



ASIAN CENTRE FOR HUMAN RIGHTS

Embargoed for : 15 November 2013

INDIA'S ROLE FOR PROMOTION OF HUMAN RIGHTS IN THIRD COUNTRIES THROUGH UNIVERSAL PERIODIC REVIEW

1. Executive summary and recommendations

Under the Universal Periodic Review (UPR) mechanism, the United Nations Human Rights Council (HRC) scrutinises human rights records of all the member States of the United Nations.¹ The UPR was created as a mechanism of the HRC ostensibly to address selectivity and politicization under then UN Commission on Human Rights.

Since its first session in April 2008, the UPR has essentially removed the taboo on so-called non-interference in internal affairs of a member State of the UN. Not raising questions or not making recommendations as a strategy to avoid scrutiny of one's human rights record is not an option available to any Member State under the UPR.² During the first cycle of the UPR, human rights records of the 192 member States of the United Nations were reviewed from 2008 to 2011 and about 20,000 recommendations were made by over 160 member States.³

While Indian civil society organisations focused exclusively

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on scrutinising India's human rights record at the UPR⁴, they paid little or no attention to India's role in scrutinising human rights records of third countries. This is despite that India has a prominent role to play for promoting human rights in third countries through the UPR.

During the first cycle, India participated in the UPR deliberations on 107 countries while it remained silent on the rest 84 countries. Out of 107 countries on which India intervened, it made a total of 38 recommendations on 28 countries while comments and questions were asked from 79 countries.

During the Second Cycle upto 16th Session held on 22 April -3 May 2013, a total of 55 UN member States

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. Interestingly, India and Pakistan made no comments and recommendations on each other during the first and second cycle of the UPR.
3. Please visit for details: <http://www.upr-info.org/newsletter/archive.php?x=98&listID=1&layoutID=3&pagerows=15&pagenum=1>

4. India has so far been examined twice in April 2008 and May 2012.

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including India were reviewed. India also made comments on ten member States without any recommendations while it made 37 specific recommendations with comments on 19 member States.

Comparatively, India has slightly improved its performance during the second cycle of the UPR. In terms of number of recommendations India made 37 specific recommendations on 19 member States until the 16th Session of UPR as against 38 recommendations on 28 out of the 107 member States during the first cycle. Further, India improved its recommendations on Algeria,⁵ Bahrain,⁶ Ecuador,⁷ France,⁸ Japan,⁹ Romania,¹⁰ United Arab Emirates,¹¹ Germany,¹² Canada¹³ and Cuba.¹⁴ However, India made no recommendations despite making comments on Indonesia,¹⁵ Ukraine,¹⁶ Sri Lanka,¹⁷ Turkmenistan,¹⁸ Uzbekistan,¹⁹ Bangladesh²⁰ and Russian Federation.²¹ India also did not follow up the recommendations it made during the first cycle.

India ought to further improve its performance at the UPR on a number of areas. *First*, India needs to increase its geographical focus beyond the Western countries. *Second*, at the UPR, India needs to promote its experiences of addressing discrimination through affirmative action. This has strong resonance including for the Romas in Europe and is provided under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).²² *Third*, India needs to follow up recommendations it makes in the previous sessions. *Fourth*, India needs to expand thematic focus beyond its favourites issues like the rights of the child, the rights of the persons with disabilities and the NHRIs.

