

**Submission to the United Nations Human Rights Council  
Universal Periodic Review Session 13: India**

**November 2011**

In Resolution 17/4 of July 6<sup>th</sup> 2011, the United Nations Human Rights Council (HRC) endorsed the *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*<sup>i</sup> and established a working group and annual forum on business and human rights. In making this submission, the Institute for Human Rights and Business (IHRB) acknowledges the role of the Government of India in co-sponsoring resolution 17/4, previous resolutions in relation to human rights and business and in hosting the former Special Representative’s visit to India in February 2009.

This submission, made in relation to India’s Universal Periodic Review (UPR), seeks to encourage constructive dialogue at the HRC concerning the Government of India’s implementation of the *UN Guiding Principles* in relation to the State duty to protect all human rights from abuses by, or involving, transnational corporations or other business enterprises, and the need to provide access to remedy. The submission is organised as follows:

- Part I: Status of international human rights commitments
- Part II: India’s state duty to protect
- Part III: Access to remedy and protection of human rights defenders
- Part IV: Recommendations

**PART I: STATUS OF INTERNATIONAL HUMAN RIGHTS COMMITMENTS**

The Government of India has ratified most international human rights instruments. However, these commitments often come with reservations (such as the stance of progressive realization with respect to the Convention on the Rights of the Child with regards child labour). India has not ratified a number of conventions relevant to human rights and business such as the International Convention on the Rights of all Migrant Workers and their Families<sup>ii</sup>, the Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>iii</sup>. India is not a party to the Rome Statute for the International Criminal Court. India has not ratified ILO Core Conventions on the worst forms of child labour (No. 182), minimum age (No.138), freedom of association and protection of the right to organize (No. 87) and the right to organize and collective bargaining (No. 98).

**PART II: INDIA’S STATE DUTY TO PROTECT**

***Enactment and enforcement of existing laws***

As reflected in India’s first UPR in 2008, the Government has enacted a number of laws consistent with its international human rights commitments. Many of these relate directly to human rights and business concerns such as the Protection of Women against Sexual Harassment in the Workplace Act 2003, Right to Information Act 2005, and Forest Rights Act 2006. A major issue of concern, however, is the weak enforcement of legislation, varied application of existing laws and inconsistency of laws with international standards.

Despite 50-years of legislation regarding occupational health and safety<sup>iv</sup>, the ILO estimates that 400,000 people die every year in India due to work-related problems in the formal economy (10% of India's workforce)<sup>v</sup>. According to the UN Commodities trade statistics database, India is the largest importer of asbestos in the world and in 2011, the National Human Rights Commission (NHRC) received a complaint claiming 50,000 die of exposure to asbestos every year<sup>vi</sup>. Hazardous disposal and recycling of e-waste is also a growing concern in India, addressed by the UN Special Rapporteur on Toxic Waste during his 2010 visit to India<sup>vii</sup>.

Since 2009, the US Department of Labor has released a list of products from various countries that it believes are made using child and forced labour. The 2009 and 2010 documents listed several products from India - including bricks, cottonseed, garments and carpets<sup>viii</sup>. Despite many commendable programs to end child labour<sup>ix</sup> and several laws (including the Child Labour Abolition and Rehabilitation Act 2006, the Mines Act 1952 and the Juvenile Justice of Children Act, 2000) the 2001 census data put the number of child workers in India at 12.6 million<sup>x</sup> whilst many note NGO estimates of between 55 and 115 million<sup>xi</sup>. It is expected that with the landmark Right to Compulsory Education Act 2009, further steps to ensure that children go to school will be taken, and greater effort to recognize and enforce laws related to child labour will become apparent.

India also has a number of laws and policies related to bonded labour, notably the Bonded Labour System (Abolition) Act 1976. The Government's rehabilitation schemes for freed bonded laborers are welcome initiatives. However, in September 2011, the NHRC reported 1,300 cases of human rights violations pertaining to bonded labour, and that 40% of the 2,800 bonded labour cases reported to the commission are yet to be solved. Justice B C Patel said "Police, Sub Divisional Magistrate, Collectors and employers have joined hands with the mafia indulging in bonded labour. The mindset of government officers and bureaucrats must change"<sup>xii</sup>.

