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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Periodic reports submitted by States parties
under articles 16 and 17 of the Covenant**

Combined second, third, fourth and fifth periodic report of

INDIA * **

[23 October 2006]

* The initial report (E/1984/6/Add.13) concerning rights covered by articles 6 to 9 of the Covenant, (E/1980/6/Add.34 and E/1980/6/Add.34/Corr.1) concerning rights covered by articles 10 to 12 of the Covenant, (E/1988/5/Add.5) concerning rights covered by articles 13 to 15 of the Covenant submitted by India was considered by the Committee on Economic, Social and Cultural Rights at its fourth session in 1990 (see documents E/C.12/1990/SR. 6, 8, 16, 17, 19, 20 and 24).

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Article 6

Right to Work

1. The right to work and its realization is ensured by the Constitution of India and legislations on labour. Indian Five Years Plans¹ and policies have been framed to make these rights truly meaningful and create such job opportunities etc. The plans and policies are being implemented in a framework of mixed economy supplemented by the policy of liberalization.

2. Unemployment in India increased considerably in the 1980's. In response, a new employment-oriented approach to poverty alleviation and development was undertaken in 1990's by the Government of India which strive a continuing interaction between research, policy analysis and operational activities. Since then, significant progress has been achieved in employment generation and labour productivity.

3. The India's policy on labour promotes the goal of full employment as a basic priority of economic and social policies, and enables all men and women to attain secure and sustainable livelihoods through freely chosen productive employment and work. In addition to the promotion of employment, there is sea change in the recognition of the dynamic value of employability which is being addressed through development of vocational training. The Government of India has undertaken the creation of employment at the centre of strategies and policies, with full respect for worker's rights and with the participation of employers, workers and their respective organisations. It is worth mentioning that such contents of a policy are embodied in the Indian Constitution.

4. Freedom to work and economic security are the greatest concomitants of employment programmes of India. Part III and Part IV of the Indian Constitution embodies right to work.² However, at various international forums, the Government of

¹ Planning in India derives its objectives and social premises from the Directive Principles of State Policy enshrined in the Part IV of the Constitution.

² The Indian Constitution recognizes two varieties of safeguarded rights: Fundamental Rights (Articles 14 to 31) and Directive Principle of State Policy (Articles 39 to 51). The former, which are intended to ensure the inviolability of certain basic rights against state action are justiciable under Article 32 and 226 of the Constitution. The latter, however, though fundamental in the governance of the country are not enforceable in any court and must be progressively realized. In other words, if a Directive is not obeyed, its implementation cannot be secured through judicial proceedings. However, the supreme Court of India by its activist interpretation read those economic and social rights into Justiciable Fundamental Rights. In *Akhil Bhartiya Soshit Karmachari Sangh v. Union of India*, AIR 1981 SC 298 the Supreme Court held that the judiciary should use the Directive Principles as a code of interpretation to help them determine the substance of Fundamental Rights. The latter were effectively to be construed in the light of the former and wherever and whenever possible the former were to be read into the latter. In the light of this judgment, the decision of the Court in *Francis Coralie v. Union Territory of Delhi*, AIR 1981 SC 746 acquires particular significance. The Court held that the Fundamental Right to life which is the most precious human right and which forms the core of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come. Hence, all of the core rights in Directive can legitimately be read into the Fundamental Right to life and therefore it is justiciable by the Supreme Court. In *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 280, the Supreme Court held that the right to life includes right to livelihood because no person can live without the means of livelihood. However, the Supreme Court has held in *Delhi Development Horticulture Employee's Union v. Delhi Administration*, AIR 1992 SC 789, that although broadly interpreted and as a necessary logical corollary, the right to life would

India has shown concern about fiscal stabilization and structural adjustment programs of the International Monetary Fund and the World Bank that have a disparate impact on the right to work. Specifically, labour market deregulations have a bearing on the rights to an adequate means of livelihood (Article 39(a) of the Indian Constitution), work (Article 41 of the Indian Constitution), public assistance and social security (Article 41 of the Indian Constitution), living wages (Article 43) and just and human work conditions (Article 42).

5. The design and implementation of employment programme is not regarded as the exclusive preserve of the Ministry of Labour. Under the Constitution of India, Labour is a subject in the Concurrent List where both the Central and State Governments are competent to enact legislations subject to certain matters being reserved for the Centre. India's effort is influenced by a recognition that employment problems had to be dealt with in the new context of a rapidly globalizing world economy.

6. The Government of India is fully committed to employment promotion. The Government's commitments are reflected in its various plans. The main thrust of Sixth plan (1980-85) was launching of employment programmes like the National Rural Employment Programme, the Rural Landless Employment Guarantee Programme, the Integrated Rural Development Programme, the Scheme for Training of Rural Youth for Self-Employment, Self-employment to Educated Unemployed Youth and so on. The Seventh plan (1985-1990) gave emphasis on the generation of employment in rural areas, the need to improve capacity utilization, efficiency and productivity in urban industries, the rehabilitation of workers in sick units, improvement of industrial relations, increasing industrial safety, an appropriate wage policy with the basic objective of bringing about a rise in the levels of real income with increase in productivity. The Eight Plan (1990-95) also mentioned of increasing productivity. The Ninth and Tenth plans mentioned for implementing measures to identify, liberate and rehabilitate bonded labour, increasing protection for migrant labour and dealing with the problems of child labour. From 1992, the two plans that followed globalization, have made mention of the needs that have arisen as a result of globalization. Till date, the Government of India has appointed two National Commission on Labour, one is in 1966 and second one is in 1999 to review the programmes and plans of Indian Government in the matter of employment and related areas of labour legislations. The first Commission report was submitted in 1969 and the second was submitted by the government in 2002. In the context of 10th Five Year Plan, Six Working Groups on Labour and Employment were formed: (i) Employment Planning and Policy (ii) Skill Development and Training (iii) Labour Laws and other Labour Regulation (iv) Social Security (v) Vulnerable Groups in Labour Force and (vi) Occupational Health and Safety. The reports of these Working Group have identified the areas where more concentration during the plan period is required.

Section - I

7. (a) The ILO Employment Policy Convention, 1964 (No. 122) which deals inter alia with the promotion of full, productive and freely chosen employment. This Convention was ratified by India on 17.11.1998. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) of the ILO has carried out a General Survey on instrument concerning employment and training policies of member countries.

include the right to livelihood and therefore right to work but this country has so far not found it feasible to incorporate the right to livelihood as a fundamental right in the Constitution.

International Labour Conference 92nd Session, 2004 considered the survey reports of the member states at third item on the agenda and was satisfied with the report submitted by India. Annexure III of General Survey (Reports requested and received), name of India figures among the countries in the said annexure who have submitted their reports.

(b) The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which deals with the removal of discrimination in employment and occupation. This Convention was ratified by India on 03.06.1960. Ratification of this Convention which is one of the core conventions of ILO clearly denotes a commitment by India to observe and promote fundamental principles and rights at work. The Global Report of 2000, 2001, 2002, 2003 and 2004 noted that India did not have to submit an annual report. But, India has submitted her individual report in 2003, 1999, 1998, and 1994 and so on. These reports include information on recent relevant judicial decisions and government plans and policies. This report will give further information regarding non-discrimination in employment in India under Section III.

(c) India became a party on International Convention on the Elimination of all Forms of Racial Discrimination by ratification on 3 December, 1968. India have sent 10-14th periodic report that was consolidated in one document which was due on 5 June, 1988, 1990, 92, 94, and 96 respectively. Next periodic report is due from January 4, 1998 which is currently under preparation.

(d) The International Convention on the Elimination of All Forms of Discrimination against Women which deals specifically with elimination of all forms of discrimination against women was signed by India on 30 July 1980 and ratified on 9 July 1993. India has sent initial report on CEDAW in 2000. The combined second and third Periodic Report has been sent to the UN Committee on CEDAW in August, 2005.

Section - II

8. Trends in Employment, Unemployment and Underemployment

As per results of NSS Conducted in 1999-2000 (55th Round)³

Total Labour force as on 1.1. 2000	406 million
Total employed labour forces as on 1.1. 2000	397 millions

³ The National Sample Survey Organisation (NSSO) is an organisation under the Central Statistical Organisation. The NSSO collects data on different parameters of employment and unemployment through its quinquennial surveys since 1972-73. So far it has conducted six surveys. Last two surveys were conducted during 50th round (July, 1993-June 1994) and 55th round (July 1999-June 2000). The NSSO has adopted the same definition of work as that of ILO except work related to processing of primary commodities for home consumption. In addition to NSSO, the Census Commissioner of India and Office of the Registrar General of India conducts population census following ILO definition of economic activity every ten years. The data collected under the Census on Workers are collected mainly for male workers including cultivators and agricultural labourers, migrant workers by age, sex, educational and economic level and for female workers by marital status and sector of employment, etc. The Labour Departments of the State Governments also do generate lot of data in respect of labour matters. The data relating to manufacturing establishments under the Factories Act, labour disputes, strikes, lock-out, wage agreements etc. are all available with the State Governments. At local level, the District Administrations are also generate data regarding industrial profile, nature and types of industries, workers both in organized and unorganized sector, unemployment etc.

Growth of labour force during 1994-2000	1.03%
Growth of employment (1994-2000)	0.98%
Fully unemployed as on 1.1. 2000	9 million

9. As per the results of the National Sample Survey conducted in 1999-2000, total work force as on 1.1.2000, as per Usual Status approach (considering both principal subsidiary activities) was of the order of 406 million. About 7% of the total work force is employed in the formal or organized sector (all public sector establishments and private sector with 10 or more workers) while remaining 93% work in the informal or unorganized sector. Since independence, the Government of India feels that the capacity of the organized sector to absorb additional accretion to the labour force, taking into account the current accent on modernization and automation, is limited. Plans and policies of Government of India emphasize that an overwhelming proportion of the increase in the labour force will have to be absorbed in the unorganized sector. About 373 million workers are placed today in unorganized/informal sector in India; agriculture workers account for the majority of this work force.

Employment

10. In this sub-section, the level and trends of employment (workforce) are outlined. During the past fifty years, India has made rapid strides to the employment growth. A marked acceleration in employment growth is noted in Indian manufacturing in the post reform period. Table 6.1 shows that the rate of growth of employment declined sharply from 2.43% per year in the period 1987-88 to 1993-94 to a mere 0.98% per year in the period 1993-94 to 1999-2000. The decline in the overall growth rate of employment in 1994-2000 was largely attributed to a near stagnation of employment in agriculture.

Table 6.1 - Rate of Growth of Population, Labour Force and Employment

Period	Rate of growth of population (% per annum)	Rate of growth of Labour force (% per annum)	Rate of growth of Employment (% per annum)	Average annual growth rate of GNP (% per annum)
1972-73 to 1977-78	2.27	2.94	2.73	4.02
1977-78 to 1983	2.19	2.04	2.17	3.90
1983 to 1987-88	2.14	1.74	1.54	4.80
1987-88 to 1993-94	2.10	2.29	2.43	5.25
1993-94 to 1999-2000	1.93	1.03	0.98	6.60

Source: Table 12.2 of Second Labour Commission Report, p. 1307

11. Employment in the country increased at the rate of 2.07% per annum during 2000-02 (July-December) as compared to 1.07% per annum during 1994-2000. Stating these impressive achievements, the Economic Survey for 2003-2004 says that during 2000-02

employment, on an average, increased by 8.4 million per year as against the target of creating 10 million employment opportunities per year during the 10th plan.

12. The oldest group (i.e. age group 60 and above) accounted for about 5 percent of the usually employed in urban areas. However, in rural areas, about 9 percent of usually employed males belonged to this group.

13. The number of disabled persons in the country was estimated to be 18.49 million during July to December, 2002. They formed about 1.8 percent of the total population. The rate for males was 2.12 and 1.67 percent while that for females was 1.56 and 1.31 percent in rural and urban India, respectively. About 55 per-cent of the disabled in India were illiterate and about 9 per-cent completed 'secondary and above' level of education. Out of 1000 disabled persons, only 15 to 35 completed any vocational course and of them, 74 to 80 percent in non-engineering stream. Table 6.2 shows about 26 per-cent of the disabled persons were employed. The corresponding figures in rural and urban India were 26 and 24 percent, respectively. Moreover, the proportion of employed among the disabled males was much higher than among the disabled females in both rural and urban areas. In fact, the proportion among the disabled males was 35 to 37 percent and that among the disabled females was 9 to 11 per-cent. The percentage of disabled persons seeking and/or available for work was higher in the urban areas (1.2) as compared to that in the rural areas (0.6).

Table 6.2 : Per 1000 distribution of disabled persons by broad usual activity for each sex and sector

All India

Type of disability	Rural			Urban			Rural + urban		
	Employed	Unemployed	Out of labour force	Employed	Unemployed	Out of labour force	Employed	Unemployed	Out of labour force
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Mental retardation	89	0	911	58	1	941	81	1	919
Mental illness	199	2	799	99	4	897	176	2	821
With blindness	139	4	857	193	5	802	149	4	847
With low vision	339	5	655	291	7	702	331	6	663
Hearing	530	4	466	347	17	635	492	6	501
Speech	391	7	602	249	16	734	356	9	635
Locomotor	387	11	602	404	22	574	391	14	595
All disabled	369	8	622	347	18	635	364	11	625
Female									
Mental retardation	20	0	980	5	1	994	16	0	984
Mental illness	59	0	941	15	0	985	49	0	951

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Rural							
15-19	65 (47)	55 (33)	91 (56)	131 (90)	31 (33)	32 (19)	91 (51)	128 (83)
20-24	62 (67)	52 (49)	79 (72)	117 (103)	49 (45)	35 (28)	82 (59)	121 (82)
25-29	32 (32)	26 (23)	56 (44)	92 (77)	24 (19)	16 (9)	40 (35)	77 (65)
15-29	51 (48)	43 (35)	73 (58)	111 (90)	37 (32)	27 (19)	68 (48)	106 (76)
	Urban							
15-19	154 (134)	142 (119)	162 (134)	190 (162)	155 (168)	132 (128)	153 (157)	180 (186)
20-24	139 (139)	128 (126)	146 (146)	171 (170)	226 (277)	194 (217)	231 (258)	259 (285)
25-29	75 (67)	72 (57)	85 (73)	103 (93)	115 (129)	93 (97)	111 (129)	131 (155)
15-29	115 (108)	108 (96)	124 (114)	147 (137)	166 (194)	139 (150)	166 (185)	191 (212)
Note	The figures in parentheses give the corresponding rates for NSS 50 th round (1993-94).							

Source: Table 7.5 of NSS Report Part-I, p. 134.

15. In India, persons aged 15-29 years, who are considered as the youth, accounted for 25 to 29 per-cent of the total population. Table 6.4 gives the unemployment rates (per 1000) among the youth for each sex at the all-India level. Unemployment rate was much higher among the youth as compared to that in the overall population. The rate was higher for the urban youth than that for the rural youth. Further, compared to the female youth, the unemployment rate for the male youth was higher in rural India but lower in urban India.

Table 6.5 : Unemployment rates (usual principal status) for the educated during 1993-94 and 1999-2000				
All India				
Sector and Round	Secondary and above		Graduate and above	
	Male	Female	Male	Female
(1)	(2)	(3)	(4)	(5)
Rural				
50 th round	89	243	134	323
55 th round	69	204	107	351
Urban				
50 th round	69	207	64	205
55 th round	66	163	6	163

Underemployment

16. Underemployment can be divided into two parts: visible underemployment and invisible underemployment. Visible underemployment considers those who report themselves be available for work in respect to a shorter reference period, say, a week or each day of the week. On the other hand, some employed persons, particularly the self-employed, may appear to work throughout the year, but in terms of productivity or income, the work they are pursuing may not be sufficient for them. They may, therefore, want additional and/or alternative work in order to supplement their income. Such underemployment is termed as invisible underemployment and therefore, not directly measurable.

17. In India, as per the NSSO, underemployment is measured by the current weekly status for the current daily status. At the aggregate level, Table 6.6 shows that the underemployment rate declined gradually during the period 1987-88 to 1999-2000 for females, the decline being less between the period 1993-94 and 1999-2000. For males however, the rate remained almost the same between 1993-94 and 1999-2000, after having declined between 1987-88 and 1993-94. This problem of underemployment is seen to be more serious among usually employed females than among employed males and more in rural than in urban areas. During 1999-2000, the underemployment among usually employed females was 17 per-cent in rural India and 10 percent in urban India. The corresponding percentages for usually employed males were 4 and 2 only. Most of the usually employed females who were currently not working had withdrawn from the labour force and did not report themselves as currently unemployed.

Table 6.6: Per 1000 distribution of usually employed [Principal and subsidiary status taken together] by their broad current weekly status

All-India

Current weekly status	Rural						Urban					
	Male			Female			Male			Female		
	1999-00	1993-94	1987-88	1999-00	1993-94	1987-88	1999-00	1993-94	1987-88	1999-00	1993-04	1987-88
1	2	3	4	5	6	7	8	9	10	11	12	13
Employed	956	957	931	832	807	675	977	976	967	900	884	768
Unemployed	22	15	23	21	14	8	11	11	17	9	9	17
Not in labour force	22	28	46	148	179	317	12	12	16	91	17	215
All	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000

Source: Table 8.1 of NSS Report No. 458, Part-I, p. 154.

18. The incidence of underemployment, however, varies between categories of workers. Table 6.7 shows that proportion of number of usually employed who did not work more or less regularly throughout the year 1000 employed by usual principal status at the all-India level was higher in rural areas than in urban areas and higher among

females than among males. Further, among the various categories of employed the proportion was the highest for casual labourers.

Table 6.7 Number of employed persons who did not work more or less regularly throughout the year per 1000 employed persons in the usual principal status

All-India

Broad usual principal status	Rural		Urban	
	Male	Female	Male	Female
[1]	[2]	[3]	[4]	[5]
Self-employed in Agriculture	79	82	66	80
	61	64	52	80
Non-agriculture	55	48	35	54
	31	51	37	40
Regular wage/salaried in Agriculture	170	200	152	232
	158	177	164	156
Casual labour in Public Work	105	133	65	89
Others				
All				

Source: Table 8.4 of NSS Report, Part I, p. 157

Section – III

Freedom of Choice of Employment and Non-discrimination in Employment

19. The objective of free choice of employment in India has been addressed by invoking two measures: provisions ensuring the absence of any form of compulsion to undertake work that one has not freely chosen, and the opportunity to acquire training and access to a suitable job without discrimination. The absence of any form of compulsion to undertake work is ensured by Article 16(4), 19(1)(g), 21, 23, 24, and 309-312 of the Constitution of India⁴ and implemented by the various domestic laws. However, these

⁴ Article 19(1)(g) of Indian Constitution guarantees that all citizens shall have the right “to practice any profession, or to carry on any occupation, trade or business”. Following cases in which the Supreme Court of India overruled various government restrictions on the ground that they violate of Article 19(1)(g). [*Chintamon Rao v. State of M. P.*, AIR 1988 SC 588; *Dwarka Prasad v. State of UP*, AIR 1954 SC 224; *Oudh Sugar Mills Ltd. v. Union of India*, AIR 1970 SC 1070; *R. H. Hegde v. Market Committee Sirsi*, AIR 1971 SC 1017]. In *Excel Wear v. Union of India*, (1978 4 SCC 224) the Supreme Court have analysed the relationship between the Section 25 ‘N’ and ‘O’ under chapter IV(B) of Industrial Disputes Act

provisions do not restrict Parliament and State Legislatures to regulate the recruitment and conditions of service of the persons appointed to public services and posts under the Union and the States, respectively.

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

21. In view of the prevailing social reality, there are sections of Indian society which are comparatively weaker than others—economically, socially and culturally. To promote and to ameliorate the conditions of the depressed and backward classes, the constitution contains a liberal scheme of measures in favour of Minorities, Backward Classes and Scheduled Castes. Article 16(3) is an exception to clause 2 of this Article. Article 16(3) empowers the state to reserve certain posts for their own residents. Thus, this Article empowers Parliament to regulate by law the extent to which it would be permissible for a State to depart from the above principle. In exercise of powers conferred by Article 16(3), Parliament has passed the Public Employment (Requirement as to Residence) Act, 1957. It provides that no one will be disqualified on the ground that one is not the resident of a particular State. However, the Act makes an exception for employment in Himachal Pradesh, Manipur, Tripura and Telangana.⁵

22. Clauses (4) and (4-A) of Article 16 of the Constitution of India enable the State to make provision for the reservation of posts in government jobs in favour of any backward class of citizens and for reservation in matters of promotions for SC and STs which, in opinion the State, is not adequately represented in the services of the State. Following this, on August 13, 1990 the Government of India issued the Office Memoranda (called O.M.) reserving 27 per-cent seats for backward classes in Government services on the basis of the Mandal Commission. This order of the Government of India brought the Nation into a debate concerning reservation policy of India. A writ petition on behalf of the Supreme Court Bar Association was filed challenging the validity of O.M. The scope and extent of Article 16(4) has been examined in the historic case of *Indra Sawheny v. Union of India*, AIR 1993 SC 477; popularly known as the Mandal case. The Court has upheld the reservation policy of Government of India in the interest of strengthening the social justice concepts embodied in the constitution. Earlier also in *Valsamma Paul v. Cochin University*, AIR 1996 SC 1010; *Jagdish Negi v. State of Uttar Pradesh*, AIR 1997 SC 3305 the court had considered the reservation policy of the Government. These cases have laid down a workable and reasonable solution to the reservation problem. Article 16(5) is the third exception to the general rule laid down in 16(1) and (2). Article 16(5) says that a law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall

(retrenchment and closure). It was held that right to close down the business is an integral part of the right to carry on business. In *Meenaski Mills Ltd. v. Workmen* (1992) 3 SCC 336 the court has balanced the two opposite rights and held that right of freedom to close business is not absolute but is subject to reasonableness in public interests and therefore the right to close business is subject to reasonable restrictions. Thus Article 19(6) empowers the legislature to impose restrictions on the right of employers to retrench his employees and right to close the business.

