



# General Assembly

Distr.: General  
9 July 2012

Original: English

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**Human Rights Council**  
**Twenty-first session**  
Agenda item 6  
**Universal Periodic Review**

## **Report of the Working Group on the Universal Periodic Review\***

### **India**

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\* The annex to the present report is circulated as received.

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its thirteenth session from 21 May to 4 June 2012. The review of India was held at the 8th meeting on 24 May 2012. The delegation of India was headed by Goolam E. Vahanvati, Attorney General of India. At its 13th meeting, held on 30 May 2012, the Working Group adopted the report on India.
2. On 3 May 2012, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of India: Kuwait, Mauritius and Mexico.
3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to Human Rights Council resolution 16/21 of 25 March 2011, the following documents were issued for the review of India:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/13/IND/1);
  - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/13/IND/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/13/IND/3; and Corr.1).
4. A list of questions prepared in advance by the Czech Republic, Denmark, Germany, Ireland, the Netherlands, Norway, Slovenia, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to India through the troika. These questions are available on the extranet of the UPR.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. The delegation of India stated that India saw the universal periodic review (UPR) mechanism as one of constructive engagement. The fact that the delegation consisted of experts from various ministries of the Central Government bore testimony to India's commitment to this process.
6. The delegation outlined the methodology used in the preparation of the National Report which included an extensive and inclusive consultation process involving various Ministries of the Government, experts and civil society. The report was posted on the website and made accessible to the general public. Ranbir Singh, Vice-Chancellor of National Law University, Delhi, was given the task of preparing this report with the extensive involvement of various stakeholders.
7. The annexures in the national report highlighted the evolution of fundamental rights in India's Constitution through judicial pronouncements over the years. This reflected a vibrant and evolving Constitution, which placed human rights in the forefront of governance.
8. The delegation highlighted some significant developments in the field of human rights. The Right to Information Act (RTI) had revolutionized the concept of good governance. Several seminal laws brought in a rights-based approach to subjects which were fundamental to human existence, inter alia, work and employment, education and food

security. These included the landmark Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the Right to Education Act of 2009 and the National Food Security Bill.

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

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

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

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

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

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

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

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

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

18. The success of Government's programmes such as Sarvashiksha Abhiyan has led to high levels of enrolment in schools.
19. Equal emphasis had been placed on children's well-being with enhancement of their food and nutrition through mid-day meals programmes in schools; and also on the availability of teachers and their retention. Civil society had contributed positively in this regard.
20. Rural habitation with access to primary schools had increased from 87 per cent in 2002 to 99 per cent in 2008. Female literacy showed considerable improvement by nearly 50 per cent in the last decade. Marginalized and minority group trends were also converging towards the national average in terms of literacy rate.
21. While the figures of child labour dropped sharply in the last decade, the problem of children who were neither working nor studying continued. In 2007, the National Commission for the Protection of Child Rights was established.
22. With regard to empowerment of women, the delegation stated that over one million of the over 3 million elected local representatives in Panchayats or village-level self-government were women. Gender was being mainstreamed through several initiatives, including gender budgeting in all Government policies and programmes. A National Mission for Empowerment of Women was launched in March 2010.
23. India's programme of affirmative action was unique in scale and dimension. The guarantee of equality in the Constitution was a positive mandate for eradication of inequalities and discrepancies.
24. Several recent steps have been taken to impact positively on the lives of the Scheduled Castes as well as the tribal population. Under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, as of February 2012, India had settled 2.72 million claims out of the 3.17 million filed, or 86 per cent of the total claims and 1.25 million titles distributed. The Prime Minister's new 15-point programme for the welfare of minorities was being actively pursued. Certain proportion of development projects was being earmarked for minorities' concentration areas.
25. The delegation stated that more than 90 per cent of all households used improved sources of drinking water in 2008–09.
26. The National Food Security Bill was a historic initiative in ensuring food security, as it marked a paradigm shift from welfare to a rights-based approach. People had access to adequate quantity and quality of food at affordable prices, enabling them to live a life of dignity. About two thirds of the population would be entitled to receive subsidized food grains under Targeted Public Distribution System. There was special focus on women, children and other Special Groups.
27. The Public Service Delivery Acts enacted by more than 12 states of India guaranteed specified service standards to the vulnerable sections of the society. "Aadhaar" would give a unique identity to all residents to ensure streamlined and effective access to social and organized infrastructure.
28. The delegation stated that India's establishment of the National Green Tribunal was yet another innovative action widely welcomed internationally.
29. The delegation stated that in 2011, Margaret Sekkagya, Special Rapporteur on the situation of human rights defenders, visited India. It mentioned the Government's active association with civil society and the increasing and important role that civil society and human rights defenders are playing in the area of human rights. The media, civil society and other activists have helped the Government to be vigilant against transgressions. The

National Human Rights Commission strived to strengthen human rights practices and served as the moral compass of the nation.

