



India Fails UN Human Rights Test



ASIAN CENTRE FOR HUMAN RIGHTS



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SECTION I

HUMAN RIGHTS IN INDIA

1. A guide to the report

This report chronicles as to how India failed UN human rights test during the second Universal Periodic Review (UPR) of India's human rights record held on 24th May 2012 during the 13th Session of the UPR of the Human Rights Council.

The UPR is a unique process under which human rights records of all 193 UN Member States of the UN are reviewed by their peers i.e. member States of the United Nations . The UN General Assembly resolution 60/251 that created the Human Rights Council, mandated it to “undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States”.

The UPR is significant in more ways than one. It provides an opportunity to all States to make voluntary pledges. Unlike the other UN human rights mechanisms which are examined by independent experts, UPR is conducted by the government representatives.

Technically, review is conducted by the UPR Working Group consisting of the 47 members of the Council but any UN Member State can take part in the discussion/dialogue with the States under review. The review is assisted by groups of three States, known as “troikas”, who serve as rapporteurs. The selection of the troikas for each State is done through a draw of lots following elections for the Council membership in the General Assembly.

The review of human rights record is conducted based on three documents: (1) national report submitted by the Government; (2) a summary of information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities; (3) information from other stakeholders including national human rights institutions and non-governmental organizations.

Review takes place through an interactive discussion between the State under review and other UN Member States. The concerned Member State presents its national report during the UPR Working Group session. During the review, any UN Member State can raise questions, comments and/or make recommendations to the States under review. The review is currently completed in three hours and thirty minutes.

The troikas may group issues or questions to be shared with the State under review to ensure that the interactive dialogue takes place in a smooth and orderly manner. After the review by the Working Group, a report is prepared by the troika with the involvement of the State under review and assistance from the OHCHR. This report, referred to as the “outcome report”, provides a summary of the actual discussion. It therefore consists of the questions, comments and recommendations made by Member States to the country under review, as well as the responses by the reviewed State.

During the Working Group session half an hour is allocated to adopt each of the “outcome report” which shall take place no sooner than 48 hours after the country review.

The reviewed State has the opportunity to make preliminary comments on the recommendations choosing to either accept or reject them. Both accepted and rejected recommendations are included in the report. The report then has to be adopted at a plenary session of the Human Rights Council.

During the plenary session, the State under review can reply to questions and issues that were not sufficiently addressed during the Working Group and respond to recommendations that were raised by States during the review. Time is also allotted to member and observer States who may wish to express their opinion on the outcome of the review and for NHRIs, NGOs and other stakeholders to make general comments.

About 48 States are reviewed every year. During the first cycle (2008-2011), all UN Member States have been reviewed. India's first review under the UPR took place in May 2008. The Second Review took place on 24 May 2012.

This report concerning the second review of the UPR contains the following:

I. Human rights in India

This section contains (1) report submitted by the Government of India for the second session of the UPR; (2) submission of the National Human Rights Commission of India; (3) submission of the Asian Centre for Human Rights; (4) summary of submissions of all the stakeholders; (5) summary of information of the UN human rights mechanisms on India; and (6) recommendations made to India during the first review of the UPR in May 2008 on which India had to submit compliance report.

II. India's UPR test

This section contains information (1) about advance questions sent to India by member States of the United Nations; and (2) analysis of the examination of India's human rights record.

III. India fails UN human rights test

This section contains information (1) about recommendations made to India; and (2) recommendations accepted by the Government of India and (3) finally how India failed the United Nations human rights test.

This report is a must for those concerned with human rights issues and situation in India: it provides the Government of India's position on the human rights situation in India, the views of the NHRC and NGOs, the observations and comments of the UN human rights mechanisms and the concerns and recommendations of international community, the response of India to these concerns and recommendations, and the role played by India for promotion of human rights in third countries under the UPR process upto 15th Session of the UPR held on 21 January to 1st February 2013.

Suhas Chakma
Director

2. Report of the Government of India for its Second Universal Periodic Review



HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Thirteenth session
Geneva, 21 May–4 June 2012

**National report submitted in accordance with paragraph 5 of the
annex to Human Rights Council resolution 16/21**

India

I. Introduction

1. As the largest democracy in the world, Indian polity weaves immense diversity into the fabric of a civilizational ethos of tolerance, respect and mutual understanding. India is home to 1.2 billion people. India has a very large population of Hindus (80% of the population), Muslims (13.4% i.e 138 million), and a great many followers of other faiths, including Christians (2.3% i.e. 24 million), Sikhs, Jains, Parsis and others. India has 22 scheduled languages, but more than 1,650 dialects are spoken across the country.

2. Twenty-eight States and seven Union Territories constitute India into a federal polity. There are 640 Districts and 640,867 villages in India. India is also the most representative democracy where, in a unique feature, there are over 3 million elected local representatives in the Panchayats, which are the units of local self-government at the village level, out of which around 1 million elected local representatives are women. Elections at regular intervals reinforce the democratic polity of the country.

3. The Constitution of India has ensured through its Fundamental Rights and Directive Principles of State Policy that India remains a multi-religious, multi-cultural, multilinguistic, multi-ethnic and secular democracy. The secular backbone to India's socioeconomic development has been vital in India's continued progress. India's approach towards protection and promotion of human rights has been characterised by a holistic, inclusive and multi-pronged effort. Prime Minister Dr. Manmohan Singh has observed "India's struggle for social and economic transformation of its 1.2 billion strong population in the

framework of an open society and a democratic polity, committed to respect fundamental human rights and the rule of law has no parallel in history. Our success in accomplishing this gigantic task could have great significance for the evolution of human kind in this twenty first century of ours.”

II. Methodology

4. In the preparation of the India Report under the Universal Periodic Review, the General Guidelines for the preparation of information have been followed broadly.

5. The process has been broad and inclusive involving concerned Ministries and Departments of the Government of India, including Ministry of External Affairs, Ministry of Home Affairs, Ministry of Social Justice and Empowerment, Ministry of Minority Affairs, Ministry of Defence, Ministry of Consumer Affairs, Food and Public Distribution, Ministry of Health and Family Welfare, Ministry of Housing and Urban Poverty Alleviation, Ministry of Human Resource Development, Ministry of Labour and Employment, Ministry of Law and Justice, Ministry of Panchayati Raj, Ministry of Rural Development, Ministry of Statistics and Programme Implementation, Ministry of Tribal Affairs, and Ministry of Women and Child Development (MWCD). Planning Commission has also been consulted.

6. Consultations were held with the stakeholders consisting of several nongovernmental organisations and experts involved in human rights related activities. In addition, the Government also participated in the consultations held by the National Human Rights Commission in all parts of the country. The draft UPR - II was also posted on the website for comments prior to its finalisation. A National Report has thus evolved, reflecting this extensive consultation process. The Action Taken Report on recommendations on UPR 2008 is at Annexure I.

III. Background to fundamental rights and their impact on legislative and regulatory framework

7. India is not only the largest democracy, but is also distinguished by a vibrant and evolving Constitutional system which is founded on the recognition of human rights placed in the forefront of the Constitution, viz Part III and has taken root in the ethos of the nation. The spirit underlying the Chapter on Fundamental Rights in Part III of the Constitution and the Directive Principles of the State Policy in Part IV of the Constitution is the recognition and the need to balance the immense diversity of India with the imperative of maintaining the fabric of civilization and progress, coupled with tolerance, respect, mutual understanding, and recognition of the importance of human life and individual rights. Foremost among these are measures for the removal and eradication of inequality.

8. The Chapter on human rights has undergone a revolutionary interpretative evolution at the hands of the Supreme Court (fully supported by the Government), as a result of which new vistas have emerged around the dynamic content of human rights. To illustrate a few,

India has broadened the traditional narrow approach towards equality and proceeded on the basis of a positive mandate to eradicate backwardness in any form, social, economic and educational. Similarly, the freedoms under Article 19 have been given a wide connotation as, for instance, the expansion of the freedom of speech and expression to include the right to obtain information. The Right to life and Personal Liberty in Article 21 has now come to encompass the right to a clean environment, right to legal aid, elimination of bonded labour, right to livelihood, right to speedy and fair trial, and right to education, amongst various other rights.

9. This National Report seeks to identify various steps taken by India in the ongoing effort of making fundamental human rights real and meaningful. A summary of some important judicial pronouncements which have enabled this progressive evolution of the fundamental rights incorporated in the Constitution is at Annexure II.

10. In recent years, India has taken several important initiatives aimed at securing human rights, including the following:

- In 2010, in a unique development and to ensure citizens their right to live with dignity in a healthy environment, the National Green Tribunal Act was enacted providing for effective legal protection for environment, forests and other natural resources.
- In the same year, the Government introduced in Parliament the Protection of Women against Sexual Harassment at Workplace Bill covering both organized and unorganized sectors.
- In 2009, the Right to Education Act was enacted, which introduced a new fundamental right for free and compulsory education of children in a neighbourhood school.
- In 2008, a Constitutional amendment bill was introduced in Parliament to reserve for women nearly one-third of seats in the Lok Sabha (Lower House of Parliament) and the state legislative assemblies for a period of 15 years. The Rajya Sabha (Upper House of Parliament) passed this bill in 2010. It is currently in the Lok Sabha.
- In 2007, the National Commission for the Protection of Child Rights (NCPCR) was established to ensure that all legislative and administrative measures are in consonance with the Child Rights perspective as enshrined in the Constitution of

India and the Convention on the Rights of the Child.

- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 rests forest rights and occupation with forest dwelling tribals and other forest dwellers.

- In 2005, the landmark Mahatma Gandhi National Rural Employment Guarantee Act was passed and the programme launched in 2006 to confer livelihood right on the poor.
- The Protection of Women from Domestic Violence Act 2005 came into force in 2006.
- During 2005, the historic Right to Information Act (RTI) was enacted.

11. As mentioned earlier, the judiciary has been a major catalyst for change, including through its Public Interest Litigation for protection against grave violation of human rights. The Judiciary has also ensured that, even if India has not signed or ratified any particular international instrument/protocol, cognizance of these is taken through its various judgments.

12. The establishment of an autonomous National Human Rights Commission (NHRC) in 1993 under the Protection of Human Rights Act reflects our continuing commitment for effective implementation of human rights. Wide powers and functions have been given to the NHRC. State Human Rights Commissions (SHRCs) have been set up in 20 states. During the year 2010-11 99,185 cases were registered for consideration in NHRC and it disposed of 87,568 cases. During the said period, the Commission recommended payment of monetary relief in 583 cases amounting to Rs. 198,655,500. For e.g. in *Jaywant P. Sankpal v. Suman Gholap* (AIR 2010 SC 208), the Supreme Court upheld the award of compensation by the Maharashtra State Human Rights Commission for use of excessive force by police.

13. The Constitution has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India. The Election Commission of India is a permanent Constitutional Body and has, over the decades, ensured free and fair elections.

14. The Comptroller and Auditor General is a Constitutional authority with powers to oversee and audit the accounts of the entire Government of India.

Transparency and good governance

15. The Government has taken following recent far-reaching steps to ensure transparency in governance:

1. Right to Information Act

16. To increase transparency in the functioning of Government and accountability in public life, and expanding the ambit of Article 19(1)(a) on the Freedom of Speech and Expression, the Government brought forward the historic Right to Information Act, 2005. The Act has a 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.

2. Citizens' Charters

17. The main objective of Citizens' Charters is letting people know the mandate of the each Ministry/ Department/ Organisation, how one can get in touch with its officials, what to expect by way of services and how to seek a remedy.

3. E-Governance

18. E-Governance in India has steadily evolved from computerization of Government Departments to initiatives such as citizen centricity, service orientation and transparency.

The National e-Governance Plan (NeGP), takes a holistic view of e-Governance initiatives across the country. A massive countrywide infrastructure is evolving, and large-scale digitization of records is taking place.

IV. Civil and political rights

A. Right to Life and Liberty, Fundamental Rights and Directive Principles of State Policy

19. The Constitution offers all citizens, individually and collectively basic freedoms which are justiciable and inviolable in the form of Fundamental Rights in Part III of the Constitution (Commentary at Annexure II).

20. The Constitution also lays down certain Directive Principles of State Policy which are 'fundamental in the governance of the country' and it is the duty of the State to apply these principles in making laws.

21. India has the unique provision where the citizen has a right to invoke the highest court of the land directly where violation of Fundamental Rights and human rights are concerned under Article 32. Similar provision exists under Article 226 for the States and their High Courts. These provisions have been used frequently and effectively.

B. Recent developments/issues

22. India has borne the brunt of terrorist activities over the last three decades from across the border. Insurgency in some parts has added another dimension. Terrorists and insurgents have taken advantage of our open and democratic society to perpetrate violence and killings with deleterious effect on the population and on their enjoyment of human rights. For e.g. the 26/11/2008 and 11/7/2006 terrorist attacks in Mumbai claimed several hundred lives and injured many more. Combatting these challenges has been a major priority since the threat they pose are existential. However, we are enthused by those insurgent groups and individuals, who have renounced violence and come forward to pursue the path of dialogue with the Government.

23. An internal challenge has been left wing extremism and violence. The Left Wing Extremists (LWE) have killed 464 civilians and 142 security forces between 1.1.11 to 31.12.11. Most of those killed by LWE belong to poor and marginalised sections of society.

They torture and execute after holding kangaroo courts called Jan Adalats. The Government believes that through a combination of development and security related interventions, the LWE problem can be tackled. We do not underestimate the challenge these so-called “Maoists” pose. The civil society needs to build pressure on them to eschew violence, join the mainstream and recognise the fact that the socio-economic and political aspirations of a 21st century India are far removed from their world-view. India is committed to meet these threats with compassion, people-oriented development and resolve.

C. Armed/security forces and human rights

24. The Government of India remains committed to fulfil its obligation to secure to its citizens all civil and political rights. Concerns have been raised about the Armed Forces Special Powers Act, 1958. At the outset, it is important to point out that the constitutionality of this Act was upheld by the highest judicial body in India i.e Supreme Court of India in *Naga People’s Movement for Human Rights v. Union of India* [AIR 1998 SC 431]. Even while doing so, the apex court has reduced the rigour of its provisions and laid down an elaborate list of dos and don’ts for army officials while working in disturbed areas.

25. This Act is considered necessary to deal with serious terrorist and insurgency/ militancy situation arising in certain parts of the country and uphold the duty of the state to protect and secure its citizens. It provides necessary powers, legal support and protection to the Armed Forces for carrying out proactive operation against the terrorists in a highly hostile environment. An analysis of the ground realities shows that the violence levels and the fighting ability of terrorists have reduced over the years. Nevertheless, they still possess sophisticated weapons and modern communication equipment and the terrorist infrastructure across the borders is still active. The terrorists continue to intimidate the public. In such a challenging environment, where the very lives of its citizens and the unity and integrity of India is at stake, as long as deployment of armed forces is required to maintain peace and normalcy, AFSPA powers are required. However, it is pertinent to point out that the extension of declaration of “disturbed areas” is a subject matter of periodic review in consultation with the State Government and security agencies.

26. The Army maintains continuous vigilance to prevent human rights violations by its forces. Human Rights Cell in the Army Headquarters was established in March 1993, even before the NHRC was constituted. These cells have been established at various levels. The investigations of violations are carried out swiftly and in a transparent manner and exemplary punishments are meted out to those involved. The troops are sensitized on upholding human rights and avoiding collateral damage. The Chief of the Army Staff has issued the Ten Commandments to be followed by the Army personnel while dealing with the militants and the insurgents. The Supreme Court has expressed its satisfaction with respect to these commandments in *Naga People’s Movement for Human Rights v. Union of India* [AIR 1998 SC 431] case, and observed that they were in essence a set of guiding principles for the prevention of human rights violation by the soldiers.

27. Since January, 1994 until December, 2011, out of 1,429 complaints of human rights excesses received against the personnel of Army and Central Para Military Forces, 1,412

have been investigated and 1,332 found false. In 80 cases, where the complaints were found genuine, stringent punishment has been imposed. 17 cases are under investigation.

D. Death penalty

28. In India, the death penalty is awarded in the 'rarest of rare' cases. The Supreme Court has restricted the use of death penalty only where the crime committed is so heinous as to 'shock the conscience of society'. Indian law provides for all requisite procedural safeguards. Juvenile offenders cannot be sentenced to death under any circumstances and there are specific provisions for pregnant women. Death sentences in India must also be confirmed by a superior court. The President of India in all cases, and the Governors of States under their respective jurisdictions, have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence. For instance, 13 mercy petitions were decided between 1.11.2009 and 23.11.2012 of which 10 were commuted to life imprisonment and 3 rejected.

The last death sentence in India was carried out in 2004.

E. Torture

29. India has signed the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. A Bill introduced in the Parliament was passed in the Lok Sabha in 2010. In Rajya Sabha, it was referred to a Parliamentary Select Committee which has made certain recommendations. These are under examination by the Government. Although India has not yet ratified the Convention, Article 21 and other Articles of the Constitution of India and the relevant provisions under the Indian Penal Code, 1860, provide for adequate safeguards. The Supreme Court of India, through its judgements, has also laid down exacting standards on this issue.

F. Detention and enforced disappearances

30. Article 21 and other articles of the Constitution as well as the Criminal Procedure Code provide protection to persons under detention. India has signed the Convention for Protection of all Persons from Enforced Disappearance in 2007. We are actively considering its ratification. The Constitution guarantees the right to approach the higher courts by way of Habeas Corpus petitions. Indian courts have also been awarding compensation in such cases even though our domestic laws do not have any such provision.

Apart from Article 21 itself, under Article 20(3) of the Constitution, no person accused of any offence can be compelled to be a witness against himself. Articles 22 (1) and (2) provide that a person who is arrested must be informed of the grounds of his arrest. The person also has the right to consult a lawyer of his choice. An arrested person must be produced before the nearest magistrate within 24 hours of his arrest. To protect persons in police custody from abuse, the Supreme Court has laid down specific rules that police must

follow while making arrests, such as informing relatives of an arrest or detention, recording the arrest in a diary, medical examination norms, signing of “Inspection Memo” both by the arrestee and the police officer effecting the arrest etc. (e.g. *D.K. Basu v. State of West Bengal* (AIR 1997 SC 610)).

31. In addition, the Code of Criminal Procedure (Amendment) Bill, 2010, was passed by Parliament and became law in 2010. It provides for additional protection to the accused from police arrests.

G. Access to justice and legal aid

32. In order to ensure greater access to justice for the cross-section of the population, India has taken important strides in this direction. The National Legal Services Authority (NALSA) was constituted in 1987 under the Legal Services Authorities Act, 1987 to provide free legal services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes. In every State, State Legal Services Authority and District Legal Services Authority have been constituted to give effect to the policies and directions of the NALSA. Until March 31, 2009, about 9.7 million people have benefited through legal aid in which about 1.4 million persons belonging to Scheduled Castes and 464,000 persons of Scheduled Tribe communities were beneficiaries. More than 1 million people were women and about 235,000 people in custody were also benefitted. About 725,000 Lok Adalats have been held throughout the country in which more than 2.68 million cases have been settled.

33. The Gram Nyayalayas Act, 2008 which came into force in 2009, provides for the establishment of Gram Nyayalayas (Village Courts) at the grass roots level for the purposes of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities. Many States have established the Gram Nyayalayas.

H. Corruption

34. In order to curb corruption and in a path-breaking development, the Government has introduced the Lok Pal and Lokayukta Bill in the Parliament in 2011. This was passed by the Lok Sabha in December 2011, and is now before the Rajya Sabha for its consideration.

I. Human trafficking

35. India has ratified the United Nations Convention against Transnational Organized Crime and its two protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, in May 2011. Article 23 of the Constitution prohibits both trafficking in human beings and forced labour. Substantive laws like the Indian Penal Code 1860, special legislations like the Immoral Traffic (Prevention) Act 1956, the Bonded Labour System (Abolition) Act 1976, etc. and local laws like the Goa Children’s Act 2003, provide the legal regime. In addition, judgments by

the Supreme Court and various High Courts have provided further legal strength to the law enforcement agencies.

36. India has made significant efforts on the issue of human trafficking. The Government has, inter alia, already set up 104 local anti-trafficking units and increased the numbers of convictions of people involved in human trafficking for forced labour. Project IND/S16 of the United Nations Office on Drugs and Crime, a joint initiative with the Government, was launched in April 2006. This project is focused on “Strengthening the law enforcement response in India against trafficking in persons, through training and capacity building”. It is proposed to establish 330 Anti-Human Trafficking Units throughout the country and impart training to 10,000 police officers through Training of Trainers (TOTs) component in three years. A comprehensive scheme for prevention of trafficking and rescue, rehabilitation, re-integration and repatriation of victims of trafficking for commercial sexual exploitation namely “Ujjawala” is being implemented since 2007 under which 86 rehabilitative homes have been sanctioned to accommodate nearly 4000 women victims. It is done in partnership with civil society.

J. Sexual orientation

37. Homosexual intercourse was a criminal offence until 2009 under Section 377 of the Indian Penal Code, 1860. The law was struck down by the Delhi High Court in 2009, in the matter of *Naz Foundation v. Govt. of NCT of Delhi* as a violation of fundamental rights in the case of consensual adults.

V. Economic, social and cultural rights

A. Developmental imperatives

38. The central vision of the 11th Plan (2007-2012) is to trigger a development process which ensures broad-based improvement in the quality of life in an inclusive manner. It includes several inter-related components, including rapid growth that reduces poverty and creates employment opportunities, access to essential services in health and education, equality of opportunity, empowerment through education, environmental sustainability, recognition of women’s agency and good governance. Larger resources are being invested in sectors providing basic services to the poor and for improving their capabilities to participate in the growth process, and in economically weaker states and backward regions. In fact, there is now a mandatory requirement that all Cabinet proposals should specifically mention how ‘equity’ will be served.

B. Right of children to free and compulsory education

39. The right to education is now guaranteed under Article 21-A as a part of the right to live with dignity. The Right of Children to Free and Compulsory Education (RTE) Act, 2009 came into effect from April 1, 2010. It makes it mandatory for every child between the ages of 6-14 to be provided free and compulsory education by the State. It is a justiciable right up to 8 years of elementary education in an age appropriate classroom in the

vicinity of his/her neighbourhood. The Act has special provisions for girl child education, including out of school girl children. It further mandates the private schools to ensure at least 25% of its seats are available for marginalised households. The implementation of RTE Act is a shared responsibility of both the central and the state governments and the total expenditure managed by the centre-state ratio of 68:32.

40. The Act has considerable implications for the implementation of Sarva Shiksha Abhiyan (SSA), which is Government's flagship programme for achievement of Universalization of Elementary Education (UEE) in a time bound manner. SSA is being implemented in partnership with State Governments and address the needs of 192 million children in 1.1 million habitations. The vision, strategy and norms under SSA are being harmonised with the RTE Act of 2009 mandate. The Right of Children to Free and Compulsory Education Rules, 2010 have been formulated and a National Advisory Council was set-up in 2010 to advise on implementation in an effective manner.

41. The Sarva Shiksha Abhiyan (SSA) has positively impacted the access and retention in schools and availability of teachers. SSA has ensured almost universal access to primary education and provides special focus on education of girls. The following achievements are worth mentioning:

- Rural habitations with access to primary school increased from 87 per cent in 2002 to 99 per cent in 2008, and that of upper primary school from 78 per cent to 92 per cent during the same period.
- 99% of the rural population has a primary school within 1 km.
- An independent survey in 2010 shows that for age group 6-14 years in rural India, the percentage of children who are not enrolled in school has dropped from 6.6% in 2005 to 3.5% in 2010.
- Proportion of girls in the age group 11-14 years who were out of school has declined from 11.2% in 2005 to 5.9% in 2010.
- Gross Enrolment Ratio (GER) at the primary level improved from 96.3 in 2001-02 to 114.37 in 2008-09, that for upper primary from 60.2 to 76.23.
- Gender gap in enrolment at the elementary level impressively declined from 17 to 7 percentage points. Gender Parity Index has appreciably improved.

42. Further, for increased access to quality secondary education with equity, Rashtriya Madhyamik Shiksha Abhiyan (RMSA) was launched in March 2009.

C. Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA)

43. In India, where labour power is the only economic asset for millions of people, gainful employment becomes the channel for the fulfilment of the other basic rights. The right to work was included in the Directive Principles of State Policy as an aspirational goal but the MGNREGA has made this a legal guarantee.

44. The NREGA Scheme is one of the largest in the world in terms of finances and outreach. It is demand driven and people-centered and implemented through a decentralised, bottom-up and participatory process. This model of rural growth is revolutionary because of its basic principles of inclusive growth, the right to work and a rational centre-state relationship.

45. Under MGNREGA, which was enacted in 2005, at least one adult member of every household in rural India has a right to at least 100 days of guaranteed employment every year. The statutory minimum wage is paid for casual manual labour and it shall be paid within 7 days of the week during which work was done. It pays particular attention to marginalised groups and women.

46. Since April 2008, this scheme has been extended to all the districts of the country. More than 54 million households were provided employment in 2010-11, marking a significant jump in coverage. Out of the 2.57 billion person-days created under the scheme during this period, 31 and 21 per cent were in favour of the Scheduled Castes (SC) and Scheduled Tribes (ST) population respectively, while 48 per cent of the total person days created went in favour of women. An allocation of Rs 400 billion has been made for MGNREGA in the Budget for 2011-12.

47. It is worth mentioning that states have reported that social audit has been conducted in more than 90% of the Gram Panchayats. 244,000 reports on Social Audit have been uploaded on the MGNREGA website. A new scheme of monitoring by eminent citizens has also been introduced. MGNREGA has also made excellent use of ICT-enabled Management Information System, where data is made available in the public domain. India is conscious of the difficulties in implementation of this ambitious scheme across India and is constantly reviewing it to address shortfalls.

D. Food security and strengthening of Public Distribution System

48. To make a paradigm shift from welfare to rights approach and provide food security to ensure the right to live with dignity, the government introduced the National Food Security Bill, 2011 in the Parliament in December 2011. The landmark Bill confers a legal right to cheaper food grains to 63.5 per cent of the country's population. Under this legislation, people eligible would be entitled to 7 kg of food grains comprising rice, wheat and coarse grains per person per month at very low rates. The law seeks to significantly extend the reach of India's existing public food distribution system that sells food items to low-income families much below market prices and, inter alia, give nutritional support to women and children. In a unique feature, the Bill provides that only woman can be treated as head of household for issue of ration cards.

49. The Public Distribution System (PDS) is the world's largest food programme and a crucial part of Government's policy for management of food economy. Given the joint responsibility of the Central and the State Governments, it is a dual purpose vehicle -

on the one hand, for giving farmers assured and remunerative prices for their produce through Minimum Support Price (MSP), and on the other, to provide food security to the most vulnerable sections. Government also makes allocation of food grains for other welfare schemes at subsidized below-poverty-line (BPL) prices. In addition, the 11th Five Year Plan schemes also give added fillip keeping in mind the requirements of small and marginal farmers.

E. Social security and labour

50. The Government has enacted the Unorganised Workers' Social Security Act, 2008 for providing social security to unorganised workers. The National Social Security Board was constituted in 2009 for formulation of social security schemes, namely: i) health and maternity benefits ii) death and disability and iii) old age protection. The Government has also set up National Social Security Fund for unorganised sector workers to benefit 433 million workers in the unorganised sector, including weavers, toddy tappers, rickshaw pullers, beedi workers and women workers.

51. The Rashtriya Swasthya Bima Yojana providing for smart card based cashless health insurance cover of Rs. 30,000 to BPL families in the unorganised sector has been launched. More than 21.8 million BPL families have been covered as on 30.11.2010.

52. To provide a life of dignity, eradication of the practice of manual scavenging is an area of priority for the Government and a three-pronged strategy has been adopted through legislation, development and rehabilitation. Out of the 770,000 manual scavengers and dependents to be rehabilitated by the National Scheme for Liberation and Rehabilitation of Scavengers and their dependents (NSLRS), 428,000 have been rehabilitated into alternative occupations. For the remaining 342,000, the Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) was launched in January, 2007. The Scheme is being implemented at the national level through the four National Finance and Development Corporations. All states have confirmed that eligible and willing beneficiaries identified under SRMS have been given financial assistance for alternative occupations.

53. India is also constantly striving to enhance protection to its workers from exploitation during the process of recruitment and during their employment overseas, through bilateral agreements and a range of policies and schemes.

E. Health

54. Under Article 47 of the Constitution pertaining to the Directive Principles of State Policy, the State has a duty to raise the level of nutrition and improve public health. Recognising this, the Government has launched the National Rural Health Mission. The Mission adopts a synergistic approach by relating health to determinants of good health viz. segments of nutrition, sanitation, hygiene and safe drinking water.

55. Massive investment in this sector has led to drop in infant mortality rate from 58 per 1000 live birth in 2005 to 47 in 2010; Maternal Mortality Ratio from 254 per 100,000 live births for 2004-06 to 212 for 2007-09 and total fertility rate to 2.6 (2009) from 3.2 (2000). India has not reported a single polio case since 12 January 2011. The number of newly detected HIV positive cases has dropped by over 50% in the last decade.

56. However, there are inequities based on rural-urban divide, gender imbalance and child nutrition. The Government's Strategy Note to 'Address India's Nutrition Challenges' was discussed with various stakeholders and presented to Prime Minister's National Council for India's Nutrition Challenges. A multisectoral programme for addressing nutrition in 200 high burden districts is being finalised. To bring pregnant women into the institutional fold, Janani Suraksha Yojana has seen phenomenal growth in the last 6 years and the beneficiaries have increased from 644,000 in 2005-06 to 10.6 million in 2010-11. The Janani Shishu Suraksha Karyakaram started from June, 2011 entitles pregnant women to a range of services in public health institutions including free delivery, free medicines, free diet and treatment of sick newborns.

G. Housing and rehabilitation

57. Housing shortage remains an area of concern and Government has enhanced its focus on this issue. The Indira Awaas Yojana (IAY) is a flagship scheme of the Ministry of Rural Development to provide houses to the Below Poverty Line (BPL) families in the rural areas. It has been in operation since 1985-86. Since inception, 27.3 million houses have been constructed at an expenditure of Rs. 795 billion (until January 2012). There is high degree of satisfaction with this scheme since beneficiaries participate in the construction of their own houses. The role of the State Government is limited to the release of funds and facilitating use of appropriate technology.

58. Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005 provides focused attention to integrated development of urban infrastructure and services in select 65 cities with emphasis on urban poor, slum improvement, community toilets/baths, etc. Under JNNURM, a total of 1.58 million dwelling units have been approved for construction. Out of these 533,000 dwelling units have been completed and 369,000 is under progress. The total Central share approved under JNNURM is Rs. 231 billion and Rs. 124 billion has been released to the states. Apart from regular state and regional reviews, Government has empanelled agencies to play the role of Third Party Inspection and Monitoring Agency (TPIMA) for monitoring the progress and quality of projects under JNNURM and instalments are sanctioned only after the quality is certified by the TPIMA.

59. Further, to create a slum-free environment, a new scheme 'Rajiv Awas Yojana' (RAY) has been launched in June, 2011. This scheme provides financial assistance

to states willing to assign property rights to slum dwellers and to avail of the same level of basic amenities as the rest of the town. The scheme is expected to finally cover about 250 cities by 2017 and funds have been released to 157 cities for preparatory work. The Affordable Housing in Partnership scheme has been dovetailed into this new scheme.

60. In a recent ruling in January 2012, the Supreme Court directed compliance with Article 21 by providing night shelters for the homeless since people sleeping on pavements in the night was a breach of their right to live with dignity. The Delhi High Court also ordered reopening of temporary night shelters.

61. Conscious of the need to address the issue of rehabilitation of displaced persons, the new National Mineral Policy of 2008 states that "... all measures proposed to be taken will be formulated with the active participation of the affected persons, rather than externally imposed."

H. Sanitation and drinking water

62. Total Sanitation Campaign (TSC) is a comprehensive programme to ensure sanitation facilities in rural areas. TCS has been able to accelerate the sanitation coverage from a mere 22% as per 2001 census to approximately 68% in December 2010.

63. The National Rural Drinking Water Programme is a flagship scheme to ensure that all households in rural areas have access to safe and sustainable drinking water facilities. More than 1.23 million rural habitations have been provided with this facility under this scheme. It is estimated that during the 11th Five Year Plan, an amount of nearly Rs.900 billion has been spent for this purpose. The latest NSSO survey of 2008-09 reveals that about 90% of the rural households obtain their drinking water from improved sources.

64. In a significant development, all schools in all States of India will have toilet facilities by April 2012, as directed by the Supreme Court of India under Article 21A. Similar directions by the Supreme Court have also ensured drinking water facilities to all schools in the country.

I. Poverty eradication

65. While, as per the Lakdawala Committee constituted by the Planning Commission, poverty declined from 36% in 1993-94 to 27.5% in 2004-05, as per the Tendulkar Committee, also constituted by the Planning Commission, poverty declined from 45.3% in 1993-94 to 37.2% in 2004-05. Significantly, in both the Committees' methodologies, the extent of poverty reduction in appreciable and in comparable percentage point is broadly the same.

VI. Groups in need of special attention

A. Children

66. A combination of law and robust policy initiatives has given a strong thrust to the protection and welfare of children in India. Children have received considerable attention in the 11th Five Year Plan. It takes forward the agenda of child rights by further strengthening legislations and expanding the delivery systems. Some of the initiatives include universalization of services for nutrition and development of children in the age group of 0-6 years; adoption of free and compulsory education for the age group of 6-14 years; amendment of existing legislations; and launch of comprehensive schemes for protection of children in difficult circumstances, working children, victims of trafficking and other vulnerable children.

B. National Commission for Protection of Child Rights

67. The National Commission for Protection of Child Rights (NCPCR) was set up on March 5, 2007 under the Commissions for Protection of Child Rights (CPCR) Act, 2005. It is one of the few commissions of its kind in Asia. The Commission ensures that all laws, policies, programmes, and administrative mechanism are in consonance with the child rights perspectives enshrined in the Constitution and Convention on the Rights of the Child. In addition, it takes suo motu cognizance of violation of rights and analyses data on children. During the year 2010-2011 (up to February 28, 2011), NCPCR has dealt with 675 complaints of violations/deprivations of child rights. The Commission constituted an Expert Group in 2009 with eminent persons for advice NCPCR's role in monitoring children's right to education. NCPCR has also involved civil society in the Social Audit of the RTE to strengthen the process of performance and delivery.

68. The impressive developments through the Sarva Shiksha Abhiyan have been dealt with earlier in the report.

69. The Juvenile Justice (Care and Protection of Children) Act, 2000, (JJ Act) is the principal legislation for the protection of children. The JJ Act was amended in 2006 and The Juvenile Justice (Care and Protection of Children) Rules, 2007, (JJ Rules, 2007) were also framed for effective implementation of the Act. In 2006, the scope of the Act was expanded, inter alia, by including child beggars and working children in the category of children in need of care and protection. In November, 2010, the Government introduced the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010, with the aim of removing discriminatory references against children affected by diseases such as leprosy, Hepatitis B, sexually transmitted diseases and tuberculosis. It has since been passed by the Parliament.

70. In 2006, the Prohibition of Child Marriage Act (PCMA) was enacted repealing the Child Marriage Restraint Act of 1929 making child marriage an offence.

C. Integrated Child Protection Scheme (ICPS)

71. The Integrated Child Protection Scheme (ICPS) for children in difficult circumstances was launched in 2009-10 and aims to reduce their vulnerability to situations and actions that could lead to abuse, neglect, exploitation, abandonment and separation. The Scheme subsumes three central schemes, namely: (i) Programme for Juvenile Justice, (ii) Integrated Programme for Street Children, and (iii) Scheme of 'Assistance to Homes (Shishu Greh) for Children. More than 90,000 children are benefiting under the Scheme. Initiatives include:

- Establishing Statutory Bodies in every district and service delivery structures for child protection at State and District levels
- Upgrading and establishing standard institutional services and putting dedicated child protection personnel in place
- Expansion of Emergency Outreach services (Childline services, 1098)
- Promotion of non-institutional care
- Initiation of Child Protection Division in the National Institute for Public Cooperation and Child Development (NIPCCD)
- Child Tracking System

D. Integrated Child Development Services (ICDS)

72. The period from birth to six years of age, especially those below two years of age is considered the most important period for any intervention on malnutrition. The ICDS, launched in 1975, is a comprehensive programme addressing the health, nutrition and preschool needs of children under six. It provides a package of services comprising of supplementary nutrition, pre-school non-formal education, nutrition & health education, immunization, health check-up and referral services. The Scheme, inter alia, aims to improve the nutritional and health status of pregnant and lactating mothers and children below 6 years of age. The Central Government contributes 90% of all costs and 50% of the cost of supplementary nutrition and the remaining is funded by the state governments. The budgetary allocation for ICDS has been greatly increased from Rs.103 billion in Tenth Plan to Rs.444 billion in the Eleventh Plan. Additionally, Rs. 90 billion has been allocated for maternity entitlements scheme. Recognising the need to cover children under two years of age, the 11th plan focused on 'restructuring' the ICDS, so that the programme is universalised, supplementary nutrition is of better quality, fund transfer is made on time and maternity and child care services are provided. Beneficiaries of the ICDS are 97.5 million, including 79.5 million children (6 months to 6 years) and 18 million pregnant and lactating mothers. The Prime Minister's National Council on Nutritional Challenges decided in November 2010 to strengthen the ICDS scheme.

73. The Pre-School Education (PSE) component of the ICDS Scheme is being strengthened to ensure universalisation of early childhood education and preparation of children, particularly those belonging to socially disadvantaged groups, for formal schooling.

The beneficiaries under PSE have increased from 21.4 million in 2004-05 to 33 million in 2007-08 and further to 35 million by December 2010.

E. Exploitation of children

74. The Information and Technology Act was amended in 2008 to address exploitation of children through the internet. Section 67 (b) of the Act provides for punishment for publishing or transmitting material depicting children in sexually explicit acts, etc. in electronic form.

75. Since sexual offences against children are not fully addressed by existing legislation, the Government introduced a Bill in Parliament on Protection of Children from Sexual Offences in March, 2011, which is currently under consideration of the Rajya Sabha. The Bill, inter alia, defines the offences, provides for special courts for such offences and stringent punishment to offenders.

F. Adoption and alternative care

76. Adoption procedures in the country are governed by specific guidelines notified by the Government and clearly define the roles and responsibilities of those involved. In order to incorporate the amended JJ Act, 2006 and Model Rules, 2007, wherein surrendered children could be rehabilitated through adoption in accordance with guidelines of Central Adoption Resource Agency (CARA), and keeping in mind the various directions from different courts and stipulations for inter-country adoptions laid down by the Special Commission of the Hague Convention held in 2010, it became imperative to revise the guidelines in June 2011 to reflect these changes. A web-based Child Adoption Resource Information and Guidance System (CARINGS) has been launched making the process of adoption more transparent.

G. Child labour

77. Given the socio-economic conditions in the country, a multi-pronged strategy for elimination of child labour has been adopted, which emphasises on legislative measures; general development programmes for the benefit of families of child labour and project based action in areas of high concentration of child labour.

78. As per Child Labour (Prohibition & Regulation) Act, 1986, children below the age of 14 years are prohibited for employment in hazardous occupations/processes specified in the Act. India has not ratified ILO Conventions No. 138 and 182 since they fix minimum age of employment as 18 years. The Government is working on the modalities of ratifying these ILO Conventions, particularly No. 182. Consultations are taking place. However, it is pertinent to point out that the Government issued three notifications in the last five years, expanding the list of banned and hazardous processes and occupations in Schedule II of the Child Labour (Prohibition and Regulation) Act,

1986. The number of occupations listed in Part A now is 18 and the number of processes listed in Part B is 65. Further, the worst forms of child labour are already prohibited under various Acts such as Bonded Labour System (Abolition) Act, 1976, Immoral Traffic Prevention Act 1956, the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 and Child Labour (Prohibition and Regulation) Act, 1986. Consequently there is no dearth of inclination to progressively eliminate child labour from India.

79. The Government is implementing National Child Labour Project (NCLP) for the rehabilitation of child labour. The NCLP is operational in 266 Districts, with about 7300 special schools. These special schools are mainly run by NGOs and impart non-formal/formal education, vocational training, etc. to children withdrawn from employment, so as to prepare them to join mainstream education system. 852,000 children have been mainstreamed under NCLP. There has been a 45% reduction in child labour over the last 5 years (2009-10).

H. Mid-Day Meals Scheme for children in schools

80. The coverage of this immensely popular and effective Mid-Day Meals Scheme for children in schools, which satisfies both ‘hunger’ and ‘education,’ has been extended even further in August 2009 and now covers all children studying in Classes I-VIII in Government, Government-aided and Local Body schools and Education Guarantee Scheme (EGS) and Alternative and Innovative Education centres supported under SSA, including Madarasas and Maqtabs as well as children under National Child Labour Projects.

I. Women

81. The Constitution of India guarantees equality of status of women and has laid the foundation for such advancement. It also permits reverse discrimination in favour of women and many important programmes have been designed specifically to benefit girls and women. A number of laws have been enacted by the Indian Parliament, which has brought forth a perceptible improvement in the status of women. Some of these are: Prohibition of Child Marriage Act, 2006, Hindu Succession Act, 1956; Indecent Representation of Women (Prohibition) Act, 1986; Dowry Prohibition Act, 1961; Maternity Benefit Act, 1961; the Equal Remuneration Act, 1976; The Immoral Traffic (Prevention) Act, 1956; Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994; and Protection of Women from Domestic Violence Act, 2005.

82. The Planning Commission of India, through its Five Year Plans is committed to enable women to be “equal partners and participants in development”. The Eleventh Five Year plan has recognized women as agents of sustained socio-economic growth and change and funding is being provided to a large number of gender specific schemes.

83. The amendment of the Hindu Succession Act in 2005 was an important legal reform which will contribute towards economic empowerment of women, giving daughters equal rights in the ancestral property.

84. Domestic violence against women is integrally linked to women's economic dependence and lack of support systems. Recognising this, the Protection of Women from Domestic Violence Act, 2005 has been envisaged as a civil law, which not only defines for the first time 'domestic violence' and entitles women to get a Protection Order, but also contemplates various forms of reliefs such as maintenance, compensation, residence and custody.

85. Declining Child Sex Ratio is a matter of concern. To deal with this, the Government has in place, inter alia, the Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act 1994 which prohibits sex selection and regulates prenatal diagnostic techniques to prevent their misuse leading to sex-selective abortion. Recent steps include amendment of Rules to provide for confiscation of unregistered machines, further punishment for unregistered ultrasound clinics and reconstitution and strengthening of the National Inspection and Monitoring Committee.

