



ASIAN CENTRE FOR HUMAN RIGHTS

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ACHR has Special Consultative Status with the United Nations Economic and Social Council

[ACHR serves as the Secretariat of the Peoples Forum for UPR in India]

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India's Draft Universal Periodic Report-II: A Case of Forced Marriage?

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1. Introduction

This submission is being made by Asian Centre for Human Rights (ACHR) pursuant to the call made by the Ministry of External Affairs, Government of India for comments from the civil society organizations on its “Draft Universal Periodic Report-II” (available at <http://www.mea.gov.in/mystart.php?id=5212>). The comments are to be submitted by either fax to 011-23011922 or emailed at dsune@mea.gov.in by 20th January 2012.

The Universal Periodic Review (UPR) is a process of the UN Human Rights Council which involves a review of the human rights records of all 192 UN Member States once every four years. The reviews are conducted by the UPR Working Group consisting of the 47 members of the Council. India is a member of the UNHRC and will be examined in May 2012.

2. Comments on the process and contents of the “Draft Universal Periodic Report-II” of the Government of India

ACHR would like to make the following preliminary comments with regard to the “Draft Universal Periodic Report-II”.

First, one of the requirements of the UPR process is consultation with the Civil Society Organisations (CSOs) for preparation of the report and India had committed to do the same for UPR-II during the UPR-I examination in 2008. Instead of holding consultation, the Government of India has chosen to invite comments through email or fax. This is highly inadequate.

It is essential that the Ministry of External Affairs, Government of India holds a national consultation with the CSOs, the National Human Rights Institutions and parliamentarians and further uploads the submissions made by the CSOs in its website.

Second, the contents of the “Draft Universal Periodic Report-II” of the Government provide strong impression that India has no human rights violations. Therefore, the “Draft Universal Periodic Report-II” is at odd with the reports of the National Human Rights Commission and various reports of civil society organizations including Asian Centre for Human Rights.

While the “Draft Universal Periodic Report-II” of the Government uses terms like “human rights excesses” (para 17), “compassion” (para 29) etc, which are alien to human rights lexicon, it also insists that the Directive Principles of State Policy of India are “not justiciable”. The Supreme Court issued a number of judgements on the justiciability of the Directive Principles of State Policy and the Government of India further adopted specific laws including the National Rural Employment Guarantee Act to justify the

Directive Principles. It is clear that the Government of India is not in sync with its own national standards.

Finally, providing generic information about the legal framework, judgements and statistics on implementation of many of the programmes is unlikely to serve the purpose of examination by the UPR.

At present, the entire exercise of the Government of India submitting its report under the UPR and seeking comments from the CSOs appears to be a case of “forced marriage”.

Therefore, ACHR is submitting “*The State of Human Rights in INDIA: A joint submission made by ACHR on behalf of the Peoples Forum for UPR*” to the Ministry of External Affairs, Government of India with the hope that Government of India’s final Universal Periodic Report –II will recognise patterns and practices of human rights violations in the country; the challenges the Government of India has been facing; the measures taken the Government of India to ensure respect for human rights and fundamental freedoms; and finally also acknowledge the failure of these measures where relevant for further addressal including through the UPR.

The UPR process can be a meaningful only if India does take these into consideration.

Suhas Chakma
Director

3. The State of Human Rights in INDIA: A joint submission made by ACHR on behalf of the Peoples Forum for UPR¹

I. NGO Consultation on the UPR

This Stakeholders’ report is being submitted on behalf of the Peoples Forum for UPR (PF for UPR) of which ACHR serves as the Secretariat. A National Consultation was held at India Islamic Cultural Centre, New Delhi on 8-9 October 2011 to prepare this submission. The list of stakeholders of this report is provided in the **Annex 1**.

II. Status of implementation of the 2008-UPR recommendations

The UPR in its session in April 2008 made 18 recommendations to the Government of India (GoI).² The only recommendation that has been implemented is

¹ . As submitted to the UPR Secretariat of the OHCHR on 28th November 2011

extending standing invitation to the Special Rapporteurs of the UNHRC in September 2011. While the GoI reportedly already extended invitation to a number of mandate holders for visit prior to the next UPR session, it reportedly failed to extend the invitation to the Special Rapporteur on Torture.

The government of India has failed to ratify the UN Convention Against Torture – a commitment made in 2008. The Parliamentary Select Committee of the Rajya Sabha³ adopted the *Prevention of Torture Bill* on 6 December 2010. The GoI failed to introduce the Bill in the winter session of parliament that started on 22 November 2011.⁴

India further failed to adopt the National Action Plan for Human Rights despite starting the process on 10 July 1998.

III. Compliance with international human rights treaties

Since 2008 Review, India only **ratified** the UN Convention Against Corruption. It has failed to ratify the major human rights conventions: 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, Anti-Personnel Mine Ban Convention and the Additional Protocols II to the Geneva Conventions.

a. Status of international treaties under the constitutional/legal framework

International treaties are not self-executing in India. It was only on 23 August 2011, the Office of the President of India issued a directive stating that “*accession to, or ratification of such Conventions/Treaties, be undertaken only after the relevant domestic laws have been amended, or the enabling legislation has been enacted in cases, where there are no domestic laws on the subject*”.⁵ The notice is silent with respect to the treaties already ratified by India on which there are no domestic laws.

b. Status of human rights mechanisms

All the **National Human Rights Institutions** of India such as the National Human Rights Commission (NHRC), National Commission for Women (NCW), National Commission for Minorities (NCM), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), National Commission for

2. UN Document A/HRC/8/26/Add.1 dated 25 August 2008

3 . Upper House of Indian Parliament

4. Press Information Bureau, “Passage of Pending Bills Top Priority of the Government: Pawan Kumar Bansal, Parliamentary Affairs Minister Addresses Pre-Session Press Conference, 16 November 2011, <http://pib.nic.in/newsite/erelease.aspx?relid=77251>

5 . No.1/13/2/2010–Cab GOVERNMENT OF INDIA/ CABINET SECRETARIAT/ RASHTRAPATI BHAVVAN dated the 23rd August 2011, http://cabsec.nic.in/showpdf.php?type=circulars_23august_2011&special

Protection of Child Rights do not comply with the Paris Principles on NHRIs. First, none of them can make their Annual Reports public without the same being first placed before the parliament. Not a single Annual Report of the NCST has been made public since 2004 despite submissions of four reports to the President of India.⁶ Second, there is no legal guarantee to ensure plurality in the composition of members. Many NHRIs lack representation from women and vulnerable groups. Currently, the NHRC has no female member. Third, the NHRIs do not have financial autonomy and cannot hire their own permanent staff. The staffs are on deputation from various departments including the Intelligence Departments.