5. A/HRC/21/13, 5 July 2012

6. A/HRC/21/6, 6 July 2012

7. A/HRC/21/4, 5 July 2012

8. A/HRC/23/3, 21 March 2013

9. A/HRC/22/14, 14 December 2012

10. A/HRC/23/5, 21 March 2013

11. A/HRC/23/13, 21 March 2013

12. A/HRC/24/9, 8 July 2013

13. A/HRC/24/11, 28 June 2013

14. A/HRC/24/16, 8 July 2013

15. A/HRC/21/7, 5 July 2012

16. A/HRC/22/7, 20 December 2012

17. A/HRC/22/16, 18 December 2012

18. A/HRC/24/3 dated 5 July 2013

19. A/HRC/24/7, 5 July 2013

20. A/HRC/24/12, 8 July 2013

21. A/HRC/24/14, 8 July 2013

22. Article 1(4) of ICERD provides that "Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved".

2. India's performance at the First Cycle of UPR

2.1 India's comments and questions on human rights situation in third countries

India made comments without recommendations on 79 countries during the first cycle of the UPR.²³ Though India raised many issues, its three favourite topics were relating to 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 to 25 countries i.e. Afghanistan,²⁴ Angola,²⁵ Belarus,²⁶ Canada,²⁷ Democratic Republic of Congo,²⁸ Gambia,²⁹ Guinea,³⁰ Guyana,³¹ Ethiopia,³² Iran,³³ Kyrgyzstan,³⁴ Malaysia,³⁵ Malta,³⁶ Myanmar,³⁷ Democratic People's Republic of Korea,³⁸ Oman,³⁹ Russian Federation,⁴⁰ Uruguay,⁴¹ Vietnam,⁴² Yemen,⁴³ Seychelles,⁴⁴ Belgium,⁴⁵ Zimbabwe,⁴⁶ Thailand⁴⁷ and Timor Leste.⁴⁸

23. The 79 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.

24. A/HRC/12/9, 20 July 2009

25. A/HRC/14/11, 24 March 2010

26. A/HRC/15/16, 21 June 2010

27. A/HRC/11/17, 5 October 2009

28. A/HRC/13/8, 4 January 2010

29. A/HRC/14/6, 24 March 2010

30. A/HRC/15/4, 14 June 2010

31. A/HRC/15/14, 21 June 2010

32. A/HRC/13/17, 4 January 2010

33. A/HRC/14/12, 15 March 2010

34. A/HRC/15/2, 16 June 2010

35. A/HRC/11/30, 5 October 2009

36. A/HRC/12/7, 4 June 2009

37. A/HRC/WG.6/10/L.7, 2 February 2011

38. A/HRC/13/13, 4 January 2010

39. A/HRC/WG.6/10/L.5, 1 February 2011

40. A/HRC/11/19, 5 October 2009

41. A/HRC/12/12, 4 June 2009

42. A/HRC/12/11, 5 October 2009

43. A/HRC/12/13, 5 June 2009

44. A/HRC/18/7, 11 July 2011

45. A/HRC/18/3, 11 July 2011

46. A/HRC/19/14, 19 Dec 2011

47. A/HRC/19/8, 8 December 2011

48. A/HRC/19/17, 3 January 2012

India asked Malta whether it was considering ratifying Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OPSC).⁴⁹ 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.⁵⁰ On Belgium, India raised questions about restrictive definition of child pornography.⁵¹

With respect to civil and political rights, India requested Iran to strengthen "the machinery for civil and political rights".⁵² India also requested Maldives to share details about assistance required in the areas of judicial and prison reform.⁵³ 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.⁵⁴

On freedom of religion and belief, India expressed concerns with France⁵⁵, Germany⁵⁶ and the Netherlands⁵⁷ 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.⁵⁸

On democracy and good governance, India welcomed consolidation of multi-party democracy with respect to Angola,⁵⁹ Bangladesh,⁶⁰ Bhutan,⁶¹ Cameroon,⁶² Côte d'Ivoire,⁶³ Egypt,⁶⁴ Ghana,⁶⁵ Guyana⁶⁶ etc.

In the midst of civil war in Syria, India welcomed "*reform measures aimed at improving the democratic system and strengthening public freedoms*" during Syria's UPR on 7 October 2011.⁶⁷ Four months later in February 2012, India voted in favour of the UN Security Council resolution backing an Arab League peace plan that called for Syrian President Bashar al-Assad to step down amid escalating violence.⁶⁸

On migrant workers, India urged Malta a "review of procedural safeguards for asylum seekers, including access to legal counsel, periodic judicial review during the mandatory detention period and the fast track release procedure."⁶⁹

Persons with disabilities have been one of the favourite topics. With respect to Cambodia, India echoed the Committee on Economic Social and Cultural Rights concerning the absence of an anti-discrimination law for persons with disabilities.⁷⁰ India recommended ratification of the Convention on the Rights of Persons with Disabilities (CRPD) and both Optional Protocols to the CRC to Côte d'Ivoire,⁷¹ Gambia,⁷² Guyana⁷³, Malta,⁷⁴ the former Yugoslav Republic of Macedonia⁷⁵, Uruguay,⁷⁶ and Suriname.⁷⁷

