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HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
RESOLUTION 5/1 OF THE HUMAN RIGHTS COUNCIL

INDIA

This report is a summary of 37 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgment or determination in relation to specific claims. Information included therein has been systematically referenced in endnotes and, to the extent possible, original text submitted has not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. All submissions received are available on OHCHR website. The periodicity of the review for the first cycle being of four years, information reflected in this report mostly relates to events occurred after 1 January 2004.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. The NHRC stated that it has been advocating for the ratification of the 1951 UN Convention relating to the Status of Refugees and the Torture Convention.² People's Forum for UPR (PF for UPR) also noted that India has yet to ratify, *inter alia*, the ICRMW, CED, CEDAW-OP and ICCPR OP1 and OP 2.³ Amnesty International (AI) further noted that India has yet to sign the Rome Statute of the International Criminal Court.⁴ The Asian Indigenous & Tribal Peoples Network (AITPN) and the International Working Group on Indigenous Affairs (IWGIA) highlighted that India has not ratified the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.⁵

B. Constitutional and legislative framework

2. The PF for UPR considered that as international laws are not self-executing in India the Government has failed to bring conformity with the ratified treaties at the domestic level.⁶

C. Institutional and human rights structure

3. The NHRC described its role as complementary to that of the judiciary. It stated that it has tackled a wide variety of issues such as trafficking in women and children, food security, education, health, disappearance of persons, displacement of persons due to disasters, conflict and development, child labour, custodial deaths and rape, prisons and disabilities not only by dealing with individual cases, but also by issuing policy guidelines for implementing agencies.⁷ The PF for UPR stated that the guidelines of National Human Rights Institutions (NHRIs) including on rape, custodial deaths and encounter killings are not implemented.⁸

4. The PF for UPR noted that the Government has not complied with the Paris Principles with regard to the National Human Rights Commission (NHRC), and the National Commissions for Women, Minorities, Scheduled Castes and Scheduled Tribes, Children and De-notified Tribes due to a failure to provide powers, funds and resources, and autonomy.⁹ According to Human Rights Watch (HRW) members and chairpersons of the NHRC are political appointees and this can reflect on their functioning. The NHRC cannot independently investigate violations by the armed forces under Section 19 of the Human Rights Protection Act.¹⁰ AI also stated that under Section 36(2) of the Act, the NHRC is only permitted to take cognizance of complaints relating to events which took place within the last year.¹¹ HRW recommended amendment specifically to allow the NHRC to independently investigate allegations of abuse by members of the armed forces.¹² The Kashmir Institute of International Relations (KIIR) added that the NHRC has no legal jurisdiction over Jammu and Kashmir.¹³

5. The NHRC stated that some parts of the country like Jammu and Kashmir and North East region and some other States are facing the menace of militancy and terrorism. The Armed forces of the Union including para-military forces have been deployed in some disturbed areas to aid and assist the State Government authorities to handle the internal security situation. At times, there are allegations of human rights violations by the forces who conduct operations against terrorists and on receipt of such complaints, the Commission calls for reports from concerned authorities. The Army has issued strict guidelines to all ranks on the observance of human rights while operating in such areas.¹⁴

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

6. AI regretted that India continues to display an unwillingness to cooperate with the UN Special Procedures.¹⁵ PF for UPR noted that the largest democratic country has failed to extend a Standing Invitation to the Special Procedures.¹⁶

B. Implementation of international human rights obligations

1. Equality and non discrimination

7. HRW noted that despite the existence of laws protecting human rights, India has failed to properly implement laws and policies to protect its marginalized communities, particularly Dalits, tribal groups, religious minorities, women and children.¹⁷

8. NHRC stated that the predominantly patriarchal, social, cultural and religious set up based on the foundation that the family line runs through the male has contributed extensively to the secondary status of women in India. This has led to a strong desire to avoid the birth of a female child in the family resulting in the decline in the child sex ratio at an alarming rate. In some parts of the country parents are choosing to abort if the child is female.¹⁸ The PF for UPR noted that across North India there is inverse juvenile sex ratio because of female foeticide.¹⁹ PF for UPR also observed that poor socio-economic indicators, deplorable educational, reproductive and sexual health statistics highlight that women are increasingly being marginalized in the development and political agenda.²⁰

9. According to Christian Solidarity Worldwide (CSW) the caste system continued to dominate and shape Indian society to a considerable extent, detrimentally affecting the social status, treatment and socio-economic prospects of the Dalits, or Scheduled Castes, who represent 16% of the total population (at least 167 million).²¹ The PF for UPR and IDMC stated that Dalits continue to endure segregation and are denied access to public places and services including places of worship, electricity and water.²² Tripura People's Democratic Front (TPDF) stated that discrimination against Dalits includes education inequality, economic disenfranchisement, religious discrimination, a poor system of medical care, and targeted violence against women.²³ CSW noted that Dalits report facing discrimination not only in normal social transactions but also in their interaction with Indian officialdom. The experiences of educated urban Dalits include subtler forms of discrimination, including in matters of employment and promotion.²⁴ The International Movement against All Forms of Discrimination and Racism (IMADR) and the Lutheran World Federation (LWF) emphasized that the non-availability of disaggregated data on some areas of the caste-based discrimination prevents in-depth analysis and targeted planning which may contribute to discrimination against Dalits in the right to land, housing, health, education and employment.²⁵