The NHRC cannot investigate human rights violations by the armed forces of the Central government and the India Army under Section 19 of the Human Rights Protection Act (HRPA). Further, under Section 36(2) of the HRPA, the NHRC is barred from inquiring “into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed”.⁷

The Jammu and Kashmir (J&K) State government does not accept the jurisdiction of the NHRC. It has recently filed a writ petition No.980/2011 before the J&K High Court against the NHRC and Asian Centre for Human Rights (ACHR) after the NHRC awarded compensation to the relatives of Mr Mohan Lal, a victim of torture pursuant to a complaint filed by the ACHR.⁸

IV. HUMAN RIGHTS SITUATION ON THE GROUND SINCE 2008

1. Equality and non-discrimination

Equality and non-discrimination are guaranteed in law but not in practice. Further, special laws and policies for promotion and protection of the rights of the Dalits, indigenous peoples, religious minorities, women, children and disabled are not implemented effectively.

Patriarchy remains the root cause of discrimination against women. There is preference for boys and the Pre-Natal Diagnostic Techniques Act and other measures have failed to curb cases of female foeticide. According to the provisional census of 2011, the sex ratio (the number of females per 1,000 males) for the 0-6 age group plummeted to 914 from 927 in 2001 census. Haryana reported the worst sex ratio of 830 females in the country in the 0-6 age group.⁹ **Dowry deaths of women** are widespread despite the Dowry Prohibition Act. A total of 24,946 dowry deaths were reported during

6. National Commission for Scheduled Tribes,
<http://ncst.nic.in/index2.asp?slid=490&sublinkid=280&langid=1>

7. Human Rights Protection Act, 1993 as amended in 2006 available at www.nhrc.nic.in

8. NHRC Case No. 55/9/2003-2004-AD/UC,
http://www.achrweb.org/impact/compensations/Mohan_Lal.pdf

9. 2011 Provisional Census figure

2008-2010 respectively 8,172 cases in 2008, 8,383 cases in 2009 and 8,391 cases in 2010.¹⁰

The Dalits who constitute 16.2% of the total population face segregation and are denied access to public places and services including places of worship, electricity, water etc. The following cases illustrate the grim situation: On 2 November 2011, Justice C S Karnan of the Madras High Court alleged humiliation by fellow judges on the basis of his caste since April 2009 and filed a complaint with Chairman of the NCSC who forwarded it to the Chief Justice of India.¹¹ Earlier, on 24 June 2011, Chairperson of the NCSC Mr P L Punia himself a Dalit was denied entry into a Hindu temple at Ranapada village in Puri district, Orissa.¹² On 20 July 2011, Kashinath Mallik, a Dalit Member of Legislative Assembly in Orissa, was allegedly not allowed to eat food along with his colleagues at an official meeting.¹³

The **indigenous peoples / tribals** who constitute over 8% of the total population face discrimination for access to justice, health, education, food security and political representation. Many of the Particularly Vulnerable Tribal Groups are on the verge of extinction while others are stigmatized under the 'Habitual Offenders Act'.

Religious minorities face acute discrimination and acts of violence. The Muslims are usually the first suspects of terror attacks though investigations also revealed involvement of the Hindu extremist groups in the 2006 Malegaon bomb blasts (Maharashtra), the 2007 Mecca Masjid blast (Hyderabad, Andhra Pradesh), the 2007 Samjhauta Express train bombing (Haryana), the 2007 Ajmer Sharif Dargah blast, and the 2009 Goa blast.¹⁴

The GoI pursues **discriminatory programmes**. While the widows of those killed by alleged terrorists are given rehabilitation under the 'Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal Violence', the widows of alleged terrorists killed by the security forces are not provided any assistance.¹⁵ There were at least 27,000 conflict-afflicted widows in J&K,¹⁶ 15,000 in Manipur,¹⁷ and over 1000 in Assam (as of April 2007).¹⁸

¹⁰. 'Crime in India 2009' and 'Crime in India 2010', National Crimes Records Bureau (NCRB) under the Ministry of Home Affairs (MHA), <http://ncrb.nic.in/>

¹¹. Judge rubbed his shoes against me, says Justice Karnan, The Times of India, 4 November 2011

¹². Dalit denied entry in temple: Orissa government steps in to resolve issue, The Daily News and Analysis, 25 June 2011, http://www.dnaindia.com/india/report_dalit-denied-entry-in-temple-orissa-government-steps-in-to-resolve-issue_1559008

¹³. Orissa: Dalit MLA faces discrimination, IBN News, 23 July 2011,

<http://ibnlive.in.com/news/orissa-dalit-mla-faces-discrimination/169542-3.html>

¹⁴. Saffron Terrorism - a new phenomenon, says Home Minister Chidambaram, NDTV, 25 August 2010, <http://www.ndtv.com/article/india/saffron-terrorism-a-new-phenomenon-says-home-minister-chidambaram-47193>

¹⁵. Page 8, Annual Report 2008-09, MHA, [http://www.mha.nic.in/pdfs/AR\(E\)0809.pdf](http://www.mha.nic.in/pdfs/AR(E)0809.pdf)

2. Civil and political rights

a. Armed conflicts, public emergency and derogation from the right to life

About 21 out of 28 States are afflicted by **internal armed conflicts** where violations of international humanitarian laws are common.¹⁹ During 2008-2010, these armed conflicts led to the killing of 1,234 persons in J&K;²⁰ 3,798 persons in the Naxal conflict spread over 13 States;²¹ and 932 persons in seven North Eastern States.²² The International Committee of the Red Cross is not given access except to J&K.

The State uses **illegal and unconstitutional means** for counter-terrorism. Since 2005, the Chhattisgarh government armed the tribal civilians as Special Police Officers (SPOs) to fight the Maoist insurgents resulting in serious human rights violations. After the Supreme Court declared the appointment of the SPOs in Chhattisgarh as “illegal and unconstitutional” on 5 July 2011,²³ the Chhattisgarh State government responded by inducting the SPOs into regular police force retroactively without any training and consideration of educational qualification. On 18 November 2011, the Supreme Court while considering the appeal against the order of 5 July 2011 held that the ban on the SPOs will be limited to Chhattisgarh only.²⁴ The SPOs who have been declared “illegal and unconstitutional” have become legal!

