# United Nations Documents Related to Housing and Land Rights in India

HOUSING AND LAND RIGHTS NETWORK

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# I. Introduction

The body of international law consists of United Nations (UN) treaties that nation states, including India, have ratified. This makes State Parties legally obliged to implement their provisions. The UN human rights system—including treaty bodies and charter-based bodies such as the Human Rights Council and Special Procedures—has also developed mechanisms to report on, assess, and monitor human rights across the world. These mechanisms have, over the years, made observations, comments, recommendations, and issued public statements and communications to State Parties with regard to acts of commission and/or omission related to the realisation of human rights and implementation of international law and policy.

Housing and Land Rights Network (HLRN) has compiled relevant documents of UN mechanisms that pertain to the issues of housing and land in India.

This compilation aims to draw attention of state and non-state actors to India's international commitments—based on treaties that India has ratified—as well as important housing and land rights issues that require attention. HLRN hopes that this publication will help spread awareness on the significant work of the United Nations on housing and land rights issues, and urge the Government of India to take immediate action to implement the recommendations made by various mechanisms; provide restoration and restitution of human rights; and, abide by its international reporting requirements.

# II. International Legal Provisions Protecting the Human Right to Housing

The human right to adequate housing is guaranteed and protected in international law. The following provisions from UN treaties, which India has ratified, specifically uphold the right to housing. Ratification creates a legal obligation on the Government of India to implement the provisions of the treaty within the country and also to report regularly to the UN treaty body responsible for monitoring its implementation.

## 1. International Convention on the Elimination of All Forms of Racial Discrimination (1965)

[ratified by India in December 1968]

**Article 5:** ... to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of ... (e) ... (iii) the right to housing.

## 2. International Covenant on Economic, Social and Cultural Rights (1966)

[ratified by India in April 1979]

**Article 11.1:** The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

## 3. International Covenant on Civil and Political Rights (1966)

[ratified by India in April 1979]

**Article 17:**

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

## 4. Convention on the Elimination of All Forms of Discrimination against Women (1979)

[ratified by India in July 1993]

**Article 14.2:** States Parties shall undertake all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right ... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

## 5. Convention on the Rights of the Child (1989)

[ratified by India in December 1992]

**Article 16.1:** No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.

**Article 27.3:** States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in the case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

## 6. Convention on the Rights of Persons with Disabilities (2006)

[ratified by India in October 2007]

**Article 5.3:** In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

**Article 9.1 (a):** To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, (...). These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia: ... (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces.

**Article 19 (a):** States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that: (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.

**Article 22.1:** No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

**Article 28.1:** States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

**Article 28.2 (d):** States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: ... (d) To ensure access by persons with disabilities to public housing programmes.

Several UN conventions, declarations, and guidelines also contain provisions that protect the human right to adequate housing. These include:

- International Labour Organization (ILO) Convention No. 110 Concerning Conditions of Employment of Plantation Workers (1958);
- Declaration of the Rights of the Child (1959);
- ILO Recommendation No. 115 on Worker's Housing (1961);
- ILO Convention No. 117 Concerning Basic Aims and Standards of Social Policy (1962);
- Declaration on Social Progress and Development (1969);
- Vancouver Declaration on Human Settlements (1976);
- ILO Convention No. 161 Concerning Occupational Health Services (1985);
- Declaration on the Right to Development (1986);
- ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries (1989);
- Istanbul Declaration on Human Settlements and the Habitat Agenda (1996);
- Declaration on the Rights of Indigenous Peoples (2007);
- Basic Principles and Guidelines on Development-based Evictions and Displacement (2007);
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012); and,
- Guiding Principles on Security of Tenure for the Urban Poor (2014).

# III. Concluding Observations of United Nations Treaty Bodies[1]

## 1) Committee on Economic, Social and Cultural Rights

### Concluding Observations, May 2008

13. The Committee is deeply concerned that in spite of the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and often socially accepted discrimination, harassment and/or violence persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and scheduled tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities such as the Muslim population, persons with disabilities and persons living with HIV/AIDS. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long delays in court proceedings and the non-implementation of court decisions by government authorities.

30. The Committee is concerned about the lack of a national housing policy which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party. The Committee is also concerned that while housing is under the responsibility of the State Government, the oversight exercised by the Federal Government is insufficient to ensure effective implementation of the existing strategies and policies to ensure the right to housing for all.

31. The Committee, while noting that the draft resettlement and rehabilitation bill is currently before Parliament, remains deeply concerned about the reports of displacement and forced evictions in the context of land acquisition by private and state actors for the purposes of development projects, including constructions of dams and mining, and that the members of disadvantaged and marginalized groups, in particular, the scheduled castes and scheduled tribes, are adversely affected by such displacement from their homes, lands and their sources of livelihood. The Committee is also concerned that urban renewal projects, sporting events, infrastructure expansion, environmental projects and more recently, the designation of large areas as tax-free special economic zones, have resulted in the displacement of millions of families, most of whom have not received adequate compensation and rehabilitation. Furthermore, the Committee is concerned about the lack of effective consultations and legal redress for persons affected by displacement and by forced evictions, and the inadequate measures to provide sufficient compensation or alternative housing to those who have been removed from their homes and/or their ancestral lands.

51. The Committee requests the State party to submit, in its next periodic report, updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also requests the State party to include, in its next periodic report, annual comparative data, disaggregated by sex, age, caste, ethnicity, religion and by region, the

1 All recommendations to India from UN treaty bodies are available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=IND&Lang=EN

percentage of the gross domestic product allotted for education, health and housing programmes in the country.

52. The Committee recommends that the State party strengthen enforcement of existing legal prohibitions of discrimination and, in addition consider enacting comprehensive administrative, civil and/or criminal anti-discrimination legislation guaranteeing the right to equal treatment and protection against discrimination, specifically prohibiting discrimination in employment, social security, housing, healthcare and education on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as stipulated in article 2(2) of the Covenant. The Committee also urges the State party to step up efforts to remove obstacles faced by victims of discrimination when seeking redress though the courts.

70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and by building or providing low-cost rental housing units, especially for the disadvantaged and low income groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under article 11 of the Covenant and refers to its general comment No. 4 (1991) on the right to adequate housing to guide the Government's housing policies. The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, inter alia, sex, caste, ethnicity and religion.

71. The Committee recommends that the State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and/or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its general comment No. 4 (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions.

72. The Committee urges the State party to conduct the post-tsunami rehabilitation process in the affected areas of Tamil Nadu with transparency and in full consideration of its obligation to respect and protect the economic, social and cultural rights of the survivors. The Committee requests the State party to provide, in its next periodic report, detailed information regarding the rehabilitation process and the extent to which the affected groups were consulted throughout the different stages of the process.

## 2) Committee on the Rights of the Child

### Concluding Observations, July 2014

29. The Committee is concerned about the forced displacement of a large number of children and their families and the loss of their ancestral lands owing to manufacturing operations, in particular families and children living in the area of the POSCO steel plant and port facilities in the state of Odisha. It is also concerned at the lack of information about safeguards to guarantee compliance with the Convention and international human rights standards.

31. The Committee is concerned at the disparity among different groups of children in access to education, health care, safe water and sanitation and other social services and to the enjoyment of the rights enshrined in the Convention. It is also concerned at the persisting discrimination against children from scheduled castes and scheduled tribes, children with disabilities, children with HIV/AIDS, as well as asylum-seeking and refugee children.

32. The Committee recommends that the State party:

    (a) Adopt and implement a comprehensive strategy to address all forms of discrimination, including multiple forms of discrimination, against all categories of children in marginalized and disadvantaged situations and ensure adequate human, financial and technical resources to implement it in collaboration with a wide range of stakeholders and involving all sectors of society, with a view to facilitating social and cultural change;

    (b) Ensure that children in marginalized or disadvantaged situations, such as children from scheduled castes and scheduled tribes, children with disabilities, children with HIV/AIDS, and asylum-seeking and refugee children, have access to basic services and enjoy their rights under the Convention, and to that end, adopt adequate programmes and assess their results.

80. The Committee urges the State party to strengthen its efforts to ensure that all children, irrespective of their religious background or whether they are from a scheduled caste or scheduled tribe, enjoy the entire range of rights enshrined in the Convention.

83. The Committee notes that the State party's Integrated Programme for Street Children has benefited a number of children. However the Committee is deeply concerned at the limited impact of the programme, given the large number of children in street situations in the State party and the fact that a number of those children are treated as criminals, instead of being considered as victims.

## Concluding Observations, February 2004

62. In spite of the growth of the gross domestic product, the Committee is concerned about the widespread poverty in the State party and the still high number of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines. The Committee is further concerned at the negative consequences of displacement and rehabilitation projects which intend to improve living conditions but which remove children from their habitat to a new environment often not prepared for children's needs.

63. In accordance with article 27 of the Convention, the Committee recommends that the State reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living. In light of its previous recommendations (ibid., paragraph 53), the Committee further recommends that the State party prevent any occurrence of forced relocation, displacement and other types of involuntary population movements.

77. The Committee recommends that the State party:

    (a) Strengthen and extend its Integrated Programme for Street Children to address the large and increasing number of street children, with the aim of protecting these children, especially girls, and of preventing and reducing this phenomenon, in particular through assistance to families and the provision of adequate housing and access to education;

(b) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development, providing official documents when necessary;

(c) Ensure that these child victims of physical, sexual and substance abuse are provided with recovery and reintegration services, protection from arrest and maltreatment by the police, and effective services for reconciliation with their families and community;

(d) Collaborate with non-governmental organizations working with street children in the State party and seek technical assistance from, among others, UNICEF.

81. The Committee is concerned at the situation of children belonging to minorities, including to the Primitive Tribal Groups, and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.