10. The Society for Threatened Peoples (STP) reported that, in spite of existing constitutional safeguards, for generations the Scheduled Tribes or Adivasi have been subjected to various kinds of discrimination. As a result, the Adivasi experience poor levels of health, education, food security and political representation. Together with these problems, the paramount issue remains the question of Adivasi land rights.²⁶ AITPN and IWGIA added that many of the Particularly Vulnerable Tribal Groups are on the verge of extinction.²⁷ The PF for UPR also described the basic thrust of the 'Habitual Offenders Act' as identifying certain tribal groups as "habitual offenders".²⁸

11. PF for UPR reported that religious minorities in India face persecution, stigmatization and marginalization in the economic, social and political spheres. The Justice Sachar Committee in 2007 also highlighted this.²⁹ The Islamic Human Rights Commission (IHRC) noted the regrettable trend whereby 'terrorism-related' incidents are blamed on Muslim organizations with the press immediately reporting on it. If the suspicions are not realized, there are no press reports stating that the original report was wrong.³⁰ Five years since the 2002 communal violence in the Indian state of Gujarat in which more than 2,000 people were killed, AI remained concerned about the ongoing impact of that violence on the Muslim minority in Gujarat, as there are wide-scale reports of social and economic boycotting of Muslim communities in Gujarat and as many as 5,000 families are living in "relief colonies" without basic amenities or recognition from the government of Gujarat.³¹ Partners for Law in Development (PLD) reported that the draft Communal Violence Bill of 2005 has been widely debated by civil society members and strongly criticized for its failure to dismantle impunity, state collusion or redress gender based crimes.³² The PF for UPR noted that the bill does not define genocide.³³

2. Right to life, liberty and security of the person

12. PF for UPR stated that violations of the right to life through custodial deaths, encounter killings, indiscriminate and disproportionate use of fire-arms and enforced disappearances are rampant. The NHRC reported 136 deaths in police custody and 1,357 deaths in judicial custody and 122 cases of encounter killings, quoted the PF for UPR.³⁴

13. According to Liberation, India continues to have a veritable spectrum of draconian laws that are supposedly aimed at stopping terrorism but are used effectively by state agents to abuse human rights.³⁵ Liberation and AAI reported that these laws include the Central Government enacted Armed Forces (Special Powers) Act 1958 (AFSPA), National Security Act 1980 and the amended Unlawful Activities Prevention Act 2004.³⁶ Liberation stated that the Armed Forces (Special Powers) Act 1958 remained in effect in Nagaland, Manipur, Assam and parts of Tripura. It also reported that a version of the law was in effect in Jammu and Kashmir, the Armed Forces (Jammu and Kashmir) Special Powers Act 1990.³⁷

14. The South Asia Forum for Human Rights (SAFHR) added that the chronic use of anti-terrorist laws, preventive detention laws and the Armed Forces Special Powers Act, 1958 (AFSPA) have created a situation where the normal methods of 'investigation' have been replaced by disappearances, illegal detention, custodial torture, sexual violence against women and summary executions disguised as armed encounters.³⁸ The Committee on Human Rights Manipur (COHRM) noted that the invocation of the AFSPA for half a century in Manipur has blatantly violated non-derogable rights, primarily the right to life. Under section 4(a) of AFSPA, a non commissioned officer of the Indian army can shoot to kill in mere suspicion of crimes defined by the Government. Manipuri youths are primary victims of daily and routine extra-judicial executions.³⁹

15. AAI and Liberation also noted legislation enacted by State governments such as the the Jammu and Kashmir Public Safety Act 1978, the Jammu and Kashmir Disturbed Areas Act 1992, the Chhattisgarh Special Public Protection Act 2005 and the Madhya Pradesh Special Areas Security Act 2002.⁴⁰ Recommendations for the repeal or review of the different National and State Acts were made by CORE and AAI.⁴¹

16. The KIIR reported that two years after the repeal of the Prevention of Terrorism Act (POTA), cases of all those under the Act had not been fully reviewed within the stipulated

period. Moreover, KIIR noted the concern of human rights organizations over amendments made to the Unlawful Activities (Prevention) Act which granted special powers to the state, similar to those previously provided by the POTA.⁴²

17. The World Peace Forum (WPF) noted that section 4 (a) of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 authorizes the armed forces of India to “fire upon or otherwise use force even to causing of death against any person” without fire orders.⁴³ The Jammu and Kashmir Public Safety Act (PSA) permits administrative detention of any person for a period of one year purely on the purported presumption that they may in future commit any act that will be harmful to the maintenance of public order or to the security of the State, noted the WPF. Under section 8(2) of this Act, the authorities are empowered not to disclose the grounds of detention to the detainee.⁴⁴

18. The Internal Displacement Monitoring Centre of the Norwegian Refugee Council (IDMC) stated that in Jammu and Kashmir international humanitarian law and human rights violations and abuses by security forces and the armed militant groups continue to be extensively reported. An estimated 15,320 civilians had lost their lives in militancy-related violence in the state as of March 2005.⁴⁵ The IDMC added that in Assam, the government has deployed large numbers of security forces to contain insurgencies. The forces have been responsible for arbitrary arrest, detention, torture and other abuses during search operations. The IDMC mentioned that there have been reports of serious international humanitarian law and human rights violations and abuses by all the parties - the security forces, the Maoists and the Salwa Judum cadres - in the Chhattisgarh conflict.⁴⁶

