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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns

Addendum

**Mission to India: comments by the State on the report of the Special
Rapporteur***

* Reproduced as received.

Mission to India: comments of the Government of India on the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions

Comments of the Government of India on the final report of the visit of Mr. Christof Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions to India

The Government of India's additional comments on the final Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his visit to India from 19 – 30 March 2012, are given below:

1. In paragraph 26, the Special Rapporteur has said that he is unclear about how the Supreme Court reached the conclusion that AFSPA did not violate the Constitution. The Government of India views this as a gross disregard for our Supreme Court which is well known for its independence and credibility. The judgements of the Supreme Court is in public domain and the Special Rapporteur may wish to take a look at them.

2. In its discussion on the issue of witch, in paragraph 62, the report states that "The Special Rapporteur heard from the Indian authorities that witch killings did not warrant his concern". This assertion is uncalled for as no Indian authority has done so. On the contrary, localized problems are acknowledged and tackled at local levels by State authorities.

3. The Special Rapporteur has compiled a number of allegations received by him from various individuals and NGOs and has not checked the veracity of these from Indian authorities or enquired whether available national remedies have been availed of. In a country like India which places a great value on freedom of expression and has a vibrant media, numerous such allegations find expression and the Special Rapporteur's report does not give us any new information. Besides, the Special Rapporteur has not given details of allegations in the absence of which the Government is not in a position to verify them and would, therefore, request the Special Rapporteur to provide details or refrain from making such statements or generalized allegations. Following are some examples:

- Such a situation is further complicated by a reported practice of offering gallantry awards and promotions to security officers after the encounters (para 14).
- Reports by official Commissions of Inquiry, Committees and civil society organisations, have regarding many major incidents of communal violence indicated that the State and its agents, particularly the police forces, willfully did not exercise diligence in its duty to protect, and thus tolerated attacks on the life and rights of religious minorities, and, in some cases engaged, in active support (para 43).
- The Special Rapporteur was informed of several cases of individuals unlawfully taken into custody, severely beaten and taken to hospital where they subsequently died. He was informed that no steps had been taken to bring perpetrators of these acts to account (para 31).
- There are widespread allegations that the violence was fuelled by members of the state government (para 46).
- The Special Rapporteur nevertheless heard concerns that the high levels of corruption, religious bias and the inconsistent application of investigations impede effective progress in such cases, thus fostering a culture of impunity (para 50).

4. Paragraph 11 of the report states:

“The Special Rapporteur received reports that, while many demonstrations occur without casualties, this is not always the case. For example, at least 100 deaths were caused due to excessive use of force against demonstrators in Jammu and Kashmir in 2010.”

It is clarified that there were 2241 demonstrations during 2010 in Jammu & Kashmir and regrettably not all of them were peaceful. They were specifically targeted against the Security Forces on instigation by a section of the society having vested interests in disturbing the peace in the region. 832 civilians, 2938 police personnel and 1552 Security forces were injured in these demonstrations. First Information Reports (FIR)s were lodged in all cases of deaths, which were unfortunate, and investigations are underway.