⁵ This exception was made for a period of five years because of the backwardness of these areas. In *Narshimha Rao v. State of A. P.*, AIR 1970 SC 422, the Supreme Court declared part of the Act unconstitutional which prescribes 'residence' as a qualification for Government services in Telangana area of the State of Andhra Pradesh.

be a person professing a particular religion or belonging to a particular Denomination shall not be treated to be repugnant to this Article.

23. The female workers in their workplace have for generations been subjected to varying degrees of exploitation. As a commitment to secure better working conditions for male workers, the Government has initiated a number of steps in this direction to give effect to the constitutional mandates of equality before law and equal protection of law and that there shall be no discrimination on the basis of sex. Guidelines for the prevention of sexual harassment of women employees in their work places have been laid down by the Supreme Court of India in *Vishaka* case.⁶ *Apparel Export Promotion, Council v. A. K. Chopra, AIR 1999 SC 625*, is the first case in which the Supreme Court applied the guidelines laid down in the case of *Vishaka v. State of Rajasthan* and uphold the dismissal from service of a superior officer of the Delhi based Apparel Export Promotion Council who was found guilty of sexual harassment of a subordinate female employee at the place of work on the ground that it violated her fundamental right guaranteed by Article 21 of the Constitution.⁷

24. Besides, the Industrial Employment (Standing Orders) Central Rules has been amended to make the guidelines applicable to employees in the private sector. A grant-in-aid scheme for the welfare of women labour for awareness generation and skill training implemented through voluntary organisations. With a view to having a more focused approach on the subject in the 10th plan, an enhanced outlay of Rs. 22.5 million has been

⁶ In a landmark judgment in *Vishaka v. State of Rajasthan, AIR 1997 SC 3014*, the Supreme Court has laid down exhaustive guidelines to prevent sexual harassment of working women in places of their work until legislation is enacted for this purpose. The petition was filed by a social worker by way of public interest litigation for the enforcement of rights of working women under Articles 14, 19 and 21 of the Constitution and in finding suitable methods for realization of the true concept of 'gender equality'. The Court has laid down the following guidelines:-

(1) All employers or persons incharge of work place in the public and private sector, should take appropriate steps to prevent sexual harassment without prejudice to the generality of his obligation of his obligation he should take the following steps:-

(a) Express prohibition of sexual harassment, which include physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornographic or any other unwelcome physical, verbal or non-verbal conduct of sexual nature should be noticed, published and circulated in appropriate ways.

(b) The rule and regulation of government and public sector bodies relating to conduct and discipline should include rules prohibiting sexual harassment and provide for appropriate penalties against the offender.

© As regard to private employees, the above prohibitions should be included in the Standing Order under the Indian Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health, and hygiene to further ensure that there is no hostile environment towards women at work place and no employee women should have reasonable ground to believe that she is disadvantaged in connection with her employment.

(2) Where such conduct amounts to specific offences, under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law making a complaint with appropriate authority.

(3) The victims of sexual harassment should have option to seek transfer of the perpetrator or their own transfer.

⁷ The Court said that each attempt of sexual harassment of female at the place of work results in violation of the fundamental right to Gender Equality in Article 14 and the Right to life and liberty in Article 21 of the Constitution. It is noteworthy that India is a party to the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 which directs all states parties to take appropriate measures to prevent discrimination of all forms against women besides taking steps to protect the honour and dignity of women.

earmarked for the scheme. A bill to prevent sexual harassment at work place is also being drafted.

25. Article 23-24 of the Indian Constitution deal with right against exploitation. Article 23 of the Constitution prohibits traffic in human being and 'begar' and *other similar forms of forced labour*. *Begar* means to compel a person to work against his will. It makes no difference whether the person who is forced to give his labour or service to another is paid remuneration or not. Any contravention of this provision shall be an offence punishable in accordance with law. In this respect, Union of India enacted the Bonded Labour System (Abolition) Act, 1976 and Contract Labour (Regulation and Abolition) Act, 1970 and amended in 1985, Migrant Workmen (Regulation and Abolition) Act, 1979 and Child Labour (Prohibition and Regulation) Act, 1986 with a view to prevent the economic and physical exploitation of the weaker sections of the people. Our Supreme Court deserves appreciation in this matter for playing an important role to make the right to live with human dignity a living reality for millions of Indians. It also protected them from exploitation through Public Interest Litigations.⁸

26. Since the operation of a Centrally Sponsored Scheme in May, 1978, under which the State Governments are provided Central assistance on matching grants (50:50) basis till 31.3.2003 as many as 2,82,970 bonded labourers have been identified, out of which 2,62,952 have been rehabilitated and a sum of Rs. 650.76 million has been released as Central assistance to various State Governments/Union Territories for their rehabilitation during the above period. This is in addition to Rs. 33.2 million which had been provided to these State Governments for conducting District-wise survey of bonded labour, awareness generation and evaluatory studies during the above period.

27. Various State laws make it an offence to compel a person to work against his will or without payment of wages to do any work. For instance Section 3 of the U. P. Removal of Social Disabilities Act, 1947, provides that "no person shall refuse to render to any person merely on the ground that he belongs to a Schedule Caste, any services which such person already renders to other Hindus on the terms on which such service is rendered in the ordinary course of business". A person contravening provisions of this Act is liable to be punished with imprisonment and fine.

Conditions of Services

28. The Government of India took various steps to prevent encroachment on the political and economic right of persons to employment conditions. Article 309 of the Constitution of India provides for regulating recruitment and conditions of service of persons appointed to public services in connection with the affairs of the Union of India and the States. Article 310 of the Constitution incorporates the common law doctrine of pleasure.⁹ But this article is limited by Article 311(2). The services of permanent Government servant cannot be terminated except in accordance with rules made under

⁸ *PUDR v. Union of India*, AIR 1982 SC 1473; *Sanjit Roy v. State of Rajasthan*, AIR 1983 SC 328; *Labour-worker on Salal Hydro Project v. State of J&K*, AIR 1984 SC 177; *Bandhu Mukti Morcha v. Union of India*, AIR 1984 SC 1099; *Neerja Chaudhary v. State of M. P.*, AIR 1984 SC 1099; *Gaurav Jain v. Union of India*, AIR 1990 SC 292.

⁹ It expressly provides that all persons who are members of the Defence Services or the Civil Services of the Union or of All-India Services hold office during the pleasure of the President. Similarly, members of the State Services hold office during the pleasure of the Governor.

Article 309, subject to the procedure in Article 311(2) of the Constitution and fundamental rights.¹⁰ However, the protection of Article 311(2) for giving 'reasonable opportunity' is not available where action was taken in the interest of the security of state.

29. Section 9A of the Industrial Disputes Act, 1947 says no employer can change the condition of services of any workman without giving a twenty days prior notice.¹¹

30. Article 21 of the Constitution of India says that no person can be deprived of his right to livelihood except according to procedure established by law. India labour laws requires that a person must be medically fit before he is employed or is allowed to be continued in employment is, obviously, with the object of ensuring that the person is capable of or continues to be capable performing his normal job requirements and that he does not pose a threat or health hazard to the persons or property at the workplace. But inclusion of the said class (that a workmen suffering from disease like viz., AIDS etc.) among the cases of exclusion from employment is obviously arbitrary and unreasonable (*MX of Bombay Indian Inhabitant v. M/s ZY and Another*, AIR 1997 Bombay 406). It was held that workmen on merely this ground does not cease to be capable of performing the normal job functions and does not pose threat to other workers at workplace.

31. Part III and Part IV of the Indian Constitution guarantees the fundamental political and economic freedoms of the individual. The guarantees is restricted by the constitution itself by conferring upon the State a power to impose by law reasonable restrictions as may be necessary in the larger interest of community. Other than above-said prescribed restriction or condition on the enjoyment of the fundamental political and economic freedom of individual is invalid. Moreover, it is protected by a set of labour legislations which guarantee freedom of association and the right to collective bargaining in all enterprises, irrespective of size.

Technical and Vocational Programmes

32. The second measure to provide freedom of choice of employment is through training and access to a suitable job without discrimination resorted to by Government of India as an integral part of Five Year Plans and policies. The second and the third Five-Year Plans, which were designed to create a strong industrial base, emphasized the need for expansion of training facilities. Vocational training in institutes became the principal means of turning out skilled workers. However, even with such expansion the Government

¹⁰ Article 311(1) says that no persons holding a civil post under the Union or the States shall be dismissed, or removed by authority subordinate to that by which he was appointed. Clause 2 of the same article says that no such person shall be "dismissed" or "removed" or "reduced" in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

¹¹ In one instances, the management terminated an agreement of payment of a fixed amount every month in lieu of bonus, it was held to be violative of the provision of Section 9A. Section 33(1) of Industrial Disputes Act says that if an employer wants to change the conditions of service in regard to a matter connected with a pending dispute or to take any action against an employee on the ground of an alleged misconduct connected with the pending dispute, he cannot do so unless he obtains previous permission in writing of the appropriate authority. Thus, as a policy instrument, the Disputes Act is most significant for the severe restriction it places on the ability of employers to change conditions of service with regard to setting wages (Section 9A), laying off [Section 25(C)] or retrenching employees [Section 25(FF)], and to closing businesses [Section 9(A)(j)]. It requires employers to pay fifty per-cent of basic wage and dearness allowance to the workmen during period of "lay-off". If an employer wishes to retrench workers or close his firm, the Act requires him to obtain government permission to proceed. In practice, such authorization is rarely given.

could undertake, traditional methods of imparting training had to be continued for many sectors of the economy.

33. Since 1948, the scope of the Directorate General of Employment and Training DGE&T is to cover employment service to all categories of job-seekers and training services to all civilians including workers seeking re-employment.¹² The Directorate General of Employment and Training and its subordinate offices have in their roll 2766 employees, out of which 312 are Group A officers, 312 Group B officers, 1376 Group C employees and 677 Group D employees. Moreover, the laws of this land strengthened the training programme by the enactment of Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 and Rules made thereof and Apprentices Act, 1961 and Rules made thereof. Further, it was consolidated by the establishment of Non Statutory Bodies and Bodies set up under the provision of the Act [Working Group on National Employment Service, Central Apprenticeship Council (CAC) and National Council for Vocational Training (NCVT)].

Infrastructure available for Vocational Training

With State Government

34. Today India has 4647 Industrial Training Institutes (ITI). Out of this, 1795 are in Government sector and remaining 2849 are in private sector and remaining 2849 are in private sector with a total seating capacity of 0.6 million (0.4 million seats are in Government it is and remaining 0.3 million in private ITIs.

35. Each State Government has a Directorate of Technical Training/Directorate of Technical Training/Directorate of Employment and Training mostly located in the State capital which is responsible for implementation of training programmes run by the ITIs, and for implementation of the provisions of Apprentices Act in respect of State Government and private establishments.

Central Government

36. Six Advanced Training Institute at Kolkata, Chennai, Kanpur, Hyderabad, Ludhiana and Mumbai; Central Training Institute for Instructors; Chennai, Two Advanced Training Institutes for Electronics and Process Instrumentation at Hyderabad and Dehradun; Central Staff Training and Research Institute, Kolkata; Six Regional Directorates of Apprenticeship Training at Mumbai, Kanpur, Kolkata, Chennai, Hyderabad and Faridabad; National Vocational Training Institute for Women, Noida (UP); Ten Regional Vocational Training Institutes for Women at Mumbai, Bangalore, Thiruvananthapuram, Hissar, Kolkata, Tura, Indore, Allahabad, Vadodara and Jaipur; Two Foreman Training Institute at Banagalore and Jameshedpur; Four Model Industrial

¹² The Ministry has four attached offices and ten subordinate offices, four autonomous organizations, seventeen adjudicating bodies and one arbitration body. Attached Offices: Directorate General of Employment and Training (DGE&T), Office of the Chief Labour Commissioner (Central), Directorate General of Factory Advice Service and Labour Institutes (DGFASLI), Labour Bureau; Subordinate Offices: Directorate General of Mines Safety (DGMS), Welfare Commissioners; Autonomous Organisation: Employees' State Insurance Corporation (ESIC), Employee's Provident Fund Organisation (EPFO), V. V. Giri National Labour Institute, Central Board for Workers' Education; Adjudicating Bodies: Central Government Industrial Tribunals-cum-Labour Courts (CGITs); Arbitration Body: Board of Arbitration (Joint Consultative Meeting).

Training Institutes at Haldwani (UP), Khozikade (Kerala), Chowdwar (Orissa) and Jodhpur (Rajasthan); Central Instructional Media Institute, Chennai; Apex Hi-tech Institute, Bangalore; Directorate of Training in New Delhi

37. Table 6.8 shows the actual situation regarding vocational guidance and training of persons according to their sex, groups and religion.

Apprenticeship Training scheme

Table 6.8 Training Statistics of Graduate, Technician & Technician (Vocational) Apprentices

S.No.		Central Sector	State/Private Sector	Technician (Vocational)	Total
1	No. of seats located	20420	39004	19895	79319
2	No. of seats utilized	6084	22837	4893	33814?
3	% utilisation of seats	30%	59%	25%	43%?
4	Minorities/Weaker section (out of seats utilised)				
	A Scheduled Castes (SC)	486 8%	1745 8%	95 2%	2346 7%
	B Scheduled Tribes (ST)	49 (1%)	264 (1%)	11 (0.37%)	324 (1%)
	C Minorities	243 4%	1085 5%	146 3%	1474 4%
	D Physically Handicapped	10 0.16%	37 0.14%	4 0.11%	51 0.14%
	E Women	739 12%	3061 13%	2224 45%	6024 18%

Source: Table 7.14 of Annual Report of Ministry of Labour, p. 254.

38. In the context Liberalisation and globalization, the need for high quality skilled workforce has gained prominence in Indian plans and policies. With each successive Five Year Plan there has been considerable expansion of the activities of the Employment Service and Training Service in the Centre and the States. The policy/programme initiatives taken/proposed to be taken in these areas are as follows:-

- (i) Testing and Certification of Skills: It is proposed to develop mechanism for testing for their skill and certificate issued on behalf of National Council of Vocational Training, since this has recognition worldwide.
- (ii) Tie-up with Apex Organisations/ NGOs for training of trainers and trainees in the highly specialized areas: Tie-up between the National Vocational Training Institutes for Women, 10 Regional Vocational Training Institutes for Women and Apex Organisations/NGOs for training of trainers and trainees in the highly specialized area has been established with ILO assistance.

- (iii) World Bank Project: Phase-I of the World Bank assisted project has been completed successfully. It is proposed to go in for Phase-II of the World Bank Project for Vocational training. A project proposal has been submitted to the Planning Commission for seeking World Bank assistance.
- (iv) Formation of Institute Managing Committees: Institute Managing Committees (IMCs), consisting of representatives of industry and industrial associations, technical experts, concerned officials of Central and State Governments are being formed in the State Industrial Training Institutes (ITIs). As many as 189 ITIs have already constituted IMCs granting partial autonomy which has given encouraging results.
- (v) Introduction of New Trades under Craftsmen Training Scheme (CTS) and Apprenticeship Training Scheme (ATS) to align Vocational Training with market demand: During 2002-03 30 trades under CTS and 3 new trades to ICT sector have been identified, where changes are required in course curriculum.
- (vi) DGE&T and the Ministry of Communication and Information Technology (MIT) have formed partnership to introduce a new trade 'Information Technology and Electronic System Maintenance' in 100 ITIs to meet the growing demand of technicians in the IT sector.

39. A Study Group of 2nd National Commission on Labour reviewed the available vocational training in India in the backdrop of training system of various countries. In order to meet the objectives required in the new approach, the Study Group has recommended a modular approach to training in manufacturing and service sector. Such an approach will cater to the diverse vocation needs and workplace requirement. The Study Group has also recommended setting up of a competency based continuing training system covering all sectors of the economy. In order to make the infrastructure more productive and efficient, a national level certification for different trades/skills is recommended. The 2nd National Commission on Labour, therefore, recommended an independent regulatory authority constituted by the Government, whose functions shall include setting standards for skills required for a particular competency, standards for programme implementation and standards for accreditation of institutions imparting training programmes for skill development. These recommendations are under consideration of the Government of India.

Section - IV

Policies and Measures taken with a view to ensuring that there is work

40. Labour force was projected to increase by about 35 million during Eight Five Year's plan period (1992-97) and by another 36 million during the Ninth Plan 1999-2002. Considering the backlog of unemployment of 17 million at the beginning of Eighth Plan the total number of persons requiring employment was estimated at 54 million during 1992-97 and 94 million during 1999-2002. Employment growth was seen the result primarily from the growth of the economy and restructuring of output composition of growth.

41. The projected growth rate of employment was 2.44% in the Ninth Plan. The Ninth Plan envisaged a reduction in the unemployment rate from an average of 1.87% in the Eight Plan to an average unemployment rate of 1.66% in the Ninth Plan as per Usual Status. Ninth plan accorded priority to agriculture and rural development with a view to

generating adequate productive employment and eradication of poverty. Productive employment is an important dimension of the state policy that seeks to achieve growth with equity.

42. Ministry of Labour had an approved Plan Outlay of Rs. 4574 million for the 8th Plan (1992-97). The anticipated expenditure during the 8th Plan (1992-97) was Rs. 3344 million. The approved Plan outlay for 9th Five Year Plan (1997-2002) of the Ministry of Labour was 7921.2 million against which actual expenditure incurred is Rs. 5165.6 million. 10th Five Year Plan (2002-2007) outlay of the Ministry has been approved at substantial higher level of Rs. 15000 million which is nearly 90% higher than that for the 9th plan.

43. Anti-poverty strategy of Government of India comprises of a wide range of poverty alleviation and employment generation programmes, many of which have been in operation for several years and have been strengthened to generate more employment, create productive assets, impart technical and entrepreneurial skill and raise the income level of the poor. Under these schemes, both wage employment and self-employment are provided to people below the poverty line. At present, various poverty alleviation and employment generation programmes are grouped under two broad categories of Self-Employment Scheme and Wage Employment Schemes. Funding and organizational patterns are also rationalized to achieve better impact.

44. There has been significant growth in employment over the years. However, relatively higher growth of population and labour force has resulted in the increase of unemployment rate Plan after Plan. Successive plans, strategies, policies and programmes were designed to bring about a special focus on employment generation as a specific objective. Policies, standards and procedures for the National Employment Service are laid down by the Central Government in consultation with State Governments. A Working Group on National Employment Service comprising representatives of the Central and State governments facilitates this consultative process. The last meeting of the working Group was held at New Delhi on 24th June, 2002. The Working Group made several recommendations to make the Employment Service more proactive and also to meet the Labour Market Information system conducive to the requirements in the changed market scenario.

45. National Employment Service covers all the States and Union Territories except Sikkim and functions within the framework of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.¹³ The Act applies to all establishments in the Public Sector and such establishments in the Public Sector as are engaged in non-agricultural activities and employing 25 or more workers. Day to day administration of the Employment Exchanges is with the State/UT Governments. It has a network of 939 Employment Exchanges as on 31-8-2002. The main activities of the Employment Exchanges are registration, placement of job seekers, career counseling, vocational guidance and collection of labour market information.

Special Poverty Alleviation Programme/Schemes

¹³ The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 provides for compulsory notification of vacancies and submission of employment returns (ER-I and ER-II) by employers to the Employment Exchanges.