19. The Asian Legal Resource Centre (ALRC) stated that torture is not a crime in India. To convict a law enforcement officer concerning torture, the act has to qualify for all the requirements for any other crimes under the Indian Penal Code. The absence of an independent agency to investigate cases of custodial torture is exploited by the offenders since they know that even if a complaint is made regarding torture it will not be properly investigated.⁴⁷ AI noted that widespread torture in police custody – particularly of members of marginalized groups – is generally acknowledged, as are political interference and widespread corruption, and safeguards to protect the rights of detainees are rarely implemented.⁴⁸

20. The Torture Prevention Centre India Trust (TPCIT) observed that prison conditions remain deplorable across India.⁴⁹ The PF for UPR noted the NHRC statistics for the year 2004 that 70% of the total inmates were undertrials (persons standing trial).⁵⁰ The TPCIT stated that a total of 4026 cases of child rape were recorded during 2005 and that many of the cases of child-rape were committed by the law enforcement personnel.⁵¹

21. SAFHR added that in almost every police station of India 'accused' persons are routinely beaten and abused. Investigations show that the majority of the so-called 'criminals' who are tortured and abused in the police stations are poor, belonging to the communities of Dalits, tribals and minority religions like Islam and Christianity.⁵² The TPDF reported that Christians in India face threats, physical attacks, and jail time for sharing their faith.⁵³ Open Doors (OD) mentioned incidents where members of religious minorities who have been victims of beatings, evictions, looting, amongst others, were refused the right to file a First Incident Report by local police officers.⁵⁴ The TPDF expressed the view that Sikhs are also highly victimized by the Indian government.⁵⁵

22. Women in India continue to face physical, sexual, emotional and economic violence according to the PF for UPR. Women, particularly those from tribal, Dalit and religious

minorities, face sexual and gender based crimes during/after caste or communal conflict situations.⁵⁶ According to the 2005 Annual Report of the National Crime Records, 1 crime was committed against women every 3 minutes, 1 rape every 29 minutes, 1 molestation every 15 minutes, 1 dowry death case every 77 minutes.⁵⁷ The PF for UPR noted the statistics given by the National Crime Records that out of total 22,832 cases reported for kidnapping and abduction of women 43% were for marriage; 56,709 cases investigated by police during 2005 were of cruelty by husbands and relatives.⁵⁸ The Youth Coalition for Sexual and Reproductive Rights (YCSRR) mentioned a study carried out by UNICEF and the NGO Prayas which revealed that 53% of children between the ages of 5 and 12 have been sexually abused and most often perpetrated by parents, legal guardians or close members of the family. Further, the study noted that more than half of all cases of sexual abuse and rape go unreported.⁵⁹

23. According to the Centre for Reproductive Rights (CRR), sham marriages are often performed for the purpose of facilitating trafficking of young women for sex work.⁶⁰ Sampada Gramin Mashila Santstha (SANGRAM) and VAMP also noted that current legislation has failed to protect the rights and safety of people in prostitution and sex work.⁶¹

24. Dalit activists giving testimony to CSW have asserted that a caste-based analysis of the various contemporary forms of slavery in India revealed to an overwhelming extent that the chief victims of, *inter alia*, human trafficking, sexual slavery and other forms of labour exploitation, are Dalits or members of 'low' castes, in particular, the *devadasi* system, bonded labour and manual scavenging. CSW mentioned that the implementation of laws to prevent such exploitation is extremely poor.⁶² NHRC further noted that it has been urging State authorities towards the complete eradication of the pernicious practice of manual scavenging and that under a Supreme Court directive, this is to be fully complied with by 2009.⁶³

25. The PF for UPR reported that the situation of children remained vulnerable with a lack of effective programmes for child labourers, recruitment as child soldiers, sexual violence against the girl child and deplorable conditions of juveniles in conflict with the law. Dalit and tribal children are more vulnerable to abuses. Torture and corporal punishment are rampant.⁶⁴ The NHRC also expressed its deep concern about juvenile justice and that instances of sexual abuse have been on the rise.⁶⁵ The Global Initiative to End All Corporal Punishment of Children (GIEACP) reported that corporal punishment is lawful in the home. There is no national prohibition in law of corporal punishment in schools, although it is prohibited under some States' laws, and no explicit prohibition in alternative care settings. Draft legislation under discussion, which purports to prohibit corporal punishment, retained the right to punish a child "if the Hurt rendered on a child is commensurate to the act undertaken by the child and is not unreasonable and does not harm the physical integrity of the child's body."⁶⁶

3. Administration of justice and rule of law

26. The Commonwealth Human Rights Initiative (CHRI) noted that the Indian criminal justice system is marked by extremely clogged courtrooms, lengthy delays at trial, and more significantly, corruption.⁶⁷ According to information submitted by PF for UPR there are at least 28.6 million cases pending before the courts in India. Presently, India has only 10.5 judges per million inhabitants. In addition, the legal aid system has collapsed.⁶⁸

27. The PF for UPR believed that there is virtual impunity for "public servants" and politicians and that the culture of impunity exacerbates human rights violations as the public officials consider themselves beyond the reach of the law.⁶⁹ CHRI stated that there is an

urgent need for police reform in India. The police are commonly perceived as politicized, underperforming, brutal and unaccountable.⁷⁰

28. AI stated that while investigations into deaths in custody are mandatory under section 176 of the Code of Criminal Procedure such inquiries have mostly taken place following a public outcry. However, such inquiries remain under executive control, as opposed to the more independent inquiries carried out by magistrates. The police are often reluctant to bring forward evidence which might implicate their colleagues and senior officials have been known to participate in routine cover-ups of deaths resulting from torture. Even when Commissions of Inquiry have completed their work subsequent prosecutions have been rare.⁷¹