86. The Government launched the National Mission for Empowerment of Women (2010-15) in March 2010 to, inter alia, secure convergence of schemes of different Ministries of Central and State Governments, review gender budgeting and various social laws concerning women.

87. In several milestone decisions, the Supreme Court of India has established jurisprudence reinforcing women's rights and the provision of a safe and healthy environment at home and work.

88. Many women have also joined the Armed Forces. The Delhi High Court in a landmark verdict on March 12, 2010 has directed the Indian Air Force (IAF) to allow its lady officers to be eligible for the Permanent Commission (PC) status. Prior to this, women officers were restricted to Short Service Commission (SSC) status, which entitles a maximum service period of 14 years as against a PC officer who is eligible to serve till the age of 60 and are also eligible to various other benefits.

89. The National Commission for Women is a statutory body with the mandate to safeguard the constitutional and legal rights of women, redress deprivation of women's rights and promote gender justice and equality.

90. Mandatory registration of the wife in all property owned or acquired by the husband is another progressive step taken by many State Governments. Further, government financed asset ownership schemes have women's ownership of assets. Accordingly, in housing schemes like the Indira Awaas Yojana (IAY) or the Rajiv Gandhi Gramin LPG Vitrak (RGGLPGV) Scheme, the allotment is done in the name of the female member of the households or in the joint names of husband and wife.

91. Recognising that increased female literacy is a force multiplier for social development programmes, the Government has launched a National Mission for Female Literacy in 2009 to make every woman literate in five years.

92. The significant advance made by women today is evident from various socioeconomic indicators relating to health, literacy and education, workforce participation rate etc. In the field of education, girls constitute approximately 48.46% of the total enrolment of the primary level and 41.12% at the upper primary level (2009-10). The 2011 Census has shown improvements in the literacy rate of women, from 53.67% in 2001 to 65.46% in 2011, and in the total sex ratio, from 933 females in 2001 to 940 females per 1000 males in 2011.

93. The Janani Suraksha Yojana (JSY) has been covered above under 'Health.' Several schemes are being implemented to address infant and child mortality. Notable among these are Universal Immunisation Programme for immunisation of children against six vaccine preventable diseases; Integrated Management of Neonatal Childhood Illnesses (IMNCI), which focuses on the preventive, promotive and curative aspects among newborns and children; and the Reproductive and Child Health (RCH) Programme, which has entered its second phase (2005-2010).

94. In order to incentivise the birth of a girl child and encourage families to place a premium on her education and development, a number of States are implementing Conditional Cash Transfer schemes. Government is also implementing a similar scheme – 'Dhanalakshmi', launched in March, 2008, on a pilot basis. For nutrition and skill development of adolescent girls, a pilot scheme 'Sabla' has been launched in 200 districts.

95. Recognising the problem of "missing" girls as a result of sex-selective abortions, infanticide or neglect, the ICPS envisages setting up Cradle Baby Reception Centres in each district.

96. Recognising the compulsions faced by many women who continue to work till the last stage of pregnancy and resume work soon after childbirth, a new initiative has been launched recently in 2010-11 by the Ministry of Women and Child Development (MWCD). 'Indira Gandhi Matritva Sahyog Yojana (IGMSY)' is a Conditional Maternity Benefit (CMB) Scheme that has been launched on a pilot basis in 52 districts, with the two-fold objective of providing cash assistance to pregnant and lactating women to overcome loss of working days and providing better nutrition. The Scheme uses the ICDS platform and covers approximately 1.4 million women in the initial years.

97. Government has a unique provision where a 2-year child care leave can be availed of by its women employees anytime during the childhood years.

J. Mainstreaming gender

98. One of the key initiatives undertaken by the Government to promote gender equality has been the adoption in 2005 of Gender Budgeting as a tool for mainstreaming gender in all government policies and programmes. Through Gender Budgeting, the Government aims to ensure the translation of Government's policy on gender equity into budgetary allocations. To institutionalise this process, the Government had initiated the formation

of Gender Budget Cells (GBCs) within all Central Ministries/ Departments. So far 56 Ministries/Departments have set up GBCs. One of the focus of the National Mission for Empowerment of Women 2010 is to review gender budgeting.

99. The Government has also been focusing on interventions in the sphere of economic empowerment through generating employment opportunities for poor and women, capacity-building especially through the Self-Help Groups (SHGs) movement. There are around six million SHGs of which 80% are women's groups.

K. Registration of marriages

100. In spite of the socio-economic challenges, India is working towards making registration of all marriages compulsory. This direction comes from the Supreme Court which in *Seema v. Ashwini Kumar* (2006 (2) SCC 578), directed that registration of marriages of all persons, irrespective of their religion, who are citizens of India should be made compulsory in their respective states. In this context, 19 States have already taken necessary legislative measures.

L. Persons with disability

101. According to Census 2001, there are 2.19 million persons with disabilities in India who constitute 2.13 percent of the total population. Seventy-five (75) per cent of persons with disabilities live in rural areas, 49 per cent of them literate and only 34 per cent are employed.

102. The emphasis is now on social rehabilitation and mainstreaming them in the society. The Government has enacted three legislations for persons with disabilities, namely, (i) Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which provides for education, employment, creation of barrier free environment, social security, etc. (ii) National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999 has provisions for legal guardianship of the four categories and creation of enabling environment for as much independent living as possible (iii) Rehabilitation Council of India Act, 1992 deals with the development of manpower for providing rehabilitation services.

103. India became a party to the United Nations Convention on Rights of Persons with Disabilities (UNCRPD) in 2008. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act) requires to be modified to incorporate areas recognized in the UNCRPD. The Chief Commissioner and Commissioner respectively in the Centre and States function as Ombudsmen for Persons with Disabilities under the 1995 Act. The Government is in the process of drawing up legislation in place of PWD Act, 1995, in a consultative manner involving all stakeholders and keeping in view all developments in this sector. The courts have been active as well. For e.g. in *Suchita Srivastava v. Chandigarh Administration* (AIR

2010 SC 235), where a mentally challenged woman refused to give her consent for the termination of pregnancy, the Supreme Court held that a women's right to personal liberty includes the right to make reproductive choices and that the state must respect her choice.

M. Older persons

104. As our society is witnessing a withering away of the joint family system, a large number of parents and senior citizens are being neglected. The Maintenance and Welfare of Parents and Senior Citizens Act of 2007 was enacted in December, 2007 to ensure their need-based maintenance and welfare. The Act has already been notified by 23 States and all UTs. In pursuance of the National Policy on Older Persons, a National Council for Older Persons was constituted as the highest body to advise the Government and oversee the implementation of the policies. Due to uneven implementation, review is being carried out to strengthen implementation. The Ministry of Rural Development launched the Annapurna scheme in 2000-01 for indigent senior citizens of 65 years of age or above who are not getting pension under the National Old Age Pension Scheme, where 10 kilograms of food grains per person per month are supplied free of cost.

N. Scheduled castes and scheduled Tribes and minorities

1. Scheduled Castes (SC) and Scheduled Tribes (ST)

105. India's programme of affirmative action is without parallel in scale and dimension in human history. Apart from the Fundamental Rights to prohibit discrimination in any form, the Constitution also provides for advancement of Scheduled Castes (SC), Scheduled Tribes (ST) and other backward classes (OBC). Legislative measures and guaranteed political representation provides for strong and robust protection for SCs and STs. A programme of 'compensatory discrimination' reserves 15% for SCs and 7.5% for STs in employment, education and a range of areas. Quota for the OBCs has also been earmarked. Their socioeconomic backwardness has been specifically addressed in the Eleventh Plan through the approach of 'faster and inclusive growth' and a three-pronged strategy has been adopted namely: (i) social empowerment; (ii) economic empowerment; and (iii) social justice, to ensure removal of disparities and elimination of exploitation.

106. In upholding the constitutional commitment, specific legislations and programmes are being implemented specifically for SCs and STs:

- a) Central assistance is being provided for the effective implementation of the Protection of Civil Rights (PCR) Act, 1955, and the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities [PoA]) Act, 1989, mainly for:
 - i) State level SC and ST Protection Cell and Special Police Stations;
 - ii) Special Courts;
 - iii) Awareness generation;
 - iv) Inter-caste marriages; and
 - v) Relief to atrocity victims.

- b) In order to ensure speedy trial of cases under the SC/ST (Prevention of Atrocities) Act, 1989, special courts and special police stations for offences against SCs and STs have been set up in a number of States. 177 special courts and 77 special police stations have been set up.
- c) Constitution provides for several special provisions for protecting interests of Scheduled Tribes. A separate Ministry for Tribal Affairs was set-up in 1999.

107. There is a National Commission for Scheduled Castes, a Constitutional Ombudsman body, set up under Article 338 having wide powers to protect and promote the interests of SCs, and a National Commission for Scheduled Tribes as well.

108. Improving the educational status of SCs, especially of women and girl children in this category is one of the main priorities. The Centrally Sponsored Scheme (CSS) of postmatric Scholarships to SC students, involving 100 per cent Central assistance, has been accorded high priority in the Eleventh Plan. This scheme benefits about 4 million SC students annually and has been revised in 2010. Rajiv Gandhi National Fellowship (RGNF) scheme for SC students was launched in 2006 for providing financial assistance to SC students pursuing MPhil and PhD. Under this scheme, 2000 fellowships are provided annually to SC beneficiaries. There are parallel educational development schemes for ST candidates and students also.

109. The National Scheduled Castes Finance and Development Corporation (NSCFDC) was set up in 1989 to provide soft loans to SCs living below the poverty line for taking up income generating self-employment ventures. Rs 3250 million have been released towards equity of NSCFDC in the Eleventh Five-Year Plan. Beneficiaries covered under the scheme since its inception is 762,000 of which 410,000 (53.34%) are women. The National Scheduled Tribe Finance and Development Corporation is the counterpart organisation for the Scheduled Tribes.

110. India's sensitivity to the interests of the tribal population is equally unparalleled. The STs and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 rests forest rights and occupation in forest dwelling STs and other forest dwellers to address their insecurity of tenurial and access rights.

111. The revised CSS Strengthening Education among ST Girls in Low Literacy Districts scheme is being implemented in 54 identified low literacy districts where the ST population is 25 per cent or more and ST female literacy rate is below 35 per cent. Besides formal education, the scheme also takes care of skill upgradation.

112. The Planning Commission set up a Task Force to review guidelines on Scheduled Castes Sub-Plan (SCSP) and Tribal Sub-Plan (TSP) in June 2010. Pursuant to its recommendations, implementation of SCSP is being streamlined.

2. Minorities

113. The Ministry of Minority Affairs was created in 2006 in order to ensure a more focussed approach towards issues relating to the minorities. The National Commission for Minorities is a statutory body under the National Commission for Minorities Act of 1992. Other organisations like the Maulana Azad Education Foundation and National Minorities Development and Finance Corporation function under the Ministry.

114. The Government is actively pursuing minority related programmes under the Prime Minister's New 15-Point Programme for the Welfare of Minorities announced in 2006. It, inter alia, provides for earmarking 15% of the outlays for minorities in the flagship programmes of other Ministries, enhancing education opportunities, equitable share in economic activities and employment and equitable flow of benefits in development. Further, under this programme, 11.7 million scholarships have been given for minority students. Certain proportion of development projects is also to be earmarked for the minority concentration areas. Public Sector banks have been directed to open branches in districts having substantial minority population and 15,204 such branches have been opened till March 2011. Active consultation with the civil society is integral to the formulation of plans.

115. To monitor minority welfare schemes, a system of National Level Monitors was launched. Government has approved a sub-quota of 4.5% reservation for minorities within 27% OBC quota. In order to amend the Waqf Act 1995, the Waqf Amendment Bill 2010 was passed by the Lok Sabha and now is with the Rajya Sabha. Consequent to the recommendation of the High-level Committee, Government is implementing Multi-sectoral Development Programme since 2008 aimed at 90 Minority Concentration Districts with an allocation of Rs. 37 billion under the Eleventh Plan.

VII. Environment and National Green Tribunal

116. Fully conscious of India's role in environmental protection, in an unprecedented development, the National Green Tribunal has been established in October 2010 under the National Green Tribunal Act 2010 for, inter alia, effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right and giving relief and compensation for damages to persons and property. It is a specialized body equipped to handle environmental disputes involving multi-disciplinary issues. The Tribunal's dedicated jurisdiction in environmental matters shall provide speedy environmental justice and help reduce the burden of litigation in the higher courts.

VIII. Human rights education

117. The National curriculum for school education of National Council of Educational Research and Training (NCERT) has included the human rights education component in social science subjects. In order to create human rights education sensitivity and skills

amongst the teachers in schools, a module for teacher training programme has also been prepared by the taskforce of the NHRC for this purpose. NHRC has continued to play an active role in raising all round human rights literacy and awareness including month-long internship programmes for University students and programmes focussed on public servants especially police in collaboration with the Administrative Training Institutes and Police Training Institutions. In addition, the Central Board of Secondary Education (CBSE) has also evolved a syllabus for human rights education at lower level, which has come into force in 2008.

IX. India and the United Nations

118. India continues to play an active and constructive role in all human rights related issues in the UN, including the UN Human Rights Council. India has extended a standing invitation to Special Procedures Mandate Holders during the 18th Session of HRC in September 2011, in keeping with our Voluntary Pledges and Commitments made to the HRC in May 2011. India's contribution to the Voluntary Fund for technical Cooperation has been doubled to US\$ 100,000. We have also started contributing to the Voluntary Trust Fund on Contemporary Forms of Slavery of US\$ 25,000 per year and Voluntary Fund for Victims of Torture of US\$ 25,000 per year. These were also part of our Voluntary Pledges to HRC. We also contributed US\$ 1 million to UN Women.

119. In conclusion, India has a robust legislative and institutional framework to address the twin tasks of protection and promotion of human rights. In spite of a number of serious challenges, India remains deeply committed to human rights and has taken significant strides towards these goals.

3. Report of the National Human Rights Commission for the Second UPR of India



I. Introduction

Any assessment of India's human rights record must begin with the acknowledgment that no other country as large and populous or as diverse, ethnically and economically, has had to tackle the challenges of development using only democratic methods. The Indian experiment is so unique that it must be judged by its own benchmarks, which are set by a powerful and activist judiciary, a free media and vigilant civil society, which are guardians of human rights in an open society run by the rule of law. However, while there have been many successes, much remains to be done, including on the eighteen recommendations made at the first UPR to the Government of India. Since the same government remains in power, these lapses are its responsibility.

2. The NHRC has continued to monitor the full range of human rights on the basis of complaints received and on suo motu cognizance. The issues it monitors and the recommendations it makes go well beyond those of the first UPR, which addressed a narrow band of problems. However, since the second UPR will assess the government's performance on those, this paper focuses on them, though placed in the wider perspective, which the UN should not ignore.

3. To prepare for this report, the NHRC has held five regional consultations and a national consultation with NGOs, academics, officials and State Human Rights Commissions (SHRCs), even though its mandate and work involve a continuing dialogue with the Central and State Governments, whose performance on human rights it evaluates, and with civil society, from which the more serious complaints are received. It did so for two reasons: given the diversity of India, to ensure that regional priorities were captured, and to focus on the points on which the UPR will concentrate.

4. Around 350 people took part in these consultations, where the local or specialized knowledge that civil society shared was invaluable. Governmental participation was patchy, nor has the NHRC received from most Ministries the action-taken report on the recommendations of the first UPR which it sought in 2010. The SHRCs contributed almost nothing, confirming that most are still inchoate, and must be strengthened.

II. Civil and political rights

5. India has a comprehensive framework of laws and the Government remained willing to draft new laws to respond to domestic demands or to meet international obligations. However, the implementation of laws, the weakness of new Bills and the law's delay were areas of concern, among which the NHRC will highlight some:

- An anodyne Prevention of Torture Bill was passed by the Lower House of Parliament. It has been greatly strengthened by a Select Committee of the Upper House, and it would be a travesty if the original Bill is adopted.
- The Armed Forces Special Powers Act remains in force in Jammu & Kashmir and the North-Eastern States, conferring an impunity that often leads to the violation of human rights. This, despite the fact that India's 2011 report on the Optional Protocol to the CRC states that "India does not face either international or noninternational armed conflict situations".
- 35% of the complaints to the NHRC annually are against the police. In 2006 the Supreme Court issued seven binding directives to start reform, but little has been done, though the need is urgent.
- 9% of the complaints to the NHRC in 2010-11 were on inaction by officials or their abuse of power, confirming that laws are often not implemented or ignored.
- Custodial justice remained a problem. Jails are overcrowded and unhygienic, disease rampant and treatment poor. 67% of prisoners are under trial, either unable to raise bail or confined far longer than they should be because of the huge backlog of cases.
- There are inordinate delays in the provision of justice. 56,383 cases were pending in the Supreme Court at the end of October 2011. At the end of 2010, 4.2 million cases were pending in High Courts, and almost 28 million in subordinate courts.
- The scheduled castes and scheduled tribes remain particularly vulnerable despite laws to protect them, because of the indifference of public servants.
- The practice of bonded labour continues despite laws that ban it, and is taking new forms. The NHRC has received reports of bonded labour being used to execute defence projects in difficult areas.
- The degrading practice of manual scavenging festers on. Some States are in denial over this. The Indian Railways are the largest users of manual scavengers.
- The focal point set up in the NHRC for the protection of human rights defenders received complaints that several, including those working on minority rights and the rights of the scheduled castes and tribes, faced harassment in several States, including arbitrary detention.

III. Economic, social and cultural rights

6. Though, as the Government had reported at UPR 1, it has set up ambitious "flagship programmes" to provide these rights, they remain precarious:

- A massive public distribution system has not assured the right to food because malnutrition is endemic. The National Advisory Council has recommended that legal entitlements to subsidized foodgrains be extended to at least 75% of the population. This is not acceptable to the Government, which sets arbitrary ceilings on the numbers who can be declared as being below the poverty line.
- The official estimate that 27.5% of the population was below the poverty line in 2004-05 grossly understates the incidence of poverty. The expert committee set up by the Planning Commission put the figure at 37.2%. Other committees set up by Ministries peg it even higher.
- Over 90% of the workforce is in the unorganized sector, has no access to social security, is particularly vulnerable in the cities, and is therefore driven into permanent debt, often leading to conditions of bonded labour.
- The National Rural Employment Guarantee Scheme guaranteed 100 days of work a year to any rural household that needed it. Government data showed that 56 million households applied, 55 million were given work but on average received half the wages guaranteed. The Scheme has not therefore made enough of an impact, very large sums of money have been siphoned off, and it does not provide long-term employment or build permanent assets.
- Public spending on health continues to be abysmally low, at about 1% of GDP, despite Government's commitment to raise it to 2-3%. The public health system is riddled with problems; vast numbers in the villages get little or no medical care. A performance audit by the Auditor General and an evaluation done for the Planning Commission have both found serious deficiencies in the National Rural Health Mission.
- The current National Family Health Survey reports that "the percentage of children under age five years who are underweight is almost 20 times as high in India as would be expected in a healthy, well-nourished population and is almost twice as high as the average percentage of underweight children in sub-Saharan African countries." A huge programme called the Integrated Child Development Services was set up in 1975, but an evaluation done in 2011 for the Planning Commission found that 60% of the annual budget for supplementary nutrition was being diverted. (A study done for the NHRC confirms this.) The quality of education, particularly in the villages, is dismal; the infrastructure is appalling, teachers are absent, para-teachers are poorly trained. Learning levels and literacy are both very low.
- The Indira Awas Yojana, set up to provide rural housing, requires that an applicant have a plot of land. Millions of landless are excluded. The scheme does not give enough to build a house, and there is some evidence that those who take the money end up in debt. An evaluation done for the Planning Commission found that there was no quality control, including in seismic zones. Neither is there an insistence that toilets be built. The safety of residents and sanitation remain serious concerns.

- The NHRC, which monitors human rights in 28 representative districts across India, finds in its field visits that none of the flagship programmes function well.
- Rapid growth, the development of infrastructure and the expansion of mining industries, have all led to massive displacements of populations, often without their informed consent. The NHRC's monitoring finds that usually those displaced are given neither adequate relief nor the means of rehabilitation.
- The denial or the abuse of, or the inability to access, their rights hit the most vulnerable the hardest – women, children, the scheduled castes and tribes, and the minorities.

IV. Implementation of Recommendations in UPR 1

7. The NHRC's assessment of how far the Government has responded to the recommendations made in UPR 1, which follows, should be read in the context of these larger failures.

8. On Recommendation 1, the Prevention of Torture Bill, 2010 was weak. If the Act eventually adopted dilutes the revisions made by the Select Committee, it will call into question the Government's commitment to the Convention against Torture.

9. On Recommendation 2, Government has not involved civil society in the followup to UPR 1, but some Ministries do consult it in the formulation and implementation of their programmes.

10. On Recommendation 3, to energize "existing mechanisms to enhance the addressing of human rights challenges", the record is uneven because:

- The Central Government has continued to let the National Commissions function independently, but given them no added powers or greater resources;
- the State Human Rights Commissions are mostly moribund;
- very few Human Rights Courts have been set up.

11. On Recommendation 4, the Government has taken a belated step to "encourage enhanced cooperation with human rights bodies" by issuing a standing invitation to Special Procedures mandate-holders, in response to Recommendation 14, so it should not be difficult for it to act on Recommendation 15, which asked it to receive the Special Rapporteur on the question of torture.

12. The Government's decision is welcome, but it still sends delayed reports or none to treaty bodies, and its apathy on Recommendations 2 and 3 (both of which it accepted) reflects a reluctance to engage "relevant stakeholders".

13. On Recommendation 5, the Human Development Report 2011 of the Planning Commission has some disaggregated data, but not on caste and related discrimination,

though from its experience the NHRC believes this is essential, not least in key areas such as :

- crimes committed against women and children from the Scheduled Castes and Scheduled Tribes;
- violence against women other than rape;
- bonded labour, child labour and manual scavenging;
- custodial violence, illegal detention and torture.

14. On Recommendation 6, ignoring a request from the NHRC, the Government has taken no steps to sign and ratify the Optional Protocol to CEDAW.

15. On Recommendation 7, which asked the Government to consider signing and ratifying ILO Conventions 138 and 182, it claims that, though it accepts the spirit of the Conventions, it cannot ratify them because socio-economic conditions make it difficult to prohibit the employment of children. This is an argument now even less tenable after the passage of the Right to Education Act in 2009. India now has a law that makes it compulsory for children to be at school till they are 14, and another that lets them work.

16. Despite this absurdity, the Government has not acted on Recommendation 9, which asked it to review its reservation to Article 32 of the CRC. The NHRC has seconded this recommendation but received no response. Child labour therefore flourishes, the right to education will languish.

17. On Recommendation 8, while the NHRC shares with other NHRIs its experience in the promotion and protection of human rights, it is not aware if the Government has any programmes to do so, though it accepted this recommendation.

18. On Recommendation 10, the Government accepts the need for inclusive development, but the implementation of the flagship programmes through which it addresses “economic and social inequities” has not been encouraging. These programmes, which take the poor as targets rather than as agents of change, are well-meant but not well-conceived, have been lavishly funded but have also been looted by the corrupt. The intended beneficiaries get a small proportion of their supposed entitlements.

19. On Recommendation 11, accepted by the Government, there is still no national action plan for human rights. Since the Government has ignored its requests, the NHRC has started to draft a plan, on which it will consult civil society and other stake-holders.

20. On Recommendation 12, there is no evidence that the Government intends to ratify the Convention on Enforced Disappearance. Enforced disappearance is not codified as a criminal offence in domestic law, nor are extant provisions of law used to deter the practice. The NHRC received 341 complaints of disappearance in 2010, 338 so far in 2011; these are by no means comprehensive but still significant numbers, which underline the need for the Government to act.

21. On Recommendation 13, there has been little progress on strengthening human rights education (HRE). Education is primarily the responsibility of the States in India, and almost none has given this priority. The NHRC works with schools, colleges, universities and NGOs to promote HRE, and has made recommendations to the Second Phase of the World Programme for HRE on the possible target groups and thematic issues for India.

22. On Recommendation 16, which the Government accepted, the NHRC is not aware that it has had a formal follow-up process to the UPR; the question of integrating a gender perspective in it does not therefore arise. This should be corrected after UPR 2. Gender budgeting is, however, now an integral part of the budgetary process.

23. On Recommendation 17, to amend the Special Marriage Act and give equal rights to property accumulated during marriage, there have been no developments.

24. Recommendation 18 asked the Government to continue its efforts “to guarantee a society... well fed, well housed, well cared for and well educated”. The NHRC’s overview of the state of human rights in India will show that these efforts have met with very limited success.

V. The Naxal movement

25. The spread of this violent left-wing extremist movement is a cautionary tale. It claims to speak for, and recruits from, the adivasis, forest-dwelling tribals who have suffered years of such neglect and exploitation that some of them have been alienated enough to join a movement that calls for the violent overthrow of democracy. Estimates are that 200 out of the 600 districts in India are affected, though the Government puts the figure at around 60 districts; even so this means that perhaps 120 million people are affected. Belatedly, the Government is trying to bring the fruits of development to these areas, but the violent opposition of the Naxals, who destroy even schools and attack officials, means that in the areas they control, human rights have become even more parlous: governance and the rule of law rarely function. The villagers are the victims of Naxal violence, and collateral damage in the counter-insurgency operations. It will be an immense challenge for a democracy to defeat a movement that respects no human rights, through means that safeguard and do not violate the rights of the citizens it must protect.

4. Report of Asian Centre for Human Rights for the Second UPR of India

25 November 2011



The State of Human Rights in INDIA: A Stakeholders' Report for the 13th Session of the UPR in 2012

I. NGO Consultation on the UPR

This Stakeholders' report is being submitted on behalf of the Peoples Forum for UPR (PF for UPR) of which ACHR serves as the Secretariat. A National Consultation was held at India Islamic Cultural Centre, New Delhi on 8-9 October 2011 to prepare this submission. The list of stakeholders of this report is provided in the **Annex 1**.

II. Status of implementation of the 2008-UPR recommendations

The UPR in its session in April 2008 made 18 recommendations to the Government of India (GoI).¹ The only recommendation that has been implemented is extending standing invitation to the Special Procedures mandate holders in September 2011. While the GoI reportedly already extended invitation to a number of mandate holders for visit prior to the next UPR session, it reportedly failed to extend the invitation to the Special Rapporteur on Torture.

The government of India has failed to ratify the UN Convention Against Torture – a commitment made in 2008. The Parliamentary Select Committee of the Rajya Sabha² adopted the *Prevention of Torture Bill* on 6 December 2010. The GoI failed to introduce the Bill in the winter session of parliament that started on 22 November 2011.³

India further failed to adopt the National Action Plan for Human Rights despite starting the process on 10 July 1998.

¹ A/HRC/8/26/Add.1 dated 25 August 2008

² Upper House of Indian Parliament

³ Press Information Bureau, "Passage of Pending Bills Top Priority of the Government: Pawan Kumar Bansal, Parliamentary Affairs Minister Addresses Pre-Session Press Conference, 16 November 2011, <http://pib.nic.in/newsite/crelease.aspx?relid=77251>

III. Compliance with international human rights treaties

Since 2008 Review, India only **ratified** the UN Convention Against Corruption. It has failed to ratify the major human rights conventions: UNCAT, 1951 UN Convention relating to the Status of Refugees, ICRMW, CED, CEDAW-OP and ICCPR OP1 and OP 2, the Rome Statute of the International Criminal Court, ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, Anti-Personnel Mine Ban Convention and the Additional Protocols II to the Geneva Conventions.

a. Status of international treaties under the constitutional/legal framework

International treaties are not self-executing in India. It was only on 23 August 2011, the Office of the President of India issued a directive stating that *“accession to, or ratification of such Conventions/Treaties, be undertaken only after the relevant domestic laws have been amended, or the enabling legislation has been enacted in cases, where there are no domestic laws on the subject”*.⁴ The notice is silent with respect to the treaties already ratified by India on which there are no domestic laws.

b. Status of human rights mechanisms

All the **National Human Rights Institutions** of India such as the National Human Rights Commission (NHRC), National Commission for Women (NCW), National Commission for Minorities (NCM), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), National Commission for Protection of Child Rights do not comply with the Paris Principles on NHRIs. First, none of them can make their Annual Reports public without the same being first placed before the parliament. Not a single Annual Report of the NCST has been made public since 2004 despite submissions of four reports to the President of India.⁵ Second, there is no legal guarantee to ensure plurality in the composition of members. Many NHRIs lack representation from women and vulnerable groups. Currently, the NHRC has no female member. Third, the NHRIs do not have financial autonomy and cannot hire their own permanent staff. The staffs are on deputation from various departments including the Intelligence Departments.

The NHRC cannot investigate human rights violations by the armed forces of the Central government and the India Army under Section 19 of the Human Rights Protection Act (HRPA). Further, under Section 36(2) of the HRPA, the NHRC is barred from inquiring “into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed”.⁶

⁴ No.1/13/2/2010-Cab GOVERNMENT OF INDIA/ CABINET SECRETARIAT/ RASHTRAPATI BHAVVAN dated the 23rd August 2011, http://cabsec.nic.in/showpdf.php?type=circulars_23august_2011&special

⁵ National Commission for Scheduled Tribes, <http://ncst.nic.in/index2.asp?slid=490&sublinkid=280&clangid=1>

⁶ Human Rights Protection Act, 1993 as amended in 2006 available at www.nhrc.nic.in

The Jammu and Kashmir (J&K) State government does not accept the jurisdiction of the NHRC. It has recently filed a writ petition No.980/2011 before the J&K High Court against the NHRC and Asian Centre for Human Rights (ACHR) after the NHRC awarded compensation to the relatives of Mr Mohan Lal, a victim of torture pursuant to a complaint filed by the ACHR.⁷

IV. Human rights situation on the ground since 2008

A. Equality and non-discrimination

Equality and non-discrimination are guaranteed in law but not in practice. Further, special laws and policies for promotion and protection of the rights of the Dalits, indigenous peoples, religious minorities, women, children and disabled are not implemented effectively.

Patriarchy remains the root cause of discrimination against women. There is preference for boys and the Pre-Natal Diagnostic Techniques Act and other measures have failed to curb cases of female foeticide. According to the provisional census of 2011, the sex ratio (the number of females per 1,000 males) for the 0-6 age group plummeted to 914 from 927 in 2001 census. Haryana reported the worst sex ratio of 830 females in the country in the 0-6 age group.⁸ **Dowry deaths of women** are widespread despite the Dowry Prohibition Act. A total of 24,946 dowry deaths were reported during 2008-2010 respectively 8,172 cases in 2008, 8,383 cases in 2009 and 8,391 cases in 2010.⁹

The Dalits who constitute 16.2% of the total population face segregation and are denied access to public places and services including places of worship, electricity, water etc. The following cases illustrate the grim situation: On 2 November 2011, Justice C S Karnan of the Madras High Court alleged humiliation by fellow judges on the basis of his caste since April 2009 and filed a complaint with Chairman of the NCSC who forwarded it to the Chief Justice of India.¹⁰ Earlier, on 24 June 2011, Chairperson of the NCSC Mr P L Punia himself a Dalit was denied entry into a Hindu temple at Ranapada village in Puri district, Orissa.¹¹ On 20 July 2011, Kashinath Mallik, a Dalit Member of Legislative Assembly in Orissa, was allegedly not allowed to eat food along with his colleagues at an official meeting.¹²

⁷ NHRC Case No. 55/9/2003-2004-AD/UC, http://www.achrweb.org/impact/compensations/Mohan_Lal.pdf

⁸ 2011 Provisional Census figure

⁹ Crime in India 2009 and Crime in India 2010, National Crimes Records Bureau (NCRB) under the Ministry of Home Affairs (MHA), <http://ncrb.nic.in/>

¹⁰ Judge rubbed his shoes against me, says Justice Karnan, The Times of India, 4 November 2011

¹¹ Dalit denied entry in temple: Orissa government steps in to resolve issue, Daily News and Analysis, 25 June 2011, http://www.dnaindia.com/india/report_dalit-denied-entry-in-temple-orissa-government-steps-in-to-resolve-issue_1559008

¹² Orissa: Dalit MLA faces discrimination, IBN News, 23 July 2011, <http://ibnlive.in.com/news/orissa-dalit-mla-faces-discrimination/169542-3.html>

The **indigenous peoples / tribals** who constitute over 8% of the total population face discrimination for access to justice, health, education, food security and political representation. Many of the Particularly Vulnerable Tribal Groups are on the verge of extinction while others are stigmatized under the 'Habitual Offenders Act'.

Religious minorities face acute discrimination and acts of violence. The Muslims are usually the first suspects of terror attacks though investigations also revealed involvement of the Hindu extremist groups in the 2006 Malegaon bomb blasts (Maharashtra), the 2007 Mecca Masjid blast (Hyderabad, Andhra Pradesh), the 2007 Samjhauta Express train bombing (Haryana), the 2007 Ajmer Sharif Dargah blast, and the 2009 Goa blast.¹³

The GoI pursues **discriminatory programmes**. While the widows of those killed by alleged terrorists are given rehabilitation under the 'Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal Violence', the widows of alleged terrorists killed by the security forces are not provided any assistance.¹⁴ There were at least 27,000 conflict-afflicted widows in J&K,¹⁵ 15,000 in Manipur,¹⁶ and over 1000 in Assam (as of April 2007).¹⁷

B. Civil and political rights

i. Armed conflicts, public emergency and derogation from the right to life

About 21 out of 28 States are afflicted by **internal armed conflicts** where violations of international humanitarian laws are common.¹⁸ During 2008-2010, these armed conflicts led to the killing of 1,234 persons in J&K,¹⁹ 3,798 persons in the Naxal conflict spread over 13 States;²⁰ and 932 persons in seven North Eastern States.²¹ The International Committee of the Red Cross is not given access except to J&K.

¹³. Saffron Terrorism – a new phenomenon, says Home Minister Chidambaram, NDTV, 25 August 2010, <http://www.ndtv.com/article/india/saffron-terrorism-a-new-phenomenon-says-home-minister-chidambaram-47193>

¹⁴. Page 8, Annual Report 2008-09, MHA, [http://www.mha.nic.in/pdfs/AR\(E\)0809.pdf](http://www.mha.nic.in/pdfs/AR(E)0809.pdf)

¹⁵. Survey on orphans and widows in Kashmir, The Hindustan Times, 28 April 2010, <http://www.hindustantimes.com/India-news/JAndK/Survey-on-orphans-and-widows-in-Kashmir/Article1-536651.aspx>

¹⁶. Manipur 'gun widows' call for end to violence, The Telegraph, 18 June 2011, http://www.telegraphindia.com/1110618/jsp/northeast/story_14126459.jsp

¹⁷. Statement of Tarun Gogoi, Chief Minister of Assam, <http://news.webindia123.com/news/articles/India/20070419/640792.html>

¹⁸. The 21 States are: Jammu and Kashmir, seven northeastern States of Assam, Arunachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland and Tripura and 13 Naxalite affected States of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal.

¹⁹. Annual Reports for 2008 to 2010, MHA

²⁰. Naxal Management Division of the MHA, http://mha.nic.in/uniquepage.asp?Id_Pk=540

²¹. Annual Reports for 2008 to 2010, MHA

The State uses **illegal and unconstitutional means** for counter-terrorism. Since 2005, the Chhattisgarh government armed the tribal civilians as Special Police Officers (SPOs) to fight the Maoist insurgents resulting in serious human rights violations. After the Supreme Court declared the appointment of the SPOs in Chhattisgarh as “illegal and unconstitutional” on 5 July 2011,²² the Chhattisgarh State government responded by inducting the SPOs into regular police force retroactively without any training and consideration of educational qualification. On 18 November 2011, the Supreme Court while considering the appeal against the order of 5 July 2011 held that the ban on the SPOs will be limited to Chhattisgarh only.²³ The SPOs who have been declared “illegal and unconstitutional” have become legal!

In J&K and North East India, GoI imposes “**State of Emergency**” through the Disturbed Areas Act, 1976. Once an area is declared “disturbed”, the Armed Force Special Powers Act, 1958 (AFSPA) comes into effect. In November 2011, the Attorney General in his legal opinion to the Central Government stated that Governor of the State, the representative of the President of India, is the final authority for declaration and revoking of the Disturbed Areas Act and the AFSPA. This effectively implies that the areas declared as “disturbed” are under President’s Rule which is a state of emergency.²⁴

At present, the entire State of Manipur (except Imphal Municipal area), Nagaland and Assam, Tirap and Changlang district of Arunachal Pradesh and 20 km belt in the States of Arunachal Pradesh and Meghalaya having common border with Assam have been declared ‘Disturbed Areas’. Tripura has declared the areas under 34 police Stations in full and part of the areas under six Police Stations as ‘Disturbed Area’.²⁵ Out of the 22 districts, 20 districts of J&K have been declared disturbed.²⁶

Section 4(a) of the AFPSA empowers non-commissioned officers to “fire upon or otherwise use force, even to the causing of death”. It is a clear **derogation** from Article 6 of the ICCPR. India as a party to the ICCPR has not informed to “the other States Parties to the Covenant, through the intermediary of the Secretary-General of the United Nations”.

ii. Right to life

Custodial deaths are rampant and a total of 14,231 persons i.e. more than four persons per day died in police and judicial custody in India from 2001-2002 to 2010.

²². Salwa judum is unconstitutional: Supreme Court, 6 July 2011, CNN-IBN, <http://ibnlive.in.com/news/salwa-judum-is-unconstitutional-supreme-court/165150-3.html>

²³. <http://www.ndtv.com/article/india/supreme-court-order-banning-special-police-officers-in-anti-naxal-operations-will-apply-only-to-chha-151011>

²⁴. AFSPA: Law says Guv, not CM, has the last word, The Hindustan Times, New Delhi, 23 November 2011

²⁵. Ministry of Home Affairs, Annual Report 2010-11, Page 17

²⁶. Four districts in J-K to bid adieu to AFSPA soon, Indian Express, 23 October 2011, <http://www.indianexpress.com/news/four-districts-in-jk-to-bid-adieu-to-afspa-soon/864325/0>

This includes 1,504 deaths in police custody and 12,727 deaths in judicial custody. Many of these deaths are as a result of torture.²⁷

The civilians are routinely killed in **disproportionate use of fire-arms** by the law enforcement personnel. A total of 740 civilians were killed in police firing from 2008 to 2010, including 239 persons in 2010,²⁸ 184 persons in 2009,²⁹ and 317 persons in 2008.³⁰ In J&K alone, at least 109 persons, including children and women, were killed in firing by security forces during the mass protest in the Kashmir Valley during 11 June 2010 to September 2010.³¹

Extrajudicial executions too are rampant. There were at least 132 cases of encounter killing at the hands of the police during 2008-09³² and 177 cases in 2007-08.³³ These figures do not reflect the actual number of extrajudicial executions as the executions by the armed forces and the army are excluded. The Assam Police in its website claimed that they have killed 129 persons in encounters during January – July 2010.³⁴ Earlier on 20 January 2010, the NHRC while dealing with a complaint filed by ACHR directed the state government of Manipur to open 111 cases of fake encounters.³⁵ The Border Security Forces (BSF) allegedly extrajudicially killed 23 persons in 2008, 20 persons in 2009, 12 in 2010 and 9 in 2011 in the Indo-Bangladesh border.³⁶

Death penalty given to 137 convicts in 2010 exposes the hollowness of India's claim for application of the "rarest of the rare case" principle while awarding capital penalty. In 2009, the Supreme Court called for death sentence for those guilty of dowry deaths and bride burning.³⁷ On 9 May 2011, the Supreme Court further directed the courts to award death sentence in cases of "honour killings".³⁸ On 8 June 2011, a special court in Etah in Uttar Pradesh sentenced 10 persons to death in a case of "honour killing".³⁹ On 1 March 2011, eleven people were sentenced to death in the Sabarmati Express arson case which led to infamous Gurajat riots in 2002.⁴⁰ Further, President Pratibha Patil rejected the mercy petitions of Devinder Pal Singh Bhullar of Punjab, and Mahendra Nath Das

²⁷. Torture in India 2011, Asian Centre for Human Rights, 22 November 2011 quoting the NHRC data submitted to the parliament of India

²⁸. Chapter 14 of "Crime In India 2010", NCRB, MHA

²⁹. Chapter 14 of "Crime In India 2009", NCRB, MHA

³⁰. Chapter 14 of the "Crime In India 2008", NCRB, MHA

³¹. Asian Centre for Human Rights, "Indian army's role in Kashmir's Intifada", India Human Rights Report Quarterly, July-Sept 2010, <http://www.achrweb.org/ihrrq/issue1/ihrrq-jul-sep-2010.pdf>

³². Annual Report 2008-09, NHRC

³³. Annual Report 2007-08, NHRC

³⁴. <http://assampolice.com/archives/press/archpress.php>

³⁵. The NHRC order is available at http://www.achrweb.org/ncpt/compensations/R_K_Sanjoba.pdf

³⁶. Information provided by Manab Adhikar Suraksha Manch to ACHR on 25 November 2011

³⁷. Hang those guilty in dowry death cases: SC, CNN-IBN, 1 June 2009, <http://ibnlive.in.com/news/hang-those-guilty-in-dowry-death-cases-sc/93882-3.html>

³⁸. Award death penalty for honour killings: SC, Indian Express, 9 May 2011, <http://www.indianexpress.com/news/award-death-penalty-for-honour-killings-sc/787987/>

³⁹. 10 get death for honour killing, Times of India, 9 June 2011

⁴⁰. Eleven get death penalty for Godhra train carnage, The Hindustan Times, New Delhi, 1 March 2011

of Assam in May 2011 and of Murugan, Santhan and Perarivalan in August 2011. On 10 August 2011, the Ministry of Home Affairs (MHA) advised the President to reject the mercy petition of Afzal Guru.⁴¹

iii. Personal liberty

The constitution of India allows **preventive detention**. A number of Central legislations like the Unlawful Activities Prevention Act and the National Security Act, and State legislations like the *Chhattisgarh Special Public Safety Act*, the J&K Public Safety Act etc allow preventive detention without trial.

