



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/IND/19
29 March 2006

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Nineteenth periodic reports of States parties due in 2006

Addendum

INDIA* **

[26 January 2006]

* This document contains the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth periodic reports of the Republic of India, due on 4 January 1998, 2000, 2002, 2004 and 2006 submitted in one document. For the fourteenth periodic report and the summary records of the meetings at which the Committee considered the report, see document CERD/C/299/Add.3 and CERD/C/SR.1161-1163.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 2	4
Part 1. GENERAL	3 - 43	4
Responses to concluding observations of the Committee on the Elimination of Racial Discrimination	15 - 19	6
Elementary education as a fundamental right	20 - 22	7
Broad strategies	23 - 27	8
Local self-government (Panchayati Raj)	28 - 34	9
Right to work	35 - 42	10
Right to information	43	11
Part 2. IMPLEMENTATION OF ARTICLES 2 TO 7 OF THE CONVENTION	44 - 167	12
Article 2	44 - 52	12
Article 3	53 - 56	13
Article 4	57 - 63	14
Article 5	64 - 135	16
Article 5 (a): Right to equal treatment before the Tribunals and all other organs administering justice	67 - 68	16
Article 5 (b): Right to security of person and protection of the State against violence or bodily harm, inflicted by government officials or by any individual group or any institution	69	17
Article 5 (c): Right to participate in election	70 - 76	17
Article 5 (d) (i) and (ii): Right to freedom of movement and residence within the border of the State and Right to leave any country, including one's own and to return to one's country	77 - 78	18
Article 5 (d) (iii): Right to nationality	79 - 80	18

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
Article 5 (d) (iv): Right to marriage and choice of spouse	81 - 82	18
Article 5 (d) (v): Right to own property	83	19
Article 5 (d) (vi): Right to inherit	84	19
Article 5 (d) (vii): Right to freedom of thought, conscience and religion	85 - 90	19
Article 5 (d) (vii): Right to freedom of opinion and expression	91 - 94	20
Article 5 (e) Economic, social and cultural rights in particular, right to work, to free choice of employment, to just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration	95 - 109	21
Article 5 (e) (ii): Right to form and join trade unions	110 - 111	24
Article 5 (e) (iii): Right to housing	112 - 117	24
Article 5 (e) (iv): Right to public health	118 - 120	25
Article 5 (e) (v): Right to education and training	121 - 125	26
Article 5 (e) (vi): Right to culture	126 - 133	26
Article 5 (f): Right to access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theaters and parks	134 - 135	28
Article 6	136 - 157	28
Article 7	158 - 167	32

Introduction

1. India is a party to the International Convention on the Elimination of All Forms of Racial Discrimination since 1968. Till date, as per the requirements of Article 9 of the Convention, it has submitted 14 periodic reports covering the period till 1996. The information from 1996 till January 2006 comprising the 15th to 19th periodic reports is submitted in the present report.
2. The report is divided in two parts: Part-I gives general information on the land and people, general political structure, general legal framework within which human rights are protected and information regarding dissemination of human rights and institutional and other developments since the submission of the last Report; and Part-II gives information on the specific articles of the Convention.

Part 1

GENERAL

3. India is a home to over one billion people of diverse origins and religions. It has a tolerant society, where people of different faiths and persuasions have joined together in building the world's largest democracy, where universally recognized human rights and fundamental freedoms are guaranteed to all its citizens without discrimination.
4. India's linguistic diversity is reflected in the recognition in Schedule VIII of the Constitution of 18 major languages.
5. The Indian Constitution envisages a parliamentary form of government and is federal in nature with some unitary features. India is a Union of 28 States and 7 Union Territories.
6. The observance, promotion and protection of human rights are a complex task in a country of India's ethnic, religious, linguistic and economic diversity. In essence, India's approach to the observance, promotion and protection of human rights has been characterized by a holistic, multi-pronged effort.
7. The framework for the observance, promotion and protection of human rights derives from the Constitution of India, which provides for a sovereign, secular, democratic and socialist polity and confers the right to vote on every citizen of India above the age of 18 years. It enshrines the fundamental rights of every Indian citizen, including freedom of speech, expression, belief, assembly, association, movement, choice of occupation or trade without discrimination on grounds of race, religion, caste or gender which are enforceable in a court of law.
8. The institutional safeguards for the rights enshrined in the Constitution include an independent judiciary and the separation of judicial and executive functions. Legislation in India is subject to review by courts as regards its constitutionality and the exercise of executive power is subject to different forms of judicial review. In the event of infringement of an individual's fundamental rights, the highest court in the land, the Supreme Court, can be moved into action to provide immediate relief.

9. To ensure against arbitrary or unlawful administrative action, the Supreme Court and the High Court have been empowered to issue appropriate directions/orders or writs including mandamus, habeas corpus, prohibition, quo warrant to and certiorari. The Supreme Court has, in its concern to enhance protection and enforcement of human rights, developed a highly advanced public interest litigation regime.

10. To further strengthen and safeguard the exercise of basic human rights of the vulnerable sections of Indian society, additional mechanisms have been put in place. These include the National Commission for Women, the National Commission for Minorities, the National Commission for Scheduled Castes, National Commission for Scheduled Tribes and a National Commission for Human Rights. These commissions are charged with the responsibility of safeguarding the rights guaranteed to specified target groups under the Constitution as well as under the various laws passed by the legislature. In investigating violations of these rights, *suo motu* or on complaint, these commissions have the powers of civil courts to summon and examine witnesses and documents. Their reports have to be tabled in Parliament for discussion. These mechanisms have served to safeguard the rights of the most vulnerable sections of India, including women and children, through procedures that are open and transparent.

11. An independent and vigilant print and electronic media, a well-informed public opinion and an active civil society also play an important role in ensuring observance of human rights as well as ensuring quick redressal.

12. While the Government of India has sought to ensure the observance, promotion and protection of human rights by putting in place an institutional framework and adequate safeguards, it recognizes that if the exercise of these rights by all its one billion citizens in equal measure is to be meaningful, it would be essential to tackle poverty and underdevelopment, generate awareness and take affirmative action for the socially and economically vulnerable sections of society. Towards this end, the Indian Government has strived to reduce impediment in the exercise and enjoyment of human rights through a strategy targeted towards:

(a) Economic growth and overall development including the policy of economic reform and liberalization;

(b) Human rights development with an emphasis on access to health and education;

(c) Beneficiary-oriented programmes for poverty eradication through employment generation, asset endowment and training. Equally integral to this approach has been an emphasis on agricultural and rural development.

13. In the last decade, the focus of development planning shifted from mere expansion of the production of goods and services and the consequent growth of per capita income to planning for enhancement of human wellbeing. The three critical dimensions of human well being, it is recognized, relate to longevity, education and command over resources. Accordingly, there has been a renewed focus on development indicators in the area of education and health attainments which are deemed to be critical for capacity building. Progress in this social sector is both a vital yardstick and key element in the reduction of poverty. India has shown substantial improvement in the fields of education and health. However, there are still significant inter-state and rural-urban differences.

14. The life expectancy at birth has nearly doubled from 32.1 years in 1951 to 62.5 years in 1997. The infant mortality rate, another indicator of health has also declined from 115 per 1000 live births in 1981 to 70 per 1000 live births in 2001. The literacy rate has increased from 16.6 per cent in 1951 to 62.38 per cent in 2001.

Responses to concluding observations of the Committee on the Elimination of Racial Discrimination

15. The Committee in its concluding observations had asked the Government of India to submit information on a number of issues pertaining to Scheduled Castes and Scheduled Tribes.

16. In this context the Government of India reiterates its position that 'caste' cannot be equated with 'race' or covered under 'descent' under Article 1 of the Convention.

17. It may be recalled that in the last periodic report it was submitted that the Constitution of India prohibits discrimination on the basis of race. This was done by the framers of the Indian constitution drawing upon the provisions of the United States Constitution and the Charter of the United Nations while drafting the chapter on the fundamental rights. The other major factors which influenced the inclusion of specific reference to race was the rampant racial discrimination experienced in India during the colonial rule and moral outrage of the world community against racism in the immediate aftermath of the Second World War. Also 'race' and 'caste' are mentioned separately in the Indian Constitution as prohibited grounds of discrimination. Therefore they cannot be considered to be interchangeable or synonymous. If the concept of caste was included in race, there was no reason to mention them separately. Therefore, as in the last Report, information pertaining to Scheduled Castes and Scheduled Tribes or issues related to this group has not been provided in the present Report. As a matter of courtesy to the members of the Committee, if it so desires, the Government of India would be happy to provide information relating to Scheduled Castes and Scheduled Tribes to them though not as a reporting obligation under CERD.

18. On the Committee's observations relating to issues other than Scheduled Castes and Scheduled Tribes, the information is given below:

1. Exclusion of armed forces from the purview of National Human Rights Commission - The Indian armed forces are not outside the purview of the National Human Rights Commission. Under Article 19 of the Human Rights Act, 1992, the Commission may on its own motion or on the basis of petitions made to it on allegations of human rights violations by armed forces, seek a report from the Central Government. On receipt of the report, it may either not proceed with the complaint or, as the case may be, make its recommendations to the Government. According to the Act, the Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow. It is further stipulated that the Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations. A copy of the report so published will also be given to the petitioner.

2. The Committee has observed that extremist organizations which allegedly sponsor violence against certain minorities are not declared illegal. However it may be noted that any organization which is seen to be indulging in any illegal activity is quickly brought to book and severe action is taken against them. Several organizations have been banned by the government under the Unlawful Activities Prevention Act, 1967.

3. On the Committee's observations on elections in Kashmir, it may be noted that the State of Jammu and Kashmir has had Parliamentary elections as well as State elections, asserting the peoples' will through the ballot since 1951. The 2002 State Assembly elections in Jammu and Kashmir were widely covered not only by Indian Press but also foreign media and have been hailed as free and fair. Held in phases from September to October 2002, because of security concerns, the elections drew an average voter participation of 47.9 percent. A democratically elected Government is in place in Jammu and Kashmir.

