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Introduction (Methodology and Consultation Process)

This submission is made by the Working Group on Human Rights in India and the UN (WGHR), a coalition of 9 human rights organisations and 2 independent experts from India.¹ It has been endorsed by a coalition of 406 organisations and individuals from across the country², and is the result of an extensive consultation process involving more than 406 people across 4 regional consultations and 1 national consultation.³

Implementation of UPR III Recommendations and Overview of Human Rights Situation

A. Economic, Social and Cultural Rights

Right to Adequate Housing and Land

1. In UPR III, India received 10 recommendations related to Housing and Land Rights.⁴ Specific recommendations were made on adequate housing, but not on land.
2. The PMAY scheme to provide ‘Housing for All by 2022’, has faced implementational challenges, extension of timelines and delays⁵, reduced targets,⁶ and exclusion of

¹ See full list of WGHR members in Annex A

² See full list of endorsements in Annex B

³ See a report of the regional consultations and national consultation held by WGHR in Annex C

⁴ For the recommendations, please see - Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India's Implementation of UPR-III Recommendations*, p. 112 - 113, available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Re_h9nm0.pdf

⁵ The extension was cleared by the Union Cabinet as various challenges were identified by the Union government, including gaps in sanctioning and completion of houses, irregular release of funds, and lack of follow-up with landless beneficiaries among others. See: Government of India, Press Release “Cabinet approves continuation of Pradhan Mantri Awas Yojana – Gramin (PMAY-G) beyond March 2021 till March 2024”, 8 December 2021. Available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1779325>, Accessed on: 17 March 2022; Ministry of Rural Development “Revamp of Pradhan Mantri Awas Yojana”, Press Release, Ministry of Rural Development, 15 March 2022, Available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1806267> Accessed on: 17 March 2022.

⁶ Press Information Bureau, ‘Ministry of Housing and Urban Affairs: Housing Sector shortage close to 10 million units - to be addressed through PMAY: Puri’, 15 November 2017, Available at: <https://bit.ly/3leDbXQ>, Accessed on: 17 March 2022.

⁷ As of March 2022, the Union Government has claimed that the objective of the Pradhan Mantri Awas Yojana - Urban has been met. See: The Times of India “1.15 crore houses sanctioned under PMAY-Urban; scheme ending this month: Puri,” 28 March 2022. Available at: <https://timesofindia.indiatimes.com/india/1-15-crore-houses-sanctioned-under-pmay-urban-scheme-ending-this-month-puri/articleshow/90495228.cms> Accessed on: 17 March 2022.

homeless persons.⁷ The Affordable Rental Housing Complex 2020 scheme⁸ is predicated on a similar PPP model and may exclude those unable to afford such housing.⁹

3. Forced evictions and demolitions of homes of the poor have continued unabated during the COVID-19 pandemic,¹⁰ despite guidance from the UN.¹¹ Judicial orders have also contributed to the dispossession of vulnerable groups.¹² Almost 16 million people are currently threatened with the risk of displacement.¹³

⁷ As of March 2022, the Union Government has claimed that the objective of the Pradhan Mantri Awas Yojana - Urban has been met. See: The Times of India “1.15 crore houses sanctioned under PMAY-Urban; scheme ending this month: Puri,” 28 March 2022. Available at: <https://timesofindia.indiatimes.com/india/1-15-crore-houses-sanctioned-under-pmay-urban-scheme-ending-this-month-puri/articleshow/90495228.cms> Accessed on: 17 March 2022.

⁸ In response to the large-scale reverse migration of migrant workers and workers in the informal sector during the pandemic, the government of India announced the creation of ‘Affordable Rental Housing Complexes’, as a subset of the Pradhan Mantri Awas Yojana (Urban). The scheme seeks to provide affordable rental housing with necessary civic amenities to the urban poor, near their place of work

See: Ministry of Housing and Urban Affairs, “ARHCs at a glance,” available at: <http://arhc.mohua.gov.in/At-a-Galance.html> Accessed on: 17 March 2022.

⁹ Ibid.

¹⁰ During the COVID-19 pandemic (March 2020 to July 2021), the Indian government demolished over 43,600 homes and forcibly evicted over 257,700 people. See: Housing and Land Rights Network (HLRN), “Forced Evictions in India in 2020: A Grave Human Rights Crisis During the Pandemic,” September 2020. Available at: https://www.hlrn.org.in/documents/Forced_Evictions_2020.pdf Accessed on: 18 March 2022.

¹¹ OHCHR, “COVID-19 Guidance Note: Prohibition of Evictions by the UN Special Rapporteur on the right to adequate housing,” 28 April 2020, Available at: <https://bit.ly/3ke8osS>; Accessed on: 18 March 2022; OHCHR, “Ban evictions during COVID-19 pandemic, UN expert urges,” 18 August 2020. Available at: <http://bit.ly/3ldtbxT> Accessed on: 18 March 2022.

¹² In September 2020, the Supreme Court of India [W.P. (C) 13029/1985] ordered the eviction of 48,000 dwellings along railway tracks in Delhi within a timeframe of three months and restricted any other judicial relief for the affected persons in this matter. Similarly, just before the onset of the pandemic, the Supreme Court of India [S.L.A. (C) 7220/2017] exhorted state authorities to demolish ‘unauthorized’ houses of migrant workers in Khori Gaon, Haryana despite the pendency of the proceedings.

¹³ Primary and secondary research by HLRN reveals that nearly 16 million people across the country live under the threat of being forcefully evicted and displaced. Reasons for potential displacement include infrastructure projects, forest protection, restoration of water bodies, ‘slum’ clearance, removal of ‘encroachments’, and clearance of government land; implementation of court orders; and, tourism development. See: “Forced Evictions in India in 2020: A Grave Human Rights Crisis during the Pandemic,” Housing and Land Rights Network, September 2021, Available at: https://www.hlrn.org.in/documents/Forced_Evictions_2020.pdf, Accessed on: 18 March 2022.

¹⁴ During India’s stringent lockdown, a large number of people living on the streets were forcefully relocated to temporary shelters, without prior information, consultation, and consent. See: Housing and Land Rights Network, “Human Rights Assessment of India’s COVID-19 Lockdown,” May 2020, Available at: <https://bit.ly/3n3QDyj>, Accessed on: 18 March 2022.

¹⁵ The Supreme Court commissioners appointed to monitor the implementation of orders in the ‘right to food’ case – PUCI v. Union of India [W.P. (C) 196/2001] estimated that at least one per cent of India’s urban population is homeless. This amounts to nearly 4 million homeless people living in urban India.

4. The pandemic has disproportionately affected¹⁴ about four million homeless people¹⁵ and exacerbated their challenges, including livelihood loss and hunger.¹⁶
5. Land ownership continues to be highly unequal¹⁷ and linked to caste status¹⁸.
6. Since UPR III, some states have adopted laws¹⁹ that attempt to incorporate a HRBA to housing and land.

Recommendations:

1. Impose an immediate national moratorium on arbitrary forced evictions for any reason, invest adequately in affordable housing, and take steps to reduce homelessness by 2030.
2. Develop a human-rights based national housing policy/law within two years that recognises and upholds the right to adequate housing (as guaranteed in international law and affirmed by the Indian judiciary) and has provisions to prevent evictions and discrimination against marginalized groups.

¹⁴ During India's stringent lockdown, a large number of people living on the streets were forcefully relocated to temporary shelters, without prior information, consultation, and consent. See: Housing and Land Rights Network, "Human Rights Assessment of India's COVID-19 Lockdown," May 2020, Available at: <https://bit.ly/3n3QDyj>, Accessed on: 18 March 2022.

¹⁵ The Supreme Court commissioners appointed to monitor the implementation of orders in the 'right to food' case – PUCI v. Union of India [W.P. (C) 196/2001] estimated that at least one per cent of India's urban population is homeless. This amounts to nearly 4 million homeless people living in urban India.

¹⁶ A study conducted by Housing and Land Rights Network after the second wave of the COVID-19 pandemic in Delhi revealed that at least nine per cent homeless people surveyed were unable to eat even a single meal every day during the lockdown, while 58 per cent were only able to secure one meal a day; 91 per cent of the homeless persons surveyed reported having no work or income during the lockdown. For more information, see: Housing and Land Rights Network (HLRN), "Impacts of the Second Wave of the Pandemic on Delhi's Homeless Population, Findings of a Rapid Assessment Survey," August 2021. Available at: https://www.hlrn.org.in/documents/Homelessness_Delhi_Pandemic_Second_Wave.pdf Accessed on: 17 March 2022.

¹⁷ 101 million householders (56%) out of a total of 170.92 million rural households do not own any agricultural land. See: Socio-economic and Caste Census 2011. Available at: <http://secc.gov.in/reportlistContent>, Accessed on: 18 March 2022.

¹⁸ Around 54.71 per cent of Scheduled Caste households are landless, nearly 70 per cent of Dalit farmers are labourers on farms owned by others, while only 17.69 per cent Scheduled Caste households own a house. Only 10.5 per cent people belonging to Scheduled Tribes own a house. See: Socio-economic and Caste Census 2011. Available at: <http://secc.gov.in/reportlistContent>; Scroll, "Across India, Dalits are still fighting to claim lands promised to them," 9 June 2019. Available at: <https://bit.ly/36gB7bD>, Accessed on: 17 March 2022.

¹⁹ For example, Odisha Land Rights to Slum Dwellers Act 2017 (Available at: <https://govtpress.odisha.gov.in/pdf/2017/1652.pdf>), the Madhya Pradesh Housing Guarantee (for Lower Income Groups and Economically Weaker Sections) Act 2017 (Available at: <https://bit.ly/3eH2zTt>) and the Punjab Slum Dwellers (Proprietary Rights) Act, 2020 (Available at: <http://lgpunjab.gov.in/upload/5f86d5f2ec146Slum%20Dwellper%20Act%202020.pdf>)

Right to Food

1. Despite enacting the National Food Security Act 2013 and establishing the Public Distribution System (PDS) India ranks 101st of 116 countries in the Global Hunger Index.²⁰ This reflects entrenched corruption and inefficacy in the distribution system.²¹
2. The poor and vulnerable continue to suffer exclusion from PDS services, despite linking Aadhaar to bank accounts for Direct Benefit Transfer programs of the GoI.²² More than 100 million people²³ have been deprived of the PDS rations guaranteed under the NFSA, due to the use of 2011 census figures instead of provisional 2022 census data.
3. The Supreme Court ordered²⁴ the expansion of PMGKAY to cover those without ration cards but the Govt. has not been able to provide food grains in the PDS as per the provisions of the NFSA to migrant workers and persons with disabilities.²⁵
4. The pandemic-induced shutting down of schools led to nutritional loss among children, particularly those from poor socio-economic backgrounds.²⁶

Recommendations

1. Fulfil obligations made under the PMGKAY scheme to provide free food grains for two additional years.
2. Utilise provisional census figures for 2022 to allocate food supplies and include a supply of 5kg pulses and 1L cooking oil every month for eligible households to address protein

²⁰ India ranked 94th in 2020. In 2021, India is ranked behind its neighbours in South Asia Pakistan, Bangladesh and Nepal. See: Global Hunger Index 2021, available at: <https://www.globalhungerindex.org/ranking.html> , Accessed on: 13 March 2022.

²¹ Economic and Political Weekly, “Food Security and COVID-19: Why India’s Public Distribution System Requires an Overhaul”, 19 June 2020, Available at: <https://www.epw.in/engage/article/food-security-and-covid-19-why-indias-public> , Accessed on: 16 March 2022; Inter Press Service, “Poor Bear the Brunt of Corruption in India’s Food Distribution System”, 1 July 2015, available at: <https://www.ipsnews.net/2015/07/poor-bear-the-brunt-of-corruption-in-indias-food-distribution-system/>, Accessed on: 16 March 2022.

²² India Spend, “More than 100mn excluded from PDS as govt uses outdated Census 2011 data”, 16 April 2020, available at: <https://www.indiaspend.com/more-than-100mn-excluded-from-pds-as-govt-uses-outdated-census-2011-data/>, Accessed on: 16 March 2022.

²³ Ibid.

²⁴ *Bandhua Mukti Morcha v. Union of India*, 1984 AIR 802; *Deepika Jagatram Sabani v. Union of India*, SCC OnLine SC 22; *Swaraj Abhiyan v. Union of India*, Writ Petition(C) No. 857 of 2015.

²⁵ Ibid. As per affidavits filed stating that Government of India has made provisions for only two million ration cards.

²⁶ The Hindu, “Plea to CM to provide mid-day meal during school closure”, The Hindu, 24 January 2022, available at: <https://www.thehindu.com/news/cities/puducherry/plea-to-cm-to-provide-mid-day-meal-during-school-closure/article38320803.ece> , Accessed on: 16 March 2022.

deficiency and anaemia among women and children.

3. Immediately de-link the transfer of welfare benefits to the poor from the Aadhaar system.
4. Supplement the Mid-Day Meal Scheme for children in schools with breakfast and provide protein-rich foods²⁷ within one year.

Water and Sanitation

1. Between 2000 and 2018, India ranked 2nd for the most improvement in access to water.²⁸ GoI is committed to achieve universal sanitation coverage and access to drinking water.²⁹ However, the largest number of people in the world, 1 billion, live with physical water scarcity³⁰ and many lack toilets.³¹ Only 44 per cent of the population has access to piped water.³²
2. The Covid-19 pandemic has exposed the lack of access to clean water for those living in poverty, in informal settlements and rural populations.³³

²⁷ Including eggs and animal protein in regions where this is part of the diet.

²⁸ “The Water Gap – The State of the World’s Water 2018”, Water Aid, March 2018, Available at: <https://washmatters.wateraid.org/sites/g/files/jkxooof256/files/The%20Water%20Gap%20State%20of%20Water%20Report%20lr%20pages.pdf>, Accessed on: 17 March 2022,

²⁹ Swachh Bharat Mission, National Rural Clean Water Mission (Jal Jeevan Mission), Swajal Yojana and National Water Quality Sub-Mission, Ministry of Jal Shakti/Department of Drinking Water and Sanitation, see - <https://jalshakti-ddws.gov.in/about-us>, Accessed on: 17 March 2022.

³⁰ Beneath the Surface: The State of the World’s Water 2019, Water Aid, March 2019, available at <https://washmatters.wateraid.org/sites/g/files/jkxooof256/files/beneath-the-surface-the-state-of-the-worlds-water-2019-0.pdf> at page 6. Cited in International Commission of Jurists. COVID-19 Pandemic in India: The Right to Water. A Briefing Paper. <https://www.icj.org/wp-content/uploads/2020/06/India-Right-to-Water-COVID-19-Briefing-Paper-2020-ENG.pdf>, Accessed on 17 March 2022.

³¹ Down to Earth “Is India really open-defecation-free? Here’s what numbers say”, 13 July 2021. Available at: <https://www.downtoearth.org.in/news/rural-water-and-sanitation/is-india-really-open-defecation-free-here-s-what-numbers-say-77918#:~:text=The%20Government%20of%20India%20conducted,said%20the%20official%20from%20UNICEF,> Accessed 17 March 2022.

³² Only 44 percent of India’s population had access to piped water. Only 56 percent of people in rural areas and 77 percent of people in urban areas had access to water at their place of residence. More than one-third of the water consumed by rural populations was contaminated. International Commission of Jurists, “COVID-19 Pandemic in India: The Right to Water. A Briefing Paper.” <https://www.icj.org/wp-content/uploads/2020/06/India-Right-to-Water-COVID-19-Briefing-Paper-2020-ENG.pdf> Accessed on 17 March 2022.

³³ International Commission of Jurists, “COVID-19 Pandemic in India: The Right to Water”- A Briefing Paper, Available at: <https://www.icj.org/wp-content/uploads/2020/06/India-Right-to-Water-COVID-19-Briefing-Paper-2020-ENG.pdf>, Accessed on 17 March 2022.

3. The dumping of municipal solid waste and lack of segregation of waste at source prevent the processing of 90% of generated waste.³⁴
4. 70 per cent of waste pickers come from traditionally marginalised communities³⁵ and suffered disproportionately during the pandemic as they were not included in support measures for frontline workers further exacerbating their existing vulnerabilities.³⁶

Recommendations

1. Institute a system under the National Water Quality Sub-Mission that measures, ranks, and reports on the potability of water on a proactive basis lab infrastructure and creating objective baseline standards.
2. Scale up potable water dispensing points (Water ATMs) in cities to address access for the urban poor, including vulnerable communities.³⁷
3. Enact a rights-based, comprehensive policy within one year for waste-pickers that ensures the payment of fair wages, access to Govt. welfare schemes, format employment contracts, identity cards and workplace health and safety protections.