## Concluding Observations, January 2000

16. The Committee is concerned at the absence of an effective mechanism to collect and analyse disaggregated data of all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. children living in slums, belonging to different castes and tribal groups, living in rural areas, children with disabilities, children who are living and/or working on the streets, children affected by armed conflicts and refugee children).

28. In the light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by children living in different states, living in rural areas, living in slums and belonging to different castes, tribal and indigenous groups.

53. In accordance with article 27 of the Convention, the Committee recommends that the State party take appropriate measures to give effect to its commitments made at Habitat II in 1996 regarding children's access to housing. In the light of Commission on Human Rights resolution 1993/77 on forced evictions, the Committee encourages the State party to prevent any occurrence of forced relocation, displacement and other types of involuntary population movements. The Committee recommends that resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services.

54. The Committee is concerned at the large and increasing number of children living and/or working on the streets, who are among the most marginalised groups of children in India.

55. The Committee recommends that the State party establish mechanisms to ensure these children are provided with identity documents, nutrition, clothing and housing. Moreover, the State party should ensure these children have access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with families; education, including vocational and life-skills training; and access to legal aid. The Committee recommends that the State party cooperate and coordinate its efforts with civil society in this regard.

## 3) Committee on the Elimination of Discrimination against Women

### Concluding Observations, July 2014

12. The Committee is deeply concerned about the reported high level of violence, including rape and other forms of sexual violence, enforced disappearance, killings and acts of torture and ill-treatment, against women in conflict-affected regions (Kashmir, the north-east, Chhattisgarh, Odisha and Andhra Pradesh). It is particularly concerned about the:

    (c) Continued marginalization and poverty of the women and girls who survived the Gujarat riots and are living in the relief colonies and their precarious living conditions with limited access to education, health care, employment and security and poor infrastructure in terms of sanitation, water, transportation and housing;

14. While commending the State party's cooperation programme in post-conflict areas such as a housing project in the north-east of Sri Lanka, the Committee expresses concern at the lack of a gender perspective in and consultations with women on this project. The Committee is also concerned about the impact on women, including in Nepal, of infrastructure projects such as the Lakshmanpur dam project, including with regard to displacement and loss of livelihood, housing and food security as a result of the subsequent floods.

15. The Committee reaffirms that the State party must ensure that the acts of persons under its effective control, including those of national corporations operating extraterritorially, do not result in violations of the Convention and that its extraterritorial obligations extend to actions affecting human rights, regardless of whether the affected persons are located on its territory, as indicated in the Committee's general recommendation Nos. 28 and 30.

23. The Committee recommends that the State party:

    (d) Ensure that trafficked women and girls have access to victim and witness protection shelters, high-quality medical care, counselling and support programmes for alternative income-generation activities and for their reintegration into the education system and labour market, in addition to access to adequate housing and free legal aid, regardless of their ability or willingness to testify against traffickers.

32. The Committee is concerned at the prevalence of customs and traditional practices that prevent rural women, especially women from scheduled castes and scheduled tribes, from inheriting or acquiring land and other property. It is also concerned at the difficulties faced by rural women and women living in remote areas in gaining access to health and social services and in participating in decision-making processes at the community level, in addition to the fact that rural women are particularly affected by poverty and food insecurity, lack of access to natural resources, safe water and credit facilities.

33. The Committee recommends that the State party:

    (a) Abolish traditional practices and customs that prevent rural women from inheriting and acquiring land and from fully enjoying their rights and guarantee land ownership rights to women;

    (b) Strengthen its efforts to address the needs of rural women and provide them with enhanced access to health services, education, safe water and sanitation services, fertile land, natural resources, credit and income-generating opportunities.

## Concluding Observations, November 2010

29. The Committee takes note of the information provided in the exceptional report and supplementary material with regard to assistance provided in the relief camps as well as the information in annex D of the supplementary material regarding details of facilities provided to the internally displaced persons. However, the Committee expresses its concern at the limited information and data on the access of the internally displaced families living in 86 colonies to public amenities, such as food rations, safe water, shelter, health-care facilities and schools for children. In this respect, the Committee expresses its concern at the information that most colonies are not equipped with proper and secure housing, a safe water supply, electricity, roads and sanitation facilities and that the lack of safe drinking water, the poor living conditions and overcrowding have led to the outbreak of various diseases. The Committee is alarmed that the health needs of internally displaced women, including reproductive and mental health needs, are not being met due to the low availability and accessibility of health-care services.

31. While noting the information provided in the exceptional report and supplementary material on some economic assistance as well as other measures taken by the State party, the Committee expresses its concern that these measures were mainly in forms of relief support and thus inadequate to enable the economic rehabilitation of the affected communities and the rebuilding of basic infrastructure destroyed during the riots.

32. The Committee is further concerned at the information that due to the remote location of the colonies there is no scope for self-employment for women who had worked prior to displacement, and that female residents of the relief colonies are unable to take up employment outside the camps on account of safety concerns.

33. While noting that some information has been provided in the supplementary material on the State party's resettlement measures in place, the Committee regrets the lack of disaggregated data on the approximately 5,000 Muslim families displaced by the violence in Gujarat. It also notes with great concern that eight years after the Gujarat violence, the displaced persons are still living in the temporary and makeshift colonies in remote and abandoned areas with poor access to a livelihood and employment.

34. The Committee is concerned that no measures have been taken to reintegrate women victims of the Gujarat massacre and their families back into the society where they originally belong. It also notes with concern that the State party has not provided information on a timeline for the resettlement process, including steps towards the closing of the 86 colonies in different parts of Gujarat. The Committee is alarmed at the information that the State party, in eight years, has not taken any measures to construct new houses or allocate land in secure locations for the internally displaced women and their families. It notes with serious concern that this situation may lead to further devastation and re-victimization of the victims. The Committee is also concerned at the State party's lack of differentiation between relief measures and long-term rehabilitation.

35. The Committee urges the State party:

    (a) To take immediate, effective and gender-specific measures to rehabilitate and compensate women victims of violence, including sexual violence, and their families in Gujarat. Such measures should include prompt reparation, including compensation, medical care, trauma counselling and sustained rehabilitation, commensurate with the harm suffered and sufficient to enable the women and their families to rebuild their lives, as well as the establishment of additional support services for these victims, including the provision of further government funding for such services;

(b) To take all necessary measures to ensure that the internally displaced families living in all colonies have access to public services, such as safe drinking water, shelter, health-care facilities and schools for children, that all colonies are equipped with a clean water supply, electricity, roads and sanitation facilities and that a plan is created for guaranteeing the right to education, health and employment for women and children in all colonies;

(c) To strengthen its efforts to enable the economic rehabilitation of the women affected by the riots and their families by providing long-term jobs and other means of sustainable economic empowerment, including business capital;

(d) To strengthen and sustain its measures taken for the resettlement and rehabilitation, including long-term rehabilitation, of women victims and their families willing to stay in the colonies and to that effect ensure ownership of the land and housing or, alternatively;

(e) To take appropriate measures, as well as provide the means, to allow women victims and their families willing to return to their original homes to return, in safety and with dignity, and to take effective and adequate measures to rebuild the basic infrastructure destroyed during the riots, including through the allocation of further budgetary and human resources to that effect. The State party should endeavour to facilitate the safe reintegration of returned families. Special efforts should be made to ensure the full participation of returned victims and their families in the planning and management of their resettlement, reintegration and rehabilitation programmes. The State party has the duty and responsibility to assist returned victims and their families to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of following the massacre. When the recovery of such property and possessions is not possible, competent authorities should provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

## Concluding Observations, February 2007

27. The Committee recommends that the State party adopt appropriate measures to eliminate the practice of witch-hunting, prosecute and punish those involved, and provide for rehabilitation of, and compensation to, victimized women. It recommends that such measures be based on an analysis of its causes, including control over land. The Committee calls upon the State party to create public awareness of forms of violence against women rooted in custom as an infringement of women's human rights.

29. The Committee recommends that the State party put in place a mechanism to monitor effective enforcement of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act in order to ensure accountability and end impunity for crimes committed against Dalit women. It calls upon the State party to increase Dalit women's legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights. It requests the State party to report specifically on the impact of such initiatives in its next periodic report. The Committee also urges the State party to study the health implications of manual scavenging on Dalits engaged in this profession and on the community as a whole, and to address all the impediments to eradicating this practice, including by putting in place modern sanitation facilities and providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood.

46. The Committee expresses grave concern about the displacement of tribal women owing to the implementation of megaprojects and the influence of global economic trends. While the Committee appreciates the need for economic growth, it is concerned that the human rights of vulnerable groups such as tribal populations may be adversely affected by large-scale economic projects.

47. The Committee urges the State party to study the impact of megaprojects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urges the State party to ensure that surplus land given to displaced rural and tribal women is cultivable. Moreover, the Committee recommends that efforts be made to ensure that tribal and rural women have individual rights to inherit and own land and property.

68. The follow-up report should include information on the impact of the Gujarat massacres on women.

### Concluding Observations, February 2000

57. The Committee urges the allocation of sufficient and targeted resources for women's development in the social sector, as well as full implementation of relevant laws.

82. The Committee is concerned with significant disparities in economic activity rates for men and women. It is concerned that the practice of debt bondage and the denial of inheritance rights in land result in gross exploitation of women's labour and their impoverishment.

83. The Committee requests the Government to enforce laws on bonded labour and provide women with self-employment opportunities and minimum wages in home-based production and the non-formal sector. It calls upon the Government to review laws on inheritance urgently and to ensure that rural women obtain access to land and credit.

## 4) Committee on the Elimination of Racial Discrimination

### Concluding Observations, March 2007

13. The Committee notes with concern that, despite the formal abolition of "Untouchability" by article 17 of the Indian Constitution, de facto segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. (arts. 3 and 5)

    The Committee urges the State party to intensify its efforts to enforce the Protection of Civil Rights Act (1955), especially in rural areas, including by effectively punishing acts of "Untouchability", to take effective measures against segregation in public schools and residential segregation, and to ensure equal access for Dalits places of worship, hospitals, water sources and any other places or services intended for use by the general public.

