caste certificate*: Around 50% of DNT communities and 61% of Nomadic Communities do not possess Caste Certificates.
- *Death certificate*: Around 55.2% DNT Communities and 81.8% NT Communities do not possess Death Certificates. Death Certificates are required for widow pension/compensation and other social security schemes.
- *Birth certificate*: Around 47.8% DNT Communities and 60% of NT Communities do not possess Birth Certificates.
- *BPL Cards*: Only 23 percent De-notified and 6 percent Nomadic communities report availability of BPL cards.
- *Voter ID Cards*: It is interesting to note that more than 80 percent De-notified community men and women and two thirds of Nomadic community men and women possess voter identity card (I.D.).
- *Access to Drinking water (unsafe)*: Around 18% of DNT Communities and 46% of NT Communities have access to unsafe drinking water.
- *Access to health care services*: Around 61.2% DNT Communities and 54.5% of NT Communities do not have access to health services.
- *Access to Child Birth Services*: About 50 percent of the communities said that child birth happens at home attended by traditional Dai.
- *Access to Immunization services*: A substantial gap, about 30 % of both communities, not serviced by ANM suggest under coverage and absence of immunization services for children born in these communities.
- *Access to burial ground*: Around 28.4% of DNT Communities and 25.5% of NT Communities do not have access to burial grounds.
- *Access to Toilets*: Around 76% DNT Communities and 33.7% NT Communities still practice open defecation.
- *Access to Schools*: Only 42 percent of the De-notified communities and 28 percent of the Nomadic communities report that children are attending schools. Issue emerging among these communities is that more than half (58%) the De-notified communities and more than one fourth (72%) of the Nomadic communities saying that their children are not going to school.
- *Availing Hostel Facilities*:

DNT Communities (14148 boys and girls) –

Primary schools	1 (Male)	1 (Female)
Upper primary schools	5 (Male)	7 (Female)
Secondary schools	3 (Male)	4 (Female)
Higher secondary schools	3 (Male)	4 (Female)

NT Communities (4340 boys and girls) -

Primary schools	224 (Male)	4 (Female)
Upper primary schools	220 (Male)	
Secondary schools	3 (Male)	
Higher secondary schools	4 (Male)	

The table above highlights negligible number of children, out of 14148 boys and girls of school going age, availing hostel facilities in case of De-notified communities. In contrast, out of 4340 boys and girls of school going age among nomadic communities, quite a few are availing hostel facilities. If the facilities for education are provided, parents of these communities would utilize hostel facility for their children. Strengthening, increasing the capacity, targeting, etc., would definitely help in better utilization of hostel facilities by the De-notified and Nomadic communities.