Right to Health

1. Despite several recommendations³⁸, a lack of adequate budgetary allocation has resulted in deficits in health care infrastructure, excessive out-of-pocket costs, lack of human resources, accountability, legislative oversight, and effective health care policy.³⁹

³⁴ Down To Earth, “India’s Challenges in Waste Management,” 9 January 2017, Available at: <https://www.downtoearth.org.in/blog/waste/india-s-challenges-in-waste-management-56753>, Accessed on: 17 March 2022.

³⁵ The Indian Express, “Waste pickers need policy support”, 5 March 2022, available at: <https://indianexpress.com/article/opinion/columns/waste-pickers-policy-support-welfare-7801719/> , Accessed on 17 March 2022.

³⁶ Ibid.

³⁷ Particularly vulnerable communities include internal migrants and inhabitants of informal housing settlements.

³⁸ The NHP 2017 recommended an increase in the Government’s health expenditure by 2.5 per cent of the GDP by 2025 and state sector health spending to over eight per cent of the state budgets by 2020. See: Ministry of Health and Family Welfare (MoHFW) - Government (Govt) of India, “National Health Policy 2011,” para 2.1, p. 1. Available at: https://www.nhp.gov.in/nhpfiles/national_health_policy_2017.pdf, Accessed on: 12 March 2022.

³⁹ Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India’s Implementation of UPR-III Recommendations*, p. 70 - 99, WGHR, available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Re_h9nm0.pdf, Accessed on: 12 March 2022.

2. The private health sector, unaffordable to large sections of the population is expanding, covering 8% of the population for hospitalizations.⁴⁰ Public health insurance schemes including PMJAY provide cover to 50% of the population, leaving 20% of the population uninsured.⁴¹
3. The healthcare system came under unprecedented strain during COVID-19 pandemic leading to horrific shortages of life-saving infrastructure and equipment at hospitals.⁴² ANC services were interrupted despite a Govt. directive⁴³; ambulances were unavailable; and women were turned away from facilities during the 1st COVID lockdown.⁴⁴
4. The burden of family planning still disproportionately affects women, with female sterilization being the most common method.⁴⁵ Diversion of resources by hospitals during COVID-19, curtailed access to safe abortion services for 1.85 million women.⁴⁶

Recommendations:

1. Raise health expenditure to 2.5% of GDP within two years.
2. Update Essential Medicines list and strengthen implementation of the price-capping provisions to ensure universal access to medicines and regulate private healthcare.
3. Enact a human rights-based public health emergencies law that imposes clear duties on States to respond to public health emergencies.

⁴⁰ Insurance Regulatory and Development Authority of India (IRDAI), “Annual Report 2018-19,” p. 46 onwards. Available at: <https://bit.ly/35aLa2w>, Accessed on: 12 March 2022.

⁴¹ Ayushman Bharat Prime Minister Jan Aarogya Yojana (PM-JAY) is the Prime Minister’s Programme for Public Health. It is a project of the Government of India to provide free health care access to at least 40% of the people in the country. Available at: <https://pmjay.gov.in/>; NITI Ayog, Health Insurance for India’s Missing Middle, October 2021, available at: https://www.niti.gov.in/sites/default/files/2021-10/HealthInsurance-forIndiasMissingMiddle_28-10-2021.pdf, Accessed on: 12 March 2022.

⁴² Live-saving infrastructure and equipment such as beds, oxygen, generators, and medication were unavailable at hospitals. In Delhi, relatives of Covid patients at wits’ end: ‘No beds at hospitals, no oxygen at home’, Indian Express, April 24, 2021, Available at: <https://indianexpress.com/article/cities/delhi/delhi-covid-19-hospital-beds-oxygen-supply-728597>, Accessed on: 12 March 2022.

⁴³ The Govt. directive called for the continuation of maternal health services during the Covid-19 lockdown.

⁴⁴ Hindustan Times, “With hospitals overwhelmed, pregnant women left with no care or place to give birth,” 3 May 2020. Available at: <https://bit.ly/2I83cKf>, Accessed on: 12 March 2022.

⁴⁵ Female sterilisation comprises 35.7% of all birth control. See: MoHFW - Govt of India, “National Family Health Survey (NFHS)-IV (2015-16)”, Available at: <https://bit.ly/38BTjiP>, Accessed on: 12 March 2022.

⁴⁶ This was due to repurposing of health facilities to COVID only services, shifts in responsibilities of health care providers to COVID related interventions, irregular / absence of supply of MA drugs and suspended mobility of those seeking abortion services due to non-availability of transport. See: Ipas, “Compromised Abortion Access due to COVID-19: A model to determine impact of COVID-19 on women’s access to abortion”, 28 May 2020. Available at: <https://bit.ly/32sLxDX>, Accessed on: 12 March 2020;

4. Enact a National Health Rights Act⁴⁷ that guarantees access to primary health care.
5. Urgently address the discrimination and structural marginalisation faced by vulnerable groups⁴⁸ in accessing health care.

Right to Education

1. The RTE Act, 2009⁴⁹ guarantees free & compulsory education to all children between 6 to 14 years⁵⁰. The National Education Policy 2020 (NEP)⁵¹, promises to include 3-18 years but its yet to be legislated. Social exclusion⁵², harassment, delayed and insufficient funding⁵³; inadequate capacity and infrastructure; lack of cooperation between Centre and State poses challenges in implementation.⁵⁴
2. The NEP despite its claims to make education holistic, affordable, and equitable has come under criticism from experts for leaving out marginalized groups.⁵⁵

⁴⁷ MoHFW - Govt of India, “Draft National Health Policy 2015,” para 12.2, p. 56. Available at: <https://bit.ly/2U6R7an>, Accessed on: 12 March 2022.

⁴⁸ Vulnerable groups include Scheduled Castes, Scheduled Tribes, persons with disabilities, sexual and gender minorities, women, children, rural and urban poor, homeless persons, elderly persons, widows, and single mothers.

⁴⁹ Section 3, The Right of Children to Free and Compulsory Education Act, 2009, Available at: <https://legislative.gov.in/sites/default/files/The%20Right%20of%20Children%20to%20Free%20and%20Compulsory%20Education%20Act,%202009.pdf>, Accessed on: 16 March 2022.

⁵⁰ “Right to Education Act: Significance, guarantees, gaps and reforms”, India Today, 1 December 2021, Available at: <https://www.indiatoday.in/education-today/gk-current-affairs/story/right-to-education-act-significance-guarantees-gaps-and-reforms-1883012-2021-12-01>, Accessed on: 12 March 2022.

⁵¹ National Education Policy 2020 (NEP), Available at: https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf, Accessed on: 12 March 2022.

⁵² Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India's Implementation of UPR-III Recommendations*, p. 1 – 21 and p. 22 – 28, WGHR, Available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Report_2020.pdf; The Wire, “NCERT Removes Teacher-Training Manual on Transgender-Inclusive School Education After Backlash”, available at: <https://thewire.in/lgbtqia/ncert-removes-teacher-training-manual-on-transgender-inclusive-school-education-after-backlash>. Accessed on: 12 March 2022.

⁵³ “If cess is excluded, allocations for health & education shrink”, Times of India, 6 February 2022, Available at: <https://timesofindia.indiatimes.com/india/if-cess-is-excluded-allocations-for-health-education-shrink/articleshow/89374722.cms>, Accessed on: 12 March 2022.

⁵⁴ “Five challenges that would shape the outcome of NEP 2020”, Observer Research Foundation, 26 November 2021, Available at: <https://www.orfonline.org/expert-speak/five-challenges-that-would-shape-the-outcome-of-nep-2020/>; “NEP 2020 ignores crisis in education among the marginalised majority in rural India”, The Indian Express, 15 September 2020, Available at: <https://indianexpress.com/article/opinion/columns/national-education-policy-rural-education-schools-6596233/>, Accessed on: 12 March 2022.

⁵⁵ “NEP 2020 fails those trapped in vicious cycles of disadvantage”, The Indian Express, 25 December 2020, Available at: <https://indianexpress.com/article/opinion/columns/national-education-policy-2020-nep-6609564/>, Accessed on: 12 March 2022.

3. Closure of 1.5 million schools due to COVID- 19 pandemic and lockdowns in 2020 impacted 247 million children enrolled in schools, leading to a rise in dropouts (especially due to digital divide with only one in 4 children being able to access the internet and digital devices⁵⁶) and learning losses.⁵⁷ Prior to the COVID-19 pandemic, 6 million children were already out of school.⁵⁸

Recommendations

1. Revise the National Education Policy 2020 to ensure the inclusion of all marginalised groups within two years.
2. Amend the Right to Education Act 2009 to include children between the ages of 3-18 years.
3. Ensure that children are brought back into mainstream education post Covid-19 pandemic.⁵⁹
4. Raise the budget allocation for education to 6% of GDP in line with the NEP 2020.⁶⁰

⁵⁶ COVID-19: Schools for more than 168 million children globally have been completely closed for almost a full year, says UNICEF, 10 March 2021, Available at: <https://www.unicef.org/india/press-releases/covid-19-schools-more-168-million-children-globally-have-been-completely-closed>, Accessed on: 12 March 2022.

⁵⁷ National Coalition on the Education Emergency (NCEE), “The Effect of the Covid-19 Pandemic and Economic Distress on Education: A View from the Margins”, 10 March 2022, available at: <https://educationemergency.net/2022/03/the-effect-of-the-covid-19-pandemic-and-economic-distress-on-education-a-view-from-the-margins/> Accessed on: 12 March 2022; “Cries of Anguish”, available at: <https://educationemergency.net/2022/03/cries-of-anguish/>, Accessed on: 12 March 2022.

⁵⁸ Ibid.

⁵⁹ Right to Education Forum, “Civil Society Appeal to ensure that rights of children are protected during the COVID -19 Pandemic”, 11 May 2022, available at <http://rteforumindia.org/wp-content/uploads/2021/01/Memorandum-to-PM-RTE-Forum.pdf>, Accessed on: 12 March 2022.

⁶⁰ WGHR Factsheets, “Right to Education” 2017, p. 11-12 available at: <http://wghr.org/wp-content/uploads/2022/03/WGHR-Factsheets-India-UPR-III-copy.pdf>. According to the Union budget for 2022, the allocation towards education comes to 3.1% of GDP. The global average is 4.9% of GDP. See: Education Budget 2022 increases by 11.86%: Major areas of union budget allocation, schemes covered, new plans, India Today, 1 Feb 2020, available at: <https://www.indiatoday.in/business/budget-2022/story/union-budget-education-budget-2022-increases-by-11-86-major-areas-of-budget-allocation-education-schemes-education-plans-1907451-2022-02-01>, Accessed on: 17 March 2022.

⁶¹ Yale Center for Environmental Law & Policy, “Environment Performance Index”, 2020, Available at: <https://epi.yale.edu/epi-results/2020/component/epi>. Accessed on: 17 March 2022.

⁶² Ibid.

Environment and Climate Change

1. India's ranks 168 of 180 countries⁶¹ in the Environment Performance Index 2020 and second last on air quality⁶² with 18% of total deaths in 2019 due to air pollution⁶³. In 2021 there were 1750 deaths⁶⁴ due to rapid increase in extreme weather events⁶⁵. A raft of regressive revisions and dilutions in environment and land related laws⁶⁶ enables exploitation natural resources for commercial purposes for unfettered development.⁶⁷
2. The draft Environmental Impact Assessment (EIA) Notification 2020⁶⁸ introduced by the Govt. during COVID 19 to overhaul the existent EIA process and dilute legal protections drew widespread opposition ⁶⁹ leading to a joint statement issued by UN Special Procedures questioning its compatibility with India's obligations under international law.⁷⁰

Recommendations

⁶¹ Yale Center for Environmental Law & Policy, "Environment Performance Index", 2020, Available at: <https://epi.yale.edu/epi-results/2020/component/epi>. Accessed on: 17 March 2022.

⁶² Ibid.

⁶³ Down to Earth, "Air pollution killed 1.7 million Indians in 2019: Lancet Report", 22 December 2020, available at: <https://www.downtoearth.org.in/news/air/air-pollution-killed-1-7-million-indians-in-2019-lancet-report-74737>, Accessed on: 17 March 2022.

⁶⁴ NDTV, "1,750 Died In India Due To Extreme Weather In 2021," 14 January 2022, available at: <https://www.ndtv.com/india-news/1-750-died-in-india-due-to-extreme-weather-in-2021-2708428>; Ministry of Agriculture, Government of India, "Natural Disaster Management in India," 2020, available at: <https://www.adrc.asia/countryreport/IND/INDeng98/index.pdf>, Accessed on: 17 March 2022.

⁶⁵ NewsClick, "Environment: Experts Ring Alarm Bells as Extreme Weather Events Rapidly Increasing in India", 3 March 2022, Available at: <https://www.newsclick.in/environment-experts-ring-alarm-bells-extreme-weather-events-rapidly-increasing-india>, Accessed on: 17 March 2022.

⁶⁶ Corporate Watch, "Status of Corporate Responsibility in India, 2018; Chapter 3 & Chapter 4", 2018, Available at: <https://www.corporatewatch.in/statusofcorporateresponsibility2018>, Assessed on: 18 March 2022.

⁶⁷ In just 4 years, India's ranking in the World Bank's Ease of Doing Business jumped from 130 to 63 out of 190 countries in 2020, a feat attributed to regulatory reforms that ease construction permits, dilute environmental and social oversight and encourage entrepreneurship and trading. World Bank, "Doing Business, 2020", 2020, Available at: <https://documents1.worldbank.org/curated/en/688761571934946384/pdf/Doing-Business-2020-Comparing-Business-Regulation-in-190-Economies.pdf>, Assessed on: 18 March, 2022.

⁶⁸ Ministry of Environment Forest & Climate Change (MoEF&CC) "Draft Environmental Impact Assessment (EIA) Notification 2020", March 2020, Available at: http://environmentclearance.nic.in/writereaddata/Draft_EIA_2020.pdf, Assessed on: 15 March 2022.

⁶⁹ BBC News, "The environment law that mobilised two million Indians", 25 August 2020, Available at: <https://www.bbc.com/news/world-asia-india-53879052>, Accessed on: 17 March 2022.

⁷⁰ UN Special Procedures Joint Statement, 31 August 2020, Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25513>.

1. Immediately review and repeal the Draft EIA Notification 2020 and the proposed amendments to the Forest Conservation Act, 1980.⁷¹
2. Review existing policies to institute a robust environmental regime in consultation with all stakeholders, in particular indigenous peoples, local communities, affected persons and experts, and in compliance with international legal standards.
3. Take immediate effective measures to build climate change resilience, ensure disaster risk reduction and implement laws/policies relating to disaster management at the national, state and local levels.
4. Institute a moratorium on diversion of forests, mining activities and commercial exploitation of natural resources until legislative safeguards protecting the environment and rights of the local communities are put in place.

Labour Rights

1. Youth unemployment currently stands at 23 per cent and reached a record 35 per cent in 2020.⁷² A prolonged crisis of labour in the agriculture section has not been absorbed by the manufacturing sector.⁷³ 90% of workers do not have regular formal employment.⁷⁴
2. The overall participation rate in the labour force has declined from 53.5% in 2010 to 46.4 in 2021, with the sharpest decline seen in the female participation rate, which fell from 26% to 19% in the same time frame.⁷⁵

⁷¹ Ministry of Environment, Forest and Climate Change, GoI “Sub: Inviting comments/suggestions on proposed amendments in Forest (Conservation) Act, 1980 – reg”, 2 October 2021, Available at: http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/263_OM_02_10_2021.pdf, Accessed on: 17 March 2022.

⁷² Trading Economics, “Youth unemployment rate in India is estimated at 23 percent in in 2021 and had reached 35 percent in 2020 April, June quarter”, Available at: <https://tradingeconomics.com/india/youth-unemployment-rate> , Accessed on: 16 March 2022; ILO Statistics Dashboard, Available at: https://www.ilo.org/shinyapps/bulkexplorer17/?lang=en&segment=indicator&id=UNE_2EAP_SEX_AGE_RT_A , Accessed on: 16 March 2022; “State of Working India 2021”, p, 43, Azim Premji University, Available at: https://cse.azimpremjiversity.edu.in/wp-content/uploads/2021/08/SWI2021_August_WEB.pdf, Accessed on: 16 March 2022.

⁷³ The share of employment in Manufacture has stagnated at 12 percent in the last five years. See: ILO Country Profile – India, Available at: <https://ilostat.ilo.org/data/country-profiles/>, Accessed on: 16 March 2022.

⁷⁴ Informality and precarity has pervaded even into the “Formal Sector”. See: “State of Working India 2021”, p,46, Azim Premji University, available at: https://cse.azimpremjiversity.edu.in/wp-content/uploads/2021/08/SWI2021_August_WEB.pdf , Accessed on: 16 March 2022.

⁷⁵ ILO Statistics Dashboard, Available at: https://www.ilo.org/shinyapps/bulkexplorer6/?lang=en&segment=indicator&id=EAP_2WAP_SEX_AGE_RT_A , Accessed on: 16 March 2022.