Scheduled castes, scheduled tribes, women and children continue to be most impacted because of inadequate enforcement of existing laws. For example, despite the Manual Scavengers and Construction Act 1993, an estimated 1.3 million Dalits work for both public and private employers as manual scavengers (a term used to describe the job of removing human excrement from dry toilets and sewers using basic tools)<sup>xiii</sup>.

### ***Corporate law<sup>xiv</sup>, guidance to business, and reporting***

In July 2011, the Ministry of Corporate Affairs (MCA) released *National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business*<sup>xv</sup>. The MCA should be commended for including Principle 5, "Businesses should respect and promote human rights", and "takes into account the Corporate Responsibility to Respect Human Rights as referred in the United Nations Protect, Respect, Remedy Framework". There are areas of concern with the guidelines, however. First, a voluntary guideline regarding non-use of child labour and bonder labour is inconsistent with international and national standards. These are matters of compliance. Secondly, as Indian multinationals invest globally, the Government should take steps to ensure that these businesses respect human rights at home and abroad. The Guidelines are silent on this.

With regards mandatory reporting and Corporate Social Responsibility activities, future plans should align with the UN Guiding Principles and the rapid convergence of international corporate responsibility<sup>xvi</sup> standards by focusing on addressing *core business impacts* including through human rights due diligence by companies. Adverse human rights impacts cannot be offset by corporate "Profit After Tax" philanthropic contributions.

### ***State-business nexus and policy coherence***

The relations between the state and businesses have a bearing on human rights in many areas. Furthermore, government policies in a range of areas (e.g. trade, investment and national security) can also shape business practices in ways that impact human rights. With this in mind, this section addresses five areas of concern.

*Corruption and Transparency:* Prevalence of corruption interferes with the realization of human rights in many forms and undermines the credibility of governments to hold economic actors to account. India is ranked 87<sup>th</sup> on the Transparency International Corruption Perceptions Index<sup>xvii</sup>. Corruption in major projects diverts resources that could be deployed for the realization of human rights, and at the local level, adversely affects the poor disproportionately, because those who are better off are able to secure state services for themselves through corrupt means.

India's Right to Information Act 2005 is a critical tool in fighting corruption, and in seeking transparency and accountability regarding the human rights impacts of business. Section 2 states that the application of the Act "includes any body owned, controlled or substantially financed by the government"<sup>xviii</sup> covering State-owned enterprises for example. For private entities, non-competitive information can be acquired through the relevant state agencies e.g. for telecommunications firms through the Telecom Regulatory Authority of India and for banks through the Reserve Bank of India. This means state-business contracts (such as mining concessions) are included under the Act, which has enabled business and human rights cases to be brought to the Indian courts<sup>xix</sup>.

*Privatisation:* Unless properly regulated, privatization of public services can result in reduced human rights protection. For example, as reported by the UN Special Rapporteur on the Right to Health following his visit to India in 2007, "There are some existing accountability mechanisms in relation to the private health sector. Under the Consumer Protection Act (1986), for example, courts may receive claims of medical negligence and award compensation to aggrieved individuals and families...The lack of significant progress towards establishing an appropriate, effective regulatory framework for the private health sector places the Government of India in breach of its right to health responsibilities"<sup>xx</sup>. The Government should establish an effective regulatory framework that oversees the delivery systems of India's private and state healthcare infrastructure. When privatising other public services (including water, telecoms and electricity), the government should do likewise.