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.⁷⁸ 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.⁷⁹

India was very specific to Canada and sought response on discrimination against First Nations women and children as raised by the UN Committee on Convention on the Elimination of All Forms of Discrimination against

49. A/HRC/12/7, 4 June 2009

50. A/HRC/13/13, 4 January 2010

51. A/HRC/18/3, 11 July 2011

52. A/HRC/14/12, 15 March 2010

53. A/HRC/16/7, 4 January 2011

54. A/HRC/18/11, 11 July 2011

55. A/HRC/8/47, 3 June 2008

56. A/HRC/11/15, 4 March 2009

57. A/HRC/8/31, 13 May 2008

58. A/HRC/14/12, 15 March 2010

59. A/HRC/14/11, 24 March 2010

60. A/HRC/11/18, 5 October 2009

61. A/HRC/13/11, 4 January 2010

62. A/HRC/11/21, 12 October 2009

63. A/HRC/13/9, 4 January 2010

64. A/HRC/14/17, 26 March 2010

65. A/HRC/8/36, 29 May 2008

66. A/HRC/15/14, 21 June 2010

67. A/HRC/19/11, 24 Jan 2012

68. 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>

69. A/HRC/12/7, 4 June 2009

70. A/HRC/13/4, 4 January 2010

71. A/HRC/13/9, 4 January 2010

72. A/HRC/14/6, 24 March 2010

73. A/HRC/15/14, 21 June 2010

74. A/HRC/12/3, 4 June 2009

75. A/HRC/12/15, 5 June 2009

76. A/HRC/12/12, 4 June 2009

77. A/HRC/18/12, 11 July 2011

78. A/HRC/WG.6/10/L.6, 2 February 2011

79. A/HRC/18/17, 11 July 2011

Women (CEDAW) and the Committee on International Covenant Economic, Social and Cultural Rights on the need for legislation on discriminatory effects of the Indian Act and redress for Aboriginal and ethnic women.⁸⁰ India asked for information regarding German states having issued legislation forbidding teachers in public schools to wear certain religious symbols.⁸¹

Iran was urged to ratify the CEDAW⁸² while 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.”*⁸³

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”*⁸⁴ while Malaysia had been asked to explain *“about steps taken to protect human rights defenders and migrant workers”*⁸⁵

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”*⁸⁶ while Sudan and South Sudan were requested to tackle concerns relating to sexual violence and impunity.⁸⁷

On indigenous peoples, India not only raised discrimination and poverty among indigenous peoples in Australia,⁸⁸ Bolivia,⁸⁹ Guatemala,⁹⁰ Mexico⁹¹ and Nicaragua⁹² but also recommended Namibia *“to continue improving the administration of justice and expanding participation of indigenous peoples and minorities in development”*.⁹³

On minorities, India was specific with respect to Armenia,⁹⁴ Azerbaijan,⁹⁵ but it equally recommended Egypt⁹⁶ and Iran on the rights of the religious minorities.⁹⁷

On NHRIs, India congratulated all the countries having NHRIs with A Status, thereby indicating importance given by India to the accreditation process of the International Coordination Committee of the National Human Rights Institutions. India further requested every country on which it intervened to ensure “full compliance” with the Paris Principles for establishing NHRIs. These include Angola,⁹⁸ Armenia,⁹⁹ Bahrain,¹⁰⁰ Brazil,¹⁰¹ Cambodia,¹⁰² Cameroon,¹⁰³ Chile,¹⁰⁴ Colombia,¹⁰⁵ Côte d’Ivoire,¹⁰⁶ Democratic Republic of Congo,¹⁰⁷ Djibouti¹⁰⁸, Gambia,¹⁰⁹ Guatemala,¹¹⁰ Guinea,¹¹¹ Guyana,¹¹² Iran,¹¹³ Kazakhstan,¹¹⁴ Kenya,¹¹⁵ Kuwait,¹¹⁶ Lao People’s Democratic Republic,¹¹⁷ Malta,¹¹⁸ Monaco,¹¹⁹ Democratic People’s Republic of Korea,¹²⁰ Oman,¹²¹ Serbia,¹²² Slovenia,¹²³, the former Yugoslav Republic of Macedonia, Turkey,¹²⁴ Uruguay,¹²⁵ Yemen,¹²⁶ Seychelles,¹²⁷ Suriname,¹²⁸ Swaziland,¹²⁹ and Zimbabwe.¹³⁰