3. The Covid-19 pandemic has deepened existing gender and sectoral inequalities in the labour market.⁷⁶ Several states⁷⁷ passed ordinances that extended work hours from eight to 12 and suspended the operation of existing labour laws. At the request of 10 central labour unions, the ILO urged the Prime Minister to send a clear message to the central and state govts. to uphold India's international obligations.⁷⁸

Recommendations:

1. Recognise Domestic Workers (Part and Full Time) and include them in India's four Labour Codes⁷⁹ to ensure that labour rights and social security benefits are granted to them.
2. Ratify ILO Convention 189 on Domestic Workers.
3. Immediately enact a National Floor Wage as recommended by the expert group on minimum wages⁸⁰ and ensure it is extended to all employment guarantee schemes.
4. Extend the NREGA Act to include urban areas.

B. Militarisation and Security Laws/ Torture

⁷⁶ Using panel data from India, Abraham, Basole and Kesar investigated the differential impact of the shock on labour market outcomes for male and female workers and found that, "conditional on being in the workforce prior to the pandemic, women were seven times more likely to lose work during the nationwide lockdown, and conditional on losing work, eleven times more likely to not return to work subsequently, compared to men. See: Centre for Sustainable Employment Working Paper #40, Azim Premji University, "Down and Out? The Gendered Impact of the Covid-19 Pandemic on India's Labour Market", February 2021, Available at: https://cse.azimpremjiuniversity.edu.in/wp-content/uploads/2021/02/Abraham_Basole_Kesar_Gender_Covid_Feb_2021.pdf, Accessed on: 16 March 2022.

⁷⁷ The States include Uttar Pradesh, Madhya Pradesh, Gujarat, Haryana, Himachal Pradesh, Assam and Odisha. See: Live Mint, "ILO expressed deep concern over labour law changes, appeals to PM Narendra Modi", Prashant K. Nanda, Mint, 25 May 2020, Available at: <https://www.livemint.com/news/india/ilo-expresses-deep-concern-over-labour-law-changes-appeals-to-pm-narendra-modi-11590394493866.html>, Accessed on: 16 March 2022.

⁷⁸ The ILO's response to trade unions reads: "Please allow me to assure you that the ILO director general has immediately intervened, expressing his deep concern at these recent events and appealing to the prime minister to send a clear message to central and state governments to uphold the country's international commitments and encourage engagement in effective social dialogue". See: Live Mint, "ILO expressed deep concern over labour law changes, appeals to PM Narendra Modi", Prashant K. Nanda, Mint, 25 May 2020, available at: <https://www.livemint.com/news/india/ilo-expresses-deep-concern-over-labour-law-changes-appeals-to-pm-narendra-modi-11590394493866.html>, Accessed on: 16 March 2022.

⁷⁹ Code on Wages, 2019; The Industrial Relations Code, 2020.

⁸⁰ Financial Express, "Expert group on minimum, national floor wages set up", 30 September 2021, available at: <https://www.financialexpress.com/industry/expert-group-on-minimum-national-floor-wages-set-up/2340665/>, Accessed on: 16 March 2022.

Freedom from Torture and Ill-Treatment

1. Despite repeated commitments, accepting UPR recommendations⁸¹, and pledges during HRC election campaigns⁸², India has still not ratified the Convention Against Torture.⁸³
2. Existing penal provisions in the IPC are insufficient to deal with crimes of custodial torture and ill-treatment.⁸⁴ The requirement of prior sanction for prosecution under Section 197 CrPC and AFSPA block accountability for torture.⁸⁵
3. NHRC report notes, “custodial violence and torture is so rampant in this country that it can be seen as embedded in the normal way of life”.⁸⁶ 1,680 people died in custody in 2020. 18 deaths were recorded due to beating by police while enforcing the Covid-19 lockdown.⁸⁷ NCRB statistics for past four years record 331 deaths in police custody. In the past 4 years, 214 cases were registered against police for human rights violations,

⁸¹ India accepted UPR recommendations to ratify the UN CAT in all 3 preceding UPRs. Report of the Working Group on Universal Periodic Review – India Addendum, Response of the Government of India to the recommendations made by delegations during the Universal Periodic Review of India (First Cycle), 25 August 2008. [A/HRC/8/26/Add.1](#), Accessed on 14 March 2022. ; Report of the Working Group on Universal Periodic Review – India Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (Second Cycle), 17 September 2012. [A/HRC/21/10/Add.1](#), Accessed on: 16 March 2022; Report of the Working Group on Universal Periodic Review – India Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (Third Cycle), 10 September 2017. [A/HRC/36/10/Add.1](#), Accessed on: 16 March 2022.

⁸² India pledged to ratify UN CAT during HRC election campaigns in 2011, 2014 and 2018. United National General Assembly (UNGA), *Note verbale* dated 16 February 2011 from the Permanent Mission of India to the United Nations and addressed to the President of the General Assembly – Voluntary pledges and commitments. [A/65/758](#), Accessed on: 16 March 2022.

UNGA, *Note verbale* dated 20 October 2014 from the Permanent Mission of India to the United Nations and addressed to the President of the General Assembly – Voluntary pledges and commitments. [A/69/538](#), Accessed on: 16 March 2022.

UNGA, *Note verbale* dated 29 August 2018 from the Permanent Mission of India to the United Nations and addressed to the President of the General Assembly – Voluntary pledges and commitments. [A/73/394](#), Accessed on: 16 March 2022.

⁸³ Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India's Implementation of UPR-III Recommendations*, p. 181 - 192, WGHR, available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Re_h9nm0.pdf, Accessed on: 16 March 2022.

⁸⁴ Ibid 72.

⁸⁵ The Code of Criminal Procedure 1973. Available at: <https://rb.gy/fmzshz> ;

The Armed Forces (Special Powers) Act 1958. Available at: <https://rb.gy/g6acxs> ;

The Armed Forces (Jammu and Kashmir) Special Powers Act 1990. Available at: <https://bit.ly/3p53xxO> ; Ibid 72.

⁸⁶ NHRC Annual Report 2018-19, available at:

https://nhrc.nic.in/sites/default/files/Annual%20Report%202018-29_final.pdf, Accessed on: 13 March 2022.

⁸⁷ 1,569 people died in judicial custody and 111 people died in police custody in 2020. “India Torture Report 2020: Increase In Custodial Deaths Despite COVID-19 Lockdown, At Least One Suicide Every Week Due To Torture In Police Custody”, National Campaign Against Torture, 18 March 2020, available at: <http://www.uncat.org/press-release/india-torture-report-2020-increase-in-custodial-deaths-despite-covid-19-lockdown-at-least-one-suicide-every-week-due-to-torture-in-police-custody/>, Accessed on: 13 March 2022; for the full report see: “India: Annual Report on Torture 2020”, National Campaign Against Torture, 18 March 2021, available at: <http://www.uncat.org/wp-content/uploads/2021/03/IndiaTortureReport2020.pdf>, Accessed on: 13 March 2022.

with 32 custodial deaths and 21 torture cases, but only 3 police personnel have been convicted so far.⁸⁸

4. Members of marginalised, discriminated and oppressed groups are more vulnerable to custodial torture.⁸⁹

Recommendations:

1. Ratify the UN CAT and its Optional Protocol, and enact a comprehensive and effective piece of domestic anti-torture legislation within two years.
2. Institute mechanisms, for independent investigation and prosecution of perpetrators in civilian courts; and appropriate reparations, redress and remedy for victims.
3. Immediately issue an invitation to the Special Rapporteur on Torture.

Militarism and Security Laws

1. The NHRC has stated that the government has no intention of ratifying the Convention on Enforced Disappearances⁹⁰; despite enforced disappearances not being a criminal offence in domestic law.⁹¹
2. Several incidents of arbitrary arrests, detentions, media blackouts, internet blockades, harassment and persecution of journalists, restriction on access to information, education, healthcare, and other basic rights were documented following the repeal of Article 370

⁸⁸ NCRB, Crime in India Report, 2020, Vol-3, available at:

<https://ncrb.gov.in/sites/default/files/CII2020%20Volume%203.pdf>, Accessed on: 13 March 2020.

NCRB, Crime in India Report, 2019, Vol-3, available at: <https://ncrb.gov.in/sites/default/files/CII2019-Volume-3.pdf>, Accessed on: 13 March 2022.

NCRB Crime in India Report, 2018, Vol-3, available at: https://ncrb.gov.in/sites/default/files/Crime_in_India_2018-Volume-III.pdf, Accessed on: 13 March 2022.

NCRB Crime in India, 2017, Vol-3, available at:

https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202017%20-%20Volume%203_0.pdf, Accessed on: 13 March 2022.

⁸⁹ National Campaign Against Torture, 'India: Annual Report on Torture 2019', 26 June 2020, pp.108-118. Available at: <https://rb.gy/0tki64>, Accessed on: 13 March 2022.

⁹⁰ The ratification of the CED was recommended in UPR I, II and III. Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India's Implementation of UPR-III Recommendations*, p. 193 - 203, WGHR, Available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Report_2020.pdf.

⁹¹ NHRC, "Submission to the UN Human Rights Council for UPR-II of India," para 20. Available at: <https://rb.gy/fyo9ci>, Accessed on: 16 March 2022.

and Article 35A in Jammu and Kashmir in 2019.⁹²

3. The review and repeal of AFSPA 1958 and 1990, enforced in the North-East region and in Jammu and Kashmir, that provides immunity from prosecution to security forces, has been recommended by UN Special Procedures and Treaty Bodies since 1991.⁹³ After the recent incident of extrajudicial killings by the armed forces in Nagaland⁹⁴, the Chief Ministers of Nagaland, Manipur and Meghalaya called for its repeal.⁹⁵
4. In a PIL⁹⁶ seeking justice for 1528 extrajudicial executions in Manipur, due to the denial of prosecution sanctions by the Union, the prosecution of armed forces personnel is pending.⁹⁷

Recommendations:

1. Repeal AFSPA 1958 and 1990 immediately to comply with obligations under the ICCPR and end the culture of impunity.
2. Institute an effective mechanism of redress for victims of violations by security forces, tasked to conduct independent investigations and prosecutions in civilian courts.

⁹² Association of Parents of Disappeared Persons, ‘120 Days: 5th August to 5th December: A Report by APDP’. Available at: <https://rb.gy/suj1kq>; The Wire, “Report flags human rights violations during J&K lockdown, seeks end to curbs”, 23 July 2020, ‘Available at: <http://bit.ly/3gXlg6E>; OHCHR, Communication by four Special Procedures mandate holders sent to India dated 4 May 2020. Available at: <https://bit.ly/2LDbqeu>; National Herald, ‘Agra jail refuses to provide even the number of J&K detainees under RTI’, 20 October 2019. Available at: <http://bit.ly/3npR9am>, Accessed on: 16 March 2022.

⁹³ The review and repeal of AFSPA was also recommended in UPR I, II and III. Concluding Observations in the Reports of the Human Rights Committee dated 10 October 1991, contained in A/46/40 paras 258-312 and also in Concluding Observations of the Reports of the Human Rights Committee dated 4/08/1997, Available at: CCPR/C/79/Add81; Report of the (then) Special Rapporteur on extrajudicial, summary or arbitrary executions, Christ of Heyns Addendum: Mission to India, 26 April 2013, para 100-101. Available at: <https://rb.gy/xs72sq>; CEDAW, “Concluding observations on the combined fourth and fifth periodic reports of India,” 24 July 2014, Available at: <https://rb.gy/oohfha>; OHCHR, “Reporting Status for India”, Available at: <https://rb.gy/rfakk3>; Report of the (then) Special Rapporteur on violence against women, Rashida Manjoo – Addendum: Mission to India, para 78(f), Available at: <https://rb.gy/qennqy>, Accessed on: 16 March 2022; OHCHR, “Report on the Situation of Human Rights In Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and the General Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan”, 14 June 2018. Available at: <https://rb.gy/nrhous>, Accessed on: 16 March 2022.

⁹⁴ Statement of the Working Group on Human Rights in India and the UN (WGHR) on the incidents in Oting, Mon District, Nagaland on 4-5 December 2021, December 12, 2021, available at: <http://wghr.org/wp-content/uploads/2022/03/WGHR-Media-Statement-on-Nagaland-Incident-on-4-5-December-2021.pdf>, Accessed on: 16 March 2022.

⁹⁵ Hindustan Times, “Now Manipur CM Backs AFSPA Repeal”, December 12, 2012, available at: <https://www.hindustantimes.com/india-news/nw-manipur-cm-backs-afspa-repeal-101639260019046.html>, Accessed on: 16 March 2022.

⁹⁶ The CBI’s investigation was carried out on the direction of the Supreme Court. See: *Extra Judicial Execution Victim Families Association (EEVFAM) & Anr. v. Union of India & Anr*, W.P. (Crl.) No. 129 of 2012.

⁹⁷ The victims have registered a plea with the High Court of Manipur to take cognisance and proceed with prosecution irrespective of the result of the sanction. The High Court is currently evaluating the legal position of the case. See: Vide order dated 22 February 2021 in Cril. Misc. (FR) Case No. 633 of 2020].

C. Access to Justice

Police Reform, Legal Aid and Criminal Justice System

1. On average, there is a vacancy for every 3 judges in the High Courts and 1 in 4 among subordinate judges⁹⁸; prison staff gaps hover at 30%⁹⁹ and police vacancies stand at 20%¹⁰⁰.
2. Prisons and police continue to be governed by archaic laws¹⁰¹ despite reform directions from the Supreme Court.¹⁰²
3. Between 2018 and 2020, India's prison population increased by 4.6%, 18 times higher than the global average rate of 0.25%.¹⁰³ High inflow of prisoners with 76% awaiting

⁹⁸ An outcome of the shortfalls is increasing case pendency. Between 2016–17 and 2018–19, the average number of pending cases in High Courts has increased by 10.3% and in subordinate courts by 5% amounting to longer periods of detention. Tata Trusts, “India Justice Report: Ranking States on Police, Judiciary, Prisons, and Legal Aid,” Available at: <https://www.tatatrusters.org/Upload/pdf/ijr-2020-overall-report-january-26.pdf>, Accessed on: 18 March 2022.

⁹⁹ There is only 1 correctional staff for 619 inmates on an average. Additionally, 24 states/union territories have no sanctioned psychologists/psychiatrists; 17 states/union territories have no sanctioned posts of probation officers and 21 states and union territories have no sanctioned social workers. See: Prison Statistics India, 2020, Available at: https://ncrb.gov.in/sites/default/files/PSI_2020_as_on_27-12-2021_0.pdf, Accessed on: 18 March 2022.

¹⁰⁰ Bureau of Police Research and Development, Ministry of Home Affairs, Government of India, “Data on Police Organizations”, 1 January 2020, Table 3.1.4, p.87.

¹⁰¹ The Prisons Act 1894 and the Police Act of 1861. 24 states in India continue to be governed by the Prisons Act, 1894. Only four states, namely West Bengal, Delhi, Assam and Kerala passed the new prison Acts for their respective states. Despite the directions of the Hon'ble Supreme Court to update the state prison rules as per the Model Prison Manual of 2016, very few states have taken the initiative. Similarly, 10 states continue to be governed by the 1861 Police Act. Other states that have enacted new police legislations fail to incorporate in earnest the principles and standards of democratic policing suggested in the Model Police Act 2005 (later revised in 2015) drafted by the Ministry of Home Affairs, Government of India.

¹⁰² In 2006, the Supreme Court of India directed the union and state governments to implement systemic police reforms. See: *Prakash Singh & Ors. versus Union of India & Ors*, 2006 (8) SCC 1; Neither the union government nor a single state has complied fully with the directives. See: Commonwealth Human Rights Initiative, “Government Compliance with Supreme Court Directives on Police Reforms: An Assessment,” 2021, Available at: <https://www.humanrightsinitiative.org/download/1632218542Government%20Compliance%20with%20SC%20Directives%20On%20Police%20Reforms%20An%20Assessment.pdf>, Accessed on: 18 March 2022.

¹⁰³ CHRI's Analysis of the Prison Statistics India, “Ten Things You Must Know About Indian Prisons”, Page 4.