19. The Committee notes that the State party does not fully implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples. It is also concerned that large scale projects such as the construction of several dams in Manipur and other north-eastern States on territories primarily inhabited by tribal communities, or of the Andaman Trunk Road, are carried out without seeking their prior informed consent. These projects result in the forced resettlement or endanger the traditional lifestyles of the communities concerned. (art. 5 (d) (v) and 5 (e))

    The Committee urges the State party to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples, in accordance with ILO Convention No. 107 on Indigenous and Tribal Populations (1957). The State party should seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making processes related to such projects, and provide

adequate compensation and alternative land and housing to those communities. Furthermore, it should protect tribes such as the Jarawa against encroachments on their lands and resources by settlers, poachers, private companies or other third parties and implement the 2002 order of the Indian Supreme Court to close the sections of the Andaman Trunk Road that run through the Jarawa reserve.

20. The Committee is concerned about reports that Dalits are often denied access to and evicted from land by dominant castes, especially if it borders land belonging to such castes, and that tribal communities have been evicted from their land under the 1980 Forest Act or in order to allow private mining activities (art. 5 (d) (v) and 5 (e) (i) and (iii)).

    The Committee recommends that the State party ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989). The State party should also ensure that tribal communities are not evicted from their lands without seeking their prior informed consent and provision of adequate alternative land and compensation, that bans on leasing tribal lands to third persons or companies are effectively enforced, and that adequate safeguards against the acquisition of tribal lands are included in the Recognition of Forest Rights Act (2006) and other relevant legislation.

# IV. Communications by United Nations Treaty Bodies

## Committee on the Elimination of Racial Discrimination: Early-Warning Measures and Urgent Procedures – Letters to States Parties[2]

### March 2014

In the course of its 84th Session, the Committee on the Elimination of Racial Discrimination received information on recent developments regarding the situation of indigenous peoples in the North East of India submitted by non-governmental organizations with regard to the continuation of Tipaimukh dam project and the construction of the Lower Subansiri Hydro-electric project.

The Committee deeply regrets that the State party has not replied to its previous requests for information dated 30 August 2013.

New information received alleges that your Government has now approved the construction of the Lower Subansiri Hydro-electric project in spite of the Assam Assembly's House Committee's recommendations to undertake a proper scientific assessment of the project and without the approval of the indigenous peoples of the North East of India. On the basis of the information received, the Committee understands that the construction might negatively impact the livelihoods of the indigenous peoples of Arunachal Pradesh and Assam due to the dam's possible impact on flood management.

The Committee reiterates its concern about these allegations which, if verified, could hinder the full enjoyment of rights under the Convention. In this regard, the Committee refers to its General Recommendation 23 on the rights of the indigenous peoples in which the Committee calls upon the States Parties "to recognise and protect the rights of indigenous peoples to own, develop, control, and use their communal lands, territories and natural resources and, where they have been deprived of their lands and territories traditionally occupied otherwise inhabited or used without their prior, free and informed consent, to take steps to return those lands and territories".

### August 2012

In the course of its 81st Session, the Committee considered on a preliminary basis the situation of the Jarawa people in the Andaman Islands in India under its early warning and urgent action procedure, in the light of information submitted by non-governmental organisations.

Information before the Committee alleges that the Jarawa people have become the subject of 'human safaris' on the Andaman Road. These 'safaris' are trips undertaken by tourists who use the Andaman Trunk Road to drive through the Jarawa Reserve in the hope of spotting the tribes people. The Committee is deeply concerned and regrets the distinction of the Jarawa people from Indian settlers in this way as well as the attitudes of tourists visiting the region, allegedly with the involvement of the authorities. In this regard, the Committee is equally concerned that, on the information available to it, the State party has not taken any measures to redress the situation.

2 All letters to India from the Committee on the Elimination of Racial Discrimination are available at: http://www.ohchr.org/EN/HRBodies/CERD/Pages/EarlyWarningProcedure.aspx

## September 2011

In the course of its 79th Session, the Committee considered information on the situation of indigenous peoples due to signing of a memorandum of understanding for the construction of the Tipaimukh dam in district of Manipur despite reported massive opposition to it, and reported extension of the application of the Armed Forces (Special Powers) Act for another one year, under its early warning and urgent action procedure, in the light of information submitted by a non-governmental organisation.

## March 2010

With reference to its letter to the State party dated 28 September 2009, under its early warning and urgent action procedure, the Committee on the Elimination of Racial Discrimination wishes to inform the State party about its continued concern related to information received on the situation of religious lands and natural resources of Dongria Kondh people in the administrative districts of Rayagada and Kalahandi. The Committee regrets that it has not yet received any response from the state party.

## September 2009

With reference to its letter to the State party dated 13 March 2009, the Committee on the Elimination of Racial Discrimination wishes to recall that it expected to be informed on measures taken to follow up on the recommendations contained in paragraphs 12, 15, 19 and 26 of its concluding observations on the periodic report of India adopted at its 70th session in March 2007. In its letter, the Committee had also expressed concern at the impact of several dam construction projects as well as the continued application of the Armed Forces (Special Powers) Act of 1958 in the North East of India on Indigenous communities living in this area. The Committee regrets that to date it has not received such information.

At its 75th Session, the Committee also considered on a preliminary basis information concerning bauxite mining plans on the religious lands of the Dongria Kondh people, in the administrative districts of Rayagada and Kalahandi in the state of Orissa (now Odisha).

# V. Reports of United Nations Special Rapporteurs

## 1) Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this context

## Summary of Communications to the Government of India

### 20 February 2013: Summary of the allegation transmitted

Alleged forced eviction of over 5,000 people living in economically weaker section (EWS) quarters in Koramangala, Bangalore. According to information received, from 18 to 21 January 2013, Bruhat Bangalore Mahanagara Palike (BBMP) [Greater Bangalore Municipal Corporation] evicted over 5,000 people living informally in economically weaker section (EWS) quarters in Koramangala, Bangalore. Allegedly, no prior notice was issued to the residents. During the eviction police reportedly used violence against residents, a number of whom were also arrested. No alternative accommodation or housing has been provided. Since the eviction, many BBMP residents have been spending days and nights in the open, without shelter or access to basic services. Reportedly, in 2005 a large number of the evicted residents had been promised new housing by BBMP after their original housing at the site was destroyed. Yet no housing was built since and residents had to settle informally at the site.

### 21 December 2012: Summary of the allegation transmitted

Alleged impacts of the expansion of the East Parej Open Cast Coal Mine on the rights of 228 families in the Jharkhand state. According to the information received, 228 families (1200 persons) were at risk of being evicted to give way to an expansion of East Parej Open Cast Coal Mine, operated by Central Coalfields Limited, India. On 26 October 2012, and at two other occasions, representatives of the mining company surveyed households in the villages of Agarva Tola, Dudmitya Tola and Fakodih, for the purpose of acquiring their homes to facilitate the expansion of the mine. Over 1,000 people from surrounding villages have already been displaced in previous years by activities associated with the East Parej Open Cast Coal Mine. The affected households belonged to marginalized communities, including scheduled tribes and Dalits. They were allegedly resettled in inadequate sites and have suffered impoverishment since displacement.

### 14 February 2011: Summary of allegations transmitted

34. On 13 January 2010, the Special Rapporteur sent an urgent appeal letter to the Government of India, regarding the alleged situation of homeless in New Delhi, including deaths due to severe cold weather. According to information received, between 31 December 2009 and 11 January 2010, at least seven homeless people died from cold in New Delhi. Concerns were also expressed that because of the weather and the lack of a sufficient number of equipped shelters, the life of additional homeless people was at stake in New Delhi.

35. On 10 June 2010, the Special Rapporteur sent a letter of allegation to the Government of India regarding the alleged evictions and demolitions of informal settlements and slums in New Dehli in the run-up to the Commonwealth Games. According to information received by the Special Rapporteur, New Delhi witnessed evictions and demolitions of informal settlements and slums in the run-up to the Commonwealth Games that took place from 3-14 October 2010 in the capital city. Most of these

evictions were apparently carried out to construct roads, bridges, stadiums, and parking lots, or to beautify the city. In addition, beggars and homeless persons were allegedly rounded up, arrested and arbitrarily detained under the Bombay Prevention of Begging Act 1959 in preparation for the Games.

## 22 February 2010: Summary of allegations transmitted

36. On 27 March 2009, the Special Rapporteur sent an allegation letter to the Government of India concerning forced evictions in the areas of Davidpuram, Kalvaikarai, Pumping Station and Samidosspuram, in the city of Chennai, State of Tamil Nadu, India.

37. On 20 July 2009, the Special Rapporteur sent an allegation letter to the Government of India regarding alleged forced evictions in the area of Netaji Nagar Basti, Ghatkopar, in the city of Mumbai, State of Maharashtra. According to the information received, on 28 May 2009, officials of the Municipal Corporation of Greater Mumbai carried out the eviction of approximately 250 families in the above-mentioned site, with the assistance of the Pant Nagar Police. The police reportedly used violent means. A number of protestors reportedly remained in custody for one night.

38. On 9 December 2009, the Special Rapporteur sent an urgent appeal to the Government of India regarding forced evictions along the Cooum River in the city of Chennai, Tamil Nadu. According to the allegations, around 430 families living along the Cooum River in Chennai, Tamil Nadu, were forcibly evicted and their homes destroyed in actions starting on 13 November 2009. The forced evictions were reportedly carried out by the Public Works Department and the Slum Clearance Board in order to clear land that the National Highways Authority of India (NHAI) plans to use to build an elevated highway. During the evictions, a force of over 200 police officers was reportedly deployed and bulldozers demolished the huts of the families in question. It was alleged that the families had not been issued an appropriate advance notice of the eviction. Reportedly, 150 families had not been offered alternative housing and had been left homeless by the evictions. The relocation offered to the rest of the families was allegedly not the product of proper consultation processes. The housing alternatives offered were far removed from their places of work and educational facilities.