29. HRW pointed out that a series of Indian laws also make it difficult or impossible to prosecute abusers employed by the state. In particular, police and paramilitary forces are protected under Section 197 of the Criminal Procedure Code, which provides that no court will recognize any offence alleged to have been committed by a public servant (including a member of the armed forces) in the discharge of official duty without the express sanction of the federal government. Permission to prosecute is rarely granted, even when an investigation has strong evidence of human rights violations.⁷²

30. HRW added that the army is provided with additional immunity when they are deployed in areas of internal conflict under the Armed Forces Special Powers Act (AFSPA). Under this Act, no prosecution, suit or other legal proceeding shall be brought, except with the express sanction of the federal government against any person regarding anything done or purported to be done in exercise of the powers under this Act.⁷³ According to the CHRM, the invocation of AFSPA violated Article 4(a) of the ICCPR on declaration of "States of Emergency" since de facto emergency has been imposed without formal promulgation of any form of public emergency.⁷⁴ CORE recommended that the AFSPA be repealed.⁷⁵

31. World Peace Forum (WFP) also noted that section 22 of the Jammu and Kashmir Public Safety Act (PSA) Act provides protection against prosecution, suit or legal proceedings to all acting under this Act and that this immunity against prosecution has resulted in widespread torture and arbitrary arrest and detention.⁷⁶ HRW stated that various committees have been set up to address issues of impunity and accountability particularly in areas of armed conflict. However the findings of such committees are often not publicly disclosed and/or routinely ignored. HRW mentioned a committee to review the Armed Forces Special Powers Act, which submitted its report to the Home Ministry in June 2005. It also noted that, in April 2007, a working group on Jammu and Kashmir appointed by the Prime Minister also recommended the repeal of laws sanctioning impunity, such as the AFSPA. The Indian government has not acted on either of these recommendations.⁷⁷

32. The World Barua Organization (WBO) referred to the massacre in Gujarat in 2002, and in particular the fact that most of the cases filed by victims of the violence have never been investigated. Witnesses have been intimidated. No more than a dozen low-level culprits have been convicted.⁷⁸ AI recommended that action be taken by the Government to effectively and promptly investigate incidents of violence against Muslim communities in Gujarat state, to prosecute perpetrators, including government and police officials, and to provide reparations for victims and survivors.⁷⁹ In a joint statement, Women's Research Action Group (WRAG) also mentioned the failure of the state government of Maharashtra to implement the recommendations of the Srikrishna Commission which was appointed by the government to enquire into communal violence in Mumbai in 1992-93, an example of large-scale impunity for communal violence in India.⁸⁰ Additionally, in the case of the secret

cremations in Punjab, Ensaaf noted that the Supreme Court appointed the NHRC to examine all issues raised by the petitioners, granting it extensive powers to redress fundamental human rights violations.⁸¹ AI noted that on 9 October 2006 the NHRC effectively closed the case, failing to investigate any cremation cases or record the testimony of a single victim family and relying exclusively on admissions and denials of state agencies to reach its determinations.⁸² The NHRC noted that it recommended compensation to the next of kin of both the 195 deceased identified to be in custody of the police and of identified persons whose dead bodies were cremated by the Punjab police.⁸³ Ensaaf recommended that the progress of the Punjab mass cremations case be monitored, as it is likely to come under review by the Indian Supreme Court in 2008, albeit the human rights violations occurred during the 1980 and 1990s.⁸⁴

4. Right to privacy, marriage and family life

33. PF for UPR noted that women's rights within family and marriage, especially her rights to property, inheritance, maintenance are not ensured and also that there are rampant child marriages - 24% of 15-19 age group are married.⁸⁵

34. PLD highlighted the petition in the High Court of New Delhi seeking judicial review of the provision which criminalizes consensual sexual acts between adults of the same sex (under section 377 of the Indian Penal Code).⁸⁶

5. Freedom of religion and belief, expression, association and peaceful assembly, and right to participate in public and political life

35. According to the Becket Fund (BF) the most troubling legal challenge to religious liberty in India is the existence of "freedom of religion" laws discouraging conversion ("anti-conversion laws"). Currently four Indian states, Orissa, Chhattisgarh, Madhya Pradesh, and Himachal Pradesh, have implemented anti-conversion laws. Gujarat and Arunachal Pradesh have anti-conversion laws that await enforcement regulations, and Rajasthan's anti-conversion law has been forwarded to the President for legal review. Many of India's state anti-conversion laws require a converted person to register their intention to convert to another religion. Some state anti-conversion laws discriminate against specific minority religions or social classes.⁸⁷ CSW noted that under current legislation, Dalits who convert to Christianity or Islam lose their Scheduled Caste status, and consequently their eligibility for the affirmative action-style system of reservation. It also observed that Dalit perception that religious conversions constitute a means of escaping caste is complicated by the fact that caste is practiced, to some extent, within all religious communities in India.⁸⁸ The European Centre for Law and Justice (ECLJ) stated that *souvent, ces lois sont invoquées, notamment par la population, afin de contrer la conversion de membres d'une religion majoritaire vers une religion minoritaire.*⁸⁹

36. CHRI raised certain concerns regarding the implementation of the Right to Information Act, in particular the lack of public awareness about the key provisions of the Act and the fact that fee structures vary widely from state to state.⁹⁰

