

Human Rights in India

UPR Info India Pre-Session UPR IV (41st Session) November 2022

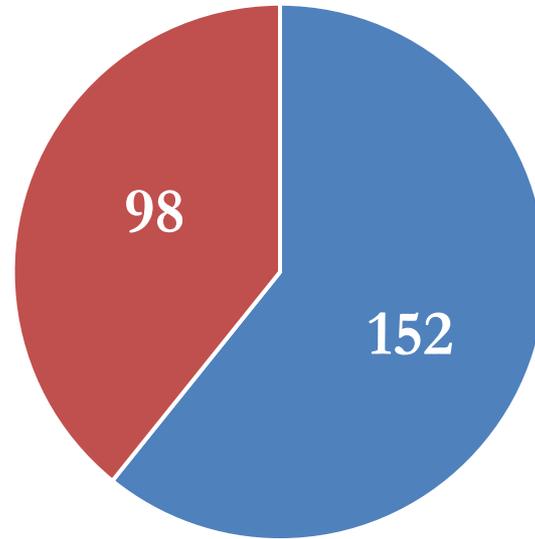
Palais des Nations,
29th August 2022

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Co-Convenor, WGHR

Overview of Recommendations

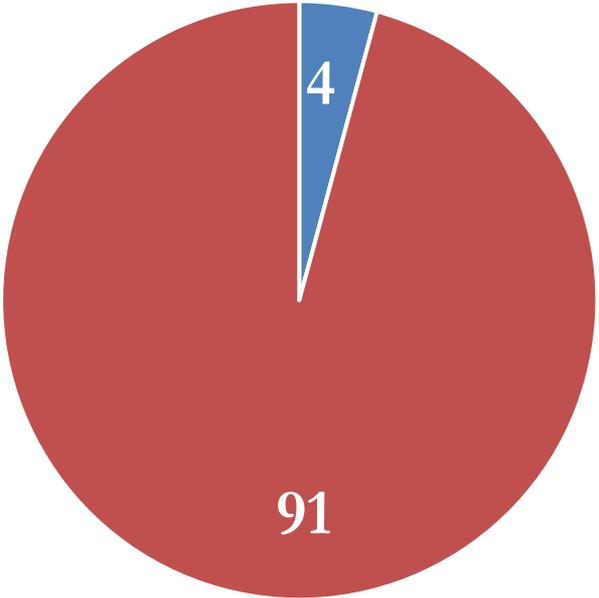
250
recommendations
received in total
from 97 countries

Government's Position



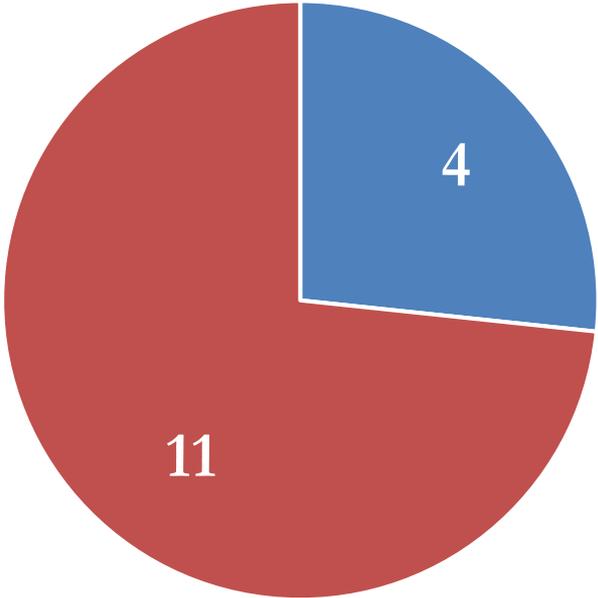
■ Supported ■ Noted

Implementation Status of Supported Recommendations



- Fully Implemented
- Partially Implemented

Implementation Status of Noted Recommendations



- Fully Implemented
- Partially Implemented

Most Supported Recommendations on:

- Right to Adequate Housing and Land
- Right to Education
- Right to Water and Sanitation
- Right to Food

Most Noted Recommendations on:

- Access to Justice
- Enforced Disappearances
- Human Rights Defenders & Civic Spaces

Right to Health

10 Recommendations made – All supported

All recommendations remain partially implemented

Current Situation:

- The budget for the health sector remains inadequate and has in fact seen a fall as a proportion to the national budget (3.29% in 2018-19 to 3.17% in 2020-21). It is stagnant as a proportion of GDP.
- The lack of an adequate budgetary allocation has resulted in deficits in health care infrastructure, excessive out-of-pocket costs, lack of human resources, accountability, legislative oversight, and effective health care policy, growing and unaffordable health expenditures and large sections of the population uninsured.