46. The Government has adopted a three-pronged strategy for reducing poverty. They are:-

(i) acceleration of economic growth with a focus on sectors which are employment intensive;

(ii) human and social development through provision of basic minimum services; and

(iii) targeted anti poverty programmes. The details of the Schemes/programmes made and being implemented by the Union Government in the country to eliminate poverty are as follows:-

a) In rural areas the programmes which are being implemented by the Ministry of Rural Development for upliftment of BPL families are:-

(i) Sampoorna Grameen Rozgar Yojana (SGRY),

(ii) Swarnjayanti Gram Swarozgar Yojana (SGSY),

(iii) Indira Awas Yojana(IAY),

(iv) National Food for Works Programme (NFFWP) and

(v) National Rural Employment Guarantee Act.

b) In urban areas, with a view to ameliorate the living conditions of the urban poor, and to reduce the urban poverty in the country, Ministry of Urban Employment & Poverty Alleviation is implementing an employment oriented urban poverty alleviation programme namely, Swarna Jayanti Shahari Rozgar Yojana (SJSRY) on all India basis w.e.f. 1.12.1997. This programme seeks to provide gainful employment to the urban unemployed or underemployed poor through setting up of micro enterprises and also through provision of Wage Employment by utilizing their labour for construction of useful public assets. There is another programme called `Valmiki Ambedkar Awas Yojana` (VAMBAY) which was introduced in 2001-02 to meet the long-standing gap in programmes for slum-dwellers, viz. provision of a shelter or upgrading the existing shelter of people living below the poverty line in urban slums. National Slum Development Programme (NSDP) is meant for providing shelter and environmental upgradation for the urban slum dwellers.

47. In addition to these, the Public Distribution System in India has been more focused and targeted towards the very poor category. The `Antyodaya Anna Yojana` provides 35 kgs of food-grains to the poorest of the poor families at a highly subsidized rate of Rs. 2 per kg., for wheat and Rs. 3 per kg., for rice. Recently, the coverage of Antyodaya Anna Yojana has been expanded from 20 million (BPL) families to 25 million families in 2005. The State Governments have been advised to give priority to the households from the poorest and the backward blocks and/or where nutritional deficiency is more widespread, while identifying the beneficiaries.

Rural Poverty Alleviation Programmes / Schemes

(i) Swarnjayanti Gram Awarozgar Yojana (SGSY)

48. The Swarnjayanti Gram Swarozgar Yojana (SGSY) is an integrated programme for self-employment of the rural poor launched on 1 April 1999 following the restructuring of the erstwhile Integrated Rural Development Programme (IRDP) and allied schemes. The objective of the SGSY is to bring the assisted poor families (Swarozgaris) above the poverty line by organising them into self-help groups (SHGs), training them and helping

them in capacity building and provision of income generating assets through bank credit and government subsidy. Other important components of the programme are: development of infrastructure, establishment of marketing linkages and providing technological support. The programme has in-built safeguards for the weaker sections with 50 per cent benefits reserved for scheduled castes/scheduled tribes (SC/ST). In addition, 50 per cent of the groups formed in each block are expected to be exclusively for women who will account for at least 40 per cent of the Swarozgaris.

(ii) National Rural Employment Guarantee Act (NREGA)

49. The Government has enacted National Rural Employment Guarantee Act (NREGA) in September, 2005. The Act guarantees 100 days of employment in a financial year to any rural household whose adult members are willing to do unskilled manual work. The Act will be applicable to areas notified by the Central Government and will cover the whole country within five years. In the first phase, the NREGA has been launched on 2nd February, 2006 in 200 districts across the country, out of which 150 are those where National Food For Work Programme (NFFWP) was in existence and 50 other Districts have been identified.

50. The National Rural Employment Guarantee Act aims to enhance the livelihood security of the people in rural areas by generating wage employment through works that develop the infrastructure base of that area. The choice of works suggested addresses causes of chronic poverty like drought, deforestation, soil erosion. The Act envisages a collaborative partnership between the Centre and State Governments, the Panchayats and the local community. The Panchayats at each level are the "Principal Authorities for Planning, Implementation and Monitoring of the Act". Gram Panchayat is responsible for planning, registering, issuing Job Cards to beneficiaries, allocating employment and monitoring of works. Detailed provisions for planning, monitoring and evaluation, transparency, public accountability, social audit and convergence with other social sector programmes have been incorporated in the operational guidelines for NREGA.

(iii) Sampoorna Grameen Rozgar Yojana (SGRY)

51. The Sampoorna Grameen Rozgar Yojana (SGRY) is a wage employment scheme launched in September 2001, and the Jawahar Gram Samridhi Yojana (JGSY) and Employment Assurance Scheme (EAS) were merged under this programme from First April 2002. The primary objective of the scheme is to provide additional wage employment in all rural areas and thereby provide food security and improve nutritional levels. The secondary objective is the creation of durable community, social and economic assets and infrastructure development in rural areas. A special component under SGRY provides foodgrains to calamity stricken states for undertaking relief activities. Thirty per cent of employment opportunities under the programme are reserved for women. The programme is implemented through the Panchayati Raj Institutions (PRIs).

52. Each local body prepares an annual action plan to include the works to be undertaken under the scheme. Completion of incomplete works is given priority and emphasis is laid on labour-intensive works. Priority is to be given to soil and moisture conservation, minor irrigation, rejuvenation of drinking water sources, augmentation of ground water, traditional water harvesting structures, desiltation of village tanks/ponds, construction of rural link roads, drainage works, afforestation, schools, kitchen sheds for

schools, dispensaries, community centres, panchayat ghars, development of haats (markets), etc. However, the nature of works should be such that they could be completed in one or two years. Up to a maximum of 15 per cent of the funds can be spent on maintenance of assets created under the programme.

(iv) National Food for Work Programme (NFFWP)

53. The National Food for Work Programme was launched in 150 most backward districts of the country from November 2004. The objective of the programme was to provide additional resources to 150 most backward districts of the country so that generation of supplementary wage employment and provision of food security through creation of need based economic, social and community assets in these districts is further intensified.

(v) Indira Awaas Yojana (IAY)

54. The composite multi pronged strategy for housing has been operationalised w.e.f. 1999-2000. The Indira Awaas Yojana (IAY) is the major scheme for construction of houses to be given to the poor, free of cost. It has an additional component, namely, conversion of unserviceable kutchha houses to semi pucca houses. The ceiling on construction assistance was revised on 1 April 2004 and currently is set at Rs. 25,000 per unit for the plain areas and Rs. 27,500 for the hilly/difficult areas.

Urban Poverty Alleviation Programmes / Schemes

The scheme/programme-wise details are given below: -

55. SJSRY- Swarna Jayanti Shahari Rojgar Yojana (SJSRY) is funded on 75:25 basis between Centre and States. This scheme is continuing since 1997-98 & is the only scheme for urban employment aims to provide gainful employment through setting up of self-employment ventures or provision of wage employment. This is a demand-driven scheme.

56. VAMBAY- The Valmiki Ambedkar Awas Yojana (VAMBAY) was introduced in 2001-02 to meet the long-standing gap in programmes for slum-dwellers, viz. provision of a shelter or upgrading the existing shelter of people living below the poverty line in urban slums. Under VAMBAY, Govt. of India provides 50% central subsidy while the States have the option to oblige its matching portion of 50% from other sources, such as their own budget provision, resources of local bodies, loans from other agencies, contributions from beneficiaries or NGOs etc. Under this scheme, 20% of the total allocation is provided for sanitation and community toilets to be built for the urban poor and slum dwellers.

57. NSDP- National Slum Development Programme is meant for providing shelter and environmental upgradation for the urban slum dwellers. Since the inception of the scheme from 1996-97 and up to 2004-05(as on 30.6.2005), 41.3 million persons covering 68129 slum pockets in 2573 towns were benefited under the scheme.

Employment Assistance to Special Categories

58. Employment Service continued making efforts to cater to the special needs of vulnerable sections like Women, Scheduled Caste/Schedule Tribe, Persons with

Disabilities and disable Ex-servicemen job-seekers. The assistance and facilities extended to such job seekers by the Employment Service are outlined as follows:

Women

59. Live Register of women job seekers has shown an increase of 41% from 1992 to 2002. (Annual Report of Ministry of Labour, p.229) Some major initiatives taken by India is highlighted herewith: Separate counters have been provided at larger Employment Exchanges for women registrants; The State Governments/Union Territory Administrations have been advised to post women officers at such Employment Exchanges where two or more officers are in position; States/UTs have also been advised to consider inclusion of at least one women representative in the Advisory Committee attached to their Employment Exchanges, to ensure greater employment avenues for women job-seekers.

Schedule Caste/Scheduled Tribes

60. Over the years, a number of special measures were adopted by the Employment Exchanges to safeguard the interest of the job-seekers belonging to SC/ST communities. It includes: Maintenance of separate registration cards; Ensuring that the vacancy notification from public sector establishments invariably indicate details regarding reservation; Providing vocational guidance and imparting pre-recruitment guidance and imparting pre-recruitment training; Sponsoring suitable candidates against unreserved vacancies; Enlisting the cooperation of SC and ST associations in locating suitable candidates; Twenty two coaching-cum-guidance centers for SCs/STs have been set up, one each at Delhi, Jabalpur, Kanpur, Chennai, Hyderabad, Thiruvananthapuram, Kolkata, Jaipur, Ranchi, Surat, Aizwal, Banglore, Imphal, Hissar, Nagpur, Bhubaneshwar, Guwhati, Mandi, Kohima, Jowai, Jammu and Jalandhar. These centers: Provide employment related coaching-cum-guidance to SC/STs applicants, provide information on job requirement and the type of tests/interviews they are likely to face when called by the employers, take up appropriate follow up action with the employers to ascertain the results of submission against reserved vacancies, undertake job development work besides providing occupational information/vocational guidance and counseling and organizing Confidence Building Programmes for job-seekers, arrange from time-to-time, Pre-Recruitment Training Programmes for SC/ST candidates to improve their employability through competitive examinations conducted by the Staff Selection Commission, Banking Service Recruitment Boards, etc.

Persons with Disabilities

61. The employment service continued making efforts to cater to the special needs of disabled job-seekers. There has been consistent increase in the number of persons with disabilities on the Live Register. The number of disabled job-seekers placed in employment during 2000 was 3.3 thousand. Although Employment Exchanges under the National Employment Service are generally responsible for the placement of Physically Handicapped, forty-two Special Employment Exchanges are also set-up for their selective placement. In pursuance of the recommendation of the Working Group on Employment Service and the Task Force on the reorganization of Special Employment Exchanges, forty one Special Cells for physically handicapped with a Special Placement Officer attached to the normal Employment Exchanges and funded by the Central Government have so far

been set up by the Ministry of Social Justice and Empowerment. In addition to this, state governments have also opened Special Cell/Units for the handicapped applicants.

62. Ministry of Labour is fully responsive and continues to the implementation the provisions of the Persons with Disabilities (Equal opportunities, protection of Rights & Full Participation) Act, 1995. The Directorate General of Employment and Training (DG&T) has been regularly co-ordinating and supporting Ministry of Social Justice and Empowerment, which is the nodal ministry for the welfare of people with disabilities. Seventies Vocational Rehabilitation Centers (VRC) for handicapped have been functioning in the various states of the country.

63. Rehabilitation services are also extended to the disabled living in rural areas through mobile camps and Rural Rehabilitation Extension Centres (RRECs) set up in 11 Blocks under 5 VRCs viz.; VRC Chennai, Kanpur, Kolkata, Ludhiana and Mumbai. Proposal to establish at least one VRC in each State/UT has been formulated.

64. In order to provide placement services to the disabled ex-servicemen/Border Security Force Personnel killed or severely disabled in action, against the vacancies reserved for ex-servicemen and earmarked for priority categories, an Ex-Servicemen Cell was set up in the Directorate General of Employment Training in July, 1972. From February 1991, the scope of the special services was also extended for the benefit of ex-servicemen disabled during peace-time with death.

Section – V

Productivity

65. India has initiated various reforms in the economy since the 1990's. These were undertaken in order to increase productivity and readiness to face the global challenges.

66. Growth of infrastructural facilities such as power, roads, ports, transport and communication have been a prominent focus of India in increasing the productivity. Organized manufacturing sector and unorganized sector of manufacturing industries are also other areas in which India have undertaken various measures to ensure that work is as productive as possible. Revised wages, allowances to workers, VRS schemes (linked wage with productivity) the typical characteristics of the system are: employee involvement, linkage of a portion of wages with performance at individual, group and company level, improvement of work culture, recognition of job differentials and skill development. This linkages also depends on viz, labour cost containment, wage flexibility, or worker motivation etc.

67. India has established a National Productivity Council which is an autonomous body and is funded by the Government of India. It aims at dissemination of knowledge and experience in productivity, promotion of consciousness and improvement in productivity, strengthening of the performance and competitiveness of the economy and improving the conditions and quality of working life. It undertakes training programmes in the area of management services, industrial training and human resources development and also provides consultancy services in both the formal and informal sectors. It has instituted National Productivity Awards for selected industry groups with the objective to recognize the enterprises, which excel in productivity performance and to motivate other

enterprises to increase their productivity. In addition, Ministry of Labour administers a scheme entitled “Prime Minister’s Shram Awards” to workmen employed by the Department Public Sector Undertaking of the Central and State Government. Productivity movement led to formation of fifty Local Productivity Councils to spearhead the movement at the grassroots levels.

Liberalisation and Productivity

68. The Government of India has undertaken various reforms in the economy to increase productivity since the 1990s. Towards this end the government of India has been pursuing three set of reforms: one, disbanding the complex network of industrial controls, industrial licensing and permits system; two, liberalizing foreign trade and currency transactions and three, instituting several measures to facilitate foreign direct investment (FDI) inflows. FDI inflows will have technology and productivity spillover effects and would improve the productivity of Indian firms.¹⁴

69. The Government of India has made an attempt for a sophisticated institutional framework through which the labour and capital embedded in failed firms is rapidly redeployed into productive uses. Efficient procedures for enforcing the rights of creditors are being undertaken to bring a speedy recovery of distressed assets into productive use. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been enacted to give powers to Banks and Financial Institutions to enforce their claims on collateral for delinquent secured credit, without going through a long and cumbersome judicial process. The Companies (Amendment) Act, 2002 is brought to clarify the relationship of debt and equity in a limited liability company. It provides primary producers a new kind of organisation i.e., a producer company to produce and market the products in modern and professional manner at par with other companies. Companies (Second Amendment) Act, 2002 provides for the constitution of National Company Law Tribunal (NCLT) a single forum which removes the three forums viz., Company Law Board (CLB), Board for Industrial and Financial Reconstruction (BIFR) and High Court (winding up of Companies).

¹⁴ A committee headed by N. K. Singh, Member, Planning Commission has drafted a set of proposals for further augmenting these flows, which are currently under evaluation. Some major initiatives to attract FDI during 2002-03 is highlighted herewith: FDI upto 100 percent permitted under the automatic route in the advertising sector. FDI under the automatic route upto 100 per-cent is available for film sector and will not be subject to conditions about debt equity ratio, minimum level of equity investment etc. FDI upto 100 per-cent allowed in tea sector, including tea plantations, permitted subject to compulsory disinvestment of 26 per-cent equity in favour of Indian partner within a period of five years and prior approval of the state government in case of any future land use change. Re-issuance of ADR/GDR permitted to the extent of ADRs/GDRs which have been redeemed into underlying shares and sold in the domestic market. FDI upto 100 per-cent permitted with prior approval of the government for development of integrated township, including housing, commercial premises, hotels, resorts, and regional level urban infrastructure facilities such as roads and bridges and mass rapid transit system, subject to the guidelines issued vide press note No. 3 (2002 Series) dated January 4, 2002. Automatic route of FDI upto 100 per-cent allowed in all manufacturing activities in Special Economic Zones except some of the activities such as arms and ammunitions, explosives and allied items of defence equipment, defence aircraft and warships, automatic substances, narcotics, distillation and brewing of alcoholic drinks and cigarettes and cigars. FDI in print media sector as allowed upto 26 percent of paid up equity capital of Indian entities publishing periodicals and newspapers dealing with news and current affairs.

70. The Competition Act, 2002 has been enacted on 13 January, 2003 aims at promoting competition through prohibition of anti-competitive practices, abuse of dominance and through regulation of companies beyond a particular size.

71. Through the decade of the 1990s, there has been an increasing consensus on the merits of privatization. The privatization process began in 1991-92 with sale of minority stakes in some PSUs. From 1999-2000 with sale of minority stakes in some PSUs. From 1999-2000 onwards, the focus shifted to strategic sales viz, Hindustan Zinc Ltd, Maruti Udyog Ltd, IPCL, Modern Food Industries (India) Ltd, Indian Tourism Development Corporation (Ten hotels), Hotel Corporation of India (One hotel). The transactions have given proceeds of Rs. 33420 million in 2002-03.

72. One of the major concerns often expressed with respect to privatization is that with a transfer of management into private hands, the interest of employees might suffer. Government of India has chosen to put in requirements into the shareholder agreements, executed as a part of strategic sales, to ensure that there is no retrenchment of employees at least for a period of one year after privatization and even thereafter, retrenchment to be possible only under the Voluntary Retirement Scheme (VRS) as applicable under Department of Public Enterprises (DPE) guidelines or the Voluntary Separation Scheme, which was prevailing in the company prior to disinvestments, whichever is more beneficial for the employee. On December 9, 2002 Government of India announced its policy on disinvestment which specifically aimed at: modernization and upgradation of Public Sector Enterprises, Creation of new assets, generation of employment, retirement of public debt, to ensure that disinvestment does not result in alienation of national assets, which through the process of disinvestment, remain where they are. It also ensures that disinvestment does not result in private monopolies, setting up a Disinvestment Proceeds Funds, formulating the guidelines for the disinvestment of natural asset companies, preparing a paper on the feasibility and modalities of setting up Asset Management Company to hold, manage and dispose the residual holding of the Government in the companies in which Government equity has been disinvested to a strategic partner. Government is taking the following specific decisions: to disinvest through sale of shares to the public in Bharat Petroleum Corporation Limited (BPCL), to disinvest in Hindustan Petroleum Corporation Limited (HPCL) through strategic sale, to allot, in both cases of BPCL and HPCL, a specific percentage of shares to the employees of the two companies at a concessional price.

73. Until July 1995, however, the National Renewal Fund (NRF)¹⁵ enabled the retrenchment of only 78,000 of about 2 million people estimated to be redundant in public enterprises. Various Trade Unions have shown concerns about this. Keeping this in mind, the Government of India has postponed reforms in banking, insurance and heavy manufacturing.

74. Despite the global and domestic recession, small industries registered a higher growth than the overall industrial sector in terms of number of units, production, employment and export. It has been the position of India to protect the SSI through

¹⁵ As part of 1991 reforms, a NRF was created to provide funds to cover the costs of retraining and redeployment of employees arising as a result of restructuring.... for compensation of employees affected by restructuring or closure of industrial units both in public and private sectors, and for employment generation schemes both in organised and unorganised sectors in order to provide a social safety net for labour.

reservation ever since its independence.¹⁶ But this has been a process of general reduction in the number of products renewed for SSIs in recent years.

Wages and Productivity

75. Revised wages, allowances to workers, VRS schemes (linked wage with productivity) etc. are considered by the Indian Government in the allocation of gains from productivity. The typical characteristics of the system are: employee involvement, linkage of a portion of wages with performance at individual, group and company level, improvement of work culture, recognition of job differentials and skill development. This linkage also depends on viz, labour cost containment, wage flexibility, or worker motivation etc. India considers productivity agreements can mitigate the shortcomings in the labour productivity. By seeking the co-operation and commitment of workers and by sharpening their skills and attitudes, employers can raise productivity through better use of other resources. Productivity linked wages settlement by Southern India Textile Association, TI Cycles, INDAL's Belur unit, Madura Coats, ONGC, Kirloskar Oil Engines Ltd, Bombay Mills, Bajaj Auto etc. is a unique example of joint agreement of systematic assessment of work loads. Further Union and Company agrees to ensure continuous improvement in productivity and quality in all the operations of the company. Collective Bargaining provisions in wage agreements have come to provide for an element of contingency based on individual/group/organizational performance.

76. The common interpretations of productivity in recent years include the following: waste reduction in all forms, working intelligently not merely putting in hard work, positive involvement and commitment of workers and unions, change as a continuous process in terms of technology, materials, products, processes, etc.

Section – VI

Problems Identified by India and Achievement

77. Government of India in its policies considers employment to be crucial to reduction and removal of poverty. In its quest for fuller and more productive employment, the country identified three distinct but interrelated problems. Firstly, the labour force (economically active persons) forms a low proportion of the total population. Secondly, a substantial proportion of the labour force is unemployed or underemployed. Thirdly, the productivity of those employed is, in general, very low. The three aspects of employment problem have been taken into consideration while drafting policies and Five Year Plans.

¹⁶ With the removal of quantitative restriction, SSIs are facing tough competition from outside world products. In the era of globalization, Government of India laid a policy on SSI. In May, 2002, following measures have been taken: fifty one items were dereserved in May, 2002 in the Union Budget 2002-03, income tax exemption was granted to the income of the credit Guarantee Fund Trust for Small Industries for 5 years, in the Union Budget 2002-03, the general SSI Excise exemption scheme has been extended to air guns, air rifles and air pistols, articles of apparel, knitted or crocheted, marble and Bengal lights, National Awards for scheduled commercial banks were constituted by the Ministry of Small Scale Industries for best performance in terms of lending to SSIs. A Biotechnology Cell has been created in the Ministry of SSI under the Chairmanship of Development Commissioner (Small Scale Industries) to facilitate the development and promotion of biotechnology based industries in the small-scale sector. For technology upgradation and quality improvement in SSI sector, the scope of the ongoing ISO 9000 reimbursement scheme has been enlarged to include reimbursement of expenses for ISO 14001 Environment Standard with effect from October 28, 2002.