*Land acquisition and concession agreements:* Access to land has led to significant conflict between communities, armed groups, state security forces, and businesses in many parts of India. Businesses have legitimate need to use land, but parcels of land are being acquired by the private sector, or on its behalf by the Government, in ways that have led to human rights abuses. There have been high-profile cases of protests against companies signing memoranda of understanding and concession agreements with state governments without proper consultation with affected communities. Some disputes have turned violent<sup>xxi</sup>. The Government of India should ensure that its economic development plans and contracts with corporations are consistent with its human rights commitments and do not undermine the rights of vulnerable and marginalized groups.

On a positive note, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 grants legal recognition to the rights of traditional forest dwellers<sup>xxii</sup>, many from India's Scheduled Caste and Scheduled Tribes communities. Section 4 of the Act states that during land acquisition processes "the free informed consent of the Gram Sabhas in the area concerned to the proposed resettlement and to the package provided should be obtained in writing". The Government's position in standing by the report of the Saxena Committee concerning mining of bauxite by the Vedanta group in the Niyamgiri hills of Orissa is a welcome development<sup>xxiii</sup>. The same position should be applied to future concession agreements.

The Indian Parliament will shortly consider the Land Acquisition Bill 2011 that aims to clarify the definition of public purpose, scope of affected people, consultation processes and resettlement/rehabilitation arrangements. All efforts should be taken – consistent with the 2007 comment on ILO Convention 107 to India from the CERD committee<sup>xxiv</sup> - to ensure the 2011 Bill does not result in diluting the rights conferred by the Forest Rights Act.<sup>xxv</sup>

The Ministry of Mines is currently debating the Mines and Mineral (Development and Regulation) Bill 2011 that includes a Sustainable Development Framework (SDF)<sup>xxvi</sup> seeking to address rehabilitation, development and profit sharing for communities. However, it is silent on certain material human rights issues such as the use of security forces and effective access to remedy, and it is unclear if the Government will have the power to ensure that local authorities enforce the SDF in contracts with business.

*Security and Surveillance:* Armed opposition groups, domestic and international, have attacked Indian cities, leading to many civilian casualties. The Indian Government has the obligation to protect civilian lives and in pursuit of that objective it can require lawful intercepts, duly approved by courts, against suspected extreme groups. Since the attacks in Mumbai in November 2008, the Indian Government has demanded telecom and Internet service providers (ISPs) reveal confidential, encrypted data. A number of laws are in place and under discussion that grant the telecom authority sweeping powers that can chill freedom of expression, privacy and political participation<sup>xxvii</sup>. The Government should balance security related obligations with these human rights when licensing/cooperating with telecommunication companies and ISPs.

*Attracting investment:* In its 2011 report<sup>xxviii</sup> to the World Trade Organisation, the International Trade Union Confederation raised concerns about labour practices in Export Processing Zones (EPZs) in India quoting an “excessive 45-day strike notice period” and efforts by local governments to exempt EPZs from application of labour laws. When seeking to attract investment, the Government of India should ensure that the human rights of workers are not negotiated down or away.

### ***Supporting business respect for human rights in conflict-affected areas overseas***

A significant number of private and state-owned Indian companies currently operate in high-risk zones outside India. For example, Indian oil and gas companies are operating in South Sudan and Myanmar; steel companies are competing for contracts in Afghanistan, diamond companies are sourcing from Zimbabwe, and mining, telecommunications and power companies operate in the Democratic Republic of Congo. The Government should ensure its policies and actions are consistent with the “State Duty to Protect” and the “Corporate Responsibility to Respect”, as contained in the UN Guiding Principles. Indian companies should be made aware of the liability risks when operating in conflict zones<sup>xxix</sup>.