## 17 February 2009: Summary of allegations transmitted

52. On 29 February 2008, the Special Rapporteur together with the special Rapporteur on violence against women, its causes and consequences sent a joint allegation letter to the Government of India concerning reports they have received regarding violence against Dalit women. Dalit women and men suffer descent based discrimination in various aspects of their lives and are also victims of violence and untouchability practices arising out of the caste system. Despite the formal abolition of "Untouchability" by article 17 of the Indian Constitution, de facto discrimination and segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Lands and properties in particular are issues of conflicts over which Dalit women have faced evictions, harassment, physical abuses and assaults. Dalits women are often denied access to and are evicted from their land by dominant castes, especially if it borders land belonging to such castes. They are therefore forced to live on the outskirts of villages, often on barren land. Violence against Dalits is also caused due to land or property disputes. Reportedly, on many occasions, cases of violence against Dalit women are not registered. Adequate procedures are not taken by the police.

53 Mrs. Fulwa Dewi, wife of Hardev Paswan, owns a field where she was growing crops. On 16 November 2005, Rajdev Yadav, Lalder Yadav, Urmila Devi, Siyamani Devi and Saguni Yadav beat her up and stole her crops. On 13 December 2005, Mrs. Fulwa Dewi filed a complaint with the local police. The accused were arrested but were immediately released on bail. The Special Rapporterus recall Article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, as well as the Concluding Observations of The Committee on Racial Discrimination (CERD), in 2007, paragraph 20, which recommended that the Government of India "ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989)." In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the individual cases mentioned; details of any prosecutions against the perpetrators which have been undertaken and if any sanctions have been imposed on the alleged perpetrators; and whether the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) has been used to ensure remedies to the alleged victims.

54. On 5 March 2008, the Special Rapporteur together with the Special Rapporteur on violence against women, its causes and consequences sent a joint allegation letter to the Government of India regarding information they received concerning Mrs. Shobhavati Devi in Baulia village, Shivdaspur, Post Manduvadih, Varanasi, and Mrs. Ramashree, in Tahirpur village, Shahabad, Hardoi, Uttar Pradesh, two members of the Dalit caste.

## 4 March 2008: Summary of allegations transmitted

54. On 23 April 2007, the Special Rapporteur sent a joint allegation letter with the Special Rapporteur on the right to food on the threat of imminent forced evictions in the Nandigram rural area of East Midnapur district, West Bengal, where violent clashes between government security forces and villagers protesting against these evictions occurred in January and March 2007, that have resulted in numerous injuries and deaths. According to these allegations, on 31 July 2006, the State Government of West Bengal signed an agreement with an Indonesian corporation part of the Salim Group to implement various developmental projects. It is alleged that the implementation of such plan will lead to the eviction of around 40,000 to 100,000 villagers who live in this area, mainly small and marginal farmers, sharecroppers and agricultural labourers, and that no compensation or rehabilitation package has been proposed to them so far.

55. On 7 June 2007, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the right to food on the farmers in Jagatsinghpur in the eastern state of Orissa, who protested against their proposed displacement for a new industrial project and have feared forced evictions at the hands of the police. According to these allegations, tensions have raised after approximately 1,000 police officers encircled Dhinkia, Nuagaon and Gadakujang panchayats in April 2007 apparently preparing to enter the area which has seen protests by farmers for the last 14 months. The farmers have reportedly protested against their displacement due to an integrated steel plant by the South Korean firm, POSCO, which could affect their access to adequate and sufficient food.

56. On 19 July 2007, the Special Rapporteur sent a joint allegation letter with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples on the alleged threat of eviction of Adivasi families in the state of Chhattisgarh. According to the information received: Numerous Adivasi families face eviction from their traditional land due to the plan to construct a TATA

steel plant in the Lohadiguda Block, Bastar District, Chhattisgarh. The Bastar District is home of the Gonds, Abhuj Maria, Darda Maria, Bison Horn Maria, Munia Doria, Dhruva, Bhatra, Halba and other Adivasi peoples, constituting 70 per cent of the population.

57. On 23 August 2007, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders regarding attacks on the Dalit communities, particularly women, in Sonebhadra District, Uttar Pradesh, India.

## 18 May 2007: Summary of allegations transmitted

30. On 7 April 2006, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the right to food, concerning environmental activists and human rights defenders involved with Narmada Bachao Andolan (NBA - Save Narmada Movement), and in particular NBA's leaders, Ms Medha Patkar, Mr. Jamsing Nargave and Ms. Bhagwatibai Jatpuria. Concerns are expressed regarding the impact of increasing water levels in the Sardar Sarovar Dam on the Narmada River, and particularly about the most recent developments in this respect. According to information received on 8 March 2006, the Narmada Control Authority (NCA) took a decision to raise the height of the above-mentioned dam, which contravenes the judgement of the Supreme Court of India in 2000 according to which any further increase in height was to be linked to the implementation of resettlement and rehabilitation measures, and would allegedly result in the violation of a range of human rights of an estimated 24,241 families in 177 villages of Madhya Pradesh. Reportedly, neither adequate rehabilitation nor alternative agricultural land has been provided for those affected, many of them indigenous peoples and farmers, leaving them homeless when submergence hits. Where land has been allotted, it is allegedly uncultivable and inadequate.

31. On 11 May 2006, the Special Rapporteur sent a joint letter with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, regarding an incident of violence between Jat and Dalit communities in Gohana, Sonepat district of Haryana state, in August-September 2005, resulting in the burning of houses and loss of property belong to members of the Dalit community.

## 17 January 2005: Summary of allegations transmitted

12. On 29 July 2003, the Special Rapporteur, in a joint letter of urgent appeal with the Special Rapporteurs on the human rights and fundamental freedoms of indigenous people and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ("right to health") sent a communication to the Government of India inquiring about the decision of the Resettlement and Rehabilitation (R&R) Subgroup of the Narmada Control Authority (NCA), supported by various state chief ministers and relevant authorities, to raise the level of the Sardar Sarovar dam from 95 to 100 metres. It was alleged that this decision would result in the flooding of several Adivasi communities living near the reservoir, given that during monsoon season there would be an increased number of dwellings that would be submerged. Reportedly, an estimated 3,000 families in Maharashtra and 12,000 families in Madhya Pradesh would be at risk of having their homes submerged as a result of the heightened water level. It was also reported that no proper resettlement was given for the Adivasi community.

15. On 22 April 2004, following up on the reply of the Government received on 23 September 2003, a joint letter of urgent appeal with the Special Rapporteurs on the human rights and fundamental freedoms of indigenous people, and on the right of health was sent to the Government of India, inquiring about further developments with respect to the Sardar Sarovar dam. According to information received by the Special Rapporteurs, a decision was made on 16 March 2004 by the NCA, and supported by the Chief Ministers of Gujarat, Maharashtra and Madhya Pradesh, and other relevant authorities, to allow the raising of the height of the Sardar Sarovar dam from 100 metres to 110.64 metres. The Special Rapporteurs reiterated that information indicated that the result would be the enlargement of the submerged area, the flooding of several Adivasi communities and densely populated villages near the reservoir and on the banks of the river, and consequent displacement of communities.

17. On 12 July 2004, the Special Rapporteur, in a joint letter of allegation with the Special Rapporteur on the right to food, sent a communication to the Government of India inquiring about reports of large-scale demolitions of slum dwellings and forced evictions allegedly undertaken by the Municipal Corporation of Delhi (MCD) and the Delhi Development Authority (DDA) since February 2004 in the Yamuna Pushta area of New Delhi. According to official reports, approximately 20,000 families, or roughly 100,000 people, have been evicted. However, information from local non-governmental sources indicates that the number of families evicted is 27,000, or approximately 130,000 people. Information suggests that only 16 per cent of the people affected have been given any kind of alternative housing. Reports from civil society groups working in the proposed resettlement sites of Bawana and Holambi Kalan point out that resettlement conditions are highly inadequate. Basic amenities like water and sanitation are also found to be grossly inadequate. The Special Rapporteur also requested information about the alleged use of force, arrests, and ill-treatment of slum dwellers with reference to the Yamuna Pushta evictions, highlighted by media reports and information from civil society organizations in New Delhi. According to the information received, in the Kanchanpuri demolition of 23 March 2004, two children were trapped under debris. On 13 March 2004 a child and a 40-year-old man were burnt to death in a fire that started during the demolition in Indira Basti of the Yamuna Pushta. According to reports from civil society groups, a fire gutted about 2,000 slum dwellings on 18 April 2004 in the Yamuna Pushta.

19. On 28 October 2004, in a letter of urgent appeal, the Special Rapporteur sent a communication to the Government of India, inquiring about the allegation of a forced eviction of women and children from the Palika Hostel night shelter for the homeless by the New Delhi Municipal Council (NDMC) on the morning of 16 October 2004. According to the information received, approximately 150 NDMC staff entered the shelter at 7.30 a.m., allegedly using excessive force while effectuating the eviction. At the time of the communication, the persons affected by the eviction continued to be without housing and were reportedly living in tents or on the streets. The information received suggested that the eviction had been conducted in a way that violated a series of requirements imposed by international human rights law, in particular the right to adequate housing as a component of the right to an adequate standard of living. The Special Rapporteur respectfully drew attention to the urgent need for developing a comprehensive policy and strategy to address the housing rights of the poorest segments of society, including the homeless, particularly in light of the onset of winter.