19. The Committee has requested information on measures to give effect to the principles relating to promotion of social, economic and cultural rights. In this context, it may be noted that several important initiatives have been taken since the submission of the last report, particularly in the field of education, employment and local self-governance.

Elementary education as a fundamental right

20. The Government of India is completely committed to universalization of Elementary Education. Under Article 45 of the Indian Constitution, provision of free and compulsory education for children was a directive principle. In 2002 the 86th Constitutional Amendment made education a fundamental right for children in the 6 to 14 age group.

21. The *Sarva Shiksha Abhiyan (SSA)* or *Education for All* launched by the Government of India is the vehicle for implementing the obligation under the 86th Amendment of the Constitution. It is the flagship programme of Government of India to achieve Universal Elementary Education (UEE) in the country in a mission mode. It is an effort to recognize the need for improving the performance of the school system and to provide community-owned quality elementary education. It also envisages bridging of gender and social gaps.

22. The largest programme of its kind in the world, SSA is an integrated, comprehensive scheme in partnership with State Governments, Local Self Governments, the community and the civil society. It emphasizes on the active involvement of local self governments and grassroot level structures like Village Education Committee, Parent-Teacher Association, Mother-Teacher Association etc. The objectives of SSA are:

- All children in the age group 6-14 years in school/Education Guarantee Scheme centers, alternate schools, back to school camps by 2003;
- All children in the age group 6-14 years complete five years of primary schooling by 2007;
- All children in the age group 6-14 years complete eight years of schooling by 2010;

- Focus on elementary education of satisfactory quality with emphasis on education for life;
- Bridge all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010; and
- Universal retention by 2010.

Broad strategies

23. The broad strategies under SSA are: Institutional reforms in the states to improve efficiency of the delivery system; Sustainable financing in partnership with the states (9th Plan - 85:15, 10th Plan -75:25, 50:50 thereafter); Community ownership of school based interventions through effective decentralization; Institutional capacity building for improvement in quality; Community based monitoring with full transparency in all aspects of implementation; Special focus on girls, Scheduled Caste (SC) /Scheduled Tribes (ST) working children, urban deprived children, children with special needs, children in marginalized families and children in hardest to reach groups; Thrust on quality and making education relevant; Recognition of the critical role of the teacher and focus on the human resource development needs of teachers and preparation of District Elementary Education Plans reflecting all governmental and non-governmental investments.

24. As indicated earlier, the approach of SSA is community-owned. Village education plans prepared in consultation with Panchayati Raj Institutions will form the basic elementary education plans. The SSA will cover the entire country by 2002 with a special focus on educational needs of girls, scheduled castes and scheduled tribes and other children in difficult circumstances.

25. The Ministry of Human Resource Development has set up a National Level Mission under the Chairmanship of the Prime Minister for overseeing the implementation of this project.

Affirmative action for socially and economically disadvantaged sectors

26. The Government of India has also adopted a policy of affirmative action to create an effective environment for the exercise of human rights by certain vulnerable sectors of society who, as a result of socio-historical distortions, have been socially or economically disadvantaged. In institutional terms, the Constitution has prescribed specific affirmative measures, with the twofold objective of safeguarding the fundamental human rights of such vulnerable sectors of society, including removal of social disabilities and promoting their educational and economic interests. These measures include reservation of seats in the public services, administration, Parliament (Lower House) and State legislatures, and setting up of advisory councils and separate departments for the welfare of such socially and economically vulnerable groups. These groups have been identified in the relevant schedules of the Constitution and are designated as Scheduled Castes/Tribes. The National Commission for Scheduled Castes and National Commission for Scheduled Tribes serve to ensure observance of

these measures and to monitor violations of these rights while a range of specific beneficiary-oriented schemes and plans have been put in place to ensure promotion of education and employment opportunities. These include the establishment of a National Scheduled Castes and Scheduled Tribes Finance and Development Corporation, which takes up and finances viable schemes for economic development of these groups.

27. Similarly, affirmative measures are increasingly being taken for disadvantaged groups belonging to Other Socially and Educationally Backward Classes (OBCs). These measures include reservation of another 27 per cent in the admissions for OBCs, while a National Backward Classes Finance Development Corporation has also been set up for granting concessional finance for upgrading technological and entrepreneurial skills and to serve as an apex body to monitor the work of similar corporations at the State level.

Local self-government (Panchayati Raj)

28. In the context of ensuring social, political and economic justice at the grass root level, the role of *Panchayati Raj* (Local Self-Government) Institutions has come to assume a pivotal role in the Indian polity. *Panchayats* (literally, traditional five-member rural courts) have been the backbone of the Indian villages since millennia. Article 40 of the Indian Constitution (under the Chapter of Directive Principles of State Policy) requires the State to take steps to organize village *Panchayats* and to confer on them powers and authority as may be necessary to enable them to function as units of self-government. This Article envisages organization of the lowest level units of self-governance in the hierarchy of self-governing, democratic, policymaking and administrative units.

29. The Constitution [73rd Amendment] Act, 1992, popularly known as *Panchayati Raj Act*, has introduced a three-tier system to enlist people's participation in rural reconstruction and has provided constitutional status to *Panchayati Raj* Institutions. This is intended to strengthen democratic institutions at grass root level and also reinforce local administration. The salient features of the Act are: a three-tier system of *Panchayati Raj* for all states having a population of more than 2 million, holding of *Panchayati Raj* elections regularly every five years, provision of reservation of seats for Scheduled Castes and Scheduled Tribes and women (not less than one-third of the total seats), constitution of State Finance Commissions to make recommendations regarding financial powers of the *Panchayats*, and constitution of District Planning Committee to prepare draft development plans for the district as a whole.

30. The 73rd Constitution Amendment is of enormous significance as it gives effect to the existing constitutional mandate by legislating for strong, effective and democratic local administration. It provides constitutional guarantee to basic and essential features of the self-governing democratic institutions in rural and urban areas.

31. Direct elections to *Panchayats* are held from territorial constituencies in the respective *Panchayat* area. Detailed provisions are to be made by the state governments by passing laws. This provides enough flexibility to take care of local needs. State governments are encouraged to empower *Panchayati Raj* Institutions by devolving functions, finances and administrative control over functionaries in respect to 29 subjects given in the Eleventh Schedule of the Constitution. These include preparation of plans for economic development and social justice and implementation of schemes for economic development and social justice.

32. The provisions of the *Panchayats* [extension of the scheduled areas] Act, 1996, extends *Panchayats* to the tribal areas of nine states, viz., Andhra Pradesh, Chattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa, and Rajasthan. This enhances the ability of tribal societies to preserve and conserve their traditional rights over natural resources.

33. The Constitution 73rd Amendment Act also gives constitutional status to *Gram Sabha* (Village Council), which is a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of the *Gram Panchayat* (Village Panchayat). It has a key role in bringing about transparency in the functioning of *Gram Panchayats*, in ensuring equitable distribution of benefits, in creation of community assets and in bringing about social cohesion. It is envisaged to plan and prioritise development works to be taken up in the village, approve the annual plan for the *Gram Panchayat*, seek active participation of women and other marginalized groups, ensure transparency in the working of *Gram Panchayat*, select beneficiaries under various schemes of the Central Government undertaken for rural development, and move towards full control over management over natural resources. In brief, the *Gram Sabha* is a forum where the marginalized can influence decisions affecting their lives. As a result of several initiatives of the Central Government in partnership with state governments, *Gram Sabhas* have become the bedrock of democracy at the grass root level.

34. The strengthening of *Panchayati Raj* institutions over the past decade or so has brought a major change in the social, economic and political landscape of rural India. Much of this is through empowerment of women and weaker sections, for whom seats have been reserved in these institutions, including in leadership positions.

Right to work

35. The Indian Constitution refers to the Right to Work under the “Directive Principles of State Policy.” Article 39 urges the State to ensure that “citizens, men and women equally, have the right to an adequate means to livelihood.” Further, Article 41 stresses that “the State, shall within the limits of its economic capacity and development, make effective provision for securing Right to Work ...” Though the Indian government has created labour-intensive rural works programmes, these are not based on the Right to Work. They are additional employment opportunities provided by the State, as and when possible.

36. So far, the only attempt to make the Right to Work a reality was Maharashtra’s “Employment Guarantee Scheme,” which was the outcome of a struggle for protection from poverty and unemployment, resulting especially from the massive drought of 1970-73. Maharashtra’s programme entitles all adults to work within a fortnight of registration at any block level office; failure to provide employment creates the liability towards payment of unemployment allowance. Numerous studies indicate that Maharashtra’s EGS had an impressive impact on the employment as compared to other anti-poverty programmes in India. It is claimed that EGS eliminated 7% of the unemployment in the State in 1987-88.

37. Encouraged from the Maharashtra experience and keeping in view the demand for the implementation of the Right to Work-including an Employment Guarantee Act at the national level and in other states, the Government has enacted the National Rural Employment Guarantee Act 2005.

38. This Act is of tremendous significance. One, its implementation will become the first national safeguard of the Right to Work. Two, a well-designed Employment Guarantee Programme (EGP) could have a major impact on rural poverty in India within a few years. Three, in a country where labour power is the only economic asset for millions of people, gainful employment becomes the only channel for the fulfilment of the other basic rights - the right to life, the right to food, and the right to education.

39. Under this Act, every household in rural India will have a right to at least 100 days of guaranteed employment every year for at least one adult member. The employment will be in the form of casual manual labour at the statutory minimum wage, and the wages shall be paid within 7 days of the week during which work was done.

40. The Act extends to all rural areas of India, including Fifth and Sixth Schedule areas. It will take effect in all rural areas within five years of enactment. Starting from districts with high levels of poverty, gradual extension to the whole of India will happen during the initial period of five years.