- *Access to Employment:* About 25 percent of the families among De-notified and about 60 percent among Nomadic communities do not get wage employment for all seven days. None of them reported getting employment through NREGP/ PMGSY, and old age or widow pensions.
- *Access to Food:* About 21 percent of communities say that they get one meal a day or go without food during some of the months in a year. About one third of families of Nomadic community and one fourth of De-notified community do not possess any type of ration card. Importantly, though these communities get less than two meals a day, no meals during some of the months and report non availability of wage employment for 4-6 months.
- *Housing Rights:* About 89 percent of the De-notified communities and 98 percent of the Nomadic and semi-Nomadic communities reported that none of the families in the community own land. Majority (81 %) of De-notified communities did not know the status of their residential locations. Only 11 percent of the Nomadic communities and 8 percent of the De-notified communities have habitations on public land. Living conditions – nature of habitation: Tent/Jhuggis (57%) are the most common type of habitation where communities reside in poor living conditions. They are deprived of basic amenities, such as toilets, water, electricity, etc.
- *Minimum, Maximum and average debt per family:* Only about half the communities visited – both among De-notified (49 %) and Nomadic (48 %) – could estimate incidence of indebtedness in their respective communities. Among those who could estimate indebtedness, about 45 percent of the De-notified communities and 39 percent of the Nomadic communities said that all the families in their habitation were in debt. Of those who could estimate, 53 percent of Nomadic communities and 47 percent of the De-notified communities said more than half of the families were in debt. The debt ranges from Rs. 7,542 to Rs. 28,349/-. The maximum amount of debt is Rs. 5 Lakhs among De-notified communities. During the discussion, the communities shared instances of distressed borrowings to buy provisions, meet social exigencies, loss in their trading activities, repair of their dwellings, etc. Much of the time debt increases owing to their inability to repay, resulting in accumulation of interest. Low income, lack of opportunities for wage employment, heavy interest rates and low social and economic status has pushed these communities into deep abyss of debt and hardship. It can be seen in the figure below that the dependence on money lender is high with about 60 percent of De-notified communities and nomadic communities mentioning this as their primary source of credit. Fewer percentages of the communities, 6 percent of De-notified and 11 percent nomadic, access micro-credit.
- *Children working for repayment of loan:* An equal proportion of boys from De-notified and Nomadic communities (about 15% each) and 6 percent girls among both De-notified and Nomadic communities are working in return of loan. Further, 58 percent of children among De-notified communities and 49 percent among Nomadic communities are engaged in economic activities, instead of attending schools.
- *Incidence of Bonded Labour:* Among De-notified communities, 4.5 percent said that their traditional occupation had been bonded labour.
- *Incidence of Child Marriage:* Early marriages are common as reported in the communities. The lowest minimum age reported was 8 years for women and 10 years for men among De-notified communities and 7 years for men and women, respectively, in Nomadic communities. Highest age at marriage for men and women in De-notified communities and Nomadic communities reported was 18 and 15 years for men and women, respectively. About 8 percent women in De-notified communities and 7 percent in Nomadic communities have had their first child at the age of 14 years.
- *Sexual Harassment of Women:* About 16 percent of the De-notified communities and 9 percent of the Nomadic communities' women reported sexual harassment by other castes.
- Communities were also asked about the laws of the land that affect them adversely. About 37 percent Nomadic and 23 percent De-notified communities report Forest Conservation Act. Other Acts affecting the community are Wild Life Protection Act 1972, Habitual Offenders Act, Anti Beggary legislation (Bombay Prevention of Begging Act, 1959 adopted by different States), Prevention of Cruelty to Animals Act, 1960, and Excise Act, 1944.

²⁶⁹ *Police Action:* About 8 percent of the De-notified community and 4 percent of the Nomadic community families faced police action in the last one year. It is important to note that 88 percent of women from Nomadic communities have faced investigation.

MAN	DNT		NT	
	No	%	No	%
Arrest	342	7.5	86	8.9
Imprisonment	234	5.1	4	0.4
Enquiry	1199	26.3	468	48.6
Weekly / monthly / periodic reporting	25	0.5	110	11.4
Verbal abuse	614	13.4	50	5.2
Seeking bribe	1456	31.9	0	0.0
Fines	62	1.4	90	9.4
Forced labour	20	0.4	18	1.9
Illegal Confinement	4	0.1	7	0.7

Women	DNT		NT	
	No	%	No	%
Arrest	35	1.6	0	0
Imprisonment	56	2.5	0	0
Enquiry	558	24.9	464	87.7
Weekly / monthly / periodic reporting	18	0.8	5	0.9
Verbal abuse	236	10.5	5	0.9
Physical harassment	466	20.8	15	2.8
Seeking bribe	835	37.3	9	1.7
Fines	9	0.4	20	3.8
Forced labour	25	1.1	6	1.1
Illegal Confinement	0	0	5	0.9

Source: Renke Commission Report, 2008.

It is important to note that these are official statistics provided by the Renke Commission. Due to the criminal stigma attached to the NT-DNT Communities, the actual number of cases of police atrocities, illegal detention, harassment, forced labour and sexual violence etc is much larger and mostly go unreported since the police refuse to register their cases.