## 3 March 2005: Summary of allegations transmitted

27. The Special Rapporteur notes with grave concern that Governments continue the practice of mass evictions in cities as a means of creating "world-class cities", lured by the prospect of international investment. Economic globalization has created competition amongst cities that is to the detriment of the poor. The example of Mumbai, India, is very recent. Between December 2004 and January 2005, 80,000 homes were demolished rendering 300,000 people homeless. For the vast majority of those

evicted there was no advance notice, the evictions were violently carried out, and the belongings, including identity cards, of many were damaged or burnt. Those evicted have not been offered alternative accommodation, clearly exacerbating the situation of homelessness in Mumbai. The Chief Minister explained these brutal demolitions as the only way to create a "world-class" city in the future.

32. The Special Rapporteur notes with concern the impact of laws that directly or indirectly criminalize homelessness and serve to further marginalize the homeless. In India, for example, the 1959 Bombay Prevention of Begging Act (adopted in Delhi in 1961) has been used by Delhi police to target the homeless as the Act permits intervention against anyone "having no visible means of subsistence and, wandering about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exists by soliciting or receiving alms".

51. Empirical data show that where children are homeless or living in dismal conditions, their growth, development and security are seriously compromised. Figures from India, where 40 per cent of the total urban population of 280 million is classified as poor, offer a clear illustration of this. More than half of the country's poor urban children are underweight; a high proportion are severely undernourished, affecting growth and development, while more than 80 per cent of poor children in India's urban areas have anaemia. Children and families of the urban poor often live in slums and squatter communities under intolerable and subhuman conditions. They do not have access to clean water, nor do they have proper sewage and garbage disposal systems, and are thus highly vulnerable to infectious diseases.

62. Certain sections of the world's population face multiple forms of discrimination. For instance, the Dalits - a community facing historical caste-based discrimination and disenfranchisement in India, Nepal and to some extent Pakistan - suffer extreme human rights violations, including with regard to land and housing rights. A majority of Dalits are still prevented from owning land and are forced to live on the outskirts of villages, often on barren land. While the struggle for Dalit land rights is growing, land reforms intended to benefit the rural poor and Dalits have been ineffective due to weak legislative provisions, inadequate implementation, and a lack of State commitment.

66. Numerous organizations in India, United States, Australia and other countries are taking up the issue at the national and international levels. The Special Rapporteur urges Governments to work with these organizations and to use their experience to work out viable solutions to homelessness. The Special Rapporteur commends the work of the homeless themselves in organizing the struggle for their human rights.

## Press Releases of the Special Rapporteur on Adequate Housing[3]

### 1 October 2013

Construction of a mega-steel plant in Odisha in Eastern India should be halted immediately, United Nations independent human rights experts have urged, citing serious human rights concerns. The project reportedly threatens to displace over 22,000 people in the Jagatsinghpur District, and disrupt the livelihoods of many thousands more in the surrounding area. "The construction of a massive steel plant and port in Odisha by multinational steel corporation POSCO must not proceed as planned without ensuring adequate safeguards and guaranteeing that the rights of the thousands of people are respected," the group of eight experts stressed. While India has the primary duty to protect the rights of those whose homes and livelihoods are threatened by the project, the experts underlined that "POSCO also has a responsibility to respect human rights, and the Republic of Korea, where POSCO

3 Available at: http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?SID=Adequate_Housing

is based, should also take measures to ensure that businesses based in its territory do not adversely impact human rights when operating abroad." The UN independent experts brought their concerns to the attention of both Governments and the corporation involved following allegations of human rights abuses and potential negative human rights impacts linked to the project. "Forced evictions constitute gross violations of human rights," said the UN Special Rapporteur on adequate housing, Raquel Rolnik, "and may only be carried out in exceptional circumstances and in a manner consistent with human rights law, including after a genuine consultation, without leaving people homeless or vulnerable to further human rights violations."

### 19 January 2010

The UN Special Rapporteur on the right to adequate housing, Ms. Raquel Rolnik, expressed her concern about the homeless persons that have died from cold recently in New Delhi and the risk to the lives of many others given the harsh weather and insufficient adequate shelters. Ms Rolnik also drew attention to the growing number of homeless persons in the Indian capital and the demolitions of homeless shelters, stressing that the preparation for the 2010 Commonwealth Games seems to be "one of the factors behind the closing down of a number of shelters." In the last month demolitions and evictions of homeless from places they used as shelters have been conducted by public authorities despite the cold weather. "The lives of hundreds of homeless people in India are at risk as temperatures near zero degrees," warned the Special Rapporteur. Ten homeless persons have already died from cold in the last month in New Delhi. In northern India, around a hundred homeless persons have reportedly died in the states of Uttar Pradesh and Bihar due to the freezing cold that affected the region over the last few weeks. "While the homeless population has been growing since 2007," said Ms. Rolnik, "the number of homeless shelters in New Delhi has recently been reduced from 46 to 24, in disregard of the Delhi Master Plan 2001 and the Delhi Municipal Corporation Act 1957."

## 2) Special Rapporteur on Violence against Women, its Causes and Consequences

### April 2014

18. Women with disabilities face multiple challenges, including, for example, the lack of adequate access to public spaces, utilities and buildings, and often experience harassment in public. The Special Rapporteur...was also informed of violence perpetrated against women with disabilities in State-sponsored shelters.

25. Women were also found to suffer violence in the context of forced evictions. The State's efforts to foster economic growth and implement development projects are allegedly often conducted without adequate consultations with affected communities, with the sole objective being one of economic growth at any cost. The consequences for women include being forced to live in insecure environments, displacement, the degradation of their environment, the loss of land and livelihoods and forcible evictions. Many victims are left without adequate relocation alternatives, forcing them to live in slums or on the streets. The Government's Twelfth Five-Year Plan, 2012–2017 includes elements to improve housing conditions through a new slum rehabilitation programme and schemes to assist States to improve livelihood opportunities in urban areas.

27. Many women refugees and asylum seekers are unskilled workers who often perform hazardous labour in urban and informal settings. While access to education and health care is provided for free by

the Government, access to livelihoods is still a challenge, particularly in urban or semi-urban areas. Many of those women earn low wages and are forced to live in small and overcrowded apartments, with a lack of access to basic sanitation in less developed urban settings. Such factors contribute to poor health conditions and other vulnerabilities. Language barriers often impede their ability to gain access to health care, education and the justice system. Despite improvements in criminal law and police procedures, women refugees and asylum seekers continue to voice safety concerns, as they are frequent targets of attacks and harassment by employers, landlords and community members in public and private spheres.

35. Fair trial rights, equality before the law and equal protection of the law were affected by numerous challenges, beginning with the reporting of cases of violence against women to the police. Many interlocutors said that victims were often discouraged from reporting to the police and that many women did not file a complaint owing to fear of reprisals or lack of guarantees of adequate shelter and access to livelihoods. Informal dispute settlement alternatives are often sought, allegedly by police, family members or community leaders. Many interlocutors described the complete or partial absence of legal, housing, security and financial assistance measures for victims. To be able to officially report complaints and continue throughout the often lengthy judicial process in safety and with an adequate standard of living is not an option for many women.

60. Although telephone hotlines are available, the police are usually the first point of contact for many women, according to reports received. Victims of violence, who require from the State special security, shelter, public housing, health care and socioeconomic protection, often face significant challenges. Many services are channelled through providers that lack sufficient resources. Numerous allegations were made of de facto caste-based discrimination, perpetrated by police officers, public representatives and community members, with regard to access to services.

71. Women experience obstacles in gaining access to mechanisms of redress, including legal aid, counselling services and shelters.

78. The Special Rapporteur recommends that the Government:

    (q) Take measures to ensure that displaced populations and evicted families have adequate access to livelihoods, including access to health and education;

79. The Special Rapporteur recommends that the Government:

    (a) Take effective measures to ensure access to justice and effective redress for all victims of violence against women. In particular, it should:

    (vi) Ensure legal, housing, security and financial assistance measures for victims of violence that enable them to pursue accountability for crimes and also to rebuild their lives.

## 3) Special Rapporteur on the Situation of Human Rights Defenders

### February 2012

71. In the context of the country's economic policies and despite legal requirements of consultation and rehabilitation, defenders engaged in denouncing development projects that threaten or destroy the land, natural resources and the livelihoods of their community or of other communities have

been targeted, increasingly on a joint basis, by State agents and private actors and are particularly vulnerable.

72. In Assam, indigenous communities who were not consulted on the construction of mega-dams and criticized such projects because of their human rights and environmental consequences were branded by the authorities as anti-Government activists. This is the same rhetoric used under the Armed Forces (Special Powers) Act. Defenders live in constant fear. In Assam, one defender was tortured with electric shocks while in detention and a woman defender was shot. Three defenders were killed in Manipur.

73. In Andhra Pradesh, defenders who denounced environmental issues and sensitized citizens about their right to land have been branded as sympathizers of Naxalites, or being Naxalites.

74. In Kerala, defenders protecting natural resources (forest, land and water) have been repeatedly arrested, beaten and in some instances killed because of their activities.

76. In Orissa, anti-mining campaigners have been killed and the police reportedly claimed that they were Maoists. Many corporate projects, which caused land grabbing and displacement, were undertaken with the collusion of the Government. A defender denouncing bonded labour spent 110 days in jail. In Orissa, women defenders are at the forefront of demonstration against dams. Forty-two women defenders were put in jail for protesting against the building of a dam.

80. In Mumbai, a woman defender supporting slum-dwellers facing eviction received threats for conveying their voices.

101. In West Bengal, a journalist was brutally assaulted and tortured by Bengali police because he documented the case of a developer who acquired the land of a poor man and captured it on camera.

116. The Special Rapporteur is particularly concerned at the plight of women Dalits' rights defenders who face gender-based violence, or restrictions, regarding their work on the basis of their caste and gender. In August 2010, an elected female Dalit representative in Rajasthan was insulted and beaten by members of the dominant caste because she had taken up cases of land rights in her community. She filed a complaint to the police, but the perpetrators were reportedly never arrested. In another case, a centre working on issues pertaining to Dalit women was forcibly closed down by the dominant caste, and the manager was subsequently attacked by villagers and forced to leave the village with her family.