¹⁰⁴ In 2020, the undertrial prisoners' population increased by 12%, three times higher than the average annual increase in last 5 years. The increasing numbers of undertrials also cast doubt upon the functioning of the Under-trial Review Committees which is mandated to ensure that no person must be illegally or unnecessarily detained in prison. An Undertrial Review Committee (UTRC) is a district level oversight mechanism headed by the senior most judicial officer of the district and comprises members from district administration, District Legal Services Authority, police and prison department, that primarily focuses on addressing overcrowding in the prisons. See: Ibid.

trial¹⁰⁴ is due to increase in arrests¹⁰⁵, lack of access to early and effective legal aid¹⁰⁶ and inadequate use of alternatives to imprisonment¹⁰⁷. Prison conditions worsened during the pandemic due to poor prison monitoring.¹⁰⁸

4. Disproportionate and discriminatory use of force by the police remains high. Nationwide lockdowns during Covid-19 pandemic reported at least 150 incidents of police violence,¹⁰⁹ resulting in the death of at least 15 individuals.¹¹⁰
5. Only 12 states have constituted Police Complaints Authorities to inquire into public complaints alleging police misconduct, and these lack sufficient powers to enforce

¹⁰⁴ In 2020, the undertrial prisoners' population increased by 12%, three times higher than the average annual increase in last 5 years. The increasing numbers of undertrials also cast doubt upon the functioning of the Under-trial Review Committees which is mandated to ensure that no person must be illegally or unnecessarily detained in prison. An Undertrial Review Committee (UTRC) is a district level oversight mechanism headed by the senior most judicial officer of the district and comprises members from district administration, District Legal Services Authority, police and prison department, that primarily focuses on addressing overcrowding in the prisons. See: Ibid.

¹⁰⁵ According to the latest data on Crime in India, in 2019 a total of 1,30,39,442 (1.3 billion approximately) persons were arrested under the provisions of Indian Penal Code, State Local Laws and Code of Criminal Procedure. In 2020, total number of persons arrested increased by 9,04,301 (0.9 million approximately) taking the total number of persons arrested to 1,39,43,743 (1.39 billion approximately). A closer look at the total number of arrests under the IPC, SLL, CrPC and preventive detention laws reveals that the number of arrests under IPC crimes increased by 42% and the number of arrests under SLL offences increased by 14%. See: Government of India, "Crime in India, 2020", 2020, Available at: <https://ncrb.gov.in/en/Crime-in-India-2020>, Accessed on: 18 March 2022.

¹⁰⁶ The National Legal Services Authority has developed a 'Framework on Early Access to Justice at Pre-Arrest, Arrest and Remand Stage' with the aim to provide legal assistance to suspects and arrestees during interrogation and other early stages of investigation; check arbitrary arrests by police and protect the arrestees from any form of torture and ill-treatment in police custody. However, the system is not yet developed and properly functional in any state in the country. Additionally, with inadequate human and financial resources, ensuring quality of legal services and adoption of monitoring and assessment models uniformly across the country continues to be a challenge which places obstacles in undertaking a standardised assessment.

¹⁰⁷ There is a lack of implementation of the Probation of Offenders Act, 1958, which allows first-time young offenders, accused of petty crimes, to be released on admonition or under the care of probation officer. See: NALSA, "Framework on Early Access to Justice at Pre-Arrest, Arrest, and Remand Stage", Available at: <https://nalsa.gov.in/acts-rules/guidelines/early-access-to-justice-at-pre-arrest-arrest-and-remand-stage>, Accessed on: 18 March 2022.

¹⁰⁸ Of the 491 prisons of 29 states and union territories, only 24% of prisons had a statutorily mandated Board of Visitors which held only 20% of its total mandated meetings and only 52% prisons had Non Official Visitors appointed who made only 11% of the total mandated visits. A Board of Visitors (BOV) includes official and non-official visitors who regularly visit prisons and hold meetings to address the issues of prisons and prisoners. See: Commonwealth Human Rights Initiative, "Looking into the Haze: Second National on Prison Monitoring in India", 2019, Available at: <https://www.humanrightsinitiative.org/publication/looking-into-the-haze-2019-second-national-report-on-prison-monitoring-in-india>, Accessed on: 18 March 2022.

¹⁰⁹ Commonwealth Human Rights Initiative, "Policing During India's Covid-19 Lockdown: A Review of Reported Accounts of Police Excesses," 2020, <https://www.humanrightsinitiative.org/download/1616584225Policing%20during%20lockdown.pdf>, Accessed on: 18 March 2022.

¹¹⁰ Commonwealth Human Rights Initiative, "Petition to the National Human Rights Commission," 2020, Available at: <https://www.humanrightsinitiative.org/download/1589955581CHRI%20Petiton%20to%20NHRC%20Deaths%20Following%20Police%20Excesses%20during%20Covid%2019%20Lockdown.pdf>, Accessed on: 18 March 2022.

accountability.¹¹¹

Recommendations:

1. Enact modern prisons and police legislations, in line with international standards, and after extensive consultations.
2. Fill vacancies at all levels in a time bound manner, ensuring proportionate representation of vulnerable groups.
3. Prohibit unnecessary arrests, and immediately institute protocols to realize early access to legal aid.
4. Empower Police Complaints Authorities with resources, strengthened mandate and independence within one year.

Rights of Women

1. Violence against women is pervasive in India, with every 3rd woman reported to have experienced some form of abuse and domestic violence after attaining 15 years of age.¹¹² A total of 3,71,503 cases of crime against women were registered during 2020, a decline of 8.3% over 2019.¹¹³
2. With only 14.39% of women in parliament,¹¹⁴ India ranks below the global average of 24.58% political participation of women.¹¹⁵ The Women's Reservation Bill that aims to reserve 33% seats in the Lok Sabha and all state legislative assemblies for women has remained pending for decades.¹¹⁶

¹¹¹ For detailed analysis of the gaps in the structure, powers and functioning of the Police Complaints Authorities, see Commonwealth Human Rights Initiative "Briefing Paper: India's Police Complaints Authorities: A Broken System with Fundamental Flaws", 2020, Available at: <https://www.humanrightsinitiative.org/download/Briefing%20Paper%20on%20Police%20Complaints%20Authority%20CHRI%202020.pdf>, Accessed on: 18 March 2022.

¹¹² News 18, "Every third woman in India suffers sexual, physical violence at home," 8 February 2018, Available at: <https://www.news18.com/news/india/the-elephant-in-the-room-every-third-woman-in-india-faces-domesticviolence-1654193.html>, Accessed on: 12 March 2022.

¹¹³ Government of India, "Crime in India 2020 - National Crime Records Bureau India" (Volume I, p.199). Available at: <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf>, Accessed on 12 March 2022.

¹¹⁴ Election Commission of India, "Participation of women candidates in poll", 11 October 2019. Available at: <https://eci.gov.in/files/file/10947-24-participation-of-women-candidates-in-poll/>, Accessed on 12 March 2022.

¹¹⁵ The World Bank, "Proportion of seats held by women in national parliaments (%)" Available at: <https://data.worldbank.org/indicator/sg.gen.parl.zs>, Accessed on 12 March 2022.

¹¹⁶ The Women's Reservation bill was initially introduced in the Parliament in 1996 but lapsed due to stringent opposition. It was reintroduced in 2008 and passed in the Rajya Sabha (upper house) in 2010. Since then, it has remained pending in the Lok Sabha (lower house). See: The Hindu, "Women's Day: Why women's reservation bill not tabled in last 6 years? Asks Yechury", 8 March 2020. Available at: <https://bit.ly/3ojZEER>, Accessed on 12 March 2022.

3. Persistent rates of child, early and forced marriages and alarming rates of domestic violence at 31.1% characterise a sexual and reproductive rights situation that is severe for adolescents and young girls.¹¹⁷ There is no policy on sexuality education that can address such concerns.¹¹⁸

Recommendations

1. Increase budgetary and resource allocation and utilisation (infrastructural and human personnel) for effective implementation of all laws¹¹⁹ to combat gender-based violence against women and girls.¹²⁰
2. Expedite comprehensive sexual and reproductive health services for women across ages.¹²¹
3. Enact the Women’s Reservation bill in legislative bodies at centre and state level.
4. Ratify the Optional Protocol on Individual Complaints and inquiry mechanisms to CEDAW¹²².

LGBTIQ+

1. In a 2018 judgement that decriminalised Section 377 of the IPC, the Supreme Court acknowledged the heterogeneity within the LGBTQIA+ community and of the

¹¹⁷ National Family Health Survey (NFHS) – IV, 2015-16. Available at: <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf>.

¹¹⁸ See: Child Rights section of this report p 21-23; Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India’s Implementation of UPR-III Recommendations*, p. 37-49, WGHR, available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Review_2020.pdf.

¹¹⁹ Prohibition of Child Marriage Act, 2006; Protection of Women from Domestic Violence Act, 2005; Prevention of Sexual Harassment of Women at Workplace, 2012; Criminal Law Amendment Act, 2013.

¹²⁰ Deccan Herald, “Budget for Women, Children Shrinks”, 2 February 2022, Available at: <https://www.deccanherald.com/business/union-budget/budget-for-women-children-shrinks-1077110.html>, Accessed on: 18 March 2022.

¹²¹ In line with commitments under SDG 3.7 and 5.6.

¹²² UN Women, “The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,” Available at: <https://www.un.org/womenwatch/daw/cedaw/protocol/text.htm>, Accessed on: 18 March 2022.

importance of ensuring that rights reflected this.¹²³ Over the past 10 years, the rights and entitlements of Transgender persons, specifically,¹²⁴ have been affirmed by the Supreme Court¹²⁵, High Courts¹²⁶ and Parliament¹²⁷.

2. People of gender and sexual minorities face discrimination, harassment, and violence in all spheres of life; compounded by intersecting identities such as caste class and religion.¹²⁸
3. LGBT persons were heavily impacted by the Covid-19 lockdowns as restrictions on social activities left transgender persons with no earnings, food or amenities.¹²⁹ Hormone therapy was not classified as essential care and became inaccessible, as was Govt. aid without gender-congruent identity documents.¹³⁰

Recommendations:

¹²³ *Navej Singh Johar and Ors. vs Union of India*, AIR 2018 SC 4321, p. 251, 252, 442, 355.

The Supreme Court evoked Article 14, 15, 19 and 21 of the Indian Constitution to give directives to the State to ensure the safety, security, privacy and dignity of LGBT persons, their health and choice with regard to matters affecting their lives. See – “take all necessary legislative, administrative and other measures to ensure the right of each person, regardless of sexual orientation or gender identity, to enjoy the private sphere, intimate decisions, and human relations, including consensual sexual activity among persons who are over the age of consent, without arbitrary interference”, and “No person may be forced to undergo any form of medical or psychological treatment, procedure, testing, or be confined to a medical facility, based on sexual orientation or gender identity. Notwithstanding any classifications to the contrary, a person’s sexual orientation and gender identity are not, in and of themselves, medical conditions and are not to be treated, cured or suppressed. “The choice of whom to partner, the ability to find fulfilment in sexual intimacies and the right not to be subjected to discriminatory behaviour are intrinsic to the constitutional protection of sexual orientation; Individuals belonging to sexual and gender minorities experience discrimination, stigmatization, and, in some cases, denial of care on account of their sexual orientation and gender identity.” However, it is important to note that ‘sexual and gender minorities’ do not constitute a homogenous group, and experiences of social exclusion, marginalization, and discrimination, as well as specific health needs, vary considerably.

¹²⁴ Transgender Persons Protection of Rights Act, 2019, S. 2.

¹²⁵ *National Legal Services Authority v. Union of India and Ors*, AIR 2014 SC 1863.

¹²⁶ *Sivakumar TD v. State of Tamil Nadu, through the Chief Secretary and Ors*, 2021 SCC OnLine Mad 5089.

¹²⁷ Transgender Persons Protection of Rights Act, 2019, S. 2.

¹²⁸ International Commission of Jurists, “Living with Dignity: Sexual orientation and gender identity-based human rights violations in Housing, Work and Public Spaces in India”, June 2019. Available at: <https://bit.ly/31AxPyt>, Assessed on: 15 March 2022; Centre for Law and Policy Research, ‘Intersectionality: A report on discrimination based on caste with the intersections of sex, gender, identity and disability in Karnataka, Andhra Pradesh, and Tamil Nadu and Kerala’, 2019. Available at: <https://bit.ly/2TISd1K>, Assessed on: 15 March 2022.

¹²⁹ Policy Corps, ‘The existential crisis of Indian transgender community’, 19 May 2020. Available at: <https://bit.ly/32u2Lkd>, Assessed on: 15 March 2022.

¹³⁰ International Journal of Research in Pharmaceutical Sciences, ‘Impact of COVID-19 on the Socioeconomic life and Psychology of Transgenders: Insights from India’, 2020, Vol. 11 SPL1. Available at: <https://bit.ly/3pcHRj9>, Assessed on: 15 March 2022; Health and Human Rights Journal, ‘Living on the Edge: COVID-19 Adds to Distress and Discrimination of Indian Transgender Communities’, 26 March 2020. Available at: <https://bit.ly/38mmztH>, Assessed on: 15 March 2022.

1. Institute annual sensitisation programmes that cover 60% of Central, state and local government officials, including medical professionals¹³¹, on sexual orientation, gender identity, expression and sex characteristics, through curricula developed in extensive consultations with LGBT community members.
2. Institute horizontal reservations within existing vertical reserved categories for transgender and intersex persons across government institutions; establish a uniform legal documentation process for access to welfare schemes.
3. Provide protection from harassment by the police¹³² and safe shelter homes to all LGBT persons at risk.¹³³

Child Rights

1. Birth registration is not universalised. Some States achieved 100% birth registration¹³⁴ while others lag behind, resulting in exploitation and deprivation of rights

¹³¹ National Medical Commission, Indian Psychiatric Society, Rehabilitation Council of India: Assistance to LGBTQIA+ community and their environment, by affording Physical and Mental health support who are facing stigma and discrimination from society. Mental health camps and awareness programs to understand gender, sexuality, sexual orientation and promote acceptance of diversity. Prohibit any attempts to medically “cure” or change the sexual orientation of LGBTQIA+ people to heterosexual or the gender identity of transgender people to cisgender. To take action against the concerned professional involving themselves in any form or method of conversion “therapy”, including withdrawal of license to practice. Sensitization programs as provided by Rule 10(7)(b) of Transgender Persons (Protection of Rights) Rules, 2020 shall be in addition to the above said.

¹³² Tamil Nadu Government, notification dated 16.02.2022, Part III—*Section 1(a) General Statutory Rules, Notifications, Orders, Regulations, etc., issued by Secretariat Departments.* “No police officer shall indulge in any act of harassment of any person belonging to the LGBTQIA (Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual) + Community and the persons working for the welfare of the said community.

¹³³ W.P.No.7284 of 2021 dated 18.02.2022 Garima Greh: Court had directed to consider extending the Garima Greh Scheme to all persons belonging to the LGBTQIA+ community and not to confine it to the Transgender persons.

¹³⁴ There has been an improvement with regard to birth registrations with the births of 62.3% of the total population of children now registered and birth certificates issued. National Family Health Survey (NFHS) – IV, 2015-16. Available at: <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf>, Assessed on: 15 March 2022.. In 2005-2006, the figure 26.9% of the total population of children had their births registered and birth certificates were issued. National Family Health Survey (NFHS) – I, 2005-06. Available at: <http://rchiips.org/nfhs/NFHS-3%20Data/VOL-1/India volume I corrected 17oct08.pdf>, Assessed on: 15 March 2022.

entitlements of children.¹³⁵

2. Increase in child labour¹³⁶ during COVID and regressive amendments to child labour legislation remain a concern.¹³⁷ Inspections into child labour cases have been decreasing and prosecutions and convictions remain low.¹³⁸
3. An increase of 18.8% in sexual offences¹³⁹ reflects the poor implementation of POCSO Act.¹⁴⁰ Regressive amendments to POCSO have lead towards less disclosure of

¹³⁵ It is feared, however, that a lack of birth proof will deprive children of citizenship under the recent Citizenship Amendment Act (CAA) 2019 [The Citizenship (Amendment) Act, 2019, No. 47, Act of Parliament, 2019 (India), Available at: <https://egazette.nic.in/WriteReadData/2019/214646.pdf>.] and the proposed National Register of Citizens (NRC) process, leading to a risk of being trafficked, recruited into the armed forces or forced into early marriage or child labour,

¹³⁶ The Hindu, "Child labour increased during COVID-19: Survey," Available at: <https://www.thehindu.com/news/cities/Madurai/child-labour-increased-during-covid-19-survey/article34054623.ece>, Assessed on: 15 March 2022.

¹³⁷ The regressive amendment to the child labour legislation has made it difficult to identify the children involved in various unorganised sector labour workforce. The provision which allows children to assist their family enterprises after school hours and during vacations has made children vulnerable more than ever. Moreover, the loosely drafted definition of family enterprises has made situation more exploitative for children as there is no robust monitoring mechanism in place for the proper implementation of the amended CLPA. A closer look into the aspect of inspection into child labour cases

have also been decreasing every year, leave alone the low number of prosecutions and convictions in such cases. The situation becomes much more serious if one is to take into account the children who have been able to come out of child

labour; Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India's Implementation of UPR-III Recommendations*, p. 22 - 36, WGHR, available at:

http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Report_2020.pdf.