²⁷⁰ <http://www.thehindu.com/todays-paper/tp-national/bawariyas-never-spare-young-women/article8939899.ece>
<http://www.thehindu.com/news/national/other-states/turnaround-in-pardhis-eviction-case/article5234186.ece>
<http://archive.indianexpress.com/news/three-years-on-pardhi-community-driven-out-of-village-waits-for-justice/663999/>

271 The Habitual Offenders' Act, 1952 is similar in spirit to the repealed Criminal Tribes Act of 1871 and should be abolished as a first step towards de-criminalisation of DNTs and prevention of atrocities by police.

272 The Prevention of Begging Act 1959: Amend definitions relating to criminalization of their profession. The Bombay Prevention of Begging Act 1959: Amend this and similar laws in urban areas all over the country that target street performing nomadic communities such as acrobats, tight rope walkers, dancers and singers.

273 Full text of section 144 available at <https://indiankanoon.org/doc/930621/>. Dissent is often criminalized, for instance the authorities imposed section 144 at the Mapithel dam site in Manipur to prevent protests by affected communities. Data from BPRD shows another instance of increasing criminalization of peaceful protesters. 10,353 people were arrested for participation in agrarian protests in 2015 as compared to 3,500 in 2014. Increasingly, public spaces are off limits for peaceful protests because of frequent and over-broad use of laws such as section 144. Authorities also demand protest organisers to obtain prior police permission or clearance for the right to assemble, impinging on the right to peaceful assembly.

274 State response to end violent street protests in Kashmir which began in July 2016 led to over 70 protesters being killed and hundreds more injured. The federal paramilitary unit, Central Reserve Police Force, told the Jammu and Kashmir High Court that it had used 1.3 million pellets in 32 days, admitting that "it was difficult to follow the standard operating procedure given the nature of the protests." Indian security forces have been using pellet guns as a nonlethal option for crowd control since 2010 in Kashmir. Use of pellet guns to control protesting crowds in 2016 led to 10 deaths and caused blindness or serious eye injuries to over 100 people.

275 Multiple regulatory laws, and tedious registration and reporting requirements. Organizations with human rights in their name are particularly targeted.

276 1 - Nupur Sonar, "INSAF case gives hope to NGOs", Tehalka.com, September 27, 2013. Available at <http://www.tehelka.com/2013/09/insaf-case-gives-hope-to-ngos/>

2 - Vijaita Singh, "Teesta's Trust loses FCRA registration", The Hindu, June 17, 2016 Available at <http://www.thehindu.com/news/national/teesta-setalvads-ngos-fcra-licence-cancelled/article8737417.ece>

3 - Vijaita Singh, "Greenpeace India's registration cancelled", The Hindu, September 4, 2015 <http://www.thehindu.com/news/national/greenpeace-indias-registration-cancelled/article7613184.ece>

4 - See: Suspension of human rights NGO's foreign funding license must be revoked, 3 June 2016. <https://www.amnesty.org.in/show/news/suspension-of-human-rights-ngos-foreign-funding-license-must-be-revoked>

277 Aranya Shankar, "JNU student leader, Kanhaiya Kumar held on 'sedition' charges over Afzal Guru event", Indian Express, New Delhi, February 13, 2016 <http://indianexpress.com/article/india/india-news-india/afzal-guru-film-screening-jnu-student-leader-held-for-sedition/>

"Amnesty International India Faces Sedition Charges Over Alleged Anti-National Slogans", Huffington Post, August 6, 2016 <http://www.huffingtonpost.in/2016/08/16/amnesty-india-faces-sedition-charges-over-alleged-anti-national/>

278. Chhattisgarh is another example of journalists being hounded out of Bastar.

279 MediaNama has tracked 13 blanket bans on mobile Internet services in India since September 2015. <http://www.medianama.com/2016/07/223-right-to-internet-un-resolution/>. The Software Freedom Law Centre has tracked 30 incidents on Internet being cut off in since 2013. <http://sflc.in/internet-shutdown-tracker-india-2013-2016/>

280 In 2011, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Frank La Rue said such action is a violation of article 19 of the ICCPR. http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

281 Parliament enacted *The Right to Information Act* (RTI Act) in 2005 for to enable citizens to seek and obtain information from the national and provincial governments across the country. Due to its special constitutional status, Jammu and Kashmir enacted its own RTI Act for the use of its residents in 2009, along similar lines.