## **PART III: ACCESS TO REMEDY AND PROTECTION OF HUMAN RIGHTS DEFENDERS**

In 1993 (as part of the Protection of Human Rights Act), the Government of India established the National Human Rights Commission (NHRC)<sup>xxx</sup>. Though the NHRC is not expressly entrusted with the task of dealing with corporate human rights abuses, it has intervened on some issues relevant to business and human rights. Since 1997, India’s Supreme Court has vested responsibility for monitoring the implementation of the Bonded Labour (Abolition) Act 1976 to the NHRC. Furthermore, the NHRC may inquire into corporate human rights abuses on the request of the court, and take up cases *suo moto* as it has recently done in recommending compensation for gem polishers suffering from silicosis<sup>xxxi</sup>. The NHRC does not have explicit powers to deal with business-related grievances – an issue that the UN Special Representative on Business and Human Rights recommended be addressed during his mandate, including referencing India’s NHRC<sup>xxxii</sup>. The safety and security of all human rights defenders is a matter of particular importance. In recent years,

for example, activists and human rights defenders who have challenged current economic policies, have been attacked, allegedly in some cases by Government supported actors. In the statement concluding her visit to India in January 2011, the Special Rapporteur on the Situation of Human Rights Defenders noted that “In the context of India’s economic policies, defenders engaged in denouncing development projects that threaten or destroy the land, natural resources and livelihood of their community or of other communities, have been targeted by State agents and private actors, and are particularly vulnerable”<sup>xxxiii</sup>. Numerous reports<sup>xxxiv</sup> support this concern and in 2011, Amnesty International concurred with these findings<sup>xxxv</sup>. The Government must prevent such abuses and ensure access to effective remedies for victims.

Finally, the Indian judiciary has been rightly praised for its interpretations that have protected the rights of the poor and its support of public interest litigation that has been used to address human rights and business issues.<sup>xxxvi</sup>

#### **PART IV: RECOMMENDATIONS**

The Government of India should:

- Ratify the International Convention on the Rights of all Migrant Workers and their Families and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>xxxvii</sup> as well as ILO Core Conventions 182, 138, 87 and 98.
- Remove reservations to the Convention on the Rights of the Child in keeping with the changed legal situation in India due to the Right to Compulsory Education Act 2009 which makes laws and practices that keep children out of school illegal and unconstitutional.
- Enforce existing laws regarding child labour, bonded labour, health and safety and non-discrimination, and increase the number of labour inspectors.
- Continue promotion of responsible business through the Ministry of Corporate Affairs whilst ensuring that the definition of CSR is based firmly on core business impact and fully incorporates the UN Guiding Principles on Business and Human Rights.
- Amend the Right to Information Act to enshrine the principle that information regarding the social and environmental impact of private actors can be obtained on grounds of public interest, and reduce barriers to applications regarding state-business contracts related to land acquisition.
- Build on the rights of Scheduled Tribes and Scheduled Castes set out in the Forest Rights Act in the upcoming land acquisition bill.
- Ensure protection of, and respect for, human rights in concession agreements and state-business contracts in all sectors and commit to review contracts using the Principles for Responsible Contracting<sup>xxxviii</sup> developed by the former UN Special Representative on Business and Human Rights.
- Ensure policies and actions for trade and commerce in conflict-affected areas are consistent with the UN Guiding Principles and ensure companies are made aware of liability risks when operating in conflict zones.
- Amend the Human Rights Protection Act 1993 to enable the National Human Rights Commission to address business-related human rights grievances.
- Ensure the protection of human rights defenders who are working to address human rights abuses by, or involving, corporations including fully investigating claims of intimidation, illegal detention, physical abuse and murder.

The Institute for Human Rights and Business ([www.ihrb.org](http://www.ihrb.org)) was established in 2009 to provide a trusted, impartial space for dialogue and independent analysis to deepen understanding of human rights challenges and the appropriate roles and responsibilities of business.

*Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc. A/HRC/17/31, (21 March 2011).