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 recommendation of the Committee on the Elimination of Racial Discrimination to authorize the

80. A/HRC/11/17, 5 October 2009

81. A/HRC/11/15, 4 March 2009

82. A/HRC/14/12, 15 March 2010

83. A/HRC/11/30, 5 October 2009

84. A/HRC/15/9, 6 July 2010

85. A/HRC/11/30, 5 October 2009

86. A/HRC/11/27, 29 May 2009

87. A/HRC/18/16, 11 July 2011

88. A/HRC/WG.6/10/L. 8, 3 February 2011

89. A/HRC/14/7, 15 March 2010

90. A/HRC/8/38, 29 May 2008

91. A/HRC/11/27, 29 May 2009

92. A/HRC/14/3, 17 March 2011

93. A/HRC/WG.6/10/L.12, 3 February 2011

94. A/HRC/15/9, 6 July 2010

95. A/HRC/11/20, 29 May 2009

96. A/HRC/14/17, 26 March 2010

97. A/HRC/14/12, 15 March 2010

98. A/HRC/14/11, 24 March 2010

99. A/HRC/15/9, 6 July 2010

100. A/HRC/8/19, 22 May 2008

101. A/HRC/8/27, 22 May 2008

102. A/HRC/13/4, 4 January 2010

103. A/HRC/11/21, 12 October 2009

104. A/HRC/12/10, 4 June 2009

105. A/HRC/10/82, 9 January 2009

106. A/HRC/13/9, 4 January 2010

107. A/HRC/13/8, 4 January 2010

108. A/HRC/11/16, 5 October 2009

109. A/HRC/14/6, 24 March 2010

110. A/HRC/8/38, 29 May 2008

111. A/HRC/15/4, 14 June 2010

112. A/HRC/15/14, 21 June 2010

113. A/HRC/14/12, 15 March 2010

114. A/HRC/14/10, 23 March 2010

115. A/HRC/15/8, 17 June 2010

116. A/HRC/15/15, 16 June 2010

117. A/HRC/15/5, 15 June 2010

118. A/HRC/12/7, 4 June 2009

119. A/HRC/12/3, 4 June 2009

120. A/HRC/13/13, 4 January 2010

121. A/HRC/WG.6/10/L.5, 1 February 2011

122. A/HRC/10/78, 8 January 2009

123. A/HRC/14/15, 15 March 2010

124. A/HRC/15/13, 17 June 2010

125. A/HRC/12/12, 4 June 2009

126. A/HRC/12/13, 5 June 2009

127. A/HRC/18/7, 11 July 2011

128. A/HRC/18/12, 11 July 2011

129. A/HRC/19/6, 12 Dec 2011

130. A/HRC/19/14, 19 Dec 2011

Office of the Ombudsman to receive complaints on racial discrimination.¹³¹

On the question of torture, India welcomed Norway's intention to ratify the European Convention for the Prevention of Torture in 2010.¹³²

On monitoring detention conditions, India welcomed Kazakhstan's commitment to establishing a national preventive mechanism for monitoring detention conditions¹³³ 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 International Committee of the Red Cross was requested*".¹³⁴ Maldives was requested to share details about assistance required in the areas of judicial and prison reform¹³⁵ while India "*acknowledged the insufficient resources that Tajikistan encountered and underlined the need for further technical assistance for the construction of prisons*".¹³⁶ India expressed concerns about the disproportionately high conviction rates for African-Americans in the United States.¹³⁷

On adequate housing India took note of "*the implementation of social housing programmes*" in Honduras¹³⁸, while Lebanon was specifically "*requested information about the measures that were taken to secure the right of its citizens to adequate and decent housing*".¹³⁹

However, India did not make any comment or recommendation on 84 countries.¹⁴⁰

2.2 India's recommendations on human rights situation in third countries

India's recommendations however did not match the questions raised or comments made. India made recommendations with comments on 28 countries.¹⁴¹

India excessively focused on the human rights situation in the member States of European Union and the United States as it made recommendations on 16 European countries and the United States in comparison to 12 countries from the rest of the world in the first cycle of the UPR.