In J&K and North East India, GoI imposes “**State of Emergency**” through the Disturbed Areas Act, 1976. Once an area is declared “disturbed”, the Armed Force Special Powers Act, 1958 (AFSPA) comes into effect. In November 2011, the Attorney General in his legal opinion to the Central Government stated that Governor of the State,

16. Survey on orphans and widows in Kashmir, The Hindustan Times, 28 April 2010, <http://www.hindustantimes.com/India-news/JAndK/Survey-on-orphans-and-widows-in-Kashmir/Article1-536651.aspx>

17. Manipur ‘gun widows’ call for end to violence, The Telegraph, 18 June 2011, http://www.telegraphindia.com/1110618/jsp/northeast/story_14126459.jsp

18. Statement of Tarun Gogoi, Chief Minister of Assam, <http://news.webindia123.com/news/articles/India/20070419/640792.html>

19 . The 21 States are: Jammu and Kashmir, seven northeastern States of Assam, Arunachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland and Tripura and 13 Naxalite affected States of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal.

20. Annual Reports for 2008 to 2010, MHA

21. Naxal Management Division of the MHA, http://mha.nic.in/uniquepage.asp?Id_Pk=540

22. Annual Reports for 2008 to 2010, MHA

23. Salwa judum is unconstitutional: Supreme Court, 6 July 2011, CNN-IBN, <http://ibnlive.in.com/news/salwa-judum-is-unconstitutional-supreme-court/165150-3.html>

24 . <http://www.ndtv.com/article/india/supreme-court-order-banning-special-police-officers-in-anti-naxal-operations-will-apply-only-to-chha-151011>

the representative of the President of India, is the final authority for declaration and revoking of the Disturbed Areas Act and the AFSPA. This effectively implies that the areas declared as “disturbed” are under President’s Rule which is a state of emergency.²⁵

At present, the entire State of Manipur (except Imphal Municipal area), Nagaland and Assam, Tirap and Changlang district of Arunachal Pradesh and 20 km belt of Assam having common borders with Arunachal Pradesh and Meghalaya, 40 out of 70 police Stations of Tripura²⁶ and 20 out of the 22 districts have been declared disturbed.²⁷

Section 4(a) of the AFPSA empowers non-commissioned officers to “fire upon or otherwise use force, even to the causing of death”. It is a clear **derogation** from Article 6 of the ICCPR. India as a party to the ICCPR has not informed to “the other States Parties to the Covenant, through the intermediary of the Secretary-General of the United Nations”.

b. Right to life

Custodial deaths are rampant and a total of 14,231 persons i.e. more than four persons per day died in police and judicial custody in India from 2001-2002 to 2010. This includes 1,504 deaths in police custody and 12,727 deaths in judicial custody. Many of these deaths are as a result of torture.²⁸

The civilians are routinely killed in **disproportionate use of fire-arms** by the law enforcement personnel. A total of 740 civilians were killed in police firing from 2008 to 2010, including 239 persons in 2010,²⁹ 184 persons in 2009,³⁰ and 317 persons in 2008.³¹ In J&K alone, at least 109 persons, including children and women, were killed in firing by security forces during the mass protest in the Kashmir Valley during 11 June 2010 to September 2010.³²

Extrajudicial executions too are rampant. There were at least 132 cases of encounter killing at the hands of the police during 2008-09³³ and 177 cases in 2007-08.³⁴

25 . AFSPA: Law says Guv, not CM, has the last word, The Hindustan Times, New Delhi, 23 November 2011

26. Annual Report 2010-11 (Page 17), MHA

27 . Four districts in J-K to bid adieu to AFSPA soon, Indian Express, 23 October 2011, <http://www.indianexpress.com/news/four-districts-in-jk-to-bid-adieu-to-afspa-soon/864325/0>

28 . Torture in India 2011, Asian Centre for Human Rights, 22 November 2011 quoting the NHRC data submitted to the parliament of India

29. Chapter 14 of “Crime In India 2010”, NCRB, MHA

30. Chapter 14 of “Crime In India 2009”, NCRB, MHA

31. Chapter 14 of the “Crime In India 2008”, NCRB, MHA

32. Asian Centre for Human Rights, “Indian army’s role in Kashmir’s Intifada”, India Human Rights Report Quarterly, July-Sept 2010, <http://www.achrweb.org/ihrdq/issue1/ihrdq-jul-sep-2010.pdf>

33. Annual Report 2008-09, NHRC

These figures do not reflect the actual number of extrajudicial executions as the executions by the armed forces and the army are excluded. The Assam Police in its website claimed that they have killed 129 persons in encounters during January – July 2010.³⁵ Earlier on 20 January 2010, the NHRC while dealing with a complaint filed by ACHR directed the state government of Manipur to open 111 cases of fake encounters.³⁶ The Border Security Forces (BSF) allegedly extrajudicially killed 23 persons in 2008, 20 persons in 2009, 12 in 2010 and 9 in 2011 in the Indo-Bangladesh border.³⁷

Death penalty given to 137 convicts in 2010 exposes the hollowness of India's claim for application of the "rarest of the rare case" principle while awarding capital penalty. In 2009, the Supreme Court called for death sentence for those guilty of dowry deaths and bride burning.³⁸ On 9 May 2011, the Supreme Court further directed the courts to award death sentence in cases of "honour killings".³⁹ On 8 June 2011, a special court in Etah in Uttar Pradesh sentenced 10 persons to death in a case of "honour killing".⁴⁰ On 1 March 2011, eleven people were sentenced to death in the Sabarmati Express arson case which led to infamous Gurajat riots in 2002.⁴¹ Further, President Pratibha Patil rejected the mercy petitions of Devinder Pal Singh Bhullar of Punjab, and Mahendra Nath Das of Assam in May 2011 and of Murugan, Santhan and Perarivalan in August 2011. On 10 August 2011, the Ministry of Home Affairs (MHA) advised the President to reject the mercy petition of Afzal Guru.⁴²

c. Personal liberty

The constitution of India allows **preventive detention**. A number of Central legislations like the Unlawful Activities Prevention Act and the National Security Act, and State legislations like the Chhattisgarh Special Public Safety Act, the J&K Public Safety Act etc allow preventive detention without trial.