78. These policies and plans are drawn up in the broader context of macroeconomic and financial policy and institutional environment.

79. Two main factors are responsible for India's low labour force participation rate. These are: (i) the age structure of the population and (ii) low reflection of women's economic activity in statistics. Regarding the age-structure, improvement in the age-structure of population has been seen in 1999-2000 compared to 1993-94. The Labour Force Participation Rate (LFPR) has declined in the younger age groups as well as for those aged 50 years and above during 1999-2000. It has remained more or less same for the age group 25 to 49 years. However, over this period, among rural females, LFPR declined for almost all age group. The NSS 1987-88 survey showed that the activity rate among the 15-59 age-group of women was only 18.71 percent. There is a sea change has been noted in females proportion. 55th Round of NSS Report states that females were 30 in rural areas and in 15 in urban areas.

80. Fifty million-employment opportunities are proposed to be generated during the 10th Plan. Out of this, about 30 million employment opportunities will be from usual growth process and the remaining 20 million through special employment generation schemes with special emphasis on Agriculture, Irrigation, Agro-Forestry, Small and Medium Enterprises, Information and Communication Technology, Tourism and other services. Achievements so far made during the Tenth Plan in this regard would be available after the 2004-05 quinquennial survey by NSSO is completed. As per the surveys conducted by NSSO during 1993-94 and 1999-2000, estimated employment in the country on usual status basis has gone up from approximately 374 million in 1993-94 to 397 million in 1999-2000.

81. The third identified criterion was productivity. Using 1986 as the base year, labour productivity indices of India increased from 103.92 in 1987 to 130.53 in 1995. Study undertaken by APO, Asia-Pacific Productivity Data and Analysis, 2000 Japan, India's labour productivity growth rate was 6.38 in 1995, 6.87 in 1996, 3.82 in 1997, 5.61 in 1998, 5.09 in 1999 and 3.02 in 2000.

82. As per a recent study undertaken by National Productivity Council, the labour productivity growth is found around 3% per annum.

83. Considering that the population growth is showing a declining trend (below 2%) and HDI being 0.63 (rank 115 in 2001), positive trend on productivity growth is impressive.

Section – VII

International Assistance

84. India is a founder member of the ILO and has been playing a leading role in its activities since its inception. Being one of the ten countries of chief industrial importance, India holds a non-elective seat in the Government Group of the Governing Body, which is the executive wing of the organisation. The ILO is financed mainly by contributions received from the member states. The amount of contribution paid by India to the ILO for the year 2002 was Swiss Francs 1,293,212/- (0.339% of the ILO Budget). India has been

allowed a credit of Swiss Francs 8973/- under the incentive scheme for timely payments of our contribution to ILO during 2001.

85. India has been actively supporting and participating in the International Labour Conferences and technical co-operation programmes of the International Labour Organisation (ILO) from its very inception. During 1999-2002, India participated in the 59 National meetings and 62 International meetings organized by ILO. As part of the global strategy adopted by the ILO at the turn of the millennium, advisory services and operational activities in India are centered around four strategic objectives: To promote and realize fundamental principles and rights at work; to create greater opportunities for women and men to secure decent employment and income; to enhance the coverage and effectiveness of social protection for all; to strengthen tripartism and social dialogue.

86. ILO's technical cooperation in India covers various fields of relevance to Indian labour, such as employment, occupational safety and health, improvement in working conditions, upgradation of training facilities, management, consultancy development, small enterprise programmes for women and the urban poor, family welfare programmes, vocational/hi-tech training, workers' educational etc. A total of 14 projects in these and related areas are at various stages of implementation.

87. ILO has made use of training facilities available in a number of institutions in India including Central Labour Institute (Mumbai), Regional Labour Institutes (Kolkata, Kanpur and Chennai), the Vocational Training Institutes under the Directorate General of Employment and Training, the Indian Institutes of Management and Indian Institutes of Technology. India also provides technical manpower for ILO's activities. Several national experts were awarded contracts for undertaking studies in various fields.

Article 7

The Right to Just and Favourable Conditions of Work

88. This Article refers and includes rights (a) to remuneration which provides all workers, as a minimum with fair wages and equal remuneration for work of equal value without distinction of any kind, (b) a decent living for themselves and their families, (c) for the 'reasonable limitation of working hours', (d) to rest and leisure without being more specific, (e) of everyone to 'periodic holidays with pay' but did not specify the duration of such holidays, (f) to just and favourable conditions of work which everyone should enjoy should ensure in particular 'safe and healthy working conditions'.

89. India as a welfare state is committed to secure social and economic justice, inter alia, for its working population. India does recognise the rights specified in Article 7 of ICESCR under the Constitution of India (part III and IV), and has been given effect through domestic laws.

Section - I

90. (a) India is yet to ratify Minimum Wage-Fixing Convention, 1970 (No. 131) which deals with regard to minimum wage fixing machinery and related problems, with special reference to developing Countries. However, Minimum Wage-Fixing Machinery, 1928 (No. 26) which requires the ratifying States to create or maintain machinery whereby

minimum rates of wages can be fixed for workers employed in certain of the trades (the term includes manufacture and commerce) or parts of trades (and in particular in home working trades) in which no arrangement exists for the effective regulation of wages by collective agreement and wages and exceptionally low, was ratified by India on 10.01.1955. The Committee on Experts of Annual Reports (CEACR), 2003 takes a note of India Government's Report on Convention No. 26. In 2000, CEACR referred the observation made by the Mahabubnagar District Contract Labour Union concerning the non-payment of minimum wages to the Migrant Labourers of the Mahabubnagar District. Notwithstanding such criticism, India by and large, translated the obligations specified under the Convention No. 131 into their domestic laws. It is discussed at length under the Section – II of this Article.

(b) Equal Remuneration Convention, 1951 (No. 100) which deals with regard to the principle of equal remuneration for men and women workers for work of equal value was ratified by India on 25.09.1958. CEACR, 2004 takes note of India Government's report on Convention No. 100. India was found regular in submitting report concerning Convention No. 100.

(c) Weekly Rest (Industry) Convention, 1921 (No. 14) which deals with young person under the age of 18 years employed during the night in industrial undertaking was ratified by India on 11.05.1923. India is yet to submit a report on Convention No. 14. Here, it is important to highlight that following Conventions have been ratified by India: Hours of Works (Industry) Convention, 1919 (No. 1) which deals working hours of persons employed in any public or private industrial undertaking has been ratified by India on 14.07.1921. Further to this, CEACR, 1998 and 1999 takes a note of India's submission concerning Convention No. 1. India also ratified Night Work (Women) Convention, 1919 (No. 4) dealing with employment of women in industrial undertaking during the night, Night Work of Young Persons (Industry) Convention, 1919, (No. 6) which deals with young person under the age of 18 years employed during the night in industrial undertaking, Night Work (Women) Convention (Revised), 1932 (No. 41) which deals with regard to rest of, provision for compensatory period of rest of Staff employed in any industrial undertaking, public or private, Night Work (Women) Convention (Revised), 1948, (No. 89) which deals with regard to night work and Night Work of Young Persons (Industry) Convention (Revised), 1948, (No. 90) which deals regard to partial revision of the Night Work of Young Persons (Industry) Convention, 1919 respectively on 14.07.1921, 14.07.1921, 22.11.1964, 27.02.1950 and 27.02.1950. Further to this India has also ratified Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 on 21.11.2003. In general, India carried out the obligations of Convention No. 14 and enacted several provisions in their domestic laws. It is discussed at length under the Section – VI of this Article 7.

(d) Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) which deals with regard to weekly rest in commerce and offices is yet to be ratified by India. However, more or less, India has made an effort to translate the obligations specified in the Convention No. 106. It is discussed at length under the Section - VI of this Article.

(e) Holidays with Pay Convention (Revised), 1970 (No. 132) which deals with regard to holidays with pay is yet to be ratified by India. However, usually, India has translated the obligations referred under the Convention No. 132. It is discussed at length under the Section – VI of this Article.

(f) Labour Inspection Convention, 1947 (No. 81) which deals with the organisation of labour inspection in industrial and commerce was ratified by India on 07.04.1949. CEACR, 1999, 2001 and 2002 takes a note of India Government's report. India have also ratified Inspection of Emigrants Conventions, 1926 (No. 21) on 14.01.1928.

(g) Labour Inspection (Agriculture) Convention, 1969 (No. 129) which deals with labour inspection such as the Labour Inspection Convention, 1947 is yet to be ratified by India. However, measures specified under the Convention No. 129 have already been taken into various domestic laws of India. It is discussed at length under the Section – IV of this Article.

(h) Occupational Safety and Health Convention, 1981 (No. 155) requires ratifying States to adopt measures for the safety and health and the working environment. This Convention is yet to be ratified by India. However, measures specified under the Convention No. 155 have already taken into various domestic laws of India. It is worth mentioning that India has ratified some important Convention such as Benzene Convention, 1971 (No. 136) and Radiation Protection Convention (No. 115) regarding the industrial hygiene and safety. Benzene Convention, 1971 (No. 136) applies to all activities involving exposure of workers to the aromatic hydro-carbon benzene was ratified by India on 11.06.1991. Radiation Protection Convention (No. 115) applies to all activities involving exposure of workers to ionizing radiation in the course of their work and it put an emphasis on the necessary preventive measures, both medical and technical was ratified by India on 17.11.1975. This report provides further information with this regard under the Section – IV of this Article.

Section – II

91. In Indian context, wage policy assumed added importance because only a small percentage (less than 10 per-cent) of labour force works in the organized sector while the rest is employed or engaged in the unorganized sector. Ensuring reasonable minimum wage to the labour force in the unorganized sector is a paramount issue of national importance. A system of minimum wages has been established by constant endeavours of Government of India. One of the earliest decisions taken by the government of free India was to set up a Committee to define a fair wage, and indicate for ensuring a fair wage to every employed citizen. Ever since then, India made many attempts to define the concept of a fair wage, a minimum wage, a floor wage, and a living wage. The meandering progress that India has made is reflected in the reports of Committees, Conferences, Commissions and judgments of the Supreme Court.

Principal Methods used for Fixing Wages

92. Section 5 of the Minimum Wages Act, 1948, have provided two methods for fixation/revision of statutory minimum wages. These are the Committee method and the Notification method.

- (a) **Committee Method:** Under this method, committees and sub-committees are set up by the appropriate Governments to hold enquiries and make recommendations with regard to the fixation and revision of minimum wages, as the case may be.
- (b) **Notification Method:** In this method, the Government publishes its proposals in the Official Gazette for information of the persons likely to be affected thereby, and

specifies a date not less than two months from the date of the notification for taking the proposals into consideration.

Minimum wages

93. The principle that it is the duty of the State to ensure the payment of minimum wages has been recognized by the framers of the Constitution by incorporating Article 43 in the Constitution of India. Laws have been enacted to implement minimum wages principle. The Minimum Wages Act, 1948 provides for fixation, review, revision and enforcement of minimum wages for both by the Central Government and the State Governments in respect of schedule employments in the Central sphere whereas the number of these employments in the State sphere is 1,232. Minimum Wages under Central Sphere are enforced through Central Industrial Relations Machinery (CIRM) (Table 7.1)

Table 7.1

		Name of the Act	No. of Inspections done	Irregularities rectified	Prosecutions launched	Convictions obtained	Claims filed
1		2	3	4	5	6	7
1		Payment of Wages Act, 1936					
	I	Mines	4197	57385	1290	1225	5
	ii	Railways	1182	7800	--	--	1
	iii	Air Transport	47	638	31	3	--
2		Minimum Wages Act, 1948	15212	186549	5260	3094	3956
3		Equal Remuneration Act, 1976	4606	3858	972	494	32
4		Child Labour (P&R) Act, 1986	2429	1612	32	9	--

94. Under Section 19 of the Act, the appropriate Government is empowered to appoint Inspector for enforcement of the Act. However, a review of available information has revealed that in a most of the State/Union Territories, a machinery appointed exclusively for the enforcement of this Act is under consideration, but the inspection staff appointed under other Labour Act such as Factories Act, Shops and Commercial Establishment Act, etc. were entrusted with the enforcement of this Act also. In some States, personnel of Labour Department, Agriculture Department, etc have also been declared as ex-officio Inspectors. Only some State Government and Union Territories have appointed full time Inspectors for the enforcement of this Act.

95. The Payment of Wages Act, 1936 was enacted with a view to ensuring that wages payable to employed persons covered by the Act are disbursed by the employers within the prescribed time limit and that no deductions other than those authorized by law were made. At present, the Act applies only to those whose wages are below Rs. 1,600 per month. A Bill named "The Payment of Wages (Amendment) Bill, 2002" to enhance the wage ceiling up to Rs. 6,500 as well as to remove certain other ambiguities/weakness was introduced in the Rajya Sabha on 16 May 2002. The recommendations of the Standing Committee are being examined by the Government.

96. The Payment of Bonus Act, 1965 provides for payment of bonus to employees as defined under the Act. According to the Act, "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding Rs. 3500 per month in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical or clerical work for hire or reward. However, according to Section 12 of the Act, the bonus is payable to employees whose salary or wage exceeds Rs. 2,500 per month, has to be calculated as if his salary or wage were Rs. 2500 per month. The above wage ceilings were last revised on 9 July 1995 and made effective from 1 April 1993.

97. Indian wage policy also has aim at a progressive rise in real wages. As a result of increase in prices, there is erosion in the wage levels in real terms, and in order to prevent such an erosion in the wage levels in real terms, dearness allowance is paid and it is linked to the consumer price index. To protect the wages from the erosion due to increase in the Cost of Living, the Act provides for revision of minimum rates fixed at suitable intervals, such intervals not exceeding five years. In this context, the 31st session of Labour Ministers Conference held in July 1980 recommended periodical revision of minimum wages once in at least two years or on a rise of 50 points of the Consumer Price Index, which has again been reiterated at the 36th session of the Labour Minister Conference held in May, 1987. The present series of consumer price index for industrial workers for 70 centres, all India and 6 additional centres (on the base year 1982 = 100) is based on the working class family income and expenditure surveys conducted during 1981-82. Apart from the organized sector, dearness allowance is also paid to workers in the unorganized sector as a part of minimum wages. Their dearness allowance is revised every six months depending upon the movement of index numbers. This is how erosion in the purchasing power of workers in the unorganized sector is prevented. The minimum rate of wages also includes Special Allowance i.e. Variable Dearness Allowance (VDA) linked to Consumer Price Index Number which are revised twice a year effective from April and October. According to the Act, rates of wages are revised at an interval of not exceeding five years. The minimum wages were last revised in employments under Central Sphere in respect of various Mines as well Construction or maintenance of roads, runways or in the building operations including laying down underground Electric, Wireless, Radio, Television, Telephone, Telegraph and Overseas Communication cable and similar other underground Cabling Work, Electric Lines, Water Supply Lines and Sewerage Pipelines S.O. No. 113(E) dated 3.1.2002 and S.O.No. 113(E) dated 28.1.2002 respectively.

98. Detailed information on 15(b) of Compilation of Guidelines on the Form and Content of Reports (HRI/GEN/2/Rev.1) has been provided in India's initial reports on ICESCR for the years 1986 (E/1984/6/Add.13). And this report provides further information with latest development and also information as required by the above said Guidelines.

99. Needs of workers and their families as well as economic factors have been taken into consideration while drafting Indian laws and policies concerning wage fixation. Various committees and commissions have discussed the necessity of introducing the concept of a national minimum wage below which no employer should be allowed to engage any worker in the country. The First National Commission on Labour concluded that a national minimum wage in the sense of a uniform minimum monetary remuneration for the country as a whole is neither feasible nor desirable. If one is fixed, the dangers are that there will be areas which will not afford the minimum if the minimum is worked out somewhat optimistically. The Commission also pointed out the difficulties in construing a national minimum wage because of the large variations in consumption patterns of persons in different regions, the wide variety of items used by them, regional price variations and so on. In view of these, the Commission suggested that in different homogeneous regions in each state regional minima could be notified. However, in 1978, Bhoothlingam Committee, a Study Group on Wages, Incomes and Prices, did not agree with the recommendations of First National Commission on Labour and said that the real minimum wage can only be the absolute national minimum, irrespective of sectors, regions or States below which no employment would be permitted. The Group also observed that in determining such a national minimum wage, several considerations had to be kept in view like (a) the per capita national income adjusted after applying the participation rate (b) average national income per consumption unit and (c) per capita rural consumption expenditure. It recommended that the national minimum wage should be Rs. 150 per month at 1978 prices, to be achieved within a period of seven years with not less than Rs. 4 per day for eight hours of unskilled work or not less than Rs. 100 per month and being revised every two years to achieve the goal. For the agriculture sector the Group felt that a desirable minimum rural household income would be a more meaningful concept because of the irregular and seasonal nature of employment and unstable and varied sources of income.

100. In 1991, the National Commission on Rural Labour constituted under the chairmanship of Dr. C. H. Hanumanth Rao made a strong recommendation for a national minimum wage for rural labour and laid down the following principles for fixation of minimum wages:

- (a) the cost of living relating to the minimum subsistence level for the worker and his family of three adult consumption units, and
- (b) the minimum wage will be the same for all employments

101. Thus, National Minimum Wage has been considered at various fora in the past. However, State/UT governments are not unanimous on the need of a National Minimum Wage as socio-economic conditions vary from state to state, region to region as also from industry to industry due to different geographical, topographical and agro-climate factors. In the absence of uniformity in minimum wages the Central Government adopted the concept of National Floor Level Minimum Wages and fixed it at Rs. 35/- per day in 1996, based on the recommendation of the National Commission on Labour in 1991 and subsequent increase at the price level. The Central Government raised the national floor level minimum wage to Rs. 40/- per day in 1998 and further to Rs.45/- w.e.f. 01.12.1999, keeping in view the rise in consumer price index. The national floor level Minimum Wage has been further enhanced to Rs. 50/- per day w.e.f. 1.9.2002 as the Consumer Price Index has risen from 438 in Nov. 1999 to 484 in August 2002. All State/UTs Governments have been requested by Hon'ble Labour Minister to ensure fixation of minimum rate of wages

in all the scheduled employments not below the Rs. 50/- per day. For the time being this has become a sort of national minimum wage. It can, therefore, be that till such time as a National Minimum Wage Policy is evolved, this floor level minimum wage may be treated as the current national minimum wage. Recently, the 2nd National Commission on Labour (2002) has also recommended fixation of national minimum wage.

102. In determining wage level, the Supreme Court of India has also followed and made a conscious effort to crystallize the wage concepts and emphasized need for gradual improvement in wage levels. The principles of wage determination recommended by the Committee on Fair Wages have greatly influenced the decisions handed down by the Court from time to time. In many wage-disputes, the Supreme Court has given decisions laying down uniform principles of wage fixation and these principles of wage fixation have become components of the wage policy of India. It has now been settled through a series of decisions of tribunals and courts¹⁷ that the basis for fixing wages is industry-cum-region. Different factors have been taken into consideration in determining the fixation of wages and dearness allowance. These are: (i) The extent of business carried on; (ii) the extent of profits made; (iii) the strength of the labour force; (iv) the nature of business; (v) the standing of the company; (vi) the character of its wage structure. Some of these judgments which need special mention are:

103. In the case of *Crown Aluminum Works v. their Workmen 1958 I LLJ 1*, on the specific issue of capacity to pay, the Supreme Court has said “there is, however, one principle which admits of no exception. No industry has a right to exist unless it is able to pay its workmen at least a bare minimum wage. It is quite likely that in the under-developed countries where unemployment prevails on a very large scale, unorganized labour may be available on starvation wages.... If an employer can not maintain his enterprise without cutting down the wages of his employees below even a bare subsistence or minimum wage, he would have no right to conduct his enterprise on such terms”.

104. In *M/S Unichem Laboratories Ltd. v. their Workmen, 1972 I LLJ 576, 590 and 591*, the Supreme Court observed as follows: “In the fixation of wages and dearness allowance the legal position is well established that it has to be done on an industry-cum-region basis having due regard to the financial capacity of the unit under consideration... Industrial adjudication should always take into account, when revising the wage structure and granting dearness allowance, the problem of the additional burden to be imposed on the employer and ascertain whether the employer can reasonably be called upon to bear such burden....As pointed out in *Greaves Cotton and Co. and others v. Their Workmen, (1964) 5 SCR 362*, one of the principles to be adopted in fixing wages and dearness allowance is that the Tribunal should take into account the wage scale and dearness allowance prevailing in comparable concerns carrying on the same industry in the region...”