While Georgia,¹⁴² United States of America¹⁴³ and Singapore¹⁴⁴ were recommended to ratify various treaties (ICESCR, CEDAW and CRC), Vietnam was recommended to "*continue its efforts to preserve the languages and culture of ethnic minorities*".¹⁴⁵

India recommended ratification of the UNCRPD to Georgia¹⁴⁶, Singapore¹⁴⁷, Greece,¹⁴⁸ and Vietnam¹⁴⁹.

Recommendations relating to equality and non-discrimination were made to Australia,¹⁵⁰ Italy,¹⁵¹ Portugal,¹⁵² and the United States of America.¹⁵³

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 the public service, particularly the police, civil service and the judiciary, in order to better reflect the broad diversity within France*".¹⁵⁴

On migration and immigrants, recommendations were made to France¹⁵⁵ and Singapore.¹⁵⁶ India had no specific recommendations on the Middle Eastern countries where

131. A/HRC/18/4, 11 July 2011

132. A/HRC/13/5, 4 January 2010

133. A/HRC/14/10, 23 March 2010

134. A/HRC/8/21, 22 May 2008

135. A/HRC/16/7, 4 January 2011

136. A/HRC/19/8, 12 Dec 2011

137. A/HRC/16/11, 4 January 2011

138. A/HRC/16/10, 4 January 2011

139. A/HRC/16/18, 12 January 2011

140. These 84 countries 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.

141. The 28 countries 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

142. A/HRC/WG.6/10/L.9, 3 February 2011

143. A/HRC/16/11, 4 January 2011

144. A/HRC/18/11, 11 July 2011

145. A/HRC/12/11, 5 October 2009

146. A/HRC/WG.6/10/L.9, 3 February 2011

147. A/HRC/18/11, 11 July 2011

148. A/HRC/18/13, 11 July 2011

149. A/HRC/12/11, 5 October 2009

150. A/HRC/WG.6/10/L.8, 3 February 2011

151. A/HRC/14/4, 18 March 2010

152. A/HRC/13/10, 4 January 2010

153. A/HRC/16/11, 4 January 2011

154. A/HRC/8/47, 3 June 2008

155. A/HRC/8/47, 3 June 2008

156. A/HRC/18/11, 11 July 2011

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”.¹⁵⁷

On minorities, India made specific recommendations to France,¹⁵⁸ Slovenia¹⁵⁹ and Vietnam¹⁶⁰

The most interesting recommendation on the NHRIs was on Kenya “to ensure the financial autonomy of the National Commission on Human Rights”¹⁶¹ while Cyprus¹⁶², Ethiopia¹⁶³, Italy¹⁶⁴ and Maldives¹⁶⁵ were urged to “ensure that the Human Rights Commission is made fully compliant with the Paris Principles”.¹⁶⁶ While Nepal was recommended to “strengthen the National Human Rights Commission (NHRC) to enable it to maintain its A-status accreditation”,¹⁶⁷ Portugal,¹⁶⁸ Sweden,¹⁶⁹ Switzerland¹⁷⁰, Sudan,¹⁷¹ Belgium¹⁷² and Hungary¹⁷³ were asked to consider the establishment of NHRIs in full compliance with the Paris Principles.¹⁷⁴ The Netherlands was recommended to consider establishing an institutional mechanism to ensure respect for diversity and tolerance.¹⁷⁵ India recommended Myanmar to “expedite the establishment of a national human rights institution that is fully compliant with the Paris Principles.”¹⁷⁶

The United Kingdom was recommended “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” and “establishment of a national commission for women to facilitate a holistic consideration at the national level of issues related to women”¹⁷⁷ 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 (CRC)”.¹⁷⁸

3. India's performance at the second cycle of UPR

A total of 55 UN member States¹⁷⁹ including India were reviewed in the five sessions during the second cycle of UPR upto 16th Session held on 22 April -3 May 2013.¹⁸⁰ India also made comments on ten member States¹⁸¹ without any recommendations while it made 37 specific recommendations with comments on 19 member States.¹⁸²

In terms of coverage, India's performance relatively improved during the second cycle. During the second cycle, out of the 54 member states reviewed upto 16th Session held on 22 April -3 May 2013, India made 37 specific recommendations on 19 member States as against 38 recommendations on 28 out of the 107 member States during the first cycle.