At the end of 2009, **2,232 persons were detained under preventive detention laws** including 835 in Tamil Nadu, 356 in Gujarat, 294 in Uttar Pradesh, 182 in J&K, 143 in Manipur, 82 in Maharashtra, 70 in Kerala, 51 in Madhya Pradesh, 42 in Nagaland, 40

³⁴. Annual Report 2007-08, NHRC

³⁵. <http://assampolice.com/archives/press/archpress.php>

³⁶. The NHRC order is available at http://www.achrweb.org/ncpt/compensations/R_K_Sanjoba.pdf

³⁷. Information provided by Manab Adhikar Suraksha Manch to ACHR on 25 November 2011

³⁸. Hang those guilty in dowry death cases: SC, CNN-IBN, 1 June 2009,

<http://ibnlive.in.com/news/hang-those-guilty-in-dowry-death-cases-sc/93882-3.html>

³⁹. Award death penalty for honour killings: SC, Indian Express, 9 May 2011,

<http://www.indianexpress.com/news/award-death-penalty-for-honour-killings-sc/787987/>

⁴⁰. 10 get death for honour killing, The Times of India, 9 June 2011

⁴¹. Eleven get death penalty for Godhra train carnage, The Hindustan Times, New Delhi, 1 March 2011

⁴². Rajiv Gandhi assassination: President rejects mercy petition of killers, The Economic Times (online), 11 August 2011, http://articles.economictimes.indiatimes.com/2011-08-11/news/29876186_1_mercy-petition-hara-kanta-das-mahendra-nath-das

in Andhra Pradesh, 38 in Meghalaya, 27 in Rajasthan, 17 in Karnataka, 15 in Delhi, 13 in Punjab and 10 in Bihar among others.⁴³ These figures are miniscule of the actual detention under the preventive detention laws. Further, the Uttar Pradesh Government claimed that 1,797 notorious criminals were detained under the National Security Act in the state.⁴⁴

As per the ACHR's report, *Juveniles of J&K: Unequal before the Law & Denied Justice in Custody* of November 2011, children in J&K have been consistently detained under the J&K Public Safety Act in clear violation of the Supreme Court ruling that juveniles must be tried under the juvenile laws.

d. Denial of right to nationality and participation in public life

About 53,721 Chakmas and Hajongs of Arunachal Pradesh, two thirds of whom are born in India, who had migrated to India in 1964 have been denied Indian **nationality, right to vote, registration of births and deaths** etc despite the directions of the Supreme Court of India in the case of *National Human Right Commission vs. State of Arunachal Pradesh & Anr.* [W.P(C) No 720/20050 and the Delhi High Court [WP(C) No.886 of 2000]. The Central government and the Election Commission of India failed to implement the judgements of the Courts.

About 250,000 Hindu and Sikh minorities of J&K have been **denied citizenship** under the Constitution of J&K recognized under Article 370 of the Constitution of India. As a result, these Sikh and Hindu refugees can neither own property nor can get government jobs and any other benefits that accrue to the citizens of J&K.⁴⁵

e. Torture

Torture in police custody is rampant and torture is not a crime. The NHRC recorded a total of 4,034 custodial deaths and 1836 cases of torture in police custody during 2008-09 to 2010-11.⁴⁶ ACHR asserts that 99.99% deaths in police lock up are a result of torture which take place within 48 hours of the victims being taken into custody.⁴⁷

The **prison conditions are sub-human and deplorable**. Overcrowding and the lack of quality food and lack of access to justice (not being produced in jails) lead to

43. "Prison Statistics in India 2009", Table 3.3, NCRB, MHA

44. Top Priority to law & order, The Hindustan Times, 18 September 2011

45. Asian Centre for Human Rights, "Hindu and Sikh refugees from Pakistan: Majority Kashmiris have a case of extreme discrimination to answer!", India Human Rights Report, October-December 2010, <http://www.achrweb.org/ihrrq/issue2/ihrrq-oct-dec-2010.pdf>

46. NHRC figures paint rosy picture of Kashmir and Northeast; UP and Bihar are worst offenders, Tehelka, 30 August 2011, http://www.tehelka.com/story_main50.asp?filename=Ws300811NHRC.asp

47. Torture in India 2011, Asian Centre for Human Rights, 21 November 2011

inhuman and degrading treatment. There were a total of 385,352 prisoners against the total capacity of 302,457 prisoners in the 1369 jails of the country as on 30 June 2009 representing an overcrowding of 27.4%. Out of them 2,61,557 i.e. 67.8% of the inmates were undertrials.⁴⁸ There is growing international concerns about the conditions and use of torture in the prisons in India. In June 2011, the Danish High Court refused to extradite Kim Davy, a Danish citizen and prime accused in the Purulia arms drop case of 1995, to India on the ground that he would risk “torture or other inhuman treatment” in Indian jails. In July 2011 India had to agree to a British court’s direction to allow a British human rights expert to examine prison conditions in Gujarat before it grants extradition of Mohammad Hanif Umerji Patel, alias Tiger Hanif, the alleged mastermind of the 1993 bomb blast in Surat. In September 2011, the Portuguese High Court cancelled the extradition of Abu Salem on the ground that he was tortured in custody following extradition.⁴⁹ On 31 October 2011, Madhu Koda, former Chief Minister of Jharkhand and sitting Member of Parliament, who is in judicial custody on corruption charges, was allegedly tortured by the prison security staff for demanding good quality food in Birsa Munda Central Jail in Ranchi.⁵⁰

f. Violence against women

Women in India continue to face physical, sexual, and economic violence. There were at least 2,13,585 cases of crimes against women including 22,172 rape cases, 29,795 cases of kidnapping and abduction, 8,391 cases of dowry deaths in 2010;⁵¹ 2,03,804 cases o during 2009 and 1,95,856 cases during 2008.⁵² This data does not include crimes committed by the armed forces and the Army.

g. Administration of justice and rule of law

“Public servants” enjoy **impunity** and no prosecution can take place without “prior sanction” from the government under section 197 of the Criminal Procedure Code and various special laws like AFSPA. Further, all the Acts provide immunity for “acts done on good faith”. Section 19(1) of the Prevention of Corruption Act, 1988 provides that “*No court shall take cognizance of an offence punishable under section 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction...*”

Therefore, **Indian judiciary has no independence** for prosecution of the public servants. In the custodial death of Mr Khwaja Yunus in January 2003, the Maharashtra

