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India

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THE INDIA REPORT
UNIVERSAL PERIODIC REVIEW

PREFACE

The India Report under the Universal Periodic Review mechanism of the United Nations Human Rights Council seeks to provide an overview of how pluralism and respect for diversity inform all aspects of the polity and society in the world's largest democracy. Along with the freedom struggle which was for the realisation of the human rights of the people of India to live in freedom and dignity, a process of social reform was also underway to bring women and disadvantaged sections of society into the mainstream. Both these processes converged and found expression in the Indian Constitution which came into effect in 1950, less than three years after gaining independence. The forward looking Constitution embodies the very essence of the freedom struggle and is reflective of the ethos of pluralism and tolerance engendered by a multi-religious, multi-cultural, multi-lingual and multi-ethnic society.

2. The commitment to pluralism and tolerance continues and informs all aspects of the Indian Constitution. The Indian Constitution is one of the longest in the world and drew inspiration not only from the richness of our experience of assimilating many religions and cultures over the millennia, but also the leading democratic constitutions of the modern world and from the fledgling United Nations.

3. India, with a population of around 350 million at the time of independence in 1947, faced stupendous challenges. There were nearly 600 Princely States in addition to those areas known as British India which had to be integrated. The Indian economy was primarily an agrarian economy which was deficient in industries and dependent on imports for its basic needs. The literacy rate was around 18 per cent. In the first few decades, priority was given to building human and industrial capacity in keeping with the needs and priorities of the nation. This was the setting against which India began its journey as a democracy to ensure the basic political, economic, social and cultural rights of her people.

4. We are proud to say that in those early days of our independence several bold measures were enshrined in the Constitution that have enabled India to flourish as a democracy for nearly six decades and preserve its humanist traditions in the face of several challenges. The basic political, social and economic rights found pride of place in the Constitution and became the beacon guiding the political leadership of various hues and colour for over half a century.

METHODOLOGY

5. In the preparation of the India Report under the Universal Periodic Review, the General Guidelines for the preparation of information outlined in decision 6/102 of the Human Rights Council meeting held on 27 September 2007 as a follow-up to Human Rights Council resolution 5/1 have been followed broadly.

6. All concerned Ministries and Departments of the Government of India have contributed in the preparation of the report along with other stakeholders including the national and state human rights institutes and the non-governmental organisations working in the field of human rights and related aspects. Several meetings were held involving the

Ministry of Home Affairs, the Ministry of Social Justice and Empowerment, the Ministry of Minority Affairs, the Ministry of Consumer Affairs, Food and Public Distribution, the Ministry of Health and Family Welfare, the Ministry of Housing and Urban Poverty Alleviation, the Ministry of Human Resource Development, the Ministry of Labour and Employment, the Ministry of Law and Justice, the Ministry of Panchayati Raj, the Ministry of Rural Development, the Ministry of Statistics and Programme Implementation, the Ministry of Tribal Affairs, and the Ministry of Women and Child Development. Several consultations were held with the National Human Rights Commission.

7. A broad consultation process was also held with the stakeholders consisting of several non-governmental organisations involved in human rights related activities along with Ministries in the Government of India. A liberal exchange of views, suggestions and information regarding protection and implementation of human rights took place, which helped in evolving the contours of the national report.

8. All these information collated subsequent to the rigorous and long process of consultations between the Ministries, the national human rights institutes and the non-governmental organisations were drafted together. A national report has thus evolved, which reflects the broad consultation process that was undertaken.

THE REPORT

9. India is home to over one billion people. Indian society is the culmination of centuries of assimilation of diverse peoples and ethnic groups. India has an inclusive, open, multi-cultural, multi-ethnic, multi-lingual society marked by unparalleled pluralism.

10. India is the seventh largest country in the world covering an area of 3.3 million sq. km. It is a subcontinent by itself extending from the snow-covered Himalayas to the tropical rain forests of the south. India accounts for 2.4 per cent of the world surface area but supports and sustains 16.7 per cent of the world population. India has 18 major languages. More than 1650 dialects are spoken across the country.

11. Twenty-eight States and seven Union Territories constitute India into a federal polity. There are 604 Districts and 638,596 villages in India. With over 3 million elected local representatives in the *Panchayats*, which are units of local self-government at the village level, India is not only the largest but also the most representative democracy in the world. India is also the only country to ensure that out of the 3 million elected office bearers, more than 1 million are women. The electorate for the 2004 National Elections exceeded 668 million, voting in 800,000 polling stations spread across varying geographic and climatic zones.

12. Human rights in India are to be viewed in the backdrop of this diverse social and cultural ethos, the country's development imperatives and also the fact that for over two decades it has faced the scourge of terrorism which is aided and abetted from outside. For all the challenges, pressures, and dilemmas, India's approach towards protection and promotion of human rights has been characterised by a holistic, multi-pronged effort.

13. The framework for this effort derives from the Constitution of India, which provides for a sovereign, secular, democratic and socialist polity and confers the right to vote on every citizen of India above the age of 18 years. Universally recognised human rights and

fundamental freedoms are guaranteed without discrimination to all citizens of India, which had taken an active part in the drafting of the Universal Declaration of Human Rights.

14. The Fundamental Rights and the Directive Principles of State Policy enshrined in the Indian Constitution represent the Indian people's declaration of their unflinching commitment to core human values, rights and responsibilities. The Indian Constitution and the various rights-centric statutes not only provide for the policy and institutional framework for human rights protection, but also facilitate the concerned institutions in discharging their responsibilities.

15. The Constitution offers all citizens, individually and collectively basic freedoms which are justiciable and inviolable in the form of six broad categories of Fundamental Rights:

- right to equality including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth and equality of opportunity in matters of employment;
- right to freedom of speech and expression; assembly; association or union; movement; residence; and right to practice any profession or occupation;
- right against exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings;
- right to freedom of conscience and free profession, practice and propagation of religion;
- right of any section of citizens to conserve their culture, language or script and right of minorities to establish and administer educational institutions of their choice; and
- right to constitutional remedies for enforcement of Fundamental Rights.

The bulwark of all Fundamental Rights is found in Article 21 which provides that no person shall be deprived of his life or liberty except in accordance with procedure established by Law.

16. The Constitution lays down certain Directive Principles of State Policy which though not justiciable, are 'fundamental in governance of the country' and it is the duty of the State to apply these principles in making laws.

- Equal justice and free legal aid.
- Organisation of village *panchayats* (local governments).
- Right to work, to education and to public assistance in certain cases.
- Provision for just and humane conditions of work and maternity relief.
- Living wage for workers.
- Participation of workers in management of industries.
- Uniform civil code for the citizens.
- Provision for free and compulsory education for children.
- Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.
- Duty of the state to raise the level of nutrition and the standard of living and to improve public health.
- Organisation of agriculture and animal husbandry.
- Protection and improvement of environment and safeguarding of forests and wild life.
- Protection of monuments and places and objects of national importance.
- Separation of judiciary from executive.

- Promotion of international peace and security.

17. The institutional safeguards for the rights enshrined in the Constitution include an independent judiciary and the separation of judicial and executive functions. Legislation in India is subject to review by courts as regards its constitutionality, and the exercise of executive power is subject to different forms of judicial review. In the event of infringement of an individual's fundamental rights, the highest court in the land, the Supreme Court, can be moved.

18. The Supreme Court has, in its concern for human rights, also developed a highly advanced public interest litigation regime. The judicial initiatives taken in this regard in the 1980s have now become the basis to seek redressal in situations of grave human rights violation. Any individual or group of persons highlighting a question of public importance, for the purposes of invoking its writ jurisdiction, can approach the Supreme Court and also the High Courts in the states. In the process, a wealth of jurisprudence has evolved on issues like prisoners' rights, bonded labour, right to clean environment and custodial violence. The Supreme Court has also recognised the justiciability of some vital economic and social rights, by interpreting the 'right to life' as meaning the right to a life with dignity.

19. As far as administrative structures are concerned, separate departments have been created both at the Centre and in the States for women and child development, social justice, health, education, labour, with a strong focus on the rights of citizens. A number of essential services like education, health and public distribution system of food have been kept in the public sector to ensure its reach across all sections of the population.

20. A number of Ombudsman type institutions have been created for the purpose of serving as 'watchdogs'. The National Human Rights Commission (NHRC) was established in 1993. The status and conditions of service of Chairperson of the NHRC is the same as that of the Chief Justice of India, and of Members of the Commission are those of Judges of the Supreme Court. Thus, the independence of the NHRC is expected to be the same as that of the Supreme Court of India. The Chairperson and Members are appointed on the recommendations of a High Level Committee, which is politically balanced. The Commission has its own independent Investigation Wing which is answerable to the Commission alone.

21. The National Human Rights Commission is playing a major role in the drawing of a National Action Plan for Human Rights, which will cover issues such as the right to health, education, food security, housing, custodial justice and trafficking in women and children. Specific benchmarks along with assessment indicators are being evolved to enable the preparation of a clear-cut road map.

22. Several National Commissions have also been created for women, minorities, Scheduled Castes, and Scheduled Tribes, whose Chairpersons are deemed Members of the National Human Rights Commission. The Government has also set up the National Commission for the Protection of Children's Rights, the National Commission for Denotified, Nomadic & Semi-nomadic Tribes, and the National Commission for Backward Classes and a Chief Commissioner for Persons with Disabilities. In addition, 18 States in India have constituted State Human Rights Commissions while a few more are in the pipeline. Many States have also constituted State Commissions for Scheduled Castes, Scheduled Tribes, Women and Minorities.

23. The Government has adopted a National Action Plan for Human Rights Education to promote awareness about human rights among all sections of the society. Specific target groups such as schools, colleges and universities, have been identified. Government officials, armed forces, prison officials and law officers are also sensitised to the protection of human rights. Human rights courses have been introduced as a part of the training at the SVP National Police Academy, Hyderabad, and at the Police Training Colleges. With a view to further sensitise the Indian Army, officers of the rank of Colonel are appointed in various headquarters to monitor cases relating to human rights. Training on human rights is beginning to have a beneficial effect and the standard operating procedures have been refined and improved. This is reflected in a decline of complaints of human rights violations from areas of insurgency.

24. Besides the institutional and administrative framework set up by the Government to extend and protect human rights, India has a strong tradition of non-governmental and voluntary action. An estimated 25,000 indigenous non-governmental organisations (NGOs) operate in India. India also has a strong tradition of community-based people's organisations.

25. The media in India - radio, television and print, exercise full freedom of expression and coverage of events and issues. The main radio and television channels of India, the All India Radio (AIR) and the Doordarshan (DD) are governed by an independent body of eminent persons who constitute the Prasar Bharati Board. A large number of private 24-hour news as well as entertainment channels also beam their programmes across the country freely through satellite. Newspapers and magazines in India are independent and largely privately owned. Over 5,600 newspapers, 150 of them major publications, are published daily in over 100 languages. Nearly 40,000 periodicals, some specialising in different subjects but most of general interest, are also published.

26. India is home to almost all religions of the world and secularism is a fundamental tenet of the Indian Constitution and political system. Every religious denomination has the right to establish and maintain institutions for religious, educational and charitable purposes, to manage their own affairs in matters of religion, to own and acquire property and to administer such property in accordance with law. No religious instruction can be imparted in any educational institution wholly maintained out of State funds and no person attending any educational institution recognised by the State or receiving aid out of State funds can be compelled to take part in any religious instruction without his or her consent. All persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. Citizens residing in India have the right to conserve their distinct language, script or culture.

27. The Minorities Commission set up in 1978 became a statutory body in 1993 and was renamed as the National Commission for Minorities. The Commission is vested with broad statutory powers for the effective implementation of safeguards provided under the Constitution for the protection of interests of minorities and for making recommendations in this regard to the Central and State Governments. The Commission looks into the welfare of minorities, and has the powers to examine specific complaints regarding the deprivation of rights and safeguards of minorities. It is both a monitoring and standard setting body with powers to receive complaints.

28. The Government of India on 23 October 1993 notified five religious communities viz. Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) as minority communities. The National Minorities Development and Finance Corporation (NMDFC) was incorporated in

1994 with the objective of promoting economic activities amongst the backward sections of notified minorities. To achieve its objective, the Corporation provides concessional finance for self-employment activities to eligible beneficiaries, belonging to the minority communities, having a family income below double the poverty line.

29. A new Ministry of Minority Affairs was created on 29th January, 2006 to ensure a more focused approach towards issues relating to the minorities and to facilitate the formulation of overall policy and planning, coordination, evaluation and review of the regulatory framework and development programmes for the benefit of the minority communities. The Prime Minister's New 15 Point Programme for the Welfare of Minorities was announced in June 2006. An important aim of the new programme is to ensure that the benefits of various Government schemes for the underprivileged reach the disadvantaged sections of the minority communities.

30. India has embarked on a programme of affirmative action which is, perhaps, without parallel in scale and dimension in human history. Part III of the Indian Constitution dealing with Fundamental Rights, contains powerful provisions to combat all forms of discrimination, notably those forms that were based on caste. These provisions of the Constitution, which are justiciable, include, *inter alia*, equality before the law or the equal protection of laws, non-discrimination against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them, special provision for the advancement of any socially and educationally backward class of citizens as well as Scheduled Castes and Scheduled Tribes, affirmative action through the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services of the State, and abolition of "Untouchability".

31. To effectuate the guarantees enshrined in these Constitutional provisions, an impressive range of legislative measures have been enacted to end discrimination against Scheduled Castes and Scheduled Tribes. Article 17 of the Constitution of India abolished the practice of untouchability and in furtherance of the provision thereof the Protection of Civil Rights Act (PCR Act) was enacted in 1955. The Act provides for punishment for untouchability. Several schemes and programmes are being implemented for socio-economic and educational development of Scheduled Castes and Scheduled Tribes.

32. Political representation is guaranteed for Scheduled Castes and Scheduled Tribes through the proportionate reservation of seats in elected legislative bodies, from Parliament to village councils. To overcome the cumulative results of past discrimination, the government instituted a program of "compensatory discrimination" that reserved 15 per cent for Scheduled Castes and 7.5 per cent of all Central Government jobs for members of Scheduled Tribes. Comparable reservations were provided for state-level employment, and reservations were extended to college and university admissions. In addition, special provisions for Scheduled Castes and Scheduled Tribes have been provided in housing, poverty alleviation programmes, hostel schemes.

33. India presents a varied tribal population throughout its length and breadth. The Constitution of India incorporates several special provisions for the promotion of educational and economic interest of Scheduled Tribes and their protection from social injustice and all forms of exploitation. The Fifth Schedule empowers the Governor of a state to suspend any act of Parliament or State Legislature if he thinks it is not in the interest of the Scheduled Tribes. This he can do even with retrospective effect. A similar aspect is not found anywhere else in the constitution. The Sixth schedule enables an autonomous district level body to be

formed where there are a large percentage of tribal groups. This unique scheme has been formulated especially for some States in the north-eastern region.

34. The Tribal Sub Plan (TSP) Strategy has been adopted for all round development of tribal areas throughout the country to ensure allocation of fund for tribal areas. A separate Ministry of Tribal Affairs was constituted in 1999 with the objective of more focused attention on integrated socio-economic development of the most under privileged section of Indian society, the Scheduled Tribes in a coordinated and planned manner. The National Level Tribal Development Finance Corporation was constituted for economic development of Scheduled Tribes.

35. The recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibility and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance, thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers.

36. To address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers, including those who were forced to relocate their dwelling due to State development interventions, the Parliament enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. It recognises and vests the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; it also seeks to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

COMMITMENT TO INTERNATIONAL HUMAN RIGHTS CONVENTIONS

37. Section 2(d) of the Protection of Human Rights Act, 1993 defines “human rights” as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. This definition is in conformity with international standards and the accepted interpretation of human rights.

38. India actively participated in the drafting and adoption of the Universal Declaration of Human Rights, 1948. Dr. Hansa Mehta, a Gandhian social worker, who had led the Indian delegation, had made important contributions in the drafting of the Declaration, especially by highlighting the need for reflecting gender equality. India is a signatory to the six core human rights covenants and is fully committed to the rights proclaimed in the Universal Declaration. It has signed and ratified international Human Rights Conventions which *inter alia* include the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of all forms of Racial Discrimination, Convention on the Elimination of all forms of Discrimination against Women, and the Convention on the Rights of the Child. In 2005, it ratified the two Optional Protocols to the Convention on the Rights of the Child and more recently, it ratified the Convention on the Rights of Persons with Disability. It has also signed the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on Enforced Disappearances signaling its intention to respect the provisions of these treaties and is taking steps towards their ratification.

39. India has played an active role in the human rights machinery of the United Nations. It was among the very few select countries who were members of the former Commission of Human Rights throughout over 60 years of its existence. India remains committed to make the new Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all. In this regard, we have extended cooperation to the mechanisms of the Human Rights Council. We also support the High Commissioner's office (OHCHR) in its efforts towards promotion and protection of human rights including through annual financial contributions.

40. While presenting its candidature to the Human Rights Council for a three-year term in December 2006, India made several voluntary pledges and commitments which, *inter alia*, include maintaining the independence, autonomy as well as genuine powers of investigation of national human rights bodies, setting up of a National Commission for the Protection of Child's Rights, working for the world-wide promotion and protection of human rights, based on the principles of cooperation and genuine dialogue, supporting the adoption of the Convention on the Rights of Persons with Disabilities. Most of these voluntary pledges and commitments made by India have been fulfilled and the rest are being carried out in earnest.

RIGHT TO LIFE AND LIBERTY

41. The right to life and liberty is the most fundamental of all human rights. This basic right forms the bedrock of human rights jurisprudence. The Constitution confers on every person the fundamental right to life and personal liberty, couched in the terms of Art. 21 under Part III. In an attempt to implement the civil liberties laid down in the ICCPR, the Supreme Court has liberally interpreted life and liberty and included a repository of rights under Art. 21. As aforementioned, the Apex Court has interpreted the right to life as denoting a right to a life with dignity, which includes the rights to health, education, clean environment, speedy trial, privacy etc.

RIGHT TO DEVELOPMENT

42. Prime Minister Dr. Manmohan Singh in an address to the Joint Session of the US Congress on 19 July 2005 said that *"Democracy is one part of our national endeavour. Development is the other. Openness will not gain popular support if an open society is not a prosperous society. This is especially so in developing countries, where a large number of people have legitimate material expectations which must be met. That is why we must transform India's economy, to raise the standard of living of all our people and in the process eliminate poverty."*

India's aspirations in the respect are not different from those of other developing countries. But we are unique in one respect. There is no other country of a billion people, with our tremendous cultural, linguistic and religious diversity, that has tried to modernise its society and transform its economy within the framework of a functioning democracy. To attempt this at our modest levels of per capita income is a major challenge."

43. India has recorded growth of around 9% in the past several years. India now has the fourth largest GDP in the world in terms of purchasing power. There is a confident, competitive private sector, endowed with remarkable entrepreneurial energy. The

infrastructure of law and commercial accounting is conducive to modern business, and there is dynamism in many areas of advanced technology.

44. This is the result of decades of sustained effort to build institutions that provide the underpinnings of economic development. The dynamism of recent years is also the result of economic reforms. The economic policy changes have liberated Indian enterprise from government control and made the economy much more open to global flows of trade, capital and technology.

RIGHT TO INFORMATION

45. To increase transparency in the functioning of Government at all levels and accountability in public life, the Government brought forward a historic legislation, the Right to Information Act, 2005. The Act has wide reach, covering the Central and State Governments, *Panchayati Raj* institutions, local bodies, as well as recipients of Government grants. It has given citizens access to information with minimum exemptions. Even security agencies are subject to disclosure now in cases of allegations of corruption or violation of human rights. It has also imposed obligations on Government agencies to disclose information on their own, thus reducing the cost of access. An independent appeal mechanism in the form of Central and State Information Commissioners, coupled with extensive disclosure obligations and stringent penalties, have given teeth to the right and have made it a powerful instrument for good governance.

CIVIL AND POLITICAL RIGHTS

46. In the same speech at the US Congress on 19 July 2005, Prime Minister Dr. Manmohan Singh said that *“The real test of a democracy is not in what is said in the Constitution, but in how it functions on the ground. All Indians can be proud of what we have achieved in this area and our experience is also relevant beyond our boundaries. Free and fair elections are the foundation of a democracy. Over the past six decades, governments in India, at both the national and State level, have regularly sought the mandate of the people through elections.*

Our elections are conducted under the supervision of a statutory independent Election Commission, which has earned respect for its fairness and transparency, both at home and abroad. The independent judiciary has been a zealous defender of our Constitution and a credible guarantor of the Rule of Law. The Press is a key institution in any democracy and our media has a well-earned reputation for being free and fearless. Our minorities, and we have many, participate actively in all walks of national life - political, commercial and cultural. Civil society organisations are thriving and are vigilant in protecting human rights. They are also watchful of threats to the environment. Our Army has remained a professional force, subject throughout to civilian control.

Recently, the Constitution was amended to ensure constitutionally mandated elections to village and municipal councils. This process has produced no less than 3 million elected

representatives in the country, with 1 million positions reserved for women. This has brought democracy closer to the people and also empowered women and promoted gender balance.”

47. Lack of adequate resources and insufficient national capacity in developing countries handicaps the ability of the state to secure for its people the full enjoyment of the fruits of civil and political rights. In India, democracy and the values and principles that go with it, facilitate fight against poverty and the development of the country, and are seen as the only durable and sustainable framework within which the welfare of the people can be ensured.

48. The safeguards provided by the institutions of a democratic society, including an independent judiciary, a free press, an alert and vibrant civil society unafraid to question the government's actions and highlight its perceived failures, democracies are far less likely to tolerate abuses of human rights than societies which are closed, authoritarian and devoid of a system of checks and balances.

49. Terrorism aided and abetted from outside has emerged as a serious challenge for India. Terrorists are the biggest violators of the most basic of human rights, the Right to Life. The very same liberties and freedoms which democracies guarantee also tragically make them the most vulnerable to misuse and assault. Terrorism as a political instrument challenges the most fundamental and precious values of democracy by forcing a diminution of openness, tolerance, rights and freedom and negating the fundamental values of a democratic society. Terror must be seen as a principal threat to democracy and as well to development. No cause, no religion, no ideology, no so-called struggle justifies terrorism.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

50. The Government is committed to providing an environment for inclusive and accelerated growth and social progress within the framework of a secular and liberal democracy. Through a combination of offering entitlements, ensuring empowerment and stepping up public investment, the Government has sought to make the growth process more inclusive. All the major initiatives of the Government, in agriculture and rural development, in industry and urban development, in infrastructure and services, in education and health care and in every other facet of life, are aimed at promoting “inclusive growth”. Inclusive growth also means empowering the disadvantaged. The Government has sought to achieve this through a variety of legislative interventions for empowering women, tribals and scheduled castes, the minorities and other backward classes.