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

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

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

## **B. Interactive dialogue and responses by the State under review**

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

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

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

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

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

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

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

40. Switzerland stated that early marriages remained a reality despite legislative measures prohibiting such practices. There must be compliance with international standards when maintaining internal security. Switzerland made recommendations.
41. Thailand commended India for taking measures to eliminate discrimination against and to empower marginalized and vulnerable groups. Thailand made recommendations.
42. Timor-Leste noted that the Prevention of Torture Bill had been passed in the Lower House of Parliament. However, the Select Committee of the Upper House identified several shortcomings with the Bill. It highlighted that initiatives had been taken to ensure the protection of women's rights. It made recommendations.
43. Trinidad and Tobago commended India for the National Green Tribunal Act, the Sexual Harassment Bill, 2010, the Right to Education Act, the Scheduled Tribes and other Forest Dwellers Act and the Right to Information Act. It made recommendations.
44. Turkey encouraged India to strengthen the mandate of the national human rights institution and to sign the Second Option Protocol to the International Covenant on Civil and Political Rights (ICCPR). It wished to better understand the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESR) on equality and non-discrimination and also requested information on the status of the ratification of CAT.
45. Ukraine requested India to elaborate on measures for persons with special needs, and inquired about the adoption of the Bill on protection of women against sexual harassment in the workplace. It made a recommendation.
46. United Arab Emirates inquired about the measures put in place to confront crimes of trafficking in persons and to what extent were these measures effective. It made a recommendation.
47. The United Kingdom of Great Britain and Northern Ireland inquired about India's response to concerns raised by Special Rapporteurs and treaty bodies over domestic security legislation; noted that India's National Human Rights Commission and civil society had reported a significant numbers of cases torture cases involving police and security authorities; and called on India to continue to safeguard the right of legitimate non-governmental organizations (NGOs) to operate without undue restrictions. It made recommendations.
48. The United States of America raised concern about the stringent application of the Foreign Contribution Regulation Act, which has created significant challenges to the funding of legitimate NGOs, as well as about the widespread impunity. It made recommendations.
49. Uruguay welcomed the progress made for the protection of women; the right to education Act; the rights-based approach to food security; and the reduction of child mortality. It encouraged India to continue its efforts in these areas. Uruguay made recommendations.
50. Uzbekistan noted the positive results achievements in the areas of the protection of women and children's rights as well as the disabled persons. It highlighted the work done for free and compulsory education of children but hoped that more could be done in the area of illiteracy.
51. Venezuela (Bolivarian Republic of) appreciated the progress achieved in the area of socioeconomic development. It commended India for its efforts in transparent management and in strengthening the right to information. Venezuela made recommendations.