¹³⁸ In 2014, only 1,027 cases of violations were reported under Child Labour (Prohibition and Regulation) Act, out of which only 792 cases went for prosecution, resulting into 754 cases for conviction. See, Ministry Of Labour and Employment – Government of India, Lok Sabha, Unstarred Question No.1285, Answered on 01.12.2014, Conviction under Child Labour Laws; see also, The Hindu, 'Dismal conviction rate mars rescue of child labourers', 3 July 2018. Available at: <https://www.thehindu.com/news/cities/chennai/dismal-conviction-rate-mars-rescue-of-child-labourers/article24315227.ece?homepage=true>, Assessed on: 16 March 2022.

¹³⁹ Crime in India 2019 - National Crime Records Bureau India (Volume I, p.20). Available <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf>, Assessed on: 15 March 2022.

¹⁴⁰ Research conducted by CCL-NLSIU, 'Implementation of the POCSO Act 2012 by Special Courts: Challenges and Issues Based on CCL-NLSIU's Studies on the Working of Special Courts in Five States', 2018. Available at: <https://www.nls.ac.in/ccl/publications/POCSOIMPLEMENT2018.pdf> and HAQ: Centre for Child Rights and Forum against Sexual Exploitation of Children (FACSE), 'Implementation of the POCSO Act-Goals, Gaps and Challenges, Study of Cases of Special Courts in Delhi & Mumbai (2012 - 2015)', 2017. Available at: <http://haqcrc.org/publication/implementation-pocso-act/>; As per data submitted by the Registrar, Supreme Court of India, with regard to rehabilitation, only 4% of victims have received either interim or final compensation by Courts (Source: Report presented by Mr. Surinder S. Rathi, Registrar, Supreme Court of India in Suo moto W.P. (Crl.) 01 of 2019, 13 November 2019. Available at: <https://bit.ly/3ooV0pc>.)

¹⁴¹ The increase of the maximum punishment to death for the rape of children below 12 years, intended as a deterrent measure by the Govt., has in fact led to less disclosure of offences as in 94% of cases perpetrators are known to victims (Source: HAQ: Centre for Child Rights, 'Towards Improving access to Justice and Restorative Care for Child Victims of Sexual Abuse in Delhi: A Report of State Level Multi-Stakeholder Dialogue', February 2019. Available at: <https://bit.ly/3kuEm5e>.)

offences.¹⁴¹

4. The COVID-19 pandemic has increased the risk of rise in child marriages.¹⁴²¹⁴³ There are concerns being raised about the government's proposal to raise age of marriage for girls to 21 years.¹⁴⁴
5. While cases of child trafficking decreased between 2017 and 2019 by 17.5%, there are concerns raised about the proposed trafficking bill leading to more penalization¹⁴⁵.
6. The share budget for children has seen a consistent decline over the years.¹⁴⁶

Recommendations

1. Increase the budget allocation for children in light of increased vulnerabilities during COVID.
2. Bring necessary legislative changes through wider consultation on the issue of age of sexual consent to stop criminalisation of minors in age group of 16-18 years for consensual sexual relationship.

¹⁴¹ The increase of the maximum punishment to death for the rape of children below 12 years, intended as a deterrent measure by the Govt., has in fact led to less disclosure of offences as in 94% of cases perpetrators are known to victims (Source: HAQ: Centre for Child Rights, 'Towards Improving access to Justice and Restorative Care for Child Victims of Sexual Abuse in Delhi: A Report of State Level Multi-Stakeholder Dialogue', February 2019. Available at: <https://bit.ly/3kuEm5e>.)

¹⁴² Incidents of child marriage increased by 49.52% between 2017 and 2020. Crime in India Reports 2017 to 2020; National Crime Records Bureau.

¹⁴³ UNICEF, "10 Million Additional Girls Risk Child Marriage Due Covid-19", 7 March 2022, Available at: <https://www.unicef.org/press-releases/10-million-additional-girls-risk-child-marriage-due-covid-19>, Assessed on: 15 March 2022.

¹⁴⁴ Indian Express, "Raising Marriage Age won't lead to Women's Empowerment," 21 December 2021, Available at: <https://indianexpress.com/article/opinion/columns/raising-legal-age-of-marriage-to-21-women-empowerment-7682640/>, Accessed on: 15 March 2022. The Hindu, "Is it right to increase the age of marriage of women to 21?", 7 January 2022, Available at: <https://www.thehindu.com/opinion/op-ed/is-it-right-to-increase-the-age-of-marriage-of-women-to-21/article38160297.ece>, Assessed on: 15 March 2022. NPR, "India may raise the age of marriage for girls. Not everyone thinks that's a good idea", 2 October 2021, Available at: <https://www.npr.org/sections/goatsandsoda/2021/10/02/1041550200/india-may-raise-the-age-of-marriage-for-girls-not-everyone-thinks-thats-a-good-i>, Accessed on: 17 March 2022.

¹⁴⁵ The Hindu, "Concerns remain over anti-trafficking bill", 18 July 2021, Available at: <https://www.thehindu.com/news/national/concerns-remain-over-anti-trafficking-bill/article35388874.ece>, Accessed on: 17 March 2022; Indian Express, "Human trafficking survivors identify gaps in draft Bill, seek community-based rehab", Available at: <https://indianexpress.com/article/india/human-trafficking-survivors-gaps-draft-bill-community-based-rehab-7652974/>, Accessed on: 17 March 2022; The Leaflet, "Flipside of the Human Trafficking Bill", 21 July 2022, Available at: <https://theleaflet.in/flipside-of-new-human-trafficking-bill/>, Accessed on: 17 March 2022.

¹⁴⁶ The share of budget for children fell from 4.76% in 2012-13 to 2.35% in 2022-23. See -HAQ: Centre for Child Rights, "HAQ: Budget for Children 2022-2023 Analysis," Available at: <https://www.haqcrc.org/budget-for-children/haq-budget-for-children-2022-23-analysis/> Accessed on: 17 March 2022.

3. Introduce specific guidelines to streamline victim/witness protection and compensation support for victims of child sexual abuse and families undergoing trial.
4. Amend the current legislation on child marriage (PCMA) to define as a child all persons up to 18 years, irrespective of gender.¹⁴⁷

Scheduled Castes

1. The PoA Act 1989 has been strengthened through amendments in 2016,¹⁴⁸ Special Courts and AJK thanas¹⁴⁹ established to streamline access to justice for Scheduled Caste and Scheduled Tribes victims of atrocities. However, in 2021 only 170 Exclusive Courts were set up and cases are not being disposed within 60 days as mandated¹⁵⁰. The number of Special Public Prosecutors is insufficient to handle the assigned cases.
2. Despite the Govt. repeatedly voicing concern related to development of Dalits, only 38% of the allocated funds in the 2022-23 budget are for targeted schemes.¹⁵¹ In proportion to the population, there remains a gap of allocation of INR 40,634 Crore.¹⁵²
3. There is a 16.98% increase in reported atrocity cases under the PoA Act¹⁵³. Decadal data (Crime in India, 2009-2018) reveals 32.5 % crimes against SCs were not registered under the provisions of the PoA Act across India.

¹⁴⁷ The PCMA currently has different definition of child for boys (up to 18 years) and for girls (up to 21 years).

¹⁴⁸ The amendments include the restoration of former provisions as part of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2018, Cl. 2. S. 18A. Available at: http://socialjustice.nic.in/writereaddata/UploadFile/PoA_Act_2018636706385256863314.pdf, Accessed on: 18 March 2022.

¹⁴⁹ Anusuchit Jati/Janjati thana are special police stations which have been established to address atrocity cases.

¹⁵⁰ Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, S. 14. It mandates Special Courts to dispose of these cases within 60 days after filing of charge sheet in the court. Ministry of Law and Justice, Lok Sabha Unstarred Question No: 5177 Answered On: 24.07.2019 on Special District Courts by Mr. Ravi Shankar Prasad. Only 312 cases have been disposed of within 60 days from 6 states (Chhattisgarh, Maharashtra, Gujarat, Haryana, Punjab, Karnataka).

¹⁵¹ NewsClick “Union Budget 2022: Govt Fails to Ensure Welfare of Dalits and Adivasis”, 3 February 2022, Available at: <https://www.newsclick.in/union-budget-2022-govt-fails-ensure-welfare-dalits-adivasis>, Accessed on: 18 March 2022.

¹⁵² NITI Aayog, “Guidelines for earmarking of funds for Development Action Plan for SCs and STs (DAPSC & DAPST)”, available at: https://www.niti.gov.in/sites/default/files/2019-12/NITI_Aayog_Guideliens_for_SCSP_TSP_2017.pdf. As per the guidelines by the NITI Aayog on the Allocation for the Welfare of Scheduled Caste (AWSC), it is mandatory to allocate an amount proportionate to the population. The Union Government has repeatedly ignored this.

¹⁵³ Reported atrocities have risen from 42969 crimes in 2017 to 50268 in 2020. National Crime Record Bureau, Ministry of Home Affairs, Government of India, Crime In India Reports (2017, 2018, 2019, 2020).

¹⁵⁴ In July, 2018 police in Ahmedabad city raided an area, home to 20,000 members of the vulnerable and marginalized Chhara Tribe, a denotified tribe. According to residents, police allegedly brutally beat up scores of people, damaged property, and filed false cases against many of them. See: Human Rights Watch, Country Chapters – India, 2018, Available at: <https://www.hrw.org/world-report/2019/country-chapters/india>, Accessed on: 18 March 2022.

4. Dalit communities are subjected to violent search and seizure operations¹⁵⁴ falsified charges¹⁵⁵, caste based verbal abuse and humiliation, severe beatings¹⁵⁶, inhuman torture¹⁵⁷, forced bribery for their release¹⁵⁸ and sexual abuses¹⁵⁹ following arrest.

Recommendations

1. Establish Exclusive Special Courts in every district of India, appoint Special Public Prosecutors; set up and regularise mandatory State and District Vigilance Monitoring Committee meetings for the effective implementation of the POA Act.

¹⁵⁴ In July, 2018 police in Ahmedabad city raided an area, home to 20,000 members of the vulnerable and marginalized Chhara Tribe, a denotified tribe. According to residents, police allegedly brutally beat up scores of people, damaged property, and filed false cases against many of them. See: Human Rights Watch, Country Chapters – India, 2018, Available at: <https://www.hrw.org/world-report/2019/country-chapters/india>, Accessed on: 18 March 2022.

¹⁵⁵ In July, 2018 police in Ahmedabad city raided an area, home to 20,000 members of the vulnerable and marginalized Chhara Tribe, a denotified tribe. According to residents, police allegedly brutally beat up scores of people, damaged property, and filed false cases against many of them. On 10, Feb 2019 a Dalit was on the way to meet one of his customers at Konanur, when he noticed a group of youths fighting among themselves. As he stopped his bike, two constables caught him and wanted to know where he was from. The moment he said he was from Ambedkar Colony in Konanur, they scolded him taking his caste and referred to him a cow-eater. The police took him to the police station, where he was tortured throughout the night. See: The Hindu, “Dalit Youth Alleges Torture at Police Station”, 13 March 2019, Available at: <https://www.thehindu.com/news/national/karnataka/dalit-youth-alleges-torture-at-police-station-in-arkalgud-taluk/article26518660.ece>, Accessed on: 18 March 2022.

¹⁵⁶ In Aug 2017 few Dalit's from Rajanna Siricilla district of Telangana were arrested on the charges of burning sand-laden trucks. The police subjected Dalit's with third-degree torture – beating them indiscriminately, pouring hot water on private parts, gave electric shocks and administered sedatives and threatened to kill in encounters. See: Hindustan Times, “Telangana: Alleged torture of Dalits, OBCs in police custody kicks up row”, 4 August 2017, Available at: <https://www.hindustantimes.com/india-news/telangana-alleged-torture-of-dalits-sc-sts-in-police-custody-kicks-up-political-row/story-GzajbJeKddRg1tCVVtd1ZN.html>, Accessed on: 18 March 2022.

¹⁵⁷ In July, 2017, a Dalit boy (17 yrs.) was nabbed in a false case and he was subjected to custodial torture by police officers at Pavaratty police station in Thrissur, Kerala. He committed suicide on July 18 after he was released from police custody, a day after he was allegedly nabbed in a false case. See: The News Minute, “Kerala Dalit teen alleged torture in police custody: Crime Branch to submit report soon”, 8 October 2017. Available at: <https://www.thenewsminute.com/article/kerala-dalit-teen-alleged-torture-police-custody-crime-branch-submit-report-soon-69626>, Accessed on: 18 March 2022.

¹⁵⁸ In December, 2018 a 30-year-old Dalit man, Balkishan Jatav had died in police custody in Amroha district of western UP. His family members had alleged that they had to sell their jewellery to pay the bribe demanded by policemen for Balkishan's release. See: News Click, “Three Custodial Deaths in Three Months, Is this the best Law and Order of UP?”, 23 January 2019, Available at: <https://www.newsclick.in/three-custodial-deaths-three-months-best-law-and-order>, Accessed on: 18 March 2022.

¹⁵⁹ In January, four Adivasi women in Dhar, Madhya Pradesh, said they had been gang-raped by police personnel. In March, Adivasi villagers in Sukma, Chhattisgarh, accused security force personnel of gang-raping a 14-year-old Adivasi girl. In September, two paramilitary personnel were arrested on suspicion of killing a woman and raping and throwing acid on her friend in Mizoram in July. See: Amnesty International, “India Report”, 2021.

Scheduled Tribes

1. According to the 2011 census, Scheduled Tribes (STs) account for 8.2 % of the overall population. In addition to their rights as citizens, the Constitution protects their distinct identities.¹⁶⁰.
2. In recent years, central India has witnessed development¹⁶¹ that has been insensitive to the needs of tribal communities and continues to cause displacement, destroys their cultural identity and resource base, generating multiple conflicts. The UAPA Act has been extensively used against STs.¹⁶²
3. Atrocities against STs have increased by 26.5% in 2019¹⁶³ and by 9.3% in 2020.¹⁶⁴ Nomadic and de-notified tribes who are most vulnerable due to their identification as a criminal tribe under colonial rule, continue to face prejudices, discrimination, and criminalisation under the Habitual Offenders Act.

Recommendations

1. Ratify ILO 169 of 1989 and bring the Constitution and its laws in line with the provisions stipulated within ILO 169 of 1989 and UNDRIP 2007.
2. Repeal the Habitual Offenders Act 1952.

¹⁶⁰ The Constitution of India, 1950, Articles 371-A, 371-G, 5th and 6th schedule, The Panchayat (Extension to Scheduled Areas) Act, 1996, and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

¹⁶¹ Sudesh Kumar and Anindya J Mishra, “Development-Induced Displacement in India: An Indigenous Perspective, *Journal of Management & Public Policy*”, 10 (1), Pg. 25-36, 2018 https://www.researchgate.net/publication/330931432_Development-Induced_Displacement_in_India_An_Indigenous_Perspective?msclkid=ef6b830ca8d511ecb446764c74e4f204, Accessed on: 18 March 2022.

¹⁶² Hindustan Times, “120 tribals in jail under anti-terror law for 3 years, trial yet to begin”, 22 September 2020, available at: [https://www.hindustantimes.com/india-news/120-tribals-in-jail-under-anti-terror-law-for-3-years-trial-yet-to-begin/story-uRDQr8CLO5XhjXysqZ\]bnL.html](https://www.hindustantimes.com/india-news/120-tribals-in-jail-under-anti-terror-law-for-3-years-trial-yet-to-begin/story-uRDQr8CLO5XhjXysqZ]bnL.html), Accessed on: 18 March 2022.; The New Indian Express “Arrest of tribals under UAPA on the rise, reveals reply of Ministry of Tribal Affairs”, 30 July 2021, Available at: <https://www.newindianexpress.com/nation/2021/jul/30/arrest-of-tribals-under-uapa-on-the-rise-reveals-reply-of-ministry-of-tribal-affairs-2337540.html>, Accessed on: 18 March 2022.

¹⁶³ The Print, “Crimes against Scheduled Tribes rose 26.5%, up by 7.3% for Scheduled Castes in 2019, says govt”, 3 February 2021, Available at: <https://theprint.in/india/governance/crimes-against-sts-rose-by-26-5-scs-increased-by-7-3-in-2019-says-govt/598005/>. Accessed on: 18 March 2022.

¹⁶⁴ The New Indian Express, “Atrocities against SCs and STs increased in 2020: NCRB report”, 16 September 2021, Available at: <https://www.newindianexpress.com/nation/2021/sep/16/atrocities-against-scs-and-sts-increased-in-2020-ncrb-report-2359402.html>, Accessed on: 18 March 2022.

¹⁶⁵ Panchayat (Extension to Scheduled Areas) Act 1996.