51. The Government believes that rural India should be seen as a growth engine and is determined to channel public investment in the area of rural infrastructure so as to unleash its growth potential. To upgrade rural infrastructure, the Government has conceived *Bharat Nirman*, a four year time-bound business plan for achieving identified goals in six selected areas i.e. irrigation, rural water supply, rural housing, rural roads, rural telephony and rural electrification.

52. A path-breaking initiative to provide legal guarantee to work and to transform ‘the geography of poverty’ is the National Rural Employment Guarantee Act, 2005 which recognises the right to work as a fundamental legal right. The Act envisages securing the livelihood of people in rural areas by guaranteeing 100 days of employment in a financial year

to a rural household. It provides that employment be given within 15 days of application for work and if not so provided, daily unemployment allowance in cash has to be paid. It provides a social safety net for vulnerable households, and an opportunity to combine growth with equity. A social safety net of this dimension has not been undertaken ever before anywhere in the world. This programme was launched on 2 February 2006. Over 14 million households have benefited under the Rural Employment Guarantee Scheme operational in 130 districts. One third of jobs were reserved for women, who currently represent 40 per cent of beneficiaries. This scheme is being expanded to cover the entire country from 1 April 2008.

53. Even prior to India's accession to the Covenant on Economic, Social and Cultural Rights the importance of economic, social, and cultural rights was recognised in our Constitution which contained a separate section on the Directive Principles of State Policy. At the broadest level, they call upon the state to strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which social, economic and political justice would inform all the institutions of national life. Over the years, in a series of landmark judgements, the Indian Supreme Court has ruled that the "Directive Principles" must be "read into" the Fundamental Rights, as the two sets of rights are complementary to each other. The Supreme Court also ruled that the right to life, enshrined in the Constitution, includes within it the right to live with human dignity and all that goes with it, including the necessities of life, such as adequate nutrition, clothing, shelter and basic education. The 86th Constitution Amendment Act, which makes free and compulsory education for children between the age group of 6 to 14 years a fundamental right, is a historic step towards the realisation of the universal right to education in India.

54. Intrinsic to the dignity and worth of the human person is the enjoyment of the right to health. Indeed, in the Indian context, the right to life has been expanded, through liberal judicial interpretation, to encompass the right to health and to make the latter a guaranteed fundamental right. The National Rural Health Mission (NRHM) was launched on 12 April 2005 to provide accessible, affordable and accountable quality health services to the poorest households in the remotest rural regions. The thrust of the NRHM is on establishing a fully functional, community owned, decentralised health delivery system with inter-sectoral convergence at all levels, so as to ensure simultaneous action on a wide range of determinants of health like water, sanitation, education, nutrition, social and gender equality. Immunisation programme is one of the key interventions under the NRHM for protection of children from preventable life threatening conditions. A major exercise is underway to meet the health challenges of the urban population with a focus on urban poor living in slums, through the launch of the National Urban Health Mission. The Health Insurance Scheme for Workers in the Unorganised Sector is scheduled to be implemented from 1 April 2008.

WOMEN'S RIGHTS

55. India ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1993. Our national commitment to women's rights, however, dates back to the time when independent India adopted its Constitution adopted in 1950. The Constitution was path-breaking, not only by the standards of the newly independent countries, but also of many of the developed countries, in its focus on the emancipation of women and removal of all forms of discrimination against them. The guaranteeing of equal rights and privileges for women by the Constitution marked the first step in the journey towards the transformation of the status of women in India.

56. Our approach to women's rights has rested on the belief that the progress of any society is dependent on its ability to protect and promote the rights of its women. As a result of concerted efforts and a comprehensive policy framework over the last five decades there have been significant advances in the socio-economic indicators for women. These include a considerable rise in life expectancy at birth, increase in mean age at marriage, and decline in the female death rate. Most importantly, there has been an increase in the female literacy rate from just under 30% in 1981 to over 54% in 2001, and for the first time, the absolute number of female illiterates has shown a decline in the 2001 Census. Other indicators such as the Gross Enrolment Ratio for girls at primary and middle levels, number of women in higher education, and the female work participation have also shown a marked positive trend.

57. Empowerment of women is critical for the socio-economic progress of any country. The 73rd and 74th Constitutional Amendments were enacted in 1993 to provide for reservation of seats for women in the democratic institutions at the village and local levels, and have laid a strong foundation for the participation of women at the decision making levels. In addition, several programmes have been put in place for the empowerment of women through mobilisation, organisation and awareness generation, so as to enhance the self-confidence of women within the household and community and grant them access to resources from various available and new sources. The Joint Parliamentary Committee on Empowerment of Women, apart from monitoring the application of gender equality principles in all legislation, works to ensure that legislation in India is gender responsive.

58. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and entitlements of women in the country. The National Commission is responsible for the study and monitoring of constitutional and other laws relating to women, review of existing legislation and investigating complaints concerning the rights of women. In order to discharge its functions, the Commission has the powers of a civil court to take evidence and issue summons. The chairperson of the National Commission for Women is deemed to be a member of the National Human Rights Commission for the discharge of certain human rights functions. Ever since its existence the Commission has produced legal literacy manuals to educate women in their basic rights.

59. Education is the key to advancement of women. The spread of liberal education and values has unleashed forces for social reform and created awareness about the need for increased participation of women in the educational, social, economic and political life of India. The care of the girl child in the areas of health and nutrition, education and economic potential constitutes a major focus of state policy.

60. Comprehensive efforts have also been underway to secure gender justice by substantially increasing coverage of programmes for affirmative action, campaigns for equal rights to women in property, credit facilitation, income generating opportunities, provision of support services like day care facilities, crèches, and hostels for working women, etc. Specific provisions for women from the vulnerable sections of society have been made in the Prevention of Atrocities Act of 1989 and the Prevention of Atrocities Rules of 1995. States and Union Territories have been asked to formulate specific schemes under the Special Component Plan for the development of women from the vulnerable sections in the field of education, housing, drinking water supply facilities and also ownership rights on assets.

61. The Government of India adopted a National Policy for Empowerment of Women in 2001 to guide the approach to the empowerment of women in the Tenth Plan period from 2002 to 2007. An allocation of over 3 billion US dollars has been made for this period for the

Department of Women and Child Development, the largest for any single department in the Government of India, for the implementation of the Plan.

62. In addition to the role of the State and the constitutional provisions that exist, the judiciary has played a key role in the advancement of gender justice in India, including through the mechanism of public interest litigation which has taken deep roots in the country. The Supreme Court of India has delivered landmark pronouncements on matters such as the need for equal property rights for women, particularly in case of inheritance and sexual harassment at the workplace. In addition, civil society groups have played a key role in raising awareness about women's rights.

RIGHTS OF THE CHILD

63. India has the largest child population in the world. This brings with it huge responsibilities to protect their rights and prevent exploitation in all its forms, as well as unlimited opportunities to create a better future for the coming generations of young Indians. It is in recognition of this that in addition to having acceded to the Convention on the Rights of the Child, India has also acceded to both the Optional Protocols to the Convention.

64. India's commitment to the rights of the child is enshrined in our Constitution. One of the Directive Principles of State Policy contained in the Constitution states that the State shall ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of dignity and that childhood and youth are protected against exploitation and against moral and material abandonment, unquote. In order to direct greater focus on issues relating to children, an independent Ministry of Women and Child Development has been created. The Common Minimum Programme of the Government pledges that the government will protect the rights of children, strive for the elimination of child labour, ensure facilities for schooling and extend special care to the girl child.

65. India has one of the most comprehensive legal regimes for the protection of children. Among the several laws in place is the Juvenile Justice Care and Protection of Children Act 2000 which aims at providing proper care protection and treatment by catering to the development needs of children, and adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under the Act. The Act provides several safeguards for juveniles in conflict with law and for children in need of care and protection.

66. To eradicate child labour, a multi-pronged strategy is being followed involving strong enforcement of the Act with simultaneous efforts towards rehabilitation of working children and their families through linkages with the poverty eradication and income generation programmes of the Government. Government had initiated the National Child Labour Project (NCLP) Scheme in 1988 to rehabilitate working children in 13 child labour endemic districts of the country which has been extended to 250 districts in the country. Considering the magnitude and the nature of the problem, Government is following a sequential approach of first covering the children in hazardous occupations and then moving on to non-hazardous occupations. Under the NCLP Scheme, children are withdrawn from work and put into special schools where they are provided with bridging education, vocational training, mid-day meal, stipend, health-care facilities etc. About 0.5 million children have already been mainstreamed to regular education under the NCLP Scheme.

67. In order to ameliorate the condition of working children, the Government has decided to prohibit employment of children from 10 October 2006 as domestic servants or servant or in roadside eateries, restaurants, hotels, motels, teashops, resorts, spas or other recreational centres. Another important project for rehabilitation of child labour is the Indus Project, jointly launched in 2003 by Ministry of Labour & Employment, Government of India, and the US Department of Labour. It is being implemented in 21 districts of 5 States of Delhi, Madhya Pradesh, Maharashtra, Tamil Nadu and Uttar Pradesh.

68. The comprehensive and holistic National Plan of Action for Children, 2005 set time-bound targets for achievement in terms of reduction of infant and child mortality and HIV prevalence in infants, universal access to drinking water and basic sanitation, and the elimination of child marriages as well as the incidence of disabilities due to polio. The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 has been amended in 2003 to provide for the prohibition of sex selection, before or after conception, and more stringent enforcement. A Bill has been tabled for amending the Prevention of Child Marriage Act. It includes a salutary provision for declaration of a child marriage as void at the option of the child who contracted such marriage.

69. The Commissions for the Protection of Child Rights Act, 2005 has constituted the National Commission for the Protection of Child Rights. This statutory mechanism seeks to oversee and review the implementation of the National Policy for Children and recommend remedial action in instances of violation of child rights.

70. In addition, a National Charter for Children has been recently adopted which is a statement of intent embodying the Government's agenda for Children. The National Charter emphasises India's commitment to children's rights to survival, health and nutrition, standard of living, play and leisure, early childhood care, education, protection of the girl child, equality, life and liberty, name and nationality, freedom of expression, freedom of association and peaceful assembly, the right to a family and the right to be protected from economic exploitation. The document also defines commitments to children in difficult circumstances, children with disabilities, children from marginalised and disadvantaged communities and child victims.

RIGHTS OF OLDER PERSONS

71. Demographic ageing is a global phenomenon. With a comparatively young population, India is still poised to become home to the second largest number of older persons in the world. Projection studies indicate that the number of 60+ in India will increase to 100 million in 2013 and to 198 million in 2030. The National Policy for Older Persons (NPOP) was announced in January, 1999, with the primary objective to encourage individuals to make provision for their own as well as their spouse's old age; to encourage families to take care of their older family members; to provide care and protection to the vulnerable elderly people, to provide health care facility to the elderly; and to create awareness regarding elderly persons to develop themselves into fully independent citizens.

72. The Government has constituted a National Council for Older Persons (NCOP) to advise and aid the Government on policies and programmes for older persons and also to provide feedback to the Government on the implementation of the National Policy on Older Persons as well as on specific programme initiatives for older persons.

73. The National Old Age Pension Scheme was introduced in 1995 as a response to the deprivation and insecurities faced by our elderly. This scheme was extended to all citizens above the age of 65 years and living below the poverty line in November 2007 as the Indira Gandhi Old Age Pension scheme. This scheme is a demand driven social security programme and is not restricted by budget allocations.

74. The Scheme of Integrated Programme for Older Persons is aimed to empower and improve the quality of life of older persons. Under the scheme, financial assistance up to 90% of the project cost is provided to non-governmental organisations for establishing and maintaining old age homes, day care centres, mobile medicare units and to provide non-institutional services to older persons.

75. India is a signatory to the Madrid International Plan of Action on Ageing 2002. Government has also enacted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to provide for more effective provisions including constitution of Tribunals for the maintenance and welfare of parents and senior citizens.

RIGHTS OF PERSONS WITH DISABILITIES

76. The Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 was enacted much before the UN Convention on the Rights of Persons with Disabilities was adopted. It is a rights-based legislation and contains a range of measures for the prevention and early detection of disabilities, education, employment and non-discrimination. The Government has ratified the United Nations Convention on the Rights of Persons with Disabilities.

77. Recently, the National Policy for Persons with Disabilities and a scheme for providing 100,000 jobs every year to persons with disabilities have been approved by the Government. Besides, the Government has constituted a Group of Ministers with the mandate of generating awareness and monitoring all the activities undertaken by the Central Government to promote equal opportunities for the differently abled persons. There is also a strong legal framework for empowerment of Persons with Disabilities.



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NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15(A) OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

India

Corrigendum

Paragraph 20,

For established in 1993 read established by an Act of Parliament in 1993

Insert after third sentence

The independence of the working of the Commission has been ensured, inter alia, through a provision in the Protection of Human Rights Act, 1993 that Chairperson/Member of the Commission cannot be removed from his office unless a proper enquiry has been conducted by the Supreme Court.

Insert at end of paragraph

The Annual Report of the Commission along with the Action Taken Report by the Government is laid before the Parliament. The purview of NHRC covers the entire range of civil and political, as well as economic, social and cultural rights. The focus is to strengthen the extension of human rights to all sections of society, in particular, the vulnerable groups. The NHRC actively seeks out issues in human rights which are of significance, either suo motu, or when brought to its notice by the civil society, the media, concerned citizens, or expert advisers.

Paragraph 23, last sentence

~~For~~ This is reflected in a decline of complaints of human rights violations from areas of insurgency ~~read~~ This is reflected in a decline of complaints of human rights violations even from areas affected by insurgency and terrorist activities and violence

Paragraph 24, insert after last sentence

In addition, there is a strong and fiercely independent media which inter-alia continuously acts as a watch dog for the protection of human rights.

Paragraph 33, delete last sentence

After paragraph 77, insert new heading and paragraphs

CUSTODIAL JUSTICE

78. A lot of emphasis has been given to importance of Custodial Justice. The Government of India has promulgated the Protection of Human Rights Act 1993 and in terms of this Act, the National Human Rights Commission has been set up in 1993. The National Human Rights Commission has been empowered inter-alia to inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf or on a direction or order of any court, into complaint of violation of human rights. Section 30 of the Protection of Human Rights Act 1993 provides for setting up of Special Courts for speedy trial of offences arising out of violation of human rights. Further, the National Human Rights Commission has been issuing directions/recommendations from time to time to all State Governments on (i) reporting of custodial deaths/custodial rapes within 24 hours to the Commission, (ii) periodical health care and medical examination of under-trial prisoners, (iii) visit by judicial officers to jail/prison at regular intervals to see the conditions of prisoners and for recommending suggestion for improvement, and (iv) to follow a standardized procedure to deal with custodial crimes and police encounters.

79. The Honorable Supreme Court of India had also issued important guidelines in the case of D.K. Basu Vs. State of West Bengal which are to be followed by all authorities making arrest of individuals. One of the guidelines provides that a person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other persons known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee. These guidelines of the Supreme Court which have to be mandatorily followed have been circulated to all State Governments for compliance by Ministry of Home Affairs, Government of India.

80. The recent amendment in Section 176 of the Criminal Procedure Code to provide that in the case of death or disappearance of a person or rape of a woman while in the custody of the police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within twenty four

hours of death and this will go a long way to ameliorate the situation in the cases of custodial justice.

81. Similarly, there have been a number of important judgments delivered by the Honorable Supreme Court of India providing for payment of compensation to the persons affected by custodial crimes and such judgments have helped in curbing the tendency of committing custodial crimes.



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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1*

India

The present report is a summary of 37 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

*The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. The NHRC stated that it has been advocating for the ratification of the 1951 UN Convention relating to the Status of Refugees and the Torture Convention.² People's Forum for UPR (PF for UPR) also noted that India has yet to ratify, *inter alia*, the ICRMW, CED, CEDAW-OP and ICCPR OP1 and OP 2.³ Amnesty International (AI) further noted that India has yet to sign the Rome Statute of the International Criminal Court.⁴ The Asian Indigenous & Tribal Peoples Network (AITPN) and the International Working Group on Indigenous Affairs (IWGIA) highlighted that India has not ratified the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.⁵

B. Constitutional and legislative framework

2. The PF for UPR considered that as international laws are not self-executing in India the Government has failed to bring conformity with the ratified treaties at the domestic level.⁶

C. Institutional and human rights structure

3. The NHRC described its role as complementary to that of the judiciary. It stated that it has tackled a wide variety of issues such as trafficking in women and children, food security, education, health, disappearance of persons, displacement of persons due to disasters, conflict and development, child labour, custodial deaths and rape, prisons and disabilities not only by dealing with individual cases, but also by issuing policy guidelines for implementing agencies.⁷ The PF for UPR stated that the guidelines of National Human Rights Institutions (NHRIs) including on rape, custodial deaths and encounter killings are not implemented.⁸

4. The PF for UPR noted that the Government has not complied with the Paris Principles with regard to the National Human Rights Commission (NHRC), and the National Commissions for Women, Minorities, Scheduled Castes and Scheduled Tribes, Children and De-notified Tribes due to a failure to provide powers, funds and resources, and autonomy.⁹ According to Human Rights Watch (HRW) members and chairpersons of the NHRC are political appointees and this can reflect on their functioning. The NHRC cannot independently investigate violations by the armed forces under Section 19 of the Human Rights Protection Act.¹⁰ AI also stated that under Section 36(2) of the Act, the NHRC is only permitted to take cognizance of complaints relating to events which took place within the last year.¹¹ HRW recommended amendment specifically to allow the NHRC to independently investigate allegations of abuse by members of the armed forces.¹² The Kashmir Institute of International Relations (KIIR) added that the NHRC has no legal jurisdiction over Jammu and Kashmir.¹³

5. The NHRC stated that some parts of the country like Jammu and Kashmir and North East region and some other States are facing the menace of militancy and terrorism. The Armed forces of the Union including para-military forces have been deployed in some disturbed areas to aid and assist the State Government authorities to handle the internal security situation. At times, there are allegations of human rights violations by the forces who conduct operations against terrorists and on receipt of such complaints, the Commission calls for reports from concerned authorities. The Army has issued strict guidelines to all ranks on the observance of human rights while operating in such areas.¹⁴

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

6. AI regretted that India continues to display an unwillingness to cooperate with the UN Special Procedures.¹⁵ PF for UPR noted that the largest democratic country has failed to extend a Standing Invitation to the Special Procedures.¹⁶

B. Implementation of international human rights obligations

1. Equality and non discrimination

7. HRW noted that despite the existence of laws protecting human rights, India has failed to properly implement laws and policies to protect its marginalized communities, particularly Dalits, tribal groups, religious minorities, women and children.¹⁷

8. NHRC stated that the predominantly patriarchal, social, cultural and religious set up based on the foundation that the family line runs through the male has contributed extensively to the secondary status of women in India. This has led to a strong desire to avoid the birth of a female child in the family resulting in the decline in the child sex ratio at an alarming rate. In some parts of the country parents are choosing to abort if the child is female.¹⁸ The PF for UPR noted that across North India there is inverse juvenile sex ratio because of female foeticide.¹⁹ PF for UPR also observed that poor socio-economic indicators, deplorable educational, reproductive and sexual health statistics highlight that women are increasingly being marginalized in the development and political agenda.²⁰

9. According to Christian Solidarity Worldwide (CSW) the caste system continued to dominate and shape Indian society to a considerable extent, detrimentally affecting the social status, treatment and socio-economic prospects of the Dalits, or Scheduled Castes, who represent 16% of the total population (at least 167 million).²¹ The PF for UPR and IDMC stated that Dalits continue to endure segregation and are denied access to public places and services including places of worship, electricity and water.²² Tripura People's Democratic Front (TPDF) stated that discrimination against Dalits includes education inequality, economic disenfranchisement, religious discrimination, a poor system of medical care, and targeted violence against women.²³ CSW noted that Dalits report facing discrimination not only in normal social transactions but also in their interaction with Indian officialdom. The experiences of educated urban Dalits include subtler forms of discrimination, including in matters of employment and promotion.²⁴ The International Movement against All Forms of Discrimination and Racism (IMADR) and the Lutheran World Federation (LWF) emphasized that the non-availability of disaggregated data on some areas of the caste-based discrimination prevents in-depth analysis and targeted planning which may contribute to discrimination against Dalits in the right to land, housing, health, education and employment.²⁵

10. The Society for Threatened Peoples (STP) reported that, in spite of existing constitutional safeguards, for generations the Scheduled Tribes or Adivasi have been subjected to various kinds of discrimination. As a result, the Adivasi experience poor levels of health, education, food security and political representation. Together with these problems, the paramount issue remains the question of Adivasi land rights.²⁶ AITPN and IWGIA added that many of the Particularly Vulnerable Tribal Groups are on the verge of extinction.²⁷ The

PF for UPR also described the basic thrust of the 'Habitual Offenders Act' as identifying certain tribal groups as "habitual offenders".²⁸

11. PF for UPR reported that religious minorities in India face persecution, stigmatization and marginalization in the economic, social and political spheres. The Justice Sachar Committee in 2007 also highlighted this.²⁹ The Islamic Human Rights Commission (IHRC) noted the regrettable trend whereby 'terrorism-related' incidents are blamed on Muslim organizations with the press immediately reporting on it. If the suspicions are not realized, there are no press reports stating that the original report was wrong.³⁰ Five years since the 2002 communal violence in the Indian state of Gujarat in which more than 2,000 people were killed, AI remained concerned about the ongoing impact of that violence on the Muslim minority in Gujarat, as there are wide-scale reports of social and economic boycotting of Muslim communities in Gujarat and as many as 5,000 families are living in "relief colonies" without basic amenities or recognition from the government of Gujarat.³¹ Partners for Law in Development (PLD) reported that the draft Communal Violence Bill of 2005 has been widely debated by civil society members and strongly criticized for its failure to dismantle impunity, state collusion or redress gender based crimes.³² The PF for UPR noted that the bill does not define genocide.³³

2. Right to life, liberty and security of the person

12. PF for UPR stated that violations of the right to life through custodial deaths, encounter killings, indiscriminate and disproportionate use of fire-arms and enforced disappearances are rampant. The NHRC reported 136 deaths in police custody and 1,357 deaths in judicial custody and 122 cases of encounter killings, quoted the PF for UPR.³⁴