52. Viet Nam commended India for its seriousness in implementing the first UPR cycle recommendations. It praised its rapid economic growth, poverty reduction, food security, job creation and improved access to public health and education. Viet Nam made recommendations.
53. Algeria noted India's efforts to improve the protection of workers against exploitation in employment abroad and requested clarification on the contents and policies adopted for this purpose. It made recommendations.
54. Angola paid tribute to India's recent reforms on human rights. It welcomed the signature of CAT, the signature and the ratification of the United Nations Convention against Transnational Organized Crime, as well those measures to ensure increased access to justice. It made a recommendation.
55. Argentina applauded progress achieved in the areas of child protection and in the promotion of free and compulsory education. It made recommendations.
56. Australia noted that, despite India's early ratification of the Convention on the Rights of Persons with Disabilities, disabled children remained the least educated. It expressed regret that India had not ratified CAT and was particularly concerned about the pending Draft Prevention of Torture Bill. It made recommendations.
57. Austria requested to know how India monitored the application of anti-conversion laws in federal states and what measures were taken to ensure that these laws did not infringe on the right to freedom of religion. It made recommendations.
58. Bahrain expressed appreciation for India's programmes on the rights of women and children; the national campaign for empowerment of women and gender equality; and for the measures taken for victims of human trafficking. It made recommendations.
59. Bangladesh congratulated India for the steps taken in the promotion and protection of human rights, and in this regard identified as significant steps the enactment of the Right to Information Act, the Right to Education and the National Food Security Bill.
60. Belarus noted that India had achieved progress in decreasing child mortality and combating human trafficking. It encouraged India to invite the Special Rapporteur on human trafficking. Belarus made a recommendation.
61. Belgium applauded the positive endeavours made by India to promote human rights. It inquired about the specific measures India intended to introduce to improve maternal health and health of children. Belgium made recommendations.
62. Bhutan commended India for its progress in the education sector. It urged India to strengthen efforts in tackling poverty and enhancing access to basic social services.
63. Botswana commended India for the initiatives taken since their first review and in particular the enactment of the Right to Education in line with the Convention on the Rights of the Child (CRC); and ratification of the United Nations Convention against Transnational Organized Crime and its two Protocols. It made recommendations.
64. Brazil welcomed the Right to Education Act and the ruling of the Delhi High Court that the criminalization of homosexuality was a violation of fundamental rights. It welcomed the Protection of Women Against Sexual Harassment at Work Place Bill and India's introduction of a constitutional amendment to ensure women's participation in Parliament. Brazil made recommendations.
65. Canada asked India to provide information as to the status of caste-based discrimination, the reforms under way and progress achieved, particularly with regard to the Christian and Muslim Dalits who were not granted access to affirmative action based on their religion. It noted that India was yet to ratify CAT. It made recommendations.



66. Chad inquired about India's understanding of secularism. Chad made a recommendation.
67. Chile commended the adoption of the National Green Tribunal Act; the Right to Education Act; the policy incorporating a gender perspective and the measures to assist vulnerable castes. It encouraged India to continue its efforts to address discrimination. Chile made recommendations.
68. China appreciated India's efforts to safeguard the rights and interests of women and children, to provide free and compulsory education for children and to reduce its infant and maternal mortality rates. In other areas, China welcomed steps taken protecting employment rights and those of the elderly.
69. Cuba noted India's progress in implementing the recommendations from its first review. It recognized the progress shown in the different areas including rural health. Cuba made recommendations.
70. The Czech Republic expressed regret that ongoing legislative procedures continued to delay India's ratification of CAT. It expressed its appreciation of India's cooperation with international mechanisms. It made recommendations.
71. Ecuador stated that India had made significant changes in human rights in areas which included universal education, empowerment of women, food sovereignty, social inclusion and the fight against discrimination. Ecuador made a recommendation.
72. Egypt expressed interest in India's National Rural Employment Guarantee Act and requested more information. It made recommendations.
73. Finland expressed its appreciation for India's policies and programmes to improve maternal health. However, it raised its concern over maternal deaths due to unsafe abortions. It made recommendations.
74. India stated that the Convention against Torture may only be ratified once the definition of torture was fully reflected in domestic legislation. The Lok Sabha passed the Prevention against Torture Bill in 2010 but the Rajya Sabha referred the Bill to a Select Committee whose report was being examined. Nevertheless, there were sufficient provisions in Indian law prohibiting torture, including the Indian Penal Code. Also, the right to life under article 21 of the Constitution encompassed the right to live with dignity. The provisions in the Constitution and Criminal Procedure Code against self-incrimination, the obligation to produce an arrestee before a magistrate within 24 hours of such arrest and to ensure that the arrestee is informed of the grounds of arrest, provide further safeguards.
75. Freedom of speech and expression was a fundamental right, guaranteed by the Constitution, with accepted restrictions. India's vibrant media bore testimony to this. The Information Technology Act amended in 2011 had no provision to restrict or block Internet contents. Removal of illegal contents, including child pornography, should not be construed as restricting Internet freedom; such restrictions were addressed towards cyber-security, essential for increasing e-commerce and Internet use.
76. The delegation stated that through MGNREGA, over 12 billion person-days of work had been generated with a total expenditure of over US\$ 30 billion, benefitting 54 million families. It also provided a safety net to the 92 per cent of workers who are unorganized, mostly in rural areas.
77. The death penalty was imposed with strong procedural safeguards when life imprisonment appeared inadequate. The President of India and the Governors of the respective states had the power to grant pardons, reprieves, remission or suspension for any offence. Statistics on the death penalty and commutations granted were provided.