41. For giving effect to the employment guarantee, each State Government is required to prepare an Employment Guarantee Programme within six months of enactment. The Programme's main features include:

- (i) Only productive works that are based on economic, social, and environmental benefits; contribute to social equity, and have the ability to create permanent assets will be taken up under the Programme;
- (ii) The works shall be in the rural areas;
- (iii) As far as possible, the Programme may also provide for skills training of unskilled labourers;
- (iv) When wages are directly linked with the quantity of work, they shall be paid according to the schedule of rates fixed by the State Government. For unskilled labourers, this schedule shall be so fixed that seven hours of work shall fetch wages equal to the statutory minimum wages of agricultural labourers of that State at that time.

42. The State Government has the responsibility of providing employment within 15 days of application, and possibly within five kilometers radius of the village where the applicant is residing. If no employment is provided within 15 days, the applicant is entitled to a daily unemployment allowance up to a period of 100 days in a fiscal year.

Right to information

43. The Government of India has enacted "Right to Information Act 2005" to secure access to its citizens to information under the control of public authorities in order to promote transparency and accountability in the working of any public authority. It came into effect on 12 Oct 2005. Under this law the access to information has become a fundamental right of the citizens. Under this law all Government bodies or Government funded agencies have to designate a Public Information officer (PIO). The PIO's responsibility is to ensure that

information requested is disclosed to the petitioner within 30 days or within 48 hours in case of information concerning the life and liberty of a person. The law was inspired by previous legislations from select States (among them Maharashtra, Goa, Karnataka, Delhi etc) that allowed the right to information (to different degrees) to citizens about activities of any State Government body. The law is considered as a landmark in India's drive towards more openness and accountability.

Part 2

IMPLEMENTATION OF ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

44. This Article stipulates that State Parties shall not engage in any act or practice of racial discrimination against persons, groups of persons or institutions and ensure that all public authorities and public institutions, national and local, act in conformity with this obligation; not sponsor, defend or support racial discrimination by any persons or organizations; take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; and encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division. The article also asks the States Parties to take special and concrete measures in social, economic, cultural and other fields to ensure full and equal enjoyment of human rights and fundamental freedoms by and adequate development and protection of certain groups or individuals belonging to them.

45. Through its several provisions, the Indian Constitution expressly prohibits racial discrimination in all forms. Prevention of discrimination is an important component of the spirit of equality, which is central to the philosophy of the Constitution. The Indian Constitution, which is the largest written constitution in the world, expressly guarantees 'fundamental rights' and 'fundamental freedoms' and enjoins certain duties on the State through its Articles 14-17, 19-30, 32-35, 38-39A, 41-47 and 51A. Several domestic laws give effect to Constitutional provisions eliminating discrimination and guaranteeing fundamental rights and freedoms, and stipulating remedies in case of their infringement or violation. The provisions of the Indian Constitution specifically relevant to elimination of discrimination have been elaborated in the earlier reports. A brief outline is given below.

46. Article 14 of the Constitution provides that the State shall not deny any person equality before law or equal protection of the laws within the territory of India. It prohibits discrimination and guarantees equality before law to all persons. It may be worthwhile to note that Article 17 of the Universal Declaration of Human Rights, 1948 declares that all are equal before the law and are entitled without any discrimination to the equal protection of laws. By and large, the same concept of equality is inherent in Article 14 of the Indian Constitution.

47. Article 15(1) of the Constitution of India provides that the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them.

Article 15 (2) provides that no citizen shall on grounds of religion, race, caste, sex, place of birth or any of them be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment or (b) the use of wells, tanks, bathing ghats, roads and places of public resort, maintained wholly or partly out of State funds or dedicated to the use of the general public. It is to be noted that while Article 15(1) prohibits discrimination by the state, clause (2) of Article 15 prohibits both the State and private individuals from making any kind of discrimination. This Article is an extension of Article 14 and it elucidates the general principle of equality embodied in Article 14.

48. Article 16(1) of the Indian Constitution guarantees equality to all citizens in matters of 'employment' or 'appointment' to any post under the State. Clause (2) of Article 16 says that no citizen shall on ground only of religion, race, caste, sex, descent, place of birth or residence be discriminated.

49. Article 23(2) of the Indian Constitution stipulates that in imposing compulsory service for public purposes, the state shall not discriminate on grounds of any religion, race, caste, or class or any of them.

50. The Indian Constitution's Article 325, which deals with the election process, stipulates that there should be one general electoral roll for every constituency and no person shall be ineligible for inclusion in any such roll or claim to be included in a special, electoral roll on the grounds of religion, race, caste, or sex.

51. The Indian Penal Code, under Sections 153 (A), 153(B) and 505 makes punishable acts which instigate racial discrimination. These provisions prohibit enmity between the different groups on grounds of religion, race, place of birth, residence, language etc., and violations of these provisions is punishable with imprisonment which may extend to three years, or with fine, or with both. Section 153 (A) of Indian Penal Code is attracted when the words used naturally, clearly and inevitably have tendency to incite one community against another.

52. According to Section 505(2) of Indian Penal Code, whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Article 3

53. This Article enjoins on the Government of India the obligation to condemn racial segregation and *apartheid* and take appropriate steps to prevent, prohibit and eradicate this practice of discrimination.

54. At the international level, India's commitment to the cause of elimination of racial discrimination in all its forms, including *apartheid*, has been reflected in the leading role it has played in the struggle against *apartheid* and racial discrimination. This has already been elaborated in the earlier reports.

55. India has been privileged to play a special role in support of the long and difficult struggle to end colonialism and discrimination symbolized by apartheid in Africa, especially South Africa and assisting the historical endeavour of the African countries to secure freedom and dignity. The contribution by the Government and people of India is more than an act of solidarity with people of Africa: It has deep roots in India's own struggle for freedom and dignity. The humiliations and indignities to which the people of Indian origin were subjected in Africa, and the struggle for their rights and dignity led by Mahatma Gandhi, had a great influence on the Indian national movement. Under the leadership of Mahatma Gandhi and Pandit Jawaharlal Nehru, India's National Movement for independence developed an international outlook, espousing uncompromising opposition to colonialism and racism. The Government and people of India have had highest respect for the liberation movements in Africa and their leaders, and have been unequivocal in supporting them. The contribution to that cause, including through various processes in the United Nations, were regarded as a national duty. The leaders of India also educated public opinion on the situation in South Africa and secured widest public support for all measures recommended by the United Nations.

56. India actively participated in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) held in Durban from 31 August-8 September 2001. It played a key role within the Working Group on the Programme of Action in negotiations resulting in consensus on the text on information, communication and media. India is actively engaged also in the implementation of the consensus Programme of Action adopted at the Durban Conference.

Article 4

57. This Article requires information on legislative, judicial, administrative or other measures taken to eradicate all incitements or acts of racial discrimination.

58. In this regard, various constitutional and legal provisions, such as the Indian Penal Code (IPC) and others, prohibiting incitement or promotion of racial hatred and discrimination in any form continue to remain in place.

59. It may be appropriate to reiterate here that Article 15 of the Constitution lays down that no citizen shall on grounds of religion, race, caste, sex or place of birth be subjected to any disability or restriction. Article 46 of the Constitution of India expressly provides, *inter alia*, that the State shall protect the vulnerable sections from injustices and all forms of exploitation.

60. Section 153-A, 153-B and Section 505(2) of IPC, which criminalise incitement of hatred on the various grounds, including race, deserve mention. Section 153-A of the Indian Penal Code states:

Whoever-

by words, either spoken or written, or by signs or by visible representation or otherwise, promotes, or attempts to promote on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feeling of enmity, hatred or ill-will between different religious, racial, language or regional groups castes or communities, or

commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language, or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquillity,

shall be punished with imprisonment which may extend to three years, or with fine or with both.

Section 153-B of the IPC states:

Whoever, by words either spoken or written or by signs or by visible representations or otherwise, -

makes or publishes any imputation that any class of person cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

asserts, counsels, advises, propagates or publishes that any class of person shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religions, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Section 505(2) of IPC reads as under:

Whoever makes, publishes or circulates any statements or report containing rumours or alarming news with intent to create or promote or which is likely to create or promote, on grounds of religion, feeling of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities shall be punished with imprisonment which may extent to three years or with fine or with both.”

Section 153 of IPC provides punishment against those who promote violent attacks against groups on grounds of religion, race, birth, or language and Section 505(2) which penalize those who promotes enmity between different groups on religion, race, place of birth, residence, language, caste or community, etc. Moreover, committing crime in a place of worship on the above said grounds will attract the Section 505(3) of IPC.

61. As has been mentioned in the foregoing paragraphs, Suppression of Apartheid Act 1981, enacted in connection with International Convention on the Suppression and Punishment of the Crime of Apartheid makes apartheid in India an offence punishable with death, or imprisonment for life, or imprisonment for a term up to ten years, and is also liable to fine.

62. Further, the organisations which are functioning in India are forbidden from promoting or inciting racial discrimination activities. Likewise, public authority or public institutions (Article 12 of the Constitution) cannot promote or spread racial discrimination. Violation of these provisions attracts prosecution and punishment under provisions of penal law as mentioned above.

63. No cases have arisen under the above mentioned legislations for inciting racial disharmony or disseminating ideas of racial superiority.

Article 5

64. Article 5 requires the government to take steps to ensure enjoyment of Civil and Political Rights and Economic and Social, Cultural Rights by eliminating racial discrimination in all its forms, either by race, colour or national or ethnic origin.

65. India is fully committed to honour its international obligations and has ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic and Social Cultural Rights.

66. As mentioned earlier, the Indian Constitution guarantees to all citizens fundamental rights (Part III of the Constitution). While the Indian Constitution guarantees to its citizen enjoyment in a non-discriminatory manner of the civil and political rights mentioned in Article 5 of ICERD, as has been mentioned earlier, the economic, social and cultural rights mentioned in Article 5 of CERD have been acted upon in India through formulation of laws, policies and programmes by the State taking into consideration the Directive Principles of State Policy, contained in Part IV of the Constitution. Though these Directive Principles are non-justiciable in that they cannot be enforced, they are “nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws”. (Article 37, Constitution of India) As indicated above, some of the Directive Principles of State Policy have now been transformed into fundamental rights and liberal interpretation by the Supreme Court of the provision relating to right to life and socio economic policies of the Government have also contributed to social and economic empowerment of vulnerable sections of the society.