105. Components of Minimum Wages: In *Unichoyi v. State of Kerala, 1961 – I LLJ 631*, the Supreme Court explained what the components are that would make up the minimum wages and stated: “It is, therefore, necessary to consider what are the components of a minimum wage in the context of the Act. The evidence led before the Committee on fair wages showed that some witnesses were inclined to take the view that

¹⁷ *Workmen v. Hindustan Motors (1962) 2 LLJ 352 (SC)*; *French Motor Car Co. v. Workmen (1962) 2 LLJ 774 (SC)*; *Novex Dry Cleaners v. Their Workmen (1962) 1 LLJ 271 (SC)*.

the minimum wage is that wage which is essential to cover the bare physical needs of a worker and his family, whereas the overwhelming majority of witnesses agreed that a minimum wage should also provide for some other essential requirements such as a minimum of education, medical facilities and other amenities. On the other hand, since the capacity of the employer to pay is treated as irrelevant it is but right that no addition should be made to the components of the minimum wage near the lower level of the fair wage, but the contents of this concept must ensure for the employee not only his sustenance and that of his family but must also preserve his efficiency as a worker.”

106. Industry-cum-Region: In *French Motor Car Company Ltd. v. their Workmen, 1962 II LLJ 744*, it was held that “it is now well settled that the principle of industry-cum-region has to be applied by industrial court, when it proceeds to consider questions like wage-structure, dearness allowance and similar conditions of service. In applying that principle industrial courts have to compare wage-scales prevailing in similar concerns in the region with which it is dealing, and generally speaking, similar concerns would be those in the same line of business as the concern with respect to which the dispute is under consideration.”

107. Sub-committee ‘D’ of the Standing Committee of Labour Ministers (1981) recommended that the level of minimum wage should not be below the poverty line. The Report of the Committee of Secretaries of States (1981) has also recommended that the minimum wages should be at such level as to take a family of 3 adult units of consumption above the poverty line, and the consumption basket should consist of per capita per day requirement of 2400 calories in rural areas and 2100 calories in urban areas as well as clothing, shelter, fuel, light, education, etc. The Report of the National Commission on Rural Labour (1991) endorsed a similar concept of three consumption units.

108. The Pay Commissions of the Central Government took different approaches for the determination of the Minimum Wages for government employees. They were as follows: (i) The need based approach; (ii) Capacity to pay approach; (iii) Relative Parties approach; (iv) Job evaluation approach; (v) Productivity approach; (vi) Living wage approach.

109. The Fifth Pay Commission after comparing public sector and private sector employees, comparisons with State Governments the commission used a modified version of the constant relative income criterion and fixed Rs. 2440/- as the salary of lowest paid employees of the lowest paid employee of the Central Government. This meant more than a three-fold jump in the basic pay from Rs. 750/- to Rs. 2400. The commission had estimated that this would mean an additional outgo to the tune of Rs. 2941 million every year for this category of employees.

110. The Second Labour Commission noted that a number of States have reviewed and revised minimum wages in scheduled employments for which they are the appropriate governments. Comparison in the data shows disturbing trends. In Sikkim, the Minimum Wages Act is yet to be extended and enforced. Only 19 States/Union territories have made provision for VDA as a part of the minimum wage for a few or all of the schedule employments. The wages vary from State to State. The Commission has shown concerns over the wide disparity that one has to conclude that different appropriate Governments are following different criteria for the fixation of minimum wages.

111. The character and nature of the informal or unorganized sector are undergoing fundamental changes. The movement is from permanent to casual, contractual, temporary employment, from establishment based to home-based production, male dominated to female intensive work situation, regulated to unregulated forms of labour. India signed the ILO Convention No. 26 of 1928 (Concerning the Creation of Minimum Wage-Fixing Machinery) as early as in 1955. India accepted the commitment to offer minimum wages to its workers. Second Commission on Labour in his report has given a great emphasis for minimum wages in the unorganised Sector. It also recommended that the State Governments should specify a minimum wage for all unskilled category workers and these wages should be the same for all industries. There is a need-based minimum wage and it has to be the same for all workers irrespective of where they are employed. This has to be paid irrespective of the capacity to pay.¹⁸

112. The proposal regarding enactment of a comprehensive legislation for the welfare of workers in the unorganised sector is under consideration of the Government of India. But, due to lack of consensus among the state governments on various components of draft bill, the matter could not be processed further.

Section – III

Equal Pay for Equal Work

113. Workmen get equal pay for equal work. The ILO Convention No. 100 of 1951 relating to equal remuneration for men and women was ratified by the Government of India in the year 1958. To give effect to the Constitutional provisions and also to ensure the enforcement of ILO Convention No. 100, the Equal Remuneration Act, 1976 was enacted. States/Union Territories have appointed competent authorities under the Equal Remuneration Act, 1976 and have also set up Advisory Committees under the Act. The situation regarding enforcement of the provisions of Equal Remuneration Act is regularly monitored by the Ministry and the Central Advisory Committee. Annual Returns are called for by the special cell from the State Governments in order to monitor implementation of the Act. In most cases the response from the State Governments has not been encouraging.

114. Given the facts, it is not possible to have a uniform and comprehensive wage policy for all sectors of the economy in India. Wages in the organized sector are determined through negotiations and settlements between employer and employees. In unorganized sector, labour is vulnerable to exploitation, due to illiteracy and having no effective bargaining power. The Second Commission on Labour in its report noted that there is increasing inequality in the labour market, and wage differentials present among various groups and various sectors of the economy. There are large inter-industry and intra-industry wage differentials. In different sectors of the economy, a worker will be paid differently though he may be doing the same kind of job. Even in the same industry,

¹⁸ The Commission also noted that the irregularities committed under the Minimum Wages Act are on the increase. In 1997, 1,05,639 irregularities were brought to notice. This number went up to 1,41,913 in 1998.

different units may pay different wages for the worker who is having the same measurable skills. First, the differentials are found across occupations: the firms that pay professionals a premium over the market average also pay less skilled workers a premium over the market average in their occupations. Second, these differentials have a strong tendency to persist over time; industries that pay premia in one period tend to be found paying them in later period. This point has been elaborately dealt in the above-mentioned section at the time of discussion of issues concerning minimum wage across country. Government of India has shown concern with these problems.

115. Article 39(d) of the Constitution of India envisages that equal pay should be given to men and women for equal work. Although equal pay for equal work not expressly declared to be a fundamental right is clearly a constitutional goal under Article 14, 16 and 39 (d) of the Constitution and can be enforced by the courts in cases of unequal scales of pay based on irrational classification. This principle has been followed in a number of cases and has virtually become a fundamental right (*D. S. Nakara v. Union of India*, AIR 1983 SC 130; *P. K. Ram Chandra Iyer v. Union of India*, AIR 1984 SC 541; *Randhir Singh v. Union of India*, AIR 1982 SC 879; *State of Haryana v. Rajpal Sharma*, AIR 1997 SC 449; *State of H. P. v. P. D. Attari*, 1999 3 SCC 217). India has enacted legislations to strengthen the right to equal pay for equal work (Equal Pay for Equal Work Act, 1975, The Equal Remuneration Act, 1976, Equal Opportunities, Protection of Rights and Full Participation Act, 1995). The Equal Remuneration Act, 1976, prohibits discrimination between men and women in their requirements or payment of wages wherever their jobs are identical, except where employment of women in certain types of work is prohibited or restricted by law.

116. The State Governments/Union Territories are being advised from time to time to ensure more rigorous enforcement of the Act so as to improve the condition of women workers. The following social welfare organisations have been recognized under the Equal Remuneration Act, 1976 for the purpose of filing complaints in courts against employers for violation of the provisions of the Act: The Centre for Women's Development Studies, New Delhi; The Self-Employed Women's Association, Ahmedabad; The Working Women's Forum (India), Chennai; The Institute of Social Studies Trust, New Delhi.

117. In 1987, the National Commission on Self Employed Women and Women in the Informal Sector, chaired by Mrs. Ela Bhatt, was constituted. In its report, the Commission recommended a reasonable wage of Rs. 500 for women workers.

Section – IV

Conditions of Occupational Health and Safety

118. The Government of India underlines labour safety and protection as the most important aspect in the administration of enterprises. The Constitution of India contains specific provisions on occupational Safety and health of workers. Article 24 of the Constitution says that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Article 39 (e and f) of the Constitution provides that the State shall, in particular, direct its policy towards securing:-

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

119. Article 42 says that the State shall make provision for securing just and human conditions of work and for maternity relief.

120. Various laws have been enacted from time to time on relevant subjects connected with safe and healthy working conditions of workers. These laws are as follows: The Factories Act, 1948 and rules framed thereunder; The Mines Act, 1952; The Coal Mines Regulations, 1957; Metalliferous Mines Regulation, 1961; The Indian Oil Mines Regulation, 1933; The Mines Rules, 1955; Indian Electricity Act, 1910; Indian Electricity Rules, 1956; Mines Creeches Rules, 1966; Coal Mines Rescue Rules, 1959; Coal Mines Pit Head Bath Rules, 1959; The Employment of Children Act, 1938 and the central provinces Unregulated Factories Act (XXI) of 1937.

121. Section 11 to 20 of the Factories Act, 1948 deal with health that to cleanliness. These provisions prescribe certain standard of cleanliness which every factory has to maintain.¹⁹ Section 91 A of the Act authorizes the Chief Inspector, or the Director General of Factory Advice Service and Labour Institute or the Director General of Health Services to the Government of India or such officer as may be authorized in this behalf to take an undertaking of safety and occupational health surveys conducted from occupier or manager of the factory.

122. The scope of the Factories Act is to cover all industrial establishment employing ten or more workers, no distinction between seasonal and non-seasonal factories, extension of provisions relating to health and safety to all work place irrespective of the number of workers employed. Through decisions the Supreme Court has made the provisions of the Acts effective in operations (*J. B. Mangharam & Co. AIR 1969 MP 110; Mitchell v. North British Rubber Co. Ltd. 1945 SC 1; Consumer Education and Research Centre v. Union of India, (1995) 2 Lab L J 768 (SC) etc.*).

123. The Directorate General, Factory Advice Service and Labour Institutes (DGFASLI), Mumbai which is an attached office of the Ministry of Labour as a technical arm of the Ministry in regards to matters concerned with safety, health and welfare of workers in factories and ports/docks. It assists the Central Governments in formulation and

¹⁹ There are provisions regarding cleanliness (Section 11), Disposal of wastes and effluents (Section 12), ventilation and temperature (Section 13), Dust and fume (Section 14), artificial humidification (Section 15), overcrowding (Section 16), lighting (Section 17), drinking water (Section 18), latrines and urinals (Section 19) and spittoons (Section 20).

Section 21 to 41 of the Act deals with safety of the workers working in the factories. These provisions cast an absolute duty on the employers to comply with safety provisions. Considerations of practicability are irrelevant in the matter. There are provision regarding fencing of machinery, work on or near machinery in motion, prohibition for women and young persons, employment of young persons on dangerous machine, striking gear and devices for cutting off power, self-acting machines, casing of new machinery, prohibition of employment of women and children near cotton operators, hoists and lifts, protection of eyes, precautions against dangerous fumes, gases, use of portable electric light, in case of fire etc.

review of policy and legislation on occupation safety and health in factories and ports, implement and enforce the Factories Act with the help of Factory Inspectors of States. There are Central Labour Institutes and Regional Labour Institutes (RLIs) which undertakes activities such as carrying out Studies and Surveys, organising training programmes, seminars and workshops, delivering talk, etc. In addition these measures, surveys on Safety, Health and Work Environment in Pesticide Industry, Safety and Environmental Condition in Stone Crushing Units, and Survey in Salt Industry has undertaken to ascertain status of working conditions and standards of safety. In addition, following National Studies/Surveys are under progress: Safety Audit in Major Ports, Ergonomics study on Beedi Workers, Occupational Health Profile of VDT Workers, Status of Occupational Health and Environment in Slate Pencil Industry, National Study in Stainless Steel Rolling Mill in Jodhpur, etc.

124. Tenth Five Year Plan is adding a new Plan Scheme: Strengthening of Occupational Safety and Health Strategies in Priority Hazardous Chemical processes, Setting up of National Board on Occupational Safety and Health, Competence Enhancement of Officers of DGFASLI and CIFs for Improving Occupational Safety and Health, Competence Building of Enforcement Agencies and Development of Enforcement Strategies and Guidelines, Design and Execution of National Level Awareness Campaign in the Identified Seven Segments of Unorganised Sector.

125. Large-scale mechanization leads to higher risk to health and safety of work persons deployed in mines. Under the Constitution of India, Safety, Welfare and Health of workers employed in mines are the concern of Central Government (Entry 55 – Union List). The Mines Act, 1952 and the Rules and Regulations framed thereunder regulate the objective. These are administered by the Directorate General of Mines Safety (DGMS) under the Union Ministry of Labour. Apart from administering the Mines Act and subordinate legislations thereunder, DGMS also administers other allied legislation. These are as follows: Coal Mines Regulations, 1957; Metalliferous Mines Regulations, 1961; Oil Mines Regulations, 1984; Mines Rules, 1955; Mines Vocational Training Rules, 1956; Mines Rescue Rules, 1985; Mines Crèche Rules, 1966; Coal Mines Pit Head Bath Rules, 1959; Factories Act, 1948, Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 under Environmental Protection Act, 1986; Land Acquisition (Mines) Act, 1885; The Coal Mines (Conservation and Development) Act, 1974.

126. There are some laws to regulate the conditions of workers in unorganised sector. A major category of unorganised workers is Home based workers. The Government has enacted the Bedi and Cigar Workers (Conditions of Employment) Act, 1976 and Bedi Workers Welfare Fund Act, 1976 to regulate the conditions of these workers. Further, the Ministry of Textiles through the office of Development Commissioner for Handlooms and Handicrafts implements the schemes and programmes covering various aspects including health. With a view to providing legislative protection, the possibility of formulating a National Policy on Home Based Workers is being explored in consultations with the other concerned Ministries/Departments, State Governments etc.

127. Construction workers constitute another major group of workers in the unorganised sector. Provisions of various Acts have been extended to them (The Building and other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996; The Building and Other Construction Workers' Welfare Act, 1996; and The Building and Other Construction Workers (RECS) Central Rules, 1998). The Government is monitoring

the implementation of the provisions of the Act. So far only Kerala State has implemented the Act. The Delhi Government has constituted the State Board and is nearly at the stage of implementation of the Act. The Tamil Nadu State has implemented its own Act on the line of the Central Act. Most of the State Governments are in process of constituting Expert Committees to frame the Rules, set up Welfare Boards and Funds to implement the Act in letter and spirit.

Section – V

Equal opportunity for promotion

128. Every citizen is entitled to equal opportunity for promotion. This right is ensured by Constitution of India as well as by service laws. Special attention has been paid to weaker section of the society. Article 16(4) empowers the State to make special provision for the reservation of appointments of post in favour of any backward class of citizens which in the opinion of the State are not adequately represented in the services under the State. The scope of Article 16(4) was considered by the Supreme Court concerning the promotion of any backwards class of citizens in various cases. In the *Indra Sawhney v. Union of India*, AIR 1993 SC 477, the majority held that the reservation under Article 16(4) can not be made in promotions. The reservation is confined to initial appointments. However, it shall not effect promotions already made. Such reservation may continue for a period of five years; within this period, the authorities will revise, modify or re-issue the rules relating to reservation. On this point the Court has “thus” overruled the following cases: *General Manager, Southern Rly. v. Rangachari*, AIR 1962 SC 179; *State of Punjab v. Hira Lal*, (1970) 3 SCC 567; *Akhil Bharatiya Shoshit Karamchari Sangh v. Union of India*, (1981) 1 SCC 246; and *Comptroller and Auditor General of India v. K. S. Jagannathan*, (1986) 2 SCC 679.

129. The Government has enacted the Constitution (77th Amendment) Act, 1995 in order to give the meaning of the concept of social justice and added a new clause (4-A) to Article 16 of the Constitution which empowers the State to make any provisions for reservation in promotion in government jobs in favour of SC's and ST's, if it is of opinion that they are inadequately represented in the services under the State. This has been done to nullify the effect of the Supreme Court judgment in the Mandal Commission case (*Indra Sawhney v. Union of India*) in which the court has held that reservation in promotions cannot be made. This means that reservation in promotion in government jobs will be continued in favour of SC's and ST's even after Mandal Commission.

130. In a significant judgment on reservation in promotions, the Supreme Court has held that any post in cadre falling vacant, after reserved posts were filled, is to be filled from the same category of persons whose retirement or resignation caused the vacancies. The Government spontaneously has given the legislative sanction to it by amending the Constitution in 2000. The Constitution (81st) Amendment Act, 2000 inserted a new clause Article 16(4-B) which allows for the vacancies in reserved seats to be carried over to succeeding years. Such carry forward vacancies are not to be counted within the 50 per cent ceiling (*S. R. Murthy v. Karnataka*, AIR 2000 SC 450; *Ajit Singh II v. State of Punjab*, (2000) 1 SCC 430). In *Jattinder Pal Singh v. State of Punjab*, AIR 2000 SC 609 the Court held that the seniority rule of continuous officiation was interlinked with the promotional rule based on equal opportunity.

131. The Constitution (85th Amendment) Act, 2001 has substituted in clause 4-A for the words “in matters of promotion to any class” the words “in matters of promotion, with consequential seniority, to any class”. This amendment aims at extending the benefit of reservation in favour of the SC/ST in matters of promotion with consequential seniority.

132. In the matter of promotion to higher posts either on the basis of seniority-cum-merit, or on selection, the Supreme Court has held in several decisions that in view of Article 16, every civil servant eligible under the relevant rules to be considered has the fundamental rights, not as such to be promoted but to be considered justly and fairly.²⁰ Since the requirement of higher posts differ from case to case, same methods of promotion are not suitable for all contingencies. Some of the posts may be declared as selection posts and may be filled up on the ground of merit and suitability regardless of seniority. In case of selection post promotion is made in the same manner as initial appointment and it is permissible to have various tests and interviews. Promotion depends on consideration of numerous factors by the competent authority. The principle of natural justice applies in the matter of selection for promotion also.

Section – VI

Rest, leisure, reasonable limitation of working hours, periodic holidays with pay and remuneration for public holidays

133. The right to rest, leisure and reasonable limited working hours is guaranteed by Indian labour laws. This right is ensured by the fixed system of workday, the provision of holidays, paid leave, etc. Section 51 to 66 of the Factories Act, 1948 exhaustively deals with the working hours of adults.²¹ Section 13(1) (a) of the Minimum Wages Act, 1948 authorised the appropriate Government to fix the number of hours of work. The Central Government under the Minimum Wages (Central) Rules, 1950 fixed the normal daily hours of work in respect of an adult and a child worker as 9 and 4.5 hours respectively. The daily spread over for an adult worker should not exceed 12 hours inclusive of interval of rest, if any. In case of agricultural employment the above provisions have been subjected to such modifications as may from time to time be notified by the Central Government. The

²⁰ *Sant Ram Sharma v. State of Rajasthan*, AIR 1967 SC 1910; *A. K. Kripak v. Union of India* AIR 1970 SC 150.

²¹ Section 51 of the Factories Act provides that no adult worker shall be required or allowed to work in a factory for more than forty-eight hours in a week. Section 52 of the Factories Act says that an adult worker shall not be required or allowed to work on the first day of the week except the condition given in Section 52(a) and (b). Section 53 of the Act talks about compensatory holidays of equal number to the holidays so lost. Section 54 of the Act says that subject to the provision of Section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day. Section 55 says that no period shall exceed five hours and no worker shall work for more than five hours before he has had an interval for rest of at least half an hour. There are provisions also for spread over (Section 56), night shifts (Section 57), prohibition of overlapping shifts (Section 58), extra wages or overtime (Section 59), restriction on double employment (Section 60), notice of period of work for adults (Section 61), register of adult workers (Section 62), hours of work to correspond with notice under Section 61 and register under Section 62 (Section 63), power to make exempting rules (Section 64), power to make exempting orders (Section 65) and further restriction on employment of women (Section 66). Further, Section 71 deals with the working hours for children. Section 79 to 82 of the Factories Act deals with annual leave with wages. There are provisions which talk about wages during leave period (Section 80). Section 93 says any factory there is any contravention of any of the provisions of the Act, or of any rules made thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to 0.1 million rupees or with both.

rules framed by the State Government and UTs also contains similar provisions regarding daily hours of work.

134. There are other Statutes regulating working hours are the Factories Act, 1948, Indian Dock Workers (Regulation of Employment) Act, 1948, Mines Act, 1952, Plantation Labour Act, 1951, Shops and Commercial Establishments Act, 1948, Motor Transport Workers act, 1961, and Contract Labour (Regulation and Abolition) Act, 1970, and Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

135. The workers in the employment of Agriculture were brought at par with other employments by an amendment in Rule 23, made by the Central Government during the year, 1979. The provision for the paid weekly off has been made in the Rules framed by the Central Government and by all the State Government.