282 *State of Information Commissions and the Use of RTI Laws in India: Rapid Study 3.0*: <http://freedominfo.org/documents/ICs-RapidStudy-finalreport-NDelhi-ATTTeam-Jun15.pdf>. Nevertheless this figure amounts to only 0.3% of the country's population.

283 "India: New Killing of 'Right-to-Information' Activist": <https://www.hrw.org/news/2015/09/10/india-new-killing-right-information-activist>

284 Information sought under RTI law relates to the non-fulfillment of people's rights and entitlements, corruption in government schemes; mismanagement of public funds and misappropriation of natural resources.

285 "A Guide to the Whistleblowers Protection Bill" : <http://www.governancenow.com/views/columns/guide-whistleblowers-protection-bill>

- 286 “Implications of amendments to the Whistleblowers Protection Act proposed by the Government of India” : <https://counterview.org/2015/05/11/implications-of-amendments-to-the-whistleblowers-protection-act-proposed-by-the-government-of-india/>
- 287 A Commonwealth Human Rights Initiative report shows the effectiveness of the law has been diluted. Around 20% of the posts of information commissioners mandated to ensure speedy redress of grievances of RTI users are lying vacant in states, a marginal increase over the 2014 level. See: Chetan Chauhan, “10 years of RTI Act: 39 activists dead, 275 assaulted, says report”, Hindustan Times, New Delhi, Jul 08, 2015 <http://www.hindustantimes.com/india/10-years-of-rti-act-39-activists-dead-275-assaulted-says-report/story-mwEjPtUDXthPOZ6293BYL.html>
- 288 “CIC delayed is spirit of RTI denied” : <http://indianexpress.com/article/explained/cic-delayed-is-spirit-of-rti-denied/>
- 289 When presented with data about the preponderance of retired bureaucrats amongst the ranks of Information Commissioners, in 2013, the Supreme Court directed the national and provincial governments to make special efforts to identify candidates with other areas of specialisation specified in these laws such as - science, technology, management, mass media, journalism, law and management for appointment to the 29 Information Commissions across the country: *Union of India vs Namit Sharma*, (2013) 10 SCC 389: <http://www.right2info.org/cases/r2i-union-of-india-v.-namit-sharma-state-of-rajasthan-anr-v.-namit-sharma> Also see *State of Information Commissions and the Use of RTI Laws in India: Rapid Study 3.0* cited above.
- 290 See *People’s Monitoring of the RTI Regime in India, 2011-2013: Report*, cited above, pages 11-12 and 99.
291. Ibid, pages 9 and 99
- 292 For a full treatment of the situation of Human Rights Defenders in India see Joint Submission to the UNHRC for India’s UPR–III “The Republic Of India” By CIVICUS World Alliance For Citizen Participation And HRDA.
- 293 Human Rights Defender Alert-India documented a total number of 104 cases of HRDs in the country in 2015 for advocacy and filing urgent appeals. The break-up of these cases is - 11 cases of killings, 60 cases in the category of physical assault, physical and verbal threats, 33 cases of illegal arrest or detention or false/fabricated, 47 cases under the category of harassment and ill treatment 11 cases of reprisals against Journalists, Writers and 24 cases of attacks on RTI activists. Available at www.hrdaindia.org
- 294 Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Mission to India (10–21 January 2011) <http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-19-55-Add1.pdf>
- 295 Dr GN Saibaba, wheelchair-bound professor of English at Delhi University’s Ram Lal Anand College was arrested by a Maharashtra Police on May 9, 2014, for his alleged links with Maoists. The Supreme Court granted bail to him in April 2016 saying Maharashtra government has been “extremely unfair” to him especially looking at his medical condition. <http://indiatoday.intoday.in/story/delhi-university-professor-saibaba-arrested-for-maoist-links-gets-bail/1/634645.html>. Also see <http://www.thehindu.com/news/national/saibaba-gets-bail/article8432772.ece>.
- <http://hrdaindia.org/wp-content/uploads/2015/07/2015-06-19-HRDA-UA-South-Maharashtra-Dr.-Saibaba.pdf>
- 296 Kanhaiya Kumar <http://goo.gl/TPWsJ4>, S.A.R Geelani <http://goo.gl/xHjU1N>,
- 297 Ms. Ruisoting Aimol, alias Mary, Chairperson of “Aimol Numeis’ Waar” a women’s rights organisation, was killed on 31 May 2015 during an indiscriminate firing by the 20 Battalion of Assam Rifles E-Coy in village Aimol Satu, under Tengnoupal Police Station in Chandel District of Manipur. Three more WHRDs identified as ST Larti Aimol (48 years), S. Sangkaisin Aimol (49 years) and S. Rangnu Aimol (46 years) were brutally assaulted by the Assam Rifles personnel using their rifle butts and sticks.
- 298 Data compiled by the Commonwealth Human Rights Initiative shows that Maharashtra has recorded the highest number of attacks 60 on RTI activists since the law was passed a decade ago, followed by Gujarat (36), UP (25) and Delhi (23). When it comes to murders, Gujarat and UP come second with 6 each, followed by Karnataka and Bihar with 4 murders each. When it comes to a count of activists at attacked, killed or harassed, Gujarat comes second with 36, followed by UP at 25 and Delhi at 23. Available at <http://timesofindia.indiatimes.com/india/Maharashtra-most-unsafe-for-RTI-activists-10-killed-in-10-years/articleshow/48840985.cms>
- 299 Mr. Jawahar Lal Tiwary, an RTI activist was brutally murdered in village Bangara Nizamat in Muzaffarpur district of Bihar. His mutilated body (cut into five pieces) was found on 14th August 2015 in the Diara belt of Gandak river in Sohasa village under Deoria police station of Bihar. From 2012 to 2015 he filed more than 30 RTI queries in various local and district level administrations and exposed around 10 scams related to food grain distribution and corruption and embezzlement of public money meant for the flood victims of Bihar through filing RTI applications. Human Rights Watch, “India: New Killing of ‘Right-to-Information’ Activist”, September 10, 2015 <https://www.hrw.org/news/2015/09/10/india-new-killing-right-information-activist>