13. According to Liberation, India continues to have a veritable spectrum of draconian laws that are supposedly aimed at stopping terrorism but are used effectively by state agents to abuse human rights.³⁵ Liberation and AAI reported that these laws include the Central Government enacted Armed Forces (Special Powers) Act 1958 (AFSPA), National Security Act 1980 and the amended Unlawful Activities Prevention Act 2004.³⁶ Liberation stated that the Armed Forces (Special Powers) Act 1958 remained in effect in Nagaland, Manipur, Assam and parts of Tripura. It also reported that a version of the law was in effect in Jammu and Kashmir, the Armed Forces (Jammu and Kashmir) Special Powers Act 1990.³⁷

14. The South Asia Forum for Human Rights (SAFHR) added that the chronic use of anti-terrorist laws, preventive detention laws and the Armed Forces Special Powers Act, 1958 (AFSPA) have created a situation where the normal methods of 'investigation' have been replaced by disappearances, illegal detention, custodial torture, sexual violence against women and summary executions disguised as armed encounters.³⁸ The Committee on Human Rights Manipur (COHRM) noted that the invocation of the AFSPA for half a century in Manipur has blatantly violated non-derogable rights, primarily the right to life. Under section 4(a) of AFSPA, a non commissioned officer of the Indian army can shoot to kill in mere suspicion of crimes defined by the Government. Manipuri youths are primary victims of daily and routine extra-judicial executions.³⁹

15. AAI and Liberation also noted legislation enacted by State governments such as the the Jammu and Kashmir Public Safety Act 1978, the Jammu and Kashmir Disturbed Areas Act 1992, the Chhattisgarh Special Public Protection Act 2005 and the Madhya Pradesh Special Areas Security Act 2002.⁴⁰ Recommendations for the repeal or review of the different National and State Acts were made by CORE and AAI.⁴¹

16. The KIIR reported that two years after the repeal of the Prevention of Terrorism Act (POTA), cases of all those under the Act had not been fully reviewed within the stipulated period. Moreover, KIIR noted the concern of human rights organizations over amendments made to the Unlawful Activities (Prevention Act) which granted special powers to the state, similar to those previously provided by the POTA.⁴²

17. The World Peace Forum (WPF) noted that section 4 (a) of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 authorizes the armed forces of India to “fire upon or otherwise use force even to causing of death against any person” without fire orders.⁴³ The Jammu and Kashmir Public Safety Act (PSA) permits administrative detention of any person for a period of one year purely on the purported presumption that they may in future commit any act that will be harmful to the maintenance of public order or to the security of the State, noted the WPF. Under section 8(2) of this Act, the authorities are empowered not to disclose the grounds of detention to the detainee.⁴⁴

18. The Internal Displacement Monitoring Centre of the Norwegian Refugee Council (IDMC) stated that in Jammu and Kashmir international humanitarian law and human rights violations and abuses by security forces and the armed militant groups continue to be extensively reported. An estimated 15,320 civilians had lost their lives in militancy-related violence in the state as of March 2005.⁴⁵ The IDMC added that in Assam, the government has deployed large numbers of security forces to contain insurgencies. The forces have been responsible for arbitrary arrest, detention, torture and other abuses during search operations. The IDMC mentioned that there have been reports of serious international humanitarian law and human rights violations and abuses by all the parties - the security forces, the Maoists and the Salwa Judum cadres - in the Chhattisgarh conflict.⁴⁶

19. The Asian Legal Resource Centre (ALRC) stated that torture is not a crime in India. To convict a law enforcement officer concerning torture, the act has to qualify for all the requirements for any other crimes under the Indian Penal Code. The absence of an independent agency to investigate cases of custodial torture is exploited by the offenders since they know that even if a complaint is made regarding torture it will not be properly investigated.⁴⁷ AI noted that widespread torture in police custody – particularly of members of marginalized groups – is generally acknowledged, as are political interference and widespread corruption, and safeguards to protect the rights of detainees are rarely implemented.⁴⁸

20. The Torture Prevention Centre India Trust (TPCIT) observed that prison conditions remain deplorable across India.⁴⁹ The PF for UPR noted the NHRC statistics for the year 2004 that 70% of the total inmates were undertrials (persons standing trial).⁵⁰ The TPCIT stated that a total of 4026 cases of child rape were recorded during 2005 and that many of the cases of child-rape were committed by the law enforcement personnel.⁵¹

21. SAFHR added that in almost every police station of India 'accused' persons are routinely beaten and abused. Investigations show that the majority of the so-called 'criminals' who are tortured and abused in the police stations are poor, belonging to the communities of Dalits, tribals and minority religions like Islam and Christianity.⁵² The TPDF reported that Christians in India face threats, physical attacks, and jail time for sharing their faith.⁵³ Open Doors (OD) mentioned incidents where members of religious minorities who have been victims of beatings, evictions, looting, amongst others, were refused the right to file a First Incident Report by local police officers.⁵⁴ The TPDF expressed the view that Sikhs are also highly victimized by the Indian government.⁵⁵

22. Women in India continue to face physical, sexual, emotional and economic violence according to the PF for UPR. Women, particularly those from tribal, Dalit and religious minorities, face sexual and gender based crimes during/after caste or communal conflict situations.⁵⁶ According to the 2005 Annual Report of the National Crime Records, 1 crime was committed against women every 3 minutes, 1 rape every 29 minutes, 1 molestation every 15 minutes, 1 dowry death case every 77 minutes.⁵⁷ The PF for UPR noted the statistics given by the National Crime Records that out of total 22,832 cases reported for kidnapping and abduction of women 43% were for marriage; 56,709 cases investigated by police during 2005 were of cruelty by husbands and relatives.⁵⁸ The Youth Coalition for Sexual and Reproductive Rights (YCSRR) mentioned a study carried out by UNICEF and the NGO Prayas which revealed that 53% of children between the ages of 5 and 12 have been sexually abused and most often perpetrated by parents, legal guardians or close members of the family. Further, the study noted that more than half of all cases of sexual abuse and rape go unreported.⁵⁹

23. According to the Centre for Reproductive Rights (CRR), sham marriages are often performed for the purpose of facilitating trafficking of young women for sex work.⁶⁰ Sampada Gramin Mashila Santstha (SANGRAM) and VAMP also noted that current legislation has failed to protect the rights and safety of people in prostitution and sex work.⁶¹

24. Dalit activists giving testimony to CSW have asserted that a caste-based analysis of the various contemporary forms of slavery in India revealed to an overwhelming extent that the chief victims of, *inter alia*, human trafficking, sexual slavery and other forms of labour exploitation, are Dalits or members of 'low' castes, in particular, the *devadasi* system, bonded labour and manual scavenging. CSW mentioned that the implementation of laws to prevent such exploitation is extremely poor.⁶² NHRC further noted that it has been urging State authorities towards the complete eradication of the pernicious practice of manual scavenging and that under a Supreme Court directive, this is to be fully complied with by 2009.⁶³

25. The PF for UPR reported that the situation of children remained vulnerable with a lack of effective programmes for child labourers, recruitment as child soldiers, sexual violence against the girl child and deplorable conditions of juveniles in conflict with the law. Dalit and tribal children are more vulnerable to abuses. Torture and corporal punishment are rampant.⁶⁴ The NHRC also expressed its deep concern about juvenile justice and that instances of sexual abuse have been on the rise.⁶⁵ The Global Initiative to End All Corporal Punishment of Children (GIEACP) reported that corporal punishment is lawful in the home. There is no national prohibition in law of corporal punishment in schools, although it is prohibited under some States' laws, and no explicit prohibition in alternative care settings. Draft legislation under discussion, which purports to prohibit corporal punishment, retained the right to punish a child "if the Hurt rendered on a child is commensurate to the act undertaken by the child and is not unreasonable and does not harm the physical integrity of the child's body."⁶⁶

3. Administration of justice and rule of law

26. The Commonwealth Human Rights Initiative (CHRI) noted that the Indian criminal justice system is marked by extremely clogged courtrooms, lengthy delays at trial, and more significantly, corruption.⁶⁷ According to information submitted by PF for UPR there are at least 28.6 million cases pending before the courts in India. Presently, India has only 10.5 judges per million inhabitants. In addition, the legal aid system has collapsed.⁶⁸

27. The PF for UPR believed that there is virtual impunity for “public servants” and politicians and that the culture of impunity exacerbates human rights violations as the public officials consider themselves beyond the reach of the law.⁶⁹ CHRI stated that there is an urgent need for police reform in India. The police are commonly perceived as politicized, underperforming, brutal and unaccountable.⁷⁰

28. AI stated that while investigations into deaths in custody are mandatory under section 176 of the Code of Criminal Procedure such inquiries have mostly taken place following a public outcry. However, such inquiries remain under executive control, as opposed to the more independent inquiries carried out by magistrates. The police are often reluctant to bring forward evidence which might implicate their colleagues and senior officials have been known to participate in routine cover-ups of deaths resulting from torture. Even when Commissions of Inquiry have completed their work subsequent prosecutions have been rare.⁷¹

29. HRW pointed out that a series of Indian laws also make it difficult or impossible to prosecute abusers employed by the state. In particular, police and paramilitary forces are protected under Section 197 of the Criminal Procedure Code, which provides that no court will recognize any offence alleged to have been committed by a public servant (including a member of the armed forces) in the discharge of official duty without the express sanction of the federal government. Permission to prosecute is rarely granted, even when an investigation has strong evidence of human rights violations.⁷²

30. HRW added that the army is provided with additional immunity when they are deployed in areas of internal conflict under the Armed Forces Special Powers Act (AFSPA). Under this Act, no prosecution, suit or other legal proceeding shall be brought, except with the express sanction of the federal government against any person regarding anything done or purported to be done in exercise of the powers under this Act.⁷³ According to the CHRM, the invocation of AFSPA violated Article 4(a) of the ICCPR on declaration of "States of Emergency" since de facto emergency has been imposed without formal promulgation of any form of public emergency.⁷⁴ CORE recommended that the AFSPA be repealed.⁷⁵

31. World Peace Forum (WFP) also noted that section 22 of the Jammu and Kashmir Public Safety Act (PSA) Act provides protection against prosecution, suit or legal proceedings to all acting under this Act and that this immunity against prosecution has resulted in widespread torture and arbitrary arrest and detention.⁷⁶ HRW stated that various committees have been set up to address issues of impunity and accountability particularly in areas of armed conflict. However the findings of such committees are often not publicly disclosed and/or routinely ignored. HRW mentioned a committee to review the Armed Forces Special Powers Act, which submitted its report to the Home Ministry in June 2005. It also noted that, in April 2007, a working group on Jammu and Kashmir appointed by the Prime Minister also recommended the repeal of laws sanctioning impunity, such as the AFSPA. The Indian government has not acted on either of these recommendations.⁷⁷

32. The World Barua Organization (WBO) referred to the massacre in Gujarat in 2002, and in particular the fact that most of the cases filed by victims of the violence have never been investigated. Witnesses have been intimidated. No more than a dozen low-level culprits have been convicted.⁷⁸ AI recommended that action be taken by the Government to effectively and promptly investigate incidents of violence against Muslim communities in Gujarat state, to prosecute perpetrators, including government and police officials, and to provide reparations for victims and survivors.⁷⁹ In a joint statement, Women’s Research Action Group (WRAG) also mentioned the failure of the state government of Maharashtra to

implement the recommendations of the Srikrishna Commission which was appointed by the government to enquire into communal violence in Mumbai in 1992-93, an example of large-scale impunity for communal violence in India.⁸⁰ Additionally, in the case of the secret cremations in Punjab, Ensaaf noted that the Supreme Court appointed the NHRC to examine all issues raised by the petitioners, granting it extensive powers to redress fundamental human rights violations.⁸¹ AI noted that on 9 October 2006 the NHRC effectively closed the case, failing to investigate any cremation cases or record the testimony of a single victim family and relying exclusively on admissions and denials of state agencies to reach its determinations.⁸² The NHRC noted that it recommended compensation to the next of kin of both the 195 deceased identified to be in custody of the police and of identified persons whose dead bodies were cremated by the Punjab police.⁸³ Ensaaf recommended that the progress of the Punjab mass cremations case be monitored, as it is likely to come under review by the Indian Supreme Court in 2008, albeit the human rights violations occurred during the 1980 and 1990s.⁸⁴

4. Right to privacy, marriage and family life

33. PF for UPR noted that women's rights within family and marriage, especially her rights to property, inheritance, maintenance are not ensured and also that there are rampant child marriages - 24% of 15-19 age group are married.⁸⁵

34. PLD highlighted the petition in the High Court of New Delhi seeking judicial review of the provision which criminalizes consensual sexual acts between adults of the same sex (under section 377 of the Indian Penal Code).⁸⁶

5. Freedom of religion and belief, expression, association and peaceful assembly, and right to participate in public and political life

35. According to the Becket Fund (BF) the most troubling legal challenge to religious liberty in India is the existence of "freedom of religion" laws discouraging conversion ("anti-conversion laws"). Currently four Indian states, Orissa, Chhattisgarh, Madhya Pradesh, and Himachal Pradesh, have implemented anti-conversion laws. Gujarat and Arunachal Pradesh have anti-conversion laws that await enforcement regulations, and Rajasthan's anti-conversion law has been forwarded to the President for legal review. Many of India's state anti-conversion laws require a converted person to register their intention to convert to another religion. Some state anti-conversion laws discriminate against specific minority religions or social classes.⁸⁷ CSW noted that under current legislation, Dalits who convert to Christianity or Islam lose their Scheduled Caste status, and consequently their eligibility for the affirmative action-style system of reservation. It also observed that Dalit perception that religious conversions constitute a means of escaping caste is complicated by the fact that caste is practiced, to some extent, within all religious communities in India.⁸⁸ The European Centre for Law and Justice (ECLJ) stated that *souvent, ces lois sont invoquées, notamment par la population, afin de contrer la conversion de membres d'une religion majoritaire vers une religion minoritaire.*⁸⁹

36. CHRI raised certain concerns regarding the implementation of the Right to Information Act, in particular the lack of public awareness about the key provisions of the Act and the fact that fee structures vary widely from state to state.⁹⁰

37. Reporters Without Borders (RWB) stated that the Indian media is dynamic, protective of its freedoms and plays a crucial role in the country's democratic system. However, in states

shaken by separatist or Maoist rebellions, journalists are caught in the crossfire. At least 65 were assaulted or received death threats from police officers, criminals, company heads or political militants during 2006 and two journalists were murdered. In Kashmir, the police did not respond to repeated inquiries by the NHRC about cases of imprisoned journalists.⁹¹

38. Front Line (FL) mentioned that restrictive legislation also contributes to further infringements of freedom of association and prevents some organisations from carrying out their legitimate work in defence of human rights.⁹² According to the CHRI the Foreign Contribution Regulation Bill 2006, which is currently before the Parliament, provides for severe restrictions on foreign funding for organisations that are classified as “organisations of a political nature, not being political parties”. This classification and the power to grant a registration certificate authorising an organisation to receive foreign funds is left to administrative discretion in the Bill, which would massively decrease the space available for civil society work and advocacy in India.⁹³

39. CORE reported that human rights defenders and organizations are regularly victimized, including by search operations and the sealing of premises under different pretexts, confiscation of equipment and materials, harassment, false imprisonment, violence and threats of violence to self and family members.⁹⁴ FL is concerned that human rights defenders who tackle issues deemed sensitive by the government find themselves at considerable risk. Torture, preventive illegal or arbitrary detention, disappearances, ill-treatment, the use of excessive force, and the violation of due process rights are used by State actors to prevent human rights defenders from carrying out their legitimate and peaceful work. Human rights defenders who investigate and monitor atrocities committed by the police and custodial violence are at particular risk, as are Dalit and Tribal human rights defenders and those defending the rights of historically marginalized groups.⁹⁵ Several human rights defenders in Punjab, Jammu and Kashmir and states of the north-east have been killed, according to FL.⁹⁶

6. Right to social security and to an adequate standard of living

40. The PF for UPR observed that the denial and deprivation of the economic, social and cultural rights led to violations right to life through suicide, hunger and starvation. A staggering 89,362 farmers committed suicide between 1997 and 2005.⁹⁷ It also observed that there is increased feminisation of poverty especially with males committing suicide.⁹⁸

41. CRR noted that the Indian government has formally introduced a wide range of policies and programs designed to improve women’s reproductive health status by facilitating broad access to health-related services and information. However, implementation has been uneven and weak.⁹⁹ The CRR added that complications during pregnancy and childbirth are among the leading causes of death of women in India. The underlying causes of maternal mortality are poor health care facilities, lack of access to family planning services and safe abortions, and poor nutrition. These factors disproportionately affect women in rural areas. One in six Indian girls begin child bearing between the ages of 13 and 19, and less than 10% of married adolescents use contraception, stated the CRR. Unsafe abortion is believed to account for half of all maternal deaths among girls and young women aged 15 to 19 years. CRR also noted that in 2002, India amended its abortion law, the Medical Termination of Pregnancy Act, 1971, but, there is no evidence that law reform has increased access to safe, legal, and affordable abortion services.¹⁰⁰ YCSRR stated that in India, most schools do not have any form of sexuality education in their curricula. It recommended that India provide comprehensive sexuality education in all public and private schools.¹⁰¹

42. STP expressed its concern with the worrying mortality rate among Adivasi children reported by the Ministry of Tribal Health in its Annual Report 2005-2006, which at 84.2 deaths (per 1, 000 births) is significantly higher than the Indian average of 70 as well as the rates of other disadvantaged socio-economic groups.¹⁰²

43. The NHRC also reported that while India has overcome famines and moved away from being a food deficit country, there are instances of starvation and malnutrition.¹⁰³ Despite great advances in the justiciability of the right to food in India, Food First Information and Action Network (FIAN) stated that difficulties remain in enforcing existing legislation and in ensuring the implementation of court decisions and access to justice for the poor.¹⁰⁴ FIAN indicated that the necessary shift from Public Distribution System (PDS) to Targeted Public Distribution System (TPDS) in 1997, has not contributed to addressing the problem of hunger and starvation of millions of Indians. The TPDS has been introduced only to look after the food security of the people living below the poverty line. Poverty itself is not clearly defined by the government and the criteria to decide which people are below the poverty line are vague.¹⁰⁵ The Asian Legal Resource Centre (ALRC) observed that the management of this system suffers from corruption, particularly black-marketing, as well as caste prejudices and the failure of the local governments. It also reported that starvation and malnourishment affects about 53% of India's entire population.¹⁰⁶

44. FIAN noted that lack of access to clean drinking water and water for irrigation due to pollution of water resources, diversion of water for industrial purposes and steps towards privatisation of water are some of the threats to the right to water of the people in India.¹⁰⁷

7. Right to education

45. The KIIR mentioned that in Kashmir 80% of the school buildings are occupied by the Indian army and due to the fear of the armed forces the people are scared to send their children to schools.¹⁰⁸ AAI mentioned that although in 1993 manual scavenging of human waste was outlawed, there are records that 1.2 million persons still carry out this practice. No sooner the families surrender the practice of manual scavenging, their children are denied scholarship under the scheme for children of families practicing unclean occupations. This forces drop-out from schools, especially of girl children.¹⁰⁹

8. Internally Displaced Persons

46. The PF for UPR observed that over 84 million indigenous/tribals peoples of India, known as the Scheduled Tribes or Adivasi, continued to be disproportionate victims of "development", displacement and dispossession.¹¹⁰ The STP noted that most of the Adivasi tribes live in the forests of remote and mountainous regions in central India, the so-called "Tribal Belt" and that their land contains large deposits of natural resources like bauxite, iron ore and coal. Consequently their lands have been increasingly targeted for industrial development by the fast-growing Indian economy. Mining operations, industrial complexes (frequently clustered in Special Economic Zones (SEZ)) and the building of infrastructure (particularly dams) have already taken a serious toll on Adivasi land and threaten to drive their distinct culture into extinction.¹¹¹ AI is increasingly concerned that the lack of transparency, inclusiveness and consultation with those who own the land in the acquisition modalities of land for industrial projects has sparked protests from local socially and economically marginalized communities fearing displacement from their land and homes. In the majority of cases the displacement is also a threat to their livelihood, which for most is entirely based on production from their land.¹¹² According to AAI, Indian security forces and

police have been engaged in rape and killing to suppress the people's genuine protest against the acquisition of their farmland for special economic zones (SEZs) and unjust industrialization. Various state governments in India acquired land mostly from tribal communities, Dalits and farmers under the Land Acquisition Act 1894.¹¹³

47. According to the IDMC, at least 600,000 people are displaced in India for reasons related to conflict and localized violence.¹¹⁴ According to the Ministry of Home Affairs, quoted by AITPN and IWGIA, 21 out of 28 States are afflicted by armed conflict and the majority of these States are afflicted by Naxalite (Maoist) conflicts.¹¹⁵ AITPN and IWGIA noted that all the areas afflicted by internal armed conflicts, except Jammu and Kashmir are pre-dominantly inhabited by indigenous and tribal peoples, who constitute over 40% of conflict-induced IDPs in India and suffer serious human rights violations from both the security forces and the armed opposition groups.¹¹⁶ IDMC noted that India's largest situation of internal displacement stems from conflict in Jammu and Kashmir.¹¹⁷ IDMC added that the Indian government frequently denies international humanitarian organisations access to internally displaced people, arguing that local governments take full care of the affected people.¹¹⁸ According to the IDMC, the government's response to displaced people is often ad-hoc and largely insufficient, and the IDPs frequently find themselves in an extremely vulnerable situation.¹¹⁹ IDMC recommended that India adopt a national IDP policy¹²⁰ and ActionAid that India implement the UN Guiding principles on Internal Displacement¹²¹.

9. Right to Development

48. The NHRC stated that two challenges need to be met before the right to development can be taken seriously in policy and action. The first is to create a robust concept of development and the second to identify the practical steps to implement this right.