India improved its recommendations on Algeria,¹⁸³ Bahrain,¹⁸⁴ Ecuador,¹⁸⁵ France,¹⁸⁶ Japan (apart from comments, two recommendations were made compared to no comment, question and recommendation in the first cycle),¹⁸⁷ Romania (apart from comments, a recommendation was made compared to no comment and recommendation in the first cycle),¹⁸⁸ United Arab Emirates (two recommendations were made compared to none in the first cycle),¹⁸⁹ Germany (five recommendations

157. A/HRC/21/6, 6 July 2012

158. A/HRC/8/47, 3 June 2008

159. A/HRC/14/15, 15 March 2010

160. A/HRC/12/11, 5 October 2009

161. A/HRC/15/8, 17 June 2010

162. A/HRC/13/7, 4 January 2010

163. A/HRC/13/17, 4 January 2010

164. A/HRC/14/4, 18 March 2010

165. A/HRC/16/7, 4 January 2011

166. A/HRC/16/7, 4 January 2011

167. A/HRC/WG.6/10/L.3, 28 January 2010

168. A/HRC/13/10, 4 January 2010

169. A/HRC/15/11, 16 June 2010

170. A/HRC/8/41, 28 May 2008

171. A/HRC/18/16, 11 July 2011

172. A/HRC/18/3, 11 July 2011

173. A/HRC/18/17, 11 July 2011

174. A/HRC/18/3, 11 July 2011

175. A/HRC/8/31, 13 May 2008

176. A/HRC/WG.6/10/L.7, 2 February 2011

177. A/HRC/8/25, 23 May 2008

178. A/HRC/18/4, 11 July 2011

179. Review of Israel could not take place as it was not present

180. The 55 member States examined until the 16th session are Bahrain, Ecuador, Tunisia, Morocco, Indonesia, Finland, United Kingdom, India, Brazil, Philippines, Algeria, Poland, Netherlands, South Africa, Czech Republic (13th Session held from 21 May to 4 June 2013); Argentina, Gabon, Ghana, Peru, Guatemala, Benin, Republic of Korea, Switzerland, Pakistan, Zambia, Japan, Ukraine, Sri Lanka (14th Session held from 22 October to 5 November 2013); France, Tonga, Romania, Mali, Botswana, Bahamas, Burundi, Luxembourg, Barbados, Montenegro, United Arab Emirates, Liechtenstein, Serbia (15th Session held from 21 January to 1st February 2013); and Turkmenistan, Burkina Faso, Cape Verde, Colombia, Uzbekistan, Tuvalu, Germany, Djibouti, Canada, Bangladesh, Russian Federation, Azerbaijan, Cameroon, and Cuba (16th Session held from 22 April -3 May 2013).

181. The 10 countries are Brazil, Indonesia, Morocco, The Philippines, South Africa, Sri Lanka, Ukraine, Turkmenistan, Bangladesh and Russian Federation.

182. 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, United Arab Emirates, Germany, Canada and Cuba.

183. A/HRC/21/13, 5 July 2012

184. A/HRC/21/6, 6 July 2012

185. A/HRC/21/4, 5 July 2012

186. A/HRC/23/3, 21 March 2013

187. A/HRC/22/14, 14 December 2012

188. A/HRC/23/5, 21 March 2013

189. A/HRC/23/13, 21 March 2013

along with comments compared to no specific recommendation in the first cycle),¹⁹⁰ Canada (three specific recommendations with comments compared to no recommendation during the first cycle)¹⁹¹ and Cuba (India made four recommendations along with comments compared to two recommendations during the first cycle of the UPR)¹⁹²