300 According to the 2015 annual report of Reporters Without Borders, “India was among the three most dangerous countries for journalists in 2015, with nine reporters losing their lives during the year”.

301 <http://indianexpress.com/article/india/india-news-india/bihar-rajdeo-ranjan-press-council-seeks-special-law-to-protect-scribes-2800866/>

302 Mr. Huchangi Prasad, a 2nd year student of Masters in Journalism at Davangere University, Karnataka and a young student Dalit writer, activist of BVS was brutally attacked on 21st October 2015 by a group of unidentified persons in Davangere in Central Karnataka. He was allegedly from a right wing group. Mr. Huchangi Prasad was targeted for his critical views against the caste system and Hinduism carried in his book "Odala Kichhu" in Kannada. <http://www.thehindu.com/news/national/karnataka/young-dalit-writer-targeted-in-davanagere/article7793036.ece>

303

304 <http://indianexpress.com/article/india/india-news-india/chhattisgarh-police-direct-owners-to-evict-jagdalpur-legal-aid-group-journalist-of-accommodation/>

305 Soni Sori <http://goo.gl/zvTmi>

Malini Subramniam <http://hrdaindia.org/wp-content/uploads/2016/02/2016-02-19-HRDA-UA-CHHATTISGARH-Ms.pdf>

Bela Bhatia <http://hrdaindia.org/wp-content/uploads/2016/03/2016-03-27-HRDA-UA-EAST-CHHATTISGARH-Ms.Bela-Bhatia.pdf>