Article 5 (a): Right to equal treatment before the Tribunals and all other organs administering justice

67. As mentioned earlier, Article 14 of the Indian Constitution enshrines the right to equality and Articles 15 and 16 also ensure equality by prohibiting discrimination. Article 14 stipulates that ‘the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India’. These Articles supplement one another.

68. Article 50 of the Indian Constitution deals with separation of the judiciary from the executive in the public services of the State. India takes pride in its active, independent and impartial judicial system. The Supreme Court and various High Courts are established under Articles 124 and 214 of the Constitution and they impart justice without any influence from the legislature and executive.

Article 5 (b): Right to security of person and protection of the State against violence or bodily harm, inflicted by government officials or by any individual group or any institution

69. The Constitution safeguards the personal rights of an individual and the State is the sole protector of each and every citizen in India. Article 21 of the constitution of India guarantees that “No person shall be deprived of his life or personal liberty except according to procedure established by law”. The State is obliged to protect each and everyone’s life and security in a non-discriminatory manner. Moreover, every criminal act done by any individual or institution can be taken cognizance of by the State itself. The Indian Penal Code, 1860 contains a full chapter on offences affecting human body. There are no reported cases on racially motivated criminal offences.

Article 5 (c): Right to participate in election

70. India is a constitutional democracy with a parliamentary system of government. Regular free and fair elections involving universal adult suffrage is the foundation stone of its federal and provincial legislatures as also municipal and local self government institutions. India has over 600 million eligible voters, which is a reflection of both the size of the world’s largest democracy and its vibrant nature. Important legislative enactments with respect to elections importantly are the Representation of People’s Act of 1951 and statutory enactments such as Delimitation Act, 1972, the Conduct of Election Rules, 1961, the Parliament [Prevention of Disqualification] Act, 1959.

71. The Constitution of India 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. Conduct of General Elections in India for electing a new Lower House of Parliament (Lok Sabha) involves management of the largest event in the world. The electorate exceeds 670 million electors in about 700000 polling stations spread across widely varying geographic and climatic zones. Polling stations are located in the snow-clad mountains in the Himalayas, the deserts of the Rajasthan and in sparsely populated islands in the Indian Ocean.

72. Powers to conduct elections and all other affairs related to election the vests with the Election Commission, which consists of three election commissioners and is presided over a Chief Election Commissioner.

73. The Indian Constitution provides the right and opportunity to its citizens to take part in election irrespective of religion, race, caste, sex or place of birth or any of them. Every citizen above 18 years of age have been given the right to elect representatives for the legislature.

74. The Indian Constitution stipulates that there shall be one general electoral roll for every territorial constituency and no person shall be ineligible for inclusion in any such roll or claim to be included in a special electoral roll on grounds of religion, race, caste or sex or any of them. For example, in a recent decision, the Election Commission, in exercise of its plenary powers conferred on it by Article 324 of the Constitution, ordered that names of about 1,500 Chakmas, who were found to be eligible for inclusion in the respective electoral rolls by the concerned Electoral Registration Officers, be retained in the electoral rolls of Assembly Constituencies concerned.

75. Any Indian citizen who is a registered voter and is over 25 years of age is eligible to contest elections to the Lok Sabha (Lower House of the Indian Parliament) or State Assemblies. For Rajya Sabha (the Upper House of the Indian Parliament), the lower age limit is 30 years.

76. The inclusive and non-discriminatory nature of the Indian democratic processes is also reflected in the large number of registered political parties, which subscribe to different and even competing ideologies and pervade all levels of democratic functioning - national, provincial (state) and local.

Article 5 (d) (i) and (ii): Right to freedom of movement and residence within the border of the State and Right to leave any country, including one's own and to return to one's country

77. Article 19 (1) of the Constitution provides that every citizen of India has the right to reside and settle in any part of the territory of India and Article 19 (1) (d) provides the right to move freely throughout the territory of India. However, under clause 5 of Article 19 reasonable restriction may be imposed on this right by law in the interest of the general public or for the protection of the interest of any Scheduled Tribe.

78. The restrictions on this freedom also include that in case of an offender whose trial is pending before the court, who, in accordance with Section 438 (2) (iii) of the Criminal Procedure Code does not have the freedom to leave the country without prior permission of court.

Article 5 (d) (iii): Right to nationality

79. In India, nationality is understood in terms of Citizenship. Articles 5 to 11 of the Constitution deal with citizenship at the time of independence.

80. Article 11 of the Constitution expressly empowers Parliament to make a law providing for acquisition and termination of citizenship and, accordingly, Parliament has enacted the Citizenship Act, 1955. This Act now governs the matters relating to Indian citizenship. The provisions of this Act are non-discriminatory and are applicable without regard to race, caste, colour, sex or religion.

Article 5 (d) (iv): Right to marriage and choice of spouse

81. The right to marry is governed by the personal law of each community. There are no restrictions in law regarding the choice of spouse. In the context of marriage, different personal or religious laws prevalent in India embody respect to diverse customs and practices, which is the essence of the Indian pluralist society. Marriages are to be solemnized with the consent of the parties. The minimum age for marriage has been laid down as 18 years for girls and 21 years for boys under Child Marriage Restraint Act, 1929. Generally under the personal laws of marriage, there is no specific bar with regard to right to choice of spouse. After attaining the marriage age i.e., 18 years for girls and 21 years for boys, each one has the right to make choice or choose their own spouse. Rapidly changing socio-economic matrix in India and the country's typical demographic structure with the preponderance of youth is gradually changing the practice to marry into one's own community.

82. The laws applicable to most religious communities, which are governed by their religious/customary laws, have been codified and amended to eliminate discrimination against women. Mention in this regard may be made of The Christian Marriage Act, 1872, The Hindu Marriage Act, 1955, The Indian Divorce Act, 1969, The Parsi Marriage and Divorce Act, 1936 and The Special Marriage Act, 1954. The information in detail regarding these laws has been submitted in India's periodic reports on the Convention on Elimination of Discrimination against Women.

Article 5 (d) (v): Right to own property

83. Article 300-A of the Constitution of India provides that 'no person shall be deprived of his property save by authority of law'. This article makes it clear that the deprivation of property can only be made by the authority of law, be it an Act of Parliament or State Legislature or a rule or statutory order having force of law, and not by an executive fiat or order. There is no bar on any citizen to hold or dispose off property.

Article 5 (d) (vi): Right to inherit

84. Right to inheritance in India is also provided under personal laws of each community which are based on the religion of the person. The Indian Succession Act, 1925 provides for succession to all, other than Hindus, Sikhs, Jains, Buddhists, and Muslims. The Hindu Succession Act, 1956 established the equal inheritance rights of men and women. Some provisions of this Act were discriminatory towards women. This Act has recently been amended and now places women and men on an equal footing in matters of inheritance.

Article 5 (d) (vii): Right to freedom of thought, conscience and religion

85. India is a secular country. The word 'secular' is not understood in India as a negative concept of mere non-interference in religions, faiths or beliefs of the people in India, which in any case is guaranteed by the Constitution, or even of 'equidistance' of the State from them, but as a guiding thought and as a positive philosophy of '*sarva dharma sambhava*', i.e., equal respect for all religions. The fact that all the world's major religions are present in India and have indeed been cradled in its lap since centuries and millennia reflects this age-old ethos of the Indian people, which the law of the land has simply codified legally and enforced, when needed. There is, thus, no State preference to any religion in India but all religions are *treated* alike and every religion enjoys constitutional and legal protection without favour or discrimination.

86. The Constitution of India guarantees not just to citizens of India but to *all persons* in India 'freedom of conscience', the right to possess, practice and profess religion. Articles 25 to 28 of the Indian Constitution confer certain rights relating to freedom of religion. These provisions also protect religious groups.

87. Article 26 of the Constitution gives special protection to religious denominations. Article 27 provides that no person can be compelled to pay any tax the proceeds of which are specifically appropriated for payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

88. Religious freedom has been upheld also through judicial decisions by Supreme Court and other High Courts.

89. Equal treatment of minorities is a special feature of Indian polity, which contributes to upholding the country's secular tradition and values. Articles 29 and 30 of the Indian Constitution protect the right of minorities to conserve their language, culture and other social ways, and also the right to administer their educational institutions. National Commissions such as the National Human Rights Commission (established 1993) and the National Minorities Commissions (1992) have been active in redressing grievances and suggesting guidelines to the Government.

90. Promotion of harmony and the spirit of brotherhood amongst all the people of India, transcending religious, linguistic, regional or sectional diversities, is among the fundamental duties of every citizen of India under Article 51-A of the Constitution.

Article 5 (d) (vii): Right to freedom of opinion and expression

91. Freedom of speech and expression has been expressly guaranteed under Article 19 (1) (a) of the Constitution as a Fundamental Right for all citizens. In India, Freedom of expression includes the right to express one's own convictions and opinions freely by word of mouth, writing, printing, pictures or any other mode. Further, it includes the right to communicate it through any available media whether print or electronic or audio-visual, (such as advertisement, movie, article or speech etc.). This freedom includes the freedom to communicate or circulate one's opinion without causing interference to others. Reasonable restrictions, generally in line with those envisaged in the Universal Declaration on Human Rights, can be imposed in accordance with the provisions of Article 19 (2).

92. Freedom of expression is a vital right, which is very zealously guarded by the Supreme Court. In several decisions, the Supreme Court¹ has laid emphasis on the freedom of speech and expression, which is the basic tenet of a democracy. Freedom of Press is included in the freedom of speech and expression and is regarded by the Court as a "species of which freedom of expression is a genus". The freedom of audio-visual and print media is especially pertinent for the effective functioning of democracy, particularly in as large and diverse a country as India. Media in India have often stepped in to attract attention for upholding human rights and the rule of law and in many cases, stories carried by them have been instrumental in people, especially the vulnerable, getting justice.