117. The ancestral land, water and resources of Adivasis are part of their identity as well as livelihood. They have been subjected to severe violations of their rights by state Governments and private actors who often act in collusion to exploit such lands which are often rich in minerals and natural resources. Frequently, Adivasis's non-violent means of protests against exploitation of their lands and displacement have been met by violent state response. They are often arrested and placed in detention with false cases. In addition, they are often victims of the ongoing conflict between the authorities and the Maoists.

119. In Orissa, staff members of KIRDT, an NGO which sensitizes Adivasis on their rights when facing eviction, were harassed by the police who branded them as Maoists. Their families were ostracized.

120. In Jharkhand, several indigenous peoples were arrested following protests in relation to a land dispute and forced eviction benefitting corporate companies.

## 4) Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes

### September 2010

5. India is a party to a number of international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Pursuant to these treaties, the country has undertaken an obligation to protect individuals and communities within its jurisdiction by eliminating, or reducing to a minimum, the risks that hazardous products and wastes may pose to the enjoyment of human rights, including the right to life, the right to the enjoyment of the highest attainable standard of physical and mental health, the right to safe and healthy working conditions, the right to food and safe drinking water, the right to adequate housing, the right to information and public participation and other human rights enshrined in the Covenants and the Universal Declaration of Human Rights.

56. Much more remains to be done to ensure the effective enjoyment of the right to the highest attainable standard of health, as defined in article 12 of the Covenant. The Special Rapporteur observes that this right extends not only to timely and appropriate health care, but also to "the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information".

99. The Special Rapporteur is seriously concerned at the poor conditions in which most workers live, especially in Mumbai. He calls on GMB and MPT to provide appropriate plots of lands, and to facilitate – with the financial help of the shipbreaking industry – the construction of adequate housing facilities for those who work in the yards. Adequate access to safe drinking water and sanitation facilities should also be provided within and outside the yards. Taking into account that about 20 per cent of workers are accompanied by their families, the Special Rapporteur also calls on the Government of India and regulatory authorities to establish and maintain schools or formal education facilities for the children of those employed in the yards.

## 5) Special Rapporteur on Freedom of Religion or Belief

### January 2009

37. A large number of criminal cases relating to the communal violence in 2002 remain un-investigated or have been closed by the Gujarat police and the plight of those internally displaced from their home continues. In addition, there is increasing ghettoization and isolation of Muslims in certain areas of Gujarat, for example in one part of Ahmedabad which is colloquially called "little Pakistan". The assertion of the state government that development by itself will heal the wounds does not seem to be realistic. The Special Rapporteur believes that it is crucial to recognise that development without a policy of inclusiveness of all communities will only aggravate resentments.

45. A number of Hindu leaders expressed their mistrust of Muslims living in Srinagar. They remain hurt at the use of violence and threats hurled at the Kashmiri Pandits, who were eventually left no option but to be evacuated from Srinagar in the 1990s. While many of the Kashmiri Pandits remain internally displaced, there have also been public statements inviting them to return to Kashmir.

## 6) Special Rapporteur on the Right to Food

### March 2006

11. Scheduled castes and tribes suffer most from hunger and malnutrition, making up 25 per cent of the rural population but 42 per cent of the poor. As a result of discrimination, many low-caste Dalits are expected to work as agricultural labourers without being paid, many held in debt bondage by their higher-caste employers. Although debt bondage is illegal, NGOs estimate that there are between 20 to 60 million bonded labourers in India, 85 per cent of them belonging to scheduled castes and scheduled tribes. Widespread discrimination prevents Dalits from owning land, as they are seen as the "worker class", and even if they receive land (as a result of redistribution and agrarian reform programmes in some states), such land is frequently taken by force by higher-caste people in the area. Lower castes are also often restricted from using village wells, as observed by the Special Rapporteur in Shivpuri District. Tribal peoples, particularly those living in forest and hill areas, are extremely marginalized, many having lost access to traditional forest livelihoods and food resources through the creation of Forest Reserves, and many remain without food ration cards or access to government services. Tribal peoples also suffer disproportionately from displacement because of development projects such as dams, power plants, coal mines and mineral industries. There are no official statistics on the number of people displaced, but NGOs and academics estimate that dam projects alone have displaced up to 33 million people who have lost their lands and livelihoods. Around 40-50 per cent of the displaced are tribal people even though they make up only 8 per cent of the population, reflecting the serious discrimination against tribal peoples.

13. In urban areas the hungry and malnourished are predominantly people surviving in the informal sector as well as vulnerable groups that are excluded from access to public services and food ration cards such as migrants, refugees, the homeless, the displaced, informal slum dwellers and street children. The sick and elderly, who have no family members to support them, are also extremely vulnerable. Increasing urbanization is closely linked to poverty and food insecurity in rural areas and shrinking rural wages is contributing to distress-induced migration to urban areas, seen in the rapid development of slum and squatter settlements in India's towns and cities. More than 21 per cent of India's urban population now lives in slums with inadequate sanitation, housing and access to safe drinking water, severely affecting food consumption and absorption.

14. Today it is widely recognized within India that, although the 1990s saw a period of sustained economic growth as India moved towards a more market-oriented economy, this growth did not benefit all Indians equally. Middle and upper classes in urban areas have benefited under India Shining but the poorest have suffered a decline in living standards and rising food insecurity. With the liberalization of the agricultural sector and ongoing withdrawal of the State from agriculture there have been deep cuts in public investment in agriculture that have not been made up by private investment. The shift towards a more export-oriented economy has seen a shift from subsistence to cash crops, reducing the cultivation of grains, pulses and millet for household food consumption. With cash crops requiring increasingly expensive inputs such as seeds and fertilizer, many farmers have been pushed heavily into debt, which seems to explain the crisis of farmer suicides (reported to have reached 10,000 cases by the end of 2004). It has also brought greater pressure to consolidate landholdings for more capital-intensive commercial farming, with landless households increasing dramatically over the 1990s to around 45 per cent of rural households. Along with falling agricultural wages and rising food prices, these trends seem to have contributed to growing food insecurity amongst the poorest, especially in rural areas.

21. The Constitution provides special protection for women and children (art. 39 (f)) as well as for scheduled castes and scheduled tribes (art. 46), prohibits discrimination, including in the use of public sources of water (art. 15.2 (b)), and abolishes untouchability (art. 17). Many laws protect access to resources, including the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which prohibits wrongful occupation, cultivation or transfer of any land owned by or allotted to a member of a Scheduled Caste or a Scheduled Tribe (3.1.iv) and any wrongful dispossession of land or interference with the enjoyment of rights over any land, premises or water (3.1.v). The new amendments to the Hindu Succession Act, 1956, increase the protection of women's right to ownership and inheritance. Various State laws have also been adopted to abolish the feudal system and provide land for the most vulnerable (notably Land Ceiling Acts). However, de facto discrimination remains widespread in India.

26. The PUCL case represents a great advance in the justiciability of the right to food as a human right, as the orders of the Supreme Court in this case have transformed the policy choices of the Government into enforceable, justiciable rights of the people. Although this relates primarily to the obligation to fulfil the right to food, the Court has also made judgements that are related to the obligations to respect and to protect the right to food. It has, for example, protected the right to water of Dalits against discrimination by the upper castes, the right to livelihood of traditional fisher people against the shrimp industry (Aquaculture case), and the right to livelihood of scheduled tribes against the acquisition of land by a private company (Samatha case). For the Supreme Court, "any person who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by article 21". It is now essential that small farmers who are arbitrarily evicted from their land, or women or members of the Scheduled Castes or Scheduled Tribes who are deprived of their access to productive resources, should have the same access to justice before the Supreme Court.

36. In terms of more broadly addressing the discrimination against tribal peoples and scheduled castes, a number of special programmes have been established by the Ministry of Social Justice and the Ministry of Empowerment and Tribal Affairs... Although land reform schemes have been carried out in a number of states to distribute government lands to scheduled castes and tribal peoples, lack of political will has brought many of these initiatives to a halt, and in some states, such as Madhya Pradesh, the feudalistic zamindari system persists. Many people that have been granted lands have been forcibly evicted by higher castes with impunity. Loss of access to productive resources, such as forest tribal peoples being excluded from forests or shrimp-farmers displacing smallholder farmers, means that there is a lack of judicial and administrative protection for access to productive resources for the poorest.

43. ...Despite an extensive legal framework prohibiting discrimination and untouchability, discrimination persists, particularly in rural areas. In Madhya Pradesh and Orissa, the Special Rapporteur observed that access to village water wells is still not allowed for Dalits and that even if members of the Scheduled Castes or Scheduled Tribes were granted lands, higher castes often take the land away. Reports were also received that in Uttar Pradesh and Uttaranchal, Dalit families were forcibly evicted from their land by upper castes, and sometimes forced to work for them. In Harinagar, Kashipur, it is reported that 154 Dalit families have been forcibly evicted from their land and remain landless to this day despite a decision by the Supreme Court in their favour in 1996. As former Chief Justice R. Mishra said in a meeting with the Special Rapporteur, "low-caste people receive the land, but the upper caste enjoys it". These are crimes punishable by imprisonment and fine under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, but the law is not enforced.

44. The Special Rapporteur received numerous complaints about forced displacements of communities as a consequence of State development projects without adequate resettlement and rehabilitation. The case of the Narmada Dam is of particular concern, as despite clear directions by the Supreme Court in 2000, thousands of affected people are still not adequately resettled and rehabilitated. It is alleged that today 11,000 families in Madhya Pradesh, 1,500 families in Maharashtra and 200 families in Gujarat are still to be rehabilitated, although their villages have already been submerged. In Hazaribagh, Jharkhand, a state coal-mining project allegedly led to involuntary resettlements of thousands of people and the destruction of their sources of livelihood without adequate rehabilitation and compensation. As provided by law, national and State policies and Supreme Court orders, every affected family should be adequately resettled and rehabilitated and the "land for land" principle respected. The Special Rapporteur received many complaints from tribal communities who lost their means of livelihood when evicted from the forest as a consequence of the implementation of the Forest Act, 1980.