Recommendations

- Raise health expenditure to 2.5% of the GDP- the standard set by the National Health Policy by 2025.
- Update the Essential Medicines list and strengthen implementation of the price-capping provisions to ensure universal access to medicines and regulate private healthcare.
- Enact a human rights-based public health emergencies law that imposes clear duties on States to respond to public health emergencies.
- Enact a National Health Rights Act that guarantees access to primary health care.
- Urgently address the discrimination and structural marginalisation faced by vulnerable groups in accessing health care.

Right to Adequate Housing and Land

3 Specific Recommendations made – all supported
7 related recommendations -all supported

All recommendations remain partially implemented

Current Situation:

- The biggest concerns lie around forced evictions and displacement, which have continued through COVID and have had a disproportionate impact on the four million homeless persons.
- Almost 16 million people are currently threatened with the risk of displacement.

Recommendations

- The need to impose an immediate national moratorium on arbitrary forced evictions for any reason, invest adequately in affordable housing, and take steps to reduce homelessness by 2030.
- Develop a human-rights based national housing policy/law within two years that recognises and upholds the right to adequate housing (as guaranteed in international law and affirmed by the Indian judiciary) and has provisions to prevent evictions and discrimination against marginalized groups.
- Invest adequately in affordable social housing and ensure inclusion of all marginalized groups in state housing schemes with the view to achieving the goal of Housing for All and commitments under the Sustainable Development Goals, particularly Goal 11.

Rights of Persons with Disabilities

11 Recommendations - 10
Supported

All recommendations remain
partially implemented

Current Situation:

- India ratified the UNCRPD in 2007 but has not amended its Constitution to explicitly prohibit disability-based discrimination.
- The annual budget allocated to persons with disabilities has shown a declining trend over the past few years and poses a major concern with regard to the underutilisation of funds, and needs to be flagged.
- Children with disabilities continue to be excluded from basic services, with the combination of social and economic marginalisation alongside disabilities creating multiple vulnerabilities.

Recommendations

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

Environment and Climate Change

5 Recommendations made – all supported

None of the recommendations
have been implemented

Current Situation:

It is of particular concern that the draft Environmental Impact Assessment (EIA) Notification 2020 introduced by the Govt. during COVID may dilute legal protection offered thus far. This has even led to a joint statement issued by UN Special Procedures.

Recommendations

- Review existing policies to institute a robust environmental regime in consultation with all stakeholders, in particular indigenous peoples, local communities, affected persons and experts, and in compliance with international legal standards.
- Immediately review and repeal the Draft EIA Notification 2020 and the proposed amendments to the Forest Conservation Act, 1980.
- Take immediate effective measures to build climate change resilience, ensure disaster risk reduction and implement laws/policies relating to disaster management at the national, state and local levels.
- Institute a moratorium on diversion of forests, mining activities and commercial exploitation of natural resources until legislative safeguards protecting the environment and rights of the local communities are put in place.

Gender and Sexual Minorities

6 Recommendations made – 1 supported

4 recommendations were implemented, including 3 that India didn't support.

Current Situation:

While the Supreme Court verdict of 2018 is a major victory in the decade-long battle for decriminalization of consensual same-sex relations between adults, the fight for fundamental civic, social, and political equality is far from over. The enabling environment for exercising rights needs to be in place.

Recommendations

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

Refugees, Migrants and IDPs

2 Recommendations received - Both
Noted

Neither of the recommendation
was implemented

Current Situation:

As of 31 January 2022, **more than 46,000** refugees and asylum-seekers are registered with UNHCR India, mainly from Myanmar and Afghanistan.

Refugees and asylum-seekers in India primarily live in urban settings alongside host communities. 46% of the refugees are women and girls, and 36% are children.

Despite persistently receiving recommendations in previous UPR cycles, India has still not ratified the 1951 Convention on Refugees and the OP of 1967 and does not have a national framework or legal procedure governing refugees. With the recent increase in influx of refugees from neighbouring countries, the government is being forced to reckon with this issue.

Recommendations

- Urgently ratify the 1951 Convention on the Status of Refugees and the Optional Protocol of 1967.
- Institute a national legal framework along the lines of the Asylum Bill 2015 to prevent non-refoulement and govern the legal status of refugees.
- Ratify the Convention on Migrant Workers, revise the Inter-State Migrant Workers Act 1979 and ensure the swift enactment of the draft National Migrant Labour Policy.
- Allow UNHCR unhindered access to the parts of the country where its services are most required and consider issuing refugee cards at borders instead of in Delhi so as to ensure that refugees are able to access basic welfare services with minimum delay.

Thank You

Working Group on Human Rights in India and the UN

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