306 <http://www.ndtv.com/india-news/jharkhand-activist-dayamani-barla-gets-bail-after-spending-two-months-in-jail-508200>

<http://www.thehindu.com/features/magazine/democracy-needs-their-song/article4675905.ece>

<http://www.thehindu.com/news/national/other-states/journalists-house-in-bastar-attacked/article8210352.ece>

<http://www.ndtv.com/india-news/journalist-pushp-sharma-sent-to-judicial-custody-for-fabricating-rti-reply-1406875>

<http://scroll.in/article/813495/why-are-authorities-harassing-outlook-and-narada-journalists-instead-of-examining-their-stories>

307 Tribal environmental rights activist, author and human rights defender, Mr. Gladson Dungdung was illegally prevented from boarding an early morning Air India flight AI 115 to London on April 9, 2016 at IGI Airport Delhi. Mr. Gladson Dungdung was to travel to London where he was reportedly going to attend a workshop on environmental history and politics of South Asia, to be held at the University of Sussex on May 10, 2016. The defender, also an adivasi author was being targeted for his work on adivasis, ownership rights over the natural resources, adivasi identity, human rights, ecology and against unjust development processes. MEA Curtails Freedom of Movement: Tribal Rights Activist Gladson Dungdung Offloaded at Delhi Airport, Sabrangindia, May 9, 2016 Available at <https://www.sabrangindia.in/article/mea-curtails-freedom-movement-tribal-rights-activist-gladson-dungdung-offloaded-delhi>

<http://indianexpress.com/article/india/india-others/greenpeace-campaigner-offloaded-at-delhi-from-flight-headed-to-london/>

<http://indianexpress.com/article/india/india-news-india/kudankulam-nuclear-plant-protest-sedition-supreme-court-of-india-section-124a-3024655/>

308 In June 2015 Mr. Jagendra Singh a journalist based in Shahjahanpur, Uttar Pradesh died of burn injuries, eight days after he alleged in a video that he was set on fire by a group of police and supporters of Uttar Pradesh Minister for Dairy Development, Mr. Ram Murti Verma. 40-year-old local journalist Mr. Sandeep Kothari from Balagahr, Madhya Pradesh was burnt to death by three persons, suspected to be closely linked to sand mafia. He was abducted on June 19, 2015 and his body was found after two days lying near railway tracks at Sindi town in Wardha district of east Maharashtra. For details see: www.hrdaindia.org

309 <http://www.catchnews.com/national-news/arunachal-two-killed-as-2-group-clash-in-tawang-1462189299.html>

<http://www.thehindu.com/news/national/for-dayamani-the-fight-is-for-mango-mahua-bears/article5845530.ece>

<http://www.financialexpress.com/india-news/arunachal-pradesh-two-killed-6-injured-in-police-firing-over-lama-lobsang-gyatso-release/247321/>

310, <http://hrdaindia.org/wp-content/uploads/2016/03/2016-03-18-HRDA-UA-EAST-CHHATTISGARH-Dr.Saibal-Jana.pdf>

311 <http://hrdaindia.org/wp-content/uploads/2016/07/2016-07-16-HRDA-UA-SOUTH-TAMIL-NADU-Piyush-Manush.pdf>

312 <http://hrdaindia.org/wp-content/uploads/2015/09/2015-09-08-HRDA-UA-South-Karnataka-HRD-Prof.-MM-Kalburgi.pdf>

313 <http://goo.gl/wVvRH3>, <http://goo.gl/gGXSJ0>

314 NHRC failed to provide relief in a single HRD case out of 225 cases filed by HRDA since January 2015. As per the report submitted by AiNNI to GANHRI SCA review of NHRC India review in November 2016 and AiNNI's submission to Asian NGO Network on National Human Rights Institutions (ANNI). Only 74 cases out of 104 cases filed by HRDA were registered by the NHRC. All these cases were directly filed with the Focal Point on HRD at the NHRC. 7 more cases were registered out of these 104 cases, not HRDA as complainant but HRDA members who have also filed the same complaint circulated by HRDA. 23 cases were not registered by the NHRC. In no case, there has been any compensation or persecution recommended by the NHRC till date.