At the end of 2009, **2,232 persons were detained under preventive detention laws** including 835 in Tamil Nadu, 356 in Gujarat, 294 in Uttar Pradesh, 182 in J&K, 143 in Manipur, 82 in Maharashtra, 70 in Kerala, 51 in Madhya Pradesh, 42 in Nagaland, 40 in Andhra Pradesh, 38 in Meghalaya, 27 in Rajasthan, 17 in Karnataka, 15 in Delhi, 13 in Punjab and 10 in Bihar among others.⁴² These figures are miniscule of the actual detention under the preventive detention laws. Further, the Uttar Pradesh Government claimed that 1,797 notorious criminals were detained under the National Security Act in the state.⁴³

As per the ACHR's report, *Juveniles of J&K: Unequal before the Law & Denied Justice in Custody* of November 2011, children in J&K have been consistently detained under the J&K Public Safety Act in clear violation of the Supreme Court ruling that juveniles must be tried under the juvenile laws.

iv. Denial of right to nationality and participation in public life

About 53,721 Chakmas and Hajongs of Arunachal Pradesh, two thirds of whom are born in India, who had migrated to India in 1964 have been denied Indian **nationality, right to vote, registration of births and deaths** etc despite the directions of the Supreme Court of India in the case of *National Human Right Commission vs. State of Arunachal Pradesh & Anr.* [W.P(C) No 720/20050 and the Delhi High Court [WP(C) No.886 of 2000]. The Central government and the Election Commission of India failed to implement the judgements of the Courts.

About 250,000 Hindu and Sikh minorities of J&K have been **denied citizenship** under the Constitution of J&K recognized under Article 370 of the Constitution of India. As a result, these Sikh and Hindu refugees can neither own property nor can get government jobs and any other benefits that accrue to the citizens of J&K.⁴⁴

⁴¹. Rajiv Gandhi assassination: President rejects mercy petition of killers, The Economic Times (online), 11 August 2011, , http://articles.economictimes.indiatimes.com/2011-08-11/news/29876186_1_mercy-petition-hara-kanta-das-mahendra-nath-das

⁴². "Prison Statistics in India 2009", Table 3.3, NCRB, MHA

⁴³. Top Priority to law & order, Hindustan Times, 18 September 2011

⁴⁴. Asian Centre for Human Rights, "Hindu and Sikh refugees from Pakistan: Majority Kashmiris have a case of extreme discrimination to answer!", India Human Rights Report, October-December 2010, <http://www.achrweb.org/ihrrq/issue2/ihrrq-oct-dec-2010.pdf>

v. Torture

Torture in police custody is rampant and torture is not a crime. The NHRC recorded a total of 4,034 custodial deaths and 1836 cases of torture in police custody during **2008-09 to 2010-11**.⁴⁵ **ACHR asserts that 99.99% deaths in police lock up are a result of torture which take place within 48 hours of the victims being taken into custody.**⁴⁶

The **prison conditions are sub-human and deplorable**. Overcrowding and the lack of quality food and lack of access to justice (not being produced in jails) lead to inhuman and degrading treatment. There were a total of 385,352 prisoners against the total capacity of 302,457 prisoners in the 1369 jails of the country as on 30 June 2009 representing an overcrowding of 27.4%. Out of them 2,61,557 i.e. 67.8% of the inmates were undertrials.⁴⁷ There is growing international concerns about the conditions and use of torture in the prisons in India. In June 2011, the Danish High Court refused to extradite Kim Davy, a Danish citizen and prime accused in the Purulia arms drop case of 1995, to India on the ground that he would risk “torture or other inhuman treatment” in Indian jails. In July 2011 India had to agree to a British court’s direction to allow a British human rights expert to examine prison conditions in Gujarat before it grants extradition of Mohammad Hanif Umerji Patel, alias Tiger Hanif, the alleged mastermind of the 1993 bomb blast in Surat. In September 2011, the Portuguese High Court cancelled the extradition of Abu Salem on the ground that he was tortured in custody following extradition.⁴⁸ On 31 October 2011, Madhu Koda, former Chief Minister of Jharkhand and sitting Member of Parliament, who is in judicial custody on corruption charges, was allegedly tortured by the prison security staff for demanding good quality food in Birsa Munda Central Jail in Ranchi.⁴⁹

vi. Violence against women

Women in India continue to face physical, sexual, and economic violence. There were at least 2,13,585 cases of crimes against women including 22,172 rape cases, 29,795 cases of kidnapping and abduction, 8,391 cases of dowry deaths in 2010;⁵⁰ 2,03,804 cases o during 2009 and 1,95,856 cases during 2008.⁵¹ This data does not include crimes committed by the armed forces and the Army.

⁴⁵. NHRC figures paint rosy picture of Kashmir and Northeast; UP and Bihar are worst offenders, Tehelka, 30 August 2011, http://www.tehelka.com/story_main50.asp?filename=Ws300811NHRC.asp

⁴⁶. Torture in India 2011, Asian Centre for Human Rights, 21 November 2011

⁴⁷. “Prison Population Statistics”, <http://www.nhrc.nic.in>

⁴⁸. Why no anti-torture law in India?, Suhas Chakma, The Seven Sisters Post, 22 November 2011

⁴⁹. Madhu Koda says he was attacked by jail staff, Hindustan Times, 31 October 2011, <http://www.hindustantimes.com/India-news/NorthIndia/Madhu-Koda-says-he-was-attacked-by-jail-staff/Article1-763141.aspx>

⁵⁰. Crime in India 2010, NCRB, MHA

⁵¹. Crime in India 2009, NCRB, MHA, Chapter 5, <http://ncrb.nic.in/CII-2009-NEW/cii-2009/Chapter%205.pdf>

vii. Administration of justice and rule of law

“Public servants” enjoy **impunity** and no prosecution can take place without “prior sanction” from the government under section 197 of the Criminal Procedure Code and various special laws like AFSPA. Further, all the Acts provide immunity for “acts done on good faith”. Section 19(1) of the Prevention of Corruption Act, 1988 provides that “*No court shall take cognizance of an offence punishable under section 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction...*”

Therefore, **Indian judiciary has no independence** for prosecution of the public servants. In the custodial death of Mr Khwaja Yunus in January 2003, the Maharashtra government rejected the state Criminal Investigation Department’s plea to prosecute 10 senior officers of the Mumbai Police.⁵² Consequently, only four junior officers i.e., Assistant Inspector Sachin Vaze and constables Rajendra Tiwari, Rajaram Nikam and Vasant Desai are being prosecuted. In August 2011, the Bombay High Court reserved the order in Yunus custodial death case.⁵³

In a RTI reply dated 6 September 2011, the J&K Home Department stated that from 1989 to 2011, the State government applied for sanctions for prosecution from the Ministry of Defence (MoD) and the MHA under section 7 of the AFSPA in 50 cases. Of these 50 cases, sanction for prosecution was declined in 26 cases while response was awaited in 16 cases and prosecution sanction was recommended in eight cases. However, in an affidavit filed before the J&K High Court in the case of *Ghulam Nabi Magray Vs Union of India* (Writ Petition no. 1842 of 2003) on 5 June 2009, the MoD claimed to have received only 35 cases from the State government for prosecution sanctions under the AFSPA.⁵⁴

Access to justice remains a myth especially for the poor given prolong judicial delay, lack of infrastructure of the judiciary, lack of trial and judiciary remains marred by alleged corruption. The total budgetary allocation for the judiciary during the Eleventh Five Year Plan (2007-2012) was Rs.14,700 million.⁵⁵ In contrast, the budget for defence outlays during 2010-11 alone was Rs. 1,47,34400 million (US \$31.9 billion).⁵⁶ The vacancies are not filled up in time while at least 32.2 million cases were pending before the courts as of 30 September 2010. These included 54,562 cases pending in the Supreme Court, 42,17,903 cases pending in the High Courts, and 2,79,53,070 cases pending in the District

⁵². Why were cops in Yunus case let off? HC, The Times of India, 9 December 2009

⁵³. HC reserves order in Khwaja Yunus custodial death case, Mumbai Mirror, 21 August 2011, <http://www.mumbaimirror.com/index.aspx?page=article§id=2&contentid=201108212011082102090054178e65b29>

⁵⁴. Kashmir - Lies about sanctions under AFSPA, Sanhati.com, 23 October 2011; <http://sanhati.com/articles/4278/>

⁵⁵. Budget Outlay for Judiciary, Press Information Bureau, November 22, 2010 <http://www.pib.nic.in/release/release.asp?relid=67389>

⁵⁶. Budgeting for India’s Defence: An Analysis of Defence Budget 2010-11 and the Likely Impact of the 13th Finance Commission on Future Defence Spending, Institute of Defence Studies and Analysis, 3 March 2010 available at http://www.idsa.in/idsacomments/BudgetingforIndiasDefence2010-11_lkbehera_030310

and Sub-ordinate Courts.⁵⁷ Yet, more than 31% of posts of judges in various High Courts and the Supreme Court are lying vacant as on 1 August 2011. Of the 895 sanctioned posts of judges in the 21 High Courts and the Supreme Court, 284 posts were vacant including 4 vacancies in the Supreme Court.⁵⁸ Amongst the High Courts, the largest number of vacancies was in Allahabad High Court where 98 out of sanctioned 160 posts – more than 61% - have not been filled as of 1 August 2011.⁵⁹

India refuses to conduct **effective investigations** into human rights violations. Though Section 176 of the Indian Penal Code provides for judicial inquiry into death, rape and disappearance in police custody, the governments continue to order only executive magisterial inquiries. In September 2011, the J&K State Human Rights Commission stated that there are at least 3,844 unmarked graves in Poonch and Rajouri districts of J&K and directed the state government to constitute an “independent, duly representative, credible, structured and fully empowered” body to “investigate and identify the people buried and to prosecute the perpetrators.”⁶⁰ The State government refused to take further actions on these cases.

vi. Right to privacy, marriage and family life

India has no law on **the right to privacy**. On an average, 6,000-8,000 telephones are reportedly tapped by various agencies at any given time with the permission of the Union Home Secretary while another 10,000 phones are monitored by various state governments at any given point of time.⁶¹

The honour killings of those **marrying from different communities are rampant**. The GoI stated before the Rajya Sabha, upper house of parliament, in August 2010 that 560 couples have been threatened for marrying from different castes since 2005. Out of these, a total of 121 persons were murdered including 48 in Uttar Pradesh, 15 in Delhi, 41 in Haryana and 17 in other states.⁶² Majority honour killing cases are recorded as murder.

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

Freedom of religion is severely restricted by the Freedom of Religion Act currently in force in Arunachal Pradesh, Tamil Nadu, Orissa, Madhya Pradesh, Gujarat and Himachal

⁵⁷. Supreme Court, “Court News”, Vol. V, Issue No. 4, October-December 2010, http://supremecourtindia.nic.in/courtnews/2010_issue_4.pdf

⁵⁸. 31% of judges’ posts in SC, HCs lying vacant, Times of India (Online), 8 August 2011 available at http://articles.timesofindia.indiatimes.com/2011-08-08/india/29863790_1_vacancies-high-courts-judges

⁵⁹. 31% of judges’ posts in SC, HCs lying vacant, Times of India (Online), 8 August 2011 available at http://articles.timesofindia.indiatimes.com/2011-08-08/india/29863790_1_vacancies-high-courts-judges

⁶⁰. SHRC orders probe into more unmarked graves in J-K, The Indian Express, 17 September 2011

⁶¹. Govt to come down hard on unauthorized phone taps; available at: <http://www.livemint.com/2011/05/18002647/Govt-to-come-down-hard-on-unau.html>

⁶². North Indians disapprove of honour killings: study, IBNlive.com, 15 August 2010; available at: <http://ibnlive.in.com/news/north-indians-disapprove-of-honour-killings-study/128892-3.html>

Pradesh. The Dalits who convert to Christianity or Islam are denied access to affirmative action benefits and a Public Interest Litigation is pending before the Supreme Court challenging the same.⁶³

The religious minorities face regular **physical attacks**. According to the MHA, as many as 5,981 incidents of communal violence resulting into death of 1,075 persons and injuries to 17,413 persons took place during 2003-2010 (till 15 December 2010).⁶⁴ These also included 658 communal incidents resulting death of 111 persons and injuries to 1,971 persons in 2010⁶⁵; 791 communal incidents resulting death of 119 persons and injuries to 2,342 persons in 2009⁶⁶; and 943 communal incidents resulting death of 167 persons and injuries to 2,354 persons during 2008.⁶⁷

The **Buddhist minorities** cannot control their holiest place of worship, the Bodh Gaya temple where Lord Buddha gained enlightenment. It is still managed by the Hindus in contraventions of the directions of the NCM. On 8 February 2010, the NCM reiterated its earlier recommendations to handover the management to the Buddhists⁶⁸ but State Government of Bihar took no action.

Human rights defenders (HRDs) face severe repression. The NHRC has registered at least 73 cases of violations of the rights of the HRDs from April 2010 to 30 September 2011.⁶⁹ The ACHR recorded the murder of at least 12 RTI activists from January 2010 to August 2011.⁷⁰ India has no protection for human rights defenders.

The Foreign Contribution (Regulation) Rules, 2011 adopted for implementation of the Foreign Contribution Regulation Act, 2011 violates **the freedom of association and expression of the HRDs**. Under Rule 3, any voluntary organization including Students Unions, Workers' Unions, Youth Forums and Women's wing of a political party; organization of farmers, workers, students, youth based on caste, community, religion, language or otherwise and any organizations which resorts to 'bandh' or 'hartal', 'rasta roko', 'rail roko' or 'jail bharo' in support of public causes can be branded as "organization to be of political nature, not being a political party", and therefore prevented from receiving foreign grants. Further, all NGOs are required to renew their permission every five years.⁷¹

⁶³ Supreme Court to examine quota benefit to Dalit converts, *The Hindu*, 21 January 2011, <http://www.thehindu.com/news/national/article1108895.ece>

⁶⁴ Ministry of Home Affairs, http://www.mha.nic.in/uniquepage.asp?Id_Pk=288

⁶⁵ Communal situation in the Country, Annual Report 2010-2011 of the Ministry of Home Affairs, Government of India; available at: [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf)

⁶⁶ *ibid*

⁶⁷ Communal situation in the country, Annual Report 2008-2009 of the Ministry of Home Affairs, Government of India; available at: [http://www.mha.nic.in/pdfs/AR\(E\)0809.pdf](http://www.mha.nic.in/pdfs/AR(E)0809.pdf)

⁶⁸ Agenda for Annual Conference of the State Minorities Commissions to be held on 31.3.2010 at Vigyan Bhawan, New Delhi, <http://ncm.nic.in/pdf/Agenda%202010.pdf>

⁶⁹ ACTION TAKEN BY NHRC ON HUMAN RIGHTS DEFENDER CASES UPTO 30.09.2011, http://www.nhrc.nic.in/Documents/hrd_update_sep_2011.pdf

⁷⁰ RTI Activists: Sitting Ducks of India, September 2011, Asian Centre for Human Rights, <http://www.achrweb.org/ihrrq/issue3-4/India-Sitting-Ducks-2011.pdf>

⁷¹ FCRA Rules 2011

The indigenous peoples cannot participate in **public life** because of the non-implementation of the Panchayats (Extension to the Scheduled Areas) Act enacted in 1996 (PESA). The nine concerned States⁷² where the Act is applicable have not framed the Rules to implement the Act⁷³ until today. Under the PESA, the Chairmanship of the Panchayats (Village Councils) will be held by tribals. Because of the non-implementation of the PESA, non-indigenous peoples are still being elected as head of the Panchayat in tribal areas.

C. Economic, social and cultural rights

On 3 August 2011, the Government of India informed the parliament that 407.4 million people are **below poverty line**.⁷⁴ This is a conservative estimate. A total of 2,56,913 farmers at the rate of 16,057 farmers per year or 44 farmers per day committed suicide in India during 1995 to 2010, reflecting grave situation of debt. These include suicide of 49,528 farmers since 2008 including 16,196 in 2008, 17,368 in 2009, and 15,964 in 2010.⁷⁵

The **lands** of indigenous peoples continue to be alienated. As of July 2010, a total of 4,77,000 cases of tribal land alienation have been registered covering 8,10,000 acres of lands of which 3,78,000 cases covering 7,86,000 acres have been decided by the Court. Of the cases decided by the courts, 2,09,000 cases have been decided in favour of tribals covering a total area of 4,06,000 acres.⁷⁶ This means that 1,69,000 cases have been decided against the tribals.

The number of **conflict induced IDPs** is a fluctuating one. According to the ACHR, there are about **7,00,000 conflict induced internally displaced persons** in India who have been displaced due to conflicts. They include 59,542 families of Kashmiri Pandits and Muslims⁷⁷ comprising about 2,97,710 persons; 4,473 Muslim families comprising of over 23,000 people in Gujarat (displaced since 2002)⁷⁸; over 1,83,800 persons in Assam (including 33,600 persons in Kokrajhar district,⁷⁹ 13,722 in Bongaigaon district⁸⁰,

⁷² The nine states where PESA is applicable are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa and Rajasthan.

⁷³ Implement PESA for a quick cure for Maoism - Centre to states, Governance Now, 8 June 2010, <http://governancenow.com/news/regular-story/implement-pesa-quick-cure-maoism-centre-states>

⁷⁴ UNSTARRED QUESTION NO 626, Lok Sabha answered by Minister of State for Planning, Dr. Ashwani Kumar on 3.8.2011

⁷⁵ P. Sainath, "In 16 years, farm suicides cross a quarter million", The Hindu, 29 October 2011, available at <http://www.thehindu.com/opinion/columns/sainath/article2577635.ece> and http://www.thehindu.com/multimedia/archive/00820/Farm_Suicides__All__820602a.pdf

⁷⁶ Lok Sabha Unstarred Question No. 831 answered by Dr Tushar A. Chaudhary, Minister of State in the Ministry of Tribal Affairs on 12.11.2010

⁷⁷ Annual Report 2010-11, MHA, [http://www.mha.nic.in/pdfs/AR\(E\)1011.pdf](http://www.mha.nic.in/pdfs/AR(E)1011.pdf) and UNstarred Question No. 3180 answered on 16.03.2010 in the Lok Sabha

⁷⁸ The complaint of Aantarik Visthapit Hak Rakshak Samiti to the NHRC of India dated 5 April 2007 obtained by Asian Centre for Human Rights (ACHR) through RTI Act 2005

⁷⁹ RTI reply from the Office of the Deputy Commissioner, Kokrajhar district, Assam (No. KRTI.3/2007/218 dated 6 June 2009)

⁸⁰ RTI reply from the Office of the Deputy Commission, Bongaigaon, Assam (No. BRTI.7/2007/PT-II/138 dated 19 November 2009)

1,20,545 in Darrang district⁸¹, at least 3,884 in Udalguri district⁸² and 11,737 in North Cachar Hills District⁸³); about 30,000 Bru tribals in Tripura (displaced from Mizoram since 1997), about 20,000 Rabhas in Meghalaya, about 26,000 Adivasis in Chhattisgarh⁸⁴; about 1,20,000 Gutti Koya tribals (displaced from Chhattisgarh) in Andhra Pradesh,⁸⁵ and about 240 Hmars from Assam who took shelter in Mizoram as of 22 October 2011.⁸⁶ The government failed to ensure repatriation and rehabilitation of any IDP group. Further, the IDPs of India are denied less facilities in terms of food rations, cash dole, housing etc than being extended to the Tamil refugees in India and Tamil IDPs in Sri Lanka by the Government of India. This blatant discrimination is under adjudication before the Guwahati High Court in the case of *ACHR Vs State of Assam & Anr* [W.P.(C) 6/2011].

At least 60 million people have been reportedly **displaced by development projects** since 1947. Of these, over 40 per cent are tribals and another 40 per cent are Dalits and other rural poor.⁸⁷ The Special Economic Zones (SEZs) cause displacement and a total of 582 SEZs have been formally approved under SEZ Act 2005 across India. In addition, 44 SEZs have been granted in-principal approval and another 380 SEZs have been notified.⁸⁸

The **Forest Rights Act, 2006** is not being implemented properly and tribals are being denied right to forest resources. As of 30 September 2011, out of the 28,08,494 claims of land titles considered, a staggering 15,77,831 claims (56.1%) have been rejected.⁸⁹

One national survey have found dismal state of the **Right of Children to Free and Compulsory Education Act of 2009** that seeks to provide free and compulsory education to all children of the age of six to fourteen years. The survey have found that - (i) one-third of all primary and upper primary schools face acute shortage of classrooms and do not comply with the RTE requirement of one teacher one classroom ratio; (ii) about half of primary and upper primary schools face shortage of teachers; (iii) 25% schools lack office cum store; 48% schools lack playground; 50% schools do not have boundary wall or

⁸¹. RTI reply from the Office of the Deputy Commissioner, Darrang District of Assam (No. RTI-65/2009/11 dated 6 August 2009)

⁸². ACHR's fact finding mission the two relief camps in Udalguri district in June 2009

⁸³. Indian Home Minister's Statement in the Rajya Sabha on Situation in North Cachar hills District of Assam, Press Information Bureau, Government of India, 10 July 2009, <http://www.pib.nic.in/release/release.asp?relid=50149>

⁸⁴. Government cannot provide security to all villagers: minister, Thaindian News, 4 March 2008 available at http://www.thaindian.com/newsportal/world-news/government-cannot-provide-security-to-all-villagers-minister_10023675.html

⁸⁵. Chhattisgarh tribals sneak into AP, Daily News and Analysis (DNA), 20 June 2008, available at <http://www.dnaindia.com/report.asp?newsid=1172353>

⁸⁶. Mizoram govt to take care of Hmar refugees in state, Times of India, 22 October 2011, http://articles.timesofindia.indiatimes.com/2011-10-22/guwahati/30310623_1_mizoram-govt-mizoram-government-refugees

⁸⁷. Development-induced displacement and human rights, By Walter Fernandes , Seven Sister's Post, 24 November 2011, <http://www.sevensisterspost.com/epaper/24.11.11.pdf>

⁸⁸. <http://www.sezindia.nic.in/writereaddata/pdf/StatewiseDistribution-SEZ.pdf>

⁸⁹. Ministry of Tribal Affairs, "Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 30th September, 2011], <http://www.tribal.nic.in/writereaddata/mainlinkFile/File1317.pdf>

fence; (iv) 37% schools do not have library; (v) 50% of schools do not either have a toilet or unusable; (vi) 63% schools do not either have a separate toilet for girls or unusable; (vii) mid-day meals is not served in 17% schools while 19% schools lack kitchen shed for midday meals; (viii) 28% schools do not have provision for drinking water; (ix) children's attendance during period 2007-2010 was around 73% and (x) 5.9% of girls in the age group of 11-14 years are out of school compared to 3.5% boys across India.⁹⁰

Starvation deaths are regularly reported though data is not collated. On 10 May 2011, the Supreme Court directed the Central government to release five million tonnes of foodgrains immediately for distribution in 150 most poverty-stricken districts to ensure that no starvation death takes place.⁹¹ The National Food Security Bill, 2011 for the first time proposes to provide for “cash transfer, food coupons in lieu of their foodgrain entitlements”. This will have disastrous consequences on the right to food and increase starvation deaths.⁹²

The **right to highest attainable standards of health** does not exist. Health care system has collapsed in several parts of the country. At least 83 children have died in West Bengal during June – November 2011 due to lack of basic healthcare facilities in the State run hospitals.⁹³ Further, a total of 585 children died due to encephalitis in eastern Uttar Pradesh in 2011 according to official data as of 23 November 2011.⁹⁴

The **violations of the Rights of the Child** are rampant with Dalit and Adivasi children being more vulnerable. The Supreme Court issued directions for implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 on 10 January 2010 but implementation remains only on paper. J&K has only one juvenile justice home for boys at R S Pura. Juvenile girls must be sent to police lock ups or prisons in the absence of a single Juvenile Home for Girls in J&K. Juveniles in Kashmir are detained with adults in prisons and tried as adults due to non-implementation of the J&K Juvenile Justice Act, 1997.⁹⁵

The Chhattisgarh government continues to **recruit children** of the police personnel killed on duty as “balarakshaks” (Child Guards) and these children cannot attend schools at least three days a week.⁹⁶

⁹⁰. The Annual Status of Education Report (Rural) 2010, Pratham, http://www.pratham.org/aser08/ASER_2010_Report.pdf

⁹¹. Release 5 million tonnes of foodgrains: Supreme Court, The Hindu, 14 May 2011

⁹². Draft Food Security Bill 2011 is available at http://www.prsindia.org/uploads/media/draft/Draft_National_Food_Security_Bill%202011.pdf

⁹³. 9 more children die in Bengal, Hindustan Times, 10 November 2011, <http://www.hindustantimes.com/India-news/Kolkata/9-more-children-die-in-Bengal/Article1-767243.aspx>

⁹⁴. Encephalitis death toll rises to 585 in UP, Zee News, 23 November 2011, http://zeenews.india.com/news/uttar-pradesh/encephalitis-death-toll-rises-to-585-in-up_743357.html

⁹⁵. Asian Centre for Human Rights, “Juveniles of J&K: Unequal before the Law & Denied justice in Custody”, 16 November 2011, available at <http://www.achrweb.org/reports/india/JJ-J&K-2011.pdf>

⁹⁶. Chhattisgarh's 'child cops' skip school for police duty, The Sentinel, 6 April 2011

The security forces **continued to occupy schools** in conflict affected areas. On 1 October 2010, the Supreme Court directed the MHA and the State governments “to ensure that the para military forces vacate the school and hostel buildings occupied by them” and submit an Action taken report within two months. Following Supreme Court’s order the security forces vacated six out of the 31 schools as of 6 January 2011 in Chhattisgarh.⁹⁷ On 18 January 2011, the Supreme Court directed the state government of Chhattisgarh to vacate all school buildings under the occupation of security forces within four months.⁹⁸ On 7 March 2011, the Supreme Court directed the Jharkhand and Tripura governments to ensure that all schools and hostels of educational institutions are free from the occupation of security forces within two months. 21 schools in Jharkhand and 16 schools in Tripura were still under occupation by the security forces.⁹⁹ Similarly, a number of schools are said to be in the possession of security forces engaged in anti-militancy operations in J&K; and no direction has been issued by the Supreme Court.¹⁰⁰

The **Dalits** continued to face atrocities and caste based discrimination in all spheres of life. At least 32,712 cases of crimes were committed against the Scheduled Castes in 2010 including 570 cases of murder, 1349 cases of rape, 511 cases of abduction, 150 cases of arson, 143 cases under the Protection of Civil Rights Act, 1955 and 10,513 cases under the SC/ST (Prevention of Atrocities) Act, 1989 among others.¹⁰¹

Indigenous/tribal peoples too face atrocities. At least 5,885 crimes were committed against the Scheduled Tribes in 2010 including 142 cases of murder, 654 cases of rape, 84 cases of abduction, 39 cases of arson, 1169 cases under SC/ST (Prevention of Atrocities) Act, 1989 among others during 2010.¹⁰²

The Prevention of Atrocities Act has been neutralized by the police and judicial machinery by not applying the empowering sections of the law when such crimes are committed. Further, the government does not implement the affirmative actions. There is a backlog of 35,000 vacancies from the Scheduled Castes, Scheduled Tribes and Other Back Castes quota in Central government employment as of 20 November 2011.¹⁰³

^{97.} Chhattisgarh government pulled up for misleading court, *The Hindu*, 8 January 2011, available at <http://www.hindu.com/2011/01/08/stories/2011010864821300.htm>

^{98.} SC asks security forces to vacate schools, hostels, *The Pioneer*, 19 January 2011

^{99.} Free Schools from Forces: SC to J’khand, Tripura, *Outlook*, 7 March 2011, <http://news.outlookindia.com/item.aspx?714216>

^{100.} Troops in Kashmir Schools, *Rising Kashmir*, 13 April 2011, <http://www.risingkashmir.com/news/troops-in-kashmir-schools-8462.aspx>

^{101.} “Crime In India 2010”, NCRB, MHA

^{102.} “Crime In India 2010”, NCRB, MHA

^{103.} Special drive mooted to fill 35000 Central quota vacancies, *The Times of India*, 20 November 2011

India has about **3,29,718 refugees** including 97,103 Sri Lankan refugees as on 1 November 2010¹⁰⁴, 1,09,015 Tibetan refugees as on February 2009,¹⁰⁵ about 92,000 Burmese refugees¹⁰⁶ and 31,600 refugees under the care of the United Nations High Commissioner for Refugees.¹⁰⁷ The figures provided by UNHCR for 2011 is wrong as it does not include up-to-date data provided by the GoI and further excludes about 70,000 Burmese refugees of Chin ethnic origin sheltered in Mizoram and Manipur. The Burmese refugees in Mizoram are regularly **refouled**. In 2009 alone, Mizoram police arrested 367 Myanmarese nationals and deported 162 of them to Myanmar.¹⁰⁸ In 2010, Mizoram Police arrested and deported 30 Burmese refugees on 22 January 2010,¹⁰⁹ 33 Burmese refugees on 6 February 2010;¹¹⁰ and about 60 Burmese refugees on 31 August 2010. Amongst those deported included 28 students, two leaders of the Chin National Council and members of the Free Burma Rangers who face risk of prosecution from the military junta in Myanmar.¹¹¹

V. State's Obligations/Commitments

This report indicates that India has failed to meet its **human rights obligations**. The judgements of the Courts such as the one on the Chakmas and Hajongs of Arunachal Pradesh remain unimplemented. It has failed to implement the recommendations of its own commissions including the Committee to Review Armed Forces Special Powers Act, 1958 headed by Justice Jeevan Reddy.

India's periodic report to the UN Human Rights Committee has been pending since December 2001. On 7 May 2007, the CERD Committee requested India to "inform it of its implementation of the recommendations contained in paragraphs 12, 15, 19 and 26 within one year of the adoption of the present conclusions". India has failed to implement the same.¹¹²

¹⁰⁴. Annual Report 2010-2011, MHA

¹⁰⁵. Annual Report 2010-2011, MHA

¹⁰⁶. Chin-Burmese refugees in India air woes, http://www.indoburmanews.net/archives/archive06/aug_06/273

¹⁰⁷. 2011 UNHCR country operations profile – India, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e4876d6>

¹⁰⁸. http://www.thaindian.com/newsportal/politics/india-keeping-strict-vigil-along-northeastern-border-lead_100314719.html

¹⁰⁹. <http://www.bnionline.net/news/khonumthung/7854-thirty-burmese-deported-to-burma.html>

¹¹⁰. Mizoram police deport 33 Myanmarese nationals, Daily News and Analysis, 6 February 2010, http://www.dnaindia.com/india/report_mizoram-police-deport-33-myanmarese-nationals_1344162

¹¹¹. Mizoram capital deports Burmese, NGO workers, Indo Burma News, 31 August 2010

¹¹². CERD/C/IND/CO/19 dated 5 May 2007

Annex 1: List of NGOs endorsing this stakeholders' report

1. Asian Indigenous and Tribal Peoples Network, New Delhi, India
2. Adivasi Development Council, India
3. Banglar Manab Adhikar Suraksha Mancha, West Bengal, India
4. Mising Bane Kebang, Assam, India
5. Karbi Human Rights Watch, Assam, India
6. Integrated Rural Women Development Service Organization, Manipur, India
7. Zomi Human Rights Foundation, India
8. Rural Women Upliftment Society, Manipur, India
9. Mizoram Bru Displaced Peoples' Forum, India
10. Young Chakma Association, Marpara Zone, Mizoram, India
11. Kheruk Majdoor Chetna Sangat Alirajpur, Madhya Pradesh, India
12. Samaj Chetna Adhikar Manch, Madhya Pradesh, India
13. Dialogue on Indigenous Culture and Environment Foundation, India
14. National Campaign for Survival and Dignity, Sundargarh, India
15. Indigenous Tribal Peoples Development Centre, Tripura
16. All Bodo Students' Union, Assam, India
17. All Rabha students' Union, Assam, India
18. Dimasa students' Union, Assam, India
19. Barak Valley Chakma Students' Association, Assam

5. OHCHR's Summary of Stakeholders' Submissions for the Second UPR of India



HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Thirteenth session
Geneva, 21 May–4 June 2012

Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21

India

The present report is a summary of 51 stakeholders' submissions to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations 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. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Information provided by the accredited national human rights institution of the State under review in full compliance with the Paris Principles

A. Background and framework

1. The National Human Rights Commission of India (NHRC)² reported its assessment of the Government's response to the eighteen recommendations made in UPR 1.³ According to NHRC, there was no evidence that India intended to ratify CED. Enforced disappearance was not codified as a criminal offence in domestic law, nor was extant provisions of law

used to deter the practice.⁴ India had not taken any steps towards signing and ratifying OP-CEDAW.⁵ India's position for not ratifying ILO Conventions No. 138 and 182 was less tenable after the passage of the Right to Education Act, which made it compulsory for children to be at school until the age of fourteen.⁶ India had not reviewed its reservation to article 32 of the CRC.⁷

2. NHRC stated that the "Prevention of Torture Bill, 2010", which was originally weak, was strengthened by a Select Committee of Parliament's Upper House. If the Bill eventually adopted diluted the revisions proposed by the Select Committee, India's commitment to the CAT would be called into question.⁸

3. NHRC stated that there had been no developments to amend the Special Marriage Act and give equal rights to property accumulated during marriage.⁹

4. According to the NHRC, the Government continued to allow the National Commissions function independently but had given them no additional powers or greater resources; the State Human Rights Commissions were mostly moribund; and few human rights courts had been set up.¹⁰

5. NHRC reported that there was still no national action plan for human rights.¹¹ There was little progress in strengthening human rights education and almost none of the States in India had given education priority.¹²

6. NHRC stated that the Human Development Report 2011 of the Planning Commission included some disaggregated data, but not on caste and related discrimination. NHRC believed such data was essential in key areas of: crimes committed against women and children from the Scheduled Castes and Scheduled Tribes; violence against women other than rape; bonded labour, child labour and manual scavenging; custodial violence, illegal detention and torture.¹³

7. NHRC was unaware of any programmes of the Government on sharing its experience in promoting and protecting human rights.¹⁴

B. Cooperation with human rights mechanisms

8. Reporting on the implementation of recommendations made to India, NHRC indicated that the Government's issuance of a standing invitation to mandate holders should not make it difficult to act on the request to receive the Special Rapporteur on torture.¹⁵ India's reports were still delayed or it had not reported to treaty bodies.¹⁶

9. NHRC was unaware of a formal follow-up process to the UPR and, thus, the question of the integration of a gender perspective did not arise.¹⁷ Some Ministries consulted civil society in the formulation and implementation of their programmes.¹⁸

C. Implementation of international human rights obligations

10. NHRC stated that the Indian experiment was unique and must be judged by its own benchmarks, which were set by a powerful and activist judiciary, a free media and

vigilant civil society, which were guardians of human rights in an open society run by the rule of law.¹⁹

11. With respect to civil and political rights, NHRC stated that the implementation of laws, the weakness of new Bills and the law's delay were areas of concern. Some of which were highlighted by the NHRC.²⁰

12. HRC received 341 complaints of disappearance in 2010, 338 so far in 2011. These numbers underlined the need for the Government to act.²¹

13. 35% of the complaints to the NHRC annually were against the police. In 2006 the Supreme Court issued seven binding directives to start police reform, but little had been done, although the need was urgent.²²

14. Custodial justice remained a problem. Jails were overcrowded and unhygienic, disease rampant and treatment poor. NHRC indicated that 67% of prisoners were pre-trial, unable to raise bail or confined far longer than they should be because of the huge backlog of cases.²³

15. There were inordinate delays in the provision of justice. 56,383 cases were pending in the Supreme Court at the end of October 2011. At the end of 2010, 4.2 million cases were pending in High Courts, and almost 28 million in subordinate courts.²⁴

16. Bonded labour continued and was taking new forms. NHRC had received reports of bonded labour being used to execute defence projects in difficult areas.²⁵

17. The degrading practice of manual scavenging continued. Some States were in denial over this. The Indian Railways were the largest users of manual scavengers.²⁶

18. The focal point set up in the NHRC for the protection of human rights defenders received complaints that several, including those working on minority rights and the rights of the scheduled castes and tribes, faced harassment in several States, including arbitrary detention.²⁷

19. NHRC reported that in the areas controlled by the Naxal movement, human rights have become even more parlous: governance and the rule of law rarely functioned. Villagers were the victims of Naxal violence, and collateral damage in the counterinsurgency operations.²⁸

20. NHRC stated that the Armed Forces Special Powers Act (AFSPA) remained in force in Jammu & Kashmir and the North-Eastern States, conferring impunity that often led to the violation of human rights, despite India reporting in 2011 that it did not face international or non-international armed conflict situations.²⁹

21. NHRC stated that although India had set up ambitious “flagship programmes” to provide economic, social and cultural rights those rights remained precarious.³⁰ The flagship programmes, through which the Government addressed “economic and social inequities,” were not well conceived, had been lavishly funded but looted by the corrupt. Intended beneficiaries received a small proportion of their supposed entitlements.³¹ The denial or the abuse of, or the inability to access, their rights hit the most vulnerable the hardest – women, children, the scheduled castes and tribes, and the minorities.³²

22. Over 90% of the workforce was in the unorganized sector, had no access to social security, was particularly vulnerable in the cities, and, therefore, driven into permanent debt, often leading to conditions of bonded labour.³³

23. A massive public distribution system had not assured the right to food because malnutrition was endemic. The National Advisory Council had recommended that legal entitlements to subsidized foodgrains be extended to at least 75% of the population. This was not acceptable to the Government, which set arbitrary ceilings on the numbers who could be declared as being below the poverty line.³⁴

24. Under the National Rural Employment Guarantee Scheme 55 million were given work, but on average received half the wages guaranteed. The Scheme had not made enough of an impact, very large sums of money had been siphoned off, and it did not provide long-term employment or build permanent assets.³⁵

25. The Indira Awas Yojana, set up to provide rural housing, required that an applicant had a plot of land. Millions of landless were excluded. The scheme did not provide enough to build a house, and there was some evidence that those who took the money ended up in debt.³⁶

26. Public spending on health continued to be abysmally low, at about 1% of GDP, despite Government’s commitment to raise it to 2-3%. The public health system was riddled with problems; vast numbers in the villages get little or no medical care. An evaluation and audit had found serious deficiencies in the National Rural Health Mission.³⁷ Referring to the high percentage of underweight children under age five years, NHRC reported that a 2011 evaluation of a huge programme called the Integrated Child Development Services found that 60% of the annual budget for supplementary nutrition was being diverted.³⁸

27. The quality of education, particularly in the villages, was dismal; the infrastructure was appalling, teachers were absent, para-teachers were poorly trained. Learning levels and literacy were very low.³⁹

28. Rapid growth, the development of infrastructure and the expansion of mining industries, had all led to massive displacements of populations, often without their informed consent. NHRC found that usually those displaced were given neither adequate relief, nor the means of rehabilitation.⁴⁰

II. Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

29. Joint Submission 9 (JS9) stated that the Prevention of Torture Bill 2010 (PTB), was yet to be tabled before both Houses of Parliament.⁴¹ JS14 and HAQ: Centre for Child Rights (HAQ) stated that this Bill did not contain any provisions in relation to children.⁴²

The Asian Legal Resource Centre (ALRC) stated that the Bill required substantial revision, including in its definition of torture.⁴³ The International Commission of Jurists (ICJ) recommended making provision for criminal liability for public officials and superior and commanding officers; and that India eventually become a party to OP-CAT.⁴⁴ Working Group on Human Rights in India and the UN (WGHR) recommended that India adopt the PTB after addressing its shortcomings and then immediately ratify CAT.⁴⁵ Human Rights Watch (HRW) recommended ratification of CED.⁴⁶ WGHR recommended that India ensure that enforced disappearances and extrajudicial killings are codified as offences under criminal law.⁴⁷

30. Amnesty International (AI) recommended ratification of ICRMW and the optional protocols to ICCPR, and ICESCR.⁴⁸ JS2⁴⁹ and Commonwealth Human Rights Initiative (CHRI) recommended that India sign and ratify OP-CEDAW;⁵⁰ JS2 and AI recommended the removal of the reservations to CEDAW;⁵¹ and JS14 reconsideration of India's reservation to Article 32 of CRC.⁵²

31. JS16 called on India to ratify and effectively implement the Rome Statue.⁵³ JS13 recommended that India accede to Additional Protocols I and II to the Geneva Conventions and give unconditional access to the International Committee of the Red Cross to the northeastern region, especially Manipur.⁵⁴

32. JS10 recommended urgent ratification of the ILO C. Nos. 182 and 138;⁵⁵ and JS11 recommended ratification of ILO C. 169.⁵⁶

2. Constitutional and legislative framework

33. Edmund Rice International (India) (ERI)⁵⁷ and JS3 observed that various legal instruments defined children by different ages.⁵⁸ JS14⁵⁹ and JS3 encouraged India to have a uniform definition.⁶⁰

34. Institute for Human Rights and Business (IHRB) recommended amending the Human Rights Protection Act 1993⁶¹ to enable the NHRC to address business-related human rights grievances.⁶²

3. Institutional and human rights infrastructure and policy measures

35. JS20 stated that all the National Human Rights Institutions did not comply with the Paris Principles, for reasons which included their lack of financial autonomy and their dependence on seconded staff from government departments.⁶³ JS12 recommended

reforms to the NHRC, including ending the use of serving or retired police officers on investigative teams.⁶⁴

36. JS20 reported that the NHRC cannot investigate human rights violations by the armed forces under section 19 of the Human Rights Protection Act.⁶⁵ JS16 stated that in 1997 the NHRC was empowered by the Supreme Court to examine the role of state actors in the perpetration of human rights violations in Amritsar,⁶⁶ and to provide redress to victims.⁶⁷ After fifteen years of proceedings, NHRC had little to show.⁶⁸ JS16 made recommendations to ensure accountability of the NHRC.⁶⁹

37. JS18 recommended strengthening the State Human Rights Commission in the seven states where they were operational and establishing commissions in the remaining states.⁷⁰ Child Rights and You (CRY) recommended that the National and State Commissions for the protection of child rights be set up as constitutional bodies accountable to the legislature.⁷¹

38. AI recommended that India produce an action plan for human rights.⁷²

39. HAQ stated that the National Plan of Action for Children was in need of revision as most goals projected to be accomplished by 2010, remained unaccomplished.⁷³

40. WGHR stated that there was no public information available of a developed national action plan for human rights education⁷⁴ and JS18 recommended its development.⁷⁵ JS9 recommended that India formulate a coherent plan to provide training on the prevention of discrimination to, inter alia, law enforcement and judicial personnel.⁷⁶

41. JS9 stated that in the 2011 nationwide census there was no disaggregation of data by caste, gender, religion, status and region.⁷⁷

B. Cooperation with human rights mechanisms

42. ICJ recommended that India present a national plan of action for the implementation of, inter alia, accepted recommendations to the Plenary of the Human Rights Council at the adoption of the report on its upcoming review; and two years thereafter present a mid-term progress report on the status of implementation.⁷⁸