93. Innumerable dialects are spoken in India and the number of languages itself is very high. It is one of the duties of the State to protect and promote this diversity. The Constitution of India specifically recognises the linguistic diversity of the country and lists eighteen Indian languages in its Eighth Schedule. These languages, besides being means of official communication, are also vehicles of diverse cultures of the Indian people and carriers of rich literary traditions.

94. A glimpse of the free, independent and vibrant media, flourishing in a non-discriminatory environment covering diverse languages and regions of the country, is provided by the statistics on publication of newspapers and periodicals in the country. In 2001, newspapers were published in as many as 101 languages and dialects. Apart from the languages included in the Eighth Schedule, these languages include publications in 82 other languages, dialects and in a

few foreign languages. The highest number of newspapers and journals were brought out in Hindi (20,589), followed by English (7,596), Marathi (2,943), Urdu (2,906), Bengali (2,741), Gujarati (2,215), Tamil (2,119), Kannada (1,816), Malayalam (1,505) and Telugu (1,289). As regards daily circulation, Hindi newspapers lead with 4,70,06,395 copies in 2001, followed by English with 2,30,94,261 copies and those in Malayalam with 72,53,625 copies. Among daily newspapers, there were 2507 different newspapers in Hindi language followed by 534 in Urdu 407 English 407. Languages, having more than 100 daily publications in 2001, were Marathi (395), Tamil (366), Kannada (364), Malayalam (225), Telugu (180), Gujarati (159), Punjabi (107) and Bengali (103). This vibrant picture rich with regional divergence is reflected also in the place of publications. The largest number of newspapers was published in Uttar Pradesh (8397), followed by Delhi (6926), Maharashtra (6018) and Madhya Pradesh (3555). Other States, having more than 1000 newspapers each in the order of their number were West Bengal (3738), Rajasthan (3310), Tamil Nadu (2838), Karnataka (2556), Andhra Pradesh (2398), Gujarat (2257), Kerala (1854), Bihar (1513), Punjab (1204) and Haryana (1036). Furthermore, Delhi and Maharashtra publish newspapers in 17 out of 19 principal languages. Newspapers in 15 principal languages were published from Tamil Nadu, 14 from Andhra Pradesh & West Bengal, 12 from Karnataka and 10 from Kerala.

Article 5 (e): Economic, social and cultural rights in particular, right to work, to free choice of employment, to just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration

Right to work

95. Freedom to work and economic security are the greatest concomitants of employment programmes of India. Part III and Part IV of the Indian Constitution embody right to work. The details and new development on right to work has already provided under paras. 35 *et al.*

96. Under the Indian Constitution, labour is a subject in the concurrent list where both Central and State Governments are competent to enact legislation. The formulation and implementation of labour programmes and policy at the center is the responsibility of the Ministry of Labour. The main objective of the India's labour policy is to promote the goal of full employment as a basic priority of economic and social policies and to enable all men and women to attain and secure sustainable livelihood through freely chosen productive employment and work.

97. The objective of free choice of employment in India has been addressed by invoking two measures: provisions ensuring the absence of any form of compulsion to undertake work that one has not freely chosen, and the opportunity to acquire training and access to a suitable job without discrimination. The absence of any form of compulsion to undertake work is ensured by Article 16(4), 19(1)(g), 21, 23, 24, (All these under Fundamental Rights) and 309-312 of the Constitution of India and implemented by the various domestic laws. However, these provisions do not restrict Parliament and State Legislatures to regulate the recruitment and conditions of service of the persons appointed to public services and posts under the Union and the States, respectively.

98. The second measure to provide training for and access to a suitable job without discrimination resorted to by Government of India is an integral part of Five Year Plans and policies. The second and the third Five-Year Plans, which were designed to create a strong industrial base, emphasized the need for expansion of training facilities. Vocational training in institutes became the principal means of turning out skilled workers. However, even with such expansion, traditional methods of imparting training had to be continued for many sectors of the economy.

99. Article 16(1) and (2) of Indian Constitution lay down that no citizen can be discriminated against or be ineligible for any employment or office under the State on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them.

100. There are sections in every society which would be weaker economically and on social indicators. India is not an exception. To ameliorate the condition of such sections of the Indian society, the Constitution contains a liberal scheme of measures in favour of Minorities, Backward Classes and others. These are collectively described as 'positive discrimination' in favour of the vulnerable sections, prescribing for affirmative action on the part of the State for their socio-economic advancement.

101. Clauses (4) and (4-A) of Article 16 of the Constitution of India enable the State to make provision for the reservation of posts in government jobs in favour of any backward class of citizens and for reservation in matters of promotions for the underprivileged which, in the opinion of the State, are not adequately represented in the services of the State.

102. Article 16(5) is the third exception to the general rule laid down in 16(1) and (2). Article 16(5) says that a law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular Denomination shall not be treated to be repugnant to this Article.

103. As commitment to securing better working conditions for female workers, the Government has taken a number of steps to give effect to the constitutional mandates of equality before law and equal protection of law and that there shall be no discrimination on the basis of sex. Equal pay is assured to workers through Equal Remuneration Act, 1976 which mandates equal pay for equal work or work of the same nature. Guidelines for the prevention of sexual harassment of women employees in their workplace have been laid down by the Supreme Court of India in *Vishaka* case. *Apparel Export Promotion, Council v. A. K. Chopra*, AIR 1999 SC 625, is the first case in which the Supreme Court applied the guidelines laid down in the case of *Vishaka v. State of Rajasthan* and upheld the dismissal from service of a superior officer of the Delhi based Apparel Export Promotion Council, who was found guilty of sexual harassment of a subordinate female employee at the place of work on the ground that it violated her fundamental right guaranteed by Article 21 of the Constitution.

104. Besides, the Industrial Employment (Standing Orders) Central Rules have been amended to make the guidelines applicable to employees in the private sector. A grant-in-aid scheme for the welfare of women labour for awareness generation and skill training is implemented through

voluntary organisations. With a view to having a more focused approach on the subject in the 10th plan, an enhanced outlay of Rs. 2.25 crores (about USD 500,000) has been earmarked for the scheme.

105. Just and favourable conditions of work include conditions of occupational health and safety. Article 24 of the Constitution stipulates that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Article 39[e] and [f] stipulate that the State should provide for security of health and strength of workers. Article 42 empowers the State to make provisions for securing just and human conditions of work and for maternity relief. Various laws have been enacted to protect the rights of workers. These include inter-alia in this regard the Factories Act, 1948, The Mines Act, 1952, The Coal Mines Regulations, 1957, The Children (Pledging of Labour) Act, 1933, The Motor Transport Workers Act, 1961, The Child Labour (Prohibition and Regulation) Act, 1986. Government has also legislated to regulate the conditions of workers in the unorganized sector. The Beedi and Cigar Workers (Condition of Employees) Act, 1976 are intended to benefit the Beedi workers by regulating their conditions of work and provide them welfare benefits. The Tenth Five Year Plan (2002-07) has new schemes to strengthen the safety and health strategies in priority hazardous chemical processes, national level awareness campaign in identified segments of unorganised sector.

106. India is truly committed to its obligations under the relevant ILO Conventions. India has ratified the Convention on ILO Employment Policy, 1964 (No. 122) in 1998 which deals with promotion of full, productive and freely chosen employment. India has also ratified the ILO Discrimination (Employment and Occupation) Convention, 1958 in 1960 which is known as the core Convention which promotes the fundamental principles of right of work.

107. Various governments in India have put employment generation as a strategy to eradicate poverty at the center of development policies, with full respect for worker's rights and with the participation of employers, workers and their respective organizations. The important employment programmes under various five year plans are National Rural Employment Programme Guarantee Programme, the Integrated Rural Development Programme, the Scheme for Training of Rural Youth for Self-Employment, Jawahar Rozgar Yojna etc. to raise income levels of the poor.

108. Article 39[d] of the Constitution of India envisages equal pay for equal work should be given to men and women for equal work. Though this Article appears in the segment on Directive Principles, various decisions of the judiciary have interpreted this to be of a fundamental nature. India has ratified ILO Convention No. 100 of 1951 relating to equal remuneration of men and women. To give effect to this obligation Equal Remuneration Act, 1976 was enacted.

109. India is fully committed to various obligations set out by the International Labour Conventions which relate to just and favourable conditions of work. India is party to the Equal Remuneration Convention, 1951 [No. 100], Weekly Rest [Industries] Convention, 1921 [No. 14], Labour Inspection Convention, 1947 [No. 81], Occupation Safety and Healthy Convention, 1981 [No. 155] and some other conventions. Other such as Minimum Wage Fixing Convention, 1970 [No. 131], Weekly Rest [Commerce and Offices] Convention, 1957 [No. 106], Holidays with Pay Convention [Revised] 1970 [No. 132].

Article 5 (e) (ii): Right to form and join trade unions

110. The right to form association or unions is guaranteed as a fundamental right in the constitution of India under Article 19(1)(c). The right to form association is the very lifeline of democracy. India recognizes the freedom of association and the effective recognition of the right to collective bargaining. Any discrimination in guaranteeing freedom of association would only be an anti-thesis of democracy and, therefore, this freedom, including the freedom to form trade unions, is available in India subject only to reasonable restrictions in the interests of public order or morality or sovereignty and integrity of India. This is also affirmed in the recent ILO Global Report submitted by India. The recognized trade unions also regularly file their reports to the ILO and their views are also taken into account by the Government while formulating policies and laws concerning trade unions.

111. Specific legislative and other measures on Trade Unions Rights are embodied in the Trade Unions Act, 1926, Clause III Code of Discipline, and the Industrial Disputes Act, 1947. These measures safeguard the rights of trade unions and their members.

Article 5 (e) (iii): Right to housing

112. Right to shelter is recognized as an integral part of the fundamental right to life under the Constitution of India. The Supreme Court has through many judgements stressed the importance and spelt out the content of this right. In *Chameli Singh v. State of Uttar Pradesh*,² the Supreme Court emphasized the right to shelter and expounded its concept of shelter referring to the UNGA resolution [No. 35/76] on the problem of homeless people in developing countries. It observed:

“Shelter for a human being is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. It therefore includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads, etc.”