3. Strengthen the 5th and 6th Schedule provisions of the Constitution, the provisions of the Panchayat Act¹⁶⁵, and the ST and Other Traditional Forest Dwellers Act¹⁶⁶ and ensure their effective implementation within three years.
4. Ensure that the National Commission for Scheduled Tribes remains autonomous and institute a speedy redressal mechanism within two years.¹⁶⁷

Disability Rights

1. India ratified the UNCRPD in 2007. The UN Committee monitoring the Convention has recommended that India amend its Constitution to explicitly prohibit disability-based discrimination.¹⁶⁸
2. The population of disabled persons is 2.21%.¹⁶⁹ Allocations specific to persons with disabilities as a percentage to GDP have shown a declining trend.¹⁷⁰ The underutilisation of allocations is also a major concern, with underutilisations rising from 4.90% in 2018-19 to 34.99% in 2020-21¹⁷¹.
3. Disabled women lose autonomy over their sexual and reproductive rights. Women with psychosocial disabilities are forced into mental institutions, subjected to forced treatment

¹⁶⁵ Panchayat (Extension to Scheduled Areas) Act 1996.

¹⁶⁶ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

¹⁶⁷ Quote by the National Commission for Scheduled Tribes in response to a performance study conducted by the Centre for Policy Research, New Delhi – “There is a need to strengthen the Commission with certain powers as mentioned below, to enhance its efficiency and effectiveness”, p. 3, Available at: https://docs.google.com/document/d/1qh-h3vpJj5MZMGMzrbe_Kq_RzaRAvgKO/edit, Accessed on: 18 March 2022.

¹⁶⁸ UN Committee on the Rights of Persons with Disabilities, “Concluding Observations on the Initial Report of India,” CRPD/C/IND/CO/1, 29 October 2019, Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fIND%2fCO%2f1&Lang=en, Accessed on: 12 March 2022, Accessed on: 17 March 2022.

¹⁶⁹ Census 2011, Office of the Registrar General and Census Commissioner India, Available at: <https://censusindia.gov.in/2011-common/censusdata2011.html>, Accessed on: 12 March 2022.

¹⁷⁰ Allocations have declined from 0.0097% in 2020-21 to 0.0084% in 2021-22. The Govt. has allocated INR 1212 Crore for the financial year 2022-23. See-“Did Budget 2022 Ignore The Disabled? Activists Think It's Too Little Too Late”, Outlook. 2 February 2022, Available at:

<https://www.outlookindia.com/national/did-budget-2022-ignore-the-disabled-activists-say-too-little-too-late--news-52018>, Accessed on: 12 March 2022.

¹⁷¹ “In Search of Inclusive Recovery”, Centre for Budget and Governance Accountability, February 2022, available at:

<https://www.cbgaindia.org/wp-content/uploads/2022/02/In-Search-of-Inclusive-Recovery-An-Analysis-of-Union-Budget-2022-23.pdf>, Accessed on 12 March 2022.

¹⁷² News Deeply, ‘The Fight to End Forced Sterilization of Girls with Disabilities’, 19 December 2017. Available at: <https://bit.ly/3n14iG8>, Accessed on: 12 March 2022.

and sterilisation,¹⁷² and are frequently reported to suffer physical and sexual violence.¹⁷³ Children with disabilities continue to be excluded from basic services, with the combination of social and economic marginalisation alongside disabilities creating multiple vulnerabilities.¹⁷⁴

4. The Rights of Persons with Disabilities Act, 2016, contains several discriminatory provisions.¹⁷⁵

Recommendations

5. Ensure the implementation of the provisions on accessibility of the Rights of Persons with Disabilities Act 2016 with regard to buildings, transport, consumer goods & ICT enabled services.
6. Bring domestic laws in line with the provisions of the CRPD, in particular the National Trust Act and the Rehabilitation Council of India Act.
7. Amend the Constitution to prohibit disability-based discrimination in all forms.
8. Decentralize & simplify the Unique Disability Identity card system and its certification process.

¹⁷² News Deeply, ‘The Fight to End Forced Sterilization of Girls with Disabilities’, 19 December 2017. Available at: <https://bit.ly/3n14iG8> , Accessed on: 12 March 2022.

¹⁷³ Human Rights Watch, ‘“Treated Worse than Animals”: Abuses against Women and Girls with Psychosocial or Intellectual Disabilities in Institutions in India’, December 2014. Available at: <https://bit.ly/3lbXPbb> , Accessed on: 12 March 2022.

¹⁷⁴ Study conducted with 164 students and their parents/caregivers, 50 teachers, 10 Civil Society Organisations (CSO) and 5 government officials across the four states of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu between September – October 2020. See: “COVID-19 and Exclusion of Children with Disabilities in Education”, Vidhi Legal Policy, 21 December 2020, available at: <https://vidhilegalpolicy.in/research/covid-19-and-exclusion-of-children-with-disabilities-in-education/>, Accessed on: 12 March 2022.

¹⁷⁵ “Rights of Persons with Disabilities Act 2016”, Available at: https://legislative.gov.in/sites/default/files/A2016-49_1.pdf. See: Section 3, sub clause (3) “No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.”

Proviso in Section 20 “provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.” (Section 20 mandates non-discrimination in employment).

Proviso in Section 34, Sub-clause (1) “Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.” (Section 34 mandates 4% reservation in employment).

Religious Minorities

1. The Right to Life, Equality before Law, Non-Discrimination, and Freedom of Faith are constitutionally protected. However, they are being challenged by arbitrary use of State power.¹⁷⁶ Hate crimes, including hate speeches and writings in traditional media¹⁷⁷, have multiplied, as have calls for targeted killings and abusive use of inciteful hate on social media. Muslims, Christians and Dalits are subjected to risk. Discriminatory laws such as the CAA 2019¹⁷⁸, that institutionalise discrimination and exclusion of minority groups and lead to statelessness and disenfranchisement have been passed.¹⁷⁹
2. GoI admitted in Parliament that there as many as 130 Complaints of ‘Hate News’ Cases on Social Media Platforms were reported¹⁸⁰, while remaining silent on the levels of action initiated.

¹⁷⁶ Reply to Unstarred Question No. 3734 in Parliament on March 25, 2022.

¹⁷⁷ Whistleblowers Blog, “Facebook Whistleblowers, Dozens of Organizations Call on Facebook to Release Human Rights Report”, 26 January 2022, Available at: <https://whistleblowersblog.org/corporate-whistleblowers/facebook-whistleblowers-dozens-of-organizations-call-on-facebook-to-release-human-rights-report/>, Accessed on: 12 March 2022; Economic Times, “Facebook critics call for release of its India human rights report”, 21 January, 2022, Available at: <https://economictimes.indiatimes.com/tech/technology/facebook-critics-call-for-release-of-its-india-human-rights-report/articleshow/89027872.cms>, Accessed on: 12 March 2022; Slate, “The Facebook Crisis in India Might Be the Worst Facebook Crisis of All”, 26 October 2021, Available at: <https://slate.com/technology/2021/10/facebook-papers-india-modi-misinformation-rss-bjp.html>; <https://cjp.org.in/indias-ecosystem-of-hate-is-facebook-both-a-beneficiary-and-an-offender/>, Accessed on: 12 March 2022; The Hindu, “Coronavirus : Nearly 4,300 cases were linked to Tablighi Jamaat event, says Health Ministry,” 18 April 2020. Available at: <https://bit.ly/3lgoS56>, Accessed on: 12 March 2022; The Hindu, “NBSA reprimands three TV channels over Tablighi Jamaat reports”, Available at: <https://www.thehindu.com/news/national/karnataka/nbsa-reprimands-three-tv-channels-over-tablighi-jamaat-reports/article34843558.ece>, Accessed on: 12 March 2022.

¹⁷⁸ Laws like the Citizenship Amendment Act 2019 draw a religious marker and definition around citizenship. The threat of implementing a process for a National Register of Citizens/National Population Register (NRC-NPR) that, as experiments in the north eastern state of Assam have shown – See: “Joint Statement: 125 Civil Society Organisations condemn the exclusion of 1.9 million people from the Assam NRC and call for urgent action to protect everyone’s right to a nationality”, They have discriminated against India’s minorities. UN Special Rapporteurs have issued a Joint Statement that raises concerns about the NRC and warns about the risk of statelessness and instability in Assam – See: UN India, “UN Experts: Risk of statelessness for millions and instability in Assam, India”, 5 July 2019, Available at: <https://in.one.un.org/un-press-release/un-experts-risk-of-statelessness-for-millions-and-instability-in-assam-india/>, Accessed on: 16 March 2022; UN General Assembly “Contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 6 August 2018, p. 10/22 and 11/22, Available at: https://cjp.org.in/wp-content/uploads/2018/09/HRC_Report-of-SR-Racism-on-national-populism.pdf, Accessed on: 16 March 2022.

¹⁷⁹ India is variously dubbed only “partly free” (Freedom House, 2021), only a “partially free electoral autocracy”, [(V-Dem) Democracy Institute 2021], low on the Freedom Index down to 111th (of 162 countries). It is also seen as a country of particular concern when it comes to the dignity, life safety and security of minorities. It is in this context the rights of religious minorities need to be viewed and evaluated by the United Nations, International governments, Corporations and Platforms.

¹⁸⁰ Sabrang India, “Only 8 election-time online hate speech complaints in 2022, only 130 instances since 2019: Centre”, <https://sabrangindia.in/article/only-8-election-time-online-hate-speech-complaints-2022-only-130-instances-2019-centre>, 25 March 2022, Accessed on: 16 March 2022.

3. In 2017, the MHA reported 111 deaths and 2,384 injuries in 822 incidents of communal violence in a single year marking a 28 per cent rise since 2014.¹⁸¹

Recommendations:

1. Enact the Prevention of Communal and Targeted Violence Bill¹⁸² and review and repeal the following anti-minority laws within one year:
 - (i) CAA 2019 (Central Government);
 - (ii) All “Anti-conversion” laws which target religious minorities passed by six states¹⁸³;
 - (iii) Specific Policy assurance not to implement an all India NPR/NRC (Indian Government)
2. Foreigner Tribunals¹⁸⁴ in Assam state must follow Indian constitutional and international law standards, close detention centres.
3. Ensure that traditional media and social media platforms and channels, maintain high professional standards and regulate hate speech:
 - (i) Facebook to release its Human Rights Impact Assessment Report (HRIA);
 - (ii) Stop targeting of Minority institutions in the social sector especially those running schools, charities, or children’s homes.

Refugees, IDPs and Migrants

1. India has not ratified the 1951 Convention on Refugees and the OP of 1967¹⁸⁵ and does not have a national framework or legal procedure governing refugees. As of January

¹⁸¹ The Hindu, “111 killed in 822 communal incidents in 2017: Govt”, 6 February 2018. Available at: <https://www.thehindu.com/news/national/111-killed-in-822-communal-incidents-in-2017-govt/article22670770.ece>, Accessed on: 16 March 2022. Firstpost, ‘Communal violence rose by 28% from 2014 to 2017, but 2008 remains year of highest instances of religious violence’, 9 February 2018. Available at: <https://www.firstpost.com/india/communal-violence-rose-by-28-from-2014-to-2017-but-2008-remains-year-of-highest-instances-of-religious-violence-4342951.html>, Accessed on: 16 March 2022.

¹⁸² Prevention of Communal and Targeted Violence (Justice and Reparations Bill) 2011

¹⁸³ Sabrang India, “Haryana will soon enact its ‘anti conversion law’, why is civil society quiet?”, 5 March 2022, Available at: <https://sabrangindia.in/article/haryana-will-soon-enact-its-anti-conversion-law-why-civil-society-quiet>, Accessed on: 16 March 2022.

¹⁸⁴ The Foreigners Order, 1952 under the Foreigners Act, 1946.

¹⁸⁵ Refugee, Vol.19.No.2, “A Critical Analysis of Refugee Protection in South Asia”, January 2001.

2022, over 210,000 refugees are registered with the Govt,¹⁸⁶ and 47,443 refugees registered with UNHCR.¹⁸⁷

2. Refugees are governed by the Foreigners Act 1946, a deportation-oriented law, that doesn't take into account their need for protection and places them at risk of refoulement or "return", in violation of customary international law.¹⁸⁸ Due to this ill-defined status, refugees are unable to access basic services such as schooling, healthcare, and livelihoods¹⁸⁹ and risk human rights violations including arrest, detention and trafficking.
3. During the COVID-19 pandemic, a harsh spotlight was shone on the plight of the 139 million migrant workers¹⁹⁰ who move from villages to cities every year in search of employment.¹⁹¹ The nationwide lockdowns left them stranded without food, shelter or transport.¹⁹²

¹⁸⁶ India has a long history of hosting refugees. Out of the 210,000 refugees registered with the Govt., 73,407 are from Tibet (PRC) and 92,691 from Sri Lanka. See: UNHCR, "Refugee Data Finder for years until 2021," Available at: <https://reporting.unhcr.org/india?year=2022>, Accessed on: March 17 2022.

¹⁸⁷ Out of the 47,443 registered with UNHCR, 25,379 are from Myanmar and 16,664 from Afghanistan, See: UNHCR India Factsheet, January 2022. Available at: <https://reporting.unhcr.org/document/1854>, Accessed on: March 17 2022.

¹⁸⁸ Due to this ad-hoc status, refugees risk grave human rights violations: arbitrary arrest, detention and trafficking; and are often unable to access basic services. See: Bhairav Acharya, "The Future of Asylum in India: Four Principles to Appraise Recent Legislative Proposals", NUJS Law Review, Vol. 173, No. 9 (December 2016), p. 173; WGHR Factsheets, "Refugees and Asylum Seekers", 2017, Available at: <http://wghr.org/wp-content/uploads/2022/03/WGHR-Factsheets-India-UPR-III-copy.pdf>, Accessed on: March 17 2022, p. 37-38; H. Knox Thames, "India's Failure to Adequately Protect Refugees", www.wcl.american.edu & Country Report on India from the US Committee for Refugees.

¹⁸⁹ WGHR Factsheets, "Refugees and Asylum Seekers" 2017, p. 37-38 Available at: <http://wghr.org/wp-content/uploads/2022/03/WGHR-Factsheets-India-UPR-III-copy.pdf>, Accessed on: March 17 2022.

¹⁹⁰ Migrants make up 407 million people or 37.7% of the total of India - Registrar General of India. 2011. D Series. Office of the RGI and Census Commissioner. Government of India; Irudaya Rajan, S., Sivakumar, P. & Srinivasan, A. "The COVID-19 Pandemic and Internal Labour Migration in India: A 'Crisis of Mobility'". *Ind. J. Labour Econ.* **63**, 1021–1039 (2020), Available at: <https://doi.org/10.1007/s41027-020-00293-8>, Accessed on: March 13 2022.

¹⁹¹ The Conversation, "India's pandemic exodus was a biological disaster and stranded migrant workers should be classified as internally displaced" 2021, Available at: <https://theconversation.com/indias-pandemic-exodus-was-a-biological-disaster-and-stranded-migrant-workers-should-be-classified-as-internally-displaced-161868>, Accessed on: March 17 2022.

¹⁹² With no social security net in the cities, many migrants lost their lives in their attempts to return to the safety of their homes, See- Ibid.; The Times of India, "30% of migrants will not return to cities: Irudaya Rajan," 1 June 2020, Available at: <https://timesofindia.indiatimes.com/india/30-of-migrants-will-not-return-to-cities-irudaya-rajan/articleshow/76126701.cms>, Accessed on: 13 March 2022.

4. Development-induced displacement from major infrastructure projects makes up the largest share of internal displacement in India.¹⁹³ Dams, mines, and industrial development have led to the internal displacement of 21 million people.¹⁹⁴

Recommendations

1. Institute a national legal framework within two years, along the lines of the Asylum Bill 2015 to prevent non-refoulement and govern the legal status of refugees.
2. Ratify the Convention on Migrant Workers, revise the Inter-State Migrant Workers Act 1979 and ensure the swift enactment of the draft National Migrant Labour Policy.¹⁹⁵

D. Freedom of Assembly, Association and Expression

Right to Information

1. Violence against individuals and activists for using the RTI has been increasing. Parliament enacted a law to protect whistle-blowers, which includes journalists¹⁹⁶, but only applies to complaints made while following specific procedures.
2. Despite State Human Rights Commissions taking cognisance of attacks on citizens, activists and journalists seeking information under the RTI Act; justice is hampered by

¹⁹³ India Spend, “Tribals Account For A Third Of Communities Displaced By Large Projects”, 17 June 2014, Available at: <https://www.indiaspend.com/tribals-account-for-a-third-of-communities-displaced-by-large-projects-11821>, Accessed on: 13 March 2022; ‘According to a study conducted in 2022 around 50 million people have been displaced in India due to development projects in over 50 years. See: Bielefeld: Universität Bielefeld, Fak. für Soziologie, Centre on Migration, Citizenship and Development (COMCAD), “Development projects vs. internally displaced populations in India: a literature based appraisal.” Available at: <https://nbn-resolving.org/urn:nbn:de:0168-ss0ar-422011>, Accessed on: 13 March 2020.

¹⁹⁴ Around 40% of those internally displaced by development projects are tribals, despite making up only 8% of the Indian population. See: Ibid.