48. “Prison Population Statistics”, <http://www.nhrc.nic.in>

49. Why no anti-torture law in India?, Suhas Chakma, The Seven Sisters Post, 22 November 2011

50. Madhu Koda says he was attacked by jail staff, Hindustan Times, 31 October 2011, <http://www.hindustantimes.com/India-news/NorthIndia/Madhu-Koda-says-he-was-attacked-by-jail-staff/Article1-763141.aspx>

51. ‘Crime in India 2010’, NCRB, MHA

52. ‘Crime in India 2009’, NCRB, MHA, Chapter 5, <http://ncrb.nic.in/CII-2009-NEW/cii-2009/Chapter%205.pdf>

government rejected the state Criminal Investigation Department's plea to prosecute 10 senior officers of the Mumbai Police.⁵³ Consequently, only four junior officers i.e., Assistant Inspector Sachin Vaze and constables Rajendra Tiwari, Rajaram Nikam and Vasant Desai are being prosecuted. In August 2011, the Bombay High Court reserved the order in Yunus custodial death case.⁵⁴

In a RTI reply dated 6 September 2011, the J&K Home Department stated that from 1989 to 2011, the State government applied for sanctions for prosecution from the Ministry of Defence (MoD) and the MHA under section 7 of the AFSPA in 50 cases. Of these 50 cases, sanction for prosecution was declined in 26 cases while response was awaited in 16 cases and prosecution sanction was recommended in eight cases. However, in an affidavit filed before the J&K High Court in the case of *Ghulam Nabi Magray Vs Union of India* (Writ Petition no. 1842 of 2003) on 5 June 2009, the MoD claimed to have received only 35 cases from the State government for prosecution sanctions under the AFSPA.⁵⁵

Access to justice remains a myth especially for the poor given prolong judicial delay, lack of infrastructure of the judiciary, lack of trial and judiciary remains marred by alleged corruption. The total budgetary allocation for the judiciary during the Eleventh Five Year Plan (2007-2012) was Rs.14,700 million.⁵⁶ In contrast, the budget for defence outlays during 2010-11 alone was Rs. 1,47,34400 million (US \$31.9 billion).⁵⁷ The vacancies are not filled up in time while at least 32.2 million cases were pending before the courts as of 30 September 2010. These included 54,562 cases pending in the Supreme Court, 42,17,903 cases pending in the High Courts, and 2,79,53,070 cases pending in the District and Sub-ordinate Courts.⁵⁸ Yet, more than 31% of posts of judges in various High Courts and the Supreme Court are lying vacant as on 1 August 2011. Of the 895 sanctioned posts of judges in the 21 High Courts and the Supreme Court, 284 posts were

⁵³. Why were cops in Yunus case let off? HC, The Times of India, 9 December 2009

⁵⁴. HC reserves order in Khwaja Yunus custodial death case, Mumbai Mirror, 21 August 2011, <http://www.mumbaimirror.com/index.aspx?page=article§id=2&contentid=201108212011082102090054178e65b29>

⁵⁵ . Kashmir – Lies about sanctions under AFSPA, Sanhati.com, 23 October 2011; <http://sanhati.com/articles/4278/>

⁵⁶. Budget Outlay for Judiciary, Press Information Bureau, November 22, 2010 <http://www.pib.nic.in/release/release.asp?relid=67389>

⁵⁷ . Budgeting for India's Defence: An Analysis of Defence Budget 2010–11 and the Likely Impact of the 13th Finance Commission on Future Defence Spending, Institute of Defence Studies and Analysis, 3 March 2010 available at http://www.idsa.in/idsacomments/BudgetingforIndiasDefence2010-11_lkbehera_030310

⁵⁸. Supreme Court, "Court News", Vol. V, Issue No. 4, October–December 2010, http://supremecourtsofindia.nic.in/courtnews/2010_issue_4.pdf

vacant including 4 vacancies in the Supreme Court.⁵⁹ Amongst the High Courts, the largest number of vacancies was in Allahabad High Court where 98 out of sanctioned 160 posts – more than 61% - have not been filled as of 1 August 2011.⁶⁰

India refuses to conduct **effective investigations** into human rights violations. Though Section 176 of the Indian Penal Code provides for judicial inquiry into death, rape and disappearance in police custody, the governments continue to order only executive magisterial inquiries. In September 2011, the J&K State Human Rights Commission stated that there are at least 3,844 unmarked graves in Poonch and Rajouri districts of J&K and directed the state government to constitute an “independent, duly representative, credible, structured and fully empowered” body to “investigate and identify the people buried and to prosecute the perpetrators.”⁶¹ The State government refused to take further actions on these cases.

h. Right to privacy, marriage and family life

India has no law on **the right to privacy**. On an average, 6,000-8,000 telephones are reportedly tapped by various agencies at any given time with the permission of the Union Home Secretary while another 10,000 phones are monitored by various state governments at any given point of time.⁶²

The honour killings of those **marrying from different communities are rampant**. The GoI stated before the Rajya Sabha, upper house of parliament, in August 2010 that 560 couples have been threatened for marrying from different castes since 2005. Out of these, a total of 121 persons were murdered including 48 in Uttar Pradesh, 15 in Delhi, 41 in Haryana and 17 in other states.⁶³ Majority honour killing cases are recorded as murder.

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

⁵⁹. 31% of judges' posts in SC, HCs lying vacant, The Times of India (Online), 8 August 2011 available at http://articles.timesofindia.indiatimes.com/2011-08-08/india/29863790_1_vacancies-high-courts-judges

⁶⁰. 31% of judges' posts in SC, HCs lying vacant, The Times of India (Online), 8 August 2011 available at http://articles.timesofindia.indiatimes.com/2011-08-08/india/29863790_1_vacancies-high-courts-judges

⁶¹. SHRC orders probe into more unmarked graves in J-K, Indian Express, 17 September 2011

⁶². Govt to come down hard on unauthorized phone taps; available at: <http://www.livemint.com/2011/05/18002647/Govt-to-come-down-hard-on-unau.html>

⁶³. North Indians disapprove of honour killings: study, IBNlive.com, 15 August 2010; available at: <http://ibnlive.in.com/news/north-indians-disapprove-of-honour-killings-study/128892-3.html>

Freedom of religion is severely restricted by the Freedom of Religion Act currently in force in Arunachal Pradesh, Tamil Nadu, Orissa, Madhya Pradesh, Gujarat and Himachal Pradesh. The Dalits who convert to Christianity or Islam are denied access to affirmative action benefits and a Public Interest Litigation is pending before the Supreme Court challenging the same.⁶⁴

The religious minorities face regular **physical attacks**. According to the MHA, as many as 5,981 incidents of communal violence resulting into death of 1,075 persons and injuries to 17,413 persons took place during 2003-2010 (till 15 December 2010).⁶⁵ These also included 658 communal incidents resulting death of 111 persons and injuries to 1,971 persons in 2010⁶⁶; 791 communal incidents resulting death of 119 persons and injuries to 2,342 persons in 2009⁶⁷; and 943 communal incidents resulting death of 167 persons and injuries to 2,354 persons during 2008.⁶⁸

The **Buddhist minorities** cannot control their holiest place of worship, the Bodh Gaya temple where Lord Buddha gained enlightenment. It is still managed by the Hindus in contraventions of the directions of the NCM. On 8 February 2010, the NCM reiterated its earlier recommendations to handover the management to the Buddhists⁶⁹ but State Government of Bihar took no action.