315 India's Explanation of Position on the adoption of draft resolution A/C.3/70/46/Rev.1 on Human Rights Defenders at the Third Committee at the 70th session of the United Nations General Assembly on 25th November, 2015: "India is a party to the International Covenant on Civil and Political Rights, 1966 and International Covenant on Economic, Social and Cultural Rights, 1966. By becoming Parties to these Covenants, India has undertaken an obligation at the international level to protect the civil and political rights and progressive realization of economic, social and cultural rights. Furthermore, the fundamental and legal rights guaranteed by the Indian Constitution and relevant laws are equally available and applicable for all including providing for the human rights defenders. We are of the view that adoption of this resolution does not necessitate a new and separate domestic legal regime to protect human rights defenders".

316 For full report on NHRIs in India see the Joint Submission to the UN HRC for III Universal Periodic Review of India by All India Network of NGOs and Individuals working with National and State Human Rights Institutions (AiNNI) And Asian NGO Network on National Human Rights Institutions (ANNI)

317 National Human Rights Commission (NHRC), National Commission for Women (NCW), National Commission for the Protection of Child Rights (NCPCR), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), National Commission for Minorities (NCM), National Commission for Safai Karamcharis (NCSK), Central Information Commission (CIC), and Chief Commissioner for Persons with Disabilities (CCPD).

318 The Paris Principles, drafted at an international NHRIs workshop in Paris in 1991 and adopted by the United Nations General Assembly in 1993 are a set of international standards which frame and guide the work of National Human Rights Institutions (NHRIs).. The internationally agreed Principles define the role, composition, status and functions of national human rights institutions. NHRIs must comply with the Principles which identify their human rights objectives and provide for their independence, broad human rights mandate, adequate funding, and an inclusive and transparent selection and appointment process. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/ParisPrinciples20yearsguidingtheworkofNHRI.aspx>

319 NHRIs are seen as an extended hand of the government. The pattern of appointing former and serving officers from the Indian Police Service (IPS) in the NHRC and officers from the Indian Administrative Service (IAS) as members of the state human rights commissions (SHRCs) has set a dangerous precedence which has negatively affected the neutrality of these human rights institutions. By appointing a retired bureaucrat, the government can potentially undermine the independence of a statutory institution that is vested with the responsibility of monitoring the protection and promotion of human rights.

Swagata Raha & Archana Mehendale, "When rights panels become retirement parks", The Hindu, June 1, 2013.

320 There are vacancies in several of these commissions and several commissions are headed by policemen who more often are the perpetrators of human rights violations. One member of the NHRC is a policeman. The West Bengal SHRC is headed by a senior police official. Several other SHRCs too have policemen on board like Meghalaya, Rajasthan etc. See footnote 3.

321 According to the Asian Centre for Human Rights, the NHRC's composition does not reflect the plurality as required under the Paris Principles. Although the chairpersons of the NCM, NCW, NCST and NCSC are included as statutory members, they are already busy with their respective commissions, essentially resulting to a lack of effective representation in the NHRC from the minorities, women, STs, and SCs. Available at

<<http://www.achrweb.org/theme/nhri.html>>

322 The appointment of former Supreme Court judge Cyriac Joseph and former police chief SC Sinha as members of the National Human Rights Commission (NHRC) violated the transparency norm prescribed by the apex court in the P J Thomas case. Opposition member Sushma Swaraj stressed on the need to appoint "such persons who have earned a reputation in the field of human rights". Manoj Mitta, "Two NHRC appointments in 2013 violated SC norms", TNN, Jul 26, 2014