37. Reporters Without Borders (RWB) stated that the Indian media is dynamic, protective of its freedoms and plays a crucial role in the country's democratic system. However, in states shaken by separatist or Maoist rebellions, journalists are caught in the crossfire. At least 65 were assaulted or received death threats from police officers, criminals, company heads or

political militants during 2006 and two journalists were murdered. In Kashmir, the police did not respond to repeated inquiries by the NHRC about cases of imprisoned journalists.⁹¹

38. Front Line (FL) mentioned that restrictive legislation also contributes to further infringements of freedom of association and prevents some organisations from carrying out their legitimate work in defence of human rights.⁹² According to the CHRI the Foreign Contribution Regulation Bill 2006, which is currently before the Parliament, provides for severe restrictions on foreign funding for organisations that are classified as “organisations of a political nature, not being political parties”. This classification and the power to grant a registration certificate authorising an organisation to receive foreign funds is left to administrative discretion in the Bill, which would massively decrease the space available for civil society work and advocacy in India.⁹³

39. CORE reported that human rights defenders and organizations are regularly victimized, including by search operations and the sealing of premises under different pretexts, confiscation of equipment and materials, harassment, false imprisonment, violence and threats of violence to self and family members.⁹⁴ FL is concerned that human rights defenders who tackle issues deemed sensitive by the government find themselves at considerable risk. Torture, preventive illegal or arbitrary detention, disappearances, ill-treatment, the use of excessive force, and the violation of due process rights are used by State actors to prevent human rights defenders from carrying out their legitimate and peaceful work. Human rights defenders who investigate and monitor atrocities committed by the police and custodial violence are at particular risk, as are Dalit and Tribal human rights defenders and those defending the rights of historically marginalized groups.⁹⁵ Several human rights defenders in Punjab, Jammu and Kashmir and states of the north-east have been killed, according to FL.⁹⁶

6. Right to social security and to an adequate standard of living

40. The PF for UPR observed that the denial and deprivation of the economic, social and cultural rights led to violations right to life through suicide, hunger and starvation. A staggering 89,362 farmers committed suicide between 1997 and 2005.⁹⁷ It also observed that there is increased feminisation of poverty especially with males committing suicide.⁹⁸

41. CRR noted that the Indian government has formally introduced a wide range of policies and programs designed to improve women’s reproductive health status by facilitating broad access to health-related services and information. However, implementation has been uneven and weak.⁹⁹ The CRR added that complications during pregnancy and childbirth are among the leading causes of death of women in India. The underlying causes of maternal mortality are poor health care facilities, lack of access to family planning services and safe abortions, and poor nutrition. These factors disproportionately affect women in rural areas. One in six Indian girls begin child bearing between the ages of 13 and 19, and less than 10% of married adolescents use contraception, stated the CRR. Unsafe abortion is believed to account for half of all maternal deaths among girls and young women aged 15 to 19 years. CRR also noted that in 2002, India amended its abortion law, the Medical Termination of Pregnancy Act, 1971, but, there is no evidence that law reform has increased access to safe, legal, and affordable abortion services.¹⁰⁰ YCSRR stated that in India, most schools do not have any form of sexuality education in their curricula. It recommended that India provide comprehensive sexuality education in all public and private schools.¹⁰¹

42. STP expressed its concern with the worrying mortality rate among Adivasi children reported by the Ministry of Tribal Health in its Annual Report 2005-2006, which at 84.2

deaths (per 1, 000 births) is significantly higher than the Indian average of 70 as well as the rates of other disadvantaged socio-economic groups.¹⁰²

43. The NHRC also reported that while India has overcome famines and moved away from being a food deficit country, there are instances of starvation and malnutrition.¹⁰³ Despite great advances in the justiciability of the right to food in India, Food First Information and Action Network (FIAN) stated that difficulties remain in enforcing existing legislation and in ensuring the implementation of court decisions and access to justice for the poor.¹⁰⁴ FIAN indicated that the necessary shift from Public Distribution System (PDS) to Targeted Public Distribution System (TPDS) in 1997, has not contributed to addressing the problem of hunger and starvation of millions of Indians. The TPDS has been introduced only to look after the food security of the people living below the poverty line. Poverty itself is not clearly defined by the government and the criteria to decide which people are below the poverty line are vague.¹⁰⁵ The Asian Legal Resource Centre (ALRC) observed that the management of this system suffers from corruption, particularly black-marketing, as well as caste prejudices and the failure of the local governments. It also reported that starvation and malnourishment affects about 53% of India's entire population.¹⁰⁶

44. FIAN noted that lack of access to clean drinking water and water for irrigation due to pollution of water resources, diversion of water for industrial purposes and steps towards privatisation of water are some of the threats to the right to water of the people in India.¹⁰⁷

7. Right to education

45. The KIIR mentioned that in Kashmir 80% of the school buildings are occupied by the Indian army and due to the fear of the armed forces the people are scared to send their children to schools.¹⁰⁸ AAI mentioned that although in 1993 manual scavenging of human waste was outlawed, there are records that 1.2 million persons still carry out this practice. No sooner the families surrender the practice of manual scavenging, their children are denied scholarship under the scheme for children of families practicing unclean occupations. This forces drop-out from schools, especially of girl children.¹⁰⁹