1. Cooperation with treaty bodies

43. Christian Solidarity Worldwide (CSW) recommended that India ensure that it met its reporting responsibilities in a timely fashion.⁷⁹ Implementation of treaty body recommendations on caste-based discrimination was recommended by JS9⁸⁰ and on maternal health by JS2.⁸¹

2. Cooperation with special procedures

44. CSW recommended that India ensure that recommendations made by special procedures mandate holders were implemented.⁸²

45. CHRI suggested that the Government clear the backlog and invite all Special Procedures with pending visit requests to visit India before the next UPR.⁸³ International Forum for Justice/Human Rights Forum J&K (IFJ/HRFJK) called on India to extend an invitation to the Special Rapporteur on violence against women.⁸⁴

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

46. Equal Rights Trust stated that India must amend or repeal discriminatory laws and introduce comprehensive anti-discrimination legislation to meet its international obligations.⁸⁵ JS9 recommended the development of a national action plan to eliminate all forms of discrimination.⁸⁶

47. JS20 stated that patriarchy remained the root cause of discrimination against women.⁸⁷ Peoples' Vigilance Committee on Human Rights (PVCHR) stated that human rights initiatives in India lacked a gender perspective.⁸⁸ WGHR reported that violence against women was pervasive.⁸⁹ WGHR recommended that the Government reform religion-based family laws and address witch-hunting through a national law.⁹⁰ JS3 urged India to undertake and enforce effective measures to ensure equal treatment and opportunities between men and women in the employment market.⁹¹ ERI recommended that the Government quickly pass the much awaited 33% Women's Reservation Bill.⁹²

48. JS9⁹³ and JS20⁹⁴ reported on violations against Scheduled castes (SC), including 1349 rape cases, 570 murder cases, 511 abduction cases and 150 arson cases in 2010. ALRC stated that India should be encouraged to take affirmative actions, beyond legislation, such as the mandatory acceptance of complaints.⁹⁵ JS3 urged India to take steps to abolish the discriminatory practice of "untouchability" and prevent caste motivated abuse.⁹⁶

49. According to JS9, Dalit Christians formed around 75-80% of the Indian Christian population.⁹⁷ Lutheran World Federation (LWF) stated if members of SC and scheduled tribes (ST) converted to some religions they lost their rights under the "reservation system" as well as their protection under the Prevention of Atrocities Act. LWF made recommendations, including amending the laws to ensure that members of the SC and ST have access to the same rights and protections, irrespective of their religion.⁹⁸

50. According to JS12, Muslims were often segregated in India⁹⁹ and housing discrimination had become a problem, particularly since the Mumbai bombings.¹⁰⁰ Although Muslims made up nearly nearly 14 percent of India's population, they held fewer than five percent of government posts.¹⁰¹

51. JS20 stated that many of the Particularly Vulnerable Tribal Groups were on the verge of extinction while others were stigmatized under the 'Habitual Offenders Act'.¹⁰²

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

52. JS1 stated that Narcotic Drugs and Psychotropic Substances Act, 1985 prescribed the death penalty for drug related crimes.¹⁰³ Child Rights Information Network made recommendations, including the enactment of legislation prohibiting capital punishment and life imprisonment for child offenders in Jammu and Kashmir.¹⁰⁴ ICJ recommended that India establish a moratorium on executions with a view to abolishing the death penalty and take immediate steps towards abolition of the death penalty.¹⁰⁵

53. AI stated that the AFSPA granted security forces, in specified areas of armed insurgency, powers to shoot to kill in situations where they were not necessarily at imminent risk.¹⁰⁶ WGHR stated that enforced disappearances and extrajudicial killings remained entrenched in conflict areas, reinforced by extraordinary powers of arrest, detention and immunity available to the security forces. In Manipur, 789 extra-judicial executions were documented between 2007 and 2010. A People's Tribunal established the presence of 2,700 mass unmarked graves, confirmed by the J&K State Human Rights Commission in 2011. In West-Bengal, the Border Security Force (BSF) had been responsible for extra-judicial killings at the Indo-Bangladesh border.¹⁰⁷

54. WGHR indicated that a study concluded that 1.8 million people were victims of police torture and ill-treatment in India every year.¹⁰⁸ ALRC stated that the practice of torture was widespread,¹⁰⁹ perpetrated in all forms of custody,¹¹⁰ condoned in conflict areas,¹¹¹ and was a common technique for criminal investigations.¹¹² Successful prosecution for torture was extremely low.¹¹³

55. WGHR alleged that a new law sought to widen the scope of deployment of BSF for counter-insurgency and “anti-Naxal” operations.¹¹⁴ The police was being increasingly militarized in conflict areas and given charges of counter-insurgency operations. Paramilitary forces were being intensely trained by the army for operations in Central India.¹¹⁵ JS19 indicated that, in 2010, in Jammu and Kashmir, the police and paramilitary used excessive force against anti-government protestors.¹¹⁶ It made recommendations, including the issuing of non-lethal weapons to security forces for crowd control purposes.¹¹⁷

56. JS18 reported on religious violence and intolerance among religious groups and organized communal attacks against religious minorities and their properties.¹¹⁸ CSW commended India for its attempt to pass legislation on communal violence; and encouraged India to see this process through. Such a law could provide a useful model to other countries in the region confronting similar problems.¹¹⁹

57. WGHR noted a worrying trend in the targeting of activists seeking implementation of progressive laws/schemes.¹²⁰ Urgent concerns about the environment in which activists and human rights defenders operated and the threats they faced, especially where they exposed official nepotism and corruption, were reported by JS19. JS19 made recommendations.¹²¹

58. AI stated that in Jammu and Kashmir the State authorities continued to use the Public Safety Act, 1978, to detain individuals for long periods of time.¹²² WGHR reported that a large number of adivasis had been arbitrarily arrested in Central India and languished in jail.¹²³ JS12 made recommendations, including that India ensure that apprehension, arrest, detention, custody and imprisonment were in accordance with international standards.¹²⁴

59. Global Initiative to End All Corporal Punishment of Children recommended that India introduce legislation, as a matter of urgency, to prohibit corporal punishment of children in the home and in all settings, including as a sentence under traditional forms of justice.¹²⁵

60. PVCHR stated that discriminatory attitudes and lack of sensitization on the dynamics of crimes involving sexual and domestic violence left victims without critical police aid or redress to which they were entitled.¹²⁶ HRW recommended that India enact a comprehensive law prohibiting all forms of sexual assault against women and children.¹²⁷

61. JS11 stated that India was a source, destination, and transit country for trafficked human beings, mostly for forced labour, bonded labour,¹²⁸ and commercial sexual exploitation.¹²⁹ Allegedly, victims were mostly women and children belonging to the lower castes and tribes and living in disadvantaged regions.¹³⁰ JS4 reported on violations faced by “sex workers” due to the criminalization of “sex work” and the stigma associated with it.¹³¹

62. JS10 proposed amendment of the Immoral Traffic Prevention Act, 1956 and the Indian Penal Code, 1860 to, inter alia, clearly define child prostitution and criminalize related acts;¹³² and define trafficking in children.¹³³ Odisha Goti Mukti Andolan reported on the practice of bonded labour.¹³⁴ JS11 recommended the adoption of victim-centred legislation and the regulation of registration of placement agencies for migrant workers.¹³⁵

63. According to JS3, children who abandoned school became domestic workers with low wages, street children or railway dwellers.¹³⁶ Ambedkar Center for Justice and Peace recommended the release and rehabilitation of all children subjected to child labour.¹³⁷

3. Administration of justice, including impunity, and the rule of law

64. CHRI stated that there was a shortage of judges¹³⁸ and nearly 16 million people were awaiting trials for crimes.¹³⁹ In 2010, there were more than 32 million pending cases, an increase of more than 830 thousand from the previous year.¹⁴⁰ ICJ recommended increasing the number of courts and judges by immediately filling all vacancies.¹⁴¹

65. CHRI recommended that the Government undertake police reforms in the spirit of the Supreme Court’s orders in the 2006 judgement and along the lines of recommendations made by the National Police Commission.¹⁴² WGHR recommended the creation of an

independent directorate of prosecution.¹⁴³ ALRC encouraged India to consider reform of justice institutions as the Government's priority.¹⁴⁴

66. HRW recommended that India vigorously investigate and prosecute officials who order, commit, or tolerate human rights violations, including torture, custodial killings, faked armed encounter killings, and enforced disappearances.¹⁴⁵ United NGOs Mission-Manipur (UNM-M) recommended effective investigation and prosecution of human rights violations committed by the security forces in the context of AFSPA; and the provision of effective access to justice and remedy for the victims of these violations.¹⁴⁶

67. IFJ/HRFJK recommended that India allow DNA profiling of the bodies from mass and unmarked graves in Jammu and Kashmir and allow for international investigation in this regard.¹⁴⁷ A related recommendation was made by JS22.¹⁴⁸

68. CHRI stated that India's pre-trial prison population was one of the highest in the world.¹⁴⁹ JS20 reported that custodial deaths were rampant.¹⁵⁰ CHRI called for ensuring more release on bail and parole and that the Government strengthen statutory prison oversight mechanisms.¹⁵¹

69. ICJ made recommendations for ensuring the availability of legal aid to a larger segment of the population.¹⁵²

70. HAQ indicated that the Special Juvenile Police Units (SJPU) in every district with at least one police officer designated as juvenile welfare officer, as provided in law, did not exist.¹⁵³ JS14 made recommendations, including the expeditious establishment of fast-track, child-friendly courts.¹⁵⁴

71. WGHR stated that India lacked a law or scheme for witness protection. The Supreme Court had developed principles, none of which encompassed all aspects of witness protection.¹⁵⁵

72. PVCHR stated that the culture of impunity was the biggest threat to the rule of law.¹⁵⁶ HRW recommended the repeal of all legal provisions providing immunity to government officials, including article 197 of the Criminal Code of Procedure and of AFSPA.¹⁵⁷ WGHR noted that sections of the Government were calling for re-examining the AFSPA, which was opposed by the army.¹⁵⁸ Kashmir Institute of International Relations called for the repeal of the Public Safety Act, Jammu and Kashmir Disturbed Area Act and National Security Act which provide impunity to Indian army and other security agencies.¹⁵⁹

4. Right to privacy, marriage and family life

73. WGHR stated that in 2009, homosexuality was de-criminalized by the Delhi High Court. The judgement was under appeal. The State has abdicated its role of defending the judgment, relegating defence of human rights of the LGBT persons to civil society.¹⁶⁰

74. JS6 recommended mandatory registration of all deaths, births and marriages.¹⁶¹

5. Freedom of religion or belief, expression and association

75. JS21 stated that “Freedom of Religion” Acts, which regulate religious conversions,¹⁶² had been enacted in the states of Orissa, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh.¹⁶³ JS21 alleged that attacks against religious minorities, including the Christian community, appeared to be more pronounced in the states that have adopted such acts.¹⁶⁴ JS5 recommended the repealing of the Freedom of Religion Act in the states in which they existed.¹⁶⁵ JS5 alleged that the “Adivasis” had been a major target of forced religious conversion by the “Hindu religious right wing”.¹⁶⁶ Pax Christi International called for measures to address incidents of hate speech and violence against religious minorities.¹⁶⁷ JS18 made recommendations for the prevention of religious intolerance and religion-based strife.¹⁶⁸

76. WGHR reported that the stringent provisions under the Foreign Contribution Regulation Act 2010 could threaten the functioning of human rights organizations, especially those critical of the Government.¹⁶⁹ Concerns about the Act were also raised by the European Association of Jehovah’s Witnesses.¹⁷⁰

77. JS15 commended the Government on internet initiatives and progress, including in the areas of education, health and e-governance.¹⁷¹ JS15 recommended uniform implementation of the Right to Information Act 2000 across India, which will bring transparency, ensure accountability and minimise corruption.¹⁷²

78. CRY recommended the establishment of a broadcasting regulatory authority that, inter alia, would address the exploitative and degrading portrayal of children including in the media.¹⁷³

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

79. WGHR stated that India’s economic policies were steadily eroding rights, working conditions and living standards for the majority of the labour force, 92 percent of who belonged to the informal sector.¹⁷⁴ JS9 recommended, inter alia, the adoption of the “Unorganised Workers Social Security Bill”.¹⁷⁵

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

80. JS11 reported that SC and ST accounted for 80% of the rural poor.¹⁷⁶ ALRC stated that widespread corruption denied the rural poor the benefits of development and government welfare schemes. India should be urged to bring functioning, transparent mechanisms to prevent this corruption.¹⁷⁷

81. WGHR stated that almost fifty percent of the world’s hungry lived in India. India had the world’s highest number of malnourished and hungry children.¹⁷⁸ JS11 stated that India’s National Food Security Bill (NFSB) overlooked the Interim Orders of the Supreme Court on the right to food.¹⁷⁹ WGHR noted that the NFSB failed to universalise the Public Distribution System (PDS) the world’s largest food subsidy programme. A successful system of quasi-universal PDS had been introduced by Tamil Nadu, which should be emulated across the country.¹⁸⁰

82. WGHR stated that India faced an acute housing shortage¹⁸¹ and recommended the development of a rights-based national housing policy or law with a focus on social housing.¹⁸²

83. WGHR reported that the provision of water and sanitation, although claimed to be a priority, was dismal. 665 million people defecated in the open.¹⁸³

8. Right to health

84. JS8, World Vision (WV) and WGHR made recommendations on increasing the budget allocation on health.¹⁸⁴ JS8 made recommendations, including that India address human resource constraints; prioritize the funds, infrastructure and capacity to manage drugs and supplies; and address socio-economic inequalities in public health care services planning.¹⁸⁵

85. WGHR stated that India had the world's highest child mortality.¹⁸⁶ According to JS2, India was the country leading all others in the absolute number of maternal deaths.¹⁸⁷ WV reported that States with poor health indicators like Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh and Orissa, accounted for almost half of the country's ST population and 37% of SC population.¹⁸⁸ JS2 stated that the persistence of maternal mortality, including due to child marriage and unsafe abortion, reflected the low status of women in India and the lack of prioritization of gender equality (MDG 3).¹⁸⁹ HRW recommended that India ensure that maternal health programmes did not discriminate against women with more than two children or mothers under the age of 18.¹⁹⁰

86. JS17 highlighted the serious concerns regarding the very limited availability of palliative care services.¹⁹¹ HRW recommended that India take immediate steps to ensure that all regional cancer centres offered palliative care and all states and territories implement simplified morphine regulations.¹⁹²

87. WGHR recommended that India review regulations to prevent unethical medical trials.¹⁹³

9. Right to education

88. JS6 was concerned about inadequate funding to implement the Right of Children to Free and Compulsory Education Act (RTE) and involvement of the private sector.¹⁹⁴ While acknowledging the RTE, JS15 referred to widespread internet use and indicated that the internet could be a medium to access information and knowledge at low cost.¹⁹⁵

89. JS3 noted that discrimination against ST and SC children affected children in the educational system.¹⁹⁶ JS9 stated that a disproportionate number of SC students, in higher education, had committed suicide.¹⁹⁷ ERI recommended zero tolerance for any form of discrimination based, inter alia, on religion, caste, or disability, in schools.¹⁹⁸

90. HRW reported on Maoist attacks on schools and on the government occupation of schools for their anti-insurgency operations.¹⁹⁹ Related concerns were raised by JS20,²⁰⁰ UNM-M²⁰¹ and JS13.²⁰² ERI recommended that the army or police should not occupy schools during conflict situations.²⁰³

10. Persons with disabilities

91. ERI recommended that children with disabilities should be educated in mainstream schools.²⁰⁴

92. National Disability Network (NDN) stated that there was a lack of protection for people with disabilities from neglect, abuse, and harassment in families and communities, and lack of support for them. There were many instances of abuse of people who were mentally impaired in state-run institutions, including through the use of electro-convulsive therapy.²⁰⁵ NDN made recommendations.²⁰⁶

11. Minorities and indigenous peoples

93. Zo Indigenous Forum reported that India had the largest number of indigenous people of any country and must recognize them as indigenous people.²⁰⁷

94. Internal Displacement Monitoring Centre (IDMC) stated that in north-east India, ethnic tensions between indigenous people (e.g. Bodos) and those they regarded as “outsiders” (e.g. Muslims or Adivasis) had led to violence and displacement.²⁰⁸

95. According to IDMC, in Central India, the causes of conflict were linked to discrimination against the indigenous population (or Adivasis) living in areas with large mineral deposits that were being exploited by mining companies, threatening their ancestral lands and traditional ways of life.²⁰⁹

96. JS7,²¹⁰ JS13,²¹¹ IHRB²¹² and ALRC²¹³ referred to alleged instances of violations of indigenous peoples’ land rights with JS11²¹⁴ reporting that the dams and hydro-power projects in Brahmaputra River Basin posed threats to the environment and the livelihood of indigenous peoples. International Institute of Peace Justice and Human Rights reported on alleged excessive use of force against groups protesting forced evictions and land expropriation.²¹⁵ AI recommended that legislation be amended to guarantee free, prior and informed consent (FPIC)²¹⁶ and that India ensure that proposals in the Land Acquisition, Rehabilitation and Resettlement Bill 2011 explicitly prohibit forced evictions.²¹⁷

97. JS11 stated that in north-east India, the indigenous languages (Sema, Lotha, Ao, Aimol, Chiru, Kharam) were not included in the school curricula and there were no official commitments to preserve these languages and cultures.²¹⁸

12. Migrants, refugees and asylum-seekers

98. WGHHR reported that the status of refugees, simply treated as foreigners, remained arbitrary, decided by the administrative authorities. WGHHR called for the adoption of the Refugee and Asylum Seekers (Protection) Bill, 2006.²¹⁹

13. Internally displaced persons

99. IDMC recommended the development of national legislation and policy on internal displacement.²²⁰

14. Right to development and environmental issues

100. WGHR stated that India's free trade agreements threatened the rights to food, health, work and development.²²¹ WGHR recommended that trade and investment agreements meet India's constitutional and international commitments to human rights and environmental standards.²²²

15. Human rights and counter-terrorism

101. JS12 stated that India promulgated amendments to the Unlawful Activities Prevention Act of 1967 which reintroduced elements of earlier anti-terrorism legislation that had been broadly condemned.²²³ It made recommendations, including revising the definition of terrorism to be consistent with international law,²²⁴ ensuring that police training in counterterrorism operations included respect for due process, nondiscrimination, and humane treatment.²²⁵

Notes:

1 The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status)

National Human Rights Institution

NHRC National Human Rights Commission, New Delhi, India;*

Civil society

ACJP Ambedkar Center for Justice and Peace, Kingston, Pennsylvania, United States of America (USA);

AI Amnesty International, London, United Kingdom of Great Britain and Northern Ireland (UK);

ALRC Asian Legal Resource Centre, Hong Kong, China;

CHRI Commonwealth Human Rights Initiative, New Delhi, India;

CRIN Child Rights Information Network, UK;

CRY Child's Rights and You, New Delhi, India;

CSW Christian Solidarity Worldwide, UK;

ERI Edmond Rice International, Geneva, Switzerland;

ERT The Equal Rights Trust, London, UK;

GIEACPC Global Initiative to End All Corporal Punishment of Children, London, UK;

HAQ HAQ:Centre for Child Rights, New Delhi, India;

HRW Human Rights Watch, Geneva, Switzerland;

ICJ International Commission of Jurists, Geneva, Switzerland;

IDMC Internal Displacement Monitoring Centre of the Norwegian Refugee Council, Geneva, Switzerland;

- IFJ/HRFJK International Forum for Justice / Human Rights Forum J&K, India;
- IHRB Institute for Human Rights and Business, Nairobi, Kenya;
- IIPJHR International Institute for Peace, Justice and Human Rights, Geneva, Switzerland;
- JS1 Harm Reduction International, London, UK, Indian Harm Reduction Network, New Delhi, India, and Asian Network of People who Use Drugs, Bangkok, Thailand (Joint Submission 1);
- JS2 Center for Reproductive Rights, New York, USA, and Human Rights Law Network, New Delhi, India (Joint Submission 2);
- JS3 Istituto Internazionale Maria Ausiliatrice and International Volunteerism Organization for Women, Education, Development, San Paulo, Brazil (Joint Submission 3);
- JS4 Creating Resources for Empowerment and Action, New Delhi, India, and The Sexual Rights Initiative (comprising of Action Canada for Population and Development, Canada, Creating Resources for Empowerment and Action, India, Federation for Women and Family Planning, Poland, Egyptian Initiative for Personal Rights, Egypt, Akahata, Argentina), Durbar Mahila Samanwaya Committee, India, Veshya Anyay Mukti Parishad, India, Talking About Reproductive and Sexual Health Issues, New Delhi, India, Centre for Penology, Criminal Justice and Police Studies, and Jindal Global Law School, India (Joint Submission 4);
- JS5 Pax Romana, Geneva, Switzerland, Orissa Forum for Social Action, India, National Dalit Movement for Justice, New Delhi, India, Dominicans for Justice and Peace, Geneva, Switzerland, World Council of Churches, Geneva, Switzerland, and National Solidarity Forum, India (Joint Submission 5);
- JS6 World Vision India, India, National Coalition for Education, India (Joint Submission 6);
- JS7 Odisha Review Development: a coalition of 33 civil society organizations, Odisha, India (Joint Submission 7);
- JS8 Save the Children, Washington, DC, USA, World Vision, Geneva, Switzerland (Joint Submission 8);
- JS9 National Coalition for Strengthening PoA Act, New Delhi, India, comprising of National Campaign on Dalit Human Rights, New Delhi, India, National Dalit Movement for Justice, New Delhi, India (Joint Submission 9);
- JS10 Equitable Tourism Options, India, End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, India, (Joint Submission 10);
- JS11 Franciscan International, Geneva, Switzerland, and Congregation of Our Lady of Charity of the Good Shepherd Justice Peace and Solidarity, Canada (Joint Submission 11);
- JS12 The Advocates for Human Rights, Minneapolis, USA, Indian American Muslim Council, Washington, D. C., USA, Jamia Teacher Solidarity Association, New Delhi, India (Joint Submission 12);
- JS13 Centre for Organisation Research & Education, Manipur, India, Citizens Corn for Dams and Development, Civil Liberties and Human Rights Organisation, Civil Liberties People Forum, (Joint Submission 13);
- JS14 India Alliance for Child Rights, New Dehli, India (Joint Submission 14)
- JS15 Digital Empowerment Foundation, New Delhi, India, India, and Association for Progressive Communication, California, USA (Joint Submission 15);
- JS16 REDRESS, London, UK, and Ensaaf, India, (Joint Submission 16);
- JS17 Pallium India, India, Worldwide Palliative Care Alliance, London, UK, International Association for Hospice & Palliative Care, Houston, USA, and Human Rights Watch,

- Geneva, Switzerland (Joint Submission 17);
- JS18 International Association for Religious Freedom, Geneva, Switzerland, Rama Krishna Mission, Mahabodhi International Meditation Centre, Unitarian Universalist of India, Forum for Harmony, Caussanal Inter -Religious Movement, Bahai's Spiritual Center, World Zoroastrian Culture Federation, Thenkasi Harmony, Bala Vikas Foundation, Vishaka Patnam, Sadhrana Brama Samaj, and Interfaith Fellowship for Peace and Progress (Joint Submission 18);
- JS19 CIVICUS: World Alliance for Citizen Participation, Johannesburg, South Africa and Common Wealth Human Rights Initiative, New Delhi, India (Joint Submission 19);
- JS20 Asian Centre for Human Rights, New Delhi, India, Asian Indigenous and Tribal Peoples Network, New Delhi, India, Adivasi Development Council, India, Banglar Manab Adhikar Suraksha Mancha, West Bengal, India, Mising Bane Kebang, Assam, India, Karbi Human Rights Watch, Assam, India, Integrated Rural Women Development Service Organization, Manipur, India, Zomi Human Rights Foundation, India, Rural Women Upliftment Society, Manipur, India, Mizoram Bru Displaced Peoples' Forum, India, Young Chakma Association, Marpara Zone, Mizoram, India, Kheruk Majdoor Chetna Sangat Alirajpur, Madhya Pradesh, India, Samaj Chetna Adhikar Manch, Madhya Pradesh, India, Dialogue on Indigenous Culture and Environment Foundation, India, National Campaign for Survival and Dignity, Sundargarh, India, Indigenous Tribal Peoples Development Centre, Tripura, All Bodo Students' Union, Assam, India, All Rabha students' Union, Assam, India, Dimasa students' Union, Assam, India, and Barak Valley Chakma Students' Association, Assam, India (Joint Submission 20);
- JS21 World Evangelical Alliance, New York, USA, and Evangelical Fellowship of India, India (Joint Submission 21);
- JS22 International Human Rights Association of American Minorities (IHRAAM), Nainamo, Canada; Indian Council of South America (CISA), La Paz, Bolivia; Indigenous Peoples and Nations Coalition (IPNC), Anchorage, Alaska; International Council for Human Rights (ICHR), Brussels, Belgium; International Educational Development, Los Angeles, USA; Association of Humanitarian Lawyers, San Francisco, USA; International Association of Schools of Social Work (IASSW), Hong Kong, China (Joint Submission 22);
- JW The European Association of Jehovah's Christian Witness, Belgium;
- KIIR Kashmir Institute of International Relations, Islamabad, Pakistan;
- LWF Lutheran World Federation, Geneva, Switzerland;
- NDN National Disability Network, New Delhi, India;
- OFMI Organization for Minorities of India, Lathorp, California, United States of America;
- OGMA Odisha Goti Mukti Andolan, India;
- PCI Pax Christi International, Brussels, Belgium;
- UNMM United NGOs Mission-Manipur, India comprising: Council for Anti Poverty Action and Rural Volunteer, Centre for Social Development, Village Development Organisation, Social Upliftment & Rural Edn., Abundant Life Ministry, Rural Service Agency, Development of Human Potential, Action for Welfare and Awakening I Rural Environment, Rural Education and Action for Change Manipur, United Tribal Development Project, Christian Social Development Organisation, Chandel Khubol Social Welfare Arts and Culture Assn., Good Samaritan Foundation, Evangelical Assembly Churches, Joint Action for Relief and Development Association, Rural Aid Services, Integrated Rural Development Agency, Socio Economic Development Organisation, Centre for Community, Centre for Rural Development and Educational Organisation, Paomei Development Society Tungjoy, Zougam Institute for Community & Rural Development, Rural Development

Association, Socio Economic & Environment Development Organisation, Integrated Rural Development Welfare Association, Tangkhul Theological Assn., Eastern Rural Development & Welfare Service, Participatory Action for Sustainable Development Organisation, Women Union for Peace, Shalom Development Organisation, Rural Institute for Community Health and Dev., People's Resource Development Association, Rural Christian Development Society, New Life Foundation, Women Action for Development, Tribal Women Dev. Assn, All Manipur Women Assn., Environment and Economic Management Assn., Centre for Women Development, Rural Women Upliftment Society, Women In Holistic Development, Tuikhaphai Presbyterians Women Dev. Project, Rural Women Dev. Society, Women Development Agency, Tribal Women and Child Care Assn., Integrated Rural Management Agency, Umathel Women Development Association, Action for Women in Development, Women's Action for Reformation, Centre for Women, Grace Ministry, Rural Women & Children Dev. Organisation, Widow Welfare Society, Association for Rural Development & Women Empowerment, Women Development Organisation, Development Agency for Tribal People, and Tamei Women Welfare Organisation, India (JointSubmission);

- WGHR Working Group on Human Rights in India and the UN comprising of Action Aid India, Asian Centre for Human Rights, Citizens for Justice and Peace, Commonwealth Human Rights Initiative, FIAN India, HAQ: Centre for Child Rights, Housing and Land Rights Network, Human Rights Alert, India Alliance for Child Rights, Lawyers Collective, Multiple Action Research Group, National Campaign on Dalit Human Rights, Partners for Law in Development, and People's Watch, India (Joint Submission);
- WV World Vision, Geneva, Switzerland;
- ZIF Zo Indigenous Forum, Mizoram, India.

² NHRC-India, submission to the second cycle of the Universal Periodic Review of India, pp.1-6. The recommendations mentioned by NHRC-India can be found in document A/HRC/8/26 and A/HRC/8/26/Add.1.

³ NHRC, para. 7 and pars. 8-24.

⁴ NHRC, para. 20.

⁵ NHRI, p. 5, para. 14.

⁶ NHRC, p. 5, para. 15.

⁷ NHRC, p. 5, para. 16.

⁸ NHRC, p. 1, para. 5, p. 4, para. 8.

⁹ NHRC, p. 6, para. 23.

¹⁰ NHRC, p. 4, para. 10.

¹¹ NHRC, p. 5, para. 19.

¹² NHRC, p. 5, para. 21.

¹³ NHRC, para. 13.

¹⁴ NHRC, p. 5, para. 17.

¹⁵ NHRC, para. 11.

¹⁶ NHRC, para. 12.

¹⁷ NHRC, p. 6, para. 22.

¹⁸ NHRC, p. 4, para. 9; See also WGHR, para. 2.

¹⁹ NHRC, p.1.

²⁰ NHRC, para. 5.

²¹ NHRC, para. 20.

- ²² NHRC, para. 5.
- ²³ NHRC, para. 5.
- ²⁴ NHRC, para. 5.
- ²⁵ NHRC, para. 5.
- ²⁶ NHRC, para. 5.
- ²⁷ NHRC, para. 5.
- ²⁸ NHRC, p. 6, para. 25.
- ²⁹ NHRC, para. 5.
- ³⁰ NHRC, para. 6.
- ³¹ NHRC, p. 5, para. 18.
- ³² NHRC, para. 6.
- ³³ NHRC, para. 6.
- ³⁴ NHRC, para. 6.
- ³⁵ NHRC, para. 6.
- ³⁶ NHRC, para. 6.
- ³⁷ NHRC, para. 6.
- ³⁸ NHRC, para. 6.
- ³⁹ NHRC, para. 6.
- ⁴⁰ NHRC, para. 6.
- ⁴¹ JS 9, p. 2, para. 4. See also JS 20, p. 1; AI, p. 1; HRW, p. 1; IFJ, p. 5; IHRB, p. 5; LWE, p. 3, para. 5; and OFMI, p. 5.
- ⁴² JS 14, p. 9, para. 7. 1 and HAQ, p. 6, para. 10. 4; See also CRY, p. 2.
- ⁴³ ALRC, p. 3, para. 2.3; See also CRY, p. 2.
- ⁴⁴ ICJ, p. 5, para. 24 (i) and (x). For other recommendations see p. 5, para. 24 (ii) to (ix).
- ⁴⁵ WGHR, para. 37.
- ⁴⁶ HRW, p. 5. See also IFJ, p. 5; LWE, p. 3, para. 5.
- ⁴⁷ WGHR, para. 39, recommendations.
- ⁴⁸ AI, p. 5.
- ⁴⁹ JS 2, p. 6, recommendation 1.
- ⁵⁰ CHRI, p. 7, para. 28. See also AI, p. 6.
- ⁵¹ JS 2, p. 6 and AI, p. 6.
- ⁵² JS 14, p. 6. See also IHRB, p. 5
- ⁵³ IFJ/HRFJK, p. 5.
- ⁵⁴ JS13, p. 10, recommendations, para. 43.
- ⁵⁵ JS 10, p. 3. See also JS 9, p. 3, para. 6; JS 11, p. 7, para. 27 a); and IHRB, p. 5.
- ⁵⁶ JS 11, p. 10, para. 39 a). See also AI, p. 6.
- ⁵⁷ ERI, p. 2, recommendation 2.
- ⁵⁸ JS 3, para. 7.
- ⁵⁹ JS14, p. 7, recommendations 5 and 6.
- ⁶⁰ JS 3, para. 8. See also JS 14, p. 7, recommendation 5; HAQ, p. 2, para. 3; and CRY, p. 2, para. b.
- ⁶¹ See also, HRW, p. 4, recommendations.
- ⁶² IHRB, p. 5, recommendations.

- ⁶³ JS20, p. 2. See also HRW.
- ⁶⁴ JS 12, p. 9, para. 30. See also HRW.
- ⁶⁵ JS20, p. 2. See also HRW, p.3.
- ⁶⁶ JS 16, p. 2, para. 4.
- ⁶⁷ JS 16, p. 2, para. 4 and p. 3, para. 8.
- ⁶⁸ JS 16, p. 4, para. 15.
- ⁶⁹ JS 16, p. 6.
- ⁷⁰ JS 18, p. 7, para. 3.
- ⁷¹ CRY, section 3, para. B, p. 3. See also HAQ, para 10.
- ⁷² AI, p. 5. See also JS 20, p. 1, WGHR, para. 3.
- ⁷³ HAQ, p. 2, paras. 4, 5. See also JS10, pp. 5-6.
- ⁷⁴ WGHR, para 3 and recommendation.
- ⁷⁵ JS 18, p. 7, recommendations 1 and 2. See also WGHR, para. 3.
- ⁷⁶ JS 9, p. 3, para. 7.
- ⁷⁷ JS9, p. 2, para. 5.
- ⁷⁸ ICJ, p. 6, para. 24, recommendations (xxiv) and (xxv).
- ⁷⁹ CSW, p. 1, recommendation, para. 4.
- ⁸⁰ JS 9, p. 13, recommendation 10.
- ⁸¹ JS2, p. 6, recommendation 6.
- ⁸² CSW, p. 4, para. 19. See also JS 2, p. 6, recommendation 6.
- ⁸³ CHRI, para. 28, recommendation.
- ⁸⁴ IFJ/HRFJK, p. 5, recommendations.
- ⁸⁵ ERT, paras. 2 and recommendation, para. 22.
- ⁸⁶ JS9, p. 13, recommendation 11.
- ⁸⁷ JS20, p. 3.
- ⁸⁸ PVCHR, p. 2.
- ⁸⁹ WGHR, para. 60. See also JS20, pages 3 and 9
- ⁹⁰ WGHR, paras. 59 and 62.
- ⁹¹ JS 3, para. 25, recommendation 4. See also, JS3, para. 21.
- ⁹² ERI, p. 5, recommendation 9.
- ⁹³ JS9, paras. 14-15.
- ⁹⁴ JS20, p. 16. See also WGHR, paras. 60 and 68, JS11, paras. 40 and 42, ACJP, p.3 and PVCHR, pp.2-4.
- ⁹⁵ ALRC, p. 5, para. 3.7.
- ⁹⁶ JS 3, p. 5, para. 25.
- ⁹⁷ JS9, para. 19.
- ⁹⁸ LWE, p. 2, para. 2. See also JS 11, paras. 40 and 43; CSW, p. 1, paras. 5-8.
- ⁹⁹ JS12, para. 25.
- ¹⁰⁰ JS12, para. 26.
- ¹⁰¹ JS12, para. 25.
- ¹⁰² JS20, p. 4.
- ¹⁰³ JS1, p. 1.

- ¹⁰⁴ CRIN, p. 3.
- ¹⁰⁵ ICJ, p. 6, para. 24 (xx).
- ¹⁰⁶ AI, p.2.
- ¹⁰⁷ WGHR, para. 39.
- ¹⁰⁸ WGHR, para. 36.
- ¹⁰⁹ ALRC, p. 3, para. 2.5. See also JS20, p.8.
- ¹¹⁰ ALRC, p. 3, para. 2.5.
- ¹¹¹ WGHR, para. 37.
- ¹¹² ALRC, p. 3, para. 2.7.
- ¹¹³ ALRC, p. 3, para. 2.5.
- ¹¹⁴ WGHR, para. 42.
- ¹¹⁵ WGHR, para. 43.
- ¹¹⁶ JS19, para. 3.2.
- ¹¹⁷ JS19, p. 4, para. 6.3. See also WGHR, para. 44.
- ¹¹⁸ JS18, paras. 3-6.
- ¹¹⁹ CSW, para. 12.
- ¹²⁰ WGHR, para. 75.
- ¹²¹ JS19, paras 1 – 5 and recommendations, para. 6. See also, AI, p. 7.
- ¹²² AI, p. 4. See also WGHR, para. 40.
- ¹²³ WGHR, para. 41.
- ¹²⁴ JS12, para. 31.
- ¹²⁵ GIEACPC, p. 1. See also CRIN, p. 3, recommendation 2.
- ¹²⁶ PVCHR, p. 3.
- ¹²⁷ HRW, p. 5.
- ¹²⁸ See also JS11, para. 25.
- ¹²⁹ JS11, para. 7.
- ¹³⁰ JS11, para. 8.
- ¹³¹ JS4, para. 1. See also paras. 11, 20, 27, 31 and recommendations paras. 34-45.
- ¹³² JS10, para. 1.2 a., p. 3.
- ¹³³ JS10, para. 1.2 c., p. 4.
- ¹³⁴ OMGA, p. 3, para. 1.
- ¹³⁵ JS 11, p. 4, recommendations, para. 15 b) and c).
- ¹³⁶ JS3, para. 18.
- ¹³⁷ ACJP, p. 6, recommendation 2.
- ¹³⁸ CHRI, p. 3, para. 13.
- ¹³⁹ CHRI, p. 3, para. 14.
- ¹⁴⁰ CHRI, p. 3, para. 14. See also, recommendations, p. 4, para. 17.
- ¹⁴¹ ICJ, p. 5, para. 24, recommendation xii).
- ¹⁴² CHRI, para. 12.
- ¹⁴³ WGHR, para. 58, recommendation.
- ¹⁴⁴ ALRC, para. 5.8. See also ALRC, para. 2.9.
- ¹⁴⁵ HRW, p.4, recommendations.

- ¹⁴⁶ UNM-M, p. 6, recommendations, paras. 24 and 26. See also JS 12, p. 10, para. 33.
- ¹⁴⁷ IFJ/HRFJK, p. 5.
- ¹⁴⁸ JS22, p. 1, recommendation 1.
- ¹⁴⁹ CHRI, p. 5, para. 19.
- ¹⁵⁰ JS20, p. 6.
- ¹⁵¹ CHRI, p. 6, para. 24.
- ¹⁵² ICJ, p. 5, para. 24, recommendation (xiii).
- ¹⁵³ HAQ, p. 4, para. 8.3.
- ¹⁵⁴ JS14, p. 11, recommendation 17.
- ¹⁵⁵ WGHR, para. 57.
- ¹⁵⁶ PVCHR, p. 3.
- ¹⁵⁷ HRW, p. 4. See also, WGHR, para. 34. JS 5, paras. 34 and 10; ZIF, p. 2, recommendation 1; UNMM, p.5, recommendation para. 23; IFJ/HRFJK, p. 5 and JS13, recommendation, para. 40.
- ¹⁵⁸ WGHR, para. 34. See also UNM-M, para. 14.
- ¹⁵⁹ KIIR, p. 6. See also IFJ/HRFJK, p. 5.
- ¹⁶⁰ WGHR, para. 66.
- ¹⁶¹ JS 6, p. 8, recommendation 1. See also JS 3, pp. 3-4; paras. 9-12; JS 14, p ara. 9, p.13.
- ¹⁶² JS21, para. 1.
- ¹⁶³ JS21, para. 2.
- ¹⁶⁴ JS21, para. 19.
- ¹⁶⁵ JS5, p. 8, recommendation, para. 31.
- ¹⁶⁶ JS5, pp. 4-5, para. 8.
- ¹⁶⁷ PCI, p. 2 and recommendations p. 4. See also JS18, p. 8, recommendation 9.
- ¹⁶⁸ JS18, p. 8, recommendation 15. See also recommendations 6-8.
- ¹⁶⁹ WGHR, para. 76.
- ¹⁷⁰ JW, p. 2.
- ¹⁷¹ JS15, paras. 5 – 11.
- ¹⁷² JS15, para. 21.
- ¹⁷³ CRY, p. 4.
- ¹⁷⁴ WGHR para. 23.
- ¹⁷⁵ JS9, p. 13, recommendation 9.
- ¹⁷⁶ JS11, para. 30.
- ¹⁷⁷ ALRC, p. 6, para. 4.6.
- ¹⁷⁸ WGHR, para. 11.
- ¹⁷⁹ JS 11, p. 5, para. 17.
- ¹⁸⁰ WGHR, para. 13.
- ¹⁸¹ WGHR, para. 7.
- ¹⁸² WGHR, para. 10.
- ¹⁸³ WGHR, para. 20 and recommendation.
- ¹⁸⁴ JS 8, p. 3, WV, p.2 and WGHR, para. 21.
- ¹⁸⁵ JS8, pp. 3-5. See also WV, pp. 3-5.
- ¹⁸⁶ WGHR, para. 17, See also JS 14; p. 8, para. 6.1.

- ¹⁸⁷ JS2, p. 6, recommendations' section.
- ¹⁸⁸ WV, p. 4.
- ¹⁸⁹ JS 2, p. 3, para. 6. See also JS 2, p.6, recommendations.
- ¹⁹⁰ HRW, p. 5.
- ¹⁹¹ JS 17, p. 4. See also HRW p. 4.
- ¹⁹² HRW, p. 5, recommendations.
- ¹⁹³ WGHR, para. 20, recommendation. See also WGHR, para. 19.
- ¹⁹⁴ JS6, para. 1, p. 3.
- ¹⁹⁵ JS15, para. 17.
- ¹⁹⁶ JS3, paras. 15 and 17-18.
- ¹⁹⁷ JS9, para. 27.
- ¹⁹⁸ ERI, p. 4.
- ¹⁹⁹ HRW, p. 4.
- ²⁰⁰ JS20, p. 16.
- ²⁰¹ UNM-M, para. 22.
- ²⁰² JS13, para. 33.
- ²⁰³ ERI, p.3, recommendation 3. See also HRW, recommendations p.5.
- ²⁰⁴ ERI, p. 5, recommendation 11.
- ²⁰⁵ NDN, p. 3.
- ²⁰⁶ NDN, pp. 10-11, recommendations.
- ²⁰⁷ ZIE, p.2, recommendation 2. See also JS13, para. 39.
- ²⁰⁸ IDMC, Chapter IV, p. 3/4.
- ²⁰⁹ IDMC, Chapter IV, p. 3/4.
- ²¹⁰ JS7, paras. 9 – 44.
- ²¹¹ JS13, paras. 36-37.
- ²¹² IHRB, pp.3-4.
- ²¹³ ALRC, paras. 4.1-4.6.
- ²¹⁴ JS11, para. 33. See also paras 32 and 35.
- ²¹⁵ IIPJHR, p. 2.
- ²¹⁶ See also AI, recommendation, p.7; JS11, recommendation para 39; JS13, recommendation, para. 39; and JS7, para. 29 and recommendation para 45.
- ²¹⁷ AI, recommendation, p. 6.
- ²¹⁸ JS11, p. 10, para. 38.
- ²¹⁹ WGHR, para. 74. See also ZIE, p. 2, recommendation 4.
- ²²⁰ IDMC, p. 7.
- ²²¹ WGHR, para. 21.
- ²²² WGHR, recommendation, para. 22.
- ²²³ JS12, p. 2, para. 8.
- ²²⁴ JS12, p. 9, para. 29.
- ²²⁵ JS12, p. 10, para. 35.