323 According to a report on Performance and Legitimacy of NHRIs by ICHRP (2004), the Indian government established its National Human Rights Commission, but the government has tied its hands by not allowing it to investigate into allegations of human rights violations made against public servants and the state army. Shiva Acharya, "National Human Rights Institutions (NHRIs) and their role in the Policy Making Process: A look at the Impact of the Equality and Human Rights Commission (EHRC) in the United Kingdom in the Context of Diminishing Power", By. School of Global Studies, University of Gothenburg, Fall 2013, Page 15

324 NHRC) chairman Justice HL Dattu pointed out that over 600 recommendations made by the rights watchdog have not been acted upon by the Centre and state governments and critics often term it as a "toothless" body. It is for Parliament to decide whether to confer NHRC with some kind of contempt powers to make authorities implement its recommendations. See: Shikha Sharma, "CJI wants more teeth for NHRC: CJI T S Thakur," The Indian Express, 11 December 2015 <http://indianexpress.com/article/india/india-news-india/cji-wants-more-teeth-for-nhrc/>

325 The recommendations were related to Composition, Appointment, relationship with Civil Society, Complaint Handling Function and Annual Reports of NHRCI. ICC Sub-Committee on Accreditation Report – May 2011, page 1-15 Available at [http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20REPORT%20MAY%202011%20-%20FINAL%20\(with%20annexes\).pdf](http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20REPORT%20MAY%202011%20-%20FINAL%20(with%20annexes).pdf)

326 ICC Sub-Committee on Accreditation Report – May 2011, page 14 Available at [http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20REPORT%20MAY%202011%20-%20FINAL%20\(with%20annexes\).pdf](http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20REPORT%20MAY%202011%20-%20FINAL%20(with%20annexes).pdf)

327 India announced it "will continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all of its citizens". <http://www.amnesty.org.au/news/comments/119/> also see: <file:///D:/WGHR/Indias-Pledge-at-the-UN-General-Assembly-2011-2007-chart.pdf>

328 Refer to the AiNNI's submission to GANHRI-SCA for NHRC review in 2016.

329 UNCAT, 1951 UN Convention relating to the Status of Refugees, ICRMW, CED, CEDAW -OP and ICCPR OP1 and OP 2, the Rome Statute of the International Criminal Court, ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries and the Additional Protocols II to the Geneva Conventions.

330 Reports to CRC submitted in 2014 and CRPD in 2015.

331 For a complete overview of India's status of reporting to UN treaty bodies see: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=IND&Lang=EN

332 India extended a standing invitation to Special Procedures Mandate Holders during the 18th Session of HRC in September 2011, in keeping with our Voluntary Pledges and Commitments made to the HRC in May 2011.

333 The list can be seen at the following website (accessed on 17 September 2016): http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=IN

334 Requests also include - the Working Group on Arbitrary Detention; SR on Toxic Waste; SR on Extreme Poverty and SR on the Independence of Judges and Lawyers.

Working Group on Human Rights in India and the UN (WGHR)

The Working Group on Human Rights In India And UN (WGHR) is a national coalition of 12 human rights organisations and independent experts from India. WGHR works towards the realization of all civil, cultural, economic, political and social rights in India and aims at holding the Indian government accountable for its national and international human rights obligations.

Members

- Citizens For Justice And Peace
- Commonwealth Human Rights Initiative
- FIAN India
- Haq: Centre For Child Rights
- Housing And Land Rights Network
- Human Rights Alert
- India Alliance For Child Rights
- Lawyers Collective
- Multiple Action Research Group
- National Campaign On Dalit Human Rights
- Partners For Law In Development
- People's Watch

Independent Experts

- Ms. Vrinda Grover
Lawyer
- Mr. Miloon Kothari
Former Special Rapporteur On Adequate Housing, UN Human Rights Council
- Dr. Rajkumar
Advisor, Human Rights Organisations
- Ms. Indira Jaising
Former Member UN Committee On Elimination Of Discrimination Against Women
- Mr. Anand Grover
Former Special Rapporteur On The Right To Health, UN Human Rights Council

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