45. In Orissa, the Special Rapporteur received complaints about the alleged impact of mining activities on the right to food of tribal communities in Kashipur and Lanjigarh. It is reported that tribal communities have been forcibly evicted from their land to allow private mining activities, in violation of the Constitution and despite clear directions by the Supreme Court from 1997 that the lands in scheduled areas cannot be leased out to non-tribals or to companies. In Bhopal, the Special Rapporteur met with the Government of Madhya Pradesh and representatives of the people affected by the Union Carbide gas disaster of 1984, in which 7,000 people died in the first days and 15,000 people died in the following years. Today, 20 years after the tragedy, water wells in the area are contaminated and, despite clear directions by the Supreme Court in May 2004, the water requirements are still not met. The Special Rapporteur has also received complaints alleging that the uncontrolled water extraction by Coca Cola in the states of Kerala and Tamil Nadu was causing a severe shortage of water for the local population. Impact assessment studies and prior consultation of the affected communities must always be conducted before any licence is granted to a private company, and in case of violations of the right to food, land or water, all victims must be adequately resettled, rehabilitated and compensated.

48. The Special Rapporteur makes the following specific recommendations:

(g) The Land Acquisition Act should be amended, or new legislation adopted, to recognize a justiciable right to resettlement and rehabilitation for all displaced or evicted persons, including those without formal land titles and including women;

(j) Dams, mining and infrastructure projects must not be implemented if this entails displacement and irreversible destruction of people's livelihoods. Such projects should only be carried out with the consent of communities and on the condition that due legal process, proper resettlement, rehabilitation (under the "land for land" principle) and compensation to all victims is guaranteed;

## 7) Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions

### April 2013

78. Adivasis were moreover killed in ethnic violence in the 1990s, while their killing at present appears to be largely due to issues concerning land disputes and attacks in insurgency-affected areas.

81. Human rights defenders are increasingly targeted by both State and non-State actors. Especially vulnerable are RTI activists, those exposing mining corruption, environmental and poverty issues, land rights of marginalized communities, and accountability concerns.

## 8) Special Rapporteur on the Rights of Indigenous Peoples

### January 2003

22. Indigenous peoples in Manipur, India, were reported to suffer a similar fate caused by the building of 25 hydroelectric dams. Thousands of families of the Santhal Adivasi people in the Jharkhand province of India have reportedly been displaced as a result of extraction of minerals without proper compensation or economic security...

44. The Sardar Sarovar Dam in India is the largest of 30 large, 135 medium and 3,000 small dams to be built to harness the waters of the Narmada River and its tributaries, in order to provide large amounts of water and electricity for the people of Gujarat, Maharashtra and Madhya Pradesh. With a proposed height of 136.5 m, the Government claims that the multipurpose Sardar Sarovar Project (SSP) will irrigate more than 1.8 million hectares and quench the thirst of the drought-prone areas of Kutch and Saurashtra in Gujarat. Others counter that these benefits are exaggerated and would never accrue to the extent suggested by the Government. Instead, the project would displace more than 320,000 people and affect the livelihood of thousands of others. Overall, due to related displacements by the canal system and other allied projects, at least 1 million people are expected to become uprooted or otherwise affected upon completion of the project. Indeed, the development surrounding the Narmada River has been labelled "India's greatest planned human and environmental disaster", a far cry from former Prime Minister Nehru's idealization of dams as the "secular temples of modern India."

45. Two thirds of the over 40,000 families expected to be displaced by the reservoir's creation will be tribal people or Adivasis, belonging to different groups collectively referred to as Bhils. Displacement of Adivasis from their traditional lands and resources due to the creation of reservoirs, canals and reforestation projects significantly impacts on the ability of Adivasis to fully enjoy their human rights. They live mainly in 14 villages in Gujarat, 33 in Maharashtra and around 53 in Madhya Pradesh. The Adivasis are largely self-sufficient, growing their own food and collecting fuel, building materials, fodder, fruits and other resources from the forests and common lands around their villages, as well as relying on water and fish from the river. Resettlement away from their territory means the destruction of their lifestyles and village organization. One farmer whose village will be submerged commented: "the forest is our moneylender and banker. From its teak and bamboo we built our homes. From its riches we are able to make our baskets and cots. ... From its trees we get our medicines.

46. In the early 1990s opponents of the dam staged a series of non-violent protests (dharnas and satyagraha), prompting the World Bank, after commissioning an independent review which underlined the flaws in the project, to withdraw its remaining funding for it (the Bank cancelled $170 million remaining

on its loan of $450 million). Work on the dam continued nevertheless, despite attempted judicial restraint, and by the summer of 2002 the water level in the reservoir rose much higher than initially expected, threatening many more people and villages with flooding. The Government's rehabilitation and resettlement measures for "oustees" (displaced persons) appeared to be insufficient, generating a number of protest activities by the affected villagers within the rising waters themselves. Protest against the project has remained strong and the Narmada Bachao Andolan NBA) (Save the Narmada movement) has been particularly instrumental in fostering awareness and dissent. Many activists and tribal people continue to maintain that they will never abandon their land to the dam, even if it means doobenge par hatenge nahi: death by drowning.

47. Multipurpose dams surely stimulate economic activity and have the potential for bringing benefits to large sectors of the population. The problem is whether these benefits are designed to reach the indigenous peoples who provide the land on which such projects are established, and how. It is estimated that the SSP will enable the irrigation of 1.8 million hectares of land in Gujarat alone. Irrigation facilitates the production of food and other crops, which could significantly improve food production in drought-prone areas. However, it appears that much of this area is unsuitable for irrigation because of waterlogging and salinization. Moreover, some of the designated water is likely to be consumed by sugar plantations before reaching more needy farms further away from the dam. Other potential benefits of the irrigation scheme and electric power generation from the dam are unlikely to benefit the Adivasi population.

48. Adivasis were not involved nor consulted in the dam construction process, on the premise that the project and the displacement of people was to serve a "public purpose" which would provide a "development opportunity" to the affected population. While some local governments did involve non-governmental organizations, an observer notes that "while NGOs can play an important supportive role they cannot substitute [for] the voice of the affected people, nor can they replace what is the basic responsibility of the State".

49. Only the Adivasi population who live in the area that will be submerged in the reservoir (considered as project affected peoples, or PAP) are eligible for compensation and resettlement. However, many more will be affected indirectly, yet they are often not considered as PAP and therefore ineligible for rehabilitation. This would include people on islands that would be marooned and in areas affected by canals, dykes, the creation of a new wildlife sanctuary and a reforestation scheme to compensate for tree loss, and resettlement schemes on traditional Adivasi lands. Adivasi territory has also been affected by the construction of a colony to house the workers and officials engaged in the construction work and administration of the dam. All of these secondary consequences have displaced Adivasi villages and affected their lives and livelihoods. Patwardan comments that "displacement needs to be viewed as a 'process' rather than an 'event' which starts much before the actual physical displacement and continues for a long time after uprooting has taken place", and concludes that the current situation is symptomatic of the "gross underestimation of the human costs of large dams".

50. Whereas state governments have offered comprehensive resettlement and compensation packages to "landless" Adivasis displaced from their homes, observers point out that in practice Adivasis have not fully benefited from them. The promised lands in Gujarat did not materialize or were of poor quality, whereas in Madya Pradesh the government had no resources to resettle displaced Adivasis. Moreover, resettlement has been delayed for many years and it is reported that 75 per cent of the displaced people have not been rehabilitated. To the extent that the law does not recognize customary rights to land and that therefore Adivasis may be considered "encroachers" on government land, they have not received adequate compensation for their losses. In common with other indigenous

peoples, Adivasis have a unique and close relationship with the land and its resources. Compensation packages treat land as property, whereas for Adivasis, their land is intrinsically linked to their culture and livelihood. It appears that the Government has failed to deal with the numerous non-quantifiable losses experienced due to the dam such as loss of access to religious sites and social disintegration. Displacement due to the SSP has led to fragmentation of Adivasi communities as well as loss of cultural identity. Resettlement areas are often unsuited to the communal lifestyle of Adivasis, particularly if they have been resettled in communities of non-tribal people who reject the tribal way of life or have had to move to the cities.

51. Involuntary displacement readily leads to a violation of several economic, social and cultural rights. Despite claims to the contrary, resettled Adivasis have generally had to suffer a reduction in their standard of living, the loss of livelihood resources, and a reduction of health standards, a situation that stands counter to articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights. While in displaced communities Government has established schools for the population, there are reports that due to economic hardship many children cannot afford to stay in school, whereas the curriculum appears to be ill-adapted to the cultural and language needs of Adivasi children (art. 13). There have also been reports of violence and the use of force by the police upon protesters and resisters to displacement, in violation of the International Covenant on Civil and Political Rights. The NBA recently called for protest of the decision by the Narmada Control Authority in May 2002 to allow the dam height to rise to 95 m even though over 35,000 families displaced when the dam height reached 90 m have still not been resettled. In a recent urgent appeal to the Prime Minister of India the Habitat International Coalition reported that "submergence due to the monsoons and raising the dam's height have destroyed the crops and homes of SSP-affected villages in Nandurbar District (Maharashtra) and Jhabua District (Madhya Pradesh), rendering the villagers homeless. These people now face a severe food and drinking-water shortage." It also reports that the Maharashtra government indicates an increase in the number of project-affected persons at the 95 m level, and admits that the government does not have enough land for rehabilitation of the affected persons.