8. Internally Displaced Persons

46. The PF for UPR observed that over 84 million indigenous/tribals peoples of India, known as the Scheduled Tribes or Adivasi, continued to be disproportionate victims of "development", displacement and dispossession.¹¹⁰ The STP noted that most of the Adivasi tribes live in the forests of remote and mountainous regions in central India, the so-called "Tribal Belt" and that their land contains large deposits of natural resources like bauxite, iron ore and coal. Consequently their lands have been increasingly targeted for industrial development by the fast-growing Indian economy. Mining operations, industrial complexes (frequently clustered in Special Economic Zones (SEZ)) and the building of infrastructure (particularly dams) have already taken a serious toll on Adivasi land and threaten to drive their distinct culture into extinction.¹¹¹ AI is increasingly concerned that the lack of transparency, inclusiveness and consultation with those who own the land in the acquisition modalities of land for industrial projects has sparked protests from local socially and economically marginalized communities fearing displacement from their land and homes. In the majority of cases the displacement is also a threat to their livelihood, which for most is entirely based on production from their land.¹¹² According to AAI, Indian security forces and police have been engaged in rape and killing to suppress the people's genuine protest against the acquisition of their farmland for special economic zones (SEZs) and unjust

industrialization. Various state governments in India acquired land mostly from tribal communities, Dalits and farmers under the Land Acquisition Act 1894.¹¹³

47. According to the IDMC, at least 600,000 people are displaced in India for reasons related to conflict and localized violence.¹¹⁴ According to the Ministry of Home Affairs, quoted by AITPN and IWGIA, 21 out of 28 States are afflicted by armed conflict and the majority of these States are afflicted by Naxalite (Maoist) conflicts.¹¹⁵ AITPN and IWGIA noted that all the areas afflicted by internal armed conflicts, except Jammu and Kashmir are pre-dominantly inhabited by indigenous and tribal peoples, who constitute over 40% of conflict-induced IDPs in India and suffer serious human rights violations from both the security forces and the armed opposition groups.¹¹⁶ IDMC noted that India's largest situation of internal displacement stems from conflict in Jammu and Kashmir.¹¹⁷ IDMC added that the Indian government frequently denies international humanitarian organisations access to internally displaced people, arguing that local governments take full care of the affected people.¹¹⁸ According to the IDMC, the government's response to displaced people is often ad-hoc and largely insufficient, and the IDPs frequently find themselves in an extremely vulnerable situation.¹¹⁹ IDMC recommended that India adopt a national IDP policy¹²⁰ and ActionAid that India implement the UN Guiding principles on Internal Displacement¹²¹.

9. Right to Development

48. The NHRC stated that two challenges need to be met before the right to development can be taken seriously in policy and action. The first is to create a robust concept of development and the second to identify the practical steps to implement this right.

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

49. IMADR and LWF mentioned the statement made by the Indian Prime Minister in December 2006, in which he compared the untouchability practice in India to apartheid in South Africa, as a milestone in the recognition of the social discrimination against Dalits. They recommended that this public statement should be followed up by effective measures at the national level to implement the constitutional safeguards protecting Dalits from discrimination.¹²²

50. SAFHR noted the progress made in recent years India in institutionalising 'transparency in governance' through the enactment of Right to Information Act.¹²³

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

n/a

V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

n/a

Notes

¹ The following stakeholders have made a submission (all original submissions are available in full text on: www.ohchr.org):

Civil society

AAI	Action Aid India, UPR Submission, November 2007*;
AI	Amnesty International, UPR Submission, November 2007*;
AITPN and IWGIA	Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007*;
ALRC	Asian Legal Resource Centre , UPR Submission, November 2007*;
BF	The Becket Fund for Religious Liberty, UPR Submission, November 2007*;
CHRI	Commonwealth's Human Rights Initiative, UPR Submission, November 2007*;
COHRM	Committee on Human Rights Manipur, UPR Submission, November 2007;
CORE	Centre for Organisation Research & Education, UPR Submission, November 2007;
CRR	Centre for Reproductive Rights, UPR Submission, November 2007;
CSW	Christian Solidarity Worldwide, UPR Submission, November 2007*;
ECLJ	European Centre for Law and Justice, UPR Submission, November 2007*;
Ensaaf	Ensaaf, UPR Submission, November 2007;
FIAN	Food First Information and Action Network, UPR Submission, November 2007*;
FL	Front Line, UPR Submission, November 2007*;
GIEACP	Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007*;
HRW	Human Rights Watch, UPR Submission, November 2007*;
IDMC	Norwegian Refugee Council (Internal Displacement Monitoring Centre,) UPR Submission, November 2007*;
IHRC	Islamic Human Rights Commission, UPR Submission, November 2007;
IMADR and LWF	Joint submission by the International Movement against All Forms of Discrimination and Racism* and the Lutheran World Federation* in association with the National Campaign on Dalit Human Rights (NCDHR) and the International Dalit Solidarity Network (IDSN), UPR Submission, November 2007*;
Interfaith International	Interfaith International, UPR Submission, November 2007*;
KIIR	Kashmir Institute of International Relations, UPR Submission, November 2007;

Liberation	Liberation, UPR Submission, November 2007*;
OD	Open Doors International UPR Submission, November 2007;
OMCT	World Organization Against Torture, UPR Submission, November 2007*;
PF for UPR	Joint submission by People's Forum for UPR presented by Asia Centre for Human Rights on behalf of 129 organizations and 13 human rights defenders, UPR Submission, November 2007*;
PLD	Joint submission by Partners for Law in Development and 16 other NGOs, UPR Submission, November 2007;
RWB	Reporters Without Borders, UPR Submission, November 2007*;
SAFHR	South Asia Forum for Human Rights, UPR Submission, November 2007;
SANGRAM and VAMP	Joint submission by Sampada Gramin Mashila Santstha and VAMP, UPR Submission, November 2007;
STP	Society for Threatened Peoples, UPR Submission, November 2007*;
TPCIT	Torture Prevention Centre India Trust, UPR Submission, November 2007;
TPDF	Tripura People's Democratic Front, UPR Submission, November 2007;
WBO	World Barua Organization, UPR Submission, November 2007;
WRAG	Joint submission by Women's Research & Action Group and 23 other NGOs, UPR Submission, November 2007;
WPF	World Peace Forum, UPR Submission, November 2007;
YCSRR	Youth Coalition for Sexual and Reproductive Rights, UPR Submission, November 2007.