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

49. IMADR and LWF mentioned the statement made by the Indian Prime Minister in December 2006, in which he compared the untouchability practice in India to apartheid in South Africa, as a milestone in the recognition of the social discrimination against Dalits. They recommended that this public statement should be followed up by effective measures at the national level to implement the constitutional safeguards protecting Dalits from discrimination.¹²²

50. SAFHR noted the progress made in recent years India in institutionalising 'transparency in governance' through the enactment of Right to Information Act.¹²³

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

51. [n/a]

V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

52. [n/a]

Notes

¹ The following stakeholders have made a submission (all original submissions are available in full text on: www.ohchr.org):

Civil society

AAI	Action Aid India, UPR Submission, November 2007*;
AI	Amnesty International, UPR Submission, November 2007*;
AITPN and IWGIA	Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007*;
ALRC	Asian Legal Resource Centre , UPR Submission, November 2007*;
BF	The Becket Fund for Religious Liberty, UPR Submission, November 2007*;
CHRI	Commonwealth's Human Rights Initiative, UPR Submission, November 2007*;
COHRM	Committee on Human Rights Manipur, UPR Submission, November 2007;
CORE	Centre for Organisation Research & Education, UPR Submission, November 2007;
CRR	Centre for Reproductive Rights, UPR Submission, November 2007;
CSW	Christian Solidarity Worldwide, UPR Submission, November 2007*;
ECLJ	European Centre for Law and Justice, UPR Submission, November 2007*;
Ensaaf	Ensaaf, UPR Submission, November 2007;
FIAN	Food First Information and Action Network, UPR Submission, November 2007*;
FL	Front Line, UPR Submission, November 2007*;
GIEACP	Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007*;
HRW	Human Rights Watch, UPR Submission, November 2007*;
IDMC	Norwegian Refugee Council (Internal Displacement Monitoring Centre,) UPR Submission, November 2007*;
IHRC	Islamic Human Rights Commission, UPR Submission, November 2007;
IMADR and LWF	Joint submission by the International Movement against All Forms of Discrimination and Racism* and the Lutheran World Federation* in association with the National Campaign on Dalit Human Rights (NCDHR) and the International Dalit Solidarity Network (IDSN), UPR Submission, November 2007*;
Interfaith International	Interfaith International, UPR Submission, November 2007*;
KIIR	Kashmir Institute of International Relations, UPR Submission, November 2007;

Liberation	Liberation, UPR Submission, November 2007*;
OD	Open Doors International UPR Submission, November 2007;
OMCT	World Organization Against Torture, UPR Submission, November 2007*;
PF for UPR	Joint submission by People's Forum for UPR presented by Asia Centre for Human Rights on behalf of 129 organizations and 13 human rights defenders, UPR Submission, November 2007*;
PLD	Joint submission by Partners for Law in Development and 16 other NGOs, UPR Submission, November 2007;
RWB	Reporters Without Borders, UPR Submission, November 2007*;
SAFHR	South Asia Forum for Human Rights, UPR Submission, November 2007;
SANGRAM and VAMP	Joint submission by Sampada Gramin Mashila Santstha and VAMP, UPR Submission, November 2007;
STP	Society for Threatened Peoples, UPR Submission, November 2007*;
TPCIT	Torture Prevention Centre India Trust, UPR Submission, November 2007;
TPDF	Tripura People's Democratic Front, UPR Submission, November 2007;
WBO	World Barua Organization, UPR Submission, November 2007;
WRAG	Joint submission by Women's Research & Action Group and 23 other NGOs, UPR Submission, November 2007;
WPF	World Peace Forum, UPR Submission, November 2007;
YCSRR	Youth Coalition for Sexual and Reproductive Rights, UPR Submission, November 2007.

National Human Rights Institution

The National Human Rights Commission of India (NIHRC) **

NB: * NGOs with ECOSOC status; ** National Human Rights Institution with A-status

² National Human Rights Commission, UPR Submission, para. 28.

³ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, UPR Submission, November 2007, p. 11.

⁴ Amnesty International, UPR Submission, November 2007, p. 3. See also Committee on Human Rights Manipur, UPR Submission, November 2007, p. 1 and 4.

⁵ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 6.

⁶ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights., November 2007, p. 12.

⁷ National Human Rights Commission, UPR Submission, paras. 6, 18 and 19.

⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 11.

⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 11. See also Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3

¹⁰ Human Rights Watch, UPR Submission, November 2007, p. 4. See also Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 3-4.

¹¹ Amnesty International, UPR Submission, November 2007, p. 3.

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- ¹² Human Rights Watch, UPR Submission, November 2007, p. 5. See also Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 1.
- ¹³ Kashmir Institute of International relations, UPR Submission, November 2007, p. 3.
- ¹⁴ National Human Rights Commission, UPR Submission, para. 15.
- ¹⁵ Amnesty International, UPR Submission, November 2007, p. 3.
- ¹⁶ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 13.
- ¹⁷ Human Rights Watch, UPR Submission, November 2007, p. 1.
- ¹⁸ National Human Rights Commission, UPR Submission, para. 23.
- ¹⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.
- ²⁰ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.
- ²¹ Christian Solidarity Worldwide, UPR Submission, November 2007, p. 2.
- ²² Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6 and Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 2.
- ²³ Tripura People's Democratic Front, UPR Submission, November 2007, p. 3.
- ²⁴ Christian Solidarity Worldwide, UPR Submission, November 2007, p. 3.
- ²⁵ Joint submission by the International Movement against All Forms of Discrimination and Racism and the Lutheran World Federation in association with the National Campaign on Dalit Human Rights and the International Dalit Solidarity Network, UPR Submission, November 2007, p. 4.
- ²⁶ Society for Threatened Peoples, UPR Submission, November 2007, p. 1.
- ²⁷ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3. Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7.
- ²⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 8. See also Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3.
- ²⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7.
- ³⁰ Islamic Human Rights Commission, UPR Submission, November 2007, p. 1.
- ³¹ Amnesty International, UPR Submission, November 2007, p. 4.
- ³² Joint submission by Partners for Law in Development and 16 other NGOs, UPR Submission, November 2007, p. 1.
- ³³ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 8.
- ³⁴ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p.3.
- ³⁵ Liberation, UPR Submission, November 2007, p. 1.
- ³⁶ Liberation, UPR Submission, November 2007, pp. 1-3 and Action Aid India, UPR Submission, November 2007, page 2. See also Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 1-4.
- ³⁷ Liberation, UPR Submission, November 2007, p.,5.
- ³⁸ South Asia Forum for Human Rights, UPR Submission, November 2007, p. 1.
- ³⁹ Committee on Human Rights Manipur, UPR Submission, November 2007, p. 3.
- ⁴⁰ Action Aid India, UPR Submission, November 2007, page 2 and Liberation, UPR Submission, November 2007, pp. 1-3. See also Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 1-4.
- ⁴¹ Centre for Organisation Research & Education, UPR Submission, November 2007, pp. 2-3; and Action Aid India, UPR Submission, November 2007, page 6
- ⁴² Kashmir Institute of International Relations, UPR Submission, November 2007, p. 4. See also Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 5.
- ⁴³ World Peace Forum, UPR Submission, November 2007, p. 8.
- ⁴⁴ World Peace Forum, UPR Submission, November 2007, p. 5, 7.
- ⁴⁵ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 3.
- ⁴⁶ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 3.
- ⁴⁷ Asian Legal Resource Centre, UPR Submission, November 2007, p. 4-5.

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- ⁴⁸ Amnesty International, UPR Submission, November 2007, p. 1.
- ⁴⁹ Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 5.
- ⁵⁰ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 3.
- ⁵¹ Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 5.
- ⁵² South Asia Forum for Human Rights, UPR Submission, November 2007, p. 1.
- ⁵³ Tripura People's Democratic Front, UPR Submission, November 2007, p. 2. See also Christian Solidarity Worldwide, UPR Submission, November 2007, p. 6.
- ⁵⁴ Open Doors, UPR Submission, November 2007, p. 1.
- ⁵⁵ Tripura People's Democratic Front, UPR Submission, November 2007, p. 4-5. See also Interfaith International, UPR Submission, November 2007, pp.1-6
- ⁵⁶ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 5.
- ⁵⁷ Torture Prevention Centre India Trust (TOP), UPR Submission, November 2007, p. 4.
- ⁵⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 5. See also Torture Prevention Centre India Trust, UPR Submission, November 2007, p. 4.
- ⁵⁹ Youth Coalition for Sexual and Reproductive Rights (YCSRR), UPR Submission, November 2007, p.4.
- ⁶⁰ Centre for Reproductive Rights, UPR Submission, November 2007, p. 2.
- ⁶¹ Joint submission by Sampada Gramin Mashila Santstha and VAMP, UPR Submission, November 2007, p. 2.
- ⁶² Christian Solidarity Worldwide, UPR Submission, November 2007, p. 4. See also See also Asian Legal Resource Centre, UPR Submission, November 2007, p. 3.
- ⁶³ National Human Rights Commission, UPR Submission, para.17.
- ⁶⁴ Joint submission by People's Forum for UPR, presented by Asia Center for Human Rights, November 2007, p. 6.
- ⁶⁵ National Human Rights Commission, UPR submission, para. 23.
- ⁶⁶ Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007, pp. 2-3.
- ⁶⁷ Commonwealth's Human Rights Initiative, UPR Submission, November 2007, p. 2.
- ⁶⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 8.
- ⁶⁹ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 2.
- ⁷⁰ Commonwealth Human Rights Initiative, UPR Submission, November 2007, p. 2.
- ⁷¹ Amnesty International, UPR Submission, November 2007, p. 2.
- ⁷² Human Rights Watch, UPR Submission, November 2007, pp. 1-2. See also Amnesty International, UPR Submission, November 2007, p. 2.
- ⁷³ Human Rights Watch, UPR Submission, November 2007, p. 2. See also South Asia Forum for Human Rights, UPR Submission, November 2007, pp. 1-2 and 4. See also Liberation, UPR Submission, November 2007, p. 5-6.
- ⁷⁴ Committee on Human Rights Manipur, UPR Submission, November 2007, para.10.
- ⁷⁵ Centre for Organisation Research & Education, UPR Submission, November 2007, para 13.
- ⁷⁶ World Peace Forum, UPR Submission, November 2007, p. 7.
- ⁷⁷ Human Rights Watch, UPR Submission, November 2007, pp.3-4.
- ⁷⁸ World Barua Organization, UPR Submission, November 2007, p. 3.
- ⁷⁹ Amnesty International, UPR Submission, November 2007, p. 5.
- ⁸⁰ Joint submission by Women's Research & Action Group and 23 other NGOs, UPR Submission, November 2007, p. 1.
- ⁸¹ Ensaaf, UPR Submission, November 2007, p. 3.
- ⁸² Amnesty International, UPR Submission, November 2007, p. 2.
- ⁸³ National Human Rights Commission, UPR Submission, para 9..
- ⁸⁴ Ensaaf, UPR Submission, November 2007, pp. 1-2.
- ⁸⁵ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.
- ⁸⁶ Joint submission by Partners for Law in Development and 16 other NGOs Partners, UPR Submission, November 2007, p. 1.
- ⁸⁷ The Becket Fund for Religious Liberty, UPR Submission, November 2007, p. 1, 3- 4.
- ⁸⁸ Christian Solidarity Worldwide, UPR Submission, November 2007, p. 5.
- ⁸⁹ European Centre for Law and Justice, UPR Submission, November 2007, p. 3.
- ⁹⁰ Commonwealth's Human Rights Initiative, UPR Submission, November 2007, p. 1.
- ⁹¹ Reporters Without Borders, UPR Submission, November 2007, p. 1-3.
- ⁹² Front Line, UPR Submission, November 2007, p. 4.

⁹³ Commonwealth's Human Rights Initiative, UPR Submission, November 2007, p. 3. See also Action Aid India, UPR Submission, November 2007, p. 5.

⁹⁴ Centre for Organisation Research & Education, UPR Submission, November 2007, para 8.

⁹⁵ Front Line, UPR Submission, November 2007, p. 1.

⁹⁶ Front Line, UPR Submission, November 2007, p. 4.

⁹⁷ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights. Peoples' Forum for UPR in India, November 2007, page 3.

⁹⁸ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 6.

⁹⁹ Centre for Reproductive Rights, UPR Submission, November 2007, p. 1.

¹⁰⁰ Centre for Reproductive Rights, UPR Submission, November 2007, p. 2.

¹⁰¹ Youth Coalition for Sexual and Reproductive Rights (YCSRR), UPR Submission, November 2007, paras. 3 and 19.

¹⁰² Society for Threatened Peoples, UPR Submission, November 2007, p. 4

¹⁰³ National Human Rights Commission, UPR Submission, para. 24.

¹⁰⁴ Food First Information and Action Network, UPR Submission, November 2007, p. 3.

¹⁰⁵ Food First Information and Action Network, UPR Submission, November 2007, p. 3-4.

¹⁰⁶ Asian Legal Resource Centre, UPR Submission, November 2007, p. 5-6.

¹⁰⁷ Food First Information and Action Network, UPR Submission, November 2007, p. 5.

¹⁰⁸ Kashmir Institute of International Relations, UPR Submission, November 2007, p. 3.

¹⁰⁹ Action Aid India, UPR Submission, November 2007, p. 5.

¹¹⁰ Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7.

¹¹¹ Society for Threatened Peoples, UPR Submission, November 2007, p. 1. See also World Organization Against Torture, UPR Submission, November 2007, p. 1.

¹¹² Amnesty International, UPR Submission, November 2007, p. 4.

¹¹³ Action Aid India, UPR Submission, November 2007, p. 1. See also Amnesty International, UPR Submission, November 2007, pp. 4-5

¹¹⁴ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 1.

¹¹⁵ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 1.

¹¹⁶ Joint submission by Asian Indigenous & Tribal Peoples Network and International Working Group on Indigenous Affairs, UPR Submission, November 2007, p. 3.

¹¹⁷ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 1.

¹¹⁸ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, pp. 5-6.

¹¹⁹ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 1.

¹²⁰ Norwegian Refugee Council (Internal Displacement Monitoring Centre), UPR Submission, November 2007, p. 6.

¹²¹ Action Aid India, UPR Submission, November 2007, p. 6.

¹²² Joint submission by the International Movement against All Forms of Discrimination and Racism and the Lutheran World Federation in association with the National Campaign on Dalit Human Rights and the International Dalit Solidarity Network, UPR Submission, November 2007, p. 3.

¹²³ South Asia Forum for Human Rights, UPR Submission, November 2007, p. 1.



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FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(B) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

India

The present report is a compilation of the information contained in the reports of treaty bodies, special procedure, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR) other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. The information included herein has been systematically referenced in endnotes. The periodicity of the review for the first cycle being four years, most of the documents used as reference are dated after 1 January 2004. In the absence of recent information, the latest available reports and documents have also been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty, and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/ reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	3 Dec. 1968	Art. 22	Individual complaints (art. 14): No
ICESCR	10 Apr. 1979	Arts. 1, 4, 7 (c) and 8	--
ICCPR	10 Apr. 1979	Arts. 1, 9, 12, 13, 19 (3), 21 and 22	Inter-State complaints (art. 41): No
CEDAW	9 Sept. 1993	Arts. 5 (a), 16 (1) and (2) and 29 (1)	--
CRC	11 Dec. 1992	Art. 32 (2) (a)	--
OP-CRC-AC	30 Nov. 2005	Art. 3 (2)	--
OP-CRC-SC	16 Aug. 2005	None	--
CPD	1 Oct. 2007	None	--
<i>Core treaties to which India is not a party: ICCPR-OP1, ICCPR-OP2, OP-CEDAW, CAT (signature only, 1997), OP-CAT, ICRMW, OP-CPD, CED.</i>			
<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>		
Convention on the Prevention and Punishment of the Crime of Genocide	Yes		
Rome Statute of the International Criminal Court	No		
Palermo Protocol ³	No		
Refugees and stateless persons ⁴	No		
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁵	Yes, except the three Additional Protocols		
ILO fundamental conventions ⁶	Yes, except Nos. 87, 98, 138 and 182		
UNESCO Convention against Discrimination in Education	No		

1. Treaty bodies invited India to consider the ratification of CAT,⁷ ICRMW,⁸ Palermo Protocol,⁹ ILO Conventions 138 and 182 relating to the abolition of child labour,¹⁰ ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries,¹¹ 1951 Convention Relating to the Status of Refugees and its 1967 Protocol,¹² ICCPROP1,¹³ OP-CEDAW;¹⁴ as well as to making the optional declaration provided for in article 14 of ICERD.¹⁵

2. India was invited by treaty bodies to review the reservations or declarations it made to articles 1, 9, 13, 12, 19, paragraph 3, 21 and 22 of ICCPR¹⁶ and to articles 5 (a) and 16 (1) of CEDAW¹⁷ with a view to withdrawing them; and to consider withdrawing its reservation to article 16 (2) of CEDAW¹⁸ and its declaration to article 32 of the CRC.¹⁹

B. Constitutional and legislative framework

3. Notwithstanding the comprehensive constitutional and legal framework in India, the HR Committee noted that international treaties are not self-executing in India and recommended full incorporation of ICCPR provisions in domestic law so that they may be invoked directly before the courts.²⁰

4. CRC, CERD and CEDAW noted important advances with respect to the right to education, including the Constitution (86th Amendment) Act, 2002, providing for the right to free and compulsory education to all children aged 6-14.²¹ CEDAW called upon the State to consider using its powers under article 253 of the Constitution to enable the passing of legislation to operationalize this right.²² CRC welcomed the ratification of the Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption but reiterated its concern, inter alia, at the absence of uniform adoption laws and procedures in India.²³

C. Institutional and human rights structure

5. Four committees referred to various national human rights bodies,²⁴ including the National Human Rights Commission (NHRC), which received “A” status accreditation in 1999 that was reconfirmed in 2006,²⁵ as well as National Commissions dealing with issues concerning women, minorities, scheduled castes and scheduled tribes, and backward classes. UNICEF noted that a bill establishing a Commission on Children’s Rights was recently passed.²⁶

6. In 1997, the HR Committee welcomed the setting up of human rights commissions as well as human rights courts at State level. The Committee regretted that the NHRC is prevented from directly investigating complaints of human rights violations against the armed forces but must request a report from the central Government, and that complaints to the Commission are subject to a one-year limit.²⁷

D. Policy measures

7. UNICEF reported positively on the recent elevation of the Department of Women and Child Development to an independent Ministry.²⁸ CRC also welcomed the National Plan of Action for the Girl Child, the adoption of the National AIDS Prevention and Control Policy and the decision to provide antiretroviral drugs to children and adults free of charge.²⁹ CEDAW commended the State party on the National Policy on Persons with Disabilities.³⁰ It also commended India on establishing the Women Component Plan in the national budget and called on it to meet its commitment of allocating 6 per cent of GDP to education.³¹

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD ³²	2006	Mar. 2007	Due in 2008	Twentieth and twenty-first reports due in 2010
CESCR	1989	Jan. 1990	--	Second to fifth reports submitted in 2006
HR Committee	1995	July 1997	--	Fourth report overdue since 2001
CEDAW	2005	Jan. 2007	Due in 2008	Fourth and fifth reports due in 2010
CRC	2001	Jan. 2004	--	Third and fourth reports due in 2008
CRC-OP-AC			--	Initial report due in 2007
CRC-OP-SC			--	Initial report due in 2007

8. CRC in 2004 and CEDAW in 2007 indicated that India had not taken steps to address some of the recommendations made in previous concluding observations and urged India to proceed with their implementation.³³ India provided comments to CERD following the adoption of CERD's concluding observations in March 2007.³⁴

2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (22 November-3 December 2007); ³⁵ Special Rapporteur on the right to food (20 August-2 September 2005); ³⁶ Special Rapporteur on violence against women (28 October-15 November 2000). ³⁷
<i>Visits agreed upon in principle</i>	Special Rapporteur on toxic waste and Special Rapporteur on freedom of religion or belief
<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on the question of torture (1993 and 2007); Special Representative of the Secretary-General on the situation of human rights defenders (2002, 2003 and 2004); Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2004 and 2006); Special Rapporteur on extrajudicial, summary or arbitrary executions (2000, 2005 and 2006); Special Rapporteur on the sale of children, child prostitution and child pornography (2004); and Working Group on Arbitrary Detention (2004, 2005 and 2006).
<i>Facilitation/cooperation during missions</i>	The Special Rapporteur on the right to food welcomed the invitation and the commitment of the Government of India to engage in open and frank discussions on the right to food. ³⁸
<i>Follow-up to visits</i>	
<i>Responses to letters of allegation and urgent appeals</i>	Between 1 January 2004 and 31 December 2007, a total of 119 communications were sent to the Government of India. In addition to communications sent for particular groups, 283 individuals were covered by these communications, including 66 women. During the same period, the Government replied to 23 communications (19.3 per cent).
<i>Responses to questionnaires on thematic issues³⁹</i>	India responded to none of the 12 questionnaires sent by special procedures mandate-holders ⁴⁰ between 1 January 2004 and 31 December 2007, within the deadlines. It did provide a response to the note verbale of the Special Rapporteur on extrajudicial, summary or arbitrary executions on transparency and the imposition of the death penalty which was sent to 12 States in 2005. ⁴¹

9. In 1997, the HR Committee expressed concern at the failure of the State party to receive the Special Rapporteur on the question of torture.⁴²

3. Cooperation with the Office of the High Commissioner for Human Rights

10. India has made voluntary contributions, on an annual basis, to OHCHR since 1996.⁴³ During the past four years, India has also hosted several meetings, including a 2007 workshop on using indicators to promote and monitor the implementation of human rights.⁴⁴

B. Implementation of international human rights obligations

1. Equality and non-discrimination

11. The HR Committee expressed concern about the persistence of preferred treatment for males and deplored the fact that practices such as foeticide continue.⁴⁵ CEDAW, CRC and UNICEF also referred to the alarming decline in sex ratios.⁴⁶ CRC, CCPR and CEDAW referred to the effect of the enforcement of personal laws based on religion in perpetuating gender inequality. CEDAW urged the State, inter alia, to encourage debate within the relevant communities and with

women's groups to modify social and cultural patterns of conduct; and to reform personal laws of different ethnic and religious groups to ensure de jure equality and compliance with the Convention.⁴⁷

12. In 1997, the HR Committee noted with concern that members of scheduled castes and scheduled tribes as well as the so-called backward classes and ethnic and national minorities continue to endure severe social discrimination and to suffer disproportionately from violations of their rights, such as inter-caste violence, bonded labour and discrimination of all kinds.⁴⁸

13. CERD reaffirmed that discrimination on the ground of caste is fully covered by article 1 of ICERD.⁴⁹ The Committee also noted that de facto segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places.⁵⁰ CERD, and the Special Rapporteur on freedom of religion in a communication, referred to reports that Dalits were denied equal access to emergency assistance or benefits during the post-tsunami relief and rehabilitation process. CERD also noted that according to the State those allegations merely concern isolated cases on the basis of information received.⁵¹ In its comments to CERD, India stated that caste-based discrimination is not a form of racial discrimination and hence not covered by the ICERD. India also stated that in the context of India, the situation of her scheduled tribes is not covered under the mandate of CERD.⁵²

14. CERD recommended that India formally recognize its tribal peoples as distinct groups entitled to special protection under national and international law, including ICERD.⁵³ CERD also expressed concern that the so-called denotified and nomadic tribes continue to be stigmatized under the Habitual Offenders Act (1952). It recommended that India repeal the Act and effectively rehabilitate the tribes concerned.⁵⁴

15. While welcoming initiatives to increase child participation, CRC remained concerned that traditional attitudes towards children in society, especially girls, still limit respect for their views, inter alia, within the family, at school and in institutions.⁵⁵ It also expressed concern about the discrimination experienced by children infected or affected by HIV/AIDS in society and the educational system, as well as widespread discrimination against disabled children.⁵⁶