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

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

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

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

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

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

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

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

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

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

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

89. The delegation stated that more than 84 per cent of households had drinking water. According to the Joint Monitoring Programme Report 2012 by WHO and UNICEF, India was on track to achieving its Millennium Development Goal (MDG) target of safe drinking water. To ensure equitable access, specific percentages of the National Rural Drinking Water Programme allocations were earmarked for Scheduled Castes and Tribes

concentrated habitations. The Total Sanitation Campaign of 1999 aimed to ensure sanitation facilities in rural areas to eradicate the practice of open defecation and ensuring clean environment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

105. The Lao People's Democratic Republic commended India's struggle for its social and economic transformation within the framework of a democracy. It noted India's important initiatives to secure human rights at the national, regional and international levels. It made a recommendation.

106. Liechtenstein noted the concern of the Committee on Economic, Social and Cultural Rights (CESCR) at the lack of progress in eliminating traditional practices and provisions of personal-status laws that were harmful and discriminatory to women and girls. Liechtenstein made recommendations.

107. Luxembourg expressed concern at the high maternal mortality rate. It inquired about the steps India intended to take to achieve Millennium Development Goal 5, to end persistent discrimination against women and to combat endemic malnutrition in rural areas. Luxembourg made a recommendation.

108. Malaysia noted that despite insurmountable challenges, India had managed to improve the quality of life of its vast population. It commended India's action on all human rights issues in the United Nations. Malaysia made recommendations.

109. Maldives recognized India's efforts regarding gender equality, and made recommendations.

110. Mauritius recognized the need for India to transform its economy, but invited it to take heed of what Mahatma Gandhi meant when he said that India lives in its villages. It should therefore ensure the participation of local populations in development projects.

111. Mexico noted the progress and efforts made by India to promote and protect human rights. It particularly recognized India's openness to international cooperation through the open and standing invitation to all of the special procedures of the universal system of human rights. Mexico made recommendations.

112. Morocco congratulated India on all the initiatives taken since its first UPR to address different areas of human rights. It made a recommendation.

113. Mozambique stated that India's commitment to human rights was visible in its many achievements and its holistic approach, particularly in the fields of gender equality, the rights of children, the elderly and persons with disabilities, and the rights to health and education.

114. Myanmar noted the adoption of legal measures to protect India's natural resources and environment. Myanmar was keen to learn from India's best practices in poverty eradication and rural development. Myanmar made recommendations.

115. Nepal commended India for the legislative and institutional measures for the promotion and protection of human rights. It also stated that initiatives such as the empowerment of women, was encouraging and efforts to ensure transparency and good governance was commendable. Nepal made a recommendation.

116. The Netherlands acknowledged India's continued commitment to improving its human rights record. It thanked India for responding to its advanced questions. Netherlands made recommendations.

117. Nicaragua noted with satisfaction progress made by India in implementing the recommendations from its first review. It Nicaragua made a recommendation.

118. Norway stated that child labour was preventing children from accessing education. It welcomed the de facto moratorium and public debate on capital punishment. Norway made recommendations.

119. Paraguay noted progress made by India in consolidating policies on human rights, including enacting legislation to protect the environment and to guarantee the right to education. It welcomed India's ratification of the United Nations Convention against Transnational Organized Crime and its two Optional Protocols. Paraguay made a recommendation.

120. The Philippines wished to learn about the National Green Tribunal in promoting and protecting the right to a healthy environment, and the Mahatma Gandhi National Rural Employment Guarantee Act as a development strategy to guarantee the right to work.

121. Portugal welcomed the expansion of the list of banned and hazardous processes and occupations of the Child Labour Act. However, further efforts were needed to tackle this violation of children's rights. It welcomed the de facto moratorium on capital punishment. Portugal made recommendations.

122. Qatar noted the achievements to ensure the rule of law. It applauded the initiatives to guarantee the enjoyment of the right to education. It commended India for its economic plan 2007-2012, adopted to bring about comprehensive development. Qatar made recommendations.

123. The Republic of Korea welcomed new and draft legislation in the areas of education and the protection of women in the workplace. It noted with satisfaction India's invitation to the special procedures mandate holders. It was concerned about the delay in ratifying CAT. It made recommendations.