136. The Ministry of Labour has emphasized that work culture should not be linked with working hours and holidays. It is of serious concerns that many of the Central Statutes and some States Statutes still prescribe 9 hours working per day. 8 hours working hours per day is universally accepted. Government of India attempts to bring uniformity in daily and weekly hours of work and holidays. The First National Commission on Labour has also suggested that working hours should be reduced from 48 hours to 40 hours.

Section – VII

International Assistance

137. Regarding occupational, health and safety aspect, having successfully hosted the XII World Congress in India, National Safety Council (NSC) continues to contribute to the success of future World Congresses. India being a founder-member of Asia Pacific Occupational Safety and Health Organisation (APOSHO), NSC has been actively contributing to develop co-operation on HSE issues among its member countries. The Co-operation between NSC and UNEP is continued. The active collaboration of NSC with Japan Industrial Safety and Health Association (JISHA) has been continued since July, 1999. India has participated in XVI World Congress on OSH held from 25-31 May in Vienna 2003, in 18th Annual Meeting and Conference of APOSHO, held from 8-10 October, 2003 in Hanoi. India worked as Nodal Agency for strengthening Collaboration with JISHA, Japan. India with the help of International Institutions and various countries bodies has done surveys on Safety Awareness Surveys, Safety Audits and Risk Assessment Assignments.

Article 8

Trade Union Rights

138. The right to form association which includes right to form trade unions for lawful purposes is guaranteed as a fundamental right in the Constitution of India. This right is unrestricted except that in certain employments wherein the government is the employer

and an association formed by the employees may not be entitled to registration, to earn certain immunities for the purpose of resorting to industrial action for collective bargaining especially in areas in which employees are employed in sovereign functions of the state. It is important to stress here the fact that, unlike UK law, Indian Constitution has made the doctrine of pleasure in case of civil servant subject to constitutional safeguards like right of hearing etc. Further, service conditions in case of civil servants are regulated by the statutory rules. The collective bargaining as a method of settlement of industrial disputes by industrial employees for redressal of their grievances has been adopted and accepted in India as elsewhere. The Government of India does accept strikes as legitimate if it lawful, but for it to invoke the provisions of criminal law and fire one, in dealing with situations where threats to peace, person or property are apprehended.

Section – I

139. On the subject of international instruments on the right to form association and effective recognition of right to collective bargaining which is one of the on which report is sought, the Indian Government's position is as under:

140. International Covenant on Civil and Political Rights was acceded by India on 10 April 1979. Thus far India has presented three periodic reports to the HRC. The position in sum and substance in the three reports (India's initial, second and third periodic reports on the ICCPR are 4 July 1983, 12th July 1989 and 17th July 1996 respectively) are in compliance with the obligation of Article 22 of that Covenant. India's fourth periodic report was due on 31 December 2001 and is currently under preparation and to be submitted with this report.

141. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98) are yet to be ratified by India. Indian Constitution recognizes the freedom of association and the effective recognition of the right to collective bargaining in Article 19(1)(c). A very detailed coverage is available in India's report on the ILO Global Report as well as in Declaration Follow-up. Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: Organising for Social Justice, ILC 92nd Session 2004 has considered the reports of various States Governments including India concerning the freedom of association and the effective recognition of the right to collective bargaining. The CEACR, 2004 pointed out that though India have not ratified Convention No. 87 and 98, Indian Governments is regular in submitting report on these principles whenever it is required by the ILO (under the Declaration Follow-up for the 2004 Annual Review by category of principle and right). It is noteworthy that nearly one third of the India's workforce is engaged in agriculture. Considering the large farming population, India has ratified Right to Association (Agriculture) Convention, 1921 (No. 11) on 11.05.1923 which underscores that agriculture workers should have the same right "of association and combination" as industrial workers. Moreover, India has also ratified Rural Workers' Organisation Convention, 1975 (No. 141) on 18.08.1977 which recognises the importance of involving rural worker's organisation in land reform.

142. Convention No. 98 does not only deal with the position of "public servants engaged in the administration of the State", but also states that the Convention shall not "be construed as prejudicing their rights or status in any way". In 1978, the ILO adopted the Labour Relations (Public Service) Convention, 1978 (No. 151). It guarantees the right

to organize for “all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them”. India is yet to ratify this Convention. Global Report under the Follow-up the ILO Declaration on Fundamental Principles and Rights at Work: Organising For Social Justice, International Labour Conference, 92nd Session 2004, Report I (B) notes India’s indication of the special situation of government servants, so that it is currently unable to consider ratification. India have pointed out that its Constitution does recognize the right to freedom of association and collective bargaining but due to current problems of economic, political and cultural nature it is not able to give legal effect to it. The following further comments provide a summary and an updating.

Section -II

Right to form association and collective bargaining

143. India recognizes the links between the principle of freedom of association and the effective recognition of the right to collective bargaining and human rights and democracy in general; its relationship to labour conflict; its socio-economic efforts; and its role in the context of poverty reduction. India’s efforts in maintaining democracy, freedom from discrimination, freedom to form independent association, holding free and fair elections has been strengthening over the years. Over the years, the system of collective bargaining as a method of settlement of industrial dispute has been developed in India as well.

144. Information concerning trade union rights has been provided to the Committee in 1986 (E/1984/6/Add.13, para 36-38) by India. In preparing this report in accordance with the Committee’s revised general guidelines (document HRI/GEN 12 of 14 April, 2000), attention has been given to issues raised in different forums by various trade unions. These are: non-ratification of ILO Convention No. 87, 98 and 151, distinction made by Government of India between public servants and other workers, migrant workers and workers engaged in EPZ/SEZ, prior strike notice by public servants and certain categories of workers in non-public sector industries, interpretation of essential services, compulsory or automatic recognition of trade unions, coverage of collective bargaining, victimization of workers by management, right to join union by many categories of workers in the public sector-such as fire fighter, law and order staff, prison staff, judicial officer and defence staff etc. The Trade Unions have also expressed concern over the proposals of amendment of Industrial Disputes Act, 1947, Contract Labour (Regulation and Abolition) Act, 1970. Further AITUC has alleged that the principle of freedom of association and the effective recognition of the right to collective bargain is only partially recognized. The Government of India consistently gave due consideration to the views of the trade union and takes into account them while drafting laws and policies concerning trade union rights. This report focuses on key developments in terms of legislations, policies and measures taken by the various organs of the Government of India to ensure and encourage freedom of association and collective bargaining.

145. The Constitution of India and various domestic legislations deal with the rights and functions of trade unions. The Trade Union Act, 1926, Clause III of Code of Discipline, and the Industrial Disputes Act, 1947 are special legislations, which underline the principle of freedom of association and effective recognition of right to collective bargaining.

146. The practice of trade union is safeguarded by the right to form associations guaranteed as a fundamental right under the Article 19(1)(c) of the Constitution. However, Article 19(4) of the Constitution empowers the State to impose reasonable restrictions in the interest of the sovereignty or integrity of India or in the interest of public order or morality.

147. The right to form association includes the right to form trade unions for lawful purposes (*Kulkarni v. State of Bombay, AIR 1931 Bom 105 and B.R. Singh v. Union of India, 1989 4 SCC 719*). Under the government's conduct rules public servant can form and join welfare associations and these may be recognized by the government. This right is unrestricted except in certain employments wherein the government is the employer and an association formed by the employees cannot be registered as a trade union engaged in sovereign functions of the state. This denial of a fundamental right in areas purely regarded as legal or sovereign functions has been justified in the public interest. This differential treatment was considered to be essential in the context that trade unions in the country are highly politicized and are affiliated to one or the other political parties, and very often they in turn are formed on sectarian considerations. In these circumstances, India considers that political neutrality of government servants is absolutely essential for the functioning of a constituted government. However, in practice the government employees have often been able to use their associations as unions in as much as they have been able to bargain on pay and service conditions, call strikes, hold demonstrations and conduct negotiations with the government.

148. The civil servants in core governmental departments of the Central and State Governments too are fully unionized through their associations but may not be registered as trade unions and do not enjoy bargaining status as such. Nonetheless, the government bargains with them and Joint Consultative Machinery patterned after the British Whitley Council is maintained in good working condition. The National Council concludes agreement affecting more than 2.5 million employees of the Centre. These trends are increasingly reflected in the state governments as well. For example, a number of State Electricity Boards, the statutory bodies, have faced prolonged strikes. Teachers and hospital staff including doctors have called strikes. In a number of States, the unions had to fight very hard to win basic negotiating rights.

149. Thus, whereas in theory the government continues to insist on the observance of conduct rules by public servants and refuses to deal with the associations of public servants, in practice government does sit across with union of public servants and enters into settlements with them.

150. The Central Civil Service employee's associations are recognized by the Central Civil Services (Recognition of Service Association) Rules, 1993. Similarly, the State civil service employees' associations are recognized by the respective State Governments. The mechanisms available to civil servants for settling grievances in India are the Joint Consultative Machinery (JCM) and Service Tribunals set up by the Central and State governments manned by judicial and administrative members on the pattern of French and German service tribunals. They provide a forum for the amicable settlement and adjudication of grievances. The Board of Arbitration under the JCM which was setup in July 1968, has a panel of members representing staff and officials. During 1999-2000 (up to 31st December), 241 cases were referred to the Board, of which 238 were settled. It is worthwhile to mention here that workers and employees in the public services, working in

public sector undertakings, are covered by the Trade Unions Act, 1926 and can get registration under the Act and therefore entitled to immunities.

151. To illustrate, unionism has been firmly established among the departmentally run undertakings of the government, such as, the Indian Railways, the Post and Telegraphs and the Ordnance Factories, etc. These are large employers. The Indian Railways alone employ about 1.7 million persons. The Railways, the Post and Telegraph, and other departments have developed their respective bargaining systems with the recognized unions.

152. Article 8 (2) of ICESCR says that right to form trade unions and join trade unions, and exercise of these right guaranteed under this article will not prevent the State to prescribe limitations thereon. The Indian law sincerely conforms to Article 8(2) and has except in certain categories of employees provides complete freedom to employees to form Trade Unions and bargain assertively. Article 33 imposes such limitation in respect of few categories. Article 33 empowers parliament to impose limitation in respect of the certain categories. Such categories envisaged in Article 33 are: (a) the members of the armed forces or (b) the forces charged with the maintenance of public order.²²

153. Except in case of employees engaged in those areas of state activities which are sovereign purely, unions of employees both in the State, public and private sector can safely engage in trade disputes. The trade union rights in India are contained in various laws and also in voluntary codes like the Voluntary Code of Discipline.²³ The aim of the

²² The Scope of Article 19(1)(c) right to form association and Article 33 has been considered by the Supreme Court in *O. K. A. Nair v. Union of India*, AIR 1976 SC 1179. The Court held that the civilian employees of the Defence Establishments answer the description of the members of the Armed Forces within the meaning of Article 33 and therefore are not entitled to form trade unions. Further see *Banglore Water Supply v. A.Roy*, AIR 1978 SC 548.

²³ India and its institutions have resorted a wide variety of ways in order to give meaningful the freedom of association and the effective recognition of the right to collective bargaining. The approach of India is based on the premises that these principles and rights are part of the solution of the labour problems resolving disputes among the employers and workers through negotiation leading to collective bargaining. The detail information with this regard has been provided in last report submitted to Committee by India (E/1984/6/Add.13, para 37).

The Act differentiates the registered trade union from other unions. At the Central level issues of recognition etc. are conferred upon the registered unions under the Code of Discipline. The immunities from criminal conspiracy in trade disputes and from civil suits for damages or for breach of contract due to union action are given only to registered trade unions (Section 17 and 18 of the Trade Union Act, Section 120(B) of the Indian Penal Code). Through registration a union becomes a body corporate and gets perpetual succession and a common seal. It can acquire and hold both movable and immovable property, it can enter into contracts through agents, and it can sue and be sued. Furthermore, its income is free from income-tax (Section 13 of the Trade Union Act, 1926 and *Chemosya Pl Ltd. v. Kerala Medical and State Representatives Assn.* (1998) 2 Lab LJ 43 (Ker).

Any seven or more members of a union can apply for registration (Section 4(1)) subject to the condition that the Trade Union has minimum 10% of the membership of employees or 100 employees, whichever is less. Any person who has attained the age of 15 can become a member of a trade union subject to its rules and may derive all the benefits of membership as per the rules (Section 21). But a member cannot become an office bearer until he is 18 years of age (Section 21A). The rules of the union must contain, besides its name and objects, the purposes for which its funds will be applicable, a list of members and facilities for its inspection by members and office bearers, the provision for the admission of ordinary members as well as honorary or temporary members as office bearers, the payment of subscription, entitlement of benefits to the members and the provision for imposition of fine or forfeiture, the procedure for amending or rescinding the rules, the appointment and removal of members of the executive and office bearers, the safe custody of

Trade Union Act, 1926 was to provide for registration of unions, thereby according them the status of bonafide trade unions, safeguarding the rights of members and other matters. The Statute has not made registration of unions obligatory; however the registered unions are given protection in certain cases in respect of both civil and criminal liability.

154. An Amendment Act enacted in 1947 which provides for union recognition, the duty to bargain, the rights of recognized unions and which had outlawed unfair practices as listed in the Act could not be notified and enforced. In absence of general consensus on such statutory provisions, a high powered tripartite body comprising of employees and government representatives which meets on in a year the 15th session of the Indian Labour Conference in 1957 adopted a Code of Discipline which provides for voluntary recognition of trade unions by the employers (Clause III (vii) of the Code of Discipline). The recognition of registered trade unions under the code of discipline is binding having moral force. It may be pertinent to state here that labour is a subject matter which falls in concurrent list and therefore state and centre can make laws. In exercise of legislative power, several state governments have enacted legislation on the subject and are applicable in a limited manner within their respective jurisdiction.

155. In the state legislation the Bombay Industrial Relations (BIR) Act, 1946, in Madhya Pradesh, the Trade Union Act was amended along the line of the BIR Act to provide for a list of 'Approved Unions' to be maintained by the Registrar. Any Representative Union or in its absence, any registered union can apply for the status of approved union. The BIR Act, 1946 provides for the maintenance of a register of Approved Unions and a representative union to secure legal recognition in a 'local area'. This Act applies to Maharashtra and Gujarat and the same principles are reflected in the Madhya Pradesh legislation. Only a registered union with a membership of not less than 25 per-cent workforce in any industry in a local area are recognised as Qualified Unions. If no union can be recognized as Representative or Qualified there is scope for a third category as well, as Primary Unions which have a membership of at least 15 per-cent of employees in an undertaking. Each category enjoys certain statutory advantages though the bargaining rights are reserved only for the first. This law is applicable only to those industries which are not covered by the I D Act. Hence it is of limited scope and its impact has not been widely felt. Similarly in Rajasthan through Industrial Disputes (Rajasthan Amendment) Act, 1958 and in Bihar in 1959, the Central (Standing) Labour Advisory Board passed a resolution which was later amended in 1968 provided for recognition of trade unions.

funds, annual audit, facility for inspection of accounts by members, and finally the manner in which the union may be dissolved (Section 6).

The right to admit members is assured by the Act, but whether a person is admitted a member or not depends upon the rules. Denial of membership is not a serious problem in this country. Indeed most unions are organized along industrial lines and welcome members in the same industry or employment. Membership is strictly voluntary. A union cannot force compulsory membership, not even under a settlement. Similarly, an employer cannot make union membership or non-membership a condition of employment. Such a condition would be constitutionally void. The absence of closed shop and union shop agreements has left the trade union movement substantially free from the abuses of coercive or passive membership and denial of freedom to individuals. On the other hand, the complete divorce between union membership and employment has proved to be no less harmful. Workers lose interest in unions or do not take the trouble of building them into effective organisations. It is possible that a worker would derive the same benefits under an agreement whether or not he is a member and has contributed in any manner to the strength of the union. If rival unions compete for his allegiance he may shift loyalty to suit his purpose or withdraw support at his whims. This attitude is all too common in India and has produced weak unions which are unsure of their strength and prone to act sometimes in a rash and irresponsible manner.

156. In 1972 the Maharashtra Government enacted an important legislation called the Maharashtra Recognition of Unions and Prevention of Unfair Labour Practices Act, 1972 (in sum, the Maharashtra Act, 1972). This could be implemented in 1975 only. The Act provides for the recognition of a sole bargaining agent in an industry and for union security. Once recognized, the union's status as a sole bargaining agent cannot be challenged for two years. The unrecognized unions are entitled to handle grievances of their members and to appear on their behalf in departmental inquiries. This Act applies to all industries that fall outside the jurisdiction of the Bombay Industrial Relations Act. Thus between the two legislations all the industries employing 50 or more persons located in the state are covered. The recognition is conferred by the Industrial Court set up under the Act.

157. The Maharashtra Act of 1972 has implemented the principle of one trade union for one industry by not permitting the recognition of more than one union in respect of an undertaking. This law also insists on good behaviour as a condition precedent to recognition. The union seeking recognition should not have called or aided an illegal strike in the six months preceding its application to the Industrial Court, and, after recognition is granted, it must refrain from unfair practices including support to an illegal strike. The legislation has made the duty to bargain obligatory for a recognized union; the refusal to do so is an unfair practice. Thus the Maharashtra Act has translated a number of ideas into practice that were incorporated into the Trade Union (Amendment) Act, 1947 in India but could not be enforced for the reason already stated above.

158. This Act has also implemented a number of ideas that form part of the Code of Discipline 1958. It lists a number of unfair labour practices on the part of employers as illegal. These are (a) to interfere with, restrain or coerce employees in the exercise of their right to organize, form, join or assist a trade union, (b) to take undue interest in union activities, (c) to declare an illegal lock-out, (f) to victimize workers and terminate their services not in good faith but in the colourable exercise of the employers' rights', and several others, such as, indulging in acts of force or violence and failure to implement an award, settlement or agreement.

159. A number of features of the Bombay Industrial Relations Act and the Maharashtra Act of 1972 were incorporated in the comprehensive Industrial Relations Bill 1978 which was introduced by the Janata Government but lapsed with the dissolution of the House.

160. Various initiatives undertaken by Government of India can be regarded as successful examples in relation to freedom of association. For instance, a meeting of the Standing Labour Committee (SLC) was convened in May 2002, where all Central Trade Union Organisation (CTUOs) were invited. This is an apex tripartite body whose discussions are held in a transparent manner, which is indirectly of the government's initiative to encourage freedom of association among trade unions and workers. Further, CTUO having largest membership has been given an opportunity to represent workers and protect their interests in 2nd National Commission on Labour (2002).

161. The Government of India has not opposed collective bargaining but has rather tried to encourage it subject to limitation on consensus on various issues at national level like law on recognition of trade unions and methodology for determining the sole bargaining agent through legislative action. Indeed, through the Code of Discipline it has even fostered the idea, and in any case the government does not come in the way if the two

parties can reach agreements without recourse to open conflict. The principal legislation for regulating the collective relationship between the employers and workers is the Industrial Disputes Act 1947 which gives of legal force and binding effect to the collective bargaining of the members arrived at between the parties not only that it provides help of conciliation machinery under the aegis of the State to facilitate collective bargaining and between the parties.²⁴

162. Rule 81-A of this Act provided for compulsory adjudication of disputes and enforcement of awards. This rule brought the permanent orientation to industrial relations system and ascribed a pivotal role to the Industrial Relation Machinery (IRM) of the Government under the Industrial Disputes Act, 1947.

163. Despite the limitation of law and the weakness of infrastructure, collective bargaining has continued to find wider acceptance and is increasingly practiced at the levels of enterprise as well as industry. Plant-wise agreements are more common, but, in the leading industrial centres, collective bargaining is practiced in the cotton textile, synthetics, silk, jute textile, plantations, coal, petroleum refining and distribution, steel, aluminum and ports and docks, among other industries. In some industries, all-India settlements have been signed, though it is more common to adhere to industry-cum-region patterns. Ports and docks, Life Insurance Corporation, the nationalized banks have signed All-India agreements and built up sound bargaining traditions. The plant level agreements retain formal link with the Code of Discipline. The main features of agreement arrived at through the IRM involving 100 or more workers are regularly published in the Indian Labour Journal. These relate to local issues at the plant level ranging from payment of bonus, special allowance, leave and holiday, facilities, uniform and liveries, age of retirement, etc. The Employers Federation of India has reported that the percentage of disputes resolved by collective agreements has been on the increase since the amendment of the ID Act in 1956.

164. In the public sector, collective bargaining is widely practiced both at the industry and enterprise levels. A major stimulus has been provided by the success achieved in bargaining jointly with all the significant unions, including the minority unions, in a number of industries, notably in steel. On substantive issues, landmark settlements have been arrived at on productivity-linked bonus schemes in Indian Railways, the Post and Telegraph Departments, the Indian Airlines, etc. Similar agreements have been signed in the hotel industry and in several private industries.

165. As regards EPZs/SEZs, the legal position is that there are no restrictions on the activities of the trade unions of employees and they are entitled to exercise their rights in the same manner as are being exercised by the employees and their trade unions elsewhere in the country.

