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India

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THE INDIA REPORT
UNIVERSAL PERIODIC REVIEW

PREFACE

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

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

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

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

METHODOLOGY

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

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

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

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

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

THE REPORT

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

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

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

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

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

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

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

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

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

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

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

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

- Promotion of international peace and security.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMITMENT TO INTERNATIONAL HUMAN RIGHTS CONVENTIONS

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

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

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

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

RIGHT TO LIFE AND LIBERTY

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

RIGHT TO DEVELOPMENT

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

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

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

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

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

RIGHT TO INFORMATION

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

CIVIL AND POLITICAL RIGHTS

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

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

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

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

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

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

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

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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

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

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

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

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

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

WOMEN'S RIGHTS

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

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

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

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

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

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

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

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

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

RIGHTS OF THE CHILD

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

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

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

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

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

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

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

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

RIGHTS OF OLDER PERSONS

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

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

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

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

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

RIGHTS OF PERSONS WITH DISABILITIES

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

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