

ORAL SUBMISSION

INDIA - UPR PRE SESSION, 29 August 2022

Enakshi Ganguly on behalf of

Working Group on Human Rights in India and the UN (WGHR)

Good morning!

Greetings to the representatives of all the permanent missions who are present here with us today, members of the Indian Mission and my co-panellists.

I speak on behalf of the Working Group on Human Rights in India and the UN (WGHR) which has submitted a joint stakeholders report with inputs from 400 people across India.

In UPR 3, India received 250 recommendations from 97 countries. Our government had supported 152 and noted 98. According to WGHR's research only 4 recommendations have been fully implemented and 91 have been partially implemented.

Please see our report and website for further details (mentioned in the slides).

Overall:

As with the rest of the world, COVID has set us back on many counts - social as well as economic. I wish to draw your attention to the situation of economic, social, and cultural rights - impacts on health, education, economic insecurity, and the overall well-being of communities, especially those already marginalised. We would request you to make your recommendations accordingly. Addressing these impacts requires additional resources and infrastructure.

More specifically:

- 1. Health:** The coronavirus crisis exposed deep-rooted problems in India's public health system. Despite several recommendations, there is a lack of adequate - indeed falling, budgetary allocation, deficits in health care infrastructure, growing and unaffordable health expenditures and a disproportionate health-risk burden on certain sections.
 - Raising health expenditure to 2.5% of GDP - the standard set by the National Health Policy by 2025, adopted in 2017, and enacting a National Health Rights Act.
 - Strengthening price-capping provisions, ensuring universal access to medicines, and regulating private healthcare.
 - COVID has highlighted the need for a human rights-based public health emergencies law.
- 2. Housing and Land Rights:** Although India supported all recommendations related to housing, and schemes have been set up with targets, none of the recommendations have been fully implemented.

Our biggest concerns lie around forced evictions and displacement, which continued unabated through COVID, and the disproportionate impact on the 4 million homeless. Almost 16 million people are currently threatened with the risk of displacement.

- There is a need to impose an immediate moratorium on arbitrary forced evictions and invest adequately in affordable housing with a view to reducing homelessness by 2030.
 - A human-rights based national housing policy or law should be developed/enacted 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.
- 3. Rights of Persons with Disabilities:** India ratified the UN Convention on Rights of Persons with Disability in 2007 but it has not amended its Constitution to explicitly prohibit disability-based discrimination. The annual budget allocated to persons with disabilities has also shown a decline, as well as underutilisation. Persons with Disabilities continue to be excluded from basic services, with the combination of social and economic marginalisation alongside disabilities creating multiple vulnerabilities.
- Domestic laws must be brought in line with the provisions of the UNCPRD and the Constitution amended to prohibit disability-based discrimination in all forms.
- 4. Environment and Climate Change:** Like the rest of the world, India is affected by climate change which is forcing populations into marginalisation and distress. In UPR 3 there was only one mention of climate change - that too in the context of promoting education on climate change adaptation and mitigation.
- We need a more robust environmental regime built in consultation with all stakeholders, in particular indigenous peoples, local communities, affected persons, and in compliance with international legal standards.
 - The draft Environmental Impact Assessment (EIA) Notification 2020 introduced by the Govt. during COVID 19 may dilute legal protections offered thus far. The EIA even led to a joint statement issued by UN Special Procedures.
- 5. Gender and Sexual Minorities:** While the decriminalization of consensual same-sex relations between adults pronounced in the Supreme Court verdict is a major win, the fight for fundamental civic, social, and political equality is far from over. The enabling environment for exercise of rights through programmes, affirmative action and institutions needs to be in place.
- Institute horizontal reservations within existing vertical reserved categories for transgender and intersex persons across government institutions and establish a uniform legal documentation process for access to welfare schemes.
- 6. Refugees:** Despite persistently receiving recommendations in previous UPR cycles, India has still not ratified the 1951 Convention on Refugees and the Optional Protocol 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 face up to this issue and a legal and policy regime is imperative.