



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of India and welcome your constructive engagement and that of your Government during the 27th session of the UPR Working Group in early May 2017.

As the final outcome report on the review of India was recently adopted by the Human Rights Council at its 36th session, I am writing to follow up on a number of areas raised in two reports that my Office prepared for the review of India – the compilation of UN information and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 103 countries, India's presentation and responses, and the action taken by India to implement the 67 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I would like to highlight one issue that was raised during the review of India and which I am particularly encouraged by: India's efforts aimed at eradicating poverty and achieving inclusive sustainable development, notably through a series of initiatives such as Smart Cities, Make in India, Celebrate the Girl Child and Enable her Education, Bank Accounts for All, Startup India and Housing for All. These are laudable steps in the framework of the 2030 Agenda for Sustainable Development. I also welcome the recent decision by the Supreme Court which ruled that sexual intercourse by a man with his wife, aged below 18, was rape.

I encourage India to develop a national human rights action plan in order to achieve concrete results in the areas contained in the annex and to facilitate India's preparations for the fourth cycle of the UPR. The development of such a plan should include consultations with all stakeholders, in particular the NHRI and civil society organisations, and, where necessary, the support of international organisations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities, under the leadership of the UN Resident Coordinator.

I also encourage India to strengthen its national mechanism for comprehensive follow up and reporting in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend to India the use of the practical guide that my Office released in 2016 on this topic and which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

H.E. Ms. Sushma Swaraj
Minister of External Affairs
India



Please be advised that I will be sharing my advice with all Member States as they go through the third cycle with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. In this regard, I encourage India to submit such a report for the third cycle, by September 2019.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals"*.

I look forward to discussing with you ways in which my Office may assist India to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Strengthen the normative framework by ratifying CAT (signed in 1997); OPCAT; OP-ICESCR; OP-CEDAW; OP-CRC; CRPD; ICPPED (signed in 2007); ICPRMW; the Rome Statute; the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization; the 1954 Convention relating to the Status of Stateless Persons; the 1961 Convention on the Reduction of Statelessness, and the 1951 Convention relating to the Status of Refugees; and withdraw the remaining declarations and reservations to CEDAW;
- Submit as soon as possible all outstanding reports to the CCPR (due in 2001), the CERD (due in 2010), and the CESCRC (due in 2011);
- Respond positively to pending visit requests by special procedures of the Human Rights Council, in accordance with India's standing invitation, and grant access to OHCHR and other stakeholders to Jammu and Kashmir with a view to monitoring the human rights situation.

National human rights framework

- Repeal or amend thoroughly the Armed Forces (Special Powers) Act to bring it into compliance with international human rights norms and standards.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Achieve universal birth registration;
- Ensure effective implementation of the Scheduled Castes and Scheduled Tribes Act and laws providing adequate protections for other vulnerable populations;
- Undertake public human rights sensitization campaign and programmes to combat discrimination against all vulnerable populations;
- Decriminalize same-sex relations;
- Enhance women's political participation, and ensure equal participation of women in the workplace.

B. Civil and political rights

Right to life, liberty and security of person

- Introduce a moratorium on the death penalty, commute death sentences, and ratify the Second OP to ICCPR, with a view to abolishing the death penalty;



- Enact the Prevention of Torture Bill, while ensuring it complies with international human rights norms and standards;
- Ensure that law enforcement officials abide by all times, including in disturbed areas, international human rights norms and standards, including those governing the use of force;
- Ensure that law enforcement officials are fully trained on international human rights norms and standards, including in relation to the use of force, and their standing orders revised accordingly¹.

Administration of justice, including impunity and the rule of law

- Hold accountable all officials responsible for human rights violations;
- Improve access to justice and the functioning of the justice system, including by addressing effectively delays in judicial proceedings with a view to ensuring timely justice, and ensuring that the registration of complaints about alleged human rights violations or abuses by law enforcement officials is done properly and systematically;
- Amend the Juvenile Justice (Care and Protection of Children) Act 2015 so juveniles aged 16-18 years are not prosecuted as adults.

Fundamental freedoms and the right to participate in public and political life

- Continue efforts to guarantee freedom of religion and to combat discrimination on the basis of religion, hate speech, and incitement to religious violence, including by implementing existing laws and abolishing anti-conversion laws;
- Facilitate and protect civil society space by fully guaranteeing the rights to freedom of opinion and expression, freedom of peaceful assembly, and freedom of association, including by decriminalizing defamation and repealing the Foreign Contribution (Regulation) Act or reviewing it to bring it in compliance with international human rights norms and standards;
- Ensure that civil society actors can undertake their legitimate activities without fear of reprisals, investigate independently and thoroughly all acts of intimidation and violence against human rights defenders, including journalists, bring the perpetrators to justice, and provide adequate reparation to the victims.

Prohibition of all forms of slavery

- Continue efforts to combat human trafficking, including by passing a comprehensive law on combatting human trafficking on the basis of wide and meaningful consultations with relevant stakeholders, and ensuring full support to victims and their rehabilitation.

¹ OHCHR has a number of training materials for judges, lawyers and prosecutors, as well as for law enforcement officials and prisons administrators, which could be used for trainings with these groups on applying human rights principles and norms in the exercise of their daily professional activities. The setting up or strengthening of internal accountability mechanisms would also contribute to positive developments in this area.



C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Recognize equal pay for work of equal value and women's unpaid care and domestic work.

Right to social security

- Establish a social protection floor.

Right to an adequate standard of living

- Strengthen India's programmes to eradicate poverty;
- Establish a separate committee to identify those people living below the poverty line as recommended by the Task Force on Elimination of Poverty in India;
- Effectively implement the National Food Security Act 2013;
- Continue increasing access to safe drinking water, and improve sanitation coverage;

Right to health

- Further improve access to health, including access to maternal health and sexual and reproductive health;
- Prevent coercive, unsafe, and abusive sterilization;
- Ensure reproductive and sexual health education for all young people.

Right to education

- Redouble efforts to ensure quality education for all, especially children of scheduled castes and tribes;
- Increase the budget allocated to education.

D. Rights of specific persons or groups

Women

- Fully enforce existing laws prohibiting violence against women and girls, such as so-called "honour killings", dowry-related murders, female feticide and female infanticide;
- Ensure full accountability for all crimes committed against women and girls, and provide adequate reparation to the victims;
- Provide systematic training on women's rights to all law enforcement officials, members of the judiciary and healthcare staff;
- Criminalize marital rape.



Children

- Eradicate child labour, child marriage, sexual exploitation and corporal punishment by fully enforcing existing laws;
- Establish a monitoring mechanism to oversee the effective implementation of existing laws;
- Establish a database of all cases of violence against children.

Persons with disabilities

- Continue efforts to protect the rights of persons with disabilities by fully implementing the existing legislation;
- Continue pursuing the Accessible India Campaign;
- Issue disability certificates to all persons with disabilities so they can gain access to entitlements.

Minorities and indigenous peoples

- Ensure that the rights of minorities and indigenous peoples are fully protected, in particular in the context of the exploitation of natural resources by national and multinational corporations, as well as of counter-insurgency operations;
- Ensure effective protection to all minorities against communal violence, investigate independently and thoroughly all acts of violence, bring the perpetrators to justice, and provide adequate reparation to the victims.