124. The Russian Federation welcomed measures adopted by India to defend and ensure the rights of vulnerable groups. It made a recommendation.

125. Saudi Arabia commended India for its efforts to improve food security and public health and which had resulted in reduced child and maternal mortality, and reduced cases of polio and HIV. It made recommendations.

126. Senegal noted legislation adopted on women and children's rights, education, employment, access to information, the environment and access to justice; and well as action taken by India to ensure civil and political rights and economic, social and cultural rights. Senegal made recommendations.

127. Singapore supported India's commitment to promoting racial and religious tolerance. It congratulated India on sustaining rapid economic growth, thereby lifting millions of people out of poverty and advancing the rights to food, housing, education and health. Singapore made a recommendation.

128. Slovakia welcomed the steps taken by India towards ensuring greater political participation of women, the establishment of a national commission to protect children's rights and the standing invitation to special procedures. Slovakia made recommendations.

129. Costa Rica highlighted progress made in protecting human rights. It made recommendations.

130. India stated, with regard to ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), that effective legal and constitutional framework to address violations of the rights of individuals existed. The Constitution provided for direct access to individuals to the Supreme Court and the High Courts. Other statutory mechanisms also provided adequate redress.

131. On the Communal Violence Bill, the delegation stated that India was a land of diversity covering all major religions, where minorities enjoyed the highest level of protection. Sporadic acts of violence were dealt with swiftly and effectively. Being a matter of federal polity, the Central Government had to take on board views of all Indian states, some of which believed that the existing laws were adequate to address communal violence, as seen from declining incidence.

132. With regard to the prosecution of Armed Forces, it was emphasized that the Army and paramilitary forces maintained continuous vigilance to prevent human rights violations. The Army established the Human Rights Cell even before the NHRC was established.

133. India's practices with regard to refugees was one of tolerance and understanding, and to provide hospitality and protection to those who approach it.

134. The human rights curriculum in schools and modules to create human rights sensitivity and skill were in place among teachers, public officials and law enforcement agencies.

135. The RTI promoted human rights by enabling any citizen to seek any information from public authorities. This information could include any document, notes and even drafts on Government records. It had not only led to effective enforcement and proper governance but was also used for accessing the courts under articles 32 or 226 of the Constitution.

136. India took serious exception to and rejected totally the intervention that stated that the judiciary lacked transparency. The judiciary had taken an incredible role with regard to enforcement of fundamental rights and had never been accused of not being transparent. The delegation acknowledged that there were aspects of delay, but emphasized that efforts were being made to address this issue.

137. The head of the delegation stated that he represented an India built on the solid foundations laid after independence, a new India, which was confident but not over-confident, a country proud of its strengths and at the same time willing to acknowledge and address weaknesses. It was an India which was self-assured but not arrogant, a country which was sensitive and humane without being weak or apologetic, and an India determined to promote and protect the human rights of its people in its secular democratic polity.

## **II. Conclusions and/or recommendations\*\***

**138. The recommendations formulated during the interactive dialogue and listed below will be examined by India who will provide its responses in due time, but no later than the 21<sup>st</sup> session of the Human Rights Council in September 2012. These responses will be included in the outcome report adopted by the Human Rights Council at its 21<sup>st</sup> session:**

- 138.1. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Convention for the Protection of All Persons from Enforced Disappearance and the Statute of the International Criminal Court (Spain);**

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\*\* Conclusions and recommendations have not been edited.

- 138.2. **Intensify the efforts working towards the MDG5, including by withdrawing its reservation to Article 16 in Convention on the Elimination of All Forms of Discrimination against Women, and by ensuring access to information and counselling on SRHR as set out in its National Population Policy( Sweden);**
- 138.3. **Expedite the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and adopt robust domestic legislation to this effect (United Kingdom of Great Britain and Northern Ireland);**
- 138.4. **Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and end impunity for security forces accused of committing human rights violations (United States of America);**
- 138.5. **Continue efforts to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as its optional protocol, and the International for the Protection of All Persons from Enforced Disappearances; and ratify ILO Conventions No. 169 and no. 189 (Iraq);**
- 138.6. **Accelerate its domestic procedure for ratification including the adoption of the Prevention against Torture Bill by its Parliament (Republic of Korea);**
- 138.7. **Ratify promptly the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Italy);<sup>1</sup>**
- 138.8. **Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment as soon as possible (Maldives);**
- 138.9. **Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognize the competence of its Committee, in accordance with articles 31 and 32 (Uruguay);**
- 138.10. **Accede to the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; ratify the Statute of the International Criminal Court and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the ILO Convention No. 189 concerning Decent Work for Domestic Workers (Uruguay);**
- 138.11. **Consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);**
- 138.12. **Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ensure that the instrument of ratification is fully consistent with the Convention (Australia);**