6. OHCHR's Compilation of UN Bodies Observations & Comments for the Second UPR of India



HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Thirteenth session
Geneva, 21 May–4 June 2012

**Compilation prepared by the Office of the High Commissioner
for Human Rights in accordance with paragraph 5 of the annex to
Human Rights Council resolution 16/21**

India

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and the Office of the High Commissioner for Human Rights (OHCHR) and other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period

I. Background and framework

A. Scope of international obligations¹

Universal human rights treaties²

	Status during previous cycle	Action after review	Not ratified/not accepted
<i>Ratification, accession or succession</i>	ICERD (1968)	--	ICCPR-OP 2
	ICESCR (1979)		CAT (signature only, 1997)
	ICCPR (1979)		OP-CAT
	CEDAW (1993)		ICRMW
	CRC (1992)		CED (signature only, 2007)
	OP-CRC-AC (2005)		
	OP-CRC-SC (2005)		
<i>Reservations, declarations and/or understandings</i>	ICERD (art. 22)	--	--
	ICESCR (arts. 1, 4, 7 (c) and 8)		
	ICCPR (arts. 1, 9, 12, 13, 19, para. 3, 21 and 22)		
	CEDAW (arts. 5 (a), 16, paras. 1 and 2, and 29, para. 1)		
	CRC (art. 32)		
<i>Complaint procedures³</i>	--	--	ICERD, art. 14 OP-ICESCR ICCPR-OP 1 OP-CEDAW CAT, art. 22 ICRMW, art. 77 OP-CRPD CED, art. 31

Other main relevant international instruments

	Status during previous cycle	Action after review	Not ratified
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide Geneva Conventions of 12 August 1949 ⁴ ILO fundamental conventions ⁵	Palermo Protocol ⁶	Rome Statute of the International Criminal Court Conventions on refugees and stateless persons ⁷ Additional Protocols to the 1949 Geneva Conventions ⁸ UNESCO Convention against Discrimination in Education ILO fundamental conventions ⁹ ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries ILO Convention No. 189 concerning Decent Work for Domestic Workers

1. In 2012, the Special Rapporteur on the situation of human rights defenders welcomed the commitment of India to ratify CAT and CED and recommended that India take the necessary steps to recognize the competence of the United Nations human rights treaty bodies to receive individual complaints.¹⁰
2. The Committee on Economic, Social and Cultural Rights (CESCR) encouraged India to consider ratifying CAT, ICRMW and ILO conventions including No. 98.¹¹ The United Nations Country Team (UNCT) noted a significant change in the Indian legal framework, and stated that it would be highly beneficial for India to reconsider its declaration to article 32 of the CRC, and to ratify ILO Conventions Nos. 138 and 182.¹²
3. India was also invited to consider ratifying the four conventions relating to refugees and stateless persons;¹³ UNESCO Convention against Discrimination in Education;¹⁴ ILO Convention No. 169;¹⁵ as well as Nos. 155 and 170.¹⁶
4. CESCR was of the view that India had the capability to implement immediately the rights in Part II of the ICESCR as required, and to meet, at the least, its core

obligations for the progressive realization of the rights in Part III of the Covenant. Regretting India's position that the realization of the rights contained in the ICESCR are entirely progressive in nature, CESCR urged India to review its position.¹⁷

B. Constitutional and legislative framework

5. While noting the significant role played by the Supreme Court of India in interpreting the Constitution with a view to achieving justiciability of economic, social and cultural rights, CECSR recommended that India take the necessary legal measures to give full effect to the ICESCR in domestic law.¹⁸
6. Concerning the Prevention against Torture Bill (2010) adopted by the Lok Sabha on 6 May 2010, the Special Rapporteur on the question of torture reported that the bill failed to comply with several provisions of CAT. Additionally, the bill required that the Government grant its approval before a court could take up a case, and complaints had to be filed within six months from the date of the offence. The Government replied that the bill was undergoing careful scrutiny in Parliament.¹⁹ The Special Rapporteur on the situation of human rights defenders noted that the bill was before the Rajya Sabha and recommended that it be adopted without further delay.²⁰

C. Institutional and human rights infrastructure and policy measures

<i>National Human Rights Institution</i> ²¹	<i>Status during previous cycle</i>	<i>Status during present cycle</i>
National Human Rights Commission of India (NHRC) ²²	A (1999, reconfirmed in 2006)	A (2006)

7. UNCT noted the recent establishment of the National Commission for the Protection of Child Rights and 12 State Commissions and the need to strengthen measures for the effectiveness of these institutions and all other existing commissions.²³ CESCR recommended that India ensure that State and Union Territories establish their respective human rights commissions and courts, and enable the latter to consider violations of economic, social and cultural rights.²⁴
8. Regarding the work of commissions, the Special Rapporteur on the situation of human rights defenders reported on defenders' concerns, also echoed by the accreditation committee of NHRIs, that investigations are conducted by the police, who in many cases are perpetrators of the alleged violations. She also found the one-year limit for submitting complaints to the NHRC highly problematic.²⁵
9. UNCT reported that there was no action plan for follow-up on treaty body recommendations. NHRC would need to coordinate with various ministries and the civil society to develop a plan in a consultative manner.²⁶ The Special Rapporteur on the situation of human rights defenders further recommended that the commissions monitor India's implementation of the recommendations made

by the United Nations human rights mechanisms, including special procedures mandate holders, treaty bodies and the universal periodic review (UPR).²⁷

10. UNCT stated that there was very little disaggregated data available on caste and related discrimination.²⁸

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies²⁹

1. Status of reporting

Treaty body	Concluding observations included in previous review	Latest report submitted since previous review	Latest concluding observations	Reporting status
CERD	March 2007	--	--	Twentieth and twenty-first reports overdue since 2010
CESCR	January 1990	--	May 2008	Sixth report overdue since 2011
HR Committee	July 1997	--	--	Fourth report overdue since 2001
CEDAW	January 2007	Exceptional report, 2009	November 2010	Fourth and fifth reports overdue since 2011
CRC	January 2004	2011	--	Third and fourth reports Initial OP-CRC-AC and OP-CRC-SC reports to be considered
CRPD	--	--	--	Initial report overdue since 2010

11. Committee on the Elimination of Discrimination against Women (CEDAW),³⁰ CESCR³¹ and UNCT while expressing appreciation for the submission of reports, noted that they were long overdue. UNCT stated that it would welcome the Government increasing opportunities for consultations on child rights issues with all stakeholders.³²

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2008	Repeal the Armed Forces (Special Powers) Act (AFSPA) Acts of sexual violence and exploitation against Dalit and tribal women; right of ownership by members of tribal communities over lands traditionally occupied by them Complaints about acts against members of scheduled castes (SC) and scheduled tribes (ST)	

B. Cooperation with special procedures³³

	Status during previous cycle	Current status
<i>Standing invitation</i>	No	Yes
<i>Visits undertaken</i>	Health (22 November-3 December 2007) ³⁴	Freedom of religion (3-20 March 2008) ³⁵
	Food (20 August-2 September 2005)	Toxic waste (11-21 January 2010) ³⁶
	Violence against women (28 October-15 November 2000).	Human rights defenders (11-21 January 2011) ³⁷
<i>Visits agreed to in principle</i>	Toxic waste	Summary executions (19-30 March 2012)
	Freedom of religion	Adequate housing
		Arbitrary detention
		Sale of children (16-27 April 2012)

<i>Visits requested</i>	Torture (1993 and 2007) ³⁸	Torture (2010) ³⁹
	Human rights defenders (2002, 2003 and 2004)	Racism (renewed request 2008) ⁴⁰
	Racism (2004 and 2006)	Indigenous people (requested 2008)
	Summary executions (2000, 2005 and 2006)	Water and sanitation (requested 2009)
	Sale of children (2004)	Trafficking (requested 2010)
	Arbitrary Detention (2004, 2005 and 2006)	Disappearances (requested 2010, reminder sent 2011)
		Independence of judges and lawyers (requested 2011)
	Violence against women (requested 2012)	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 98 communications were sent. The Government replied to 76.	

12. In 2012, the Working Group on Disappearances noted that since its establishment, it had transmitted 433 cases to the Government; 12 of which had been clarified on the basis of information provided by the source, 68 cases had been clarified on the basis of information provided by the Government.⁴¹
13. The Government did not respond to the request for follow-up information on freedom of religion.⁴²

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

14. India contributed financially to OHCHR annually.⁴³
15. In his 2010 and 2011 reports, the Secretary-General referred to three cases of alleged reprisals against persons cooperating with United Nations human rights mechanisms on human rights violations against women, monitoring human rights in West Bengal⁴⁴ and victims of the Gujarat riots. In the first case, the Government found the allegations to be inaccurate.⁴⁵

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

16. CESCR was deeply concerned that despite the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and, often, socially accepted discrimination, harassment and/or violence persisted against members of certain disadvantaged and marginalized groups, including women, scheduled castes and tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities, such as the Muslim population, persons with disabilities and persons living with HIV/AIDS.⁴⁶ The Special Rapporteur on the situation of human rights defenders indicated that defenders working on such issues faced particular risks.⁴⁷ CESCR recommended that India strengthen enforcement of existing legal prohibitions on discrimination and consider enacting comprehensive anti-discrimination legislation, specifically prohibiting discrimination in employment, social security, housing, health care and education. CESCR urged India to step up efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts.⁴⁸
17. In 2011, UNICEF reported that the child sex ratio consistently showed a declining trend and was now an alarming 914 females to 1,000 males in the 0 to 6 years age group.⁴⁹ CESCR was deeply concerned at the lack of progress achieved by India in eliminating traditional practices and provisions of personal status laws⁵⁰ that are harmful and discriminatory to women and girls, including *sati*, *devadasi*, witch-hunting, child marriages, dowry deaths and honour killings, despite legal prohibitions.⁵¹ With regard to religion-based personal laws, the Special Rapporteur on freedom of religion or belief recommended that such laws be reviewed to prevent discrimination based on religion or belief, as well as to ensure gender equality.⁵²
18. In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations encouraged India to undertake in-depth studies into the reasons for the wide gender remuneration gap.⁵³ CESCR recommended that India continue making use of affirmative action measures to promote the active political participation of women.⁵⁴
19. In 2009, the Special Rapporteur on freedom of religion or belief recalled the recommendation made by CERD to restore the eligibility for affirmative action benefits of all members of SC and ST having converted to another religion. The Special Rapporteur recommended that the SC status be delinked from the individual's religious affiliation.⁵⁵
20. CESCR noted with concern that the recommendations of the 2006 Sachar Committee Report had not been sufficiently followed up and recommended that India ensure their full implementation, particularly for Muslim Other Backward

Classes (OBCs) and Muslim women.⁵⁶ In 2010, CEDAW was alarmed at information indicating that the educational certificates of many Muslim children were destroyed during the Godhra riots and that the government had not replaced the certificates or facilitated the resumption of the children's education.⁵⁷

21. A UNICEF report indicated that the HIV/AIDS bill which addresses issues of stigma and discrimination has been on hold since 2006. It was expected that a revised version might be introduced in Parliament soon.⁵⁸

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

22. In his 2009 report, the Secretary-General indicated that India was one of the countries retaining the death penalty, and the date of the last execution was 2004.⁵⁹ In 2010, India voted against General Assembly resolution 65/206 on the "Moratorium on the use of the death penalty."⁶⁰
23. In 2012, the Working Group on Disappearances remained concerned about allegations of widespread enforced disappearances between 1989 and 2009 and the existence of mass graves.⁶¹
24. The Special Rapporteur on the situation of human rights defenders acknowledged the security challenges faced by the country, and remained disturbed at the draconian provisions of the public security laws.⁶² Recommendations for the repeal of the AFSPA were made by CESCR⁶³ and the Special Rapporteur on the situation of human rights defenders, who also recommended that India repeal the National Security Act, the Unlawful Activities Act, the Jammu and Kashmir Public Safety Act and the Chhattisgarh Public Safety Act.⁶⁴
25. In 2008, the Special Rapporteurs on extrajudicial, summary or arbitrary executions, the question of torture and the right to freedom of opinion and expression sent a joint communication alleging 43 deaths in Jammu and Kashmir as a result of excessive use of force by state security forces in confronting demonstrations, and the beating of 13 journalists by the Central Reserve Police Force.⁶⁵ The Government replied that the action taken by the security forces was minimal.⁶⁶
26. In 2011, UNCT⁶⁷ and UNICEF⁶⁸ expressed concern about children living in areas affected by violence, such as Jammu and Kashmir, where violence escalated in the summer of 2010; various states in the north-eastern region (especially Assam, Manipur and Nagaland), where the insurgency concerned ethnic and cultural issues; and centre/west of the country (Chhattisgarh, Jharkhand, Maharashtra, Andhra Pradesh, Orissa, Bihar and West Bengal), where a large area was affected by left-wing extremism and Naxalite violence, in particular 90 districts with high concentrations of tribal populations.⁶⁹
27. The Special Rapporteur on the question of torture sent communications concerning torture and ill-treatment allegedly committed by Border Security Forces (BSF)⁷⁰ particularly in West Bengal. The Government⁷¹ indicated, inter alia, that adequate mechanisms were in place to monitor human rights violations by the BSF.⁷² The Special Rapporteur on the situation of human rights defenders noted that most

- of the human rights violations reported to her were attributed to law enforcement authorities, particularly the police.⁷³ The Special Rapporteur on the question of torture sent communications concerning allegations of torture and ill-treatment in police stations,⁷⁴ including in Manipur.⁷⁵ The Government requested additional information,⁷⁶ and indicated that evidence did not support the allegation.⁷⁷
28. Three special procedures sent communications relating to alleged inhumane prison conditions affecting 65 Pakistani members of the Mehdi Foundation International who have been detained in jail since April 2007. In its reply, the Government denied the allegations.⁷⁸ CESCR recommended that India strengthen its measures to improve sanitary and hygienic conditions in prisons.⁷⁹
 29. One or more human rights mechanisms raised particular concern about violence against women and girls,⁸⁰ violations against SC and ST,⁸¹ members of religious minorities⁸² and human rights defenders.⁸³ Recommendations for the conduct of prompt, thorough and impartial investigations into violations and the prosecution of perpetrators, on a systematic basis, were made. Fair and effective remedies should be available to victims, including for obtaining compensation.⁸⁴ Further measures were called for to prevent communal violence⁸⁵ specifically targeting women,⁸⁶ and curb violence against persons belonging to SC and ST, especially women.⁸⁷
 30. In 2010, the ILO Committee of Experts noted that the *devadasi* system was linked to the practice of trafficking in girls for commercial exploitation and that most people subjected to such exploitation were from SC and ST.⁸⁸ CESCR recommended that India enact a law criminalizing trafficking and commercial sexual exploitation.⁸⁹ The ILO Committee of Experts hoped that the Immoral Traffic Prevention Bill (2006) would soon be adopted.⁹⁰
 31. Concerned about the exceptionally high incidence of domestic violence,⁹¹ CESCR recommended that India ensure that the Protection of Women from Domestic Violence Act and Section 498-A of the Indian Penal Code are enforced effectively.⁹²
 32. CESCR raised concerns about exploitative labour conditions.⁹³ In 2010, the ILO Committee of Experts urged India to explore ways to undertake a national survey of bonded labour⁹⁴ and address the shortcomings in the vigilance committees established under the Bonded Labour System (Abolition) Act (1976).⁹⁵ UNCT stated that the existing Child Labour Prohibition and Regulation Act 1986 did not ban all forms of child labour for 6-14 year-old children⁹⁶ and should be reviewed and harmonized with the more progressive Juvenile Justice Act (2000) and the Right to Education Act (2009).⁹⁷
 33. CESCR recommended that India give high priority to addressing the problem of trade in human organs.⁹⁸
 34. In his 2011 report, the Secretary-General indicated that reports of recruitment and use of children by Maoist armed groups, also known as “Naxalites,” especially in some districts in Chhattisgarh, were received.⁹⁹

C. Administration of justice, including impunity and the rule of law

35. In 2012, the Special Rapporteur on the situation of human rights defenders referred to reports that the functioning of the judiciary was hampered by a backlog and significant delays in administering cases of human rights violations was due to a lack of capacity, manpower and resources. High costs of litigation had reportedly restrained access to justice for victims. Police intimidation was said to play a role in deterring victims from filing cases.¹⁰⁰ Related concerns were raised by CESCR.¹⁰¹
36. CESCR, while recognizing the significant role of the Supreme Court of India,¹⁰² was concerned by the non-implementation of court decisions by state authorities.¹⁰³ It urged India to ensure all court decisions are fully implemented by the relevant authorities without delay.¹⁰⁴ India replied that the concern was unfounded.¹⁰⁵
37. CEDAW urged India to, inter alia, be proactive and take all necessary measures and initiatives to ensure that the rule of law is upheld and justice is delivered instead of waiting for directives from the Supreme Court on petitions filed by third parties.¹⁰⁶
38. In 2008, CESCR stressed the need for determined enforcement of the criminal justice system.¹⁰⁷ CESCR recommended that India improve its human rights training for law enforcement officials, especially police officers, and ensure that all allegations of human rights violations are promptly and thoroughly investigated by an independent body capable of prosecuting perpetrators.¹⁰⁸ In 2012, the Special Rapporteur on the situation of human rights defenders recommended that the Supreme Court judgment on police reform, which had ordered the establishment of independent Police Complaints Authorities,¹⁰⁹ be fully implemented in line with international standards, in particular at the state level.¹¹⁰
39. CEDAW urged India to accelerate its efforts to widen the definition of rape in its Penal Code, expeditiously enact proposed legislation on communal violence, and ensure that inaction or complicity of State officials in communal violence be addressed urgently under this legislation.¹¹¹ The Special Rapporteur on freedom of religion or belief recommended that any specific legislation on communal violence take into account the concerns of religious minorities and not reinforce impunity of communalized police forces at the state level.¹¹²
40. CEDAW made recommendations to address the situation of persons displaced by the Gujarat violence,¹¹³ and urged India to take immediate, effective and gender-specific measures to sufficiently rehabilitate and compensate women victims of violence, including sexual violence, and their families in Gujarat so as to enable them to rebuild their lives.¹¹⁴ CESCR recommended that India provide adequate compensation, and wherever possible, rehabilitative measures, to the survivors of the Bhopal gas leak.¹¹⁵
41. CEDAW commended India for the establishment, in 2002, of the Commission of Inquiry tasked with inquiring into the causes of the Godhra riots and the role and conduct of former high-ranking government officials and politicians.¹¹⁶ CEDAW

called on India to consider developing, coordinating and establishing a truth and reconciliation commission in Gujarat.¹¹⁷ The Special Rapporteur on freedom of religion or belief suggested that the State envisage setting up of truth and reconciliation commissions to create a historical account, contribute to healing and encourage reconciliation in long-standing conflicts, such as the one in Jammu and Kashmir.¹¹⁸

42. The Special Rapporteur on the situation of human rights defenders recommended that a comprehensive and adequately resourced protection programme for human rights defenders and witnesses be devised.¹¹⁹

D. Right to privacy, marriage and family life

43. In 2011, UNICEF reported that India had a huge backlog of unregistered births.¹²⁰

E. Freedom of religion or belief, expression, association and peaceful assembly

44. In 2009, the Special Rapporteur on freedom of religion or belief indicated that the laws and bills on religious conversion in several Indian states should be reconsidered, particularly because of discriminatory provisions and vague or broad terminology. A public debate on the necessity of such laws and safeguards to avoid abuse of these laws seemed vital to prevent further vilification of certain religious communities.¹²¹ The Special Rapporteur was concerned that such legislation might be perceived as giving some moral standing to those who wish to stir up mob violence. She emphasized that the right to adopt a religion of one's choice, to change or to maintain a religion is a core element of the right to freedom of religion or belief and may not be limited in any way by the State.¹²² The Special Rapporteur recommended that the Representation of the Peoples Act (1951) be scrupulously implemented, including the provision on disqualification for membership in Parliament and state legislatures of persons who promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language.¹²³
45. In 2010, the ILO Committee of Experts noted that section 3 of the Official Secrets Act (1923) was worded in terms broad enough to be susceptible to be applied as a means of punishment for the expression of political views or views ideologically opposed to the established system.¹²⁴ UNESCO recommended that the Act be overhauled or amended in line with international standards.¹²⁵
46. The Special Rapporteur on the situation of human rights defenders was of the opinion that provisions in the Foreign Contribution Regulation Bill might lead to abuse when reviewing applications of organizations that were critical of the authorities and recommended that the Act be critically reviewed or repealed.¹²⁶
47. In 2012, the Special Rapporteur on the situation of human rights defenders recommended the enactment of a law on the protection of human rights defenders, with emphasis on defenders facing greater risks, developed in full and meaningful

consultation with civil society and on the basis of technical advice from relevant United Nations entities.¹²⁷

48. The Special Rapporteur stated that the enactment of the Right to Information Act (RTI), of which the Government was justifiably proud, was a major achievement for India. However, there had been as many as 10 cases of extrajudicial killings of individuals who had filed requests under the RTI had been recorded in 2010.¹²⁸
49. UNESCO indicated that between 2008 and 2011, its Director-General publicly condemned the killings of eight media professionals who had died carrying out their professional responsibilities. Physical intimidation of media professionals was widespread, especially in rural areas or conflict regions.¹²⁹

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

50. CESCR was concerned that, despite the enactment of the National and Rural Employment Guarantee Act, a high and increasing rate of unemployment and underemployment persisted in India, particularly in rural areas. CESCR made recommendations, inter alia, to encourage private-sector employers to create additional jobs.¹³⁰
51. CESCR recommended that India remove, in law and practice, obstacles to trade unions' rights to conduct collective bargaining, paying particular attention to workers' rights in Special Economic Zones (SEZs) and Export Processing Zones (EPZs). India should consider amending the 1964 Central Civil Services (Conduct) Rule, and clearly define "essential services".¹³¹ Related concerns were raised by the ILO Committee of Experts in 2010.¹³²

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

52. CESCR recommended that India adopt the Unorganized Sector Workers Social Security Bill without delay, and ensure that the very large sections of the population become entitled to social security benefits.¹³³
53. CESCR was concerned by reports of corruption, inefficiency and discrimination in distribution that hamper access to food,¹³⁴ and recommended that India take urgent measures to address the issue of poverty¹³⁵ and food insecurity, and review its national poverty threshold.¹³⁶ In 2011, FAO stated that India had started legislating on food security.¹³⁷
54. CESCR was deeply concerned that the extreme hardship being experienced by farmers had led to an increasing incidence of suicides by farmers over the past decade. CESCR urged India, in addition to implementing fully the planned farmer debt waiver programme, to address extreme poverty among small-holding farmers and increase agricultural productivity as a matter of priority. India should review the Seed Bill (2004).¹³⁸
55. Expressing concern about the lack of a national housing policy, CESCR urged India to adopt a national strategy and a plan of action on adequate housing and build or provide low-cost rental housing units.¹³⁹

56. CESCR recommended that India take immediate measures to enforce laws and regulations prohibiting displacement and forced evictions effectively, and ensure that persons evicted from their homes and lands are provided with adequate compensation and/or offered alternative accommodation. Prior to implementing development and urban renewal projects, sporting events¹⁴⁰ and other similar activities, India should undertake open, participatory and meaningful consultations with affected residents and communities.¹⁴¹
57. A 2011 UNICEF report indicated that sanitation was one of the biggest challenges in India.¹⁴² In 2010, the ILO Committee of Experts urged India to ensure that the practice of manual scavenging is eliminated effectively, including through low-cost sanitation programmes and promoting decent work opportunities for persons liberated from scavenging.¹⁴³ CESCR recommended that India take effective measures to ensure equitable access to safe drinking water by rigorously enforcing existing laws on water treatment and effectively monitoring compliance.¹⁴⁴

H. Right to health

58. UNICEF reported on the eight states with the highest under-five mortality rate¹⁴⁵ and that two-thirds of maternal deaths occurred in Bihar, Jharkhand, Orissa, Madhya Pradesh, Chhattisgarh, Rajasthan, Uttar Pradesh, Uttaranchal and Assam.¹⁴⁶ The best performing state was Kerala.¹⁴⁷ In 2010, the Special Rapporteur on the right to health stated that India had a legally binding international human rights obligation to devote its maximum available resources to the health of its population. Public spending on health that continued to bracket India with “the lowest in the world” was in breach of this international legal obligation.¹⁴⁸ In many districts, life-saving care was unavailable to women giving birth. Recourse to the private sector impoverished many women and their families. The Special Rapporteur concluded that in India, monitoring, accountability and redress in relation to the public and private health sectors were egregiously underdeveloped.¹⁴⁹ CESCR urged India to take all necessary measures to ensure universal access to affordable primary health care;¹⁵⁰ and to take effective measures to fully implement the National Rural Health Mission (2005-2012).¹⁵¹
59. In 2010, the Special Rapporteur on the right to health stated that the rate of maternal deaths in India was shocking.¹⁵² Taking into account resource availability, the Special Rapporteur considered that India was in breach of its right to health obligations because it fell far short of having a sufficient number of skilled birth attendants.¹⁵³ There was a gulf between India’s commendable maternal mortality policies and their urgent, focused, sustained, systematic and effective implementation.¹⁵⁴ The Special Rapporteur strongly recommended that the Government urgently establish an independent body to accelerate progress by galvanizing action and ensuring that those in authority properly discharge their responsibilities to reduce maternal mortality.¹⁵⁵ CESCR recommended that India expand availability of and accessibility to reproductive and sexual health information and services.¹⁵⁶

60. In 2010, the Special Rapporteur on toxic waste noted that the health and safety situation prevailing at the shipbreaking yards continued to remain critical, especially in Mumbai, and urged yard owners to comply with their obligations under national legislation.¹⁵⁷ Concerned about the extremely dangerous recovery processes and techniques used in the informal e-waste recycling sector, and the widespread contamination caused by the unsound disposal of e-waste,¹⁵⁸ the Special Rapporteur called for the finalization of the e-waste (management and handling) rules, and development of a national implementation plan to ensure the sound management and disposal of e-waste.¹⁵⁹

I. Right to education

61. Despite the efforts made, including the *Sarva Shiksha Abhiyan* (Education for All) programme, in 2008, CESCR expressed concern that the wide disparity in enrolment and drop-out rates in primary schools continued to persist, negatively affecting in particular girls, Muslim children and children belonging to SC and ST.¹⁶⁰ UNCT stated that the Right to Education Act came into force on 1 April 2010, establishing the right of all 6 to 14 year-old children to free and compulsory education as justiciable.¹⁶¹ CESCR urged India to take further initiatives to eliminate child marriages and child labour, especially of school-aged children, and targeting disadvantaged and marginalized groups in particular. CESCR recommended that India intensify its adult literacy programmes.¹⁶²
62. According to UNESCO, most teachers belonged to upper castes, and several expressed strong prejudice against Dalit and Adivasi children. Such prejudices translated into Dalit and Adivasi children being more likely to face corporal punishment. Parents had few ways to challenge discriminatory practices because they do not have a strong voice in parent-teacher associations and education committees.¹⁶³
63. UNESCO stated that Naxalite insurgent groups systematically attacked schools to damage government infrastructure and instil fear in communities in Chhattisgarh. In some cases, security forces were also implicated in using school buildings. A high court ruling had called for the withdrawal of armed forces from schools.¹⁶⁴
64. CESCR encouraged India to provide human rights education in schools at all levels and in universities, cultivating values of tolerance, social inclusion and participation.¹⁶⁵

J. Cultural rights

65. CESCR recommended that India ensure that no development initiative is carried out without effective consultation with the local communities, and that any potential negative impact on the right of everyone to take part in cultural life be taken into serious consideration when conducting social audits.¹⁶⁶

K. Persons with disabilities

66. UNESCO stated that, in 2005, just 18 per cent of India's schools were accessible to children with disabilities in terms of facilities. National education policies reflected the growing awareness of the problems associated with disability.¹⁶⁷

L. Minorities and indigenous peoples

67. The ILO Committee of Experts noted that a national tribal policy was still under consideration, but not yet finalized; it encouraged India to draw on ILO Convention No. 169.¹⁶⁸
68. In August 2011, the High Commissioner for Human Rights stated that, in India, social unrest and conflicts over land acquisition for development and mining projects had increased in recent years. Adivasis defending their ancestral lands and community forests were often subject to threats and harassment, despite the existence of constitutional protections, Supreme Court judgments and progressive national legislation requiring consent of tribal communities, and community rights over forest use. In a positive development in 2010, the Ministry of Environment and Forests stopped the Orissa government and Vedanta, a multinational company, from mining in the Niyamgiri hilltop in Kalahandi district, since such an operation would severely affect the ecology of the area and the situation of the Dongria Kondh Adivasi people living in the mountains.¹⁶⁹ Related concerns were raised by the ILO Committee of Experts in 2010.¹⁷⁰

M. Migrants, refugees and asylum-seekers

69. UNHCR stated that India had a long-standing tradition of hosting refugees, however, the absence of a national refugee protection framework served as a practical barrier in the delivery of refugee protection.¹⁷¹ Refugees and asylum-seekers were able to access employment in the large informal Indian economy. They were subjected to exploitation by employers and competition for scarce resources had led to disputes with the host community. Instances of gender-based violence and child labour were common. Complex bureaucratic procedures had significantly slowed down the process of local integration.¹⁷²

N. Right to development and environmental issues

70. CESCR noted with concern that, according to the 2007-2008 report of the Public Accounts Committee, large amounts of the 2004 Tsunami funds had been diverted from rehabilitation; it recommended that India conduct the post-tsunami rehabilitation process with transparency.¹⁷³
71. CESCR recommended that India review all aspects of its negotiations with trade agreements, to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.¹⁷⁴

Notes

(Endnotes)

- 1 Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on India from the previous cycle (A/HRC/WG.6/1/IND/2).
- 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
OP-ICESCR	Optional Protocol to ICESCR
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
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance
- 3 A table in the previous compilation contained information on the recognition of specific competences of treaty bodies.
- 4 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- 5 International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation.
- 6 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- 7 1951 Convention relating to the Status of Refugees and its 1967 Protocol; 1954 Convention relating to the Status of Stateless Persons; 1961 Convention on the Reduction of Statelessness.
- 8 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).
- 9 International Labour Organization Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; 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.
 - 10 A/HRC/19/55/Add.1, paras. 22-23 and 148.
 - 11 E/C.12/IND/CO/5, paras. 59, 61, 63-64 and 88.
 - 12 UNCT submission to the UPR on India, pp. 9-10.
 - 13 UNHCR submission to the UPR on India, p. 3.
 - 14 UNESCO submission to the UPR on India, para. 34.
 - 15 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Indigenous and Tribal Populations Convention, 1957 (No. 107), 2010, Geneva, doc. No. (ILOLEX) 062010IND107, 3rd para.
 - 16 A/HRC/15/22/Add.3, para. 85.
 - 17 E/C.12/IND/CO/5, paras. 8 and 45.
 - 18 Ibid., paras. 9 and 47.
 - 19 A/HRC/16/52/Add.1, para. 57.
 - 20 A/HRC/19/55/Add.1, paras. 14 and 147.
 - 21 According to article 5 of the rules of procedure for the ICC Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are A: Voting Member (Fully in compliance with each of the Paris Principles), B: Non-Voting Member (Not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (Not in compliance with the Paris Principles).
 - 22 For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/16/77, annex.
 - 23 UNCT submission to the UPR on India, pp.1-2. See also E/C.12/IND/CO/5, para. 11.
 - 24 E/C.12/IND/CO/5, para. 49.
 - 25 A/HRC/19/55/Add.1, para. 60; also A/HRC/19/55/Add.1, paras. 149-150 and 152.
 - 26 UNCT submission to the UPR on India, pp.1-2.
 - 27 A/HRC/19/55/Add.1, para. 157.
 - 28 UNCT submission to the UPR on India, p. 4.
 - 29 The following abbreviations have been used for 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
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
 - 30 CEDAW/C/IND/CO/SP.1, para. 3.
 - 31 E/C.12/IND/CO/5, para. 2.
 - 32 UNCT submission to the UPR on India, p.1.
 - 33 Abbreviations used follow those contained in the communications report of special procedures (A/HRC/18/51 and Corr.1).
 - 34 A/HRC/14/20/Add.2.
 - 35 A/HRC/10/8/Add.3.
 - 36 A/15/22/Add.3.
 - 37 A/HRC/19/55/Add.1.

- 38 A/HRC/10/44, para. 7
- 39 A/HRC/16/52, para. 6.
- 40 A/HRC/11/36, para. 40.
- 41 A/HRC/19/58, para. 282.
- 42 See Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to India (3-20 March 2008), available at <http://www.ohchr.org/Documents/Issues/Religion/FU-India.pdf>.
- 43 See OHCHR 2008 Report Activities and Results, p. 174; OHCHR Annual Report 2009, pp. 190 and 207; OHCHR Annual Report 2010, pp. 282 and 291; OHCHR Annual Report 2011 (forth coming).
- 44 See A/HRC/10/44/Add.4, para. 86; A/HRC/18/51, p. 50 and 78; A/HRC/19/55, para. 133.
- 45 A/HRC/14/19, paras. 24-26; A/HRC/18/19, paras. 37-47.
- 46 E/C.12/IND/CO/5, para. 13
- 47 A/HRC/19/55/Add.1, chapter III, paras. 103-132.
- 48 E/C.12/IND/CO/5, para. 52
- 49 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 36, available at http://www.unicef.org/india/The_Situation_of_Children_in_India_A_profile_20110630_.pdf
- 50 See also E/C.12/IND/CO/5, para. 16.
- 51 E/C.12/IND/CO/5, para. 25.
- 52 A/HRC/10/8/Add.3, para. 72.
- 53 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Equal Remuneration Convention, 1951 (No. 100), 2010, Geneva, doc. No. (ILOLEX) 062010IND100, 1st para.
- 54 E/C.12/IND/CO/5, para. 57.
- 55 A/62/18, para. 179; A/HRC/10/8/Add.3, para. 71.
- 56 E/C.12/IND/CO/5, paras. 15 and 54.
- 57 CEDAW/C/IND/CO/SP.1, para. 30.
- 58 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 14.
- 59 Economic and Social Council, Report of the Secretary-General on the capital punishment and implementation of safeguards guaranteeing protection the rights of those facing the death penalty, 18 December 2009 (E/2010/10), p. 58.
- 60 A/65/PV.71, p. 19.
- 61 A/HRC/19/58, para. 283.
- 62 A/HRC/19/55/Add.1, para. 30.
- 63 E/C.12/IND/CO/5, para. 50.
- 64 A/HRC/19/55/Add.1, para. 145.
- 65 A/HRC/10/44/Add.4, para. 84.
- 66 A/HRC/13/39/Add.1, para, 97.
- 67 UNCT submission to the UPR on India, p. 16.
- 68 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), pp. 33-34. .
- 69 UNCT submission to the UPR on India, p. 16; UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), pp. 33-34.
- 70 A/HRC/18/51, p. 133; A/HRC/16/52/Add.1, paras. 53 and 60; A/HRC/13/39/Add.1, paras. 91 and 95; A/HRC/10/44/Add.4, paras. 83, 85, 87.
- 71 A/HRC/16/52/Add.1, paras. 53, 60, 64, 66; A/HRC/13/39/Add.1, paras. 91, 98, 99.
- 72 A/HRC/16/52/Add.1, para. 64.
- 73 A/HRC/19/55/Add.1, para. 55. See also paras. 57 and 36.
- 74 A/HRC/16/52/Add.1, para 61, pp. 136-139.
- 75 A/HRC/18/51, p. 144 and A/HRC/13/39/Add.1, paras. 93-94.
- 76 A/HRC/16/52/Add.1, pp. 136-139, para. 61.

- 77 Ibid., pp. 142-142, para. 65.
- 78 A/HRC/18/51, p. 134. Government reply received and to be published in forthcoming communications report.
- 79 E/C.12/IND/CO/5, para. 75
- 80 CEDAW/C/IND/CO/SP.1, paras. 16 and 19.
- 81 E/C.12/IND/CO/5, paras. 14 and 53. See also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010IND111, 3rd para.
- 82 A/HRC/10/8/Add.3, para. 67.
- 83 E/C.12/IND/CO/5, paras. 12 and 50; A/HRC/19/55/Add.1, chapter III.
- 84 A/HRC/19/55/Add.1, para. 142.
- 85 A/HRC/10/8/Add.3, para. 67.
- 86 CEDAW/C/IND/CO/SP.1, para. 15.
- 87 E/C.12/IND/CO/5, para. 53.
- 88 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 092010IND029, 4th para.
- 89 E/C.12/IND/CO/5, para. 66.
- 90 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010IND029, 12th para.
- 91 E/C.12/IND/CO/5, para. 26.
- 92 Ibid., para. 67.
- 93 Ibid., para. 19.
- 94 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010IND029, 2nd para.
- 95 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010IND029, 4th para.
- 96 UNCT submission to the UPR on India, p. 9.
- 97 Ibid., p. 10.
- 98 E/C.12/IND/CO/5, para. 79.
- 99 Children and armed conflict, report of the Secretary-General (A/65/820-S/2011/250), para. 165.
- 100 A/HRC/19/55/Add.1, para. 58.
- 101 E/C.12/IND/CO/5, para. 13.
- 102 Ibid., paras. 6 and 9.
- 103 Ibid., paras. 9 and 13.
- 104 Ibid., para. 47.
- 105 E/C.12/IND/CO/5/Add.1, para. 7.
- 106 CEDAW/C/IND/CO/SP.1, para. 24.a.
- 107 E/C.12/IND/CO/5, para. 53; see also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010IND111, 3rd para.
- 108 E/C.12/IND/CO/5, para. 50.
- 109 A/HRC/19/55/Add.1, para. 35.
- 110 Ibid., para. 143.
- 111 CEDAW/C/IND/CO/SP.1, para. 27.
- 112 A/HRC/10/8/Add.3, para. 67.

- 113 CEDAW/C/IND/CO/SP.1, para. 33.
- 114 Ibid., para. 35.
- 115 E/C.12/IND/CO/5, paras. 36 and 76.
- 116 CEDAW/C/IND/CO/SP.1, para. 8; and A/66/38, p. 98, para.13.
- 117 CEDAW/C/IND/CO/SP.1, para. 37.
- 118 A/HRC/10/8/Add.3, para. 68.
- 119 A/HRC/19/55/Add.1, para. 139.
- 120 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 28.
- 121 A/HRC/10/8/Add.3, para. 70.
- 122 Ibid., para. 70.
- 123 Ibid., para. 69.
- 124 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Abolition of Forced Labour Convention, 1957 (No. 105), 2010, Geneva, doc. No. (ILOLEX) 092010IND105, 5th and 6th paras.
- 125 UNESCO submission to the UPR on India, para. 36.a.
- 126 A/HRC/19/55/Add.1, paras. 31 and 146.
- 127 Ibid., para. 144.
- 128 Ibid., paras. 28 and 94.
- 129 UNESCO submission to the UPR on India, para. 32.
- 130 E/C.12/IND/CO/5, paras 20-21 and 61.
- 131 Ibid., para. 63.
- 132 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Abolition of Forced Labour Convention, 1957 (No. 105), 2010, Geneva, doc. No. (ILOLEX) 092010IND105, 7th to 10th paras.
- 133 E/C.12/IND/CO/5, para. 64.
- 134 Ibid., para. 28; and UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 3. .
- 135 See also, E/C.12/IND/CO/5, para. 28.
- 136 E/C.12/IND/CO/5, para. 68.
- 137 FAO submission to the UPR on India, p. 1.
- 138 E/C.12/IND/CO/5, paras. 29 and 69.
- 139 Ibid., paras. 30 and 70.
- 140 See also A/HRC/18/51, page 128.
- 141 E/C.12/IND/CO/5, paras. 31 and 71.
- 142 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), pp. 10-11.
- 143 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010IND111, 4th to 6th paras.
- 144 E/C.12/IND/CO/5, para. 74.
- 145 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 15.
- 146 See MAPEDIR – Generating local evidence for local action, available at http://www.unicef.org/india/health_3057.htm.
- 147 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 19.
- 148 A/HRC/14/20/Add.2, para. 95.
- 149 Ibid., paras. 21 and 90.
- 150 E/C.12/IND/CO/5, para. 78
- 151 Ibid., para. 73.
- 152 A/HRC/14/20/Add.2, summary.
- 153 Ibid., paras. 21 and 30; and UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011),

- p. 19 .
- 154 A/HRC/14/20/Add.2, summary.
- 155 Ibid., para. 91.
- 156 E/C.12/IND/CO/5, para. 77.
- 157 A/HRC/15/22/Add.3, summary and para. 95.
- 158 Ibid., summary.
- 159 Ibid., para. 101-102.
- 160 E/C.12/IND/CO/5, para. 40.
- 161 UNCT submission to the UPR on India, p. 9.
- 162 E/C.12/IND/CO/5, paras. 80-82.
- 163 UNESCO submission to the UPR on India, para.11.
- 164 Ibid., para. 13.
- 165 E/C.12/IND/CO/5, para. 83.
- 166 Ibid., para. 84.
- 167 UNESCO submission to the UPR on India, para. 12.
- 168 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Indigenous and Tribal Populations Convention, 1957 (No. 107), 2010, Geneva, doc. No. (ILOLEX) 062010IND107, third para.
- 169 Statement by the United Nations High Commissioner for Human Rights for 9 August, the International Day of the World's Indigenous People, 5 August 2011, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11284&LangID=E>
- 170 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Indigenous and Tribal Populations Convention, 1957 (No. 107), 2010, Geneva, doc. No. (ILOLEX) 062010IND107, 1st, 2nd and 6th paras.
- 171 UNHCR submission to the UPR on India, pp. 1-3.
- 172 Ibid., p. 2.
- 173 E/C.12/IND/CO/5, paras. 32 and 72.
- 174 Ibid., para. 46.

7. Recommendations of the First UPR, 2008



HUMAN RIGHTS COUNCIL

Eighth session
Agenda item 6
25 August 2008

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*

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.

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

<i>S. No.</i>	<i>Recommendation</i>	<i>Response of India</i>
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 inter alia 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.

<i>S. No.</i>	<i>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

<i>S. No.</i>	<i>Recommendation</i>	<i>Response of India</i>
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.