113. Housing is the responsibility of State governments under the division of competencies between Central and State governments. The Central government, however, has been taking initiatives and directing the programmes in that sector through the process of planning, by formulating policies, establishing institutions for financial and technical support, implementing social housing development schemes, especially targeted at the weaker sections of the society, alongside amending laws and implementing fiscal measures to provide incentives for investing in the housing sector. India is a member of the UN Centre for Human Settlement and Habitat and attended the Istanbul meet +5 (Habitat) Conferences. As a follow-up to this, India submitted its Report on the Progress of implementation of the Habitat Agenda (1996-2000) in 2001. India has also adopted a National Housing and Habitat Policy (NH&HP), 1998 which stresses sustainable development, infrastructure development and strong public private partnerships for shelter delivery.

114. The Emphasis is on providing housing for the rural and urban poor. The Government has sponsored several schemes for housing and for upgrading the living conditions in urban and rural

areas. Some of them are: Valmiki Ambedkar Awas Yojana (VAMBAY), National Slum Development Programme (NSDP), Night Shelter Scheme, Indira Awas Yojana (IAY), Credit-cum-Subsidy Scheme (CCSS), Samagra Awas Yojana, Central Rural Sanitation Programme (CRSP)/Total Sanitation Programme, Low Cost Sanitation Scheme etc.

115. A special plan of Action on Housing [*known as Two Million Housing Programme*] was introduced in 1998-99 in furtherance of the National Agenda for Governance and the 1998 NH&HP policy to facilitate construction of adequate housing facilities, particularly for economically weaker sections and vulnerable groups. Out of the 2 million additional houses, 700,000 would be in urban areas and the remaining in rural areas. Government has also launched a comprehensive action plan for rural housing encouraging construction of 2.5 million houses annually in rural areas as also upgradation of unserviceable *katcha* (mud) houses. India's next Five Year Plan (2007-12) will target attainment of the goal of shelter for all.

116. The Government has taken several initiatives, by formulating policies, and plans, establishing institutions for financial and technical support, implementing various social development schemes, through its various institutions, such as, National Housing Bank (NHB), which was set up in 1988. Besides, through the Housing and Urban Development Corporation (HUDCO) and with the help of international assistance, including from IBRD, ADB and USAID, financing for economically weaker and disadvantaged sections has been promoted. Cumulatively till 31st March, 2003, HUDCO had sanctioned 15,4040 schemes involving a total project cost of Rupees 92,357 crores (about USD 2 billion), assisting in construction of 13.5 million residential units, development of over 500,000 plots and over 4.8 million sanitation units, and in implementation of 2,035 urban infrastructure schemes effectively contributing to improvement of living conditions in urban and rural areas.

117. In order to address the problem of slum dwelling, a National Slum Development Programme (NSDP) was launched in 1996 for upgradation of urban slums by providing amenities like water supply, storm water drains, community baths, widening and paving of existing lanes, sewers, community latrines, street lights, etc. Funds under NSDP are used to provide community infrastructure and social amenities like pre-school education, non-formal education, adult education, maternity, child health and primary health care including immunization. The programme also has a component of shelter upgradation as construction of new houses.

Article 5 (e) (iv): Right to public health

118. Right to health is recognized as an integral part of the right to life under the Constitution of India. The Constitution directs the state to improve public health (Article 47) and endeavour to protect and improve the environment (Article 48-A). India is also having National Healthy Policy, 1983, for achieving health goals and a new framework policy has been launched in the year 2002.

119. The matters pertaining to public health and sanitation, hospitals and dispensaries are under the responsibility of the state governments according to the division of competencies in India's federal structure. Family welfare, medical education, steps against adulteration of foodstuff and other goods, drugs and chemicals, medical profession, lunacy and mental deficiency are under the responsibility of both the Centre and the States.

120. The central government is playing a vital role in formulating and implementing various National Health Programmes for communicable, non-communicable and other major diseases and supplementing the States' efforts by providing funds.

Article 5 (e) (v): Right to education and training

121. In India, the Right to Education has been made a fundamental right through the 86th Amendment³ to the Constitution which enjoins on the State to provide free and compulsory education to all children between six to fourteen years of age. A new Fundamental Duty for parents or guardians to provide opportunities for education to their child or ward in the above age group has also been included in the Constitution. These amendments will significantly contribute to achieving the goal of education for all (EFA). The details of the programme have already been elaborated in paras. 20 *et al.*

122. The right to free and compulsory education is, once again, available to all children in the said age group without any discrimination. The focus, again, is on endeavouring to ensure that the weaker and the disadvantaged sections of the society are able to benefit from it.

123. A number of initiatives including the provision of free textbooks, mid-day meal scheme, etc. target these children under the programme. The National Programme of Nutritional Support to primary school children is a nation wide programme [popularly known as mid-day meals scheme or MDM], which was launched on 15th August 1995 with the objective to give a boost to universal primary education and impacting on the nutritional status of students in primary classes coming from weaker and disadvantaged strata of society and studying in government, local body and government aided schools.

124. As compared to the previous decades, when literacy rate had risen from 18.3 per cent (for the age group 5 years and above) in 1951 and to 43.6 per cent in 1981, the decade of 1991-2001 for the first time saw a decrease in absolute numbers of the illiterate, which dropped by almost 32 million. Literacy rate as per the decadal 2001 Census was 65.2 per cent. Regional variations in literacy rates have also declined and the gender gap has reduced.

125. In collaboration with five UN agencies, namely, UNDP, UNICEF, UNESCO, ILO and UNFAA, the Government has implemented a community based programme called *Janshala* to make primary education more accessible and effective, especially for girls and children in deprived communities and marginalised groups, with emphasis on community participation and decentralization at the 'block' (sub-district) level.

Article 5 (e) (vi): Right to culture

126. The Indian Constitution guarantees the right to conserve one's religion, language and culture.

127. Long before the constitutional endorsement of pluralism in independent India, it was the pluralistic ethos of the Indian people, which fashioned and synthesized the unity in diversity of the country through millennia. The Constitution sanctified it by guaranteeing to all the citizens

of India the right to take part in their culture, the freedom to form associations and to establish institutions for preservation and promotion of their distinct language, culture or religion within the secular and democratic fabric safeguarding the unity and integrity of the country. Both the Centre and the states/union territories have legislative responsibility in cultural matters. In India, the State is both a witness and a guarantor of cultural pluralism. The State is also a facilitator of the exercise of the people's free choice in cultural matters. And this role is discharged by the State without discrimination.

128. The Government's facilitatory and promotional role is discharged by various institutions such as the National Academy of Fine Arts, the Sangeet Natak Academy (National Academy for Music, Dance and Drama), Sahitya Academy (National Academy of Letters), which, through various of their activities, including granting scholarships and furthering creative work in their respective fields, promote and uphold India's cultural diversity. For example, the Sahitya Academy, an autonomous body fully funded by the Government of India, promotes publication of literary works in twenty-two Indian languages. The books it publishes in 22 languages include translations of award winning works, monographs on great pioneers of Indian literature, history of literature, Indian and foreign classics in translation, anthologies of fiction, poetry, and prose, biographies, etc. It recognizes eminent writers through 22 awards for creative writing and 22 translation prizes. So far, the Academy has published 3,400 books in 22 languages and maintains a unique multilingual library which has about 150,000 books in over 22 languages. The enormous diversity in Indian literature is also promoted through the Academy's 30 regional, national and international seminars and a 'Festival of Letters' every year.

129. Various national awards for culture and handicrafts fully reflect the abiding respect for rich traditions, including regional and local. Promotion of cultural exchanges with other countries through bodies such as the Indian Council for Cultural Relations, an autonomous body of the Ministry of External Affairs, in areas like art, music, literature, archaeology, etc also draws its varied substance from all corners of the country. In carrying out research, publication, training, documentation and dissemination and according fellowships and other aid and support, country's vast cultural diversity and the needs to preserve small, marginalized, rare or disappearing art forms are especially in focus.

130. Mass media also play a significant role in promoting cultural activities. The Press Information Bureau ensures that the commitment in the Indian Constitution to respect all cultures and banish all kinds of racial discrimination is observed by mass media. The government-run broadcasting sector consists of Prasar Bharati - comprising Doordarshan (television) and All India Radio. Doordarshan (DD), the national television service of India is one of the largest terrestrial networks in the world and operates 23 channels, some of which are available in the satellite mode. It has a three-tier programme service - national, regional and local. While DD National - the largest channel in India in terms of absolute viewership, caters to diverse linguistic and cultural needs through its programmes, the twelve regional channels of Doordarshan [DD Kashir, DD Punjabi, DD North East, DD Bangla, DD Oriya, DD Gujarati, DD Sahyadri (Marathi), DD Telugu, DD Chandana (Kannada), DD Podhigai (Tamil) and DD Keralam (Malyalam)] operate as regional language satellite channels catering to interests in that particular state, in the language and idiom of that region. DD India (formerly DD World), the international channel of Doordarshan, carries programmes, besides Hindi and English languages, in Urdu, Punjabi, Telugu, Tamil, Kannada, Malyalam, Gujarati and Marathi.

131. The All India Radio has a network of over 200 broadcasting stations, covering 90% of the area and reaching almost the entire population. It broadcasts in 24 languages and 146 dialects. Its programmes include 194 news bulletins every day in 64 languages and dialects put out by 45 Regional News Units, apart from 88 news bulletins by Home Service in Delhi. The External Service of All India Radio covers about 100 countries in 26 languages, including 16 foreign languages (Arabic, Baluchi, Bhasa Indonesia, Burmese, Chinese, Dari, English, French, Nepali, Persian, Pushtu, Russian, Sinhalese, Swahili, Tibetan and Thai).