Structure of the Union and Memberships

²⁴ A trade union is not allowed to raise a dispute unless it has a community of interest with that person. On the other hand, a union has a right to represent its members in a dispute under the Act, and its actions are binding upon the members. Under Section 2 (p) of the Industrial Disputes Act, 1947, settlement means "a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employers and workers arrived at otherwise than in the course of conciliation proceedings". Further Section 18(1) of Industrial Disputes Act, 1947 lays down that a settlement reached between the employer and his workmen shall be binding on the employer and the workmen who are party to the settlement.

166. Trade unionism in India seems to be basically dominated by a loose and complex structure and does not conform to a single pattern. Industry-wise as well as sector-wise variations are commonly evident. Trade unions are democratic organizations which are accountable to their members for their policies and actions. Unions are authorized to affiliate with international trade union organization. They are normally modeled on the following structure:

- Members – people who pay a subscription to belong to a union;
- Branches – which support union members in different organizations locally. There is usually a branch secretary who is elected by local members;
- District and /or regional offices – these are usually staffed by full time union officials. These are people who are paid to offer advice and support to union members locally;
- A National Office – the union’s headquarters which offers support to union members and negotiates or campaigns for improvements to their working conditions. At the top of the organization there is usually a President, Vice-President and General Secretary and a National Executive Board/Central Executive Committee, elected by the union’s members.

Section - III

Right to Strike

167. With the enactment of the Trade Unions Act, 1926, trade unions became legitimate bodies with right to replace individual bargaining with collective bargaining. In order to facilitate collective bargaining, the Act grant immunities in certain circumstances to registered trade unions, the members and office bearers against common law liabilities civil and criminal. These immunities have the effect of making right to strike lawful if undertaken in pursuance of legitimate Trade Unions activities and without use or threat of use of force. After the Constitution of India came into force on 26.6.1950 guaranteeing various fundamental rights including right to form association it was contended by the employees’ in *All India Bank Employees’ Association v. National Industrial Tribunal*, AIR 1962 SC 171 and *Kameshwar Prasad v. State of Bihar*, AIR 1962 SC 1166, that right to form association should be read to include to right to strike and right to collective bargaining. The court did not accepted such construction holding that reading right to strike and right to collective bargaining would amount to reading some thing more in Art 19 (1) (c) which was not envisaged by the then framers of the Constitution. The right to strike however continues to be treated as a legal right to be resorted to for the furthering trade unions objectives. The Industrial Disputes Act, 1947, which was to provide for the conciliation and adjudication of industrial disputes under the aegis of the State where the bipartite settlement is not possible, imposes restriction on right to strike and lockout so that the conciliation proceeding are held in peaceful manner and non compliance with the restriction on strike/lockout provisions renders strike\ lockout illegal and liable to

punishment. However, the courts have insisted that allthrough strike is a legitimate weapon in the armory of the labour it must be resorted to only after exhausting the remedies under the Act so that the community and society is not inconvenienced by frequent strike/lockouts. In a recent judgment of *Rangrajan v. State of Tamil Nadu*, AIR 2003 SC 3032, the Supreme Court held that government employees do not have a right to strike. Government employees and their organisations are seeking the review of this judgment.

168. The whole purpose of industrial legislation in India has been to define strikes and lock-outs in order to prevent or prohibit them and canalize the industrial disputes that might give rise to work stoppages into the conciliation and adjudication channels. The law may be said to provide the definition of an unjustified strike in the sense of stating the conditions in which they can be declared illegal. Strikes and lock-out, though recognized as inevitable in the collective bargaining process, are not considered justifiable unless all avenues of peaceful settlement of disputes are exhausted, and even then if they remain strictly peaceful, within law, and preferably of short duration. This philosophy has left the task of defining a justified strike on the higher courts. The judicial position is that, unless any provisions of the statute are contravened, a strike is legal. But every legal strike cannot be deemed to be a justifiable one unless recourse to it is taken in pursuance of fair and reasonable demands of labour.

169. In India, it is rather difficult to think of strikes that can remain legal from commencement to termination. A legal and justified strike called for the betterment of the service conditions of workers may become unjustified if workers turn unruly and violent and it is declared illegal by the government under the various provisions of the Industrial Disputes Act, 1947.²⁵

²⁵ The term 'strike' is defined in Section 2(q) of the Industrial Dispute Act, 1947 as 'a cessation of work by a body of persons employed in industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment'. This definition is the same of as in the Trade Dispute Act 1929. Section 22 prohibits strikes and lock-outs in public utilities. The conditions specified in this section are mandatory and factual justifiability of a strike will not be an illegal strike as legal. No person employed in a public utility service is allowed to go on strike in breach of contract without giving to the employer notice of six weeks or within 14 days of giving such notice, or during the pendency of any conciliation of such proceedings. Section 23 prescribes a general prohibition of strikes and lock-out during the pendency of conciliation proceedings before a Board and seven days after their conclusions as well as during the pendency of any adjudication or arbitration proceedings and two months after their conclusion. Section 23 applies to both public utilities and non-utilities and provides for a general prohibition once adjudication or arbitration proceedings commence. Under Section 10(3), the Government has the authority to prohibit the continuance of any strike or lock-out in connection with any industrial dispute which has been referred to a Board, Labour Court, Tribunal or National Tribunal. Similarly, if a dispute has been referred to arbitration under Section 10(4A), a strike or lock-out may be prohibited. Under Section 24, all prohibited work stoppages are illegal. Thus, even if a strike or lock-out was legal at the time of commencement, it would cease to be so once the government has prohibited it by order.

According to Section 24, a strike or lock-out shall be illegal if it is commenced or declared in contravention of Section 22 and 23 and if it flouts a prohibitory order issued under Section 10(3) and 10-A(4A). If at the time of reference of the dispute a strike or lock-out was in exercise, and it has not been explicitly prohibited, its continuance would not be illegal. If in full knowledge that a strike or lock-out is illegal, a person renders financial aid in furtherance thereof he would be violating the law and accordingly all such financial assistance is prohibited (Section 25). Section 26, 27 and 28 lay down penalties for taking part in illegal strikes, for instigating others to take part in them and for taking part in illegal strikes, for instigating others to take part in them and for giving financial aid in such ventures. To reinforce the penal provisions, Section 15 further lays down that 'no person refusing to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to

170. In order to deal with illegal strikes in essential services, the Central Government enacted the Essential Service Maintenance Act, 1968 for a period to declare any industry or service as an 'essential service', and prohibit strikes in them. Essential services listed in this statute include, besides well established public utilities like, post, telegraph and telephone, railways, land, air and water transport, airports, ports and docks, a number of other government functions also, such as the mint or security press, defence establishments and any other service in respect of which 'the Parliament has power to make laws' and which the Central Government may notify. The definition of the term 'strike' was widened to include (i) refusal to work overtime and (ii) 'any other conduct which is likely to result in, or results in, or cessation or substantial retardation of work in any essential service'. Thus practically every form of protest or disobedience was included and forbidden. Stiff penalties for participating in strikes were provided.

171. In order to protect public sector and defence establishments the government of India also enacted a permanent legislation entitled: The Central Industrial Security Force Act, 1968. The main purpose of this force is to protect and safeguard industrial undertakings from sabotage or disruption and to assist the management in maintaining discipline amongst the employees. For this purpose, the Force is placed at the request of the Managing Director of the undertaking. In addition to these extraordinary powers the government can acquire even more sweeping powers by declaring an Emergency.

172. The 'Gherao' is defined by the Calcutta High Court in the *Jay Engineering Works Ltd. v. The State of West Bengal*, Calcutta High Court, 29 September 1967, as 'the physical blockage of a target, either by encirclement or forcible occupation which declared it a criminal offence, and the trade-unions could not claim immunity from law.

173. 'Hartals' and Bandhs cannot derive their legitimacy from the Constitution or any statute. The Indian Constitution guarantees freedom of association, speech and assembly but they do not include the right to strike, to demonstrate, to picket and to interfere with the freedom of any citizen or with any lawful activity. Peaceful assembly and demonstration, unless prohibited by the authorities, fall within the Fundamental Rights and can be legally exercised only when not prohibited and declared illegal. A blanket ban on assembly and demonstration is, of course, devoid of constitutional validity. Only during a national emergency, when fundamental rights stand suspended, can a blanket ban be imposed (Defence of India Act and Rules thereof).

Article 9

Right to Social Security

174. The right of every one to social security has been recognized in the Constitution of India²⁶ and the domestic laws. Plans and policies of Government of India are aimed at

expulsion from any trade union or society or to any fine or penalty, or to deprivation of any right or benefit' to which he may be entitled, nor would he be placed under any disability or disadvantage as compared to others.

²⁶ The Constitution enjoins the State in the Directive Principles to make 'effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want' subject to its economic capacity and development (Article 41). Article 42 empowers the State to make provision for securing just and human conditions of work and for maternity relief. Matters relating to social security issues are mentioned in the Concurrent List (List III in the Seventh Schedule of the Constitution of India)-

ensuring that every person attains and maintains a decent standard of life. The measures taken by Government of India are statutory, public and private.²⁷

Section I

175. India has ratified four Conventions dealing with social security adopted by the ILO. These are: *Workmen's Compensation (Occupational Disease) Convention, 1925 (No. 18)* which envisages payment of compensation to workmen for occupational disease; *Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)* which provides for equality of treatment to national and foreign workers as regards compensation payable to workmen for injury/death caused due to accidents, *Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)* which partially revise the Convention concerning workmen's compensation for occupational diseases and *Equality of Treatment (Social Security) Convention, 1962 (No.118)*. CEACR, 2002 takes a note of India's report submitted concerning Convention No. 118.

176. ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) which deals with regard to minimum standards of social security is yet to be ratified by India. ILO Convention No. 121 (deals with regard to benefits in the case of industrial accidents and occupational diseases), No. 128 (deals with regard to revision of Convention No. 35, 36, 37 and 38), No.130 (deals with regard to the revision of the Convention No. 24 and 25), and No. 168 (emphasizing the importance of work and productivity employment in any society and recalling the existing international standards in the field of employment and unemployment protection) are yet to be ratified by India. However, the laws enacted in India are on the lines of the Conventions and Recommendations of the ILO, although all the Conventions have not been ratified by India. Considerable progress has been made to extend the coverage of the existing statutes, and to those outside the scope of legislation through special schemes. The Study Group on Social Security Constituted by the Second National Labour Commission (2002) felt that it might not be possible to ratify all the conventions immediately, but it is desirable to plan for their eventual ratification by upgrading laws and practices gradually, beginning with the Minimum Standard Convention which may be ratified within a reasonable period of time. The Commission has in its final report endorsed the view of the Study Group.

177. Social security has been in existence in Indian society in some form since a long time. A detailed information has been provided in last report (E/1984/6/Add.13, para 39-50) submitted in 1986 to Committee on ICESCR by India. This report provides further information on this right.

Item No. 23: Social Security and insurance, employment and unemployment.

Item No. 24: Welfare of Labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pension and maternity benefits.

²⁷ In India, originally Private social security schemes such as provident funds, gratuity or other retirement plans and medical benefits was as a part of an enlightened management philosophy seeking the involvement of labour in the prosperity of industry and were further developed through collective bargaining. Now, such schemes cease to be fringe benefit or wage supplement, instead as social security benefits they become statutory rights. However, in India, it is also make possible to either unilaterally or bilaterally implement additional schemes along the lines of social insurance or social security to supplement the benefits provided under the law. Even now a number of private schemes continue to operate and are recognized by the government under the various legislations. A large number of employees who are not workers and draw salaries above the stipulated statutory ceilings are not covered by the social security statute. They are protected by private schemes which are often better in a number of respects.

178. Industrialization, liberalization of economy and dynamic social changes led to the adoption of new dimension in the social security schemes. A budget-funded social security system similar to that available in developed countries is not feasible for India at present. A number of models to raise resources for social security are in use viz., Central Budget Funded – Plan, Central Budget Funded – Non Plan, State Budget Funded – Non Plan, State Budget – Plan, State Government Sponsored Insurance (Employer and Employee), Commodity Cess Funded Welfare Funds, Insurance Schemes, Workers’ Funded, Self Financed Pension Schemes.

179. Till the 9th Five Year Plan, Plans made no mention of social security. The annual resource flow in respect of a few selected schemes is of the order of Rs. 280,000 million. According to the World Labour Report, 2000, the public expenditure on social security in India is 1.8% of the GDP. According to the Economic Intelligence Service, out of the aggregate expenditure of Rs. 4013950 million of the all state governments put together in 2001-2002, the sum of Rs 58850 million or 1.466 per cent was allocated for social security schemes. The Central Government’s budget provision for social welfare schemes for the same year was even around – Rs 13820 million out of a total outlay of Rs 3644360 million.

180. The 10th Five Year Plan has emphasized need for a legislative and administrative framework for significant coverage of the unorganised sector by social security cover. The Plan envisaged a strategy which would motivate and encourage the State Governments to formulate and implement schemes and programmes targeted at certain occupational groups in the unorganised sector without putting any additional pressure on the budget.²⁸

181. The social security measures presently in use can be grouped under two categories organized sector and the unorganised sector. There are two kinds of statutory social security schemes: (i) Contributory and (ii) Non-contributory.

182. The organized sector includes primarily those establishments which are covered by the Factories Act, 1948, the Shops and Commercial Establishments Acts of State Governments, the Industrial Employment Standing Orders Act, 1946 etc. This sector already has a structure through which social security benefits are extended to workers covered under these legislations. Institutionalized social security cover is provided through the Employees Provident Fund Organisation (EPFO) and Employees State Insurance Corporation (ESIC) schemes. The principal security laws enacted in India are: The Employees State Insurance Act, 1949 (ESI Act); the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF & MP Act); the Workmen’s Compensation Act, 1923 (WC Act); the Maternity Benefit Act, 1961 (M. B. Act), and the Payment of Gratuity Act, 1972 (P. G. Act).

²⁸ The Plan has given emphasis on the extension of coverage of social security measures for the unorganised sector workers, setting up of the cooperatives, self-help groups, mutual benefit associations managed and financed by the occupational groups/workers and voluntary health insurance and pension schemes would be encouraged. The Plan has also emphasized on the awareness generation campaigns and dissemination of information to unorganised workers, to improve the efficiency of the delivery mechanism of existing programmes for workers in the unorganised sector, local institutions like panchayati raj institutions (PRIs) and urban local bodies, etc.

183. The oldest social security legislation in the country is the Workmen's Compensation Act, 1923. Information regarding the main features and coverage of the Act has been provided in last report (E/1984/6/Add.13, para 41) submitted to Committee of ICESCR by India. This report provides further information regarding nature and level of benefit and method of financing the schemes. Minimum rates of compensation for permanent total disablement and death have been fixed at Rs. 90,000 and Rs. 80,000 respectively. Maximum amount of death and permanent total disablement can go up to Rs. 0.5 million and Rs. 0.5 million respectively depending on age and wages of workmen.

184. The next major step was taken, about a quarter of a century later, with the passage of the Employees' State Insurance Act (ESIA), 1948. Although this Act does not ratify any convention as such, it does take into account a number of them dealing with sickness insurance in industry. Whatever the schemes were devised since the establishment of the Royal Commission on Labour (1931), it was later on examined and modified by ILO experts and then above-said legislation was adopted in 1948. Information regarding the coverage and main feature of the Act has been provided in last report (E/1984/6/Add.13, para 42) submitted to Committee of ICESCR by India. This report provides further information in detail regarding nature and level of benefit and method of financing the schemes.

185. Two type of social security cover is provided under the ESI Schemes namely - (a) Medical Care and (b) Cash Benefit.

(a) Medical Care: Medical care is provided to the insured persons and their family members through a vast network of panel clinics. ESI dispensaries and hospitals generally within the vicinity of their residential areas. In order to improve medical care under the ESI Scheme, the ESIC has fixed the ceiling on expenditure for medical facilities for medical facilities per insured person family unit per annum at Rs. 500/- out of which Rs. 165/- is earmarked for drugs and dressing.

(b) Cash Benefit: The ESI Schemes provide benefits in the events of *sickness, maternity, medical benefit after retirement, dependent benefits, funeral expenses, rehabilitation allowance, standard benefit and employment injury.*

(i) Sickness Benefit: Sickness benefit represents periodical payment made to an insured person during the period of certified sickness. The maximum duration of the sickness benefit is 91 days in two consecutive benefit periods. The sickness benefit rate is approximately equivalent to 50 percent of the daily wages of the insured person. After availing of the sickness benefit for 91 days an insured person is entitled to an extended sickness benefit for further period up to 309 days and a maximum of two years in deserving cases, if he is suffering from tuberculosis, leprosy, mental disease, malignant disease or other specified long-term disease for which an insured person is awarded extended sickness benefit at a rate which is 140 per-cent more than the standard sickness benefit rate.

Enhanced sickness benefit at twice the ordinary sickness benefit rate i.e. about full daily wages is also granted to insured persons for undergoing sterilization operations for family planning for a period of 7 days for vasectomy and for 14 days for tubectomy which is extendable further in cases of post-operative complications, etc. This benefit is without

application of two days waiting period and is in addition to the 91 days sickness benefit admissible during a year.

(ii) Maternity Benefit: Maternity benefit is payable to insured women, if the contributions in respect of her were payable not less than 80 days in the immediately preceding two consecutive contribution periods i.e., one year. The benefit is payable at twice the daily standard benefit rate i.e. about equal to full wages for a period of twelve weeks which is further extendable by four weeks on medical advice. A provision has also been made for payment of medical bonus amounting to Rs. 250 per case to insured women who do not avail medical facilities under the ESI Scheme for their confinement.

In event of death of an insured women, leaving behind the child during her confinement or during the period of six weeks immediately following the confinement for which she is entitled to maternity benefit, the maternity benefit is payable for the whole of that period and in case the child also dies during that period then upto the day of the death of the child. The estimated number of women employees was 12,52,850 in 1997-98 and the total amount paid as maternity benefit was Rs. 121.7 million during the year 1997-98.

(iii) Disablement Benefit: In case of temporary disability arising out of an employment injury, disablement benefit is admissible to an insured person for the entire period so certified by the Insurance Medical Officer/Insurance Medical Practitioner for which the insured person does not work for wages. The benefit is not subject to any contributory condition and is payable at a rate equivalent to about 70 per-cent of the daily average wage of the insured person. The benefit is, however, not payable if the incapacity does not exceed three days excluding the date of accident. The amount paid as temporary disablement benefit during the year 1997-98 was Rs. 257.6 million as against Rs. 196.3 million in 1996-97.

Where the disablement due to an employment injury results in permanent, partial or total loss of earning capacity, the periodical payments are available to the insured person for life at a percentage of the permanent disablement rate depending on the loss of earning capacity as may be certified by a duly constituted Medical Board. Commutation of periodical is permissible where the permanent disablement stands assessed as final and the daily rate of benefit does not exceed Rs. 1.50 per day but the total commuted value of the lump sum permanent disablement benefit does not exceed Rs. 10,000 at the time commencement of final award of his/her permanent disability. The actual amount disbursed during the year 1997-98 on account of permanent disablement was Rs. 3039.79 (including the commuted amount of Rs. 28.3 million) as against Rs. 295.2 million (including the commuted amount of Rs. 34.7 million in the previous year).

(iv) Medical Benefit after Retirement: Workers who have been insured for at least five years and who leave employment on reaching retirement age or those who withdraw from the labour force on account of a permanent employment related injury are eligible to receive medical benefit. A contribution rate of Rs. 10 per month is payable in advance for one year at a time by the insured persons who opt for this scheme. The spouses of these workers are also entitled to avail this benefit.

(v) Dependent Benefits: Periodical pensions are payable to dependants of an insured person who dies as a result of an employment injury. The widow gets the benefit during her life or until remarriage equal to an amount of $3/5^{\text{th}}$ of the disablement rate and

each child an amount equivalent to 2/5th thereof until he/she attains 18 years of age provided that in case of infirmity, the benefit continues to be paid till the infirmity lasts. If the insured person do not leave behind any widow or child, the benefit is payable to other dependants. The total amount paid as dependant's benefit during the year 1997-98 was Rs. 187.7 million.

(vi) Funeral Expenses: Funeral expenses are payable as a lump sum grant up to a maximum of Rs. 1,500 to defray the expenditure on the funeral of a deceased insured person. The amount is paid either to the eldest surviving member for the family or to the person who actually incurs the expenditure on the funeral. During the year 1997-98 a sum of Rs. 15 million was paid on this account as against Rs. 8.9 million in the previous year.

(vii) Rehabilitation Allowance: Rehabilitation allowance is admissible to the insured person for each day on which they remain admitted in an Artificial Limb Centre for fixation or repair or replacement of the artificial limbs at the rate which conform sickness benefit rate. The benefit is not subject to any contributory conditions.

(viii) Standard Benefit: All insured persons are entitled to Rs. 28 per day as Standard Benefit whose average daily-wage is Rs. 48 and above.

186. During 1997-98, the scheme was implemented in 29 new areas covering 30,500 additional employees. The fact that the additional employees in the new areas covered is indicative of the efforts made to bring even smallest industrial pockets within the ambit of ESI coverage.