India, however, did not follow up the questions on indigenous women in Guatemala. In Indonesia, India made comments including on the judicial system but made no recommendation.¹⁹³ India made comments and raised questions but made no specific recommendation to Ukraine.¹⁹⁴ 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 Lessons Learnt and Reconciliation Commission (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.¹⁹⁵ India requested Turkmenistan to further elaborate on working standards for young employees and encouraged the collaboration of Turkmenistan with OHCHR on developing its national human rights action plan, but no recommendation was made.¹⁹⁶ On Uzbekistan,¹⁹⁷ Bangladesh¹⁹⁸ and Russian Federation, India made no specific recommendation.¹⁹⁹

India recommended to Finland “to ensure that the National Human Rights Institution is fully compliant with the Paris Principles”. However, with respect to the 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”.²⁰⁰

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 education for all children in the country”;²⁰¹ apart from raising other issues. India had made no recommendation or comment on Poland during first cycle.

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 over-crowding of prisons and prison violence”.²⁰² Ecuador has also been recommended to “continue its efforts to improve detention conditions, especially those that aim at addressing the problem of overcrowding.”²⁰³ 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”²⁰⁴ while Ghana was asked to “expedite the ratification of the Optional Protocols to the CRC.”²⁰⁵

To Republic of Korea, India recommended to “ensure the passage of the Anti-Discrimination Act.”²⁰⁶ India had not made any comment or recommendation on Republic of Korea during the first cycle of the UPR.

During the second cycle, India recommended France to “ban the use of harmful device such as ultra sound and flash ball devices and taser guns” for crowd control.²⁰⁷

India made five specific recommendations to Germany to “(1) Expand the mandate of the German Institute for Human Rights to receiving complaints of human rights violations; (2) Legally ban discriminatory ethnic profiling; (3) Safeguard the rights of victims of human trafficking consistent with its human rights obligations; (4) Establish concrete goals to accelerate the achievement of substantive gender equality, including measures to increase women’s representation in decision making positions and addressing the long-standing pay

190. A/HRC/24/9, 8 July 2013

191. A/HRC/24/11, 28 June 2013

192. A/HRC/24/16, 8 July 2013

193. A/HRC/21/7, 5 July 2012

194. A/HRC/22/7, 20 December 2012

195. A/HRC/22/16, 18 December 2012

196. A/HRC/24/3 dated 5 July 2013

197. A/HRC/24/7, 5 July 2013

198. A/HRC/24/12, 8 July 2013

199. A/HRC/24/14, 8 July 2013

200. A/HRC/21/15, 9 July 2012

201. A/HRC/21/14, 9 July 2012

202. A/HRC/22/4, 12 December 2012

203. A/HRC/21/4, 5 July 2012

204. A/HRC/22/3, 26 December 2012

205. A/HRC/22/6, 13 December 2012

206. A/HRC/22/10, 12 December 2012

207. A/HRC/23/3, 21 March 2013

gap between women and men; and (5) Take steps to integrate minority communities in Germany by promoting their access to education, housing, employment and health care.”²⁰⁸ This is significant improvement given that apart from comments India had made no specific recommendation on Germany during the first cycle of the UPR.

India made three specific recommendations to Canada namely “(1) All necessary measures be taken to address all forms of violence against Aboriginal women and girls; (2) Strengthen children’s protection by establishing a federal Children’s Ombudsman or Commission, address disparities in access to services by all children, establish mechanisms to protect child victims of trafficking and prevent child sexual exploitation by ensuring criminalization of relevant offences; and (3) Take measures to address concerns of reports that certain communities feel targeted, profiled and harassed by Canada’s national security legislation and build confidence among such communities.”²⁰⁹ Barring comments India made no specific recommendation on Canada during the first cycle of the UPR.

208. A/HRC/24/9, 8 July 2013

209. A/HRC/24/11, 28 June 2013

India made four perfunctory recommendations to Cuba.²¹⁰ However, India made no comment or recommendation on 25 member States²¹¹ during the second cycle upto the 16th Session of the UPR.

210. A/HRC/24/16, 8 July 2013

211. These 25 States are Tunisia, Bahamas, Barbados, Benin, Botswana, Burundi, Gabon, Guatemala, Liechtenstein, Luxembourg, Mali, Montenegro, Pakistan, Peru, Serbia, Tonga, Zambia, Burkina Faso, Cape Verde, Columbia, Uzbekistan, Tuvalu, Djibouti, Azerbaijan and Cameroon.