



Herman Van Rompuy
President of the European Council

Brussels, 3 December 2010
Our Ref: B1024

Dear Mr Van Rompuy,

Subject: India – European Union Summit, 10 December 2010

On 10 December 2010, India and the EU will meet in Brussels to further build on their strategic partnership which links almost 1.7 billion persons on the two continents. Also on 10 December, International Human Rights Day is celebrated across the world to mark the adoption of the Universal Declaration on Human Rights in 1948. In further strengthening India-EU ties it is essential that human rights are placed at the centre of all policies and cooperation, and that both sides act on their responsibilities as global leaders in promoting and protecting human rights at home and abroad.

With this letter, we highlight specific issues requiring attention at the Summit and beyond: tackling discrimination, ensuring human rights are upheld in security and counter-terrorism operations, and the crucial role of India and the EU in advancing human rights in international fora.

Ensuring equal rights for all: putting an end to discrimination

In several states in India, *adivasis* (indigenous peoples) and other already marginalized communities have been staging protests against threats to their habitats and livelihoods due to ongoing and planned corporate-led mining and irrigation projects. Local authorities have failed to obtain free, prior and informed consent of these communities before implementing projects. Similarly there has been noncompliance with new legislation to register rightful claims over customary forest lands and habitats protected by India's Constitution, resulting, in some instances, in forced evictions.

There are signs of hope that authorities are increasingly respecting the rights of *adivasis*. In August 2010, the Indian government rejected the proposed bauxite mine project in Orissa's Niyamgiri Hills, which is a landmark victory for the rights of indigenous communities. Amnesty International has urged the authorities in Orissa and the companies involved to guarantee that the project will not be simply relocated to another site without ensuring adequate safeguards. Human rights of *adivasis* and other marginalized communities must be respected wherever the companies operate.

Adivasi communities in central India are caught in the middle of escalating violence between the armed Maoists who claim to be fighting on behalf of *adivasis*, and India's paramilitary forces. In September 2010, Amnesty International urged the Indian government to ensure independent and impartial investigations into reports of torture and ill-treatment, including rape and other sexual violence, against *adivasis* illegally detained in Chattisgarh by the paramilitary Border Security Force (BSF) following the 29 August ambush of a BSF-police patrol by the Maoists. Since 14 September 2010, Adivasi activist Kartam Joga has been held in Dantewada district prison on several charges including collaborating with the Maoists in ambushing and killing 76 Central Reserve Police Force personnel on 6 April 2010. Kartam Joga has been at the forefront of exposing human rights violations

faced by *adivasi* communities, including over 500 unlawful killings and displacement of more than 30,000 *adivasis* in Chhattisgarh since 2005. Amnesty International considers him a prisoner of conscience, with charges brought against him as a pretext to detain him on account of his political activism, which has never involved the use or advocacy of violence.

While important strides have been made to end **caste-based discrimination**, much remains to be done to tackle the social hierarchy system which has been described as “India’s hidden apartheid”. Nearly 200 million people belong to the so-called untouchables or *dalits* category, whose occupations - sweepers, tanners, sanitation workers, etc - are viewed as “polluting” the community. Despite protection measures in India’s Constitution, abuses against *dalits* are numerous and take many different forms, including parading of naked *dalit* women through the streets, killings, arson-burning of *dalit* communities, rape, sexual assault, bonded labour and denial of land rights. The police and the criminal justice system continue to indulge in discriminatory practices against *dalits*, who are also being denied equal access to justice whenever they face such abuses.

In Europe, efforts must be stepped up to combat discrimination in EU member states, including against the **Romani** population. Roma people are frequently denied their rights to housing, employment, healthcare and education and are often victims of forced evictions, racist attacks and police ill-treatment. Living predominantly on the margins of society, Roma people are among the most deprived communities in Europe. In some countries, they are prevented from obtaining citizenship and personal documents required for social insurance, health care and other benefits. Romani children are frequently and unjustifiably placed in “special schools” where curtailed curricula limit possibilities for fulfilling their potential.