52. The Sardar Sarovar dam and other similar projects on the Narmada River raise a number of complex issues. Originally, the interests and aspirations of the affected Adivasi population were not considered in the project design and implementation. As a result of continued lobbying by tribal and human rights organizations, the Government of India now recognizes that the issues raised by the affected communities must be taken into account. Yet the implementation of measures intended to mitigate the negative effects and increase the benefits of the project for the Adivasi population has lagged behind and is considered insufficient by the people involved. The Special Rapporteur recommends that the human rights of the Adivasis be included as a foremost priority in the implementation of this development project and others of its kind. Only with the full and informed consent of the tribal people concerned will truly human rights-centred development, as recommended by the General Assembly, become possible. An immediate step would be to halt any further rise in the reservoir's water level until the outstanding issues of rehabilitation and resettlement are fully solved to the satisfaction of the affected population, through constructive dialogue and negotiation between the parties. India could also signal its commitment to the human rights of its Adivasi population by ratifying ILO Convention No. 169 and approving the draft United Nations Declaration on the Rights of Indigenous Peoples. Alternative ways of involving the Adivasis in the project should also be considered. It has been suggested that they should be considered as partners in the project, with their investment being their natural resources. Adivasis qua investors would be entitled to share in the project's benefits.

60. Concerning indigenous peoples specifically the Commission's report states: "In the Philippines, almost all the larger dam schemes that have been built or proposed were on the land of the country's 6-7 million indigenous people. Similarly in India, 40-50% of those displaced by development projects were tribal people, who account for just 8% of the nation's 1 billion people. These costs are not balanced by any receipt of services from dams or by access to the benefits of ancillary services or indirect economic multipliers in the formal economy.

## 9) Special Rapporteur on Minority Issues

### January 2014

72. In South Asia, experiences from the 2001 Gujarat earthquake, the 2004 Asian Tsunami and flooding in Nepal in 2008, the Indian States of Bihar, Andhra Pradesh, Karnataka and Assam during 2007–2009, demonstrated that Dalits are frequently the worst affected and also often "systematically excluded from relief and recovery efforts"...

## 10) Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation

### July 2009

55. ...access to sanitation is indispensable, and has been recognized as such under international law, both by States and experts, for the enjoyment of numerous human rights. However, it does not provide a complete picture of the human rights dimensions of sanitation. Sanitation is not just about health, housing, education, work, gender equality, and the ability to survive. Sanitation, more than many other human rights issue, evokes the concept of human dignity; consider the vulnerability and shame that so many people experience every day when, again, they are forced to defecate in the open, in a bucket or a plastic bag. It is the indignity of this situation that causes the embarrassment. The Supreme Court of India eloquently described the indignity of lack of access to sanitation where the Court found that the failure of the municipality to provide basic public conveniences was driving "the miserable slum-dwellers to ease in the streets, on the sly for a time, and openly thereafter, because under Nature's pressure, bashfulness becomes a luxury and dignity a difficult art". It is such infringements on the very core of human dignity that are not wholly captured by considering sanitation only as it relates to other human rights.

## 11) Special Rapporteur on Extreme Poverty and Human Rights

### March 2010

19. Older women are disproportionately disadvantaged: they are marginalized due to their age and tend to be poorer than men. Because of gendered discrimination patterns throughout their life, women are often in a situation where they have accumulated lesser wealth than men. Cultural practices of early marriage and women's longer life expectancy than men worldwide lead to a situation where women are more likely to be widows than men, and being widowed puts older women at higher risk of being poor. In many countries, women have limited access to land and other assets. For example, in India, 60 per cent of older women (compared to 30 per cent of older men) have no valuable assets in their name and research indicates that few female widows can count on family or community support...

# VI. Relevant Universal Periodic Review Recommendations to India from the United Nations Human Rights Council (2012)[4]

## 1) Adequate Living Conditions, Poverty Eradication, and Socio-Economic Development

- Continue efforts to eradicate poverty and better living conditions as well as increase job opportunities.
- Provide more resources for the enjoyment of economic and social rights, especially in favour of vulnerable groups like women, children, poor people and minorities.
- Continue consolidating programmes and socio-economic measures essential to achieve poverty reduction and social exclusion to the utmost well-being of its people.
- Continue to advance the progress already underway on poverty eradication and improve the enjoyment of the most basic human rights of the people, especially women and children.
- Continue to strengthen its poverty alleviation strategies, as well as its child protection strategies, particularly against the exploitation of children.
- Further strengthen the efforts in poverty eradication, paying special attention to the rural population.
- Make efforts to eliminate the large gap that exists between the rich and the poor.
- Continue encouraging socio-economic development and poverty eradication.

## 2) Equality and Non-discrimination

- Continue incorporating the gender perspective in programmes and development plans with positive measures to the effective promotion and protection of women's rights.
- Redouble efforts on ensuring gender equality and take measures to prevent gender discrimination.
- Continue following-up on steps taken to eliminate discrimination against women, including through awareness-raising and continuous strengthening of the relevant legal and institutional frameworks.
- Re-examine the budgets and social laws taking into account gender issues.
- Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the Scheduled Castes and Schedules Tribes and Minorities are well achieved.
- Ensure better protection for persons with disabilities and the elderly.
- Continue working on the welfare of children and women.

4 Report of the Working Group on the Universal Periodic Review, A/HRC/21/10, 9 July 2012. Available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/151/08/PDF/G1215108.pdf?OpenElement

## 3) Water and Sanitation

- Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas.
- Provide every possible support and assistance to the national project for rural health to raise the standard of nutrition and improve public health and to strengthen the relationship between health and indicators such as sanitation and personal hygiene.

## 4) National Coordination

- Further coordination among relevant national authorities and human rights institutions.

## 5) International Cooperation

- Continue cooperating with the UN and other International Organisations and share good experiences and practices with other countries in order to overcome the remaining challenges.
- Continue cooperating with Special Procedures and accept, in particular requests for visits from Special Rapporteurs.

# VII. Voluntary Pledges and Commitments of the Government of India to the United Nations Human Rights Council (October 2014)[5]

5. The Government's priority is to ensure sustained and inclusive socio economic development, with special attention to gender equity issues and the inclusion of vulnerable and marginalized sections of society in our development efforts. Some important initiatives taken by the Government in recent years are mentioned here. In a paradigm shift from welfare to a rights-based approach and providing food security to ensure the right to live with dignity, Parliament enacted the National Food Security Act, 2013. The historic Act confers a legal right to cheaper food grains to 63.5 per cent of the country's population. In 2010, in a unique development and to ensure citizens their right to live with dignity in a healthy environment, the National Green Tribunal Act was enacted, providing for the effective legal protection of the environment, forests and other natural resources. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, seeks to provide fair compensation to those whose land is taken away and the rehabilitation of those affected by land takeover. The Act came into force as from 1 January 2014. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, rests forest rights and occupation of forest dwellings on Scheduled Tribes and other forest dwellers to address insecurity of tenure and access rights. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to check cases of sexual harassment at the workplace, which prescribes strict punishment, including termination of service, for the guilty and similar penalties in case of a frivolous complaint, came into force with effect from 9 December 2013. The Act covers both the organized and unorganized sectors. The amendments to the Criminal Procedure Code in 2013 significantly broadened the definition of sexual assault and harassment; included new types of violent behaviour, such as voyeurism and stalking; and aimed for greater accountability of public officials. Earlier, in 2005, the Protection of Women from Domestic Violence Act, which provides immediate and emergency relief to women in situations of domestic violence, was enacted by the Indian Parliament. As part of India's commitment to a life of dignity for its citizens, the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act came into force in December 2013. The objective of the Act is to eliminate manual scavenging and unsanitary latrines and to provide for their habilitation of manual scavengers. A multi-pronged strategy which consists of legislative and programmatic interventions to tackle this issue has been worked out.

10. Against this backdrop, India voluntarily makes the following pledges and commitments:

    (a) India will continue to uphold the highest standards in the promotion and protection of human rights;

    (b) India will continue to strive for the full realization of civil, political, economic, social and cultural rights, including the right to development;

    (c) India will continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens;

5 Note verbale from the Permanent Mission of India to the United Nations addressed to the President of the General Assembly, A/69/538, 16 October 2014. Available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/538

(d) India will continue to cooperate with States, upon request, in their implementation of human rights through capacity-building by means of technical cooperation, human rights dialogues and exchange of experts;

(e) India will continue to strive to promote the work of the Human Rights Council in accordance with the principles of sovereign equality, mutual respect, cooperation and dialogue;

(f) India will continue to strive to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all;

(g) India will continue to support international efforts to combat racism, racial discrimination, xenophobia and related intolerance;

(h) India will continue to engage constructively in the deliberations of the Human Rights Council, its subsidiary bodies and mechanisms;

(i) India will continue to support the Office of the United Nations High Commissioner for Human Rights, including through regular voluntary contributions;

(j) India will continue to cooperate with special procedures, accept requests for visits and respond to communications;

(k) India remains committed to implementing the recommendations that enjoyed its support during the second cycle of the universal periodic review, as well as continuing its collaboration with civil society and other stakeholders in an open and constructive manner in its universal periodic review process;

(l) India remains committed to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which it is a signatory;

(m) India remains committed to ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is a signatory;

(n) India will continue to cooperate with treaty monitoring bodies and engage constructively with them in the context of fulfilling its human rights obligations;

(o) India will continue to strengthen the implementation of the human rights treaties that it has ratified;

(p) India will maintain the independence, autonomy and genuine powers of investigation of national human rights bodies, including its National Human Rights Commission, National Commission for Women, National Commission for Protection of Child Rights, National Commission for Minorities, National Commission for Scheduled Castes and Scheduled Tribes and National Commission for Backward Classes, as mandated by the Indian Constitution and national legislation;

(q) India will continue to foster a culture of transparency, openness and accountability in the functioning of the Government, as enacted in the Right to Information Act;

(r) India will continue to foster the genuine participation and effective involvement of civil society in the promotion and protection of human rights.

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