2. Right to life, liberty and security of the person

16. In 1997, the HR Committee remained concerned at the continuing reliance on special powers under legislation such as the Armed Forces (Special Powers) Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups. It emphasized that terrorism should be fought with means that are compatible with the Covenant.⁵⁷

17. The HR Committee expressed concern about the incidence of custodial deaths, rape and torture. CRC expressed concern about reported violations in detention facilities and about allegations of children killed by law enforcement officials. Similar concerns were raised by CERD with respect to members of scheduled castes and tribes.⁵⁸ A number of communications sent by two special procedures relate to cases of alleged deaths in custody⁵⁹ or following detention.⁶⁰ The Special Rapporteur on torture has sent communications alleging ill-treatment⁶¹ and torture⁶² of individuals held in detention. Other cases deal with excessive use of force against demonstrators, including human rights defenders⁶³ and journalists covering demonstrations.⁶⁴ Where the Government has responded, it denied allegations of ill-treatment⁶⁵ or highlighted the existence of an

investigation⁶⁶ and the provision of compensation to the victim.⁶⁷ The Special Representative of the Secretary-General on the situation of human rights defenders is also concerned about reports of defenders being killed as a result of their human rights work, including on land rights.⁶⁸

18. The HR Committee was concerned at overcrowding and poor health conditions and sanitation in many prisons, the inequality of treatment of prisoners and the lengthy periods of pretrial detention.⁶⁹ It also recommended that the State accept the admission of representatives of the International Committee of the Red Cross to all types of detention facilities, particularly in areas of armed conflict.⁷⁰

19. As at the end of 2006, the Working Group on Enforced or Involuntary Disappearances noted that there were 325 outstanding cases of disappearances and that most of the cases reported occurred between 1983 and 2004, in the context of ethnic and religious disturbances in the Punjab and Kashmir regions. The disappearances allegedly relate to wide powers granted to the security forces under emergency legislation.⁷¹

20. CEDAW recommended, inter alia, that India develop a coordinated and comprehensive plan to combat all forms of violence against women, and eliminate the practice of witch-hunting, based on an analysis of its causes, including control over land.⁷² Letters of allegation were also sent by the Special Rapporteur on violence against women concerning molestation of women and girls from Kashmiri families during searches by the police or members of the army. In most instances, no action was reportedly taken against the perpetrators.⁷³

21. Concern about ongoing atrocities committed against Dalit women was raised by CEDAW.⁷⁴ CEDAW, CERD, CRC and the HR Committee expressed concern about the continuing practice of *devadasi*, whereby mostly Dalit girls are dedicated to temple deities and forced into ritualized prostitution, with CERD urging the effective enforcement of State laws prohibiting the practice.⁷⁵ CERD was also concerned about the sexual exploitation of Dalit and tribal women who were trafficked and forced into prostitution.⁷⁶ The high incidence of child prostitution and trafficking of women and girls into forced prostitution was deplored by the HR Committee.⁷⁷ CRC, while referring to various measures taken to address this issue, remained concerned that the Immoral Traffic Prevention Act, 1986 does not define trafficking and limits its scope to sexual exploitation.⁷⁸

22. CEDAW, while expressing appreciation at the enactment of the Domestic Violence Act 2005, recommended that India enforce this Act and ensure that all women victims of domestic violence are able to benefit from the legislative framework and support systems in place.⁷⁹ CEDAW also called upon India to widen the definition of rape in the Penal Code to reflect the realities of sexual abuse experienced by women and to criminalize other forms of sexual abuse, including child sexual abuse.⁸⁰

23. Concerns about communal violence, particularly in Gujarat, were raised by CEDAW. It welcomed India's statement that recommendations from the Committee will be considered for inclusion in the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill 2005, and requested, inter alia, that inaction or complicity of State officials in communal violence be urgently addressed under this legislation.⁸¹

24. CERD expressed concern about the frequent failure to protect scheduled castes and tribes against communal violence.⁸² Two mandate-holders also reported on a group of 200 people attacking a Dalit settlement.⁸³ In another letter, three mandate-holders raised allegations about torture, rape and the hacking to death of a woman and her three children belonging to the Dalit community.⁸⁴ In another case, two mandate-holders sent an allegation letter regarding a dispute

between members of the Jat and Dalit communities in Haryana State.⁸⁵ The Special Rapporteur against racism noted that the Government's response in the latter case confirmed not only the political will but also the legal strategy of the Government to combat caste-based discrimination. However, he was particularly alarmed at the cultural depth of this form of discrimination in many parts of the countryside and by the continuing violence faced by the Dalit community.⁸⁶

25. Four special procedures expressed concern about the situation of the Manipuri indigenous communities in some areas of Manipur State. A case of rape and murder of an indigenous woman, as well as cases of excessive use of force and mass arrests during peaceful demonstrations were brought to their attention.⁸⁷ Three mandate-holders also sent a letter regarding an indigenous human rights defender from Manipur who had allegedly been arrested without charge by the Manipur police commando.⁸⁸ The Government replied that it did not recognize any separate category of its citizens as "indigenous peoples" and that there is no internationally accepted definition of the term.⁸⁹ Mandate-holders in their response, stated, inter alia, that the absence of an international definition does not prevent the international community from taking constructive action.⁹⁰

26. One or more treaty bodies raised concerns about children working and/or living on the street,⁹¹ violence against children, particularly child abuse,⁹² corporal punishment⁹³ and child labour, including debt bondage.⁹⁴ UNICEF provided details of a major 2007 study on child abuse initiated by the Ministry of Women and Development.⁹⁵ Four treaty bodies raised concerns about the situation of children in hazardous occupations, with CEDAW raising particular concern about the abuse, including sexual abuse, of children employed as domestic help.⁹⁶ India stated that a ban on employment of children under 14 as domestic help or at eateries came into force from 10 October 2006 and UNICEF pointed to this initiative as a positive change.⁹⁷ CRC also recommended, inter alia, the prohibition of corporal punishment, and the undertaking of education campaigns on alternative ways of disciplining children.⁹⁸

27. In 2004, CRC expressed concern that the situation in areas of conflict, particularly Jammu and Kashmir and the north-eastern States, has seriously affected children. The Committee recommended that India ensure impartial and thorough investigations in cases of rights violations against children and the prompt prosecution of those responsible, and provide just and adequate reparation to the victims.⁹⁹

3. Administration of justice and the rule of law

28. The HR Committee regretted that some parts of India have remained subject to declaration as disturbed areas over many years, and that in these areas the State was in effect using emergency powers. It therefore recommended that the application of those emergency provisions be closely monitored to ensure strict compliance with the ICCPR.¹⁰⁰ The HR Committee, CEDAW and CERD raised particular concerns about the Armed Forces (Special Powers) Act, 1958 (AFSPA), and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an allegation letter to the Government regarding it. He recommended that the Government consider either repealing the AFSPA or ensuring its compliance with international law.¹⁰¹ CERD and CEDAW also referred to the report of the Committee to Review the Armed Forces (Special Powers) Act (1958) set up by the Ministry of Home Affairs, which recommended the repeal of this Act.¹⁰²

29. The HR Committee also noted with concern that criminal prosecutions or civil proceedings against members of the security and armed forces, acting under special powers, may not be commenced without the sanction of the central Government and stated that this contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with the ICCPR.¹⁰³ Special Rapporteurs have also brought to the attention of the Government

concerns relating to reports of alleged impunity for criminal acts committed by officials. In some cases relating to reports of death or ill-treatment while in detention, it is alleged that the authorities had attempted to block the investigation,¹⁰⁴ to destroy evidence,¹⁰⁵ or had taken no steps to investigate the allegations.¹⁰⁶ The Special Representative of the Secretary-General on the situation of human rights defenders also raised her concern about what she sees as a pattern of impunity for violations committed against human rights defenders.¹⁰⁷

30. Concern about the culture of impunity in relation to perpetrators of atrocities committed against Dalit women was expressed by CEDAW.¹⁰⁸ CRC, CEDAW and CERD also raised concerns about the effective enforcement of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, such as the failure to properly register and investigate complaints, the high percentage of acquittals and the low conviction rate in cases registered, and the alarming backlog of atrocities cases pending in the courts.¹⁰⁹ CRC added that a majority of States had failed to set up special courts provided for under the Prevention of Atrocities Act.¹¹⁰

31. In 1997, the HR Committee urged the institution of reforms to ensure a speedy trial of those charged with offences, prompt hearing in civil cases and similar urgency in hearing appeals.¹¹¹ In 2004, CRC expressed concern, inter alia, that mechanisms to implement the Juvenile Justice (Care and Protection of Children) Act, 2000 had not been set up in most states and that the Act does not apply to Jammu and Kashmir.¹¹²

4. Freedoms of religion and belief, opinion and expression and right to participation in public and political life

32. The Special Rapporteur on freedom of religion or belief sent communications relating to reported draft laws regulating religious conversions and expressed fear that such legislative measures and the controversies surrounding them might lead to increased tensions between the various religious groups.¹¹³ The Special Rapporteur also referred to cases of harassment against members of the Christian and Muslim communities and to the alleged illegal detention of numerous Muslim men, many of whom had been subsequently arrested under the Prevention of Terrorism Act.¹¹⁴ It was alleged that this Act was used arbitrarily and punitively against Muslims, and that threats had been made to the detainees.¹¹⁵ In its reply, the Government denied these allegations.¹¹⁶ CERD also expressed concern that Dalits who convert to Islam or Christianity to escape caste discrimination reportedly lose their entitlement under affirmative action programmes, unlike converts who become Buddhists or Sikh.¹¹⁷

33. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent communications in relation to attacks on journalists, including murder attempts, as well as attacks on newspaper offices carried out by members of political parties or the police.¹¹⁸

34. CEDAW made reference to the important initiative of reserving one third of all seats for women in urban and local self-government. Additionally, it called upon the State, inter alia, to forge consensus on the constitutional amendment to reserve one third of the seats in Parliament and State legislatures for women, and to increase the number of women in government service, including in higher political, administrative and judicial posts.¹¹⁹ CERD, while also welcoming special measures adopted by India, noted with concern that Dalit candidates, especially women, are frequently forcibly prevented from standing for election or, if elected, forced to resign from village councils or other bodies or not to exercise their mandate. CERD also noted that many Dalits are not included in electoral rolls or are denied the right to vote and that the public service posts reserved for scheduled castes and tribes are almost exclusively in the lowest categories. It recommended, inter alia, that India effectively enforce the reservation policy of seats in Union and State legislatures and of posts in public service.¹²⁰

5. Right to privacy, marriage and family life

35. CEDAW congratulated the State, inter alia, for amendments to the Hindu Succession Act and the Indian Divorce Act.¹²¹ It was concerned, however, that the civil Special Marriage Act fails to ensure equality for women in marriage and its dissolution and recommended that the State amend the Act to give women equal rights to property accumulated during marriage.¹²² India was called upon, inter alia, to implement the commendable commitment that all marriages be registered by 2010¹²³ and all births by 2010 also.¹²⁴ UNICEF reported that birth registration increased from 56 to 62 per cent between 2004 and 2006.¹²⁵

36. Four treaty bodies raised concerns about one or more harmful practices towards women and girls, including: early or forced marriage,¹²⁶ dowry and dowry-related violence,¹²⁷ and *sati* (self-immolation of widows).¹²⁸ CERD also expressed concern about the persistence of social norms of purity and pollution which de facto preclude marriages between Dalits and non-Dalits and about violence and social sanctions against inter-caste couples.¹²⁹

6. Right to work and to just and favourable conditions of work

37. India pledged to expand the National Rural Employment Guarantee Programme, which provides for 100 days of assured employment annually to every rural household in the country.¹³⁰ CEDAW called upon India to ensure that rural women benefit de facto from this programme¹³¹ and CERD requested that India ensure the issuance of job cards under this scheme to Dalit applicants.¹³² CEDAW also expressed concern that 93 per cent of the workforce in the unorganized sector is facing job insecurity and unfavourable conditions of work and recommended the speedy enactment of the Unorganized Sector Workers Social Security Bill.¹³³

7. Right to social security and to an adequate standard of living

38. The Special Rapporteur on the right to food noted that 25 per cent of the Indian population was still living below the national poverty line and that 80 per cent were living on less than US\$ 2 per day.¹³⁴ UNICEF noted that national-level indicators do not adequately reflect internal disparities and that poverty is more widespread in the populous States of Uttar Pradesh, Bihar, Rajasthan, Orissa, Chhattisgarh, Jharkhand and Madhya Pradesh.¹³⁵ CRC and CEDAW expressed appreciation of women's self-help groups, with CEDAW urging India, to establish programmes to issue credit to poor women unable to participate in these groups.¹³⁶ The Special Rapporteur on the right to food also noted that according to FAO, India is home to the largest share of the world's undernourished population¹³⁷ and received allegations of violations of the right to food, such as deaths from starvation/malnutrition.¹³⁸

39. CEDAW, while noting various programmes undertaken, remained concerned that the maternal mortality rate in rural areas is among the highest in the world and that the privatization of health services has an adverse impact on women's capacity to access such services.¹³⁹ CEDAW also urged India to study the health implications for Dalits of the practice of manual scavenging and to address the impediments to its eradication, including by putting in place modern sanitation facilities.¹⁴⁰ Furthermore, UNICEF reported that the under-five mortality rate among scheduled castes and scheduled tribes is more than 50 per cent higher than the rest of the population.¹⁴¹ CERD, concerned about reports on the situation of members of scheduled castes and scheduled and other tribes, recommended that India, ensure equal access to ration shops, health facilities, reproductive health services, and safe drinking water.¹⁴²

40. CERD expressed concern about reports that Dalits are often denied access to, and evicted from, land by dominant castes and that tribal communities have been evicted from their land under the Forest Act, 1980, or in order to allow private mining activities.¹⁴³ According to the Special Rapporteur on the right to food around 40-50 per cent of the displaced are tribal people even though they make up only 8 per cent of the population reflecting serious discrimination against tribal peoples.¹⁴⁴ CERD was concerned that large-scale projects such as the construction of dams on territories primarily inhabited by tribal communities, or the Andaman Trunk Road, are carried out without seeking their prior informed consent.¹⁴⁵ Three special procedures raised concern regarding the situation of Adivasi communities, including in the State of Chhattisgarh, due to the construction of a steel plant.¹⁴⁶ Other communications related to the raising of the Sardar Sarovar dam¹⁴⁷ and concerns in the Andaman island.¹⁴⁸ CEDAW urged India to study the impact of megaprojects on tribal and rural women and to institute safeguards against their displacement and violation of their rights, as well as to ensure that surplus land given to displaced rural and tribal women is cultivable.¹⁴⁹ CERD urged the State party to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities of the lands traditionally occupied by them in accordance with ILO Convention No. 107 (1957) on Indigenous and Tribal Populations. It also recommended, *inter alia*, that adequate safeguards against the acquisition of tribal lands are included in the Recognition of Forest Rights Act (2006) and other relevant legislation.¹⁵⁰

8. Right to education

41. CEDAW expressed concern, despite advances with respect to the right to education, about the continuing disparities in the educational status of scheduled caste, scheduled tribe and Muslim women and their limited access to higher education and requested the State to provide information in its next periodic report about the action taken on the recommendations of the Sachar Committee with regard to the education of Muslim women and girls.¹⁵¹ CERD also recommended that the State take effective measures to reduce dropout rates and increase enrolment among Dalit children and adolescents at all levels of schooling.¹⁵² Additionally, CRC expressed concern that 60 million children do not attend primary school and at the striking disparities in terms of access to education, attendance at primary and secondary school and dropout rates between boys and girls, between different States, between rural and urban areas, and between affluent and poor and disadvantaged groups.¹⁵³

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

42. The existence in India of a broad range of democratic institutions was noted with satisfaction by the HR Committee.¹⁵⁴ The important work of the Supreme Court of India was also noted, including its consideration of public interest litigation and its recognition of the justiciability of some economic and social rights as an extension of the right to life.¹⁵⁵

43. The HR Committee noted the persistence of traditional practices and customs, leading to women and girls being deprived of their rights, their human dignity and their lives, and to discrimination against members of the underprivileged classes and castes and other minorities, and ethnic, cultural and religious tensions which constitute impediments to the implementation of the ICCPR.¹⁵⁶ The CRC in 2004 also stated that extreme poverty, massive social inequality and the persistence of deeply discriminatory attitudes as well as the impact of natural disasters represent serious difficulties in the fulfilment of all the State's obligations under the CRC.¹⁵⁷ Furthermore, UNICEF reported that almost 80 per cent of India's geographical area is considered vulnerable to natural disasters.¹⁵⁸

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

A. Pledges by the State

44. India stated that it will foster a culture of transparency, openness and accountability in the functioning of Government, as enacted in the Right to Information Act.¹⁵⁹ It is also committed to actively supporting domestic and international processes that advance the rights of the child and seek to advance the empowerment of women, women's rights and gender equality.¹⁶⁰ Furthermore, India pledged to work towards the elimination of violence against women through legislative measures and the effective implementation of existing policies.¹⁶¹

B. Specific recommendations for follow-up

45. CEDAW requested India to submit a follow-up report on the impact of the Gujarat massacres on women, and detailed eight areas for which it wished to receive information.¹⁶² CERD requested India to provide, within one year, information on the implementation of recommendations contained in paragraphs 12, 15, 19 and 26 of its concluding observations.¹⁶³

46. The Special Rapporteur on the right to food recommended, inter alia, instituting the monitoring of chronic undernourishment and malnutrition and accountability for starvation or malnutrition deaths;¹⁶⁴ implementation at all levels of Government of the decisions of the Supreme Court;¹⁶⁵ implementing land and agrarian reform to strengthen smallholder agricultural livelihoods;¹⁶⁶ the amendment of the Land Acquisition Act or adoption of new legislation, to recognize a justiciable right to resettlement and rehabilitation for all displaced or evicted persons, including those without formal land titles and including women;¹⁶⁷ and the non-implementation of dams, mining and infrastructure projects if this entails displacement and irreversible destruction of people's livelihoods.¹⁶⁸

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

47. UNICEF provided information on its capacity-building programmes and activities.¹⁶⁹

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed below may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006*, ST/LEG/SER.E.25, supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs, <http://untreaty.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CPD	Convention on the Rights of Persons with Disabilities

OP-CPD
CED

Optional Protocol to Convention on the Rights of Persons with Disabilities
International Convention for the Protection of All Persons from Enforced Disappearance

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁴ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

⁵ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Convention (III) relative to the Treatment of Prisoners of War; Convention (IV) relative to the Protection of Civilian Persons in Time of War; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). Source: Switzerland, Federal Department of Foreign Affairs, <http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html>.

⁶ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

⁷ Committee on the Rights of the Child, concluding observations (CRC/C/15/Add.228), para. 43 (a).

⁸ Committee on the Elimination of All Forms of Discrimination against Women, concluding comments (CEDAW/C/IND/CO/3), para. 64.

⁹ CRC/C/15/Add.228, para. 75 (g).

¹⁰ *Ibid.*, para. 73 (d).

¹¹ Committee on the Elimination of Racial Discrimination, concluding observations (CERD/C/IND/CO/19), para. 28.

¹² CERD/C/IND/CO/19, para 16; CRC/C/15/Add.228, para. 71; CEDAW/C/IND/CO/3, para. 51; and UNHCR, UPR submission, pp.1-2, available at <http://www.ohchr.org/EN/HRBodies/UPR/P.s/UPRIndiaUNContributionsS1.aspx>.

¹³ Human Rights Committee, concluding observations (CCPR/C/79/Add.81), para. 13.

¹⁴ CEDAW/C/IND/CO/3, para. 60.

¹⁵ CERD/C/IND/CO/19, para. 30.

¹⁶ CCPR/C/79/Add.81, para. 14.

¹⁷ CEDAW/C/IND/CO/3, para. 11.

¹⁸ *Ibid.*, para. 59.

¹⁹ CRC/C/15/Add.228, para. 8.

²⁰ CCPR/C/79/Add.81, paras. 6 and 13.

²¹ CRC/C/15/Add.228, paras. 3 (a) and (d) and 64; CERD/C/IND/CO/19, para. 25; and CEDAW/C/IND/CO/3, paras. 6 and 31.

²² CEDAW/C/IND/CO/3, paras. 30-31.

²³ CRC/C/15/Add.228, para. 48.

²⁴ CCPR/C/79/Add.81, paras. 7-8; CRC/C/15/Add.228, para. 17; CEDAW/C/IND/CO/3, para. 17; CERD/C/IND/CO/19, para. 5; and report of the Special Rapporteur on the right to food, following his mission to India, E/CN.4/2006/44/Add.2, para. 28.

²⁵ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/7/69, annex VIII, and A/HRC/7/70, annex I.

²⁶ UNICEF, UPR submission, op. cit., p. 3. See also note verbale from the Permanent Mission of India (A/61/718), p. 3; and CRC/C/15/Add.228, para.18.

²⁷ CCPR/C/79/Add.81, paras. 7 and 22.

²⁸ UNICEF, UPR submission, op. cit., p. 2.

²⁹ CRC/C/15/Add.228, paras. 29 and 54.

³⁰ CEDAW/C/IND/CO/3, para. 4 part (c).

³¹ Ibid., para. 4 (b) and 33.

³² The following abbreviations have been used in this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

³³ CRC/C/15/Add.228, paras. 5-6 and CEDAW/C/IND/CO/3, paras. 8-9.

³⁴ For the full text of the comments see A/62/18, annex X.

³⁵ A/HRC/7/11/Add.4 (preliminary note).

³⁶ E/CN.4/2006/44/Add.2.

³⁷ E/CN.4/2001/73/Add.2.

³⁸ E/CN.4/2006/44/Add.2, para. 1.

³⁹ The questionnaires included in this section are those which have been reflected in a report by a special procedure mandate-holder.

⁴⁰ See (i) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006;

(ii) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in September 2006;

(iii) report of the Special Rapporteur on the human rights aspects of victims of trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons, sent in July 2006;

(iv) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005;

(v) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous peoples sent in August 2007;

(vi) report of the Special Rapporteur on trafficking in persons, especially women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005;

(vii) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005;

(viii) report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/61/341), questionnaire concerning its mandate and activities sent in November 2005;

(ix) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006;

(x) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78), questionnaire on child pornography on the Internet sent in July 2004;

(xi) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9), questionnaire on the prevention of child sexual exploitation sent in July 2003;

(xii) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprise (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices.

⁴¹ E/CN.4/2006/53/Add.3, para. 3.

⁴² CCPR/C/79/Add.81, para. 23.