Human rights defenders (HRDs) face severe repression. The NHRC has registered at least 73 cases of violations of the rights of the HRDs from April 2010 to 30 September 2011.⁷⁰ The ACHR recorded the murder of at least 12 RTI activists from January 2010 to August 2011.⁷¹ India has no protection for human rights defenders.

The Foreign Contribution (Regulation) Rules, 2011 adopted for implementation of the Foreign Contribution Regulation Act, 2011 violates **the freedom of association and expression of the HRDs**. Under Rule 3, any voluntary organization including Students Unions, Workers' Unions, Youth Forums and Women's wing of a political party; organization of farmers, workers, students, youth based on caste, community, religion, language or otherwise and any organizations which resorts to 'bandh' or 'hartal',

⁶⁴ . Supreme Court to examine quota benefit to Dalit converts, The Hindu, 21 January 2011, <http://www.thehindu.com/news/national/article1108895.ece>

⁶⁵ . Annual Reports of the MHA, http://www.mha.nic.in/uniquepage.asp?Id_Pk=288

⁶⁶ . Communal situation in the Country, Annual Report 2010-2011 of the Ministry of Home Affairs, Government of India; available at: [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf)

⁶⁷ . *ibid*

⁶⁸ . Communal situation in the country, Annual Report 2008-2009 of the Ministry of Home Affairs, Government of India; available at: [http://www.mha.nic.in/pdfs/AR\(E\)0809.pdf](http://www.mha.nic.in/pdfs/AR(E)0809.pdf)

⁶⁹ . Agenda for Annual Conference of the State Minorities Commissions to be held on 31.3.2010 at Vigyan Bhawan, New Delhi, <http://ncm.nic.in/pdf/Agenda%202010.pdf>

⁷⁰ . ACTION TAKEN BY NHRC ON HUMAN RIGHTS DEFENDER CASES UPTO 30.09.2011, http://www.nhrc.nic.in/Documents/hrd_update_sep_2011.pdf

⁷¹ . RTI Activists: Sitting Ducks of India, September 2011, Asian Centre for Human Rights, <http://www.achrweb.org/ihrhq/issue3-4/India-Sitting-Ducks-2011.pdf>

'rasta roko', 'rail roko' or 'jail bbharo' in support of public causes can be branded as "organization to be of political nature, not being a political party", and therefore prevented from receiving foreign grants. Further, all NGOs are required to renew their permission every five years.⁷²

The indigenous peoples cannot participate in **public life** because of the non-implementation of the Panchayats (Extension to the Scheduled Areas) Act enacted in 1996 (PESA). The nine concerned States⁷³ where the Act is applicable have not framed the Rules to implement the Act⁷⁴ until today. Under the PESA, the Chairmanship of the Panchayats (Village Councils) will be held by tribals. Because of the non-implementation of the PESA, non-indigenous peoples are still being elected as head of the Panchayat in tribal areas.

3. Economic, social and cultural rights

On 3 August 2011, the Government of India informed the parliament that 407.4 million people are **below poverty line**.⁷⁵ This is a conservative estimate. A total of 2,56,913 farmers at the rate of 16,057 farmers per year or 44 farmers per day committed suicide in India during 1995 to 2010, reflecting grave situation of debt. These include suicide of 49,528 farmers since 2008 including 16,196 in 2008, 17,368 in 2009, and 15,964 in 2010.⁷⁶

The **lands** of indigenous peoples continue to be alienated. As of July 2010, a total of 4,77,000 cases of tribal land alienation have been registered covering 8,10,000 acres of lands of which 3,78,000 cases covering 7,86,000 acres have been decided by the Court. Of the cases decided by the courts, 2,09,000 cases have been decided in favour of tribals covering a total area of 4,06,000 acres.⁷⁷ This means that 1,69,000 cases have been decided against the tribals.

The number of **conflict induced IDPs** is a fluctuating one. According to the ACHR, there are about **7,00,000 conflict induced internally displaced persons** in India who have been displaced due to conflicts. They include 59,542 families of Kashmiri

⁷² . FCRA Rules 2011

⁷³. The nine states where PESA is applicable are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa and Rajasthan.

⁷⁴. Implement PESA for a quick cure for Maoism – Centre to states, Governance Now, 8 June 2010, <http://governancenow.com/news/regular-story/implement-pesa-quick-cure-maoism-centre-states>

⁷⁵. UNSTARRED QUESTION NO 626, Lok Sabha answered by Minister of State for Planning, Dr. Ashwani Kumar on 3.8.2011

⁷⁶. P. Sainath, "In 16 years, farm suicides cross a quarter million", The Hindu, 29 October 2011, available at <http://www.thehindu.com/opinion/columns/sainath/article2577635.ece> and http://www.thehindu.com/multimedia/archive/00820/Farm_Suicides_All_820602a.pdf

⁷⁷. Lok Sabha Unstarred Question No. 831 answered by Dr Tushar A. Chaudhary, Minister of State in the Ministry of Tribal Affairs on 12.11.2010

Pandits and Muslims⁷⁸ comprising about 2,97,710 persons; 4,473 Muslim families comprising of over 23,000 people in Gujarat (displaced since 2002)⁷⁹; over 1,83,800 persons in Assam (including 33,600 persons in Kokrajhar district,⁸⁰ 13,722 in Bongaigaon district⁸¹, 1,20,545 in Darrang district⁸², at least 3,884 in Udalguri district⁸³ and 11,737 in North Cachar Hills District⁸⁴); about 30,000 Bru tribals in Tripura (displaced from Mizoram since 1997), about 20,000 Rabhas in Meghalaya, about 26,000 Adivasis in Chhattisgarh⁸⁵; about 1,20,000 Gutti Koya tribals (displaced from Chhattisgarh) in Andhra Pradesh,⁸⁶ and about 240 Hmars from Assam who took shelter in Mizoram as of 22 October 2011.⁸⁷ The government failed to ensure repatriation and rehabilitation of any IDP group. Further, the IDPs of India are denied less facilities in terms of food rations, cash dole, housing etc than being extended to the Tamil refugees in India and Tamil IDPs in Sri Lanka by the Government of India. This blatant discrimination is under adjudication before the Guwahati High Court in the case of *ACHR Vs State of Assam & Anr* [W.P.(C) 6/2011].