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<sup>1</sup> The recommendation made during the interactive dialogue was stated as follows: “Italy recommends prompt ratification of the Convention against Torture and relevant protocols.”

- 138.13. **Ratify the International Convention for the Protection of All Persons from Enforced Disappearances, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Rome Statute of the International Criminal Court (Austria);**
- 138.14. **Ratify the Rome Statute of the International Criminal Court, including its Agreement on Privileges and Immunities (Slovakia);**
- 138.15. **Finalise the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Botswana);**
- 138.16. **Ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as its Optional Protocol (Brazil);**
- 138.17. **Expedite ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol (Czech Republic);**
- 138.18. **Sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol and ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Portugal);**
- 138.19. **Ratification of the Optional Protocol to the Convention on the Elimination of Discrimination against Women (Brazil);**
- 138.20. **Evaluate the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Chile);**
- 138.21. **Consider signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Czech Republic);**
- 138.22. **Remove reservations to the Article 16(1) of the Convention on Elimination of All Forms of Discrimination against Women (Finland);**
- 138.23. **Withdraw its reservations to Convention on the Elimination of All Forms of Discrimination against Women and consider signing and ratifying its Optional Protocol (Republic of Korea);**
- 138.24. **Ratify, in the shortest time, the International Convention for the Protection of All Persons from Enforced Disappearance as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and adopt related internal legislation (France);**
- 138.25. **Consider the recommendation made by UNHCR to ratifying the Conventions relating to refugees and stateless persons (Ghana);**
- 138.26. **Ratification of ILO Conventions Nos. 138 concerning Minimum Age for Admission to Employment; 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; 169 concerning Indigenous and Tribal Peoples in Independent Countries; 155 concerning Occupational Safety and Health and the Working Environment and 170 concerning Safety in the use of Chemicals at Work (Ghana);**



- 138.27. **Continue to take legislative as well as policy measures to combat child labour and to ratify ILO Conventions 138 concerning Minimum Age for Admission to Employment and 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour and elaborate a timeline for the ratification of these instruments (Portugal);**
- 138.28. **Ratify Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the ILO Conventions no. 138 and 182 concerning child labour (Sweden);**
- 138.29. **Accelerate the ratification process of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Indonesia);**
- 138.30. **Consider an early ratification of the third Optional Protocol to the Convention on the Rights of the Child, on a communication procedure (Slovakia);**
- 138.31. **Amend the Special Marriage Act before its next review (Slovenia);**
- 138.32. **Conform its national legislation to international norms on the prevention of torture, to speed up the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and receive the Special Rapporteur on Torture (Switzerland);**
- 138.33. **Take the necessary measures to ensure that the existing national legislation against torture and cruel and inhumane and degrading treatment incorporates the highest international standards in this area (Costa Rica);**
- 138.34. **Prioritise the review and implementation of the Prevention Against Torture Bill, ensuring that it complies with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (Maldives);**
- 138.35. **Review the law on the special powers of the armed forces to align it with its obligations under the International Convention on Civil and Political Rights (Switzerland);**
- 138.36. **Consider introducing a new bill to the Parliament, taking into full consideration of the suggestions of the Select Committee, and take further actions towards the ratification of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Timor-Leste);**
- 138.37. **Consider expediting the process to pass the 108<sup>th</sup> Constitutional Amendment Bill which seeks to reserve a significant portion of seats for women at the Lower House and state legislative assemblies and consider the ratification of the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (Timor-Leste);**
- 138.38. **Consider signing and ratifying the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (Costa Rica);**