⁴³ OHCHR, *Annual Report 2004, Annual Report 2005, Annual Report 2006*. For 2007, information was obtained from the OHCHR External Relations Unit.

⁴⁴ See OHCHR, *Annual Report 2007* (forthcoming), *Annual Report 2004*, p. 193 and *Annual Report 2005*, p. 188.

⁴⁵ CCPR/C/79/Add.81, para. 16.

⁴⁶ CEDAW/C/IND/CO/3, paras. 38-39; CRC/C/15/Add.228, paras. 29-30, 33-34; and UNICEF, UPR submission, p. 1.

⁴⁷ CRC/C/15/Add.228, paras. 29-30 and 9-10. See also CCPR/C/79/Add.81, para. 17 and CEDAW/C/IND/CO/3, paras.10-11.

⁴⁸ CCPR/C/79/Add.81, paras. 15, 29 and 34.

⁴⁹ CERD/C/IND/CO/19, para. 8.

⁵⁰ *Ibid.*, para. 13. See also CRC/C/15/Add.228, para. 28.

⁵¹ CERD/C/IND/CO/19, para. 22 and Special Rapporteur on freedom of religion or belief, E/CN.4/2006/5/Add.1, para 140. See also the work of The United Nations Team for Tsunami Recovery Support (UNTRS) and the following reports: *Tsunami: India Two Years After*, a joint report of the United Nations, World Bank and Asian Development Bank, p. 16 and *Progress Report September 2007*, UNTRS, pp. 2-3.

⁵² For the full text of the comments provided by the State party see A/62/18, annex X.

⁵³ CERD/C/IND/CO/19, para 10. See also CERD general recommendation No. 23 (1997) on the rights of indigenous peoples.

⁵⁴ CERD/C/IND/CO/19, para. 11.

⁵⁵ CRC/C/15/Add.228, para. 36.

⁵⁶ *Ibid.*, paras. 54-57.

⁵⁷ CCPR/C/79/Add.81, para. 18.

⁵⁸ *Ibid.*, para. 23; CRC/C/15/Add.228, para. 42 and CERD/C/IND/CO/19, para. 14.

⁵⁹ A/HRC/4/33/Add.1, paras. 76 and 83; E/CN.4/2005/62/Add.1, paras. 727, 733, 736, 762; E/CN.4/2005/7/Add.1, para. 298.

⁶⁰ E/CN.4/2006/6/Add.1, para. 84 and E/CN.4/2005/62/Add.1, paras. 724, 725, 726, 737, 756.

⁶¹ A/HRC/4/33/Add.1, paras. 78 and 80-82; E/CN.4/2006/6/Add.1, para. 87; E/CN.4/2005/62/Add.1, paras. 729, 730, 732, 734, 735, 744, 745, 761.

⁶² E/CN.4/2005/62/Add.1, paras. 758, 759, 760.

⁶³ See E/CN.4/2005/62/Add.1, para. 768 and E/CN.4/2005/62/Add.1, para. 771.

- ⁶⁴ See E/CN.4/2005/62/Add.1, para. 775.
- ⁶⁵ E/CN.4/2005/62/Add.1, paras. 788, 791, 792.
- ⁶⁶ Ibid., para. 795
- ⁶⁷ Ibid., para. 790.
- ⁶⁸ E/CN.4/2006/95/Add.5, para. 746.
- ⁶⁹ CCPR/C/79/Add.81, para. 26.
- ⁷⁰ Ibid., para. 24.
- ⁷¹ A/HRC/4/41, paras. 211-218.
- ⁷² CEDAW/C/IND/CO/3, paras. 20-21 and 26-27.
- ⁷³ E/CN.4/2006/61/Add.1, paras. 67, 68, 70, 71.
- ⁷⁴ CEDAW/C/IND/CO/3, para. 28. See also CERD/C/IND/CO/19, para. 15.
- ⁷⁵ CERD/C/IND/CO/19, para. 18; CCPR/C/79/Add.81, para. 32; CRC/C/15/Add.228, para. 58; and CEDAW/C/IND/CO/3, para. 26.
- ⁷⁶ CERD/C/IND/CO/19, para. 15.
- ⁷⁷ CCPR/C/79/Add.81, para. 31.
- ⁷⁸ CRC/C/15/Add.228, para. 74.
- ⁷⁹ CEDAW/C/IND/CO/3, paras. 20 and 21.
- ⁸⁰ Ibid., paras. 22 and 23.
- ⁸¹ CEDAW/C/IND/CO/3, paras. 2 and 67-68, as well as paras. 24 and 25.
- ⁸² CERD/C/IND/CO/19, para. 14.
- ⁸³ E/CN.4/2005/72/Add.1, para. 181.
- ⁸⁴ A/HRC/4/34/Add.1, paras. 289-293.
- ⁸⁵ A/HRC/4/19/Add.1, paras. 85-87.
- ⁸⁶ Ibid., A/HRC/4/19/Add.1, paras. 96-98.
- ⁸⁷ E/CN.4/2005/72/Add.1, paras. 186 to 189.
- ⁸⁸ E/CN.4/2005/88/Add.1, para. 52.
- ⁸⁹ Ibid., para. 54.
- ⁹⁰ Ibid., para. 56.
- ⁹¹ CCPR/C/79/Add.81, para. 33 and CRC/C/15/Add.228, paras. 76-77.
- ⁹² CCPR/C/79/Add.81, para. 33 and CRC/C/15/Add.228, paras. 3 (f), 50-51 and 66-67.
- ⁹³ CRC/C/15/Add.228, paras. 44 and 45.
- ⁹⁴ CCPR/C/79/Add.81, para. 34; CRC/C/15/Add.228, paras. 72 and 73; CEDAW/C/IND/CO/3, paras. 48 and 49; and CERD/C/IND/CO/19, para. 23.
- ⁹⁵ UNICEF, UPR submission, op. cit., pp. 2-3.
- ⁹⁶ CCPR/C/79/Add.81, para. 34; CRC/C/15/Add.228, paras. 72 and 73; CEDAW/C/IND/CO/3, paras. 48 and 49; and CERD/C/IND/CO/19, para. 23.
- ⁹⁷ A/61/718, p. 2 and UNICEF, UPR submission, p. 2, para. 4.
- ⁹⁸ CRC/C/15/Add.228, paras. 44 and 45.
- ⁹⁹ Ibid., paras. 68-69.

- ¹⁰⁰ CCPR/C/79/Add.81, para. 19.
- ¹⁰¹ E/CN.4/2006/53/Add.1, p. 75.
- ¹⁰² CCPR/C/79/Add.81, paras. 18, 19, 21; CEDAW/C/IND/CO/3, paras. 8-9; CERD/C/IND/CO/19, para. 12.
- ¹⁰³ CCPR/C/79/Add.81, para. 21.
- ¹⁰⁴ E/CN.4/2005/62/Add.1, para. 726 and E/CN.4/2005/7/Add.1, para. 300.
- ¹⁰⁵ E/CN.4/2005/62/Add.1, para. 727.
- ¹⁰⁶ *Ibid.*, paras. 724, 725, 729 and 730. See also E/CN.4/2006/6/Add.1, para. 85 and A/HRC/4/33/Add.1, para. 77.
- ¹⁰⁷ E/CN.4/2006/95/Add.5, para. 747.
- ¹⁰⁸ CEDAW/C/IND/CO/3, para. 28.
- ¹⁰⁹ CRC/C/15/Add.228, paras. 27-28; CEDAW/C/IND/CO/3, paras. 28-29 and CERD/C/IND/CO/19, paras. 14, 15 and 26.
- ¹¹⁰ CRC/C/15/Add.228, para. 27.
- ¹¹¹ CCPR/C/79/Add.81, para. 27.
- ¹¹² CRC/C/15/Add.228, para. 78.
- ¹¹³ A/HRC/4/21/Add.1, paras. 170-171; E/CN.4/2006/5/Add.1, paras. 145-146.
- ¹¹⁴ E/CN.4/2006/5/Add.1, paras. 141-143 and E/CN.4/2005/61/Add.1, para. 129.
- ¹¹⁵ *Ibid.*
- ¹¹⁶ *Ibid.*, paras. 130-131.
- ¹¹⁷ CERD/C/IND/CO/19, para. 21.
- ¹¹⁸ E/CN.4/2005/64/Add.1, paras. 421-422 and A/HRC/4/27/Add.1, paras. 262-263.
- ¹¹⁹ CEDAW/C/IND/CO/3, paras. 42-43. See also CCPR/C/79/Add.81, paras. 10-11.
- ¹²⁰ CERD/C/IND/CO/19, paras. 4 and 17.
- ¹²¹ CEDAW/C/IND/CO/3, para. 5.
- ¹²² *Ibid.*, paras. 54-55.
- ¹²³ *Ibid.*, paras. 4 (a) and 58-59.
- ¹²⁴ CRC/C/15/Add.228, para. 39.
- ¹²⁵ UNICEF, UPR submission, *op. cit.*, p. 4, para. 2 (d).
- ¹²⁶ CRC/C/15/Add.228, paras. 29 and 60-61; CEDAW/C/IND/CO/3, paras. 56 and 57; and CERD/C/IND/CO/19, para. 18.
- ¹²⁷ CCPR/C/79/Add.81, para. 16; CRC/C/15/Add.228, para. 58; CEDAW/C/IND/CO/3, para. 26; and CERD/C/IND/CO/19, para.18.
- ¹²⁸ CEDAW/C/IND/CO/3, para. 26 and CCPR/C/79/Add.81, para. 16.
- ¹²⁹ CERD/C/IND/CO/19, para. 18.
- ¹³⁰ A/61/718, p. 3. See also E/CN.4/2006/44/Add.2, para. 47.
- ¹³¹ CEDAW/C/IND/CO/3, para. 36.
- ¹³² CERD/C/IND/CO/19, para. 23.
- ¹³³ CEDAW/C/IND/CO/3, paras. 44-45.
- ¹³⁴ E/CN.4/2006/44/Add.2, para. 8.
- ¹³⁵ UNICEF, UPR submission, *op. cit.*, p. 1.

- ¹³⁶ CEDAW/C/IND/CO/3, paras. 36 and 37. See also CRC/C/15/Add.228, para. 3 (c).
- ¹³⁷ E/CN.4/2006/44/Add.2, para. 8.
- ¹³⁸ Ibid., para. 42. See also A/HRC/4/32/Add.1, paras. 244-248, 249-253.
- ¹³⁹ CEDAW/C/IND/CO/3, paras. 40-41.
- ¹⁴⁰ Ibid., paras. 28-29. See also CRC/C/15/Add.228, paras. 28 and 73 and CERD/C/IND/CO/19, para. 23.
- ¹⁴¹ UNICEF, UPR submission, op. cit., p. 1.
- ¹⁴² CERD/C/IND/CO/19, para. 24.
- ¹⁴³ Ibid., para. 20.
- ¹⁴⁴ E/CN.4/2006/44/Add.2, para. 11.
- ¹⁴⁵ CERD/C/IND/CO/19, para. 19.
- ¹⁴⁶ A/HRC/6/15/Add.1, paras. 256-263.
- ¹⁴⁷ A/HRC/4/32/Add.1, paras. 238-242 and E/CN.4/2005/88/Add.1, para. 51.
- ¹⁴⁸ A/HRC/4/32/Add.1, paras. 257-260.
- ¹⁴⁹ CEDAW/C/IND/CO/3, paras. 46-47.
- ¹⁵⁰ CERD/C/IND/CO/19, paras. 19-20.
- ¹⁵¹ CEDAW/C/IND/CO/3, paras. 32-33.
- ¹⁵² CERD/C/IND/CO/19, para. 25.
- ¹⁵³ CRC/C/15/Add.228, para. 64.
- ¹⁵⁴ CCPR/C/79/Add.81, para. 6.
- ¹⁵⁵ Ibid., para. 6; A/61/718, p. 2; E/CN.4/2006/44/Add.2, paras. 16 and 24.
- ¹⁵⁶ CCPR/C/79/Add.81, para. 5.
- ¹⁵⁷ CRC/C/15/Add.228, para. 4.
- ¹⁵⁸ UNICEF, UPR submission, op. cit., p. 1.
- ¹⁵⁹ A/61/718, p. 3.
- ¹⁶⁰ Ibid., p. 4.
- ¹⁶¹ Ibid., p. 3.
- ¹⁶² CEDAW/C/IND/CO/3, paras. 67-68.
- ¹⁶³ CERD/C/IND/CO/19, para. 34
- ¹⁶⁴ E/CN.4/2006/44/Add.2, para. 48 (a).
- ¹⁶⁵ Ibid., para. 48 (c).
- ¹⁶⁶ Ibid., para. 48 (f).
- ¹⁶⁷ Ibid., para. 48 (g).
- ¹⁶⁸ E/CN.4/2006/44/Add.2, para. 48 (j).
- ¹⁶⁹ UNICEF, UPR submission, op. cit., pp. 4-5.



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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

India *

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Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its first session from 7 to 18 April 2008. The review of India was held at the 8th meeting on 10 April 2008. The delegation of India was headed by H.E. Mr. Swashpawan Singh, Ambassador and Permanent Representative of India to the United Nations Office at Geneva. For the composition of the delegation, composed of 13 members, see appendix below. At its 12th meeting held on 14 April 2008, the Working Group adopted the present report on India.

2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of India: Ghana, Indonesia and the Netherlands.

3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of India:

(a) A national report/written presentations submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/1/IND/1);

(b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/1/IND/2);

(c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/1/IND/3).

4. A list of questions prepared in advance by Ireland, Germany, Portugal, Italy, Sweden, Denmark, Finland, the Netherlands, United Kingdom and Latvia was transmitted to India through the troika. These questions are available on the extranet of the Universal Periodic Review.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 8th meeting, on 10 April, the Ambassador and Permanent Representative of India, H.E. Mr. Swashpawan Singh of India, introduced the national report and noted that India's national report seeks to provide an overview of efforts for the realization of all human rights based on a culture of respect for diversity and pluralism.

6. India is a country of over one billion people with unparalleled pluralism. It is home to almost all religions of the world. India is also the largest democracy in the world as well as one of the most stable. The Indian delegation stated that its commitment for the promotion and protection of human rights flows from the firm belief that in a truly pluralistic society like India, growth and welfare of citizens can be ensured only through a culture of promotion and protection of human rights. India, nonetheless, remained conscious of the challenges ahead and recognized that much remained to be done before it can say with satisfaction that it has conquered poverty, ignorance and disease. India has tried to address these challenges by trying to empower the affected in an institutionalized manner and also to seek to learn from the experiences of others.

7. India was also amongst the countries that have been affected most by the scourge of terrorism. Terrorism was a direct violation of human rights, in particular the most basic rights, the right to life and liberty. India noted that it remains committed to protect its citizens by taking effective measures within the framework of the Constitution and the basic values and institutions it embodies.

8. Mr. Goolam E. Vahanvati, the Solicitor General of India, stated that India has a long tradition of promoting and protecting human rights. The Solicitor General noted that after its independence, India chose democracy as its political set up to ensure a free and independent society and human dignity, freedom and advancement. This was the first step. The second was to draft and adopt a written constitution, so as to effectuate a constitutional democracy which becomes an organic guarantee of human freedoms and rights. And thirdly in the forefront of the Constitution, they incorporated a chapter on fundamental rights contained in articles 12 to 32 of the Constitution.

9. In the Constitution of India, the three pillars of human rights are (a) the right to equality including the prohibition of discrimination in any form, (b) the six vital freedoms of citizens (including the right to speech and expression) and (c) the right to life guaranteed to all persons. These rights have been recognized to be inalienable, unalterable and part of the basic structure of the Constitution which cannot be abrogated. India's Supreme Court has interpreted the right to life as including the right to live with dignity, right to health, education, human environment, speedy trial and privacy, to name a few. The Constitutional guarantee of human rights is ensured by making fundamental the right to access the Supreme Court for enforcement of human rights. Simultaneously, the broadest possible powers have been given under article 226 of the Constitution to the High Courts in the State to issue high prerogative writs for the enforcement of human rights and for any other purpose.

10. He noted that the functioning of democratic institutions for the last six decades has been extraordinary and that equally, and if not more importantly, is the smooth and seamless transfer of power on conclusion of elections.

11. Much of the focus of governmental activity has been to improve the provision of services through grass-roots local self-governance institutions, particularly in rural areas. This is because India believes that development through decentralized democratic institutions is more equitable and accountable.

12. India has taken an important initiative for the empowerment of women by reserving one-third of all seats for women in urban and local self-government, thus bringing over one million women at the grassroots level into political decision making.

13. India stated that it considers and accepts a free media as one of the most vital pillars of democracy and a valuable guardian for the protection of human rights.

14. The delegation noted that India has guaranteed human rights to all persons in India and this includes a commitment to secularism and the protection of minorities. India has secured their right to practice and preserve their religious and cultural beliefs as a part of the Chapter on Fundamental Rights. An array of legislative and executive measures has been taken for the effective implementation of safeguards provided under the Constitution for the protection of the interests of minorities.

15. India has been deeply conscious of the need to empower the Scheduled Castes and Scheduled Tribes and is fully committed to tackle any discrimination against them at every level. The Constitution of India abolished "untouchability" and forbids its practice in any form. There are also explicit and elaborate legal and administrative provisions to address caste-based discrimination in the country. The caste system, which is unique to India, is not racial in origin, and therefore, caste based discrimination cannot be considered a form of racial discrimination.

16. The inclusion of India's scheduled tribes in the rubric of "indigenous people" is often posed in multilateral forums. India stated that at independence, after the departure of the colonizers, all its people, including its tribal people, were considered as indigenous to India. This position has been clarified on various occasions, including while extending India's support to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples at the Human Rights Council and the General Assembly.

17. India noted that it is conscious of the need to empower the disadvantaged. Education has been a priority programme. This was an essential building block for development. Elementary education has been declared to be a fundamental right. For the last seven years, India has implemented a novel and comprehensive educational programme known as *Sarva Shiksha Abhiyan* (Education for All). The goal was to achieve 100 per cent coverage in primary schools. India has implemented a Mid-day Meal Scheme which feeds more than 120 million children every day. Most importantly, India was now among the few countries to have a nationwide employment guarantee act. The right to work was being significantly realized with the National Rural Employment Guarantee Programme. It provided a legal entitlement that only a handful of countries offer their citizens. It should not only provide employment but also check distress migration and most importantly, create productive assets for the community. More than 30 million rural families already had a "job card".

18. Major institutional mechanisms have been set up to make human rights secure and enforceable. Under the Protection of Human Rights Act 1993, a powerful and independent National Human Rights Commission has been working with an exemplary record for over a decade. Another revolutionary change has been the enactment of the Right to Information Act. This enabled citizens to seek and demand the right to information about the governmental officials and decision making which has led to transparency, accountability and openness in the governmental process.

19. Regarding terrorism, India stated that during the last more than two decades, terrorism has claimed the lives of thousands of innocent men, women and children in its country. The international community should recognize that terrorism is a direct violation of human rights, in particular the most basic rights, the right to life and liberty. While India's commitment to protecting its citizens was of paramount importance it will achieve this in conformity with a commitment to human rights.

20. India has actively participated in deliberations on human rights in international forums for the promotion and protection of human rights and fundamental freedoms for all. India played a leading role in the historical struggle for decolonization and abolition of apartheid. India was among the very few selected countries who were members of the former Commission of Human Rights throughout the 60 years of its existence.

21. The Indian delegation noted that in order to further strengthen the protection of human rights in India, the Parliament passed the Protection of Human Rights Act in 1993 to establish a National Human Rights Commission (NHRC). The State Human Rights Commissions have been set up in 18 states. The independence of the NHRC is expected to be the same as that of the Supreme Court of India. The NHRC of India was one of the most Paris Principles compliant national institutions in the world. Though the Commission was a recommendatory body, the reports of the commission are placed in the Parliament with the action taken report by the Government. In case the Government

disagrees, it provides reasons thereof in the action taken report. The experience has been that 95 per cent of recommendations have been generally complied with. The NHRC is playing a major role in the drawing up of a National Action Plan for Human Rights, which will cover issues such as the right to health, education, food security, housing, custodial justice and trafficking in women and children. The Commission's role was complementary to that of the judiciary. The Supreme Court has referred a number of important matters to the Commission for monitoring while the Commission has also taken specific cases of violations of human rights to the courts. The guidelines developed by the Commission on the treatment of mentally ill persons held in prisons and child rape cases have been adopted by the Delhi High Court and commended for adoption.

22. The Indian delegation, in regard to women and children, stated that a bill to prevent sexual harassment at the work place is on the anvil. The National Policy for Empowerment of Women 2001 aims at bringing about advancement, development and empowerment of women in all spheres of life. The National Commission for Women was constituted with the mandate to safeguard women's rights. Thirty per cent of all wage employment is reserved for women. Mobilization of women through Self-Help Groups for income generation activities has been successfully adopted in programmes such as Swayamsidha through which 70,000 Self-Help Groups have been formed, with 1 million members. The Government has initiated gender budgeting as a tool for gender mainstreaming in all sectors with the objective of making budgets more gender responsive. To provide protection for women in distress, over 565 home shelters and short stay homes and help lines are being operated. A Scheme for Prevention of Trafficking and Rescue, Rehabilitation of Victims of Trafficking for Commercial Sexual Exploitation has been launched. On the anvil was a new scheme for relief and support to rape victims. Special measures to improve the educational status of women include a pronounced gender focus in the *Sarva Shiksha Abhiyan* - universalization of elementary education. The health needs of women received special priority in the National Rural Health Mission.

23. India was implementing the world's largest child care programme - the Integrated Child Development Services, where supplementary nutrition is provided to over 78 million women and children and preschool education to 32 million children, as well as support and rehabilitation to those children. The Commission for Protection of Child Rights was set up in March 2007 to ensure effective implementation of child rights. The Government has adopted a multi-pronged sequential approach to eliminate the problem of child labour. The Action Plan of the National Policy on Child Labour 1987 included strict enforcement of the Child Labour Act 1986 and the prohibiting of employment of children in hazardous occupations and as domestic help. The National Child Labour Project (NCLP) Scheme was in operation in 250 high child labour endemic districts in the country and the spread is proposed to be increased in the coming years. Other initiatives include extensive awareness and sensitization programs of various stakeholders strict enforcement measures. An important measure taken very recently was the collaboration with corporate houses to clean supply chains for eliminating child labour. A beginning has been made with the garment industry for an action plan to enable eliminating child labour and at the same time provide gainful employment to their families.