<i>S. No.</i>	<i>Recommendation</i>	<i>Response of India</i>
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.

<i>S. No.</i>	<i>Recommendation</i>	<i>Response of India</i>
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>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.	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.

SECTION II
INDIA'S UPR TEST

8. Advance Questions to India for its Second UPR

CZECH REPUBLIC

- The Czech Republic welcomes the commitment of India to ratify CAT. Could you please provide more information on the current developments in the parliamentary scrutiny of the Prevention against Torture Bill (2010) and the prospects for its adoption?

DENMARK

- Could the Indian Government provide some clarification on the scope of the application of the death penalty in “rarest of the rare” cases, as defined by the Indian jurisprudence?
- Which steps and measures will the Government of India take to ensure the complete elimination of manual scavenging?

GERMANY

- How can the Foreign Contributions Regulation Act even after its amendment ensure that human rights defenders are able to carry out legitimate and peaceful activities without fear of harassment and intimidation?
- Discrimination of minorities because of religion, race, caste or sex is prohibited by the Indian Constitution. Impunity of infringement being reported, how does the Indian government intend to enforce the rule of law and order in these cases?
- How does the Indian government intend to improve the access of underprivileged minorities to education and medical treatment?

IRELAND

- What measures are in place to ensure the protection of Human Rights Defenders? Is there a plan to introduce a scheme for witness protection?
- Will the Prevention of Torture Bill contain any provisions in relation to children?
- What measures are being taken to ban all forms of child labour for children aged 6-14 years under the Child Labour Prohibition and Regulation Act 1986?

SLOVENIA

- What is the envisioned time-frame for adoption and entry into force of the constitutional amendment bill which would reserve for women one-third of seats in the Lok Sabha?
- What is the envisioned time-frame for ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)?
- Is the right to work only guaranteed to members of rural households (through MGNREGA) and if yes, why? How does the government guarantee employment?

- What steps has the government taken to apply CDESCR recommendation to take the necessary legal measures to give full effect to ICESCR in domestic law?
- What is the status of the HIV/aids bill which addresses issues of stigma and discrimination of infected persons?
- What measures are being taken to enforce the prohibition of child marriages?
- What steps have been taken to improve prison conditions and to address the problem of overcrowding?
- What measures are being taken to effectively eliminate bonded labor and manual scavenging?

UNITED KINGDOM

- The UN Special Rapporteur on freedom of religion or belief raised concerns about the laws and bills on religious conversion in several Indian states. What steps is the Government of India taking to address these concerns?
- Can the Government of India outline the steps it is taking to address its own concerns over India's declining sex ratio?
- What steps is the Government of India taking to ensure an early adoption of its proposed law to prevent and control communal and targeted violence?

ADVANCE QUESTIONS TO INDIA – ADD.1

NETHERLANDS

Freedom of Religion and Belief / religious minorities

- What is the way forward with regard to the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill (A/HRC/WG.6/13/IND/3, par. 56)?
- How do the various state anti-conversion laws ensure Freedom of Religion and Belief and how does the central government monitor their application (A/HRC/WG.6/13/IND/3, par. 75)?

Women's Rights

- What steps are taken to ensure the effective implementation of legislation aimed at protecting women's rights, such as the Protection of Women from Domestic Violence Act, 2005, the Preconception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (A/HRC/WG.6/13/IND/2, par.31)?
- What steps has the Government of India taken to follow up on 2008 UPR Recommendation nr 17 of amending the Special Marriage Act to give equal rights to property accumulated during marriage?

The Rights of the Child

- How will the Government of India ensure the compliance of the Right of Children to Free and Compulsory Education Act (A/HRC/WG.6/13/IND/2, par.61-64)?

NORWAY

- What steps are being taken by the Government of India to implement the recommendations made by the United Nations Special Rapporteur on the rights of human right defenders following her visit to India in January 2011?
- Will the Government of India be willing to consider repealing the AFSPA and Public Safety Act?
- Would Government of India be willing to consider strengthening the judicial powers of the National Commission for Protection of Child Rights in a bid to strengthen the rights of the Indian child? For instance by giving the Commission status as Ombudsman?
- The census of 2011 showed a decline in sex ratio for children 0-6 years old (914 girls/1000 boys). How will Government of India work to prevent the gender discrepancy from increasing further?

SWEDEN

- What measures is the Government of India taking to combat discrimination and ensure that all individuals, regardless of their sexual orientation, enjoy full equality under the law?
- How does the Government of India guarantee that the freedom of expression on the Internet is not unduly restricted under the Information Technology Rules?

9. Analysis of India's Second UPR examination

28 May 2012



India's 2012 UPR examination: No commitment on enhancing human rights but a mountain to climb

I. Executive summary

On 24th May 2012, the United Nations Human Right Council reviewed India's human rights record during the 13th session of the Universal Periodic Review (UPR) in Geneva, Switzerland. This was India's second review under the UPR.

During the UPR examination of India in 2008, only 18 recommendations were made to India. Though India submitted its Action Taken Report, apart from extending standing invitation to the Special Procedures mandate holders, other recommendations remained unimplemented.

During the UPR examination on 24th May 2012, over 80 recommendations (depending on the how the Secretariat of the UN Human Rights Council collates) were made. As India failed to commit even to enhance the legal framework for protection of human rights in its Concluding Remarks, the UPR process will face increasingly questions about its effectiveness despite positive recommendations from all the member States irrespective of the regional grouping.

This report briefly provides information about the questions raised at the UPR session, the recommendations made by the member States from all the Regional Groups of the United Nations, analyses the responses of the Government of India and impact of the UPR on India.

II. India needs no UN help!

While introducing the National Report, Head of the Indian delegation, Attorney General Mr G E Vahanvati discarded the role of the UN by stating that India has self-correcting mechanisms in place. In its presentation, India by and large stuck to its 22 page National Report which was lettered with constitutional provisions and success stories but failed to highlight human rights problems.

It took the delegation of Laos to recommend India to continue cooperation with the United Nations and international organizations to overcome the remaining challenges in the country.

III. Issues raised and recommendations made at 2012 UPR: Beyond the Western Group

While Sudan, Uzbekistan, Bangladesh and Philippines had no recommendations for India, a number of issues were raised by the members States from all the five regional groups and specific recommendations were made.

The summary of the key recommendations made are given below:

1. **Domestic anti-Torture Law/ ratification of CAT**
 - Ratify the CAT (Sweden, UK, Spain USA, Austria, Czech Republic, Botswana, Portugal, Italy, Iraq, Indonesia, Timor –Leste, Australia, France, Costa Rica, Maldives, South Korea, Switzerland, Canada)
 - Ratify the optional protocol to CAT (UK)
 - Receive the SR on Torture (Switzerland, Canada)
 - Inform about the current status of ratification of CAT (Turkey)
 - Bring a new Prevention of Torture Bill taking into full consideration the recommendations/ suggestions made by the select committee and adopt robust domestic legislation (Timor –Leste, UK)
 - Accelerate its domestic procedures for ratification of the CAT including passing of the Prevention of Torture Bill in its parliament (South Korea)
 - provide additional information on measures taken by the Supreme Court to toughen up standards in the fight against torture (Kyrgyzstan)
2. **Ratify Convention on Enforced Disappearances and its Optional protocol** (Spain, Uruguay, Argentina, Austria, France, Portugal and Iraq)
3. **Ratify Rome Statute of International Criminal Court** (Spain, Uruguay, Austria and Slovakia)
4. **Invite UN Special Rapporteur on Torture** (Switzerland and Hungary) and accept requests from SRs to visit the country (Belgium and Iraq)
5. **Abolition or a moratorium on death penalty** (Switzerland, Spain, United Kingdom, Turkey, Argentina, Belgium, France, Chile, Slovakia, Norway; Italy and Ireland)
6. **Ratify the ILO Conventions:**
 - ILO Convention No. 138 and 182 concerning child labour (Sweden and Uruguay)
 - ILO Conventions 138,182,169,155 & 173 Hungary, Ghana, Portugal; Norway; Ireland, Iraq)

7. Rights of children

- Ratify Optional Protocols to the CRC, improving mechanisms and resources for implementation of the existing national legislations and by demonstrating higher conviction rates for crimes against children such as child sexual exploitation, child labour, child forced labour and child trafficking (Canada)
- Take measures to eliminate child marriage (Switzerland, Bahrain)
- Protect children from exploitation (South Africa)
- Combat sexual offences involving minors (Algeria)
- Eliminate child labour (Angola, Ireland, Germany and Norway)
- prioritize efforts to ensure children with disabilities afford the same level of education as other children under RTE (Australia)
- Ensure timely registration of all births (Holy See)
- Ensure right to education for all (Greece, Senegal, Qatar, Iran, Indonesia and Mexico), right of both boys and girls to quality education (Ecuador)
- Ensure free and compulsory primary education and ratification of the Third Optional Protocol to the CRC (Slovakia)
- Improve the enjoyment of the basic human rights of its people especially children(Singapore)
- Sensitise and train medical professional on the criminal nature of the pre-natal sex selection with a view to ensuring stringent enforcement of the legal prohibition of such practice, corporal punishment of children (Liechtenstein)
- Ban child labour for children from age 6-14 and set up of Child Rights commission in all states (Ireland)
- Consider ratifying the Optional Protocol to the Third UNCRC and communication procedures (Slovakia)

8. Women rights

- Withdraw reservation to Article 16 India CEDAW (Sweden, Finland, Republic of Korea)
- Ratify the Optional Protocol to the CEDAW Convention (Costa Rica, South Korea and Timor –Leste)
- Amend the Special Marriage Act to give equal rights to property (Slovenia)
- Inform about status of the Bill for prevention of women against sexual harassment at workplace (Venezuela and Ukraine)

- End all forms of discrimination against women (Trinidad and Tobago and Egypt)
 - Ratify Optional Protocol to CEDAW and pass 108th Constitutional Amendment bill which seeks to reserve seats for women in the Lower House and the state legislative assemblies (Netherlands and Timor –Leste)
 - Eliminate traditional practices which discriminate against women particularly child marriages (Holy See and Chile)
 - Enact comprehensive reforms to address sexual violence and all forms of violence against women including honour crimes, child marriage, female feticide and female infanticide(Canada)
 - Improve the enjoyment of the basic human rights of its people especially women (Singapore)
 - Re-examine the budget and social laws taking into account gender issues (Morocco)
 - Adopt comprehensive legislation to combat all forms of gender based violence against women and children (Luxemburg, Liechtenstein, Kyrgyzstan, Kuwait and Iran)
 - Remedy the limitations in the definition of rape and medical forensic procedures adopted for rape cases (Canada)
 - Take necessary legislative civilian and criminal measures to provide appropriate protection to women and girls and children who are affected with sexual disease (Mexico)
 - Ensure gender equality and prevent any discrimination (Slovenia, Turkey, Bahrain, Chad and Ireland)
 - Enact comprehensive anti-discriminatory legislation and to ensure that there are adequate means of redress (Ireland)
 - Allow women to participate with equal footing with men (Qatar).
- 9. Protection/rehabilitation to victims of trafficking** (USA, UAE, Ukraine, Belarus) and invite the UN Special Rapporteur on Trafficking in persons (Holy See, Paraguay and Iran)
- 10. Security forces and human rights violations**
- Examine the Armed Forces Special Powers Act (Switzerland, France and Slovakia)
 - Annual review of AFSPA (France)

- Adopt the negotiated amendments to it that it would address accountability of the security personnel, the regulation concerning detention as well as victim's right to appeal in accordance with international standards (Slovakia)
 - End impunity to security forces (USA)
 - Reform the law enforcement bodies (Russia)
 - Strengthen control over the police forces (Iraq)
 - Guarantee effective access to justice where human rights have been violated by security forces with regard to the use of torture and impartial, effective investigation (Thailand, Spain)
 - Improve the judicial system (Russia)
 - Sensitize the armed forces towards human rights (Thailand, Malaysia)
- 12. Prevention of racial violence against caste, dalits and minorities:** Holy See
- 13. Protection of SC/STs:**
- Ensure effective implementation of Prevention of Atrocities Act (USA, Germany)
 - Monitor and verify the effectiveness of and speedy implementation in quota programme in the area of education and employment, special police and special court for effective implementation of protection of Civil Rights Act and Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and work of the National Commission for Scheduled Castes (Japan)
- 14. Human rights in school curriculum:**
- Introduce human rights in school curriculum (Sri Lanka, Japan)
- 15. Adopt the National Human Rights Action Plan (Spain)**
- 16. Remove the restrictions on Internet Freedom (Sweden)**
- 17. Take measures for poverty alleviation (South Africa, Venezuela, Bhutan, Singapore, Saudi Arabia, Myanmar, Mexico, Kuwait and Iran)**
- Ensure food security (Saudi Arabia and Iran)
- 18. Minorities**
- Ensure freedom of religion and protection of religious minorities including repeal of the anti-conversion laws (USA, Austria, Holy See, Germany, Netherlands; Italy, Iran)
 - Adopt Communal and Targeted Violence Bill (Germany)
- 19. Address corruption:** USA and Russia

20. Human Rights Defenders

- Safeguard the rights of NGOs: UK, Czech Republic, Canada, Norway and USA)
- Enact law on the protection HRDs with particular focus on those working on minority rights, SCs and STs (Czech Republic)
- Ensuring greater civil society participation from all regions and all sections as has been done for drafting India's 2012 National Report for UPR (Canada)

21. Strengthen and ensure independence of NHRIs (UK and Turkey)

- Put in place appropriate monitoring mechanisms of HR implementation to ensure that intended objectives are well achieved (Ghana)
- Consider adhering to the second optional protocol to the International Covenant on Civil and Political Rights (Portugal)

22. Health, sanitation, nutrition and drinking water:

- Ensure health services to all in the line of production of medicine in India (Uruguay)
- Provide every possible support to assist national project for rural health to increase nutrition and improve public health and strengthen the relationship between health and the indicators of rural health such as sanitation, personal hygiene and provisions of clean drinking water (UAE)
- Enhance access to basic social services such as health and education especially to the marginalized sections of the society (Bhutan)
- Redouble efforts in the fields of education and health (Senegal)
- Improve the level of public health (Saudi Arabia)
- Accelerate the sanitation coverage and access to safe and sustainable drinking water in rural areas (Myanmar)
- Allocate more resources in sectors that provide basic services such as health (Luxemburg, Malaysia)
- Carry out its efforts in environmental and health policies (Iran)
- Ensure implementation of NRHM (Honduras)
- Take measures to reduce maternal and child mortality (Austria, Belgium, Honduras, Finland, Egypt, Norway)
- Take measures to address endemic malnutrition (Luxemburg)

23. Address the special needs of the persons with disability/special needs (Ukraine, Ghana and Senegal)

24. Protect the journalists (Austria)

25. Refugee rights: Ratify UN Convention relating to refugees (Ghana)

26. Right to work:

- Ensure proper implementation of the NREGA (Greece)
- Allocate more resources in employment opportunities (Malaysia)

27. Allocation of resources for vulnerable groups

- Provide more resources for enjoyment of economic and social rights especially in favour of vulnerable groups like women, children, poor people and minorities (Vietnam)

28. Sexual orientation

- Take measures to address violence directed towards persons based on their sexual orientation especially relating to employment (Canada)

29. Rural and Urban Divide

- Address the inequities based on rural-urban divide and gender imbalance (Botswana)
- Continues its efforts and action in promoting social security and labour policies (Iran)

IV. India's limited and misleading response at the UPR

In its reply at the first session and the second session, Indian delegation replied only those relating to the status of the Communal Violence Bill, prosecution of the security forces, refugees, human rights education, the Right to Information Act, torture, restrictions on internet, NREGA, children with disabilities, HIV, human rights defenders and the Foreign Contribution Regulation Act, the Armed Forces Special Powers Act, National Action Plan on Human Rights, child labour, domestic violence, marriage and women's equal right to property, socio economic caste census, sanitation and safe drinking water and India's reservation on the Optional Protocol to the CEDAW.

The responses of the Indian delegation were evasive and misleading.

On the question of impunity, India stuck to its National Report which stated that "since January, 1994 until December, 2011, out of 1,429 complaints of human rights excesses received against the personnel of Army and Central Para Military Forces, 1,412 have been investigated and 1,332 found false. In 80 cases, where the complaints were found genuine, stringent punishment has been imposed. 17 cases are under investigation". This does not reflect the intensity of human rights violations that saw the killing of North East India and Jammu and Kashmir.

India was not only evasive on the question of prosecution of the security forces but also combating caste violence. About 13 countries raised questions on caste discrimination including the need for strengthening the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Attorney General Vahanvati did not directly answer questions relating to caste discrimination but in his final remarks Vahanvati stated that *“India is an ancient country with strong social traditions. Some of these traditions may now be out of tune with modern values. They have to change. But in a democracy, these can only be done in an inclusive manner involving all through persuasion, education, and development. We are conscious of the need for change and promoting it through legislation and social awareness.”* The statement was disappointing as it did not reflect the fact that the Central government had to convene the State Home Ministers’ Conference on Effective Implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act held in New Delhi on April 17, 2012 on the non-implementation of the PoA reflected from high pendency and low conviction rate of the cases.

Just the way coalition political compulsion has become the excuse of the Government at national level, at the UN the Government of India sought to hide itself on its inability to speculate on parliamentary process and federalism on enactment of pro human rights laws. While that is true of the Women’s Reservation Bill and Communal and Targeted Violence Bill, with respect to the Prevention of Torture Bill, the Ministry of Home Affairs simply failed to introduce the Bill despite an all party Parliamentary Select Committee submitting the draft in December 2010.

Indian delegation also misled the UN on internet freedom. India’s delegation stated that the current restrictions imposed by the Information Technology Act deals with normally accepted restrictions on “cyber security and removal of contents illegal like child pornography”. While child pornography will put all into defensive position, the Information Technology (Intermediaries Guidelines) Rules, 2011 notified on 11 April 2011 are not exactly about imposing normally acceptable restrictions but private censorship through the service providers. The Swedish delegation raised specific questions on the Information Technology (Intermediaries Guidelines) Rules, 2011.

V. Issues missed at the UPR

The Attorney General in his concluding remarks reiterated that “whenever we have problems we have acknowledged them and faced them squarely, and never denied their existence”.

This was not the case with respect to the conflict situations. The NHRC had already rubbed in the knuckles India’s report to the UN Committee on the Rights of the Child that “India does not face either international or non international armed conflict situations” despite imposition of the Armed Forces Special Powers Act in Jammu & Kashmir and the North-Eastern States to deal with “terrorism and armed insurgency”.

Regrettably, there was no specific question relating to violence in India manifested in armed conflicts in 21 out of 28 States. Throughout the examination, India appeared to be a land of peace and not “India: Million Mutinies Now” as described by V S Naipal much before the Maoists multiplied the armed conflicts in mainland India. In all these conflicts, women have been victims of multiple violations but not a single question was raised on violence against women in conflict situations.

VI. Will UPR have any impact?

Sadly, on 24th May 2012, India was still being asked to implement the recommendations made in 2008: extend invitation to the UN Special Rapporteur on Torture, ratify the Convention Against Torture which cannot happen unless the Government of India introduces the Bill in the parliament, ratify the UN Convention Against Enforced Disappearances etc.

Only Sweden and Slovakia specifically stated that India failed to implement the recommendations made in 2008 UPR. The trend is not encouraging.

“India is committed to protect and promote human rights of its citizens” asserted Mr Vahanvati in his final remarks. If that is the case, why is the delay in having national laws to address human rights violations?

Annexure I: Region-wise recommendations of the members States

A. Asia

Bahrain

- Redouble efforts to ensure gender equality and prevent any discrimination; and
- Protect children from exploitation and give them every opportunity to grow up in healthy atmosphere, dignity and freedom.

Bhutan

- Further strengthen efforts India tackling poverty and enhancing access to basic social services such as health and education especially to the marginalized sections of the society.

Indonesia

- Accelerate ratification process of the UN Convention Against Torture (CAT); and
- Increase coordination and effective manner in order to guarantee the smooth implementation of the Act (RTE). It is also imperative to ensure the provisions of infrastructure and teaching/learning facilities particularly in remote areas.

Iran

- Continue legal efforts in the protection of women and children rights as well as to improve measures to prevent violence women, girls and members of religious minorities;
- Accelerate efforts to combat human trafficking;
- Carry out efforts in environmental and health policies and to enforce legislative measures on food security;
- Continue measures in order to increase opportunities for consultation and child rights issues with relevant stakeholders; and
- Continue efforts and action in promoting social security and labour policies.

Iraq

- Continue efforts to implement the Convention Against Torture and to accede to the optional protocol, as well as Convention of Enforced Disappearances and accede to Convention 169 and 189 of the ILO;
- Accept visit requested by Special Rapporteurs; and
- Strengthen control over the police forces.

Japan

- Monitor and verify the effectiveness of and speedy implementation in quota programme in the area of education and employment, special police and special court for effective implementation of protection of Civil Rights Act and Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and work of the National Commission for Scheduled Castes; and
- Strengthen the human rights training aiming at teachers in order to eliminate discriminatory treatment of children of specific caste as well as appropriately follow up the result of the training that has occurred thus far.

Kuwait

- Continue the efforts to eradicate poverty and improve living conditions; and
- Improve women's empowerment and emancipation ensuring them to have greater role in society.

Kyrgyzstan

- Provide additional information on measures taken by the Supreme Court to toughen up standards in the fight against torture; and
- Adopts comprehensive legislation to combat all forms of gender based violence against women and children.

Laos

- Continue to cooperate with the United Nations and international organizations and share good experience and practice to overcome the remaining challenge in the country.

Malaysia

- Intensify efforts in providing capacity building and training programmes on human rights for law enforcement officers as well as judicial and legal officials in the rural areas; and
- Allocate more resources in sectors that provide basic services such as health, education and employment opportunities.

Maldives

- Prioritise the review and implementation of the Prevention against Torture Bill ensuring that it complies with the UNCAT; and
- Ratify the UNCAT as soon as possible.

Myanmar

- Further strengthen the efforts on poverty eradication paying special attention to the rural population; and
- Further accelerate the sanitation coverage and access to safe and sustainable drinking water in rural areas.

Nepal

- Continue working on the welfare of women and children.

Qatar

- Continue efforts in educational sphere for all children; and
- Allow women to participate with equal footing with men.

Saudi Arabia

- Continues effort into improving the level of public health in the country so as to attain yet better results in the area of health and access to health; and
- Strategy be introduce to promote food security which on an even higher level.

Singapore

- Continue to advance the progress already underway on poverty eradication; and
- Improve the enjoyment of the basic human rights of the people especially women and children.

South Korea

- Withdraw reservations to CEDAW and consider signing and ratify its optional protocol; and
- Accelerate domestic procedures for ratification of the Convention against Torture including passing of the Prevention of Torture Bill in the parliament.

Sri Lanka

- Continue with action to include human rights India school curriculum.

Thailand

- Continue such efforts particularly (i) ensuring effective implementation of relevant laws and measures to ensure proper and active coordination among line ministries, national and state governments; (ii) collection of data to encompass gender, religion , status, region and (iii) increase sensitization and reducing discriminatory attitude among law enforcement officers to the human rights education and training; and
- Promote equal access for justice for all including (i) reducing backlog and delay administration of cases in courts (ii) provide more legal aid to the poor and marginalized, and (iii) increasing the use of alternative measures to the pre-trial detention.

Timor -Leste

- Bring a new Prevention of Torture Bill taking into full consideration the recommendations/suggestions made by the select committee, and take further action towards ratification of CAT;
- Ratify Optional Protocol to CEDAW; and
- Expedite efforts to pass 108th Constitutional Amendment bill which seeks to reserve a significant number of seats for women and the Lower House and the State Legislative Assemblies.

UAE

- Assess to what extent the mechanisms put forward by India in order to confront the crimes of trafficking in persons were effective to put an end to these crimes in reality; and
- Provide every possible support to assist national project for rural health to increase nutrition and improve public health and strengthen the relationship between health and the indicators of rural health such as sanitation, personal hygiene and provisions of clean drinking water.

Vietnam

- Intensify efforts and measures to consolidate national mechanism of human rights; and

- Provide more resources for enjoyment of economic and social rights especially in favour of vulnerable groups like women, children, poor people and minorities.

B. African Group

Algeria

- Continue the plan launched India 2011 for eradication of slums; and
- Combat sexual offences involving minors.

Angola

- Eliminate child labour.

Botswana

- Address the inequities based on rural-urban divide and gender imbalance; and
- Ratify the Convention against Torture.

Chad

- Continue the efforts to bridge gaps in eliminate discrimination.

Egypt

- Take further efforts towards addressing challenge of maternal and child mortality;
- Increase further coordination among relevant national authorities and human rights institutions; and
- Eliminate discrimination against women including through awareness raising and continuous strengthening of the relevant legal and institutional framework.

Ghana

- Put in place appropriate monitoring mechanisms of human rights implementation to ensure that intended objectives are well achieved;
- Expedite the drawing of legislation and replace the Persons with Disabilities Act;
- Ratify the UN Convention relating to refugees and stateless people; and
- Ratify ILO convention 138,182,169,155 and173.

Morocco

- Re-examine the budget and social laws taking into account gender issues.

Senegal

- Redouble efforts in the field of education and health; and
- Ensure better protection of persons with disability.

South Africa

- Inform about the strategies and measures put India place to deal with the challenges posed by terrorism while also protecting human rights and additional deployment of military which could serve as a model to others; and
- Continue to strengthen poverty alleviation strategy as well as child protection strategy particularly against the exploitation of children.

C. Western European and Others Group (WEOG)

Australia

- Prioritize efforts to ensure children with disabilities afford the same level of education as other children under RTE; and
- Ratify CAT and ensure prevention of torture bill is fully consistent with the CAT including its definition of torture.

Austria

- Ratify the Convention for Protection of all persons from Enforced Disappearances, UN CAT and Rome Statute;
- Take legislative actions to ensure every persons' right to freely choose one's religion in line with the Indian constitution and effectively swiftly prosecute acts of violence against religious minorities;
- Ensure safe working environment for journalists and take proactive measures to address the issue of impunity, and particular and swift and independent investigations, and
- Take further practical steps to reduce the high level of maternal and child mortality inter alia through better access to maternal health services.

Belgium

- Accept requests from SRs to visit the country;
- Take measures India intends to bring significant improvement India maternal health and the health of young children and to put comprehensive and liable statistics; and
- Continue moratorium on capital punishment.

Canada

- Strengthen protection of children's rights by improving mechanisms and resources for implementation of the existing national legislations and by demonstrating higher conviction rates for crimes against children such as child sexual exploitation, child labour, child forced labour and child trafficking;

- Enact comprehensive reforms to address sexual violence and all forms of violence against women including honour crimes, child marriage, female feticide and female infanticide;
- Remedy the limitations India the definition of rape and medical forensic procedures adopted for rape cases;
- Take measures to address violence directed towards persons based on their sexual orientation especially relating to employment;
- Increase protection of the Human Rights Defenders;
- Encourage passage of the Prevention of Torture Bill and to allow visit of the Special Rapporteur on Torture; and
- Ensuring greater civil society participation from all regions and all sections as has been done for drafting India's 2012 National Report for UPR.

Finland

- Take measures to ensure all women without discrimination access to adequate obstetric delivery services and sexual and reproduction health services including safe abortion and gender sensitive contraceptive services; and
- Remove reservations to Article 16 of the Convention on the of Elimination of Discrimination Against Women.

France

- Maintain effective moratorium on executions and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights in order to bring about a definite evolution to death penalty;
- Ratify as soon as possible the Convention Against Enforced Disappearances and Convention Against Torture and adopt legislation to that effect in the domestic law;
- Create an Annual Review of the Armed Forces Special Powers Act in order to gradually reduce its scope; and
- Establish effective legal proceedings making it possible to prosecute the security personnel who have committed human rights violations.

Germany

- Effectively implement the existing legislations on child labour in line with India's International obligations and strengthen the judicial powers of National Commission for Protection of Child Rights;
- Taken adequate measures to guarantee and monitor the effective implementation of Prevention of Atrocities Act providing legal means for an increased protection

of vulnerable groups like the Dalits including the access to legal remedies for affected persons;

- Adopt the Communal and Targeted Violence Bill addressing issues such as accountability of civil servants, standards of compensation for victims, elements of command responsibilities; and
- Reconsider laws and bills on religious conversion in several Indian states in the light of freedom of religion and belief in order to avoid use of vague and broad terminologies and discriminatory provisions.

Greece

- Continue to effort to spread in the country the type rural growth as envisaged in the NREGA; and
- Further promote children's right to education.

Holy See

- Strengthen the Federal Government's effort to warranty freedom of religion to everyone;
- Continue to promote right to equal opportunity;
- Take measures to prevent racial violence against caste, Dalits and minorities;
- Ensure timely registration of all births;
- Continue to promote the right of women in the choice of marriage and equality; and
- Implement monitoring mechanisms to stop people trafficking.

Ireland

- Extend the minimum age to 18 years for any form of labour that prevent children from accessing full education;
- Ban all forms of child labours for children from age 6-14 and ratify the ILO Convention 138 and 182;
- Set up the Child Rights Commission in all states;
- Enact comprehensive anti-discriminatory legislation and to ensure that there are adequate means of redress; and
- Establish moratorium on execution with a view to abolishing death penalty.

Italy

- Adopt a de jure moratorium with a view to abolishing death penalty;

- Ratify the UN Convention Against Torture and relevant protocols; and
- Abolishing anti-conversion laws and grant access to justice to victims of religious violence and discrimination.

Liechtenstein

- Strictly enforce the legal provisions prohibiting harmful and discriminatory practices that violates the rights of women and girls and that it undertake effective public education measures including awareness raising programmes with a sign to eliminate gender based prejudices, traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls;
- Intensify efforts to sensitise and train medical professional on the criminal nature of the pre-natal sex selection with a view to ensuring stringent enforcement of the legal prohibition of such practice; and
- Introduce and enforce legislation to prohibit corporal punishment of children in all settings.

Netherlands

- Re-consider current local legislations on freedom of religions that uses vague or broad terminology and discriminatory provisions and impeach the possibility for conversion of faith those who wish to do so; and
- Adopt those pending bills that are aimed at empowering of women including the women reservation bill and the amendments to the Panchayati Raj Act.

Norway

- Strengthen effort to improve maternal health and acts to effectively balance skewed sex ratio among children including by combating female infanticide;
- Fully integrate gender perspective in the follow up of the UPR;
- Amend the Child Labour Act to ban child labour and to sign and ratify ILO Convention No. 138 and 182;
- Make the de facto moratorium into a prominent one with a view to abolish death penalty; and
- Implement the recommendations made by the Special Rapporteur on HRD following her visit to India in 2011 with particular emphasis and recommendations that concerns defenders of women and children rights, defenders of the rights of Dalit and Adivasis and right to information activists.

Portugal

- Continue to take judicial as well as policy measures to combat child labour and ratify ILO No. 138 and 182;

- Consider adhering to the second optional protocol to the International Covenant on Civil and Political Rights; and
- Sign optional protocol to ICESCR, CAT and subsequent optional protocols and ratify the convention on Enforced Disappearances.

Spain

- Ratify CAT and the Optional protocol to International Convention for the Protection of all persons from enforced disappearance;
- Ratify ICC Statute;
- Respect the defacto moratorium on the capital punishment;
- Guarantee effective access to justice where human rights have been violated by security forces with regard to the use of torture;
- Draw up and establishing a National Human Rights Action Plan which will cover access to education and health including aspects of sexual and reproductive health as well as concrete provisions to eliminate violence against women; and
- Adopt the recommendations of the SR on HRD and the necessary measures to recognize protection and guaranteeing that violations of human rights can be very speedily, effectively and impartially investigated.

Sweden

- Ratify the UNCAT and ILO Convention No. 38 and 182 concerning child labour;
- Remove the vagueness of the criteria for restriction severely limit the freedom of expression on the internet under the Information Technology Rules 2011; and
- Withdraw reservation to Article 16 India CEDAW and by ensuring access to information and counseling as set out in India's National Population Policy.

Switzerland

- Concerned about the proposed Anti-Torture Bill not being in line with the standards on prevention of torture, speed up ratification of CAT, and to receive the SR on Torture;
- Put an official moratorium and to take measures necessary to abolish the same;
- Take effective measures to dissuade children from marrying and to protect fundamental rights of children; and
- Examine the Armed Forces Special Powers Act in the lines with India's obligations under the ICCPR.

Turkey

- Encourage India to strengthen the mandate of NHRC to address greater variety of human rights issues and to accelerate work on the protection of the rights of children and women in particular; and
- Sign second optional protocol to ICCPR aiming at abolition of death penalty.

United Kingdom

- Maintain defacto moratorium on death penalty;
- Continue to safeguard the rights of the legitimate NGOs to operate without undue restrictions;
- Decriminalize homosexuality in line with the Delhi High Court judgement;
- Expedite the ratification of CAT and its optional protocol and adopt robust domestic legislation; and
- Implement 2011 ICC recommendations to ensure high standards of independence of the India's NHRIs.

United States of America

- Ensure that laws are fully and consistently enforced, provide adequate protection to members of religious minorities, Scheduled Tribes and Adivasi groups as well as women trafficking victims;
- Strengthen the process of ensuring independent and timely investigation mechanism to address corruption and provide for facilitating transparency and accountability India the process; and
- Ratify CAT and end impunity for security forces accused of committing human rights violations.

D. Eastern European Group

Belarus

- Continue efforts to further step up trafficking India persons; and
- Invite the SR on Trafficking in Persons to visit the country.

Czech Republic

- Expedite the ratification of the Convention Against Torture;
- Consider signing the ratification of the Optional Protocol to the CEDAW Convention; and

- Enact a law on the protection Human Rights Defenders with emphasis on defenders facing greater risks including those working on minority rights and the rights of the Scheduled Castes and Scheduled Tribes.

Hungary

- Invite Special Rapporteur on torture whose request to visit has been pending for years be allowed to visit India; and
- Ratify ILO Convention No.138 and 182 and elaborate a timeline ratification and implementation of the ILO Conventions.

Russia

- Continue efforts to improve the judicial system and reforming the law enforcement bodies; and
- Reduce crime and corruption.

Slovakia

- Abolish the capital punishment and commute the existing death sentences to life imprisonment term;
- Repeal the AFSPA or adopt the negotiated amendments to it that it would address accountability of the security personnel, the regulation concerning detention as well as victim's right to appeal in accordance with international standards;
- Reinforce efforts in provisions of free and compulsory primary education;
- Ratify the Rome Statute of the International Criminal Court including its agreement on privileges and immunities; and
- Consider ratifying the Optional Protocol to the Third UNCRC and communication procedures.

Slovenia

- Recommend that India amend the Special Marriage Act before the next review;
- Implement Treaty Bodies recommendations and develop a National Action Plan to eliminate all forms of discrimination; and
- Ensure that every household enjoys the right to adequate housing.

Ukraine

- Reinforce efforts to protect and rehabilitation of victims of trafficking; and
- Ensure rights of persons with disabilities as well as adoption of certain legal Acts for their equal opportunities.

E. Latin American and Caribbean Group (GRULAC)

Argentina

- Study the possibility of removing the death penalty from legal regime;
- Consider the possibility of discrimination on sexual orientation; and
- Ratify Convention for protection of all persons against Enforced Disappearances.

Chile

- Abolish death penalty; and
- Further strengthen the measures to eliminate traditional practices which discriminate against women particularly child marriages.

Costa Rica

- Take necessary measures to ensure that the existing national legislations against torture, cruel, inhuman and degrading treatment incorporates the highest international standards; and
- Consider signing and ratifying the Second Optional Protocol to the UN Convention on the Elimination of Discrimination Against Women.

Ecuador

- Continue to apply policies in a non-discriminatory and inclusive manner and guaranty quality education to all boys and girls in the country.

Honduras

- Implement the National Rural Health Mission fully; and
- Take effective measures, for example, constituting an independent body to accelerate programs and projects to improve the situations of mother mortality rate.

Mexico

- Ensure universal, compulsory and free education carrying out on a priority basis measures aimed at eradicating discrimination particularly that effects girls and person with disabilities;
- Provide necessary legislative civilian and criminal measures for appropriate protection of women and girls and children who are affected with sexual disease; and
- Keep the measures required to ensure legislations that are universal basis particularly people living in extreme poverty who belong to minorities and people living in remote areas.

Paraguay

- Continue to stepping up efforts to combat trafficking of persons by granting necessary budget to the large numbers of local bodies to combat this scourge.

Trinidad and Tabago

- Continue efforts to achieve balance between counter terrorism strategies and human rights obligations; and
- Eradicate all forms of discrimination against women.

Uruguay

- Ensure health services to all India the line of production of medicine in India;
- India establish mechanism at state and national level to lift and move obstacles India terms of access by the population to affordable medicines;
- Ratify the UN Convention on Enforced Disappearance and recognize this body to receive communications;
- Accede to ILO No. 182; and
- Ratify Rome Statute on International Criminal Court.

Venezuela

- Continue to take measures for reduction in poverty and social exclusion; and
- Continue to take measures for protection and promotion of rights of women.

SECTION III

INDIA FAILS UN HUMAN
RIGHTS TEST

10. UN Report on the Second UPR of India



HUMAN RIGHTS COUNCIL

Twenty-first session

Agenda item 6

Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

India

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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 thirteenth session from 21 May to 4 June 2012. The review of India was held at the 8th meeting on 24 May 2012. The delegation of India was headed by Goolam E. Vahanvati, Attorney General of India. At its 13th meeting, held on 30 May 2012, the Working Group adopted the report on India.

2. On 3 May 2012, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of India: Kuwait, Mauritius and Mexico.

3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to Human Rights Council resolution 16/21 of 25 March 2011, the following documents were issued for the review of India:

- (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/13/IND/1);

- (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/13/IND/2);
- (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/13/IND/3; and Corr.1).

4. A list of questions prepared in advance by the Czech Republic, Denmark, Germany, Ireland, the Netherlands, Norway, Slovenia, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to India through the troika. These questions are available on the extranet of the UPR.

I. Summary of the proceedings of the review process

A. Presentation by the State under review

5. The delegation of India stated that India saw the universal periodic review (UPR) mechanism as one of constructive engagement. The fact that the delegation consisted of experts from various ministries of the Central Government bore testimony to India's commitment to this process.

6. The delegation outlined the methodology used in the preparation of the National Report which included an extensive and inclusive consultation process involving various Ministries of the Government, experts and civil society. The report was posted on the website and made accessible to the general public. Ranbir Singh, Vice-Chancellor of National Law University, Delhi, was given the task of preparing this report with the extensive involvement of various stakeholders.

7. The annexures in the national report highlighted the evolution of fundamental rights in India's Constitution through judicial pronouncements over the years. This reflected a vibrant and evolving Constitution, which placed human rights in the forefront of governance.

8. The delegation highlighted some significant developments in the field of human rights. The Right to Information Act (RTI) had revolutionized the concept of good governance. Several seminal laws brought in a rights-based approach to subjects which were fundamental to human existence, inter alia, work and employment, education and food security. These included the landmark Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the Right to Education Act of 2009 and the National Food Security Bill.

9. Transparency in governance was brought about through the RTI, Citizens Charter and E-governance. The right to approach the Supreme Court for enforcement of fundamental rights was elevated by the Constitution to the status of a fundamental right. Also, enforcement of social, economic and political rights was advanced by the effective use of "public interest litigation".

10. Terrorism and insurgency posed existential threats. Left-wing extremism and violence was an internal challenge which was being met with resolve coupled with compassion and people-oriented development.

11. The Armed Forces Special Powers Act (AFSPA) 1948 was held to be constitutional by the Supreme Court. Several checks and balances had been introduced with strict guidelines when dealing with terrorists and insurgents, and that violations were dealt with swiftly and transparently. The implementation of this Act remained under constant review.

12. The delegation referred to India's standing invitation to special procedures of the Council and stated that in 2011 Christoph Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions, visited India. The Supreme Court and National Human Rights Commission (NHRC) promptly looked into allegations of enforced disappearances. Also, India had been working closely with the United Nations Office on Drugs and Crime to strengthen response against trafficking in persons.

13. For centuries, India had welcomed all religious denominations, minorities and refugees, including the Jewish community which had lived in India for thousands of years without discrimination, and the Zoroastrians/Parsis over hundreds of years or, more recently, refugees from Tibet, Sri Lanka, Myanmar and other countries. India's practices on refugees were far more developed, caring and humane than that provided for in the current international regime.

14. The last four years had seen tremendous strides in focusing on groups needing special attention including children, women, the disabled, the elderly, minorities, Scheduled Castes and Scheduled Tribes.

15. India's efforts in the sphere of social and economic advancement had been significant. Poverty had declined by 9 per cent in a decade. MGNREGA played an extremely crucial role and provided 54 million households with employment in 2010 and 2011. Forty-eight per cent of the employment created was for women. The declining trend in the unemployment rate between the years 2004–05 and 2009–10 was equally visible among Scheduled Castes and Scheduled Tribes and minorities.

16. India was also striving to achieve the Millennium Development Goals. It was on course to meet the universal primary education goals. The infant mortality rate decreased appreciably from 58 per thousand live births in 2005 to 47 in 2010. The maternal mortality rate was down from 254 in 2004 to 212 per 100,000 live births in 2008, though much more needed to be done.

17. The Right to Education Act made primary education a fundamental right and required the State to provide, by law, free and compulsory education to all children of the age of 6 to 14 years. This Act contained several visionary changes, including the requirement that schools must admit a minimum of 25 per cent of children who belong to weaker sections and disadvantaged groups. This was a significant step towards social and cultural integration and elimination of disparities in the country.

18. The success of Government's programmes such as Sarvashiksha Abhiyan has led to high levels of enrolment in schools.

19. Equal emphasis had been placed on children's well-being with enhancement of their food and nutrition through mid-day meals programmes in schools; and also on the availability of teachers and their retention. Civil society had contributed positively in this regard.

20. Rural habitation with access to primary schools had increased from 87 per cent in 2002 to 99 per cent in 2008. Female literacy showed considerable improvement by nearly 50 per cent in the last decade. Marginalized and minority group trends were also converging towards the national average in terms of literacy rate.

21. While the figures of child labour dropped sharply in the last decade, the problem of children who were neither working nor studying continued. In 2007, the National Commission for the Protection of Child Rights was established.

22. With regard to empowerment of women, the delegation stated that over one million of the over 3 million elected local representatives in Panchayats or village-level self-government were women. Gender was being mainstreamed through several initiatives, including gender budgeting in all Government policies and programmes. A National Mission for Empowerment of Women was launched in March 2010.