132. The Films Division produces and distributes short films both in celluloid and video, newsmagazines, documentary films and other films on various subjects. These have concerned functioning of Indian democracy, fundamental rights, cultural and historical diversity and heritage of India, and various plans, policies, programmes and projects for socio-economic development and nation building, and participation of people in them. These works of the Division also contribute to generating awareness among people, especially in rural areas, regarding democracy and their rights, and strengthening national integration and communal harmony.

133. The private media boom in India since the 1990s, both in television and radio broadcasting, with proliferation of regional language channels, has further enhanced the role of media both as a carrier of culture at national, regional and local levels, and as a means of their healthy intermixture and interpenetration. In today's India, enhanced awareness of cultural diversities through programmes of cross-cultural appeal and interests is further contributing to strengthening of mutual appreciation between distinct yet synergising cultural identities, which, as the country's civilisational experience attests, is the best guarantee for cultural pluralism and against discrimination in the field of culture.

Article 5 (f): Right to access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theaters and parks

134. Article 15 of the Constitution prohibits discrimination on grounds of religion, race, caste, etc. Article 15(2) declares that no citizen shall be subjected to any disability, restriction or condition on grounds only of religion, race, caste, place of birth or any of them with regard to (a) access to shops, public restaurants, hotels and places of public entertainment or (b) the use of wells, tanks, banks, roads and place of public resort, maintained wholly or partly out of state funds or dedicated to the use of the general public.

135. This Article prohibits discrimination by both the state and private individuals. Any person who is aggrieved in respect of the right specified in this Article can approach the Supreme Court and the High Court under Article 32 and Article 226, respectively, of the Constitution.

Article 6

136. This Article seeks assurance from State Parties that everyone within their jurisdiction will have effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

137. The Fundamental Rights specified in the Constitution are enforceable and justifiable through Supreme Court and High Courts. Under the Indian Constitution every one has the right to move the Supreme Court for the violation of a fundamental right under Article 32. High Courts, established provincially, also have in fact wider powers under Article 226 to protect the rights of citizens and others. The pro-active role of the Indian Supreme Court in guarding and promoting the rights of the citizens is well documented.

138. A judgment delivered by the Supreme Court is binding on all courts as per Article 141 of the Indian Constitution.

139. The Criminal Procedure code 1973, vide section 304 provides that if the accused does not have sufficient means to engage a lawyer, the court must provide one for the defence of the accused at the expense of the state.

140. Article 39-A, which has been included in the Constitution by the 42nd Constitutional Amendment Act, 1976, mandates the State to secure that the operation of the legal system promotes justice, on the basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes, or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

141. The Supreme Court has emphasized that legal assistance at State cost has been raised to the status of a fundamental right of a person accused of an offence which may involve jeopardy to his life or personal liberty. The Court has also ruled that it would make a mockery of legal aid if it were to be left to a poor, ignorant and illiterate accused person to ask for free legal aid. Accordingly, the Court has ruled that the presiding judge has the obligation to inform an accused that he can obtain free legal service at the cost of the State if he is unable to engage a lawyer because of his indigence.⁴ The government provides free legal aid for those who are unable to have access to justice.

142. To this end, a legislation has been passed by the Government, viz., the Legal Services Authorities Act, 1987 with the objective to constitute legal service authorities for providing free and competent legal services to the weaker sections of society so that opportunities for securing justice are not denied due to economic or other disabilities and to organize *Lok Adalats* ('Public/People's Courts'). The system of *Lok Adalat*, which is an innovative mechanism for alternate dispute resolution, has proved effective for resolving disputes through conciliation outside courts. The concept originates from the system of panchayats (literally, a juridical body of five) which is rooted in the history and civilization of the country. The provisions of the Act are based on this indigenous concept. It is meant to supplement the formal legal system, and not to replace or supplant the latter. The Act is a legislative attempt to decongest the courts.

143. *Lok Adalat* refers to a forum for settlement of disputes, employing alternate dispute resolution techniques, such as negotiation, conciliation, mediation, etc. It is a forum which ensures easier access to justice for the poor. It enables the speedy disposal of cases through a settlement between the parties, supervised by a body of legally competent personalities. *Lok Adalats* have been endowed a statutory recognition by the Legal Services Act, 1987. *Lok Adalats* settle the matters by applying the principles of fairness, equity and justice. They

have the powers of a civil court, in respect of summoning evidence and examination of witnesses, discovery of documents, requisitioning of public records, etc., an award made by the *Lok Adalat*, pursuant to a settlement reached between the parties, is deemed to be a decree of a civil court. It is final and is not appealable. An important feature of the *Lok Adalat* is that it motivates the parties to settle the disputes amicably, without resorting to the lengthy, tedious and expensive process of litigation.

144. *Lok Adalats* can be set up at any level - Central, State, District or Taluk. The number, qualifications and experience of members of the *Lok Adalat*, other than judicial officers, are to be prescribed by the State governments, according to rules. *Lok Adalats* have been conferred jurisdiction to settle civil criminal, matrimonial, motor accident claims and revenue cases, at the pre-litigation level or when the disputes are pending in court. *Lok Adalats* consist of a judicial member, a legal practitioner and a social worker.

145. *Lok Adalats* have endorsed the right to legal aid, which is a part of the Human Rights Law in India, under the Constitution and it has been upheld in several cases before the Supreme Court of India. The Supreme Court in *Legal Aid Committee v. Union of India*,⁵ and in *Supreme Court Legal Services Committee v. Union of India*,⁶ intervened in the matter and passed directions for enforcing and implementing the Act.

146. In a recent landmark decision by Delhi High Court in *Abdul Hasan and National Legal Services Authority v. Delhi Vidyut Board*,⁷ the court held that the state has been ordained to secure a legal system which promotes justice on the basis of equal opportunity. The language of Article 39-A is couched in mandatory terms. It emphasized that the legal system should be able to deliver justice expeditiously on the basis of equal opportunity and provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reasons of economic or other disabilities.

147. A National Legal Services Authority (NALSA) was set up to implement and to monitor legal aid programmes in the country. The Supreme Court Legal Services Committee has also been constituted. In every High court, the High Court legal services committees are being established to provide legal aid to the eligible persons in matters coming before the High Courts. The Act also provides for constitution of State-level legal services authorities, District legal services authorities and Taluk Legal Services.

148. The central authority is taking steps to establish vibrant legal aid programmes such as promotion of legal literacy, setting up of legal aid clinics in universities and law colleges, training of para-legal personnel and holding of legal aid camps and *Lok Adalats*. NALSA is also formulating policies and schemes to achieve the aims and objective of the Act.

149. The Government sanctioned Rs. six crore (about USD 1.5 million) as grant-in-aid for NALSA for 2003-04 for implementation of the provisions of the Act. NALSA is also monitoring and evaluating the implementation of legal aid schemes and programmes and in taking separate measures for spreading legal literacy and the legal awareness amongst the weaker sections of the society. Up to December 31, 2002, about 154,500 *Lok Adalats* were held and where about 14.6 million cases were settled. As on 31 December 2002, more than 4.7 million people had benefited through legal aid and advice throughout the country.

150. The Parliament has amended the Legal Services Authorities Act, 1987 in 2002, with a view to providing mechanism of pre-litigation conciliation and settlement. The amended Act stipulates the establishment of permanent *Lok Adalats* for exercising jurisdiction in respect of disputes relating to public utility services, such as, transport service, postal communication etc. A party to a dispute with a public utility has been given the option to make application to the permanent *Lok Adalat* which has been vested with the jurisdiction to decide the matter and pass a binding award which shall be declared to be final.

151. The Supreme Court has in a number of cases awarded compensation for the infringement of fundamental rights. In an important case, the Supreme Court held that, “the court, in which the infringement of the fundamental right is established, therefore, cannot stop by giving a mere declaration. It must proceed further and give compensatory relief. Not by way of damages as in a civil action but by way of compensation under the public law jurisdiction for the wrong done, due to breach of public duty by the state of not protecting the fundamental right to life of the citizen. To repair the wrong done and given judicial redress for legal injury is a compulsion of judicial conscience.”⁸

152. There is no express provision in the Constitution of India for grant of compensation for violation of a fundamental right to personal liberty or life. But in number of instances the Supreme Court⁹ and High Courts have awarded compensation.

153. In particular, *Rudul Shah v. State of Bihar*,¹⁰ the Supreme Court held that, one of the telling ways in which the violation of right can reasonably be prevented and due compliance with the mandate of Article 21 (Right to Life) secured, is to make its violators to pay monetary compensation. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the state as a shield. Respect for the individuals is the true bastion of democracy. Therefore, the state must repair the damage done by its officers to the petitioner’s rights.

154. In *Common Cause, a registered society v. Union of India*,¹¹ the Court affirmed the earlier view and said that the power of the Court to grant such remedial relief may include the power to award compensation in appropriate cases. The use of words ‘appropriate cases’ is deliberate since the intention was to make “it clear that it is not in every case where there is a breach of fundamental right committed by the violation that compensation under Article 32 of the Constitution”.

155. The National Human Rights Commission, established vide National Human Rights Act 1993, is the apex national institution to protect human rights and redress grievances pertaining to their violation. Established in accordance with Paris Principles, it has also awarded compensation to victims of violation of human rights in many cases.

156. In about twelve years of its existence, the NHRC has delivered commendable work in protecting and upholding human rights in India. Through its unique complaint registration and tracking system expertise about which has been shared internationally, NHRC has handled more than 70,000 complaints in twelve years of its existence. It has directed executive action and judicial process to redress violation of human rights, taking *suo moto* cognizance in many cases,

and also awarded compensation to victims of violation of human rights, including those by police/ security forces. However, no case of violation of human rights due to racial discrimination has come to light.

157. Other national commissions, such as the National Minorities Commission and the National Commission for Women, *inter alia*, work for protection and promotion of human rights of the specific groups or categories of people concerned.

Article 7

158. This Article requires information on measures taken by the Government in terms of teaching, education, culture and information, with a view to combating all forms of prejudices, which lead to racial discrimination, and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of, *inter alia*, the UN Charter and CERD.