B. Interactive dialogue and responses by the State under review

24. During the interactive dialogue, 42 statements were made by the following delegations.

25. While welcoming the fact that India is a party to a number of international human rights instruments, the United Kingdom of Great Britain and Northern Ireland noted that India has not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or its Optional Protocol. It recommended that India ratify both instruments at the

earliest opportunity. The United Kingdom asked for additional information on (a) reports of attacks against persons from religious or other minorities, in particular in Orissa State; (b) steps to implement treaty body recommendations on the Armed Forces Special Powers Act; (c) anti-conversion legislation; and (d) the communal violence crimes bill. It welcomed the involvement of civil society in the national preparatory process for the UPR session and recommended that they be fully involved in the follow-up to UPR.

26. Ghana commended India for the laudable measures taken to ensure a country-wide balance in the enjoyment of human rights of its large population, including the implementation of the National Child Labour Project, the adoption of the National Charter for Children and a National Plan of Action for the Girl Child. Ghana encouraged India to continue strengthening existing institutions working to protect human rights. Ghana welcomed India's cooperation with Human Rights Council mechanisms and treaty bodies and recommended an enhanced cooperation with said bodies and relevant stakeholders in the pursuit of a society oriented towards the attainment of internationally recognized human rights goals.

27. Canada recognized that India is a highly diverse country facing many challenges. It raised issues concerning the Armed Forces (Special Powers) Act (AFSPA), the situation of civil society and the situation of Dalits. Canada referred to reports of torture and abuse by and impunity of police and security forces acting under the AFSPA. Canada spoke about the commitment of the Prime Minister and the studies undertaken to reform the AFSPA and asked what measures had been taken to repeal or reform this Act. Canada referred to India as a model where civil society and democracy flourishes and the press actively reports on human rights abuses. However, it mentioned allegations about the use of the Foreign Contributions Regulations Act in limiting civil society's work on sensitive issues and referred to reports that Amnesty International had to downsize its work on account of this Act. With reference to the follow-up of the 2007 concluding observations on India adopted by CERD, Canada recommended that India begin providing disaggregated data on caste and related discrimination.

28. Brazil noted the challenges facing and achievements of India. It asked several questions regarding (a) the measures taken to promote the empowerment of women and the main policies taken to mainstream gender into national plans, (b) the concrete measures implemented to combat extreme poverty and (c) the evaluation of the strategy to end child labour. Additionally, Brazil proposed that India consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women as well as ILO Conventions No. 138 concerning Minimum Age for Admission to Employment and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

29. Bhutan expressed appreciation for India's national report and, in particular for the broad consultative process undertaken towards its formulation. It mentioned that as a neighbour, Bhutan has drawn inspiration from India's commitment to pluralism and tolerance and benefited from its experience in the establishment of a flourishing democracy, independent judiciary, free press, and vibrant civil society. Bhutan asked that additional information be provided on the valuable lessons that could be shared from India's experience of managing national elections.

30. Mauritius commended India for its long democratic tradition which pervades all sections of the population down to the grassroots level in the Panchayats. It encouraged India to share with the international community its best practices in the promotion and protection of human rights taking into account the multi-religious, multi-cultural and multi-ethnic nature of the Indian society.

31. The Russian Federation stated that India is a democratic State, which over the last 60 years has demonstrated its commitment to the goals and ideals of democracy. It understood that not all problems have been resolved and that questions remained regarding the situation of vulnerable groups in India's population. It was impressed by the efforts of the Government to improve the human rights situation, including to eliminate discrimination and poverty, and to protect the rights of women and children. The delegation noted the support of India for the United Nations human rights mechanisms and its support for the work of OHCHR, including annual financial contributions. It stated that the Indian report reveals that one of the key elements is the national human rights institution, and thanked the Indian delegation for its explanations regarding the work on independent investigations of complaints against human rights violations. The Russian Federation expressed the view that India's experience was innovative as regards ensuring transparency in the work of the Government at every level and requested India to provide information on the scope and results of the 2005 law on the Right to Information.

32. Malaysia congratulated India on putting in place an institutional, legislative and administrative framework aimed at improving the human rights situation of its people. It also noted the establishment of various institutions/national commissions which act as "watch dogs", dealing with issues such as women rights, minorities, scheduled castes and tribes, backward classes and children rights. Additional information was requested on the implementation of their recommendations.

33. China noted with appreciation that India has a well established national system to guarantee human rights and also stated that it fully understood the pluralistic, multifaceted and multicultural nature of Indian society as well as appreciating the special protection measures taken to protect the rights of minorities and other vulnerable groups. China stated that with these measures India has not only achieved great progress in the field of human rights but has also accumulated a rich experience to be shared with other countries. As a developing country, China stated that it is faced with many similar challenges and that for this reason it would like to exchange views and experiences with India on the following issues. China noted that India has already taken many positive measures to guarantee the rights of women and children and asked whether women participated in the formulation of those measures and how India intended to increase women's participation in decision-making. With respect to the National Rural Employment Guarantee Programme and its present achievements, China asked how India intended to further implement this programme.

34. Cuba welcomed the exhaustive national report and commended India for the impressive work carried out in promoting and protecting both civil and political rights as well as social, economic and cultural rights and the right to development. Cuba stated that it had no question or recommendation but rather it came here to listen and learn from India.

35. Singapore congratulated India for its important successes in sustaining a path of high rate of economic growth, which has resulted in lifting hundreds of millions of people out of poverty. It stated that, in doing so India has also made great strides in advancing their most basic human rights - the rights to food, housing and health. Singapore asked for complementary information on steps being taken to address caste-based discrimination.

36. Belgium commended India for the advancements made, in particular regarding the justiciability of certain social and economic rights in the context of the right to life. Regarding caste-based discrimination, in particular against Dalit women, Belgium wanted to know what actions were being taken to implement anti-discriminatory legislation and the role of the National Commission on Human Rights was in that regard. Belgium recommended that there be

disaggregated data on caste-based discrimination so as to allow for targeted planning to improve the situation of the Dalits.

37. Considering the prohibition of child labour, the Netherlands recommended that India review its reservation to article 32 of the Convention on the Rights of the Child and ratify ILO Conventions No. 138 and 182. It also sought additional details on how the recommendations of the Committee on the Elimination of Racial Discrimination on scheduled classes were being implemented. As a member of the troika it assured the Council and the State under Review that it would do its utmost to obtain a meaningful outcome of the exercise.

38. Saudi Arabia stated that India is known as a country of tolerance and pluralism and that the Constitution of India is a comprehensive document which provides for the promotion and protection of civil and political rights as well as economic social and cultural rights. Saudi Arabia took note of the activities reflected in India's report and mentioned the work of the National Human Rights Commission in preparing a national plan for human rights and of India's commitment to ensuring the independence of all bodies working in the area of human rights and to promoting human rights on the basis of effective dialogue and cooperation. In January 2006 a new Ministry for minorities was created to take account of these problems and this programme has 15 points and asked how this programme contributed to improving the situation of minorities, and of the role played by civil society.

39. While congratulating India for the important constitutional and legislative measures taken to combat discrimination, Luxembourg endorsed Belgium's recommendation on disaggregated data. It asked for additional information on (a) statistics on jurisprudence related to discriminatory acts, (b) how recommendations from treaty bodies on scheduled castes and tribes were being implemented, (c) measures being taking to tackle discriminatory treatment in favour of males, including foeticide, and (d) right to food of the peasant population.

40. Germany asked India to provide complementary information on (a) how recommendations made by the Committee on the Elimination of Racial Discrimination and CEDAW on Dalits and scheduled castes were being followed up on, (b) what the position of the Government was regarding the recommendation of several treaty bodies to repeal the Armed Forces (Special Powers) Act of 1958, and (c) what concrete steps were being taken to implement national laws abolishing child labour.

41. The United States of America expressed its satisfaction to see a nation as diverse as India engaged in the UPR process. It asked for further details on (a) freedom of religion and expression and on the promulgation of state anti-conversion laws, (b) actions being undertaken to combat police and government corruption, (c) implementation of child labour laws, (d) crimes against women, including domestic violence, dowry-related deaths, honour crimes and sex-selective abortion of unborn girls, and (e) the social acceptance of caste-based discrimination.

42. Algeria congratulated India for the participatory approach adopted in the preparation of the national report. While noting that the economic growth being experienced by India has led to a widening of the gap between rich and poor, it asked whether any innovative approaches were being taken to ensure that this economic development was not detrimental to the enjoyment of human rights by all sections of the population. Algeria stated that it is aware of the fact that the high growth rate of India over recent years has not trickled down sufficiently to the poor, thus increasing social stratification between the richer segments of society and the destitute. Algeria recommended that India review new ways of reversing this worrying trend undermining the fundamental economic rights of vulnerable groups and that it share its findings with us in Africa where poverty is rife.

43. Bangladesh indicated that, as a neighbour, it understood the situation in India and also shared a common history. As a vibrant democracy achieving remarkable economic prosperity in recent years, there are high expectations of India. Bangladesh noted the establishment of a Ministry of Minority Affairs and also highlighted the commendable work of the National Human Rights Commission. In view of the consideration being given to the establishment of a national human rights institution in Bangladesh, the work of the India NHRC is being followed with great interest and Bangladesh is looking forward to emulating its good practices. Bangladesh asked how the Government of India is reconciling the needs to provide general education in view of its National Action Plan devoted to the provision of human rights education.

44. France commended India's commitment to human rights and pluralism. It raised a question and made a recommendation relating to the ratification of the Convention against Torture. It also asked what means were available to and what analysis might be drawn from the work of the National Human Rights Commission of India and the National Commissions dealing with Women, Minorities, Scheduled Castes and Scheduled Tribes. Lastly, regarding the most vulnerable communities and their integration, it wished to know what would be the results of any stock-taking of their integration.

45. The Indian delegation expressed its gratitude to all who actively participated in the dialogue and found it interesting and productive.

46. Regarding the Convention against Torture, the delegation noted that India is a signatory and is committed to its objectives. The Indian Penal Code also has clear provisions regarding torture and the Supreme Court of India in a well known judgment, *D. K. Basu vs. Union of India*, has issued important guidelines on provisions of detention that are applicable throughout India. The ratification of the Convention against Torture is being actively processed by the Government.

47. With regard to questions on the Armed Forces (Special Powers) Act, 1958, the delegation stated that even though India is a country which has had to confront with terrorism for well over two decades, its laws, including the special laws enacted in this context, have always had clear elements of administrative as well as judicial reviews. It is well settled in Indian jurisprudence that all legislation must conform to the basic structure of the Constitution and is subject to judicial review. The constitutionality of the Armed Forces (Special Powers) Act 1958 has been upheld by a Constitution Bench of the Supreme Court. Moreover, it is important to note that the Armed Forces of India are governed by provisions of their Acts, which also ensure that any violations are expeditiously dealt with. In so far as ensuring human rights even while being engaged in counter terrorism operations, special training and operating procedures are in place to guide the forces on the ground.

48. Regarding the Foreign Contribution Regulation Bill, 2006, the delegation stated that the primary purpose of the Bill was to consolidate the law to regulate the acceptance and utilization of foreign contributions for bona fide activities and to prohibit the use of the same for any activities detrimental to the national interest. The Bill sought to balance national security concerns and flow of foreign contributions for charitable purposes by providing a more explicit and transparent regime. The Bill is presently being examined by the Parliamentary Standing Committee and its recommendations are awaited.

49. In relation to the communal disturbance that erupted in the tribal dominated district of Kandhamal, Orissa on 24 December 2007 between tribal Hindus (Kui) and Christians (Panas), the Indian delegation noted that the underlying cause appeared to be the long standing opposition by the tribal Hindus to the Christians' demand to be categorised as a Scheduled Tribe. In the clashes,

3 persons died and 25 were injured. The clashes led to the damage of private and public property. The situation was brought under control. One hundred and twenty-five cases have been registered and 173 persons have been arrested. The state Government has also ordered judicial probe to inquire into the incident. Further, 284 Peace Committees have been formed which have held 350 meetings so far. The State government has announced a rehabilitation package to those whose houses have been damaged and ex gratia of Rs. 100,000 to the next kin of the three deceased. The Prime Minister assured Christian delegations that the Government would take all steps to provide full security and protect the religious freedom guaranteed by the Constitution to all citizens and that it would not tolerate any efforts aimed at disturbing the communal harmony or secular fabric of the country.

50. The Republic of Korea welcomed efforts by India to promote and protect indigenous and tribal peoples' rights. It asked for further elaboration on plans to protect these rights in newly industrialized zones. The Republic of Korea asked for more information on section 197 of the Code of Criminal Procedure of 1973 regarding the impunity of civil servants. It also asked about the position of India regarding the recommendations of CEDAW, particularly in relation to the situation of Dalit women.

51. Mexico congratulated India on its progress in the area of human rights and indicated that many countries could share in recognizing the challenges facing India and spoke of its admiration of India's democratic and humanist traditions. With reference to the development of a national action plan for human rights and of targets and indicators for assessment purposes, Mexico suggested, in that regard, that India view positively the recommendations made by the treaty bodies and special procedures particularly with respect to the situation of women and children. It also appreciated measures being adopted with a view to ratifying the Convention against Torture and recommended that India also make progress towards the ratification of that instrument. Lastly, Mexico stated that it was interested to learn more about the plan of action for human rights education in India.

52. Nigeria applauded India's policy to strike a balance between a human rights agenda and development issues. It recommended that India should take the necessary steps towards ratifying the international human rights instruments it had signed, including the Convention against Torture and the Convention on the Protection of Persons from Enforced Disappearance. Nigeria also noted that as India had really leapfrogged into the elite community of developed societies in terms of economic improvement it would like to see such improvement touch on a great number of Indians that are under the poverty line.

53. Italy asked for additional information on (a) human rights education relating to traditional practices and customs and scheduled castes and tribes and (b) the National Child Labour Project. Italy recommended the strengthening of human rights education specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination. It also recommended that steps be taken towards the ratification of the Convention against Torture.

54. Latvia noted India's positive cooperation with the special procedures and stated that it would like India to consider extending a standing invitation to all special procedures of the Human Rights Council.

55. Venezuela stated that it valued the efforts made by India to promote and protect human rights. Venezuela emphasized that it attached, like India, particular importance to matters related to health and referred to the health insurance scheme for workers in the informal sector, which was referred to in India's report. Venezuela emphasized that this issue is also under discussion in Venezuela and

that workers in that part of the economy should enjoy the benefits of social security, and that there should be equal conditions for those working in the informal or formal sector or the public and private sector. It wished to know more about the scheme as well as the scope and prospects for the Indian Government to implement it.

56. Switzerland referred to the reported cases of torture noted by the Human Rights Committee and the Special Rapporteur on the question of torture and welcomed India's signature of the Convention against Torture and its determination to ratify it. It, therefore, recommended that India ratify the Convention as soon as possible. Additionally, it encouraged India to respond favourably to the renewed request made by the Special Rapporteur on the question of torture to be permitted to carry out a mission to the Indian territory as soon as possible. Lastly, it recommended that a standing invitation be extended by India to all the Council's special procedures.

57. South Africa stated that its delegation was encouraged by India's approach to embracing pluralism within the context of the promotion and protection of human rights. It also paid tribute to the efforts played by India in support of the struggle for freedom during the apartheid era. South Africa would appreciate receiving further information on (a) the functioning and results pertaining to the national commissions created to deal with minorities and vulnerable groups and (c) the system of the distribution of food and its application across all sections of the population.

58. Azerbaijan asked India to elaborate on (a) what practical measures were being taken to fight poverty, (b) what are the difficulties experienced by Scheduled Castes and Tribes in terms of their human rights, (c) what national plans exist on Internally Displaced Persons and what access is given to international humanitarian organizations to internal displacement affected regions, (d) school attendance of children in rural regions, and (e) human rights training among police and security forces.

59. The Islamic Republic of Iran commended India on its valuable efforts and commitments for the promotion and protection of human rights and asked that India provide further details on (a) the realisation of economic, social and cultural rights, in particular the right to development, (b) measures taken to develop a culture of human rights, and (c) the role that civil society and the national human rights institution can play in this regard.

60. Nepal stated that a few hours ago Nepal successfully completed historic elections to the Constituent Assembly to institutionalize the peace process, establish democracy and place human rights at the centre of governance. Nepal warmly congratulated India on having successfully completed 60 years of democracy and stated that India has proved to be largest and most representative democracy in the world. Nepal observed that the deepening of democratic roots in India has produced strong institutions, an independent judiciary, a vibrant and free media and giving people their say and share in the governance of the country. Nepal commended India for its effective implementation of various policies, plans and programmes to promote equality and justice as well as its affirmative action programmes to address the situation of marginalized communities, to promote and protect of the rights of women and children and to support the disabled and elderly. Given the exemplary role of the National Human Rights Commission, Nepal asked how the Commission's experience could be shared with other countries as a best practice.

61. Sri Lanka spoke about its enormous respect and admiration for India's achievements. India had set an example of how to manage the vexed question of achieving unity in diversity. Sri Lanka stated that the thinking that has gone into the Indian Constitution approximates, in our part of the world, the achievement of the Framers of the Constitution of the United States of America and that this framework has served India well. Sri Lanka noted that despite the existence of a democratic

federal political structure in India certain separatist terrorist insurgencies particularly in the north east of Indian territory have persisted for many decades and that this gives the lie to the received wisdom that federalism or a measure of federalism is a sufficient condition for the eradication of terrorist movements of a particularly intractable sort. Sri Lanka stated that it is a great admirer of the manner in which India has developed a notion of nationhood which is broad and inclusive and pluralist and admires India's determination that the preservation, advancement and protection of human rights in India shall be an Indian matter.

62. Ecuador noted that India is a country with a multi-cultural character and a vast legal history. Taking this into consideration, Ecuador would like to know more about India's approach to the progressive implementation of social and cultural rights and how this is done without affecting the cultural wealth, social diversity and customs and practices of the country.

63. Palestine expressed appreciation of India's ability to feed its population of over 1 billion people and stated that this is a great achievement that ought to be emulated and is a clear indication of India's success in economic planning and its implementation. Its Constitution is based on noble values and principles. It has pursued a democratic path caring for the rights of women, children, the elderly and disabled persons as well as respect for all religions. Palestine asked how has India combined between this progress and the maintenance of social and cultural rights that are closely linked to its traditions, civilization, legacies and time old humanist heritage.

64. The Syrian Arab Republic commended India for its report and the transparency and cooperative spirit in which it was prepared. It requested additional information on the role of the judiciary in setting the framework for promoting human rights in India.

65. Egypt mentioned that it was impressed with the extent to which fundamental human rights principles are embodied in India's Constitution as well as with its human rights infrastructure. It raised questions regarding (a) the Right to Information Act 2005 and the tangible results achieved so far through it, and (b) the successes and challenges encountered in integrating women in India's economic development efforts.

66. Slovenia thanked India for the comprehensive national report and asked questions on (a) steps being taken to address the lack of national laws prohibiting corporal punishment in schools, alternative care settings and the home, (b) measures taken to integrate a gender perspective into the UPR exercise and the ensuing consultation and follow-up process, and (c) the civil Special Marriage Act and the failure to amend the Act to give women equal rights to property accumulated during marriage. In the latter regard, and by way of recommendation, Slovenia asked whether India was planning to follow the recommendations made by CEDAW to amend the Act accordingly.

67. Sweden raised two questions, which it stated could also be seen as recommendations. India has ratified or acceded to several instruments of international law relating to human rights but there are also a number of instruments to which it is not a party, notably the Convention against Torture, the refugee convention and ILO Conventions Nos.138 and 182 relating to child labour. Sweden noted with interest India's intention to ratify the Convention against Torture and encouraged the Government to do so. It requested the Indian Government to elaborate on its efforts to ratify other instruments of international law relating to human rights, in particular ILO Conventions Nos. 138 and 182 relating to child labour. Secondly, it stated that homosexual conduct is prohibited by the Indian Penal Code and that civil society organizations have reported discrimination of homosexual, lesbian, bi-sexual, transgender and transsexual persons both by agents of the State and on a general societal level. Sweden asked the Indian Government about the measures it is taking to ensure full equality before the law regardless of a person's sexual orientation.

68. Tunisia commended India on its report, also as an example of the degree of pluralism and respect for diversity which pervades in the political and social life of the country. Tunisia noted India's engagement to further advance the rights of women and vulnerable groups. It encouraged India to continue its efforts to allow for a harmonious life in a multi-religious, multi-cultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one fifth of the world's population to be well fed, well housed, well cared for and well educated.

69. Israel highlighted the importance of institutionalizing principles like freedom of expression in the world's most populous democracy and took note of the information provided by the state report in this regard. It mentioned that India was one of the first countries to ratify the Convention on the Rights of Persons with Disabilities. In view of a 2004 recommendation of the Committee on the Rights of the Child addressing the limited facilities and services existing in India for children with disabilities as well as the limited number of trained teachers working with disabled children, Israel asked how India envisaged using the Convention to implement this particular recommendation. It also asked whether this Convention will serve as a national action plan to better integrate disabled persons into Indian society.

70. Qatar expressed its appreciation of the measures taken by India to meet its challenges without prejudice to human rights and in accordance with the Constitution that guarantees to all citizens, without any discrimination, the right to enjoy all human rights and fundamental freedoms. Qatar spoke about India as the home for almost all religions of the world where all sects enjoy the right to establish institutions for religious and educational purposes. Reference was made to the significant role of the National Human Rights Commission of India in laying down a national plan of action for human rights that covers issues like the rights to health, education, food, security, housing and justice. Qatar also mentioned other examples of India's commitment to human rights, including the adoption of a National Plan for human rights education especially in schools, colleges and universities, the work of thousands of NGOs in India and India's ratification of international human rights instruments and cooperation with international organizations.

71. Morocco welcomed the efforts made by India in advancing the rights of women and of their empowerment in the political and social fields. Given the importance of Indian communities worldwide, Morocco asked what are the plans and initiatives of India to protect the interests and rights of this community.

72. Following the dialogue, the delegation of India, in their responses, stated that they had listened with attention and respect and would take home the comments and deliberate on them and gain a lot of experience and knowledge. Brazil, Algeria, and Nigeria had referred to India's phenomenal growth but rightly raised questions about whether this was an all inclusive growth and if the gulf between the rich and poor is not growing. This is one of the greatest concerns of India and every effort is made to ensure there is no disparity between the rich and the poor. Recently, in the budget presented by the Finance Minister, India decided to write off US\$ 15 billion worth of farmers' debt. This is one of the largest schemes undertaken by any government to promote the welfare of its farmers. However, this was not a one time exercise. India is committed to make sustained efforts and coordinated programmes. The growth of India's economy was phenomenal and one of the engines is the Special Economic Zones. This has led to some agitation in some parts of the country but the accent of the Government is to see that special economic zones bring prosperity to the areas in which they are being set up. There were schemes for rehabilitation, reemployment and community development of the affected people. India remained conscious that the path to reducing disparity was through providing opportunity for both employment and education. In this regard, India stated that it is likely to achieve 100 per cent success in primary education by 2010.

