

PRESS RELEASE

Comprehensive review of India's human rights record at the UN Human Rights Council: Glaring Omissions, Some Progress

New Delhi, September 21, 2012 - The second inter-governmental peer review of India's human rights record by the United Nations Human Rights Council (HRC) took place in May 2012 in Geneva. This rotational Universal Periodic Review (UPR) takes place every four years, during the course of which member states give recommendations to the state under review, leaving it for the country under review to accept or reject the recommendations offered. On May 24, 2012, India received 169 recommendations, and on Thursday September 20, 2012, the Government appeared before the HRC to respond to these recommendations.

The Government of India response¹ to the 169 recommendations of the UN HRC reflected a pattern of accepting recommendations that were generalized and broadly worded, lacking a targeted course of action directed to tackle discrimination and specific human rights challenges. Not surprisingly then, the recommendations pertaining to specific as well as serious human rights issues were rejected, despite the Council's expressed concern.

The blatant refusal of the Government to adopt any recommendation to review or repeal the Armed Forces (Special Powers) Act, which is a cause of systematic human rights violations, is very disturbing. Despite multiple recommendations that were made by the Special Rapporteur on extra judicial, summary and arbitrary executions who visited India in March this year, and by the Council members during the second UPR, the government has failed to accept any recommendations to curb the impunity of security forces and bring the perpetrators of human rights violations to justice. WGHR is also disappointed by the total absence of any adopted recommendations on the abolition of death penalty, despite the 11 recommendations made by UN member states on the issue.

WGHR welcomes the acceptance of numerous recommendations to ratify the Convention Against Torture (CAT) and hopes this process will be complete within a year. While India has accepted to continue cooperating with the UN Special Procedures, the Government has not accepted to invite the Special Rapporteur on torture, whose visit to India has been pending for the last 18 years.

WGHR is concerned by the poor implementation status combined with a controversial stance of the government in regards to specific recommendations, which although have been accepted at the first UPR in 2008, they have been totally discarded at the second UPR cycle. In point of fact, the recommendation to ratify the Convention for the Protection of all Persons from Enforced Disappearances, which was accepted by the Government in 2008, it was reiterated eight times in the review of May 2012, yet it has been completely rejected by the Government on September 20. Similarly, the accepted 2008

¹ http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A.HRC.21.10.Add.1_en.pdf

recommendation to sign and ratify the Optional Protocol to the Convention on the Elimination of Discrimination Against Women (CEDAW) was similarly discarded in this second cycle of UPR.

WGHR welcomes the fact that India has broadly accepted recommendations seeking to ensure that gender and child based violence is eliminated, as well as the Government's official pledge to "study the possibility of eliminating any criminalization of same sex relations". WGHR is disturbed, however, at the rejection of recommendations for tackling specific human rights challenges to women's equality, including law reform relating to sexual assault, elimination of traditional harmful practices that are discriminatory to girls and women, and law reform in relation to the family. Of significant concern is the rejection of all recommendations seeking to enhance the implementation of CEDAW – particularly those relating to withdrawal of reservations to Article 16 pertaining to equality in the family, and the ratification of the Optional Protocol to CEDAW. This stance in fact, dilutes its acceptance of the recommendation to "intensify efforts towards the MDG 5". Similarly, the recommendation to "introduce legislation to prohibit corporal punishment of children in all settings" has been manipulated by overlooking the reference to "all settings". Child beating is common in the home, in places of work, in school and in institutions, and it must not be condoned in any setting. WGHR calls for the comprehensive attention to the full recommendations.

Given the systematic denial of economic, social and cultural rights in India, WGHR regrets that there were very few recommendations in this regard by the HRC. While many States commended India on its food security policies, we remain concerned that the Public Distribution System operates on the basis of an unrealistic poverty line and, due to targeting errors, corruption, inefficiency and discrimination poor households in genuine need have been excluded. In this context, we welcome the fact that India has accepted almost all the recommendations pertaining to economic, social and cultural rights. Many of these recommendations, however, are worded in a general manner and India will have to specify goals and targets to meet its commitments. Considering the alarming housing and land rights crisis in the country, WGHR regrets that the Government did not accept the only recommendation on housing for the poor.

WGHR wishes to highlight the recommendation from May 2012 to adopt legal measures in dealing with situations of targeted and communal violence, which has been ignored by the Government. The recent riots in the North eastern state of Assam, which have left 91 people dead and displaced over 400,000 persons into 300 relief camps, require immediate attention, particularly for adequate food, healthcare, drinking water and sanitation. This once again demonstrates the glaring gaps in national standards as well as the lack of institutional responsibility in providing reparations for those affected by internal conflict.

WGHR upholds the statement made by the National Human Rights Commission during the second UPR session: "*law and budget are not the problem in India, implementation is*". India's official commitment to "*continue including civil society participation in the UPR process*", and the statement of the Indian Ambassador in Geneva, Mr. Dilip Sinha, "*we remain open to advice and suggestions*", are very welcome. Miloon Kothari, Convenor of WGHR, welcomed these commitments and stated: "*We urge the government to engage in a genuine dialogue with all stakeholders and adopt an inclusive and participatory process regarding the monitoring of the implementation of the adopted recommendation. This is of particular importance given the fact that no consultations were held between May and September 2012 with the Parliament, independent institutions and civil society. We also encourage the government to conduct a mid-term review of the UPR in 2014, to keep track of the progress made leading to its 3rd UPR.*" ■

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The Working Group on Human Rights in India and the UN – a national coalition of fourteen human rights organisations and independent experts – works towards the realisation of all civil, cultural, economic, political and social human rights in India, and towards holding the Indian government accountable to its national and international human rights obligations. For information on WGHR, please visit: www.wghr.org