159. In compliance with its obligations under this Article, India has fought all forms of prejudice, which would lead to situations of racial discrimination or communal hatred. As mentioned earlier in this report, the Indian State has endeavoured to consolidate and build upon the strong foundation of cultural pluralism, which is the best guarantor of non-discrimination. Additionally, direct, deliberate and sustained efforts have been made for fostering the inherent respect for pluralism and tolerance in the minds of the youth from junior school onwards through the education system and the information media. Curricula in India devote considerable attention and space to constitutional provisions related to fundamental rights and emphasise their inherent philosophy. Thus, values of secularism, respect for human rights, tolerance, etc. are sought to be imparted and reinforced through the education system.

160. A number of initiatives have been taken by the Ministry of Human Resource Development, University Grants Commission (UGC), National Council for Educational Research and Training (NCERT) and National Council for Teacher Education (NCTE) to promote human rights education (HRE) in India. UGC's approach to higher education emphasizes the need for human rights education. Human Rights Education part of syllabi in several Universities and other educational institutions in India. These include National Law School of India University (NLSU), Bangalore; Department of Political Science, University of Hyderabad, Hyderabad; Centre for Human Rights, B B Ambedkar (Central) University, Lucknow. Besides, many institutions have introduced post-graduate courses and diploma programmes in human rights. Legal aid clinics of certain universities have made contribution to raising awareness through legal aid and legal literacy programmes and campaigns. NCERT, which is the apex body advising Central and State governments on academic matters related to school education, provides academic and technical support for school education and publishes text books on subjects taught up to XIII grade (Higher Secondary/ 'A' Level), which have been written following the basic approach of integrating various aspects and dimensions of human rights integrally with various other issues, which are among major topics of school curricula as a whole, such as secularism, national integration, gender equality, and protection of environment.

161. The freedom of the press and media in India also ensures that the public enjoys unhindered benefit of freedom of opinion and expression, which India perceives as contributing to tolerance and friendship between nations and peoples. In order to ensure that racial or other prejudices are not propagated, policy guidelines have been evolved by institutions such as the Press Council of India for private media and the Government for the State-run media. The Government has also set up a Directorate of Field Publicity which, *inter alia*, prepares programmes on non-discrimination, tolerance and friendship at the grass-roots level and has been using traditional and other means of communication for the purpose. Mention has been made earlier in this report of the role of Doordarshan, All India Radio and private media channels in promoting and catalyzing respect and awareness for the prevalent diversity, and the synthesis of all-India idioms of cultural expressions.

162. India's abiding commitment to the principles and objectives of the UN Charter, which, *inter alia*, calls for peace and friendship among countries of the world, which is the cornerstone of its foreign policy, is reflected in the regular publications brought by the Government, as also programmes and discussions in various fora, including academic and mass media, which generate and promote awareness of the principles of friendship and equality among States. Besides, the Indian Council for Cultural Relations (ICCR) undertakes various interactive programmes on occasions such as Africa Day to celebrate friendship between peoples and races. It provides special counselling services to foreign students in India under the various scholarship programmes administered by the Government. ICCR also strives to ensure the educational and personal welfare of foreign students, the vast majority of whom come from developing countries and therefore represent different races and peoples from all over the world.

163. The Government has sought to promote international understanding, friendship and solidarity through various governmental mechanisms and through India's role in the fora like the Non-Aligned Movement, Group of 77 Countries, the Commonwealth of Nations and others. One of the key elements of India's foreign policy is the stress on South-South cooperation. India itself has deep and abiding commitment to working bilaterally and in multilateral fora for meeting the special needs of Africa, the Least Developed, Land-Locked and Highly Indebted Poor Countries, as also Small Island Development States. In its own efforts, India has laid emphasis on sharing expertise, capacity building and training, *inter alia*, through its Indian Technical and Economic Cooperation Programme (ITEC), which was founded in 1964 and under which 5,000 foreign students receive training in various Indian institutions every year. Other instruments used for fostering bilateral cooperation with fellow developing countries are the Colombo Plan, the Special Commonwealth African Assistance Plan, and NEPAD, apart from extending bilateral assistance to developing countries within the limited resources available. The Ministry of External Affairs also runs regular professional courses for foreign diplomats in its Foreign Service Institute, which are attended by diplomats from a number of countries, including from the developing world. The cross-cultural representation from various parts of the world in these courses also contributes to promoting and strengthening mutual understanding among persons from diverse cultural and racial background.

164. As part of its efforts to fulfil obligations under the various human rights covenants to which it is a signatory, the Government of India has attached high importance to awareness

generation and human rights education. This awareness generation has taken many forms, including sensitization of the government machinery at all levels including police, paramilitary forces and the armed forces on the need to observe, promote and protect human rights. In this effort, the Government has worked closely with actors of civil society such as NGOs and the National Human Rights Commission. Human rights as a subject has been included in the training schedule of various academies imparting training to police and armed forces, viz. Sardar Vallabhbhai Patel National Police Academy, Hyderabad and the National Institute of Criminal and Forensic Sciences, Delhi. The National Human Rights Commission has been playing a key role in disseminating the ideas of human rights.

165. Indian Council of World Affairs (ICWA) has been declared an institution of national importance through a parliamentary enactment. It organizes seminars, roundtables and symposia, besides carrying out academic and research activity in the field of international relations and international affairs. A significant part of ICWA's activity has been concerned with topics relevant to developing countries, as also to fostering relations between States on the basis of *panchasheel* (five principles of inter-State relations). For example, a seminar "India-Africa: New Horizons" was organized in the year 2002. The 'African Centre' was inaugurated by the Ministry of External Affairs. The ICWA has also been designated as a secretariat for the council for security co-operation in the Asia Pacific.

166. The World Conference Against Racism (2001) had enjoined on the Governments that they should encourage developing through consultation and co-operation with national institutions, national human rights action plans and action, including those addressing racism in the context of the UN Decade of Human Rights Education. National Human Rights Institutions were called upon to ensure that the struggle against racism was integrated into the National Plan of Action in education and human rights training. The Government of India had set-up a coordinating committee under the Chairmanship of the Union Home Secretary to prepare such a plan in consultation with the other concerned activities.

167. The National Human Rights Commission (NHRC) played a catalytic role in drawing up a National Action Plan for observing the U.N. Decade for Human Rights Education (1995-2004). In 1998, the Commission set up an "Institute for Human Rights Education, Research and Documentation" at NLSU, Bangalore. It also offered internship programmes for students in India and abroad to spread and enhance the knowledge of Human Rights under a Summer Internship Programme. It also held seminars and organized other activities. These include a South Asian Workshop on Human Rights Educations in schools in India, jointly organised by the Commission and HURIGHTS, OSAKA (October 1998), a seminar on "promotion of Human Rights: A Critique" organised on the occasion of golden jubilee of adoption of the Universal Declaration of Human Rights (UDHR) in collaboration with NHRC, the National Commission for Women (NCW) and Indian Social Institute (November 1998). It has also organized annual events on human rights for members of the paramilitary forces. NHRC has also provided financial assistance for research projects related to human rights and HRE. From the year 2001, NHRC also brings out a Journal of Human Rights to disseminate knowledge on the important developments pertaining to human rights.

Notes

¹ *State of Uttar Pradesh v. Rajnarain*, AIR 1975 SC 865; *Dinesh Trivedi, Madhya Pradesh v. Union of India* (1997) 4 SCC 306; *S. P. Gupta v. President of India*, AIR 1982 SC 149; *Union of India v. Cricket Association of Bengal*, AIR 1999 SC 1236; *Peoples Union for Civil Liberties v. Union of India*, AIR 1997 SC 568; *Communist Party of India (M) v. Bharat Kumar and others*, AIR 1998 SC 184; *Tata Press Limited v. MTNL* (1995) 5 SCC 139; *Union of India v. Association for Democratic Reforms* (2002) 5 SCC 294.

² AIR 1996 SC 1051.

³ The constitutional amendment provides for the following:

It shifted free and compulsory education to all children of the age of 6-14 years from Directive Principle of State (which is not enforceable) to Fundamental Right category in the constitution by placing it as Article 21A.

It specifically provides that “the State shall provide free and compulsory education to all children of the age of 6-14 years in such manner as the State may, by law, determine”.

⁴ *Sukdas v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991.

⁵ (1998) 6 JT (SC) 645.

⁶ AIR 1998 SC 2940.

⁷ AIR 1999 Del.88.

⁸ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 608.

⁹ *Bhim Singh v. State of Jammu and Kashmir*, AIR 1986 SC 494; *Peoples Union for Democratic Rights v. State of Bihar*, AIR 1987 SC 355; *Peoples Union for Democratic Rights through Secretary v. Police Commissioner, Delhi Police Headquarters*, (1989) 4 SCC 730; *Saheli, a women’s resource centre v. Commissioner of Police, Delhi*, AIR 1990 SC 513; *Arvinder Singh Bagga v. State of Uttar Pradesh*, AIR 1995 SC 117; *P. Rathinam v. Union of India*, 1989 Supp.(2) SCC 716; *Inder Singh v. State of Punjab*, AIR 1995 SC 1949; *Mrs. Pritam Kaur v. State of Punjab*, (1996) 7 SCALE 11; *Paramjit Kaur v. State of Punjab*, (1996) 8 SCALE 6; *Nilabati Behra v. State of Orissa*, AIR 1993 SC 1960; *People’s Union for Civil Liberties v. Union of India*, AIR 1997 SC 1203; *Dr. Jacob George v. State of Kerala*, (1994) 3 SCC 430; *Mrs. Manju Bhatia and another v. New Delhi Municipal Corporation*, AIR 1998 SC 223; *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, AIR 1996 SC 2426; *N. Nagendra Rao v. State of Andhra Pradesh*, AIR 1994 SC 2663; *Chairman, Railway Board v. Mrs. Chandrima Das and others*, AIR 2000 SC 988; *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble*, AIR 2003 SC 4567.

¹⁰ AIR 1983 SC 1086.

¹¹ AIR 1999 SC 2979.