- ii India receives an estimated one million foreign workers, mainly from neighboring South Asian countries of which an estimated 70,000 are children from Bangladesh and Nepal. India is also a "sending country" with an estimated 1.3 million migrant workers in the UAE alone working mostly in construction, services and household sectors. As indicated to the President of the Republic of India in a letter from Human Rights Watch in November 2010 workers suffer from legal and policy deficiencies including around recruitment fees and passport retention. Human Rights Watch letter to President of India (22 November 2010) at: <http://www.hrw.org/node/94439> (visited on 26 November 2011).
- iii Welcoming however that as part of the Government of India's voluntary pledges during the 2011 elections to the HRC (xi) *India remains committed to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which it is a signatory*, UN Doc. A/65/758, (25 February 2011).
- iv India's health and safety laws include: Factories Act, 1948, amended in 1954, 1970, 1976, 1987; Mines Act, 1952; Dock Workers (Safety, Health and Welfare) Act, 1986; Plantation Labour Act, 1951; Explosives Act, 1884; Petroleum Act, 1934; Indian Electricity Act, 1910; Dangerous Machines (Regulations) Act, 1983; Radiological Protection Rules, 197 and the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.
- v International Labour Organisation *Beyond Deaths and Injuries: The ILOs role in promoting safe and healthy workplaces*, 25 June 2008, p. 23.
- vi *Case No.2951/30/7/2011*, National Human Rights Commission of India.
- vii *Report of the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the Enjoyment of human rights: Mission to India*, UN Doc. A/HRC/15/22/Add.3, 2 September 2010.
- viii US Department of Labor *The Department of Labor's List of Goods Produced by Child Labor or Forced Labor*, 2010, p. 16 -17.
- ix Ministry of Labour and Employment, Government of India *Initiatives towards Elimination of Child Labour, – Action Plan and Present Strategy*, at: <http://labour.nic.in/cwl/ChildLabour.htm> (visited on 26 November 2011).
- x Ministry of Labour and Employment, Government of India *State-wise Distribution of Working Children according to 1971,1981, 1991 and 2001 Census in the age group 5-14 years*, , at: <http://labour.nic.in/cwl/ChildLabour.htm> (visited on 26 November 2011).
- xi See for example: Human Rights Watch, *The Small Hands of Slavery: Bonded Child Labour in India*, p.1, 1996; International Trade Union Confederation *Report for the WTO - General Council Review of the Trade Policies of India: Internationally Recognised Core Labour Standards in India*, p. 8, Geneva, 2011; and US Department of State, *2010 Human Rights Report: India*, p.67, 2010.
- xii Singh, Vijaita, *UP Tops in Bonded Labour List: NHRC*, Indian Express, 24 Sep 2011 at: <http://www.indianexpress.com/news/up-tops-in-bonded-labour-cases-nhrc/851083>, (visited on 26 November 2011). For the full report, National Human Rights Commission, *Know your rights: bonded labour*, visit <http://bhrc.bih.nic.in/Docs/KnowYourRights.pdf> (visited on 26 November 2011).
- xiii Dalit Solidarity Network UK *So You Think You Had a Shitty Day?*, date of posting unknown, at: [www.dsnu.org/Manual\\_Scav.htm](http://www.dsnu.org/Manual_Scav.htm) (visited on 26 November 2011).
- xiv The Companies Act 2009 does not explicitly require corporations to respect human rights whilst also not limiting their freedom to do so. For a full assessment of corporate Law and human rights in India, read Amarchand & Mangaldas & Suresh A. Shroff & Co *Corporate Law Project, Jurisdiction: India (researched for the former UN Secretary General on Business and Human Rights)*, September 2009.
- xv Responsible Business (IICA-GIZ CSR Initiative) *National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business*, , date of posting unknown, at: <http://responsible-business.in/csr-guidelines> (visited on 26 November 2011).

xvi For example within the EU, OECD and ISO 26000: European Commission, *A renewed EU strategy 2011-14 for Corporate Social Responsibility*, 25 October 2011, EC Doc. COM (2011) 681 final; Organisation of Economic Cooperation and Development, *OECD Guidelines for Multinational Enterprises*, 25 May 2011, at:

[http://www.oecd.org/document/28/0,3746,en\\_2649\\_34889\\_2397532\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/28/0,3746,en_2649_34889_2397532_1_1_1_1,00.html), [visited on 26 November 2011]; and, International Standards Organisation, *ISO 26000: Social Responsibility*, date of posting unknown, at: [http://www.iso.org/iso/social\\_responsibility](http://www.iso.org/iso/social_responsibility), (visited on 26 November 2011).

xvii Transparency International *Corruptions Perceptions Index Results 2010*, date of posting unknown, at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results), (visited on 26 November 2011).

xviii Right to Information Act, 2005, Ch.1, paragraph 2, passed 21 June 2005.

xix During stakeholder feedback for this submission it was noted that human rights organizations have argued that the Act should be amended to explicitly bring the private sector under the purview of the Act to ensure disclosure of social and environmental impacts independent of ownership. This should certainly be the case when public interest is at stake.

xx *Report of the Special Rapporteur on the right of everyone to The enjoyment of the highest attainable standard of health: Mission to India*, p.20, UN Doc. A/HRC/14/20/Add.2, 15 April 2010,

xxi For example: Amnesty International *India: Authorities must halt unnecessary and excessive use of police force and civil militia attack on adivasi and peasant protestors in Orissa*, posted on 17 May 2010, <http://www.amnesty.org/en/library/asset/ASA20/013/2010/en/6a21ed47-2366-4ce6-9230-ca6b610cd574/asa200132010en.html> (Visited on 26 November 2011); Human Rights Watch *India: Urgent Inquiry Needed into Nandigram Violence*, , posted on January 15 2008, <http://www.hrw.org/news/2008/01/14/india-urgent-inquiry-needed-nandigram-violence>, (visited on 26 November 2011) – a case taken up by the NHRC *Case 1527/08/02/2008*.

xxii Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, passed 15 December 2006.

xxiii The case involving Vedanta Plc was also the subject of an international campaign including divestment by the Norwegian state pension fund a complaint brought by UK-based NGO Survival International to the UK OECD National Contact Point. For the former see Council on Ethics – Global Fund, *Recommendation to the Ministry of Finance*, 15 May 2007. For the latter see UK National Contact Point for the OECD Guidelines for Multinational Enterprises, *Final Statement: Complaint from Survival International against Vedanta Resources plc*, 25 September 2009.

xxiv India ratified ILO Convention 107 in 1958. The 2007 report from the UN CERD committee calls on the Indian Government 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. See, *Concluding observations of the Committee on the Elimination of Racial Discrimination: India*, p.5. UN Doc. CERD/C/IND/CO/19, 2007.

xxv As argued by Ramanathan Usha, *Land Acquisition, Eminent Domain and the 2011 Bill*, p.10 -14, November 5, 2011 vol xlvi nos 44 & 45 Economic & Political Weekly.

xxvi See Ministry of Mines, Government of India *Sustainable Development Framework*, 24 March 2011, <http://mines.nic.in/index.aspx?lid=324&level=1&chk=24dfe45y5edf5e3ca>, (visited on 26 November 2011).

xxvii Such as *The Information Technology Rules, 2011 (under the Information Technology Act, 2000.)* See *Internet Industry not Happy with IT Rules*, The Economic Times, 16 May 2011, [http://articles.economicstimes.indiatimes.com/2011-05-16/news/29548486\\_1\\_search-engine-websites-open-internet](http://articles.economicstimes.indiatimes.com/2011-05-16/news/29548486_1_search-engine-websites-open-internet), (visited 26 November 2011) which reads “Government's new rules for governing user-generated content on websites are evoking the ire of internet community in India and chiefly from the largest search engine firm Google, which calls the rules as censorship of internet in the country. The new set of rules will impact all internet firms which accept user-generated content such as Google, Microsoft, Rediff, Indiatimes, Yahoo, Facebook, among others. The new rules are set to regulate reader's comments on articles, user-posted videos, blogs, photos and comments on wall posts on online social networks”. Also relevant for internet restrictions is the *Information Technology Amendment Act 2008*, 5 February 2008 in particular sections 69, 69A and 69B regarding government powers to block internet sites and content.. Regarding telecommunications, note US Department of State, *2010 Human Rights Report: India*, p.22 that notes “On August 15, the Department of Telecommunications and the country's security agencies issued a warning to Research in Motion (RIM), the creators of the Blackberry mobile device and its related services, that unlimited access to their devices was now a requirement. The department declared that if RIM did not grant unconstrained access to e-mails, text messages, and other communications in real time, the government would ban their services. On October 15, the Prime Minister's Office intervened, delaying the deadline from October 31 to January 31, 2011. At year's end RIM and the government remained in negotiations, and Blackberry service continued uninterrupted.”