At least 60 million people have been reportedly **displaced by development projects** since 1947. Of these, over 40 per cent are tribals and another 40 per cent are Dalits and other rural poor.⁸⁸ The Special Economic Zones (SEZs) cause displacement and a total of 582 SEZs have been formally approved under SEZ Act 2005 across India.

78. Annual Report 2010-11, MHA, [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf) and UNstarred Question No. 3180 answered on 16.03.2010 in the Lok Sabha

79. The complaint of Aantarik Visthapit Hak Rakshak Samiti to the NHRC of India dated 5 April 2007 obtained by Asian Centre for Human Rights (ACHR) through RTI Act 2005

80. RTI reply from the Office of the Deputy Commissioner, Kokrajhar district, Assam (No. KRTI.3/2007/218 dated 6 June 2009)

81. RTI reply from the Office of the Deputy Commission, Bongaigaon, Assam (No. BRTI.7/2007/PT-II/138 dated 19 November 2009)

82. RTI reply from the Office of the Deputy Commissioner, Darrang District of Assam (No. RTI-65/2009/11 dated 6 August 2009)

83. ACHR's fact finding mission the two relief camps in Udalguri district in June 2009

84. Indian Home Minister's Statement in the Rajya Sabha on Situation in North Cachar hills District of Assam, Press Information Bureau, Government of India, 10 July 2009, <http://www.pib.nic.in/release/release.asp?relid=50149>

85. Government cannot provide security to all villagers: minister, Thaindian News, 4 March 2008 available at http://www.thaindian.com/newsportal/world-news/government-cannot-provide-security-to-all-villagers-minister_10023675.html

86. Chhattisgarh tribals sneak into AP, Daily News and Analysis (DNA), 20 June 2008, available at <http://www.dnaindia.com/report.asp?newsid=1172353>

87. Mizoram govt to take care of Hmar refugees in state, The Times of India, 22 October 2011, http://articles.timesofindia.indiatimes.com/2011-10-22/guwahati/30310623_1_mizoram-govt-mizoram-government-refugees

88. Development-induced displacement and human rights, By Walter Fernandes, Seven Sister's Post, 24 November 2011, <http://www.sevensisterspost.com/epaper/24.11.11.pdf>

In addition, 44 SEZs have been granted in-principal approval and another 380 SEZs have been notified.⁸⁹

The **Forest Rights Act, 2006** is not being implemented properly and tribals are being denied right to forest resources. As of 30 September 2011, out of the 28,08,494 claims of land titles considered, a staggering 15,77,831 claims (56.1%) have been rejected.⁹⁰

One national survey have found dismal state of the **Right of Children to Free and Compulsory Education Act of 2009** that seeks to provide free and compulsory education to all children of the age of six to fourteen years. The survey have found that - (i) one-third of all primary and upper primary schools face acute shortage of classrooms and do not comply with the RTE requirement of one teacher one classroom ratio; (ii) about half of primary and upper primary schools face shortage of teachers; (iii) 25% schools lack office cum store; 48% schools lack playground; 50% schools do not have boundary wall or fence; (iv) 37% schools do not have library; (v) 50% of schools do not either have a toilet or unusable; (v) 63% schools do not either have a separate toilet for girls or unusable; (vi) mid-day meals is not served in 17% schools while 19% schools lack kitchen shed for midday meals; (vii) 28% schools do not have provision for drinking water; (viii) children's attendance during period 2007-2010 was around 73% and (ix) 5.9% of girls in the age group of 11-14 years are out of school compared to 3.5% boys across India.⁹¹

Starvation deaths are regularly reported though data is not collated. On 10 May 2011, the Supreme Court directed the Central government to release five million tonnes of foodgrains immediately for distribution in 150 most poverty-stricken districts to ensure that no starvation death takes place.⁹² The National Food Security Bill, 2011 for the first time proposes to provide for "cash transfer, food coupons in lieu of their foodgrain entitlements". This will have disastrous consequences on the right to food and increase starvation deaths.⁹³

The **right to highest attainable standards of health** does not exist. Health care system has collapsed in several parts of the country. At least 83 children have died in West Bengal during June – November 2011 due to lack of basic healthcare facilities in

89. <http://www.sezindia.nic.in/writereaddata/pdf/StatewiseDistribution-SEZ.pdf>

90. Ministry of Tribal Affairs, "Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 30th September, 2011], <http://www.tribal.nic.in/writereaddata/mainlinkFile/File1317.pdf>

91 .The Annual Status of Education Report (Rural) 2010, Pratham, http://www.pratham.org/aser08/ASER_2010_Report.pdf

92. Release 5 million tonnes of foodgrains: Supreme Court, The Hindu, 14 May 2011

93. Draft Food Security Bill 2011 is available at http://www.prsindia.org/uploads/media//draft/Draft_National_Food_Security_Bill%202011.pdf

the State run hospitals.⁹⁴ Further, a total of 585 children died due to encephalitis in eastern Uttar Pradesh in 2011 according to official data as of 23 November 2011.⁹⁵

The **violations of the Rights of the Child** are rampant with Dalit and Adivasi children being more vulnerable. The Supreme Court issued directions for implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 on 10 January 2010 but implementation remains only on paper. J&K has only one juvenile justice home for boys at R S Pura. Juvenile girls must be sent to police lock ups or prisons in the absence of a single Juvenile Home for Girls in J&K. Juveniles in Kashmir are detained with adults in prisons and tried as adults due to non-implementation of the J&K Juvenile Justice Act, 1997.⁹⁶

The Chhattisgarh government continues to **recruit children** of the police personnel killed on duty as “balarakshaks” (Child Guards) and these children cannot attend schools at least three days a week.⁹⁷