73. India noted that Canada, as well as others, referred to the impunity for human rights violations under the Armed Forces Act which was incorrect. India stated that no forces, armed or police, function with impunity. Armed forces were under strict orders not to transgress human rights and the strictest action is taken, and incidents are swiftly adjudicated, including through courts-martial.

74. Regarding castes and racial discrimination, India noted that both Canada and Germany mentioned India's position on the scope of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). India stated that their position on ICERD is unchanged and that while they recognize that caste-based discrimination exists in India, since the caste system, which is unique to India, is not racial in origin, caste based discrimination cannot be considered a form of racial discrimination.

75. Regarding questions on minorities from Saudi Arabia and Bangladesh, India noted that minorities, both religious and cultural, enjoy a very special status. The right to administer institutions of their choice for imparting education and carry on their religious instructions and cultural life is a fundamental right which has been repeatedly protected in a series of judgments by the Supreme Court. The Prime Minister's 15-Point Programme contained interesting elements such as enhancing opportunities for education. One of the greatest successes in this area has been the increase in the number of Muslim women who are turning to organize education in the secular sphere. This will greatly contribute towards the mainstreaming of minorities. In communal-sensitive areas, India has set up street-level, district level committees to bring about a greater sense of understanding and tolerance. This has had great success in eliminating mistrust and suspicion.

76. With regard to human rights education, India stated that a novel programme in the form of the national legal literacy program, started in 2005, works to increase awareness of legal rights and make the people aware of their legal rights and that they have access to courts, particularly for people in rural areas.

77. India noted that they do maintain statistics with regard to scheduled castes and scheduled tribes and that these statistics are in the public domain.

78. In relation to a question by the Republic of Korea on the displacement of tribal people from forest lands, India noted that based on a Supreme Court decision, no land can be diverted from forest use, without prior approval and there can be no displacement unless there is a comprehensive proposal to resettle the tribes as part of the project. This had been the position in regard to implementation of mining projects in Orissa as well.

79. India noted that some states have passed anti-conversion acts to check and regulate forced conversions.

80. Nigeria mentioned enforced disappearances and India noted that it had signed the Convention on the Protection of Persons from Enforced Disappearance on the day it opened for signature last year and that the process of ratification was now under way.

81. With reference to Latvia and Switzerland's question on a standing invitation for special procedures, India stated that it could not agree to standing invitations, but it had been extremely open and had extended invitations whenever approached. India believed that as a developing country with limited capacities, it needed to properly prepare for such visits for which sufficient notice is required.

82. In relation to a question from the Syrian Arab Republic on the role of the judiciary in protecting human rights, India noted that the judiciary is the sentinel and watchdog of human rights

in India. The courts in India including the Supreme Court and the High Courts are easily accessible to the ordinary people and have acted even on the basis of information received on a post card from a person under detention.

83. India noted, in response to Egypt's question on the Right to Information Act, that the Act is one of the greatest achievements in the legislative history so far. The fact that the government and legislature decided to "expose themselves" under the Act is by itself a great check on their working.

84. Regarding Sweden's comments on homosexual conduct, India noted that under Section 377 of the 1860 Indian Penal Code, the concept of sexual offences "against the order of nature" was introduced. This was essentially a Western concept, which has remained over the years. The concept of homosexuality itself does not find a mention in the Indian Penal Code and it can be a matter of debate whether it is "against the order of nature". An NGO had filed a petition before the Delhi High Court for declaring Section 377 of the Indian Penal Code as unconstitutional. The High Court's judgment turning down the petition was challenged in the Supreme Court which has returned it to the High Court for reconsideration. The matter was referred to the Law Commission of India, which took the view that Indian society does not currently accept homosexuality as an acceptable form of behaviour. However, the matter is under the consideration of the courts in India.

85. In conclusion, the Ambassador and Permanent Representative of India, H.E. Mr. Swashpawan Singh, thanked everyone for their presence and constructive participation in the free and frank dialogue. India stated that it had tremendously benefited from the discussion which provided a unique opportunity to know how India's efforts for the realisation of human rights were viewed and assessed by international community. It was satisfying to note that there was a positive recognition of India's efforts and that many initiatives launched by India are viewed as examples of best practices. India remained conscious of the challenges and was committed to persevere diligently within the parameters of its Constitution. India stated that it has always demonstrated its openness towards accepting evolving international human rights norms and remains committed to continue doing so. There are instances where India has adhered to the basic norms of an international instrument without becoming a party to it such as the 1951 Convention on the Status of Refugees. In some other cases, the domestic norms go beyond the prevalent international norms; such as the high level of justiciability of economic, social and cultural rights. India noted that its own experience of being reviewed reconfirmed its belief in the huge potential of the UPR. Yet, the process and the success of the mechanism would depend on constructive engagement by identifying concrete areas for cooperation which would make a real difference on the ground.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

86. In the course of the interactive dialogue the following recommendations were made:

1. **Expedite ratification of the Convention against Torture (United Kingdom France, Mexico, Nigeria, Italy, Switzerland, and Sweden) and its Optional Protocol (United Kingdom);**
2. **Continue to fully involve the national civil society in the follow-up to the UPR of India, as was done for its preparation (United Kingdom);**
3. **Continue energizing existing mechanisms to enhance the addressing of human rights challenges (Ghana);**

4. **Encourage enhanced cooperation with human rights bodies and all relevant stakeholders in the pursuit of a society oriented towards the attainment of internationally recognized human rights goals (Ghana);**
5. **Maintain disaggregated data on caste and related discrimination (Canada, Belgium, Luxembourg);**
6. **Consider signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Brazil);**
7. **Consider signature and ratification of ILO Conventions No. 138 and 182 (Brazil, Netherlands, Sweden);**
8. **Share best practices in the promotion and protection of human rights taking into account the multi-religious, multi-cultural and multi-ethnic nature of Indian society (Mauritius);**
9. **Review the reservation to article 32 of the Convention on the Rights of the Child (the Netherlands);**
10. **Consider new ways of addressing growing economic and social inequities arising out of rapid economic growth and share experiences/results of best practices in addressing poverty (Algeria);**
11. **Take into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, in developing a national action plan for human rights which is under preparation (Mexico);**
12. **Ratify the Convention on Enforced Disappearances (Nigeria);**
13. **Strengthen human rights education, specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination (Italy);**
14. **Extend standing invitation to special procedures (Latvia, Switzerland);**
15. **Receive as soon as possible the Special Rapporteur on the question of torture (Switzerland);**
16. **Fully integrate a gender perspective in the follow-up process to the UPR (Slovenia);**
17. **Follow up on CEDAW recommendations to amend the Special Marriage Act in the light of article 16 and the Committee's general recommendation 21 on giving equal rights to property accumulated during marriage (Slovenia);**
18. **Continue efforts to allow for a harmonious life in a multi-religious, multi-cultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one-fifth of the world's population to be well fed, well housed, well cared for and well educated (Tunisia).**

87. These recommendations will be examined by India which will provide responses in due time. The response of India will be included in the outcome report to be adopted by the Human Rights Council at its eighth session.

88. All conclusions and/or recommendations contained in this report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.

Annex

Composition of the delegation

The delegation of India was headed by H.E. Mr. Swashpawan Singh, Ambassador and Permanent Representative of India to the United Nations Office at Geneva, and composed of 13 members:

Mr. Goolam E. Vahanvati, Solicitor General of India;

Mr. Vivek Katju, Additional Secretary, Ministry of External Affairs dealing with International Organisations;

Mrs. Anita Choudhary, Additional Secretary in Ministry of Home Affairs;

Mr. Mohinder Singh Grover, Deputy Permanent Representative of India to the United Nations Office in Geneva;

Mr. Manjeev Singh Puri, Joint Secretary, United Nations Division dealing with human rights issues, Ministry of External Affairs;

Mr. Narinder Singh, Joint Secretary and heads the Legal and Treaties Division of the Ministry of External Affairs;

Mrs. Manjula Krishnan, Economic Advisor in the Ministry of Women and Child Development;

Mr. Rajiv Chander, Minister (Political and Economic), Permanent Mission of India to the United Nations Office at Geneva;

Mr. Raj William, Counsellor, Permanent Mission of India to the United Nations Office at Geneva;

Mr. Nilambuj Sharan, Deputy Secretary, Ministry of Social Justice and Empowerment;

Mr. Manu Mahawar, First Secretary, Permanent Mission of India to the United Nations Office at Geneva;

Ms. Paramita Tripathi, Under Secretary, United Nations Division of the Ministry of External Affairs,



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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

India

Addendum

**Response of the Government of India to the recommendations
made by delegations during the Universal Periodic Review of India***

* The present document was not edited before being sent to the United Nations translation services.

**Response of the Government of India to the recommendations
made by delegations during the Universal Periodic Review of India**

Government of India has examined the recommendations made by delegations during the Universal Periodic Review of India and has the following observations to make:

S. No.	Recommendation	Response of India
1.	Expedite ratification of the Convention against Torture (United Kingdom France, Mexico, Nigeria, Italy, Switzerland, Sweden) and its Optional Protocol (United Kingdom);	The ratification of the Convention against Torture is being processed by Government of India.
2.	Continue to fully involve the national civil society in the follow-up to the UPR of India, as was done for its preparation (United Kingdom);	Government of India accepts this recommendation
3.	Continue energizing existing mechanisms to enhance the addressing of human rights challenges (Ghana);	Government of India accepts this recommendation
4.	Encourage enhanced cooperation with human rights bodies and all relevant stakeholders in the pursuit of a society oriented towards the attainment of internationally recognized human rights goals(Ghana);	Government of India is committed to continue its constructive engagement with international human rights bodies and relevant stakeholders in its pursuit of realization of all human rights for all.
5.	Maintain disaggregated data on caste and related discrimination (Canada, Belgium, Luxembourg);	Extensive disaggregated data, including on caste, are available in the public domain.

6.	<p>Consider signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Brazil);</p>	<p>The Constitution of India provides for direct access to the Supreme Court and High Courts for redressal of violations of any fundamental right, for any individual or group of individuals. In addition, we have several other statutory mechanisms to address such violations including the National Human Rights Commissions and the State Human Rights Commissions. There is also a separate National Commission and State Commissions for Women which <i>inter alia</i> have a mandate to address cases of violations of women rights. There exists, therefore, effective legal and constitutional framework to address individual cases of violations within India.</p>
7.	<p>Consider signature and ratification of ILO Conventions No. 138 and 182 (Brazil, Netherlands, Sweden);</p>	<p>Government of India fully subscribes to the objectives and purposes of the Convention on the Rights of the Child (to which India is a party) as well as the ILO Conventions No. 138 and 182 (which India is yet to ratify). India fully recognizes that the child has to be protected from exploitation of all forms including economic exploitation. Towards this end, Government of India has taken a wide range of measures including prescribing minimum age of 14 years for employment in hazardous occupations, as domestic helps, at eateries as well as in certain other areas. Regulatory provisions regarding hours and conditions of employment have also been made. Recently, a National Commission for the Protection of Child's Rights has been set up for speedy trial of offences against children or of violation of child's rights. The present socio-economic conditions in India do not allow prescription of minimum age for admission to each and every area of employment or to raise the age bar to 18 years, as provided in the ILO Conventions. Government of India remains committed to progressively implement the provisions of Article 32 of the Convention on the Rights of the Child, particularly paragraph 2 (a), in accordance with its national legislation and international obligations.</p>

8.	Share best practices in the promotion and protection of human rights taking into account the multi-religious, multi-cultural and multi-ethnic nature of Indian society (Mauritius);	Government of India accepts this recommendation
9.	Review the reservation to article 32 of the Convention on the Rights of the Child (the Netherlands);	Government of India fully subscribes to the objectives and purposes of the Convention on the Rights of the Child. India fully recognizes that the child has to be protected from exploitation of all forms including economic exploitation. Towards this end, Government of India has taken a wide range of measures including prescribing minimum age of 14 years for employment in hazardous occupations, as domestic helps, at eateries as well as in certain other areas. Regulatory provisions regarding hours and conditions of employment have also been made. Recently, a National Commission for the Protection of Child's Rights has been set up for speedy trial of offences against children or of violation of child's rights. The present socio-economic conditions in India do not allow prescription of minimum age for admission to each and every area of employment. Government of India remains committed to progressively implement the provisions of Article 32 of Convention on the Rights of the Child, particularly paragraph 2 (a), in accordance with its national legislation and international obligations.
10.	Consider new ways of addressing growing economic and social inequities arising out of rapid economic growth and share experiences/results of best practices in addressing poverty (Algeria);	India is committed to the realization of the right to development of all its people and is pursuing this by providing an environment for inclusive and accelerated growth and social progress within the framework of a secular and liberal democracy.

11.	<p>Take into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, in developing a national action plan for human rights which is under preparation (Mexico);</p>	<p>Government of India accepts this recommendation</p>
12.	<p>Ratify the Convention on Enforced Disappearances (Nigeria);</p>	<p>India signed the Convention for Protection of All Persons from Enforced Disappearance on the day it opened for signature last year. The process of its ratification is underway.</p>
13.	<p>Strengthen human rights education, specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination (Italy);</p>	<p>Government of India recognizes the role of human rights education in combating discrimination. India has adopted a National Action Plan for Human Rights Education to promote awareness about human rights among all sections of the society. Specific target groups, such as schools, colleges and universities, have been identified and human rights education has been made part of curricula. Government officials, armed forces, prison officials and law officers are also being sensitised to the protection of human rights. Regular training programmes are organized by the National Human Rights Commission as well as State Human Rights Commissions. Awareness campaigns are also run by NGOs.</p>
14.	<p>Extend standing invitation to special procedures (Latvia, Switzerland);</p>	<p>India has been regularly receiving and will continue to receive Special Rapporteurs and other Special Procedures mechanisms of Human Rights Council taking into account its capacity, the priority areas for the country as well as the need for adequate preparations for such visits.</p>
15.	<p>Receive as soon as possible the Special Rapporteur on the question of torture (Switzerland);</p>	<p>India has been regularly receiving and will continue to receive Special Rapporteurs and other Special Procedures mechanisms of Human Rights Council taking into account its capacity, the priority areas for the country as well as the need for adequate preparations for such visits.</p>

16.	<p>Fully integrate a gender perspective in the follow-up process to the UPR</p> <p>(Slovenia);</p>	<p>Government of India accepts this recommendation</p>
17.	<p>Follow up on CEDAW recommendations to amend the Special Marriage Act in the light of article 16 and the Committee's general recommendation 21 on giving equal rights to property accumulated during marriage</p> <p>(Slovenia);</p>	<p>With regard to Article 16(1) of the Convention on the Elimination of All Forms of Discrimination Against Women, Government of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any community without its initiative and consent.</p> <p>With regard to Article 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women, Government of India declares that it agrees to the principle of compulsory registration of marriages. However, failure to get the marriage registered will not invalidate the marriage particularly in India with its variety of customs, religions and level of literacy.</p>
18.	<p>Continue efforts to allow for a harmonious life in a multi-religious, multicultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one-fifth of the world's population to be well fed, well housed, well cared for and well educated</p> <p>(Tunisia).</p>	<p>The Constitution of India seeks to secure to all its citizens "justice (social, economic and political); liberty (of thought, expression, belief, faith and worship); equality (of status and of opportunity); and to promote among them fraternity assuring the dignity of the individual and the unity and integrity of the Nation". Legislative and administrative measures of the Government of India are guided by this objective. In this context, the Government of India accepts the recommendation made.</p>



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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

India

Addendum

**Response of the Government of India to the recommendations made
by delegations during the Universal Periodic Review of India***

* The present document was not edited before being sent to the United Nations translation services.

**RESPONSE OF THE GOVERNMENT OF INDIA TO THE RECOMMENDATIONS
MADE BY DELEGATIONS DURING THE UNIVERSAL
PERIODIC REVIEW OF INDIA**

Government of India has examined the recommendations made by delegations during the Universal Periodic Review of India and has the following observations to make:

<i>S. No.</i>	<i>Recommendation</i>	<i>Response of India</i>
1.	Expedite ratification of the Convention against Torture (United Kingdom France, Mexico, Nigeria, Italy, Switzerland, Sweden) and its Optional Protocol (United Kingdom);	The ratification of the Convention against Torture is being processed by Government of India.
2.	Continue to fully involve the national civil society in the follow-up to the UPR of India, as was done for its preparation (United Kingdom);	Government of India accepts this recommendation
3.	Continue energizing existing mechanisms to enhance the addressing of human rights challenges (Ghana);	Government of India accepts this recommendation
4.	Encourage enhanced cooperation with human rights bodies and all relevant stakeholders in the pursuit of a society oriented towards the attainment of internationally recognized human rights goals(Ghana);	Government of India is committed to continue its constructive engagement with international human rights bodies and relevant stakeholders in its pursuit of realization of all human rights for all.
5.	Maintain disaggregated data on caste and related discrimination (Canada, Belgium, Luxembourg);	Extensive disaggregated data, including on caste, are available in the public domain.
6.	Consider signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Brazil);	The Constitution of India provides for direct access to the Supreme Court and High Courts for redressal of violations of any fundamental right, for any individual or group of individuals. In addition, we have several other statutory mechanisms to address such violations including the National Human Rights Commissions and the State Human Rights Commissions. There is also a separate National Commission and State Commissions for Women which <i>inter alia</i> have a mandate to address cases of violations of women rights. There exists, therefore, effective legal and constitutional framework to address individual cases of violations within India.

S.	<i>No. Recommendation</i>	<i>Response of India</i>
7.	Consider signature and ratification of ILO Conventions No. 138 and 182 (Brazil, Netherlands, Sweden);	Government of India fully subscribes to the objectives and purposes of the Convention on the Rights of the Child (to which India is a party) as well as the ILO Conventions No. 138 and 182 (which India is yet to ratify). India fully recognizes that the child has to be protected from exploitation of all forms including economic exploitation. Towards this end, Government of India has taken a wide range of measures including prescribing minimum age of 14 years for employment in hazardous occupations, as domestic helps, at eateries as well as in certain other areas. Regulatory provisions regarding hours and conditions of employment have also been made. Recently, a National Commission for the Protection of Child's Rights has been set up for speedy trial of offences against children or of violation of child's rights. The present socio-economic conditions in India do not allow prescription of minimum age for admission to each and every area of employment or to raise the age bar to 18 years, as provided in the ILO Conventions. Government of India remains committed to progressively implement the provisions of Article 32 of the Convention on the Rights of the Child, particularly paragraph 2 (a), in accordance with its national legislation and international obligations.
8.	Share best practices in the promotion and protection of human rights taking into account the multi-religious, multi-cultural and multi-ethnic nature of Indian society (Mauritius);	Government of India accepts this recommendation
9.	Review the reservation to article 32 of the Convention on the Rights of the Child (the Netherlands);	Government of India fully subscribes to the objectives and purposes of the Convention on the Rights of the Child. India fully recognizes that the child has to be protected from exploitation of all forms including economic exploitation. Towards this end, Government of India has taken a wide range of measures including prescribing minimum age of 14 years for employment in hazardous occupations, as domestic helps, at eateries as well as in certain other areas. Regulatory provisions regarding hours and conditions of employment have also been made. Recently, a National Commission for the Protection of Child's Rights has been set up for speedy trial of offences against children or of violation of child's rights. The present socio-economic conditions in India do not allow prescription of minimum age for admission to each and every area of employment. Government of India remains committed to progressively implement the provisions of Article 32 of Convention on the Rights of the Child, particularly paragraph 2 (a), in accordance with its national legislation and international obligations.
10.	Consider new ways of addressing growing economic and social inequities arising out of rapid economic growth and share experiences/results of best practices in addressing poverty (Algeria);	India is committed to the realization of the right to development of all its people and is pursuing this by providing an environment for inclusive and accelerated growth and social progress within the framework of a secular and liberal democracy.

S. No. Recommendation	Response of India
11. Take into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, in developing a national action plan for human rights which is under preparation (Mexico);	Government of India accepts this recommendation
12. Ratify the Convention on Enforced Disappearances (Nigeria);	India signed the Convention for Protection of All Persons from Enforced Disappearance on the day it opened for signature last year. The process of its ratification is underway.
13. Strengthen human rights education, specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination (Italy);	Government of India recognizes the role of human rights education in combating discrimination. India has adopted a National Action Plan for Human Rights Education to promote awareness about human rights among all sections of the society. Specific target groups, such as schools, colleges and universities, have been identified and human rights education has been made part of curricula. Government officials, armed forces, prison officials and law officers are also being sensitised to the protection of human rights. Regular training programmes are organized by the National Human Rights Commission as well as State Human Rights Commissions. Awareness campaigns are also run by NGOs.
14. Extend standing invitation to special procedures (Latvia, Switzerland);	India has been regularly receiving and will continue to receive Special Rapporteurs and other Special Procedures mechanisms of Human Rights Council taking into account its capacity, the priority areas for the country as well as the need for adequate preparations for such visits.
15. Receive as soon as possible the Special Rapporteur on the question of torture (Switzerland);	India has been regularly receiving and will continue to receive Special Rapporteurs and other Special Procedures mechanisms of Human Rights Council taking into account its capacity, the priority areas for the country as well as the need for adequate preparations for such visits.
16. Fully integrate a gender perspective in the follow-up process to the UPR (Slovenia);	Government of India accepts this recommendation
17. Follow up on CEDAW recommendations to amend the Special Marriage Act in the light of article 16 and the Committee's general recommendation 21 on giving equal rights to property accumulated during marriage (Slovenia);	<p data-bbox="735 1538 1350 1724">With regard to Article 16(1) of the Convention on the Elimination of All Forms of Discrimination Against Women, Government of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any community without its initiative and consent.</p> <p data-bbox="735 1742 1350 1955">With regard to Article 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women, Government of India declares that it agrees to the principle of compulsory registration of marriages. However, failure to get the marriage registered will not invalidate the marriage particularly in India with its variety of customs, religions and level of literacy.</p>

<i>S.</i>	<i>No. Recommendation</i>	<i>Response of India</i>
18.	Continue efforts to allow for a harmonious life in a multi-religious, multicultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one-fifth of the world's population to be well fed, well housed, well cared for and well educated (Tunisia).	The Constitution of India seeks to secure to all its citizens "justice (social, economic and political); liberty (of thought, expression, belief, faith and worship); equality (of status and of opportunity); and to promote among them fraternity assuring the dignity of the individual and the unity and integrity of the Nation". Legislative and administrative measures of the Government of India are guided by this objective. In this context, the Government of India accepts the recommendation made.