23. India's programme of affirmative action was unique in scale and dimension. The guarantee of equality in the Constitution was a positive mandate for eradication of inequalities and discrepancies.

24. Several recent steps have been taken to impact positively on the lives of the Scheduled Castes as well as the tribal population. Under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, as of February 2012, India had settled 2.72 million claims out of the 3.17 million filed, or 86 per cent of the total claims and 1.25 million titles distributed. The Prime Minister's new 15-point programme for the welfare of minorities was being actively pursued. Certain proportion of development projects was being earmarked for minorities' concentration areas.

25. The delegation stated that more than 90 per cent of all households used improved sources of drinking water in 2008–09.

26. The National Food Security Bill was a historic initiative in ensuring food security, as it marked a paradigm shift from welfare to a rights-based approach. People had access to adequate quantity and quality of food at affordable prices, enabling them to live a life of dignity. About two thirds of the population would be entitled to receive subsidized food grains under Targeted Public Distribution System. There was special focus on women, children and other Special Groups.

27. The Public Service Delivery Acts enacted by more than 12 states of India guaranteed specified service standards to the vulnerable sections of the society. "Aadhaar" would give

a unique identity to all residents to ensure streamlined and effective access to social and organized infrastructure.

28. The delegation stated that India's establishment of the National Green Tribunal was yet another innovative action widely welcomed internationally.

29. The delegation stated that in 2011, Margaret Sekkagya, Special Rapporteur on the situation of human rights defenders, visited India. It mentioned the Government's active association with civil society and the increasing and important role that civil society and human rights defenders are playing in the area of human rights. The media, civil society and other activists have helped the Government to be vigilant against transgressions. The National Human Rights Commission strived to strengthen human rights practices and served as the moral compass of the nation.

30. Freedom of religion was guaranteed under article 25 of the Constitution. The problem arose when the act of propagating one's religion transgressed the limits and stopped being voluntary, and instead became coercive or induced. Some states had taken exception to this. These issues could be challenged and the person had every right to approach the courts.

31. The delegation thanked the "troika" countries of Kuwait, Mexico and Mauritius for facilitating the process. It reiterated India's pledge of continued engagement with the United Nations and the Council and that over the years has made several contributions to human rights-related bodies in the United Nations.

32. The delegation stated that India was a huge country and by reason of its area and diversity alone there were bound to be problems. India had the ability to self-correct and redress mechanisms were available. The delegation quoted Mahatma Gandhi who said, "You must not lose faith in humanity. Humanity is an ocean. If a few drops of the ocean were dirty, the ocean does not become dirty", and added that India was indeed a vast ocean. It expressed confidence that India would be able to deliver to every person their full rights and entitlements.

B. Interactive dialogue and responses by the State under review

33. During the interactive dialogue, 80 delegations made statements. Many delegations thanked India for the presentation of its comprehensive national report and expressed appreciation for its engagement with the UPR. Recommendations made during the dialogue are to be found in section II of this report.

34. Slovenia regretted that India had yet to amend the Special Marriage Act to provide for equal rights to property accumulated during marriage, in line with the recommendation made by the Committee on the Elimination of Discrimination against Women (CEDAW). It made recommendations.

35. South Africa commended India for progress achieved in human rights, particularly in ensuring that people in rural areas had access to basic services. It inquired about the strategies and measures to deal with the threat of terrorism. South Africa made recommendations.

36. Spain urged India to continue on the path of democratizing its institutions. It made recommendations.

37. Sri Lanka noted India's achievements in the protection of the rights of women, children, minorities and disadvantaged persons. It praised India for its 11th Five-Year Plan and its rights-based approach to food security. Sri Lanka made a recommendation.

38. Sudan congratulated India for its education law of 2009. It also welcomed the constitutional amendment for women, which has set aside for them one third of the seats in Parliament.

39. Sweden stated that India has not ratified the Convention against Torture (CAT) and International Labour Organization (ILO) conventions No. 138 and 182. It regretted India's measures to limit freedom of expression. Sweden remained concerned by the high rate of maternal mortality in spite of its decline over the past years. Sweden made recommendations.

40. Switzerland stated that early marriages remained a reality despite legislative measures prohibiting such practices. There must be compliance with international standards when maintaining internal security. Switzerland made recommendations.

41. Thailand commended India for taking measures to eliminate discrimination against and to empower marginalized and vulnerable groups. Thailand made recommendations.

42. Timor-Leste noted that the Prevention of Torture Bill had been passed in the Lower House of Parliament. However, the Select Committee of the Upper House identified several shortcomings with the Bill. It highlighted that initiatives had been taken to ensure the protection of women's rights. It made recommendations.

43. Trinidad and Tobago commended India for the National Green Tribunal Act, the Sexual Harassment Bill, 2010, the Right to Education Act, the Scheduled Tribes and other Forest Dwellers Act and the Right to Information Act. It made recommendations.

44. Turkey encouraged India to strengthen the mandate of the national human rights institution and to sign the Second Option Protocol to the International Covenant on Civil and Political Rights (ICCPR). It wished to better understand the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESR) on equality and non-discrimination and also requested information on the status of the ratification of CAT.

45. Ukraine requested India to elaborate on measures for persons with special needs, and inquired about the adoption of the Bill on protection of women against sexual harassment in the workplace. It made a recommendation.

46. United Arab Emirates inquired about the measures put in place to confront crimes of trafficking in persons and to what extent were these measures effective. It made a recommendation.

47. The United Kingdom of Great Britain and Northern Ireland inquired about India's response to concerns raised by Special Rapporteurs and treaty bodies over domestic security legislation; noted that India's National Human Rights Commission and civil society had reported a significant numbers of cases torture cases involving police and security authorities; and called on India to continue to safeguard the right of legitimate non-governmental organizations (NGOs) to operate without undue restrictions. It made recommendations.

48. The United States of America raised concern about the stringent application of the Foreign Contribution Regulation Act, which has created significant challenges to the funding of legitimate NGOs, as well as about the widespread impunity. It made recommendations.

49. Uruguay welcomed the progress made for the protection of women; the right to education Act; the rights-based approach to food security; and the reduction of child mortality. It encouraged India to continue its efforts in these areas. Uruguay made recommendations.

50. Uzbekistan noted the positive results achievements in the areas of the protection of women and children's rights as well as the disabled persons. It highlighted the work done for free and compulsory education of children but hoped that more could be done in the area of illiteracy.

51. Venezuela (Bolivarian Republic of) appreciated the progress achieved in the area of socioeconomic development. It commended India for its efforts in transparent management and in strengthening the right to information. Venezuela made recommendations.

52. Viet Nam commended India for its seriousness in implementing the first UPR cycle recommendations. It praised its rapid economic growth, poverty reduction, food security, job creation and improved access to public health and education. Viet Nam made recommendations.

53. Algeria noted India's efforts to improve the protection of workers against exploitation in employment abroad and requested clarification on the contents and policies adopted for this purpose. It made recommendations.

54. Angola paid tribute to India's recent reforms on human rights. It welcomed the signature of CAT, the signature and the ratification of the United Nations Convention against Transnational Organized Crime, as well those measures to ensure increased access to justice. It made a recommendation.

55. Argentina applauded progress achieved in the areas of child protection and in the promotion of free and compulsory education. It made recommendations.

56. Australia noted that, despite India's early ratification of the Convention on the Rights of Persons with Disabilities, disabled children remained the least educated. It expressed regret that India had not ratified CAT and was particularly concerned about the pending Draft Prevention of Torture Bill. It made recommendations.

57. Austria requested to know how India monitored the application of anti-conversion laws in federal states and what measures were taken to ensure that these laws did not infringe on the right to freedom of religion. It made recommendations.

58. Bahrain expressed appreciation for India's programmes on the rights of women and children; the national campaign for empowerment of women and gender equality; and for the measures taken for victims of human trafficking. It made recommendations.

59. Bangladesh congratulated India for the steps taken in the promotion and protection of human rights, and in this regard identified as significant steps the enactment of the Right to Information Act, the Right to Education and the National Food Security Bill.

60. Belarus noted that India had achieved progress in decreasing child mortality and combating human trafficking. It encouraged India to invite the Special Rapporteur on human trafficking. Belarus made a recommendation.

61. Belgium applauded the positive endeavours made by India to promote human rights. It inquired about the specific measures India intended to introduce to improve maternal health and health of children. Belgium made recommendations.

62. Bhutan commended India for its progress in the education sector. It urged India to strengthen efforts in tackling poverty and enhancing access to basic social services.

63. Botswana commended India for the initiatives taken since their first review and in particular the enactment of the Right to Education in line with the Convention on the Rights of the Child (CRC); and ratification of the United Nations Convention against Transnational Organized Crime and its two Protocols. It made recommendations.

64. Brazil welcomed the Right to Education Act and the ruling of the Delhi High Court that the criminalization of homosexuality was a violation of fundamental rights. It welcomed the Protection of Women Against Sexual Harassment at Work Place Bill and India's introduction of a constitutional amendment to ensure women's participation in Parliament. Brazil made recommendations.

65. Canada asked India to provide information as to the status of caste-based discrimination, the reforms under way and progress achieved, particularly with regard to the Christian and Muslim Dalits who were not granted access to affirmative action based on their religion. It noted that India was yet to ratify CAT. It made recommendations.

66. Chad inquired about India's understanding of secularism. Chad made a recommendation.

67. Chile commended the adoption of the National Green Tribunal Act; the Right to Education Act; the policy incorporating a gender perspective and the measures to assist vulnerable castes. It encouraged India to continue its efforts to address discrimination. Chile made recommendations.

68. China appreciated India's efforts to safeguard the rights and interests of women and children, to provide free and compulsory education for children and to reduce its infant and maternal mortality rates. In other areas, China welcomed steps taken protecting employment rights and those of the elderly.

69. Cuba noted India's progress in implementing the recommendations from its first review. It recognized the progress shown in the different areas including rural health. Cuba made recommendations.

70. The Czech Republic expressed regret that ongoing legislative procedures continued to delay India's ratification of CAT. It expressed its appreciation of India's cooperation with international mechanisms. It made recommendations.

71. Ecuador stated that India had made significant changes in human rights in areas which included universal education, empowerment of women, food sovereignty, social inclusion and the fight against discrimination. Ecuador made a recommendation.

72. Egypt expressed interest in India's National Rural Employment Guarantee Act and requested more information. It made recommendations.

73. Finland expressed its appreciation for India's policies and programmes to improve maternal health. However, it raised its concern over maternal deaths due to unsafe abortions. It made recommendations.

74. India stated that the Convention against Torture may only be ratified once the definition of torture was fully reflected in domestic legislation. The Lok Sabha passed the Prevention against Torture Bill in 2010 but the Rajya Sabha referred the Bill to a Select Committee whose report was being examined. Nevertheless, there were sufficient provisions in Indian law prohibiting torture, including the Indian Penal Code. Also, the right to life under article 21 of the Constitution encompassed the right to live with dignity. The provisions in the Constitution and Criminal Procedure Code against self-incrimination, the obligation to produce an arrestee before a magistrate within 24 hours of such arrest and to ensure that the arrestee is informed of the grounds of arrest, provide further safeguards.

75. Freedom of speech and expression was a fundamental right, guaranteed by the Constitution, with accepted restrictions. India's vibrant media bore testimony to this. The Information Technology Act amended in 2011 had no provision to restrict or block Internet contents. Removal of illegal contents, including child pornography, should not be construed as restricting Internet freedom; such restrictions were addressed towards cyber-security, essential for increasing e-commerce and Internet use.

76. The delegation stated that through MGNREGA, over 12 billion person-days of work had been generated with a total expenditure of over US\$ 30 billion, benefitting 54 million families. It also provided a safety net to the 92 per cent of workers who are unorganized, mostly in rural areas.

77. The death penalty was imposed with strong procedural safeguards when life imprisonment appeared inadequate. The President of India and the Governors of the respective states had the power to grant pardons, reprieves, remission or suspension for any offence. Statistics on the death penalty and commutations granted were provided.

78. With regard to the protection of lesbian, gay, bisexual or transsexual (LGBT) persons, the delegation stated that article 15 of the Constitution clearly prohibited discrimination on grounds of religion, race, caste, sex or place of birth. Article 16 provided for equality of opportunity in matters of public employment. The Delhi High Court judgment in 2009 had decriminalized consensual sex between adults of the same sex in private. Transgender persons also had the right to be listed as “other” rather than “male” or “female” on electoral rolls and voter identity cards.

79. The norms of the Right to Education Act and Sarva Shiksha Abhiyaan ensured inclusion of children with disabilities in mainstream education. It made education accessible, ensured physical mapping, educational placement, provision of aids and appliances, training of teachers etc. Of the 3 million children identified, 2.6 million had been enrolled, 20,000 teachers and 24,000 voluntary supporters appointed, 751,000 schools made barrier free.

80. In response to an inquiry about the time frame for passing the Constitutional Amendment Bill reserving one third seats in the Lok Sabha and the State Assemblies for women, the delegation stated that the Rajya Sabha passed the bill in 2010 and it was currently in the Lok Sabha. It was therefore not appropriate for it to comment on the time frame.

81. The adequate and comprehensive legislative provisions existed to protect human rights defenders (HRDs). The highest court of the land could be invoked directly for violation of human rights. NHRC also had several measures focusing on protection of HRDs.

82. With regard to restrictions imposed by the Foreign Contributions Regulation Act, the delegation stated that it welcomed foreign funds for charitable purposes, subject to regulation, to ensure that no money was diverted to terrorist financing or money laundering. This is incumbent on India as a member of the Financial Action Task Force.

83. Regarding the AFSPA, the delegation reiterated that the issue had already been covered in the opening statement.

84. India’s federal structure required a bottom-up approach for developing a national plan reflecting a range of views. While the NHRC had been entrusted with this task, it had to be an inclusive process bringing together different strands of policy perspectives. Various ministries had already woven human rights issues into their own action plans.

85. The delegation stated that India recognized the problem of child labour and was committed to progressively eliminating it in a coordinated and sustainable manner. As a result of the approach taken, child labour had declined by 45 per cent in the last five years.

86. The delegation reiterated India's commitment to strengthen implementation of Domestic Violence Act of 2005.

87. Securing equal rights to property acquired during marriage was a complex subject with every religion having its own specific approach to this issue. An amendment to Hindu Marriage Act was before Parliament.

88. The delegation stated that a socio-economic caste census was under way and would take into account multiple dimensions of deprivations for arriving at specific entitlements under Government programmes and schemes.

89. The delegation stated that more than 84 per cent of households had drinking water. According to the Joint Monitoring Programme Report 2012 by WHO and UNICEF, India was on track to achieving its Millennium Development Goal (MDG) target of safe drinking water. To ensure equitable access, specific percentages of the National Rural Drinking Water Programme allocations were earmarked for Scheduled Castes and Tribes concentrated habitations. The Total Sanitation Campaign of 1999 aimed to ensure sanitation facilities in rural areas to eradicate the practice of open defecation and ensuring clean environment.

90. France inquired about the number of people sentenced to death and the status of their cases. France made recommendations.

91. Germany appreciated India's commitment to implementing the recommendations of the first cycle of the UPR. Germany made recommendations.

92. Ghana urged India to expedite the drawing up of new legislation to replace the Persons with Disabilities Act, 1995, and echoed the concern of the Office of the United Nations High Commissioner for Refugees (UNHCR) about the lack of a national refugee protection framework. Ghana made recommendations.

93. Greece requested further information on the Mahatma Gandhi National Rural Employment Guarantee Act, the Right to Information Act and the Right to Education Act. It made recommendations.

94. The Holy See stated that there were areas of life where implementation of human rights was called for, for example, in reducing the number of people living below the poverty line. The Holy See made recommendations.

95. Honduras expressed concern at the disparity in quality and access to health services between rural and urban areas, as well as over high maternal mortality. Honduras made recommendations.

96. Hungary expressed concerns over child labour and the disparity in enrolment and dropout rates in primary schools. It made recommendations.

97. Indonesia welcomed India's robust legislative and regulatory measures, particularly those aimed at ratifying CAT. It noted with appreciation the enactment of new legislation providing for free and compulsory education. Indonesia made recommendations.

98. The Islamic Republic of Iran praised India's broad consultation process in the preparation of its report and took positive note of the enactment of the National Green Tribunal Act. It made recommendations.

99. Iraq appreciated India's consultative methodology in preparing its national report. It noted the adoption of legislation to protect women from sexual harassment in the workplace, as well as a second law on the national courts. Iraq made recommendations.

100. Ireland stated that only 11 out of 28 states had a State Commissioner for Protection of Child Rights. It considered a comprehensive approach to addressing discrimination in law and in practice. Ireland made recommendations.

101. Italy noted India's human rights challenges which it identified as capital punishment, the functioning of the judiciary, prolonged detentions, potential abuses by police forces, including alleged cases of torture, and sectarian violence against religious minorities. Italy made recommendations.

102. Japan welcomed the adoption of legislation protecting children from sexual offences and the taking into account of treaty-body recommendations when developing anti-discrimination mechanisms. It appreciated steps taken to provide human rights education to teachers, but noted that prejudices against children of specific castes persisted. Japan made recommendations.

103. Kuwait commended the results obtained under India's 11th Action Plan, as well as the adoption of plans to combat poverty and unemployment and to provide free education. Kuwait made recommendations.

104. Kyrgyzstan highlighted and supported India's actions in the protection of children's rights. It requested further information on measures adopted by the Supreme Court to strengthen standards in combating torture. Kyrgyzstan made a recommendation.

105. The Lao People's Democratic Republic commended India's struggle for its social and economic transformation within the framework of a democracy. It noted India's important initiatives to secure human rights at the national, regional and international levels. It made a recommendation.

106. Liechtenstein noted the concern of the Committee on Economic, Social and Cultural Rights (CESCR) at the lack of progress in eliminating traditional practices and provisions of personal-status laws that were harmful and discriminatory to women and girls. Liechtenstein made recommendations.

107. Luxembourg expressed concern at the high maternal mortality rate. It inquired about the steps India intended to take to achieve Millennium Development Goal 5, to end persistent discrimination against women and to combat endemic malnutrition in rural areas. Luxembourg made a recommendation.

108. Malaysia noted that despite insurmountable challenges, India had managed to improve the quality of life of its vast population. It commended India's action on all human rights issues in the United Nations. Malaysia made recommendations.

109. Maldives recognized India's efforts regarding gender equality, and made recommendations.

110. Mauritius recognized the need for India to transform its economy, but invited it to take heed of what Mahatma Gandhi meant when he said that India lives in its villages. It should therefore ensure the participation of local populations in development projects.

111. Mexico noted the progress and efforts made by India to promote and protect human rights. It particularly recognized India's openness to international cooperation through the open and standing invitation to all of the special procedures of the universal system of human rights. Mexico made recommendations.

112. Morocco congratulated India on all the initiatives taken since its first UPR to address different areas of human rights. It made a recommendation.

113. Mozambique stated that India's commitment to human rights was visible in its many achievements and its holistic approach, particularly in the fields of gender equality, the rights of children, the elderly and persons with disabilities, and the rights to health and education.

114. Myanmar noted the adoption of legal measures to protect India's natural resources and environment. Myanmar was keen to learn from India's best practices in poverty eradication and rural development. Myanmar made recommendations.

115. Nepal commended India for the legislative and institutional measures for the promotion and protection of human rights. It also stated that initiatives such as the empowerment of women, was encouraging and efforts to ensure transparency and good governance was commendable. Nepal made a recommendation.

116. The Netherlands acknowledged India's continued commitment to improving its human rights record. It thanked India for responding to its advanced questions. Netherlands made recommendations.

117. Nicaragua noted with satisfaction progress made by India in implementing the recommendations from its first review. It Nicaragua made a recommendation.

118. Norway stated that child labour was preventing children from accessing education. It welcomed the de facto moratorium and public debate on capital punishment. Norway made recommendations.

119. Paraguay noted progress made by India in consolidating policies on human rights, including enacting legislation to protect the environment and to guarantee the right to education. It welcomed India's ratification of the United Nations Convention against Transnational Organized Crime and its two Optional Protocols. Paraguay made a recommendation.

120. The Philippines wished to learn about the National Green Tribunal in promoting and protecting the right to a healthy environment, and the Mahatma Gandhi National Rural Employment Guarantee Act as a development strategy to guarantee the right to work.

121. Portugal welcomed the expansion of the list of banned and hazardous processes and occupations of the Child Labour Act. However, further efforts were needed to tackle this violation of children's rights. It welcomed the de facto moratorium on capital punishment. Portugal made recommendations.

122. Qatar noted the achievements to ensure the rule of law. It applauded the initiatives to guarantee the enjoyment of the right to education. It commended India for its economic plan 2007-2012, adopted to bring about comprehensive development. Qatar made recommendations.

123. The Republic of Korea welcomed new and draft legislation in the areas of education and the protection of women in the workplace. It noted with satisfaction India's invitation to the special procedures mandate holders. It was concerned about the delay in ratifying CAT. It made recommendations.

124. The Russian Federation welcomed measures adopted by India to defend and ensure the rights of vulnerable groups. It made a recommendation.

125. Saudi Arabia commended India for its efforts to improve food security and public health and which had resulted in reduced child and maternal mortality, and reduced cases of polio and HIV. It made recommendations.

126. Senegal noted legislation adopted on women and children's rights, education, employment, access to information, the environment and access to justice; and well as action taken by India to ensure civil and political rights and economic, social and cultural rights. Senegal made recommendations.

127. Singapore supported India's commitment to promoting racial and religious tolerance. It congratulated India on sustaining rapid economic growth, thereby lifting millions of people out of poverty and advancing the rights to food, housing, education and health. Singapore made a recommendation.

128. Slovakia welcomed the steps taken by India towards ensuring greater political participation of women, the establishment of a national commission to protect children's rights and the standing invitation to special procedures. Slovakia made recommendations.

129. Costa Rica highlighted progress made in protecting human rights. It made recommendations.

130. India stated, with regard to ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), that effective legal and constitutional framework to address violations of the rights of individuals existed. The Constitution provided for direct access to individuals to the Supreme Court and the High Courts. Other statutory mechanisms also provided adequate redress.

131. On the Communal Violence Bill, the delegation stated that India was a land of diversity covering all major religions, where minorities enjoyed the highest level of protection. Sporadic acts of violence were dealt with swiftly and effectively. Being a matter of federal polity, the Central Government had to take on board views of all Indian states, some of which believed that the existing laws were adequate to address communal violence, as seen from declining incidence.

132. With regard to the prosecution of Armed Forces, it was emphasized that the Army and paramilitary forces maintained continuous vigilance to prevent human rights violations. The Army established the Human Rights Cell even before the NHRC was established.

133. India's practices with regard to refugees was one of tolerance and understanding, and to provide hospitality and protection to those who approach it.

134. The human rights curriculum in schools and modules to create human rights sensitivity and skill were in place among teachers, public officials and law enforcement agencies.

135. The RTI promoted human rights by enabling any citizen to seek any information from public authorities. This information could include any document, notes and even drafts on Government records. It had not only led to effective enforcement and proper governance but was also used for accessing the courts under articles 32 or 226 of the Constitution.

136. India took serious exception to and rejected totally the intervention that stated that the judiciary lacked transparency. The judiciary had taken an incredible role with regard to enforcement of fundamental rights and had never been accused of not being transparent. The delegation acknowledged that there were aspects of delay, but emphasized that efforts were being made to address this issue.

137. The head of the delegation stated that he represented an India built on the solid foundations laid after independence, a new India, which was confident but not over-confident, a country proud of its strengths and at the same time willing to acknowledge and address weaknesses. It was an India which was self-assured but not arrogant, a country which was sensitive and humane without being weak or apologetic, and an India determined to promote and protect the human rights of its people in its secular democratic polity.

II. Conclusions and/or recommendations**

138. The recommendations formulated during the interactive dialogue and listed below will be examined by India who will provide its responses in due time, but no later than the 21st session of the Human Rights Council in September 2012. These responses will be included in the outcome report adopted by the Human Rights Council at its 21st session:

- 138.1. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Convention for the Protection of All Persons from Enforced Disappearance and the Statute of the International Criminal Court (Spain);
- 138.2. Intensify the efforts working towards the MDG5, including by withdrawing its reservation to Article 16 in Convention on the Elimination of All Forms of Discrimination against Women, and by ensuring access to information and counselling on SRHR as set out in its National Population Policy(Sweden);
- 138.3. Expedite the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and adopt robust domestic legislation to this effect (United Kingdom of Great Britain and Northern Ireland);
- 138.4. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and end impunity for security forces accused of committing human rights violations (United States of America);
- 138.5. Continue efforts to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as its optional protocol, and the International for the Protection of All Persons from Enforced Disappearances; and ratify ILO Conventions No. 169 and no. 189 (Iraq);
- 138.6. Accelerate its domestic procedure for ratification including the adoption of the Prevention against Torture Bill by its Parliament (Republic of Korea);
- 138.7. Ratify promptly the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Italy);¹
- 138.8. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment as soon as possible (Maldives);
- 138.9. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognize the competence of its Committee, in accordance with articles 31 and 32 (Uruguay);

- 138.10. Accede to the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; ratify the Statute of the International Criminal Court and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the ILO Convention No. 189 concerning Decent Work for Domestic Workers (Uruguay);
- 138.11. Consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);
- 138.12. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ensure that the instrument of ratification is fully consistent with the Convention (Australia);
- 138.13. Ratify the International Convention for the Protection of All Persons from Enforced Disappearances, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Rome Statute of the International Criminal Court (Austria);
- 138.14. Ratify the Rome Statute of the International Criminal Court, including its Agreement on Privileges and Immunities (Slovakia);
- 138.15. Finalise the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Botswana);
- 138.16. Ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as its Optional Protocol (Brazil);
- 138.17. Expedite ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol (Czech Republic);
- 138.18. Sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol and ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Portugal);
- 138.19. Ratification of the Optional Protocol to the Convention on the Elimination of Discrimination against Women (Brazil);

- 138.20. Evaluate the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Chile);
- 138.21. Consider signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Czech Republic);
- 138.22. Remove reservations to the Article 16(1) of the Convention on Elimination of All Forms of Discrimination against Women (Finland);
- 138.23. Withdraw its reservations to Convention on the Elimination of All Forms of Discrimination against Women and consider signing and ratifying its Optional Protocol (Republic of Korea);
- 138.24. Ratify, in the shortest time, the International Convention for the Protection of All Persons from Enforced Disappearance as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and adopt related internal legislation (France);
- 138.25. Consider the recommendation made by UNHCR to ratifying the Conventions relating to refugees and stateless persons (Ghana);
- 138.26. Ratification of ILO Conventions Nos. 138 concerning Minimum Age for Admission to Employment; 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; 169 concerning Indigenous and Tribal Peoples in Independent Countries; 155 concerning Occupational Safety and Health and the Working Environment and 170 concerning Safety in the use of Chemicals at Work (Ghana);
- 138.27. Continue to take legislative as well as policy measures to combat child labour and to ratify ILO Conventions 138 concerning Minimum Age for Admission to Employment and 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour and elaborate a timeline for the ratification of these instruments (Portugal);
- 138.28. Ratify Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the ILO Conventions no. 138 and 182 concerning child labour (Sweden);
- 138.29. Accelerate the ratification process of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Indonesia);

- 138.30. Consider an early ratification of the third Optional Protocol to the Convention on the Rights of the Child, on a communication procedure (Slovakia);
- 138.31. Amend the Special Marriage Act before its next review (Slovenia);
- 138.32. Conform its national legislation to international norms on the prevention of torture, to speed up the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and receive the Special Rapporteur on Torture (Switzerland);
- 138.33. Take the necessary measures to ensure that the existing national legislation against torture and cruel and inhumane and degrading treatment incorporates the highest international standards in this area (Costa Rica);
- 138.34. Prioritise the review and implementation of the Prevention Against Torture Bill, ensuring that it complies with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (Maldives);
- 138.35. Review the law on the special powers of the armed forces to align it with its obligations under the International Convention on Civil and Political Rights (Switzerland);
- 138.36. Consider introducing a new bill to the Parliament, taking into full consideration of the suggestions of the Select Committee, and take further actions towards the ratification of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Timor-Leste);
- 138.37. Consider expediting the process to pass the 108th Constitutional Amendment Bill which seeks to reserve a significant portion of seats for women at the Lower House and state legislative assemblies and consider the ratification of the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (Timor-Leste);
- 138.38. Consider signing and ratifying the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (Costa Rica);
- 138.39. Strengthen legislations to combat sexual offences against minors (Algeria);
- 138.40. Strengthen protection of children's rights, including the ratification of the Convention on the Rights of the Child, by improving mechanisms and resources for the implementation of existing legislation, and by

- demonstrating higher conviction rates for crimes against children such as sexual exploitation, child labour, child forced-labour and child trafficking (Canada);
- 138.41. Enact comprehensive reforms to address sexual violence and all acts of violence against women, including “honour” crimes, child marriage, female feticide and female infanticide, and to remedy limitations in the definition of rape and the medico forensic procedures adopted for rape cases (Canada);
 - 138.42. Enact those pending bills that are aimed at empowering women, including the women’s Reservation Bill and the amendments to Panchayati Raj Act (Netherlands);
 - 138.43. Enact a law on the protection of human rights defenders, with emphasis on those defenders facing greater risks, including those working on minority rights and the rights of scheduled castes and tribes (Czech Republic);
 - 138.44. Repeal the Armed Forces Special Powers Act or adopt the negotiated amendments to it that would address the accountability of security personnel, the regulation concerning detentions as well as victims’ right to appeal in accordance to international standards (Slovakia);
 - 138.45. Carry out an annual review of the 1958 Armed Forces Special Powers Act aiming to gradually reduce its geographic scope (France);
 - 138.46. Effectively implement existing legislation on child labour in line with India’s international obligations and strengthen the judicial powers of the National Commission for Protection of Child Rights (Germany);
 - 138.47. Take adequate measures to guarantee and monitor the effective implementation of the Prevention of Atrocities Act, providing legal means for an increased protection of vulnerable groups like the Dalit, including the access to legal remedies for affected persons (Germany);
 - 138.48. Adopt the Prevention of Communal and Targeted Violence Bill addressing issues such as accountability of civil servants, standards of compensation for victims and elements of command responsibilities (Germany);
 - 138.49. Reconsider laws and bills on religious conversion in several Indian states in the light of freedom of religion or belief in order to avoid the use of vague or broad terminology and discriminatory provisions (Germany);

- 138.50. Reconsider current local legislation on freedom of religion, that uses vague or broad terminology and discriminatory provisions, and impedes the possibility for conversion of faith for those who wish to do so (Netherlands);
- 138.51. Continue its efforts to further spread in the country the model of rural growth in the Mahatma Gandhi National Rural Employment Guarantee Act (Greece);
- 138.52. Enhance the coordination of both the central and state governments in an effective manner in order to guarantee the smooth implementation of the 2010 Right of Children to Free and Compulsory Education Act (Indonesia);
- 138.53. Enact comprehensive anti-discrimination legislation and ensure that there are adequate means of redress (Ireland);
- 138.54. Establishment and implementation of a National Human Rights Plan which cover access to education and health, including aspects of sexual and reproductive and health, as well as, concrete measures to eliminate violence against women (Spain);
- 138.55. Continue with action to include human rights education in the school curricula (Sri Lanka);
- 138.56. Implement the 2011 recommendations of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights to ensure the high standards and independence of India's National Human Rights Institutions (United Kingdom of Great Britain and Northern Ireland);
- 138.57. Intensify its efforts and measures to consolidate the state of law and its national mechanisms on human rights (Viet Nam);
- 138.58. Further coordination among relevant national authorities and human rights institutions (Egypt);
- 138.59. Intensify efforts in providing capacity building and training programmes on human rights for its law enforcement officials as well as judicial and legal officials in the rural areas (Malaysia);
- 138.60. Improve training on human rights by addressing law enforcement, especially police officers (Iraq);
- 138.61. Set up State and District Commissioners for the Protection of Child Rights in all States and Districts (Ireland);

- 138.62. Strengthen the process for ensuring independent and timely investigation mechanisms to address and eliminate corruption; and provide for and facilitate increased accountability and transparency in this process (United States of America);
- 138.63. Continue including civil society participation in the UPR process (Nicaragua);
- 138.64. A fully integrated gender perspective in the follow up of this UPR (Norway);
- 138.65. Implement Treaty Body recommendations and develop a National Action Plan to eliminate all forms of discrimination (Slovenia);
- 138.66. Continue cooperating with Special Procedures and accept in particular requests for visits from Special Rapporteurs (Belgium);
- 138.67. Adopt the recommendations of the Special Rapporteur on the situation of human rights defenders and the necessary measures to its recognition and protection, guaranteeing that the human rights violations are timely, effectively and independently investigated (Spain);
- 138.68. Implement the recommendations made by the Special Rapporteur on the rights of human right defenders following her visit in 2011, with particular emphasis on recommendations that concern defenders of women's and children's rights, defenders of minorities rights, including Dalits and Adavasi, and right to information activists (Norway);
- 138.69. Allow the visit of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, whose request had been pending for 18 years, in line with India's standing invitation issued in 2011 to all Special Procedures of the HRC (Hungary);
- 138.70. Continue cooperating with the United Nations and other international organisations and share good experience and practices with other countries in order to overcome the remaining challenges (Lao People's Democratic Republic);
- 138.71. Continue its efforts to eliminate discrimination against and empower marginalized and vulnerable groups particularly by ensuring effective implementation of relevant laws and measures through proper and active coordination among line ministries, national and state governments; by extending disaggregated data to caste, gender,

- religion, status and region; and by increasing sensitization and reducing discriminatory attitudes among law enforcement officers through human rights education and training (Thailand);
- 138.72. Ensure that laws are fully and consistently enforced to provide adequate protections for members of religious minorities, scheduled castes, and adivasi groups, as well as, women, trafficking victims, and LGBT citizens (United States of America);
- 138.73. Monitor and verify the effectiveness of, and steadily implement, measures such as quota programmes in the areas of education and employment, special police and special courts for effective implementation of the Protection of Civil Rights Act and the Scheduled Caste and Scheduled Tribes Act, and the work of the National Commission for Scheduled Castes (Japan);
- 138.74. Address the inequities based on rural-urban divide and gender imbalance (Botswana);
- 138.75. Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the scheduled castes and scheduled tribes and minorities are well achieved (Ghana);
- 138.76. Continue working on the welfare of children and women (Nepal);
- 138.77. Continue the procedures and measures taken to enable women to be equal partners and participants in development (Qatar);
- 138.78. Continue to promote the right to equal opportunity for, and at, work (Holy See);
- 138.79. Continue its legal efforts in the protection of women and children's rights as well as improve measures to prevent violence against women and girls, and members of religious minorities (Iran);
- 138.80. Improve women empowerment and emancipation, and provide them with a bigger role to play in the society (Kuwait);
- 138.81. Redouble efforts on ensuring gender equality and take measures to prevent gender discrimination (Bahrain);
- 138.82. Review the budgets and social laws taking into account gender issues (Morocco);

- 138.83. Continue incorporating the gender perspective in programmes and development plans with positive measures to the effective promotion and protection of women's rights (Venezuela (Bolivarian Republic of));
- 138.84. Continue to promote its many initiatives for the eradication of all forms of discrimination against women (Trinidad and Tobago);
- 138.85. Further strengthen measures to eliminate traditional harmful practices which are discriminatory against women and girls in particular child marriages, dowry related murders and honour killings (Chile);
- 138.86. Continue following-up on steps taken to eliminate discrimination against women, including through awareness raising and continuous strengthening of the relevant legal and institutional frameworks (Egypt);
- 138.87. Continue to promote the rights of women in their choice of marriage and their equality of treatment independently of caste and tribe or other considerations (Holy See);
- 138.88. Strictly enforce the legal provisions prohibiting harmful and discriminatory practices that violate the rights of women and girls, and that it undertake effective public education measures, including awareness-raising programmes designed to eliminate gender-based prejudices, traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls (Liechtenstein);
- 138.89. Study the possibility of eliminating any criminalisation of same sex relations (Argentina);
- 138.90. Take measures to address violence and discrimination directed towards persons based on their sexual orientation, especially related to employment (Canada);
- 138.91. Establish a moratorium on executions with a view to abolishing the death penalty (Ireland);
- 138.92. Abolish capital punishment and commute existing death sentences to life imprisonments terms (Slovakia);
- 138.93. Respect the de facto moratorium on the death penalty which had been in place since 2004 (Spain);
- 138.94. Consider abolishing the death penalty or establishing a moratorium (Chile);

- 138.95. Maintain de facto moratorium on executions and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights with a view to definitive abolishment of the death penalty (France);
- 138.96. Introduce as quickly as possible a de jure moratorium on executions (Belgium);
- 138.97. Adopt a de jure moratorium on capital punishment with a view to abolishing the death penalty (Italy);
- 138.98. Establish an official moratorium against the death penalty and take the necessary measures in view of its abolition (Switzerland);
- 138.99. Study the possibility of repealing the death penalty from its legal regime (Argentina);
- 138.100. Make the de facto moratorium into a permanent one with a view to abolishing the death penalty (Norway);
- 138.101. Consider adhering to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (Portugal);
- 138.102. Take effective measures to dissuade child marriage and to protect the fundamental rights of the children (Switzerland);
- 138.103. Take more efforts to prevent children from sexual exploitation and separation from families, and give them the opportunity and assistance to grow up in an environment of freedom and dignity (Bahrain);
- 138.104. Introduce legislation to prohibit corporal punishment of children in all settings (Liechtenstein);
- 138.105. Adopt comprehensive legislation on fighting all forms of sexual harassment in relation to women and children (Kyrgyzstan);
- 138.106. Take the necessary legislative, civil and criminal measures to provide the appropriate protection to women, and children that are victims of sexual abuse (Mexico);
- 138.107. Accelerate its efforts on combatting human trafficking (Iran);
- 138.108. Reinforce efforts to protect and rehabilitate the victims of trafficking (Ukraine);

- 138.109. Continue stepping up efforts in the area of fighting trafficking as well as consider the possibility of inviting the Special Rapporteur on trafficking in persons, especially in women and children, to visit the country (Belarus);
- 138.110. Continue to strengthen its efforts to combat trafficking in persons by providing the necessary budget to establish a larger number of local bodies to combat this scourge (Paraguay);
- 138.111. Implement monitoring mechanisms to stop people trafficking (Holy See);
- 138.112. Ban all forms of child labour for children from ages 6 to 14 (Ireland) and ratify ILO Conventions No. 138 and no. 182 (Ireland);
- 138.113. Amend the Child Labour Act to ban child labour, and to sign and ratify ILO Conventions 138 concerning Minimum Age for Admission to Employment and 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour and elaborate a timeline for the ratification of these instruments (Norway);
- 138.114. Continue the implementation of the national child labour project aiming at the rehabilitation of child labourers (Angola);
- 138.115. Extend the minimum age to 18 years for any form of labour that prevents children from accessing a full education (Ireland);
- 138.116. Implement the recommendations included in the OHCHR report on street children (A/HRC/19/35) (Hungary);
- 138.117. Continue to carry out policies aimed at improving its judicial system, reforming the law enforcement bodies and reducing the level of crime and corruption (Russian Federation);
- 138.118. Prevent and pursue through the judicial process, all violent acts against religious and tribal minorities, Dalits and other casts (Holy See);
- 138.119. Guarantee effective access to justice in cases of human rights violations committed by security forces personnel with regard to the use of torture (Spain);
- 138.120. Implement effective judiciary proceedings making possible the bringing to justice security forces personnel who have committed human rights violations (France);
- 138.121. Solve remaining cases of human rights violations and create an independent committee to receive claims against the police that were

- referred to by the Special Rapporteur on Human Rights Defenders (Iraq);
- 138.122. Further promote equal access to justice for all , including by reducing backlog and delays in the administration of cases in court, providing more legal aids to the poor and marginalized, as well as increasing the use of alternative measures to pre-trial detention (Thailand);
- 138.123. Take legislative action to ensure every person’s right to freely choose one’s religion in line with the Indian Constitution and effectively and swiftly prosecute acts of violence against religious minorities (Austria);
- 138.124. Abolish anti-conversion laws in relation to religion and grant access to justice to victims of religious violence and discrimination (Italy);
- 138.125. Strengthen the Federal Government’s effort to guarantee freedom of religion to everyone in this world largest democracy (Holy See);
- 138.126. Ensure that measures limiting freedom of expression on the internet is based on clearly defined criteria in accordance with international human rights standard (Sweden);
- 138.127. Ensure a safe working environment for journalists and take proactive measures to address the issue of impunity, such as swift and independent investigations (Austria);
- 138.128. Align its national regulations with the ILO Conventions 138 concerning Minimum Age for Admission to Employment and 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour and elaborate a timeline for the ratification of these instruments (Hungary);
- 138.129. Continue its efforts and actions in promoting social security and labour policy (Iran);
- 138.130. Provide more resources for the enjoyment of economic and social rights, especially in favour of vulnerable groups like women, children, poor people and minorities (Viet Nam);
- 138.131. Take the necessary measures to ensure birth registration on a universal basis, particularly for persons living in extreme poverty, belonging to religious minorities or in remote areas (Mexico);
- 138.132. Ensure timely registration of all births (Holy See);

- 138.133. Continue its measures in order to increase opportunities for consultations on child rights issues with relevant stakeholders (Iran);
- 138.134. Make efforts to eliminate the large gap that exists between the rich and the poor (Chad);
- 138.135. Allocate more resources in sectors that provide basic services such as health, education and employment opportunities (Malaysia);
- 138.136. Introduce a strategy to promote food security (Saudi Arabia);
- 138.137. Continue to implement plans adopted in the area of housing and rehabilitation, particularly the plan launched in 2011 aimed at preventing the construction of new slums (Algeria);
- 138.138. Ensure that every household enjoys the right to safe drinking water and sanitation (Slovenia);
- 138.139. Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas (Myanmar);
- 138.140. Continue to strengthen its poverty alleviation strategies, as well as its child protection strategies, particularly against the exploitation of children (South Africa);
- 138.141. Continue consolidating its programmes and socio-economic measures essential to achieve poverty reduction and social exclusion to the utmost wellbeing of its people (Venezuela (Bolivarian Republic of));
- 138.142. Continue efforts to eradicate poverty and to better living conditions as well as increase job opportunities (Kuwait);
- 138.143. Further strengthen the efforts in poverty eradication, paying special attention to the rural population (Myanmar);
- 138.144. Continue to advance the progress already underway on poverty eradication and improve the enjoyment of the most basic human rights of its people, especially women and children (Singapore);
- 138.145. Continue encouraging socio economic development and poverty eradication (Cuba);
- 138.146. Continue its efforts aimed at improving the level of public health in the country to attain better results in the area of health and access to health (Saudi Arabia);

- 138.147. Establish measures at the national and state level to remove obstacles in terms of access by the population to pain palliative medicines (Uruguay);
- 138.148. Provide every possible support and assistance to the national project for rural health to increase the standard of nutrition and improve public health and to strengthen the relationship between health and indicators such as sanitation and personal hygiene; (United Arab Emirates);
- 138.149. Meet the stated commitment from the Common Minimum Program of 2004 to dedicate 3 percent of India's GDP to health and 6 percent to education (Slovenia);
- 138.150. Take further practical steps to reduce the high level of maternal and child mortality, inter alia, through better access to maternal health services (Austria);
- 138.151. Further efforts towards addressing the challenge of maternal and child mortality (Egypt);
- 138.152. Strengthen its efforts to improve maternal health and acts to effectively balance the skewed sex-ratio among children, including by combating female foeticide (Norway);
- 138.153. Take further measures to ensure all women without any discrimination access to adequate obstetric delivery services and sexual and reproductive health services, including safe abortion and gender-sensitive comprehensive contraceptive services (Finland);
- 138.154. Contribute to further reduction of maternal mortality through the establishment of an independent organ to accelerate programmes and projects in this area (Honduras);
- 138.155. Intensify its efforts to sensitize and train medical professionals on the criminal nature of prenatal sex selection with a view to ensuring stringent enforcement of the legal prohibition of such practice (Liechtenstein);
- 138.156. Take effective measures to fully implement National Rural Health Missions (Honduras);
- 138.157. Continue to strengthen its programmes and initiatives geared towards guaranteeing the rights to health and education (Cuba);

- 138.158. Redouble its efforts in the field of education and health (Senegal);
- 138.159. Increase the budget allocated to health from 1 percent of the GDP to 2 percent (Luxembourg);
- 138.160. Further promote children's right to education (Greece);
- 138.161. Reinforce its efforts in provision of free and compulsory primary education (Slovakia);
- 138.162. Continue implementing a non-discriminatory and inclusive policy and guarantee quality education to all the girls and boys in its country (Ecuador);
- 138.163. Strengthen human rights training aimed at teachers in order to eliminate discriminatory treatment of children of specific castes, as well as appropriately follow-up on the results of the training that has occurred thus far (Japan);
- 138.164. Ensure universal, compulsory and free education, carrying out on a priority basis measures aimed at eradicating discrimination, particularly discrimination that affects girls, marginal groups and persons with disabilities (Mexico);
- 138.165. Continue its efforts to promote the right to children's education and ensure the importance of the principles of children's education in the country (Qatar);
- 138.166. Prioritise efforts to ensure that children with disabilities are afforded the same right to education as all children (Australia);
- 138.167. Ensure better protection for persons with disabilities and the elderly (Senegal);
- 138.168. Carry on its efforts in environmental and health policies, and continue to enforce its legislative measures on food security (Iran);
- 138.169. Continue its efforts to achieve balance between its counterterrorism strategies and the need to forestall the spread of xenophobia (Trinidad and Tobago).