National Human Rights Institution

The National Human Rights Commission of India (NIHRC) **

NB: * NGOs with ECOSOC status; ** National Human Rights Institution with A-status

² National Human Rights Commission, UPR Submission, para. 28.

³ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, UPR Submission, November 2007, p. 11.

⁴ Amnesty International, UPR Submission, November 2007, p. 3. See also Committee on Human Rights Manipur, UPR Submission, November 2007, p. 1 and 4.

⁵ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 6.

⁶ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights., November 2007, p. 12.

⁷ National Human Rights Commission, UPR Submission, paras. 6, 18 and 19.

⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 11.

⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 11. See also Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3

¹⁰ Human Rights Watch, UPR Submission, November 2007, p. 4. See also Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 3-4.

¹¹ Amnesty International, UPR Submission, November 2007, p. 3.

- ¹² Human Rights Watch, UPR Submission, November 2007, p. 5. See also Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 1.
- ¹³ Kashmir Institute of International relations, UPR Submission, November 2007, p. 3.
- ¹⁴ National Human Rights Commission, UPR Submission, para. 15.
- ¹⁵ Amnesty International, UPR Submission, November 2007, p. 3.
- ¹⁶ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 13.
- ¹⁷ Human Rights Watch, UPR Submission, November 2007, p. 1.
- ¹⁸ National Human Rights Commission, UPR Submission, para. 23.
- ¹⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.
- ²⁰ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.
- ²¹ Christian Solidarity Worldwide, UPR Submission, November 2007, p. 2.
- ²² Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6 and Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 2.
- ²³ Tripura People's Democratic Front, UPR Submission, November 2007, p. 3.
- ²⁴ Christian Solidarity Worldwide, UPR Submission, November 2007, p. 3.
- ²⁵ Joint submission by the International Movement against All Forms of Discrimination and Racism and the Lutheran World Federation in association with the National Campaign on Dalit Human Rights and the International Dalit Solidarity Network, UPR Submission, November 2007, p. 4.
- ²⁶ Society for Threatened Peoples, UPR Submission, November 2007, p. 1.
- ²⁷ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3. Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7.
- ²⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 8. See also Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3.
- ²⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7.
- ³⁰ Islamic Human Rights Commission, UPR Submission, November 2007, p. 1.
- ³¹ Amnesty International, UPR Submission, November 2007, p. 4.
- ³² Joint submission by Partners for Law in Development and 16 other NGOs, UPR Submission, November 2007, p. 1.
- ³³ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 8.
- ³⁴ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p.3.
- ³⁵ Liberation, UPR Submission, November 2007, p. 1.
- ³⁶ Liberation, UPR Submission, November 2007, pp. 1-3 and Action Aid India, UPR Submission, November 2007, page 2. See also Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 1-4.
- ³⁷ Liberation, UPR Submission, November 2007, p..5.
- ³⁸ South Asia Forum for Human Rights, UPR Submission, November 2007, p. 1.
- ³⁹ Committee on Human Rights Manipur, UPR Submission, November 2007, p. 3.
- ⁴⁰ Action Aid India, UPR Submission, November 2007, page 2 and Liberation, UPR Submission, November 2007, pp. 1-3. See also Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 1-4.
- ⁴¹ Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 2-3; and Action Aid India, UPR Submission, November 2007, page 6
- ⁴² Kashmir Institute of International Relations, UPR Submission, November 2007, p. 4. See also Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 5.
- ⁴³ World Peace Forum, UPR Submission, November 2007, p. 8.
- ⁴⁴ World Peace Forum, UPR Submission, November 2007, p. 5, 7.
- ⁴⁵ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 3.
- ⁴⁶ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 3.
- ⁴⁷ Asian Legal Resource Centre, UPR Submission, November 2007, p. 4-5.