Amnesty International is concerned about discrimination and related human rights violations and abuses in India and Europe, and calls on both sides to increase efforts in protecting the rights of all people in their territories. In particular:

- **India must protect the rights of *adivasi* communities over the lands they traditionally occupy, in accordance with national law and international human rights standards, including International Labour Organization Convention No. 107 and the UN Declaration on the Rights of Indigenous Peoples (2007). Authorities must refrain from harassing *adivasi* activists and must immediately release prisoner of conscience Kartam Joga.**
- **The Indian government must ensure independent and impartial investigations into human rights abuses faced by *adivasis* and *dalits*, and bring the perpetrators to justice.**
- **Governments in Europe must end discriminatory practices against the Roma population, including unequal and separate education for Romani children.**

No security without human rights: combating impunity for human rights violations and abuses

In India, the Armed Forces (Special Powers) Act of 1958 (AFSPA) has remained in effect in several “disturbed areas” including Jammu & Kashmir and Manipur for a long time. The AFSPA protects the security forces from prosecution by requiring permission to prosecute from India’s Central Government - permission which is rarely given and hence acts as a major contributor to impunity in dealing with human rights violations in these areas. This law has therefore facilitated grave human rights abuses, including disappearances, rapes, extrajudicial executions and deaths resulting from torture.

In the Kashmir valley, more than 100 persons have been killed since June 2010 in connection with protests that broke out in March after three young men were killed, allegedly by security forces. The vast majority of these killings have been at the hands of police and paramilitary forces by application of excessive use of force during crowd control. Security forces should use the minimum force necessary to defend themselves or others against an imminent threat of death or serious injury. They should not employ intentional lethal use of firearms except where it is strictly unavoidable in order to protect lives.

In the EU, the **complicity of European governments in the rendition and secret detention programmes operated by the USA** in the aftermath of the September 2001 attacks has been well-documented. In a

recent report entitled, *Open Secret: Mounting Evidence of Europe's complicity in rendition and secret detention*, Amnesty International outlines the state-of-play with respect to accountability for European states' involvement in abusive practices in connection with counter-terrorism operations. While some progress has been made, the legal obligation to look back and ensure full accountability for such violations has been ignored by many governments for too long. One of the key impediments to progress with respect to holding governments accountable, bringing perpetrators to justice, and achieving redress for victims, is the invocation of "state secrecy" on national security grounds. Europe must refrain from becoming an "accountability-free zone" in which impunity for grave human rights violations persists and victims are denied the redress they so clearly deserve.

In living up to the expectations placed on India and the EU being democracies based on the rule of law, both sides must reassert that there can be no security without respect for human rights, and must ensure that security operations are conducted in accordance with human rights obligations. In particular:

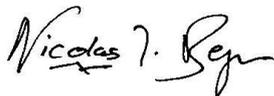
- **In Kashmir, the Indian authorities must take urgent steps to ensure respect for the right to life and to investigate past killings of demonstrators by police. Members of the security forces responsible for excessive use of force in demonstrations need to be brought to justice.**
- **European governments must refrain from invoking "state secrecy" to shield themselves from scrutiny for abuses committed in the context of rendition and secret detention operations. They must also refrain from being complicit in renditions and using diplomatic assurances when transferring individuals to third countries.**
- **Both sides should ensure adequate follow-up to the UN Joint study on global practices in relation to secret detention in the context of countering terrorism, conducted by a group of relevant UN special procedure mechanisms.**

Global leaders in international human rights fora

With a particular role in international fora as global leaders, we urge both sides to also discuss the promotion and protection of human rights in the region. India is well-placed to use its close relationships with Burma/Myanmar and Sri Lanka to bring about positive changes in human rights. India should engage with the Burmese authorities to end the serious and systematic human rights violations in Burma/Myanmar, and to secure the release of over 2,200 political prisoners. Regarding Sri Lanka, India should follow up on the promise made by the Sri Lankan Government to India in May 2009 that internally displaced persons would be released within six months. This timeframe has long passed, but there are still thousands of civilians living in government camps. Humanitarian access to the displaced and to those attempting to resettle is dictated by the Defence Ministry. It is crucial to secure access also to the estimated 7,000 people who remain detained on suspected links to the Liberation Tigers of Tamil Eelam (LTTE), and have been denied access to the ICRC and legal counsel.

We wish you fruitful discussions and remain at your disposal for further discussion and information.

Yours sincerely,



Dr. Nicolas J. Beger
Director

CC:

José Manuel Barroso, President of the European Commission
Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy/Vice President of the European Commission