¹⁹⁵ Additional recommendations:

- Immediately ratify the 1951 Convention on the Status of Refugees and the Optional Protocol of 1967.
- Strengthen the mandate of UNHCR in India to enable it to offer humanitarian services to the regions facing acute refugee crises such as the North East region of India.
- Ensure that the process of repatriation of asylum seeker or refugees is done in compliance with relevant international human rights standards; See: Concluding observation of the International Covenant on Civil and Political Rights, India, p. 30, CCPR/C/79/Add.81, 4 August 1997.

¹⁹⁶ Despite the Supreme Court recognising whistleblowing through the media, when all other internal measures for seeking redress for wrongdoing fail, the Government did not insert enabling provisions in the whistle-blower protection law. The Act only includes journalists if they adhere to its procedures for making complaints about wrongdoing in Government, but does not cover whistleblowing through the media. See: Whistleblowers Protection Act, 2014.

poor quality of police investigations¹⁹⁷.

3. Less than 1% of the total population takes recourse to the RTI because of the lack of efforts by GoI to spread awareness on them.¹⁹⁸
4. The draft legislation to prevent bribery of foreign officials¹⁹⁹; facilitate complaints of corruption or misbehaviour against members of the High Courts and the Supreme Court has not been revived since 2014.
5. The Lokpal and Lokayuktas Act²⁰⁰ as empowered corruption investigation agencies has remained ineffective since inception and not launched prosecution even in a single case.

Recommendations

1. Implement the Whistle blowers Protection Act 2014 by notifying subordinate legislation and inserting provisions for whistleblowing through the media.
2. Immediately ensure compulsory registration and investigation of cases of attacks on citizens and journalists utilising the RTI Act under the supervision of Human Rights Commissions, Information Commissions and Vigilance Commissions and ensure a more proactive disclosure of information by public authorities.
3. Empower the Lokpal ombudsman by providing the investigative and prosecutorial machinery as envisaged under the parent Act and encourage State Governments to align their Lokayukta laws with the letter and spirit of the Lokpal Act.

¹⁹⁷ People's Monitoring of the RTI Regime in India, 2011-2013: Report is available on the website of RAAG at: <https://snsindia.org/rti-assessments/#people>, Accessed on: 12 March 2022. See also RTI Portal of India, Accessible at: <http://rti.gov.in/>, Accessed on: 12 March 2022; Efforts have also been made to collect statistical information on such attacks by the National Crime Records Bureau; however, this data is not in the public domain. These are however, only made available when questions on the subject are raised in Parliament or the State Legislatures.

¹⁹⁸ State of Information Commissions and the Use of RTI Laws in India, Rapid Review 4.0 is accessible on CHRI's website at: <https://www.humanrightsinitiative.org/download/ICs-RapidReview4-finalreport-NDelhi-ATTTeam-Mar18.pdf>, Accessed on: 12 March 2022.

¹⁹⁹ The Prevention Of Bribery Of Foreign Public Officials And Officials Of Public International Organisations Bill, 2011, Available at: http://164.100.47.5/newcommittee/press_release/bill/Committee%20on%20Personnel,%20PublicGrievances,%20Law%20and%20Justice/Prevention%20of%20Bribery,%2026%20of%202011.pdf, Accessed on: 12 March 2022.

²⁰⁰ Local and Lokayuktas Act, 2013, more information is available on the website of the Department of Personnel and Training (DoPT), Government of India at: <http://dopt.gov.in/lokpal-list> (NCPRI website is not functional anymore).

Human Rights Defenders and Civic Space

1. India has witnessed historic protests during the past 4 years, including those against the Citizenship Amendment Act (CAA)²⁰¹ and the three farm laws²⁰². Although peaceful, they were met with brutal repression by the state.²⁰³
2. Kashmir has witnessed a systematic clampdown,²⁰⁴ particularly since the abrogation of Article 370 of the Indian Constitution, which guaranteed a special status²⁰⁵ to Jammu and Kashmir.

²⁰¹The purpose of the Act is to give Indian citizenship to illegal migrants of 6 communities i.e, Hindu, Sikh, Buddhist, Christian, Parsi, and Jain belonging to Bangladesh, Pakistan, and Afghanistan. See: See, “The Citizenship Amendment Act (CAA): Meaning, Key Features, and Objectives”, Jagran Josh, May 8, 2020, Available at: <https://www.jagranjosh.com/general-knowledge/citizenship-amendment-bill-2019-1575981192-1>, Accessed on: 13 March 2022.

²⁰² The Parliament passed three laws (Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 and Essential Commodities (Amendment) Act, 2020) which deregulated government-run agricultural markets to facilitate contract farming. These laws were resisted by farmers fearing that it would make marginal farmers vulnerable to exploitation by corporates especially if the minimum floor price of agricultural products is removed. See: Jagran Josh, “Farm Laws 2020 Explained: Everything you need to know about the new agriculture reforms in India”, November 19, 2021, Available at: [https://www.jagranjosh.com/general-knowledge/farm-bills-indian-farm-reforms-2020-1606901455-1#:~:text=Ordinance%20Bill%202020%3F-The%20Farmers%20Produce%20Trade%20and%20Commerce%20\(Promotion%20and%20Facilitation\),part%20of%202020%20Farm%20Laws](https://www.jagranjosh.com/general-knowledge/farm-bills-indian-farm-reforms-2020-1606901455-1#:~:text=Ordinance%20Bill%202020%3F-The%20Farmers%20Produce%20Trade%20and%20Commerce%20(Promotion%20and%20Facilitation),part%20of%202020%20Farm%20Laws), Accessed on: 13 March 2022.

²⁰³ There has been brutal repression of anti-CAA protests with the police using “excessive force against demonstrators, including firing indiscriminately into crowds, using teargas and water cannons, beating bystanders and detaining and torturing protesters, including children”. At least 31 persons were killed and were injured as per the report. No impartial and transparent investigations into the violence have been undertaken to this day. See: The Wire, “After a 101-Day Sit-In, Shaheen Bagh Protest Cleared Due to Coronavirus Lockdown”, March 24, 2020, Available at: <https://thewire.in/rights/shaheen-bagh-cleared-coronavirus-lockdown>, Accessed on: 13 March 2022;

The government attempted to stop the farmers from entering Haryana and Delhi by using water cannons, batons and tear gas. See: Times of India, “Protesting farmers brave water cannons, tear gas shells: Key points”, November 26, 2020, Available at: http://timesofindia.indiatimes.com/articleshow/79430745.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst Accessed on: 13 March 2022.

²⁰⁴ Several politicians, academics, journalists were detained or placed under house arrest restricting the right to assembly and organizing peaceful protests in Kashmir. The leaders who were under house arrest include the former Chief Ministers of Kashmir Omar Abdullah, Farooq Abdullah and Mehbooba Mufti among many others. See, First Post, “Year since the abrogation of Article 370, Mehbooba Mufti, other politicians still under detention as Centre claims normalcy”, February 17, 2021, Available at: <https://www.firstpost.com/india/year-since-abrogation-of-article-370-mehbooba-mufti-other-politicians-still-under-detention-as-centre-claims-normalcy-8667411.html>, Accessed on: 13 March 2022.

²⁰⁵ BBC, “Article 370: What happened with Kashmir and why it matters”, August 5, 2019, available at: <https://www.bbc.com/news/world-asia-india-49234708>, Accessed on: 13 March 2022

3. Police authorities routinely subject protesters and organisers of peaceful public assemblies to surveillance.²⁰⁶ As there is no coherent law or legal framework concerning surveillance and privacy²⁰⁷, mass surveillance occurs with impunity.
4. The Epidemic Diseases Act and Disaster Management Act were abused and applied selectively to restrict protest assemblies in India during the COVID 19 lockdown.²⁰⁸
5. The misuse of sedition laws has been observed.²⁰⁹ The Spyware *Pegasus* was used to spy on and target HRDs, journalists, lawyers, civil society and opposition politicians.²¹⁰

²⁰⁶ India Today, Facial recognition technology was used to track down protesters in New Delhi and Uttar Pradesh. “Delhi, UP Police use facial recognition tech at anti-CAA protests, others may soon catch up”, February 18, 2020, available at: <https://www.indiatoday.in/india/story/delhi-up-police-use-facial-recognition-tech-at-anti-cao-protests-others-may-soon-catch-up-1647470-2020-02-18>, Accessed on: 13 March 2022.

²⁰⁷ Business Insider India, “India is ramping up the use of facial recognition to track down individuals without any laws to keep track of how this technology is being used”, February 10, 2021, Available at: <https://www.businessinsider.in/tech/news/what-is-facial-recognition-technology-and-how-india-is-using-it-to-track-down-protestors-and-individuals/articleshow/80782606.cms>, Accessed on: 13 March 2022.

²⁰⁸ Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005 were used to enforce lockdown norms during the COVID-19 pandemic. The government of Uttar Pradesh invoked the Epidemic Diseases Act, 1897 and arrested Dr. Ashish Mittal, general secretary of the trade union All India Kisan Mazdoor Sabha, in a bid to stop the anti-CAA protest assembly led by women in Mansoor Park area of Prayagraj. Ajoy Ashirwad Mahaprashasta. See: The Wire, “Outrage as Adityanath Govt Uses Epidemic Diseases Act to arrest CAA Dissenter”, March 27, 2020, Available at: <https://thewire.in/rights/ashish-mittal-epidemic-act-uttar-pradesh>, Accessed on: 13 March 2022; FIRs were filed against hundreds of Accredited Social Health Activists (Asha) workers who protested in Delhi at Jantar Mantar demanding better working conditions. The demands of the protesters included provisions for protective gear and wage hikes from Rs.4,000 to Rs.10,000 per month. These workers were slapped with criminal cases under various provisions of law including Section 188 (Disobedience to order duly promulgated by public servant) of the IPC, Section 3 of the Epidemic Disease Act and Section 51B of the Disaster Management Act. See: Hindustan Times, “FIR against 100 Asha Workers for Jantar Mantar protest”, August 11, 2020, available at: <https://www.hindustantimes.com/cities/fir-against-100-asha-workers-for-jantar-mantar-protest/story-q2obOCJAwddgNEt0QeM7IL.html>, Accessed on: 13 March 2022.

²⁰⁹ The new study conducted by Article 14 has revealed that six cases pertaining to sedition were registered during the farm protests; 25 during anti-CAA protests; 22 after the Hathras gang rape. See: Article 14 “Our new database reveals rise in sedition cases in the Modi era- Article 14”. Available at: <https://www.article-14.com/post/our-new-database-reveals-rise-in-sedition-cases-in-the-modi-era>, Accessed on: 13 March 2022

²¹⁰ There has been a vague denial by the Government of India (GoI) regarding the allegations made against them on this matter and no one so far has taken up the accountability. Pegasus is a tool used to unlawfully target HRDs, and civil society groups have called for the enactment of laws to establish “proper judicial and parliamentary oversight of government surveillance measures that fully comply with international standards on privacy and other civil liberties”, See: Amnesty International, “Targeted Surveillance of Human Rights Defenders”, Available at: <https://www.amnesty.org/en/petition/targeted-surveillance-human-rights-defenders/>, Accessed on: 13 March 2022.

²¹¹ According to NGO Software Freedom Law Center, there were 106 and 129 internet shutdowns in the year 2019 and 2020 respectively across the country imposed by the central and state governments. Internet Shutdown Tracker, “Internet Shutdowns”, available at: <https://internetshutdowns.in/>, Accessed on: 13 March 2022.

6. India had the highest number of internet shutdowns in the year 2020,²¹¹ despite the Supreme Court recognizing access to the internet²¹² as a fundamental right.
7. The FCRA 2010 and recent amendments in 2020²¹³ have severely restricted the functioning of HRDs.²¹⁴

Recommendations:

1. Repeal or comprehensively amend the FCRA, in line with the legal analysis of the Special Rapporteur on Freedom of Association and Assembly.²¹⁵
2. Enact a law that recognises and protects HRDs including environmental, indigenous and Dalit defenders²¹⁶ in compliance with the UN Declaration on HRDs and other international standards.
3. Ensure that the right to access the internet and information is not impeded, particularly through the use of arbitrary internet shutdowns.

²¹¹ According to NGO Software Freedom Law Center, there were 106 and 129 internet shutdowns in the year 2019 and 2020 respectively across the country imposed by the central and state governments. Internet Shutdown Tracker, “Internet Shutdowns”, available at: <https://internetshutdowns.in/>, Accessed on: 13 March 2022.

²¹² *Anuradha Bhasin v. Union of India*, 2020 SCC OnLine SC 25.

²¹³ The amendments to FCRA notified by the Ministry of Law and Justice on 28 September, 2020 have brought in stringent restrictions and the major amendments are: inclusion of “public servants” in the list of persons who are prohibited to receive any foreign funding; the complete prevention on transfer of the funds from the receiver to any other person or organization; the mandatory requirement to have a State Bank of India (SBI) account in New Delhi in order to receive FCRA which will be designated as the “FCRA Account”; cancellation of FCRA certificate or registration for a period of 180 days in addition to the 180 days allowed at present and; the reduction to the upper limit of 20% from 50% on the percentages of the fund that could be utilized for administrative expenses. See, Mondaq, “Recent amendments in the Foreign Contribution (Regulation) Act - Government, public sector – India”, 20 October 2020, Available at: <https://www.mondaq.com/india/government-contracts-procurement-ppp/994272/recent-amendments-in-the-foreign-contribution-regulation-act>, Accessed on: 13 March 2022.

²¹⁴ One such example is the recent Central Bureau of Investigation (CBI) raid on the Centre for the Promotion of Social Concerns (CPSC) – People’s Watch. The CBI conducted raid on the premises of CPSC – People’s Watch on January 08, 2022 after registering the First Information Report (FIR) on January 06, 2022 regarding the old alleged FCRA violations. Between 2016-2020, 8,353 FCRA licenses were not renewed, Available at: <http://164.100.24.220/loksabhaquestions/annex/175/AU1260.pdf>; Accessed on: 13 March 2022; Between 2017-2021, 6,678 NGOs’ licenses were cancelled, Available at: <http://164.100.24.220/loksabhaquestions/annex/175/AU1278.pdf>, <http://164.100.24.220/loksabhaquestions/annex/173/AU3748.pdf>, and <http://164.100.24.220/loksabhaquestions/annex/178/AU1054.pdf>, Accessed on: 13 March 2022.

²¹⁵ UN Special Rapporteur on the Rights of Freedom of Peaceful Assembly and of Association, “Analysis On International Law, Standards And Principles Applicable To The Foreign Contributions Regulation Act 2010 And Foreign Contributions Regulation Rules 2011”, 20 April 2016, Available at: <http://freemassembly.net/wp-content/uploads/2016/04/UNSR-FOAA-info-note-India.pdf>, Accessed on: 13 March 2022.

²¹⁶ Media India Group, “Protecting environment a dangerous activity in India”, 15 September 2021, Available at: <https://mediaindia.eu/environment/protecting-environment-a-dangerous-activity-in-india/>; Global Witness, “Last Line of Defence: The industries causing the climate crisis and attacks against land and environmental defenders,” September 2021, Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>, Assessed on: 17 March 2022.

Human Rights Institutions

1. The human rights situation in India remains challenging and human rights institutions have not functioned robustly. Despite a statutory responsibility to review laws, the NHRC has not monitored the misuse of UAPA, AFSPA and PSA against political dissenters. It has also not pushed for a national legislation to prevent torture, hate crimes and the abolition of death penalty.
2. During protests against the Citizenship Amendment Act at Aligarh Muslim University and Jamia Milia Islamia, the NHRC blamed students for the violence, and justified the excessive use of force by police²¹⁷. The National Action Plan on Human Rights has remained under discussion for a decade²¹⁸. Frustration has grown in civil society over the NHRC's lack of independence.
3. The NHRC issued several guidelines to protect human rights during the COVID-19 pandemic²¹⁹, but was unable to prevent serious human rights violations in prisons, including the tragic death of Father Stan Swamy caused by negligence.

Recommendations:

1. Institute a transparent procedure for the selection of the Chairperson and Members of the NHRC in accordance with international standards and consider appointing members from civil society with credible track records for these positions.
2. Provide adequate training and orientation on the Paris Principles and on international human rights standards to NHRC officials.
3. Immediately institute a National Action Plan on Human Rights.

²¹⁷ The Wire, "A Year on, NHRC's Probes on Police Violence in AMU and Jamia Remain Testaments to Impunity", 22 December 2020, Available at: <https://thewire.in/rights/nhrc-investigation-police-violence-jamia-milia-islamia-aligarh-muslim-university>, Accessed on: 18 March 2022.

²¹⁸ NHRC, India Press Release, 'National Action Plan', Available at: <https://nhrc.nic.in/press-release/national-action-plan>, Accessed on: 18 March 2022.

²¹⁹ NHRC Covid 19 Advisories, Available at: <https://nhrc.nic.in/covid-19-advisories-20>, Accessed on: 18 March 2022.