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- ⁴⁸ Amnesty International, UPR Submission, November 2007, p. 1.
- ⁴⁹ Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 5.
- ⁵⁰ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 3.
- ⁵¹ Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 5.
- ⁵² South Asia Forum for Human Rights, UPR Submission, November 2007, p. 1.
- ⁵³ Tripura People's Democratic Front, UPR Submission, November 2007, p. 2. See also Christian Solidarity Worldwide, UPR Submission, November 2007, p. 6.
- ⁵⁴ Open Doors, UPR Submission, November 2007, p. 1.
- ⁵⁵ Tripura People's Democratic Front, UPR Submission, November 2007, p. 4-5. See also Interfaith International, UPR Submission, November 2007, pp.1-6
- ⁵⁶ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 5.
- ⁵⁷ Torture Prevention Centre India Trust (TOP), UPR Submission, November 2007, p. 4.
- ⁵⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 5. See also Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 4.
- ⁵⁹ Youth Coalition for Sexual and Reproductive Rights (YCSRR), UPR Submission, November 2007, p.4.
- ⁶⁰ Centre for Reproductive Rights, UPR Submission, November 2007, p. 2.
- ⁶¹ Joint submission by Sampada Gramin Mashila Santstha and VAMP, UPR Submission, November 2007, p. 2.
- ⁶² Christian Solidarity Worldwide, UPR Submission, November 2007, p. 4. See also See also Asian Legal Resource Centre, UPR Submission, November 2007, p. 3.
- ⁶³ National Human Rights Commission, UPR Submission, para.17.
- ⁶⁴ Joint submission by People's Forum for UPR, presented by Asia Center for Human Rights, November 2007, p. 6.
- ⁶⁵ National Human Rights Commission, UPR submission, para. 23.
- ⁶⁶ Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007, pp. 2-3.
- ⁶⁷ Commonwealth's Human Rights Initiative, UPR Submission, November 2007, p. 2.
- ⁶⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 8.
- ⁶⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 2.
- ⁷⁰ Commonwealth Human Rights Initiative, UPR Submission, November 2007, p. 2.
- ⁷¹ Amnesty International, UPR Submission, November 2007, p. 2.
- ⁷² Human Rights Watch, UPR Submission, November 2007, pp. 1-2. See also Amnesty International, UPR Submission, November 2007, p. 2.
- ⁷³ Human Rights Watch, UPR Submission, November 2007, p. 2. See also South Asia Forum for Human Rights, UPR Submission, November 2007, pp. 1-2 and 4. See also Liberation, UPR Submission, November 2007, p. 5-6.
- ⁷⁴ Committee on Human Rights Manipur, UPR Submission, November 2007, para.10.
- ⁷⁵ Centre for Organisation Research & Education, UPR Submission, November 2007, para 13.
- ⁷⁶ World Peace Forum, UPR Submission, November 2007, p. 7.
- ⁷⁷ Human Rights Watch, UPR Submission, November 2007, pp.3-4.
- ⁷⁸ World Barua Organization, UPR Submission, November 2007, p. 3.
- ⁷⁹ Amnesty International, UPR Submission, November 2007, p. 5.
- ⁸⁰ Joint submission by Women's Research & Action Group and 23 other NGOs, UPR Submission, November 2007, p. 1.
- ⁸¹ Ensaaf, UPR Submission, November 2007, p. 3.
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- ⁸³ National Human Rights Commission, UPR Submission, para 9..
- ⁸⁴ Ensaaf, UPR Submission, November 2007, pp. 1-2.
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- ⁸⁷ The Becket Fund for Religious Liberty, UPR Submission, November 2007, p. 1, 3- 4.
- ⁸⁸ Christian Solidarity Worldwide, UPR Submission, November 2007, p. 5.
- ⁸⁹ European Centre for Law and Justice, UPR Submission, November 2007, p. 3.
- ⁹⁰ Commonwealth's Human Rights Initiative, UPR Submission, November 2007, p. 1.
- ⁹¹ Reporters Without Borders, UPR Submission, November 2007, p. 1-3.
- ⁹² Front Line, UPR Submission, November 2007, p. 4.

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- ⁹³ Commonwealth's Human Rights Initiative, UPR Submission, November 2007, p. 3. See also Action Aid India, UPR Submission, November 2007, p. 5.
- ⁹⁴ Centre for Organisation Research & Education, UPR Submission, November 2007, para 8.
- ⁹⁵ Front Line, UPR Submission, November 2007, p. 1.
- ⁹⁶ Front Line, UPR Submission, November 2007, p. 4.
- ⁹⁷ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights. Peoples' Forum for UPR in India, November 2007, page 3.
- ⁹⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.
- ⁹⁹ Centre for Reproductive Rights, UPR Submission, November 2007, p. 1.
- ¹⁰⁰ Centre for Reproductive Rights, UPR Submission, November 2007, p. 2.
- ¹⁰¹ Youth Coalition for Sexual and Reproductive Rights (YCSRR), UPR Submission, November 2007, paras. 3 and 19.
- ¹⁰² Society for Threatened Peoples, UPR Submission, November 2007, p. 4
- ¹⁰³ National Human Rights Commission, UPR Submission, para. 24.
- ¹⁰⁴ Food First Information and Action Network, UPR Submission, November 2007, p. 3.
- ¹⁰⁵ Food First Information and Action Network, UPR Submission, November 2007, p. 3-4.
- ¹⁰⁶ Asian Legal Resource Centre, UPR Submission, November 2007, p. 5-6.
- ¹⁰⁷ Food First Information and Action Network, UPR Submission, November 2007, p. 5.
- ¹⁰⁸ Kashmir Institute of International Relations, UPR Submission, November 2007, p. 3.
- ¹⁰⁹ Action Aid India, UPR Submission, November 2007, p. 5.
- ¹¹⁰ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7.
- ¹¹¹ Society for Threatened Peoples, UPR Submission, November 2007, p. 1. See also World Organization Against Torture, UPR Submission, November 2007, p. 1.
- ¹¹² Amnesty International, UPR Submission, November 2007, p. 4.
- ¹¹³ Action Aid India, UPR Submission, November 2007, p. 1. See also Amnesty International, UPR Submission, November 2007, pp. 4-5
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- ¹¹⁶ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3.
- ¹¹⁷ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 1.
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- ¹¹⁹ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 1.
- ¹²⁰ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 6.
- ¹²¹ Action Aid India, UPR Submission, November 2007, p. 6.
- ¹²² Joint submission by the International Movement against All Forms of Discrimination and Racism and the Lutheran World Federation in association with the National Campaign on Dalit Human Rights and the International Dalit Solidarity Network, UPR Submission, November 2007, p. 3.
- ¹²³ South Asia Forum for Human Rights, UPR Submission, November 2007, p. 1.