The security forces **continued to occupy schools** in conflict affected areas. On 1 October 2010, the Supreme Court directed the MHA and the State governments “to ensure that the para military forces vacate the school and hostel buildings occupied by them” and submit an Action taken report within two months. Following Supreme Court’s order the security forces vacated six out of the 31 schools as of 6 January 2011 in Chhattisgarh.⁹⁸ On 18 January 2011, the Supreme Court directed the state government of Chhattisgarh to vacate all school buildings under the occupation of security forces within four months.⁹⁹ On 7 March 2011, the Supreme Court directed the Jharkhand and Tripura governments to ensure that all schools and hostels of educational institutions are free from the occupation of security forces within two months. 21 schools in Jharkhand and 16 schools in Tripura were still under occupation by the security forces.¹⁰⁰ Similarly, a

⁹⁴. 9 more children die in Bengal, The Hindustan Times, 10 November 2011, <http://www.hindustantimes.com/India-news/Kolkata/9-more-children-die-in-Bengal/Article1-767243.aspx>

⁹⁵. Encephalitis death toll rises to 585 in UP, Zee News, 23 November 2011, http://zeenews.india.com/news/uttar-pradesh/encephalitis-death-toll-rises-to-585-in-up_743357.html

⁹⁶. Asian Centre for Human Rights, “Juveniles of J&K: Unequal before the Law & Denied justice in Custody”, 16 November 2011, available at <http://www.achrweb.org/reports/india/JJ-J&K-2011.pdf>

⁹⁷. Chhattisgarh’s ‘child cops’ skip school for police duty, The Sentinel, 6 April 2011

⁹⁸. Chhattisgarh government pulled up for misleading court, The Hindu, 8 January 2011, available at <http://www.hindu.com/2011/01/08/stories/2011010864821300.htm>

⁹⁹. SC asks security forces to vacate schools, hostels, The Pioneer, 19 January 2011

¹⁰⁰. Free Schools from Forces: SC to J'khand, Tripura, Outlook, 7 March 2011, <http://news.outlookindia.com/item.aspx?714216>

number of schools are said to be in the possession of security forces engaged in anti-militancy operations in J&K; and no direction has been issued by the Supreme Court.¹⁰¹

The **Dalits** continued to face atrocities and caste based discrimination in all spheres of life. At least 32,712 cases of crimes were committed against the Scheduled Castes in 2010 including 570 cases of murder, 1349 cases of rape, 511 cases of abduction, 150 cases of arson, 143 cases under the Protection of Civil Rights Act, 1955 and 10,513 cases under the SC/ST (Prevention of Atrocities) Act, 1989 among others.¹⁰²

Indigenous/tribal peoples too face atrocities. At least 5,885 crimes were committed against the Scheduled Tribes in 2010 including 142 cases of murder, 654 cases of rape, 84 cases of abduction, 39 cases of arson, 1169 cases under SC/ST (Prevention of Atrocities) Act, 1989 among others during 2010.¹⁰³

The Prevention of Atrocities Act has been neutralized by the police and judicial machinery by not applying the empowering sections of the law when such crimes are committed. Further, the government does not implement the affirmative actions. There is a backlog of 35,000 vacancies from the Scheduled Castes, Scheduled Tribes and Other Back Castes quota in Central government employment as of 20 November 2011.¹⁰⁴

India has about **3,29,718 refugees** including 97,103 Sri Lankan refugees as on 1 November 2010¹⁰⁵, 1,09,015 Tibetan refugees as on February 2009,¹⁰⁶ about 92,000 Burmese refugees¹⁰⁷ and 31,600 refugees under the care of the United Nations High Commissioner for Refugees.¹⁰⁸ The figures provided by UNHCR for 2011 is wrong as it does not include up-to-date data provided by the GoI and further excludes about 70,000 Burmese refugees of Chin ethnic origin sheltered in Mizoram and Manipur. The Burmese refugees in Mizoram are regularly **refouled**. In 2009 alone, Mizoram police arrested 367 Myanmar nationals and deported 162 of them to Myanmar.¹⁰⁹ In 2010, Mizoram Police arrested and deported 30 Burmese refugees on 22 January 2010,¹¹⁰ 33 Burmese

¹⁰¹. Troops in Kashmir Schools, Rising Kashmir, 13 April 2011, <http://www.risingkashmir.com/news/troops-in-kashmir-schools-8462.aspx>

¹⁰². "Crime In India 2010", NCRB, MHA

¹⁰³. "Crime In India 2010", NCRB, MHA

¹⁰⁴. Special drive mooted to fill 35000 Central quota vacancies, The Times of India, 20 November 2011

¹⁰⁵. Annual Report 2010–2011, MHA

¹⁰⁶. Annual Report 2010–2011, MHA

¹⁰⁷. Chin–Burmese refugees in India air woes, http://www.indoburmanews.net/archives/archive06/aug_06/273

¹⁰⁸. 2011 UNHCR country operations profile – India, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e4876d6>

¹⁰⁹. http://www.thaindian.com/newsportal/politics/india-keeping-strict-vigil-along-northeastern-border-lead_100314719.html

¹¹⁰. <http://www.bnionline.net/news/khonumthung/7854-thirty-burmese-deported-to-burma.html>

refugees on 6 February 2010;¹¹¹ and about 60 Burmese refugees on 31 August 2010. Amongst those deported included 28 students, two leaders of the Chin National Council and members of the Free Burma Rangers who face risk of prosecution from the military junta in Myanmar.¹¹²

V. State's Obligations/Commitments

This report indicates that India has failed to meet its **human rights obligations**. The judgements of the Courts such as the one on the Chakmas and Hajongs of Arunachal Pradesh remain unimplemented. It has failed to implement the recommendations of its own commissions including the Committee to Review Armed Forces Special Powers Act, 1958 headed by Justice Jeevan Reddy.

India's periodic report to the UN Human Rights Committee has been pending since December 2001. On 7 May 2007, the CERD Committee requested India to "inform it of its implementation of the recommendations contained in paragraphs 12, 15, 19 and 26 within one year of the adoption of the present conclusions". India has failed to implement the same.¹¹³ **[End]**

¹¹¹. Mizoram police deport 33 Myanmarese nationals, Daily News and Analysis, 6 February 2010, http://www.dnaindia.com/india/report_mizoram-police-deport-33-myanmar-se-nationals_1344162

¹¹². Mizoram capital deports Burmese, NGO workers, Indo Burma News, 31 August 2010

¹¹³. CERD/C/IND/CO/19 dated 5 May 2007