E. International Obligations and Collaboration with UN Human Rights System

1. The GoI is yet to comply fully with its international obligations as it is yet to ratify three key international human rights instruments.²²⁰ India has also not engaged in open, timely and meaningful engagement with UN Special Procedures²²¹. India's record in implementing recommendations from the UN human right system is severely lacking in application.
2. There is no known, established, and transparent system in place on the basis on which independent candidates are selected for the UN treaty body elections. It must also be noted that, over the years, India has not taken enough interest in nominating members to the treaty bodies, despite extensive expertise in the country on different thematic issues²²².

Recommendations²²³

1. Fulfil India's obligations²²⁴ under all the international human rights treaties that it has ratified and amend all national laws and regulations that are not in full compliance with these treaties, within two years.
2. India should diligently implement recommendations from UN Special Procedures²²⁵ and, in the spirit of engagement with the Special Procedures, immediately invite all those who have requested visits.²²⁶

²²⁰ Out of the key international human rights instruments, India had signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 1997 and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) in 2007. However, it has not yet ratified either India has also not ratified the second optional protocol to the CCPR on abolition of death penalty.

²²¹ While India extended a standing invitation to the Special Procedures in September 2011, the last visit of a thematic Special Rapporteur to the country took place in 2017. However, as of 27 March, 2022, it has 25 pending requests from various mandate holders — out of which 18 are reminders that have been reiterated over the years — without any positive response from the Government of India. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=IND&Lang=en>, Accessed on: 18 March 2022.

²²² There is no known, established and transparent system in place on the basis on which candidates are selected for the UN treaty body elections. It must also be noted that, over the years, India has not taken enough interest in nominating members to the treaty bodies, despite extensive expertise in the country on different thematic issues.

²²³ Universal Periodic Review (UPR): Mid-Term Report 2020 - *Assessing India's Implementation of UPR-III Recommendations*, p. 204 – 208, Available at: http://wghr.org/assets/publications/doc/WGHR_UPR_Mid-Term_Re_h9nm0.pdf, Accessed on: 18 March 2022..

²²⁴ This would include ratifying the three remaining treaties India has not ratified.

²²⁵ India should, in the spirit of engagement with the Special Procedures, invite all those who have requested visits, beginning with the fifteen who have made repeated requests.

²²⁶ UN OHCHR, “List of pending Treaty Body visits for India”, Available at: <https://spinternet.ohchr.org/ViewCountryvisits.aspx?visitType=pending&lang=En>, Accessed on: 18 March 2022.

3. India should take immediate steps to improve its record of implementation of the first three cycles of the universal periodic review and concluding observations from UN treaty bodies.

Conclusion

India received a total of 249 recommendations during UPR III in May 2017. The Govt. has initiated progressive legal and policy initiatives in areas such as right to health, water and sanitation and food. However, a lack of implementation at the ground level due to development priorities inconsistent with international commitments, difficulty in access for marginalised communities and inadequate budgetary allocations, act as hurdles to the realisation of human rights for the most vulnerable. There is a worrying trend of the stifling of civil society voices and democratic dissent, and of increasingly hostile rhetoric and actions towards religious minorities. WGHR presents this report in the hope that the Govt. will take these recommendations consistent with their human rights pledge to the Human Rights Council and in the constructive spirit of the UPR in which they are intended.

Annex

A. List of WGHR Members

	Commonwealth Human Rights Initiative	www.humanrightsinitiative.org
	HAQ: Centre for Child Rights	www.haqcrc.org
	Housing and Land Rights Network	www.hlrn.org.in
	Centre for Justice and Peace	cjp.org.in
	Human Rights Alert	
	People's Watch	www.peopleswatch.org
	National Campaign on Dalit Human Rights (NCDHR)	www.ncdhr.org.in
	FIAN India	www.fian.in
	Lawyers Collective	www.lawyerscollective.org

Independent Experts

- Ms Vrinda Grover – Supreme Court Advocate

- Mr Miloon Kothari - Former Special Rapporteur on adequate housing, UN Human Rights Council

B. List of Endorsements

Sr. No.	Organisation
1.	Agal Women's Collective
2.	Agape Blessed Foundation Trust
3.	All India Minority People Movement

4.	All India Network of NGOs and Individuals Working with National and State Human Rights Institutions (AiNNI)
5.	Anonymous Organisation
6.	Attur Women's Collective
7.	Banglar Manabadhakar Suraksha Mancha (MASUM)
8.	Basumati Trust
9.	Centre for Amenities, Rehabilitation & Education (CARE)
10.	Citizens for Peace and Justice
11.	Centre for Research and Advocacy
12.	Centre for Social and Behaviour Change Communication
13.	Centre for Sustainable use of Natural and Social Resources (CSNR), Odisha
14.	Commonwealth Human Rights Initiative (CHRI)
15.	Christian Livelihood movement
16.	Dalit Human Rights Defenders Network (DHRDNet)
17.	Darshan Organisation
18.	Disabilities Welfare Association, Ramanthapuram, Tamil Nadu
19.	Don Bosco Migrant Services
20.	DNT Adhikar Manch
21.	EKTA Parisath, Tamil Nadu
22.	Gandipet Women's Collective
23.	Habitat and Livelihood Welfare Association
24.	HAQ Centre for Child Rights
25.	Human Rights Defenders' Alert
26.	Human Rights Society
27.	Human Rights and Consumer Protection Society, Pondicherry
28.	Holistic Approach for People's Empowerment (HOPE)

29.	Indian Social Institute
30.	Indian School of Social Sciences
31.	Initiative for Health & Equity in Society
32.	Institute of Development Education, Action & Studies (IDEAS)
33.	Itinerant People Rights Organization
34.	India Thowheed Jamaath
35.	Janaswasthya Adhikar Mancha
36.	Joint Action Against Custodial Torture
37.	Jyothi Jeevapoorna Trust -Archana Women's Centre
38.	Kolathur Women's Collective
39.	Kothagiri Women's Collective
40.	Kalanjium Unorganized Workers Union
41.	Lawyer's Collective
42.	Lokmukti Sangathan
43.	Loyola Technical Institute (LTI)
44.	Minority Coordination Committee
45.	Mount Carmel Convent
46.	Maatram Disabilities Welfare Association
47.	Mudichur Women's Collective
48.	Madurai Women's Collective
49.	Mampakkam Women's Collective
50.	May 17 Movement
51.	National Council of Women Leaders (NCWL)
52.	Natrampalli Women's Collective
53.	National Adivasi Solidarity Council (NASC)
	National Platform for the Rights of the Disabled (NPRD)

54.	
55.	Nomad Film Trust
56.	Nimilee Women's Collective
57.	Nilgiris Women's Collective
58.	Nerkathir Disabilities Welfare Association
59.	Network for Education, Empowerment, Development and Awareness (NEEDA)
60.	PEOPLE-FIRST
61.	People's Watch
62.	People's Action for Rural Awakening (PARA)
63.	Programme Against Custodial Torture & Impunity (PACTI)
64.	PSVS, Avanigadda
65.	Puthiya Uthayam all Disability Association
66.	Punnappakkam Women's Collective
67.	Presentation Convent
68.	Popular Front of India
69.	Penicks Disabilities Welfare Association
70.	Quill Foundation
71.	RIGHTS
72.	RightWalk Foundation
73.	Right to Food Network
74.	Rural Organisation for Action and Development (ROAD)
75.	Ranipettai District Disabilities Welfare Association
76.	RV University, Bangalore, Karnataka
77.	Rosary Convent
78.	Samuthayathai Matrum Disabilities Rights Welfare Association

79.	SEEDS, Andra Pradesh
80.	Social Awareness Society for Youths (SASY)
81.	Society of Jesus
82.	Society for Community Organisation Trust (SOCO Trust)
83.	South Vision Books
84.	SWATE WOMEN MOVEMENT
85.	Tamil National Liberation Movement
86.	The Communist Party of India (CPI)
87.	TTPS Contractors Association
88.	Tamilnadu Rural Labourers Movement's Central Trade Union (TRLMCTU)
89.	Tamilnadu Progressive Women's Lawyer Association
90.	Tuticorin Women's Collective
91.	Thottikalai Women's Collective
92.	Udayan Care
93.	Unorganised Workers Federation
94.	Valathodu Women's Collective, Tamil Nadu
95.	Vadakkampatti Women's Collective
96.	Vasudevanallur Youth Women's Collective
97.	Video Volunteers
98.	Vidhi Centre for Legal Policy
99.	Vithai Disabilities Welfare Association
100.	Women's Collective, Tamil Nadu

No.	Name of Expert	Organisation
1.	Abdul Hakim	SDPI

2.	Arjun	Itinerant People Rights Organization
3.	Cynthia A. Mathew	Advocate Buxar, Bihar
4.	Dhanam	Anti Sterlite People's Movement
5.	Dr Bipasha Roy	Child Rights Activist, Kolkata, West Bengal
6.	Dr. K.M.Parivelan	Associate Professor, Mumbai Maharashtra
7.	Dhilipan P	District Court Lawyer, Tamil Nadu
8.	Dilip Kumar	Social worker
9.	Dhurai	I PRO
10.	Elayavalavan N	District Court Lawyer, Tamil Nadu
11.	Fr. Cedric Prakash	Human Rights and Peace Activist
12.	Grace Gandhimathi.A.	Association for Women Awareness and Rural Development (AWARD)
13.	Jeyakumar	Human Rights Activist
14.	Manoj Kumar Nayak	Social Activist
15.	Mahesh Menon,	Professor of Law, School of Law, Sai University
16.	Mr. Cletus Zuzarte	Asst. Professor, College of Social Work, Mumbai, Maharashtra
17.	Prasad Chacko	Consultant on Inclusion (Governance and Development)
18.	Rohit Prajapati	Environmental Activist
19.	Swati Goswami	Independent Content/Copy Writer
20.	Vrinda Grover	Supreme Court Advocate

21.	Miloon Kothari	Former UN Special Rapporteur on Adequate Housing
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C. Report of Stakeholder Consultations

1. Regional UPR Consultations (November 2021 - February 2022)

In order for the WGHR Stakeholders' report to reflect the current human rights challenges in India as precisely as possible, WGHR held a series of four regional consultations with civil society actors across India from 15 November 2021 to 14 February 2022. Due to the Covid-19 Pandemic, the regional consultations were held online. These consultations aimed at creating a broad and inclusive movement around the UPR process and at gathering precise information that would feed into WGHR's stakeholders' report. The Regional Consultations brought together a total of 282 participants.

Apart from training participants on the UPR process, the regional consultations aimed at gathering testimonies, documentation and information on the most pressing human rights challenges in each region. The following thematic topics were covered during the WGHR Regional Consultations:

- 1) Dalit Rights
- 2) Rights of Women and Sexual and Gender Minorities
- 3) Child Rights
- 4) Housing and Land Rights
- 5) Freedom of Religion and Religious Minorities
- 6) 4) Labour Rights
- 7) Environment and Climate Change
- 8) Right to Health
- 9) Access to justice
- 10) Right to Freedom from Torture and Ill-Treatment
- 11) Rights of Indigenous People
- 12) Militarization, Extrajudicial Killings and Enforced Disappearances

13) Human Rights Defenders and Civic Space (Freedom of Assembly, Association and Expression)

14) The groups conducted discussions on these themes looking at how they affect constituencies most vulnerable to human rights violations. These constituencies include (1) Dalits, (2) Women, (3) Children, (4) Indigenous Peoples (Adivasis), (5) Labourers and Migrant Workers, (6) Religious Minorities, (7) Persons with Disabilities (PWD), (8) Lesbian, Gay, Bisexual and Transgender people (LGBTQIA+).

Further details about the regional consultations held can be found below:

Northern Consultation

- Format: Online
- Dates: 15 - 17 November 2021
- States covered: Rajasthan, Madhya Pradesh, Uttar Pradesh, Bihar, Jharkhand, Chattisgarh, Delhi, Haryana, Punjab, Uttarakhand, Himachal Pradesh, Jammu & Kashmir and Ladakh

East and North-Eastern Consultation

- Format: Online
- Dates: 29 November - 01 December 2021
- States covered: Odisha, West Bengal, Assam, Sikkim, Nagaland, Manipur, Meghalaya, Tripura, Mizoram and Arunachal Pradesh

Western Consultation

- Format: Online
- Dates: 20 December- 22 December 2021
- States covered: Gujarat, Maharashtra and Goa

Southern Consultation

The Southern Consultations were organised by our partner organisation People's Watch and each of the southern states held separate regional consultations.

-Format: Online

-Dates: 24 - 31 January 2022

States covered: Karnataka, Tamil Nadu, Telangana, Andhra Pradesh, Puducherry and Kerala

2. UPR National Consultation (03 and 04 March 2022)

WGHR organised a two day National Consultation on the UPR at India International Centre (IIC), New Delhi. It brought together representatives from the National Human Rights Commission (NHRC), UN agencies, diplomats and civil society. A total of 124 participants from across the country took part in the National Consultation.

The objective of the National Consultation was to : (i) Highlight human rights thematic issues that were underrepresented during the regional consultations, (ii) include new thematic issues not covered by WGHR in previous UPR cycles (iii) consolidate the findings from the regional consultations, (iv) establish national patterns of human rights violations, (v) prioritise the most pressing human rights issues, and (vi) continue a constructive engagement and dialogue between civil society and National Human Rights Institutions around the UPR process. Thematic topics covered during the National Consultation include:

- 1) Housing and Land Rights
- 2) Right to Education
- 3) Right to Food
- 4) Water and Sanitation
- 5) Environment and Climate Change
- 6) Labour Rights
- 7) Right to Health
- 8) Rights of LGBTQIA+ Persons
- 9) Rights of Persons with Disabilities
- 10) Rights of Scheduled Tribes, Adivasis and Nomadic Groups

11) Religious Minorities

12) Refugees, IDPs and Migrants

13) Human Rights Defenders (Freedom of Assembly, Association & Expression)

The final WGHR Stakeholders' report reflects the highlights of the main outcomes and submissions emanating from the regional and national consultations.

The WGHR Consultation series was organised with the support of the United Nations Resident Coordinator's Office, (UNRCO) India as part of a project facilitating engagement with CSOs for India's 4th cycle UPR (UPR IV).

D. List of Abbreviations

AFSPA	The Armed Forces (Assam and Manipur) Special Powers Act, 1958 and (Jammu and Kashmir) 1990
AHRC	Affordable Rental Housing Complex
AJK	Anusuchit Jati / Janjati Kalyan Thanas
ANC	Antenatal Care
CAA	Citizenship Amendment Act 2019
CAT	United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
CED	International Convention for the Protection of All Persons from Enforced Disappearance, 2006
CEDAW	Committee on Elimination of Discrimination against Women, 1979
CrPC	Code of Criminal Procedure
CRPD	United Nations Convention on the Rights of Persons with Disabilities
EIA	Environmental Impact Assessment Notification 2020
FCRA	The Foreign Contribution Regulation Act, 2010 and Amendments 2020
GoI	Government of India
HRBA	Human Rights-Based Approach
ICCPR	International Covenant on Civil and Political Rights
IDPs	Internally Displaced Persons
IPC	The Indian Penal Code, 1860
J&K	Jammu and Kashmir
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual +
MoEF&CC	Ministry of Environment Forest & Climate Change

MOHFW	Ministry of Health and Family Welfare
NCRB	The National Crime Records Bureau
NEP	National Education Policy 2020
NFHS	National Family Health Survey
NFSA	National Food Security Act 2013
NHP	National Health Policy 2017
NHRC	National Human Rights Commission
NRC	National Register of Citizens
NREGA	National Rural Employment Guarantee Act 2005
OP	Optional Protocol
PCMA	Prohibition of Child Marriages Act 2006 and Amendment 2021
PDS	Public Distribution System
PMAY G	Pradhan Mantri Awas Yojana Gramin
PMAY U	Pradhan Mantri Awas Yojana Urban
PMGKAY	Pradhan Mantri Garib Kalyan Anna Yojana
PMJAY	Ayushman Bharat Pradhan Mantri Jan Arogya Yojana
PoA	Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989
POCSO	Protection of Child from Sexual Offences Act 2012
PPP	Public-Private Partnership
PUCL	People's Union for Civil Liberties
RTE	Right of Children to Free and Compulsory Education Act, 2009
RTI	Right to Information Act, 2005
SC	Supreme Court
SCs	Scheduled Castes
SR	Special Rapporteurs
STs	Scheduled Tribes
UAPA	Unlawful Activities Prevention Act, 1967
UPR	Universal Periodic Review
UPR I	India's 1 st Universal Periodic Review, April 2008

UPR II	India's 2 nd Universal Periodic Review, May 2012
UPR III	India's 3 rd Universal Periodic Review, May 2017
UPR IV	India's 4 th Universal Periodic Review, to be held in November 2020