

**PERMANENT MISSION OF INDIA TO THE UN, GENEVA**

**HUMAN RIGHTS COUNCIL**

**19<sup>TH</sup> SESSION (27 February-23 March 2012)**

**Report of Special Rapporteur on the situation of Human Rights**

**Defenders – Mission to India**

**(5 March 2012)**

**Statement by India**

Madam President,

We thank the Special Rapporteur, Ms. Margaret Sekaggaya, for her visit to India during 10-21 January 2011. During her visit to India, the Special Rapporteur focused on the situation of human rights defenders working in specific fields including in the area of the right to information; security legislations; women and child rights; rights of marginalized people and rights of religious minorities.

2. The Special Rapporteur has noted with satisfaction the comprehensive and progressive legal framework that guarantees human rights and fundamental freedoms in India. At the same time, the Special Rapporteur has highlighted the need for better implementation of the laws both at the Central and State levels and has, while acknowledging the security challenges faced by the country including areas that are suffering violent Maoist insurgency, expressed concern at some of the provisions of the public security laws and the Foreign Contribution Regulation Act which may be abused by authorities involved, in the execution of such laws. We would like to assure the Special Rapporteur that we are conscious of the need to ensure accountability of the law enforcement officials and have taken due note of her concerns. Indeed, the Government has, from time to time, appointed committees and

commissions such as the Administrative Reforms Commissions to look into issues of repeal or amendments of such laws.

3. With regard to the institutional framework, the exemplary impartial role of the Judiciary has played a pivotal role in protecting the Human Rights Defenders in India. However, as the Special Rapporteur has observed, the judiciary is hampered by backlog and delays in administering cases of human rights violations. The high cost of litigation has restrained access to justice for victims. We would like to draw attention of the Special Rapporteur to the establishment of Human Rights Courts that have been especially set up for speedy trial of cases pertaining to human rights violations. As the Special Rapporteur has herself mentioned, the State Government can, with the concurrence of the Chief Justice of a High Court, specify a Session's Court to be a Human Rights Court. In so far as access to justice is concerned, the National Legal Service Authority (NALSA) was constituted under the Legal Services Authorities Act of 1987, to provide free legal services to the weaker sections of the society and organize Lok Adalats for amicable settlement of disputes. Until March 2009, 97 million people have benefitted from NALSA's legal aid and advice. About 7.25 million Lok Adalats have been held throughout the country, with more than 2.68 million cases have been settled.

4. We have duly noted the Special Rapporteur's concern that human rights education and training received by law enforcement authorities is not enough. Given that the combined strength of India's law enforcement agencies is over 2 million, we are conscious of the need to step up efforts in this regard, notwithstanding that law and order is a state subject.

5. The Special Rapporteur has also observed that most human rights violations brought to her attention are attributed to law enforcement authorities. In doing so, she has narrated, unsubstantiated, generalized accounts of alleged cases, by a handful of NGOs, that do not represent the many eminent NGOs who have done commendable work in India. In a country, as large and diverse as India, such generalized references, regardless of the sources, risk obfuscation of the actual situation. Therefore, certain specific cases mentioned in the report need further examination especially in the light of the challenging environment in which such alleged violations occur and the safeguards against abuses that are in place.

6. India has been a victim of terrorism that has seen many facets including an attack on our Parliament. Government of India is committed to eradicate the scourge of terrorism that cannot be justified in any manner. Thousands of law enforcing officers has given their lives to protect the democratic and secular fabric of our country against terrorism.

7. Finally, Madam President, we take note of the recommendations of the Special Rapporteur and assure her of India's continued cooperation. We support the work of the Special Procedure and her independence and affirm that such independence must be absolute in every sense – including from over-activist NGOs, donors and ideological extremism. We would also like to remind all Special Procedures that, as independent and impartial experts, they carry out a task not only highly prized by the Council but also according to the mandate given by the Council. The term Special Procedures does not suggest appointment of Special Prosecutors for violators of particular thematic rights, rather the objective is to allow for a broad development of a thematic issue with

references to trends of evolution rather than incidents of violations. To this end, they must be mindful of the Council resolution 5/2 and Presidential Statement 8/2 that are their sole guides on the Code of Conduct adopted by the Council, as distinct from any other manual or procedures which are internal procedural guidelines, unendorsed by the Council.

Thank you, Madam President