xxviii *ibid xi* p.5 (ITUC report).

xxix International Alert and Fafo *Red Flags: Liability risks for companies operating in high-risk zones*, 2008 available at [www.redflags.info](http://www.redflags.info) (visited 26 November 2011).

xxx Other commissions, such as the National Commissions for Women; Protection of Child Rights and Scheduled Castes and Scheduled Tribes can also play an important role regarding business and human rights in India.

xxxi *Case No.300/6/25/07-08*, National Human Rights Commission India.

xxxii *Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Business and Human Rights: Further steps toward the operationalization of the "Protect, Respect, Remedy" Framework*, p.19, UN Doc. A/HRC/14/27 (9 April 2010)

xxxiii *Statement of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, as she concludes her visit to India*, United Nations, Office of the High Commissioner for Human Rights, 21 January 2011, [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10660&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10660&LangID=E), (visited on 26 November 2011).

xxxiv For example, RAJESH KUMAR PANDEY, *Nun who led mining protest murdered*, 16 Nov 2011, *The Telegraph* - [http://telegraphindia.com/1111117/jsp/frontpage/story\\_14761136.jsp](http://telegraphindia.com/1111117/jsp/frontpage/story_14761136.jsp), (visited on 26 Nov 2011); PINJARKAR VIJAY, *Mining Firm Denies Role in Masood Killing*, 25 August 2011, *The Times of India*, [http://articles.timesofindia.indiatimes.com/2011-08-25/nagpur/29926717\\_1\\_rio-tinto-india-bunder-project-nik-senapati](http://articles.timesofindia.indiatimes.com/2011-08-25/nagpur/29926717_1_rio-tinto-india-bunder-project-nik-senapati), (visited on 26 November 2011); According to the ITUC report to the WTO in September 2011, "In August 2010, thugs attacked 60 garment workers of Viva Global, where workers were participating in a campaign to improve working conditions, on their way to work. The attack caused serious injuries to 16 women and one union leader was abducted for 12 hours and tortured" (*ibid. xi*); and MAYABHUSHAN NAGVENKAR, *Goa anti-mining activist battles defamation suit*, 31 Jan 2009, *Hindustan Times* <http://www.hindustantimes.com/India-news/Goa/Goa-anti-mining-activist-battles-defamation-suit/Article1-372997.asp> (visited on 26 November 2011)

xxxv Amnesty International, *State of the world's human rights 2011: India Report*, date of posting unknown, - <http://www.amnesty.org/en/region/india/report-2011#>, (visited on 26 November 2011).

xxxvi In *Subhash Kumar v. State of Bihar* [(1991) 1 SCC 598] the Supreme Court held that the "right to live is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life; In *Vishaka v. State of Rajasthan* [(1997) 6 SCC 241 lay down guidelines for the prevention of sexual harassment of women in the workplace. In *Kapila Hingorani v. State of Bihar*, 2003 (6) SCC 1, the Supreme Court noted the plight of the employees of public sector undertakings or the statutory authorities in the State of Bihar due to non-payment of salaries of the workers working in these corporations.

xxxvii *ibid iii*.

xxxviii *Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises Addendum: Principles for responsible contracts: integrating the management of human rights risks into State-investor contract negotiations: guidance for negotiators*, UN Doc. A/HRC/17/31/Add.3, 25 May 2011)