139. All conclusions and/or recommendations contained in the present 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

[English only]

Composition of the delegation

The delegation of India was headed by Mr. Goolam E. Vahanvati, Attorney General of India, and composed of the following members:

- Mr. Dilip Sinha, Ambassador / Permanent Representative of India to United Nations, Permanent Mission of India, Geneva;
- Mr. Asoke Kumar Mukerji, Special Secretary, Ministry of External Affairs, New Delhi;
- Mr. Nilanjan Sanyal, Additional Secretary, Ministry of Women and Child Development, New Delhi;
- Dr. Kheya Bhattacharya, Deputy Permanent Representative, Permanent Mission of India, Geneva;
- Professor Ranbir Singh, Vice Chancellor, National Law University, New Delhi;
- Mrs. Rashmi Goel, Joint Secretary, Ministry of Home Affairs, New Delhi;
- Mr. T.S. Tirumurti, Joint Secretary, Ministry of External Affairs, New Delhi;
- Mr. A.K. Sharma, Consul General, Permanent Mission of India, Geneva;
- Mr. S. Suresh Kumar, Joint Secretary, Ministry of Home Affairs, New Delhi;
- Mr. Dinesh Kumar Jain, Joint Secretary, Ministry of Rural Development, New Delhi;
- Mr. Tuhin Kanta Pandey, Joint Secretary, Planning Commission, New Delhi;
- Mr. Sanjeev Kumar, Joint Secretary, Ministry of Social Justice and Empowerment, New Delhi;
- Dr. Neeru Chadha, Joint Secretary, Ministry of External Affairs, New Delhi;
- Mr. Dheeraj Kumar, Director, Ministry of Minority Affairs, New Delhi;
- Mrs. Gloria Gangte, First Secretary, Permanent Mission of India, Geneva;
- Ms. Rohita Mishra, Under Secretary, Ministry of External Affairs, New Delhi;
- Ms. Nabanita Chakrabarti, Second Secretary, Permanent Mission of India, Geneva;
- Mr. Lavanya Kumar, Third Secretary, Permanent Mission of India, Geneva;
- Mr. Eldos Punnose, Attache, Ministry of External Affairs, New Delhi.

11. List of Recommendations of the Second UPR Accepted by the Government of India

Recommendations

Continue to strengthen its poverty alleviation strategies, as well as its child protection strategies, particularly against the exploitation of children.

(South Africa)

Continue with action to include human rights education in the school curricula.

(Sri Lanka)

Take effective measures to dissuade child marriage to protect the fundamental rights of the children.

(Switzerland)

Further promote equal access to justice for all , including by reducing backlog and delays in the administration of cases in court, providing more legal aids to the poor and marginalized.

(Thailand)

Continue to promote its many initiatives for the eradication of all forms of discrimination against women.

(Trinidad and Tobago)

Reinforce efforts to protect and rehabilitate the victims of trafficking.

(Ukraine)

Implement monitoring mechanisms to stop people trafficking.

(Holy See)

Accelerate efforts on combating human trafficking.

(Iran)

Provide every possible support and assistance to the national project for rural health to raise the standard of nutrition and improve public health and to strengthen the relationship between health and indicators such as sanitation and personal hygiene.

(United Arab Emirates)

Continue consolidating programmes and socio-economic measures essential to achieve poverty reduction and social exclusion to the utmost well-being of its people.

(Venezuela)

Continue incorporating the gender perspective in programmes and development plans with positive measures to the effective promotion and protection of women's rights.

(Venezuela)

Provide more resources for the enjoyment of economic and social rights, especially in favour of vulnerable groups like women, children, poor people and minorities.

(Viet Nam)

Continue the implementation of the National Child Labour Project (NCLP) aiming at the rehabilitation of child labourers.

(Angola)

Study the possibility of eliminating any criminalisation of same sex relations.

(Argentina)

Prioritise efforts to ensure that children with disabilities are afforded the same right to education as all children.

(Australia)

Take further practical steps to reduce the high level of maternal and child mortality, inter alia, through better access to maternal health services.

(Austria)

Redouble efforts on ensuring gender equality and take measures to prevent gender discrimination.

(Bahrain)

Take more efforts to prevent children from sexual exploitation and separation from families and give them the opportunity and assistance to grow up in an environment of freedom and dignity.

(Bahrain)

Continue cooperating with Special Procedures and accept, in particular, requests for visits from Special Rapporteurs.

(Belgium)

Address the inequities based on rural-urban divide and gender imbalance.

(Botswana)

Finalise the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

(Spain, Sweden, Switzerland, Timor-Leste, UK and Northern Ireland, USA, Australia, Austria, Botswana, Brazil, Czech Republic, Indonesia, Iraq, Italy, Maldives, Portugal, Republic of Korea)

Make efforts to eliminate the large gap that exists between the rich and the poor.

(Chad)

Continue to strengthen/develop programmes and initiatives geared towards guaranteeing the rights to health and education.

(Cuba)

Continue encouraging socio-economic development and poverty eradication.

(Cuba)

Continue implementing a non-discriminatory and inclusive policy and guarantee quality education to all girls and boys in the country.

(Ecuador)

Further efforts towards addressing the challenge of maternal and child mortality.

(Egypt)

Further coordination among relevant national authorities and human rights institutions.

(Egypt)

Continue following-up on steps taken to eliminate discrimination against women, including through awareness-raising and continuous strengthening of the relevant legal and institutional frameworks.

(Egypt)

Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the Scheduled Castes and Schedules Tribes and Minorities are well achieved.

(Ghana)

Continue its efforts to further spread in the country the model of rural growth in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

(Greece)

Further promote children's right to education.

(Greece)

Strengthen the Federal Government's efforts to guarantee freedom of religion to everyone in this world's largest democracy.

(Holy See)

Take effective measures to fully implement National Rural Health Mission (NRHM).

(Honduras)

Enhance the coordination of both [the central and state governments] in an effective manner in order to guarantee the smooth implementation of the 2010 Right of Children to Free and Compulsory Education Act.

(Indonesia)

Continue legal efforts in the protection of women as well as children's rights as well as improve measures to prevent violence against women and girls, and members of religious minorities.

(Iran)

Carry on efforts with respect to environmental and health policies, and continue efforts and undertake measures to adopt the bill on food security and strengthen the Public Distribution System (PDS).

(Iran)

Continue measures to increase opportunities for consultations on child rights issues with relevant stakeholders.

(Iran)

Continue efforts and actions in the promotion of social security and labour policy.

(Iran)

Improve training on human rights on addressing law enforcement especially by police officers.

(Iraq)

Intensify efforts in providing capacity-building and training programmes on human rights for its law enforcement officials as well as judicial and legal officials in the rural areas.

(Malaysia)

Continue efforts to eradicate poverty and better living conditions as well as increase job opportunities.

(Kuwait)

Improve women empowerment and emancipation, and provide them with a bigger role to play in the society.

(Kuwait)

Continue cooperating with the UN and other International Organisations and share good experiences and practices with other countries in order to overcome the remaining challenges.

(Lao PDR)

Introduce legislation to prohibit corporal punishment of children.

(Liechtenstein)

Allocate more resources in sectors that provide basic services such as health, education and employment opportunities.

(Malaysia)

Re-examine the budgets and social laws taking into account gender issues.

(Morocco)

Further strengthen the efforts in poverty eradication, paying special attention to the rural population.

(Myanmar)

Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas.

(Myanmar)

Continue working on the welfare of children and women.

(Nepal)

Continue including civil society participation in the UPR process.

(Nicaragua)

A fully integrated gender perspective in the follow up of this UPR.

(Norway)

Continue its efforts with regard to education for children and take the necessary measures to allow women to participate on an equal footing with men in all developmental efforts.

(Qatar)

Introduce a strategy to promote food security.

(Saudi Arabia)

Redouble its efforts in the field of education and health.

(Senegal)

Ensure better protection for persons with disabilities and the elderly.

(Senegal)

Continue to advance the progress already underway on poverty eradication and improve the enjoyment of the most basic human rights of the people, especially women and children.

(Singapore)

Reinforce efforts in provision of free and compulsory primary education.

(Slovakia)

Take the necessary legislative, civil and criminal measures to provide the appropriate protection to women, and children that are victims of sexual abuse.

(Mexico)

Continue to promote the right to equal opportunity for work and at work.

(Holy See)

Continue to promote the rights of women in their choice of marriage and their equality of treatment independent of caste and tribe or other considerations.

(Holy See)

Ensure a safe working environment for journalists.

(Austria)

Continue efforts aimed at improving the level of public health in the country to attain better results in the area of health and access to health.

(Saudi Arabia)

Strengthen its efforts to improve maternal health and act to effectively balance the skewed sex-ratio among children, including by combating female foeticide.

(Norway)

Take further measures to ensure that all women without any discrimination have access to adequate obstetric delivery services and sexual and reproductive health services, including safe abortion and gender-sensitive comprehensive contraceptive services.

(Finland)

Intensify its efforts to sensitize and train medical professionals on the criminal nature of pre-natal sex selection with a view to ensuring stringent enforcement of the legal prohibition of such practice.

(Liechtenstein)

Strengthen legislations to combat sexual offences against minors.

(Algeria)

Intensify efforts towards the MDG 5 by ensuring access to information and counseling on SRHR as set out in the National Population Policy.

(Sweden)

12. India fails UN human rights test

As an aspiring member of the UN Security Council and the largest democratic country in the world, India's human rights record and conduct are keenly watched at the United Nations. However, at the second UPR examination, India failed itself and made the UN as well to fail.

India failed itself as its report only reiterated India's fantastic array of legislations on rights without reflecting the ground realities. In contrast, the reports of the National Human Rights Commission, Asian Centre for Human Rights and other NGOs (summary of the stakeholders's report) and the compilation of the UN documents left nothing to imagination: India's human rights record remains deplorable and the Government has failed to address the violations despite its much-vaunted legislations on rights.

The examination of India's human rights record on 24th May 2012 was a parody itself. The Government of India failed to respond to the advance questions put by various member States of the United Nations. It failed to respond to the specific questions raised during the examination. But India once again patted itself on the back.

After having failed itself, India turned on the recommendations made by the member States of the UN. India rejected the large number of recommendations including stated commitment from the Common Minimum Program of 2004 of the United Progressive Alliance to dedicate 3 percent of India's GDP to health and 6 percent to education.

Further, India edited the recommendations made by other Member States, which was quite unprecedented, and deleting specific and critical texts relating to monitoring and accountability.

The Government of Thailand had recommended India to "further promote equal access to justice for all, including by reducing backlog and delays in the administration of cases in court, providing more legal aids to the poor and marginalized, as well as increasing the use of alternative measures to pre-trial detention".

However, the Government of India edited the said recommendation to delete the reference to "as well as increasing the use of alternative measures to pre-trial detention" thereby showing that India is no longer keen to use alternative measures". This is despite that India adopted the Gram Nyayalaya Act, 2008 to reduce backlog of the pending cases while fast track courts have become permanent features of India's justice system.

With respect to ratification of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol and developing domestic laws. The Government of India rejected the recommendation of Switzerland and United Kingdom to "conform its national legislation to international norms on the prevention of torture, ... and receive the Special Rapporteur on Torture

(Switzerland); recommendation of Portugal, Czech Republic, Brazil and Iraq to ratify “Optional Protocol” of the UNCAT as well (Brazil) and recommendation of the Republic of Korea to “accelerate its domestic procedure for ratification including the adoption of the Prevention against Torture Bill by its Parliament”. India simply made a text for itself by redrafting the recommendations which read as: “Finalise the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment”. India therefore rejected the recommendation to accept the Special Rapporteur on Torture whose request for visit to India has been pending since 1993, adopt its own Prevention of Torture Bill which was finalised in December 2010 by the Parliamentary Select Committee of the Rajya Sabha, headed by current law Minister Mr Ashwini Kumar and ratify the Optional Protocol to the UNCAT.

Liechtenstein actually recommended India to “introduce legislation to prohibit corporal punishment of children in all settings”. But India while accepting the recommendation deleted reference to “in all settings” as if in certain settings corporal punishment can be allowed!

Sweden recommended India to “intensify the efforts working towards the MDG5, including by withdrawing its reservation to Article 16 in Convention on the Elimination of All Forms of Discrimination against Women, and by ensuring access to information and counselling on SRHR as set out in its National Population Policy.” India deleted references to withdrawal of its reservation to Article 16 in Convention on the Elimination of All Forms of Discrimination against Women.

Austria recommended India to “ensure a safe working environment for journalists and take proactive measures to address the issue of impunity, such as swift and independent investigations.” But while accepting the recommendation, India deleted reference to “take proactive measures to address the issue of impunity, such as swift and independent investigations”. India obviously does not want to make any commitment for justice.

India’s editing of the recommendations made by other Member States of the United Nations is unprecedented and tantamount to failing the entire UPR process. If India can edit the recommendations the way it wants, what is the use of the United Nations? At the same time, since India has itself drafted its own recommendations either by editing the texts of the recommendations made by the peers or rejecting a large number of recommendations, this also implies that India is committed to implement the recommendations it has accepted on its own volition. However, the very fact that during the second UPR in 2012 India has rejected some of the recommendations it had accepted in the first UPR review in 2008 such as on the ratification of the UN Convention Against Enforced Disappearances, there is little to cheer about.

UPR: India's role for promotion of human rights in third countries

The Universal Periodic Review (UPR) scrutinises human rights records of all the member States of the United Nations.¹ India obviously has a role to play for promotion of human rights in third countries.

This chapter examines the comments made or questions raised by India during the first cycle of the UPR, whether comments made or questions raised were followed by appropriate recommendations, and whether there has been any improvement of interventions made by India during the second cycle (upto 15th Session held on 21 January-1 February 2013) in terms of the comments, questions and recommendations made.

During the first cycle of the Universal Periodic Review, human rights records of the 192 member States of the United Nations including India were reviewed from 2008 to 2011. About 20,000 recommendations were made by over 160 member States.²

India participated in the UPR deliberations on 107 countries. While India remained silent on the rest 84 countries, it made a total of 37 recommendations on 28 countries.

India made comments or raised questions without making any recommendations to 80 countries during the first cycle. The countries were - Afghanistan, Angola, Armenia, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Bhutan, Bolivia, Brazil, Cambodia, Cameroon, Canada, Chile, China, Colombia, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Gambia, Germany, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, Iran, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Malaysia, Malta, Mauritius, Mexico, Monaco, Morocco, Mozambique, Namibia, New Zealand, Nicaragua, Nigeria, Democratic People's Republic of Korea, Norway, Oman, Paraguay, The Philippines, Russian Federation, Rwanda, Saudi Arabia, Senegal, Serbia, Seychelles, Slovakia, South Africa, Sri Lanka, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Turkmenistan, United Arab Emirates, Uruguay, Uzbekistan, Yemen, Somalia, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Timor-Leste, Venezuela and Zimbabwe.

India made recommendations with comments to 28 countries. These included Afghanistan, Australia, Austria, Belgium, Cuba, Cyprus, Denmark, Ethiopia, France, Georgia, Greece, Hungary, Italy, Liberia, Maldives, Myanmar, Nepal, Netherlands, Portugal, Qatar, Slovenia, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Vietnam, Singapore and Sudan.

1. Israel is the only country which has so far refused to be reviewed by the UPR process. It was scheduled to be examined on 29 January 2013 for the second cycle but none had appeared from the delegation of Israel.

2. <http://www.upr-info.org/newsletter/archive.php?x=98&listID=1&layoutID=3&pagerows=15&pagenu m=1>

However, India did not make any comment or recommendation on 84 countries. These included - Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Bahamas, Belize, Benin, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Comoros, Cape Verde, Central African Republic, Chad, Congo, Costa Rica, Croatia, Czech Republic, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, Gabon, Grenada, Guinea-Bissau, Iceland, Indonesia, Iraq, Ireland, Israel, Jamaica, Japan, Jordan, Kiribati, Latvia, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Republic of the Marshall Islands, Mauritania, Federated States of Micronesia, Mongolia, Montenegro, Nauru, Niger, Palau, Pakistan, Panama, Papua New Guinea, Peru, Poland, Republic of Moldova, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Sierra Leone, Solomon Islands, Spain, Republic of Korea, Tonga, Tuvalu, Ukraine, Vanuatu, Zambia, Togo, Trinidad and Tobago, and Uganda.

Interestingly, India and Pakistan made no comments and recommendations on each other during the first and second cycle of the UPR.

A. Comments made at the First Cycle of UPR

As stated India made comments without recommendations on 80 countries during the first cycle of the UPR. Though India raised many issues, its three favourite topics were the rights of the child, the rights of the persons with disabilities and the National Human Rights Institutions (NHRIs).

On the rights of the child, India made specific comments with respect to 25 countries i.e. Afghanistan, Angola, Belarus, Canada, Democratic Republic of Congo, Gambia, Guinea, Guyana, Ethiopia, Iran, Kyrgyzstan, Malaysia, Malta, Myanmar, Democratic People's Republic of Korea, Oman, Russian Federation, Uruguay, Vietnam, Yemen, Seychelles, Belgium, Zimbabwe, Thailand and Timor Leste.

India asked Malta whether it was considering ratifying CRC-OP-SC. With respect to Democratic People's Republic of Korea, India stated that "*Concerns have been expressed about the quality of education, the severe impact of malnutrition on children, and the shortages and disparities in access to food*" while requesting information about plans to establish a national human rights institution, making easier travel abroad, and regular reunion of separated families.³ On Belgium, India raised questions about restrictive definition of child pornography.⁴

With respect to **civil and political rights**, India requested Iran to strengthen "the machinery for civil and political rights."⁵ India also requested Maldives to share details about assistance

3. A/HRC/13/13, 4 January 2010

4. A/HRC/18/3, 11 July 2011

5. A/HRC/14/12, 15 March 2010

required in the areas of judicial and prison reform.⁶ India urged Singapore to continue to build on the initiative of easing of regulations on political expression, including on political films and Internet election advertising and further urged to ease regulation on the realm of media.⁷

On **freedom of religion and belief**, India expressed concerns with France⁸, Germany and the Netherlands but with Iran it noted “challenges related to reconciling some religious principles with international human rights obligations”. India requested Iran to strengthen empowerment of women, including by acceding to the Convention on the Elimination of Discrimination against Women; developmental efforts for vulnerable groups, including religious minorities; the machinery for civil and political rights; and Iran’s human rights education programme.⁹

On **democracy and good governance**, India welcomed consolidation of multi-party democracy with respect to Angola,¹⁰ Bangladesh,¹¹ Bhutan,¹² Cameroon, Côte d’Ivoire,¹³ Egypt,¹⁴ Ghana,¹⁵ Guyana¹⁶ etc.

What is ironical is that in the midst of war in Syria, India welcomed “reform measures aimed at improving the democratic system and strengthening public freedoms” by the Syrian Arab Republic.¹⁷ Four months later, India voted in favour of the UN Security Council resolution backing an Arab League peace plan that called for Syrian President Bashar Assad to step down amid escalating violence. This resolution at the Security Council was eventually vetoed by China and Russia.¹⁸

Persons with disabilities have been one of the favourite topics. With respect to Cambodia, India “echoed CESCR’s concerns on the absence of an anti-discrimination law for persons with disabilities.¹⁹ India recommended ratification of the Convention on the Rights of Persons with Disabilities (CRPD) and both Optional Protocols to CRC to Côte d’Ivoire,²⁰

6. A/HRC/16/7, 4 January 2011

7. A/HRC/18/11, 11 July 2011

8. A/HRC/8/47, 3 June 2008

9. A/HRC/14/12, 15 March 2010

10. A/HRC/14/11, 24 March 2010

11. A/HRC/11/18, 5 October 2009

12. A/HRC/13/11, 4 January 2010

13. A/HRC/13/9, 4 January 2010

14. A/HRC/14/17, 26 March 2010

15. A/HRC/8/36, 29 May 2008

16. A/HRC/15/14, 21 June 2010

17. A/HRC/19/11, 24 Jan 2012

18. Russia, China veto UN resolution on Syria; India votes for regime change, NDTV, February 04, 2012 available at <http://www.ndtv.com/article/world/russia-china-veto-un-resolution-on-syria-india-votes-for-regime-change-173375>

19. A/HRC/13/4, 4 January 2010

20. /HRC/13/9, 4 January 2010

Gambia,²¹ Guyana²², Malta,²³ the former Yugoslav Republic of Macedonia²⁴, Uruguay,²⁵ and Suriname.²⁶

On **equality and non-discrimination**, India expressed concerns with Austria and asked whether Austria considered it useful to extend an invitation to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to visit the country.²⁷ India expressed “concerns regarding the persistent discrimination against the Roma people with respect to education, health, employment and housing, and the disproportionately high levels of poverty among them” in Hungary.²⁸

India was very specific to Canada and sought response on discrimination against First Nations women and children and by CEDAW and CESCR on the need for legislation on discriminatory effects of the Indian Act and CEDAW’s concerns about protection and redress for Aboriginal and ethnic women.²⁹ India asked for information regarding German states having issued legislation forbidding teachers in public schools to wear certain religious symbols.³⁰

Iran was urged to ratify the Convention on the Elimination of Discrimination against Women.³¹

Malaysia was asked “to share its experience on the success of the measures taken to enhance the participation of minorities and various ethnic groups in the country’s political and decision-making process.”³²

On **human rights defenders**, India asked Armenia “as to whether the human rights defenders had a role and responsibilities like those of a national human rights institution”³³ while Malaysia had been asked to explain “about steps taken to protect human rights defenders and migrant workers”³⁴

On **impunity**, Mexico was requested more information about “the general public perception of a high level of impunity for nearly all types of crimes committed in the country”³⁵ while

21. A/HRC/14/6, 24 March 2010

22. A/HRC/15/14, 21 June 2010

23. A/HRC/12/3, 4 June 2009

24. A/HRC/12/15, 5 June 2009

25. A/HRC/12/12, 4 June 2009

26. A/HRC/18/12, 11 July 2011

27. A/HRC/WG.6/10/L.6, 2 February 2011

28. A/HRC/18/17, 11 July 2011

29. A/HRC/11/17, 5 October 2009

30. A/HRC/11/15, 4 March 2009

31. A/HRC/14/12, 15 March 2010

32. A/HRC/11/30, 5 October 2009

33. A/HRC/15/9, 6 July 2010

34. A/HRC/11/30, 5 October 2009

35. A/HRC/11/27, 29 May 2009

Sudan and South Sudan were requested to tackle concerns relating to sexual violence and impunity.³⁶

On **indigenous peoples**, India's position was interesting not because it raised the discrimination and poverty among indigenous peoples in Australia,³⁷ Bolivia,³⁸ Guatemala,³⁹ Mexico⁴⁰ and Nicaragua⁴¹ but because India recommended Namibia "to continue improving the administration of justice and expanding participation of indigenous peoples and minorities in development".⁴² Considering that Namibia's position on indigenous peoples is similar to that of India, it was a welcome change.

On **minorities**, India was specific with respect to Armenia,⁴³ Azerbaijan,⁴⁴ but it equally recommended Egypt⁴⁵ and Iran on the rights of the religious minorities.⁴⁶

On **NHRIs**, India congratulated all the countries having NHRIs with A Status, thereby indicating importance given by India to the ICC accreditation process. India further requested also every country in intervened to ensure "full compliance" with the Paris Principles for establishing NHRIs. These include Angola,⁴⁷ Armenia,⁴⁸ Bahrain,⁴⁹ Brazil,⁵⁰ Cambodia,⁵¹ Chile,⁵² Colombia,⁵³ Côte d'Ivoire,⁵⁴ Democratic Republic of Congo,⁵⁵ Djibouti⁵⁶, Gambia,⁵⁷ Guatemala,⁵⁸ Guinea,⁵⁹ Guyana,⁶⁰ Iran,⁶¹ Kazakhstan,⁶² Kenya,⁶³

36. A/HRC/18/16, 11 July 2011

37. A/HRC/WG.6/10/L. 8, 3 February 2011

38. A/HRC/14/7, 15 March 2010

39. A/HRC/8/38, 29 May 2008

40. A/HRC/11/27, 29 May 2009

41. A/HRC/14/3, 17 March 2011

42. A/HRC/WG.6/10/L.12, 3 February 2011

43. A/HRC/15/9, 6 July 2010

44. A/HRC/11/20, 29 May 2009

45. A/HRC/14/17, 26 March 2010

46. A/HRC/14/12, 15 March 2010

47. A/HRC/14/11, 24 March 2010

48. A/HRC/15/9, 6 July 2010

49. A/HRC/8/19, 22 May 2008

50. A/HRC/8/27, 22 May 2008

51. A/HRC/13/4, 4 January 2010

52. A/HRC/12/10, 4 June 2009

53. A/HRC/10/82, 9 January 2009

54. A/HRC/13/9, 4 January 2010

55. A/HRC/13/8, 4 January 2010

56. A/HRC/11/16, 5 October 2009

57. A/HRC/14/6, 24 March 2010

58. A/HRC/8/38, 29 May 2008

59. A/HRC/15/4, 14 June 2010

60. A/HRC/15/14, 21 June 2010

61. A/HRC/14/12, 15 March 2010

62. A/HRC/14/10, 23 March 2010

63. A/HRC/15/8, 17 June 2010

Kuwait,⁶⁴ Lao People's Democratic Republic,⁶⁵ Malta,⁶⁶ Monaco,⁶⁷ Democratic People's Republic of Korea,⁶⁸ Oman , Serbia, ⁶⁹ Slovenia,⁷⁰ the former Yugoslav Republic of Macedonia, Turkey,⁷¹ Uruguay,⁷² Yemen,⁷³ Seychelles,⁷⁴ Suriname,⁷⁵ Swaziland,⁷⁶ and Zimbabwe.⁷⁷

India pushed for according quasi-judicial status to all NHRIs and it sought clarification from Denmark on the powers of the Danish Institute for Human Rights to investigate, *suo motu* or otherwise, human rights complaints. India while noting active role of the Office of the Ombudsman and the National Commission for Human Rights, asked Greece about the implementation of the Committee on the Elimination of Racial Discrimination (CERD) recommendation to authorize the Office of the Ombudsman to receive complains on racial discrimination.⁷⁸

On the question of **torture**, India welcomed Norway's intention to ratify the European Convention for the Prevention of Torture in 2010.⁷⁹ Considering that India refused to ratify the UNCAT despite signing the same in 1997, a large number of countries in the world too are waiting to congratulate India should it ratify the UNCAT.

On **monitoring detention conditions**, India welcomed Kazakhstan's commitment to establishing a national preventive mechanism for monitoring detention conditions⁸⁰ while with respect to Tunisia "*India noted with appreciation the agreement of April 2005 with the ICRC on giving access to prisons. In that regard, further information on Tunisia's experience of cooperation with ICRC was requested*".⁸¹ Maldives was requested to share details about assistance required in the areas of judicial and prison reform⁸² while India "acknowledged the insufficient resources that Tajikistan encountered and underlined the need for further technical assistance for the construction of prisons".⁸³ India expressed concerns about the disproportionately high conviction rates for African-Americans in the US.⁸⁴

64. A/HRC/15/15, 16 June 2010

65. A/HRC/15/5, 15 June 2010

66. A/HRC/12/7, 4 June 2009

67. A/HRC/12/3, 4 June 2009

68. A/HRC/13/13, 4 January 2010

69. A/HRC/10/78, 8 January 2009

70. A/HRC/14/15, 15 March 2010

71. A/HRC/15/13, 17 June 2010

72. A/HRC/12/12, 4 June 2009

73. A/HRC/12/13, 5 June 2009

74. A/HRC/18/7, 11 July 2011

75. A/HRC/18/12, 11 July 2011

76. A/HRC/19/6, 12 Dec 2011

77. A/HRC/19/14, 19 Dec 2011

78. A/HRC/18/4, 11 July 2011

79. A/HRC/13/5, 4 January 2010

80. A/HRC/14/10, 23 March 2010

81. A/HRC/8/21, 22 May 2008

82. A/HRC/16/7, 4 January 2011

83. A/HRC/19/8, 12 Dec 2011

84. A/HRC/16/11, 4 January 2011

On **adequate housing** India took note of “the implementation of social housing programmes” in Honduras⁸⁵, while Lebanon was specifically “requested information about the measures that were taken to secure the right of its citizens to adequate and decent housing”.⁸⁶

B. Recommendations made at the first cycle of UPR

India’s recommendations however did not match the questions raised or comments made. India made recommendations with comments on 28 countries which included Afghanistan, Australia, Austria, Belgium, Cuba, Cyprus, Denmark, Ethiopia, France, Georgia, Greece, Hungary, Italy, Liberia, Maldives, Myanmar, Nepal, Netherlands, Portugal, Qatar, Slovenia, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Vietnam, Singapore and Sudan.

India’s excessively focused on the human rights situation in the member States of European Union, Australia and the United States as it made recommendations on 17 countries from European Union, Australia and the United States in comparison to 11 countries from the rest of the world. India failed to focus on the rest of the world in the first cycle of the UPR.

While Georgia,⁸⁷ United States of America⁸⁸ and Singapore⁸⁹ were requested to ratify various treaties (ICESCR, CEDAW and CRC), Vietnam was recommended to “continue its efforts to preserve the languages and culture of ethnic minorities.”⁹⁰

India recommended ratification of the UN Convention on Persons with Disabilities to Georgia⁹¹, Singapore⁹², Greece,⁹³ and Vietnam⁹⁴.

Recommendations relating to **equality and non-discrimination** were made to Australia,⁹⁵ Italy,⁹⁶ Portugal,⁹⁷ and the United States of America.⁹⁸

On **judiciary and its independence**, France was urged to “actively consider undertaking more aggressive strategies to increase the number of people with immigrant heritage in

85. A/HRC/16/10, 4 January 2011

86. A/HRC/16/18, 12 January 2011

87. A/HRC/WG.6/10/L.9, 3 February 2011

88. A/HRC/16/11, 4 January 2011

89. A/HRC/18/11, 11 July 2011

90. A/HRC/12/11, 5 October 2009

91. A/HRC/WG.6/10/L.9, 3 February 2011

92. A/HRC/18/11, 11 July 2011

93. A/HRC/18/13, 11 July 2011

94. A/HRC/12/11, 5 October 2009

95. A/HRC/WG.6/10/L. 8, 3 February 2011

96. A/HRC/14/4, 18 March 2010

97. A/HRC/13/10, 4 January 2010

98. A/HRC/16/11, 4 January 2011

the public service, particularly the police, civil service and the judiciary, in order to better reflect the broad diversity within France”.⁹⁹ Surely, it is an important issue but aren't there countries where independence of judiciary is more at stake than France?

On **migration/immigrants**, recommendations were made to France¹⁰⁰ and Singapore.¹⁰¹ India had no specific recommendations on the Middle Eastern countries where large number of Indian migrants are based other than Bahrain which was recommended to “take necessary measures to address issues relating to foreign workers, such as their facing travel bans and sometimes loss of rights to residence and work while being investigated for financial irregularity, so that the principles of natural justice are adhered to scrupulously”.¹⁰²

On **minorities**, specific recommendations were made to France,¹⁰³ Slovenia¹⁰⁴ and Vietnam¹⁰⁵

The most interesting recommendation on the National Human Rights Institutions was on Kenya “to ensure the financial autonomy of the National Commission on Human Rights¹⁰⁶ while Cyprus¹⁰⁷, Ethiopia¹⁰⁸, Italy¹⁰⁹ and Maldives¹¹⁰ were urged to “ensure that the Human Rights Commission is made fully compliant with the Paris Principles”.¹¹¹ While Nepal was recommended to “*strengthen the National Human Rights Commission (NHRC) to enable it to maintain its A-status accreditation*”,¹¹² Portugal,¹¹³ Sweden,¹¹⁴ Switzerland¹¹⁵, Sudan,¹¹⁶ Belgium¹¹⁷ and Hungary¹¹⁸ were asked to consider the establishment of NHRIs in full compliance with the Paris Principles.¹¹⁹ The Netherlands was recommended to consider establishing an institutional mechanism to ensure respect for diversity and tolerance.¹²⁰

The United Kingdom was recommended “to set up a strategic oversight body, such as a

99. A/HRC/8/47, 3 June 2008

100. A/HRC/8/47, 3 June 2008

101. A/HRC/18/11, 11 July 2011

102. A/HRC/21/6, 6 July 2012

103. A/HRC/8/47, 3 June 2008

104. A/HRC/14/15, 15 March 2010

105. A/HRC/12/11, 5 October 2009

106. A/HRC/15/8, 17 June 2010

107. A/HRC/13/7, 4 January 2010

108. A/HRC/13/17, 4 January 2010

109. A/HRC/14/4, 18 March 2010

110. A/HRC/16/7, 4 January 2011

111. A/HRC/16/7, 4 January 2011

112. A/HRC/WG.6/10/L.3, 28 January 2010

113. A/HRC/13/10, 4 January 2010

114. A/HRC/15/11, 16 June 2010

115. A/HRC/8/41, 28 May 2008

116. A/HRC/18/16, 11 July 2011

117. A/HRC/18/3, 11 July 2011

118. A/HRC/18/17, 11 July 2011

119. A/HRC/18/3, 11 July 2011

120. A/HRC/8/31, 13 May 2008

commission on violence against women, to ensure greater coherence and more effective protection for women” and “establishment of a national commission for women to facilitate a holistic consideration at the national level of issues related to women”¹²¹ while Denmark was recommended to “establish an independent body to promote and protect the rights of the child and to monitor the implementation of the Convention on the Rights of the Child.”¹²²

C. Has there been any improvement of India’s performance in the second session?

A total of 41 UN member States¹²³ including India were reviewed in the three sessions during the second cycle of UPR (upto 15th Session held on 21 January-1 February 2013).

India made 25 specific recommendations with comments on 16 member States. These included Algeria, Argentina, Bahrain, Bahrain, Finland, United Kingdom of Great Britain and Northern Ireland, Czech Republic, France, Ghana, Japan, Netherlands, Poland, Republic of Korea, Romania, Switzerland, and United Arab Emirates.

India also made comments on seven other member States namely Brazil, Indonesia, Morocco, The Philippines, South Africa, Sri Lanka and Ukraine but no recommendation was made.

However, India made no comment or recommendation on 17 member States which included Tunisia, Bahamas, Barbados, Benin, Botswana, Burundi, Gabon, Guatemala, Liechtenstein, Luxembourg, Mali, Montenegro, Pakistan, Peru, Serbia, Tonga and Zambia.

There was relative improvement compared to the first cycle. During the second cycle, out of the 40 member states reviewed upto 15th Session held on 21 January-1 February 2013, India made 25 specific recommendations on 16 member States as against 37 recommendations on 28 out of the 107 member States during the first cycle.

India improved its recommendations on Algeria,¹²⁴ Bahrain,¹²⁵ Ecuador,¹²⁶ France,¹²⁷ Japan (apart from comments, two recommendations were made compared to no comment, question and recommendation in the first cycle),¹²⁸ Romania (apart from comments, a recommendation was made compared to no comment and recommendation in the first

121. A/HRC/8/25, 23 May 2008

122. A/HRC/18/4, 11 July 2011

123. Review of Israel could not take place as it was not present

124. A/HRC/21/13, 5 July 2012

125. A/HRC/21/6, 6 July 2012

126. A/HRC/21/4, 5 July 2012

127. A/HRC/23/3, 21 March 2013

128. A/HRC/22/14, 14 December 2012

cycle),¹²⁹ United Arab Emirates (two recommendations were made compared to none in the first cycle)¹³⁰

On Peru, Benin, Morocco, Gabon, Philippines, South Africa, Brazil and Barbados, India made comments during first cycle but no comment or recommendation in the second cycle. Similarly on Serbia, India made comments in the first cycle but no comment or recommendation in the second cycle.

Surprisingly, India made no recommendation on 13 countries during the first and second cycles. These UN member states included Bahamas, Benin, Botswana, Burundi, Gabon, Liechtenstein, Luxembourg, Mali, Montenegro, Pakistan, Peru, Tonga and Zambia.

India did not follow up the questions on indigenous women in Guatemala. India made comments including on the judicial system in Indonesia but made no recommendation.¹³¹ India made comments and raised questions but made no specific recommendation to Ukraine.¹³² On Sri Lanka, India improved its statements compared to the first cycle. India stated that it looked forward to speedy resolution of the residual issues in resettlement and rehabilitation of the internally displaced persons in Sri Lanka. It called for credible investigations into allegations in the LLRC report. It noted the action plan for time-bound implementation of LLRC recommendations but India continued to stay away from making any specific recommendation.¹³³

India recommended to Finland “*to ensure that the National Human Rights Institution is fully compliant with the Paris Principles*”. However, with respect to United Kingdom, there was no follow up to the recommendation made in the first cycle “*to set up a strategic oversight body, such as a commission on violence against women, to ensure greater coherence and more effective protection for women*”, while in the second cycle India recommended to the United Kingdom to “*consider policies and legal provisions to encourage equal pay practices*”. The recommendations made to the Netherlands in the first cycle and the second cycle were almost similar i.e. “*continue to engage in a national dialogue with a view to promoting respect for diversity and tolerance in line with its obligation under the ICCPR; and “fully implement the measures regarding violence against women as outlined in its UPR interim report and consider implementing the recommendations of the Special Rapporteur on violence against women and CEDAW*”.¹³⁴

India during the second cycle recommended Poland to “consider a maximum, non-extendable term of pre-trial detention, and use alternative measures to pre-trial detentions and take appropriate measures to deal with concerns and ensuring access to legal services, particularly for those under detention”; and “adopt measures to guarantee full access to

129. A/HRC/23/5, 21 March 2013

130. A/HRC/23/13, 21 March 2013

131. A/HRC/21/7, 5 July 2012

132. A/HRC/22/7, 20 December 2012

133. A/HRC/22/16, 18 December 2012

134. A/HRC/21/15, 9 July 2012

education for all children in the country”;¹³⁵ apart from raising other issues. India made no comment or recommendation on Poland during first cycle of the UPR.

Considering India has over-crowding in its own prisons, India boldly recommended to Argentina during the second cycle to “*continue its efforts specifically with regard to overcrowding of prisons and prison violence*”.¹³⁶ Ecuador has also been recommended to “*continue its efforts to improve detention conditions, especially those that aim at addressing the problem of overcrowding*”.¹³⁷ India had not made any comment or recommendation on Argentina and Ecuador during the first cycle of the UPR.

India recommended Czech Republic to “*expedite the ratification of the OP-CRC-SC*”¹³⁸ while Ghana was asked to “*expedite the ratification of the Optional Protocols to the Convention on the Rights of the child (CRC)*”.¹³⁹

To Republic of Korea, India recommended to “*ensure the passage of the Anti-Discrimination Act*”.¹⁴⁰ India had not made any comment or recommendation on Republic of Korea during the first cycle of the UPR.

On France, India recommended to “ban the use of harmful device such as ultra sound and flash ball devices and taser guns” during the second cycle.¹⁴¹ This is welcome but ironical considering that in India use of firearms is almost a norm during crowd control.

In conclusion, in terms of number of recommendations and substance, India’s recommendations/comments have relatively improved during the second cycle of the UPR. Its recommendations during the second cycle covered many countries from regions other than EU and the United States. India ought to shed its non-aligned policy and raise critical human rights issues with third countries. The UPR can be used by India to improve human rights situations across the world.

135. A/HRC/21/14, 9 July 2012

136. A/HRC/22/4, 12 December 2012

137. A/HRC/21/4, 5 July 2012

138. A/HRC/22/3, 26 December 2012

139. A/HRC/22/6, 13 December 2012

140. A/HRC/22/10, 12 December 2012

141. A/HRC/23/3, 21 March 2013

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