- 138.39. **Strengthen legislations to combat sexual offences against minors (Algeria);**
- 138.40. **Strengthen protection of children’s rights, including the ratification of the Convention on the Rights of the Child, by improving mechanisms and resources for the implementation of existing legislation, and by demonstrating higher conviction rates for crimes against children such as sexual exploitation, child labour, child forced-labour and child trafficking (Canada);**
- 138.41. **Enact comprehensive reforms to address sexual violence and all acts of violence against women, including “honour” crimes, child marriage, female feticide and female infanticide, and to remedy limitations in the definition of rape and the medico forensic procedures adopted for rape cases (Canada);**
- 138.42. **Enact those pending bills that are aimed at empowering women, including the women’s Reservation Bill and the amendments to Panchayati Raj Act (Netherlands);**
- 138.43. **Enact a law on the protection of human rights defenders, with emphasis on those defenders facing greater risks, including those working on minority rights and the rights of scheduled castes and tribes (Czech Republic);**
- 138.44. **Repeal the Armed Forces Special Powers Act or adopt the negotiated amendments to it that would address the accountability of security personnel, the regulation concerning detentions as well as victims’ right to appeal in accordance to international standards (Slovakia);**
- 138.45. **Carry out an annual review of the 1958 Armed Forces Special Powers Act aiming to gradually reduce its geographic scope (France);**
- 138.46. **Effectively implement existing legislation on child labour in line with India’s international obligations and strengthen the judicial powers of the National Commission for Protection of Child Rights (Germany);**
- 138.47. **Take adequate measures to guarantee and monitor the effective implementation of the Prevention of Atrocities Act, providing legal means for an increased protection of vulnerable groups like the Dalit, including the access to legal remedies for affected persons (Germany);**
- 138.48. **Adopt the Prevention of Communal and Targeted Violence Bill addressing issues such as accountability of civil servants, standards of compensation for victims and elements of command responsibilities (Germany);**
- 138.49. **Reconsider laws and bills on religious conversion in several Indian states in the light of freedom of religion or belief in order to avoid the use of vague or broad terminology and discriminatory provisions (Germany);**
- 138.50. **Reconsider current local legislation on freedom of religion, that uses vague or broad terminology and discriminatory provisions, and impedes the possibility for conversion of faith for those who wish to do so (Netherlands);**

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- 138.51. **Continue its efforts to further spread in the country the model of rural growth in the Mahatma Gandhi National Rural Employment Guarantee Act (Greece);**
- 138.52. **Enhance the coordination of both the central and state governments in an effective manner in order to guarantee the smooth implementation of the 2010 Right of Children to Free and Compulsory Education Act (Indonesia);**
- 138.53. **Enact comprehensive anti-discrimination legislation and ensure that there are adequate means of redress (Ireland);**
- 138.54. **Establishment and implementation of a National Human Rights Plan which cover access to education and health, including aspects of sexual and reproductive and health, as well as, concrete measures to eliminate violence against women (Spain);**
- 138.55. **Continue with action to include human rights education in the school curricula (Sri Lanka);**
- 138.56. **Implement the 2011 recommendations of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights to ensure the high standards and independence of India's National Human Rights Institutions (United Kingdom of Great Britain and Northern Ireland);**
- 138.57. **Intensify its efforts and measures to consolidate the state of law and its national mechanisms on human rights (Viet Nam);**
- 138.58. **Further coordination among relevant national authorities and human rights institutions (Egypt);**
- 138.59. **Intensify efforts in providing capacity building and training programmes on human rights for its law enforcement officials as well as judicial and legal officials in the rural areas (Malaysia);**
- 138.60. **Improve training on human rights by addressing law enforcement, especially police officers (Iraq);**
- 138.61. **Set up State and District Commissioners for the Protection of Child Rights in all States and Districts (Ireland);**
- 138.62. **Strengthen the process for ensuring independent and timely investigation mechanisms to address and eliminate corruption; and provide for and facilitate increased accountability and transparency in this process (United States of America);**
- 138.63. **Continue including civil society participation in the UPR process (Nicaragua);**
- 138.64. **A fully integrated gender perspective in the follow up of this UPR (Norway);**
- 138.65. **Implement Treaty Body recommendations and develop a National Action Plan to eliminate all forms of discrimination (Slovenia);**
- 138.66. **Continue cooperating with Special Procedures and accept in particular requests for visits from Special Rapporteurs (Belgium);**
- 138.67. **Adopt the recommendations of the Special Rapporteur on the situation of human rights defenders and the necessary measures to its**

