The Employees' Provident Funds and Miscellaneous Provision Act, 1952

187. There is no general retirement benefit in the country. In the organized sector, retirement benefits take the form of provident fund, pension plans connected with the provident funds, and gratuity. While the government provides social security to its own employees during old age by providing pension, non-government employees in the country are covered under the Employment Provident Funds and Miscellaneous Provision Act, 1952. The Employees Provident Fund Organisation which has been mandated by the Act to ensure coverage for the organised sector operates three schemes – the Employees Provident Fund (EPF), the Employees Pension Scheme and the Employees Deposit Linked Insurance Scheme (EDLIS).

188. Provident funds are opened and managed under the Employees Provident Funds and Miscellaneous Provision Act, 1952. Initially the Act covered only 6 major industries which had completed 3 years of existence and employed 50 or more workers. By the end of March, 1998, the Act had been extended to 177 industries/classes of establishments and there were 0.3 million establishments with 21.2 million subscribers covered under the EPF schemes at the end of March, 1998. During 1998-99 about 21,751 new establishments and 22,78,186 new employees were enrolled as EPF members.

189. The Act extends to the whole of India except the States of Jammu and Kashmir and Sikkim. It applies to all factories and other establishments of any notified industry if they employ 20 or more persons. However, any newly started undertaking remains exempted for a period of five years if it employs less than 50 persons. It has now been substituted by a uniform provision of three years infancy period with effect from 1.8.1988 by the

Employees' Provident Fund (Amendment) Act, 1988. The Act does not apply to (i) establishments registered under the Co-operative Societies Act, 1912 (or under any other law, relating to cooperative societies) if the establishments employ less than 50 persons and work without the aid of power; (ii) tea, plantations and tea factories in the State of Assam, where the State Government have a separate scheme for these establishments. The wage ceiling for coverage under the EFF scheme has been enhanced from Rs. 3,500 to Rs. 5,000 per month with effect from 1.10.1994.

190. The Provident Fund Scheme framed under the Act initially applied only to six schedule industries, viz., (i) Cement, (ii) Cigarette, (iii) Iron and Steel, (iv) Electrical, Mechanical or General Engineering Products, (v) Paper and (vi) Textile (cotton, wool, silk and jute) with effect from 1st November, 1952. However, with the extension of the Act more and more industries were covered from time to time. Consequently at the end of March, 1998, the total number of industries/classes of establishments covered under the Employees' 1952 stood at 177. Till the end of March, 1998 as many as 2,96,256 unexempted and 2,948 exempted establishments had been covered under the Act and the number of subscribers to the fund had risen to 21.2 million (16.8 million in unexempted and 4.4 million in exempted establishments).

191. The normal rate of contribution payable by the employers and employees prescribed under the Act is 10 per-cent of the wages of the employees w.e.f. 22.2.97. The Act, also empowers the Central Government to enhance, if deemed fit, the rate of contribution to 12 per-cent of wages in respect of any industry or class of establishments. The Central Government has so far enhanced the rate of contribution to 12 per cent in respect of 172 categories of establishments. The normal rate of interest is fixed by the Central Government in consultation with the central Board of Trustees setup under the Act. The rate of interest to be credited to the member's provident fund accumulation (unexempted) for the year 1997-98 remained as 12 percent per annum.

Advance from the Statutory Fund

192. The Employees' Provident Fund Scheme, 1952, provides for financial assistance by allowing partial withdrawals to subscribers in situations like illness, invalidation, etc. and to provide funds to enable them to discharge their responsibilities like marriage of sister/brother, daughter/son or higher education of children or construction of dwelling house.

193. In order to provide prompt, time bound and trouble free service to the subscribers para 72 of the EPF Scheme has been amended so as to fix 30 days statutory time limit for settlement of claims. Now the PF claims complete in all respect are required to be settled within 30 days. In respect of incomplete claims the reasons for non-settlement are to be communicated to the applicant within 30 days he shall be held personally liable for the delay beyond the same period and penal interest @ 12% p.a. on the benefit amount may be charged and recovered from the salary of the commissioner.

194. The Government has enhanced the minimum rate of EPF contribution from 8.33% to 10% and the maximum from 10% to 12% of the monthly wage. Newly set up factories/ establishments were earlier not coverable under the EPF and MP Act, 1952 for initial period of 3 years. They are now coverable from the date they are set up. An ordinance in this regard was issued on 22.9.97.

The Employees' Family Pension Scheme, 1971

195. The Employees' Provident Fund Act, 1952 was amended in 1971 to provide for introduction of Employees' Family Pension Scheme, which came into force on 1st March, 1971. The Scheme provides for a substantial long-term protection to the family of the worker-member who dies prematurely in service. Its coverage is the same as the provident funds and it is compulsory for those who join the PF after the introduction of the scheme. The older members were given a choice of joining the scheme and by the end of 1976 over 3.21 million account holders had opted for it. The fund for financing this scheme is based on tripartite contributions. The employee's share at 1.16 per-cent of his pay is transferred from the PF account to the Fund. An equal contribution from the share of the employer is simultaneously made. The Central Government also makes cash contribution of 1.16 per-cent of the employee's pay and represents a net gain to the members collectively. The total number of subscribers under the Family Pension Scheme as on 31.3.1995 was 15.7 million. The family pension is payable only after the contributions have been made for at least two years.

196. The benefits extended out of this scheme are family pension, life assurance benefits and retirement-cum withdrawal benefits.

(i) Family Pension: If a member of the Family Pension Scheme dies during reckonable service before attaining the age of 60 years, Family Pension is paid to a surviving member of his family at the rates specified by government provided the member has contributed to the Family Pension Fund for not less than three month. The Government has again liberalized the Employees' Family Pension Scheme, 1971 with effect from the 1st April, 1992. It revised the rates of family pension. The existing pensioners were granted supplementary additions w.e.f. 1.4.1992 @ 15% or @ 10% depending upon date of death of the member subject to a minimum of Rs. 50. If the member had contributed to Family Pension Fund

- for a period of not less than 7 years before his death the beneficiary will get the enhance pension: for a period of seven years from the day immediately following the date of death;

- Till the date on which the member would have attained the age of 60 years had he remained alive whichever is earlier, the enhanced pension payable will be at the rate specified above plus 20% of the pay of the member as determined for the purpose of working out the normal pension.

(ii) Life Assurance Benefit: Where a member who has contributed to the Family Pension Fund for a period of not less than three months dies while in reckonable service a lump sum amount of Rs. 5,000 is payable to his/her family as Life Assurance Benefit with effect from April 1, 1998. Prior to the date, this amount was Rs. 2,000.

(iii) Retirement-cum-withdrawal benefit: The retirement-cum-withdrawal benefit becomes payable to the member either on attaining the age of 60 years or on cessation of membership from the Family Pension Fund before attaining the age of 60 years for reasons other than death. This is subject to condition that member has contributed to the Family Pension Fund for a period of not less than one year. The rate of retirement-cum-withdrawal benefit which earlier varied with number of full year's contribution paid or

was payable and was subject to a minimum of Rs. 110/- with one year's contribution paid and maximum of Rs. 9,000.00 with 40 year's contributions paid has been revised and enhanced to a maximum of 42,280/- linking the same to the pay of the member last drawn and the number of full year's contribution or was payable.

The Employees Pension Scheme, 1995

197. The employees' Pension Scheme is compulsory for all the persons who were members of the Family Pensions Scheme 1971. It is also compulsory for the persons who became members of the Provident Fund from 16.11.1995 i.e. the date of introduction of the scheme. The PF subscribers, who were not members of the Family Pension Scheme, have an option to join this pension Scheme. The Scheme came into operation w.e.f. 16.11.1995, but the employees including those covered under the Voluntary Retirement Scheme have an option to join the scheme w.e.f. 1.4.1993. Upon introduction of the new Pension Scheme, 1995 the erstwhile Family Pension Scheme, 1971 ceases to operate and all the assets and liabilities of the erstwhile Family Pension Fund shall stand taken over and merged with the new Pension Fund. The benefits and entitlements to the member under the old Scheme shall remain protected and continued under the new Pension Scheme, 1995. The Scheme provides for payment of monthly pension in the following contingencies:

- (a) Superannuation on attaining the age of 58 years
- (b) Retirement
- (c) Permanent total disablement
- (d) Death during service
- (e) Death after retirement/superannuation/permanent total disablement
- (f) Children Pension
- (g) Orphan pension

The formula for calculation of monthly member's pension is as under:

Member's Pension = Pensionable Salary X (Pensionable Service + 2)/70

The Employees' Deposit-Linked Insurance Scheme, 1976

198. The Scheme which came into force from 1st August, 1976 provides that in the event of the death of an employee who subscribes to the provident fund in an establishment covered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the person entitled to receive his Provident Fund accumulations would be paid an additional amount equal to the average balance in the provident fund account of the deceased during the preceding twelve months exceeds Rs. 25,000. In cases where average provident fund balance of preceding twelve months exceeds Rs. 25,000 the amount of Employees' Deposit Linked Insurance Scheme benefit shall be Rs. 25,000 plus 25% of the amount of excess of Rs. 35,000. The Employee is not required to make any contribution to the insurance fund.

The Maternity Benefit Act, 1961

199. Maternity Benefits are provided under both central and state legislation but an employee can receive benefits only under one, not both. The Central legislation viz., The

Maternity Benefit Act, 1961 covers the whole country and every establishment except those to which the ESI Act is applicable. This law lays down the eligibility conditions, the period for which the benefit is payable and the rates of benefit. The Act was last amended by the Maternity Benefit (Amendment) Act, 1988 which provides, inter alia, for extension of its provisions to Shops and Establishments employing 10 or more persons, reducing the qualifying period for grant of maternity benefit from 160 days of actual work to 80 days of actual work, enhancing the rate of medical bonus payable under the Act from Rs. 25 to Rs. 250 and fixing the rate of maternity benefit at average daily wages for three calendar months or minimum wages fixed/revised under the Minimum Wages Act, 1948 or Rs. 10 per day, whichever is higher for a period of actual absence from duty up to 12 weeks, of which not more than 6 weeks may be availed before delivery and remaining period after delivery.

200. There are many other classes of establishments and a few other classes of establishments where women are being employed increasingly, to which the Maternity Benefit Act is not applicable. The 2nd National Commission on Labour recommends that those classes may be brought within the scope of the Act on priority basis by following the National Industrial Classification. Some of these are mentioned below: Aviation, Building and construction industry, Transport and communications, trade and commerce, the service sector, etc.

The Payment of Gratuity Act, 1972

201. Gratuity is a form of retirement benefit. But in India it is payable on the completion of five years of service and so it may also take the form of termination of service benefit. The Payment of Gratuity Act, 1972 was passed to provide for a scheme of payment of gratuity to the employees in every factory, mine, oil-field, plantation and railway and also to every shop and establishment in which 10 or more persons are employed. Such other establishments in which ten or more persons are employed can also be notified under the Act. Gratuity is payable by the employer to every such employee on the termination of continuous service for not less than five years, or superannuation, or retirement or resignation or death or disablement. This condition is waived in case of death or disablement. In case of death, gratuity is paid to the nominee or heir of the employee.

Unorganised Sector

202. As per the survey carried out by the National Sample Survey Organisation in the year 1999-2000, the total employment in both organized and unorganised sector in the country was of the order of 397 million – around 28 million in the organized sector and 369 million (about 93%) – in the unorganised sector. In India, the unorganised sector is characterized by lack of labour law coverage, seasonal and temporary forms of employment, high labour mobility, discretionary wages, dispersed nature of operations, casualisation of labour, lack of organizational support, low bargaining power, etc. all of which make it vulnerable to socio-economic hardships. The nature of work in the unorganised sector varies between regions and also between rural and urban areas, which may include remote rural areas as well as sometimes the most inhospitable urban

concentrations. In case of the Maternity Benefit Act, the complaints relate to alleged bias against women in employment, lack of awareness on the part of women about their entitlements, etc. So far as women in the unorganised sector are concerned, the Government of India is planning to bring a separate legislation for providing maternity benefits. The existing social security arrangements in the unorganised sector can be broadly classified into four groups as follows:

- (1) Centrally funded social assistance programmes;
- (2) Social insurance schemes; and
- (3) Social assistance through welfare funds of Central and State governments; and public initiatives by NGO's like self-help groups.

(1) Centrally Funded Assistance: The centrally funded social assisted programmes include schemes for both rural and urban areas under the *National Social Assistance Programme (NSAP)*, which has three components viz., *National Old Age Pension Scheme (NOAPS)*, *National Family Benefit Scheme (NFBS)* and *National Maternity Benefit Scheme (NMBS)*. Under NOAPS, each poor person beyond the age of 65 gets Rs. 75 per month as pension. Under NFBS, lumpsum *survivor benefit* of Rs. 5000 in case of natural death and Rs. 10,000 in case of accidental death of the main bread earner is given to the family of the deceased. Under NMBS, lumpsum cash assistance of Rs. 500 is given to the pregnant women of the household living below the poverty line up to the first two live births provided she is 19 years of age or above. Important programmes include *Sampoorna Grameen Rojgar Yojana*, *Swarna Jayanti Gram Swarojgar Yojana*, *Swarna Jayanti Shahri Rojgar Yojana*. These programmes are implemented through the Ministry of Rural Development and Ministry of Urban Employment and Poverty Alleviation. In addition, the Ministry of Textiles implements certain social security schemes for workers in the handloom and powerloom sector.

(2) Social Insurance Schemes: The Social Insurance Schemes available to the unorganised sector are operated through the LIC under a number of group insurance schemes covering IRDP beneficiaries, employees of shops and commercial establishments, etc. The most important and comprehensive scheme that has been launched recently, is the *Janashree Bima Yojana* under which the following benefits are available:

- Rs. 20,000 in case of death
- Rs. 50,000 in case of death by accident
- Rs. 50,000 in case of accident with total disability
- Rs. 25,000 in case of partial disability
- The premium for the above benefits is Rs. 200 per beneficiary and 50 per-cent of this premium i.e., Rs. 100 is contributed by the Social Security Fund.

Janashree Bima Yojana is available to persons between age of 18 to 60 years and are living below or marginally above poverty line. The scheme is extended to groups of 25 members or above.

In order to provide some social security cover to the unorganised workers, the government has launched the *Krishi Shramik Samajik Suraksha Yojana, 2001* w.e.f. 1st July, 2001 through Life Insurance Corporation of India (LICI) in 50 identified districts in the country to cover one million agricultural workers in each district during the first phase

of three years. The scheme envisages providing for life-cum-accident insurance, money back, pension and superannuation benefits. About 0.2 million agricultural workers have been registered under the scheme as on 31st March, 2003.

(3) Welfare Funds: The Central government through the Ministry of Labour also operates at present Five Welfare Funds for Beedi workers, Limestone and Dolomite mine workers, Iron ore, Chrome ore and Manganese ore mine workers, Mica mine workers and Cine workers. These Funds are used to provide various kinds of welfare amenities to the workers in the field of healthcare, housing, educational assistance for children, drinking water supply etc. The coverage under these funds is about Rs 4 million. In addition to the Central Government, a number of state governments have also set up welfare funds for various categories of workers.

Unemployment Compensation

203. Despite the efforts made in the successive Five Year Plan to mitigate the problem the level of unemployment has more or less remained stable while underemployment has steadily increased. The growth rate of economy has never been high enough to fully absorb the current additions to the labour force. Planning exercises show that there is practically no chance of the level of unemployment coming down in the next two decades. In this context, it is impossible to provide unemployment relief to all who may qualify by any reasonable standards. Nonetheless, several state governments have started schemes of limited scope to provide financial assistance to certain categories of unemployed persons.

204. At the central government level, however, there is as yet no scheme to provide general assistance to the unemployed. Instead the preferred policy of the government is to create jobs at subsistence wages that will provide relief and assistance in the drought affected and chronically depressed areas in economically useful ways, thereby addressing the unemployment problem. Unemployment security however forms part of the industrial statute and is a legal right of those workmen who are laid-off or retrenched or lose their jobs as a result of transfer or closure of the establishment. The provision for lay-off and retrenchment compensation was made for the first time through an amendment to the Industrial Disputes Act, 1947 in 1953. Chapter V-A and V-B of the ID Act make detailed provisions for payment of compensation and related matters connected with lay-off, retrenchment and closure.

International Assistance

205. The Government of India and the Employees' Provident Fund Organisation are Associate Members of the International Social Security Association (ISSA), Geneva, while the Employees' State Insurance Corporation is an affiliate member. During 2001, India participate in the following important events of ISSA:

- ISSA Conference on Strategies and meeting of Working Group from 16.1.2001 to 19.1.2001 held at Paris.
- ISSA Training Seminar on Organisational change in Asia and the Pacific from 7.5.2001 to 11.5.2001 held at Canberra, Australia.
- 27th General Assembly of ISSA from 9.9.2001. to 15.9.2001 held at Stockholm.
- ISSA Seminar for Actuaries and Statisticians from 21-22nd November, 2001 held at Montevideo, Uruguay.

- 18th ISSA Regional Training Course for Asia and the Pacific from 21st and 31st January, 2002 held at Malaysia.
- 79th Meeting of ISSA Bureau held in Geneva on 6.4.2000 to 7.4.2000.
- Inter Regional Training Seminar on Actuarial Valuations at Accra (Ghana) from 29.5.2000 to 2.6.2000.
- International Conference on Information Technology from 31st May to 2nd June, 2000 at Poland.
- Workshop on Social Security Financing from 5-16th June, 2000 at Turin-Italy.
- ISSA Regional Training Course held in Bahrain from 25.9.2000 to 4.10.2000.
- 12th ISSA Regional Conference for Asia and the Pacific held at Bangkok, Thailand from 20-23 November, 2000.
- The inauguration ceremony of National Social Security Fund of Tanzania held on 23.01.99.
- First meeting of the President's Advisory Group of ISSA at Geneva from 4th to 5th Feb' 99.
- 2nd Meeting of the President's Advisory Group of ISSA and 78th Meeting of Bureau of ISSA held at Geneva from 5th to 7th May, 99.
- Meeting of Social Security Research Project of Asia and the Pacific held in Manila, Philippines from 9th to 13th August 99.
- Working on Pension Scheme held in Italy from 6th to 24th September, 99.
- 9th Conference on Information Technology on Social Security Electronic Science held at Montreal, Canada from 27th to 30th September, 99.
- ISSA Conference on Demographic Trend held at Slovak from 14th to 15th October, 99.
- Meeting of Directors of Social Security held in Malaysia from 16th to 19th November, 99.
- Symposium on ISSA Initiative 2000/ Strengthening Security in Social Security held at Rome, Italy from 9-10th December, 1999.
- 71st Meeting of the ISSA Bureau held in Geneva, Switzerland from 8-9th May, 1996.
- 1st ISSA Inter-Regional Training Course for Trainers held in Dar-es-Salam, Tanzania from 4-13th September, 1996.
- ISSA Inter-Regional Training Seminar on Social Security Statistics for Actuarial Valuation at Nairobi from 8-18th October, 1996.
- Eighth International Social Security Association Conference on Data Processing held at Berlin from 22-24th October, 1996.
- ISSA Meeting of Directors of Social Security held at Riyadh from 3-5th November, 1996.

Article – 10

Family Protection

Family in India

206. Family is the most basic unit of persons in the society united by ties of blood, marriage, and adoption and in modern days consensual union as well. There are two types of families generally prevalent in the country, the joint or extended family and the nuclear or elementary family.

207. The joint family system is prevalent in most parts of India, particularly in rural areas. It comprises of an eldest male (usually the head of the family) with his wife, sons, daughters-in-law, unmarried daughters, grandchildren and some other dependent relatives. It constitutes a single household and invariably lives under the same roof. There is a clear hierarchy and division of labour in the family. Women are responsible for the household work, the care of children, aged and ailing members. The joint family is the source of nurturance, emotional bonding, support and security for its members. The elder members play an important role in reconciliation of the differences between members of the family, if any.

208. The elementary or nuclear family normally comprises of a husband and wife and their unmarried children. This type of family is nowadays the norm in urban and metropolitan areas. There are also single parent families, couples without children and consensual unions to a small extent in the society.

209. Traditionally, religious and personal laws governed the interpersonal rights and obligations between members of a family in India, especially in matters regarding marriage & divorce, adoption, guardianship & maintenance of the children and maintenance of spouses and succession to property. In these matters the personal law placed the males in a superior position including the decision-making role. This inherent inequality in the patriarchal society has been a constant source of exploitation of and violence against, the weaker members in the family especially women and children.

210. With the growth of Industrialization and consequent urbanization, more and more families are increasingly becoming nuclear or elementary, especially in the urban areas. With the women increasingly joining the work force the old hierarchy and division of labour has broken down and there is a change in the roles and responsibilities within the family especially regarding the care of children. This has a severe impact on the relationship between husband and wife and between children and parents, mainly in urban areas.

211. The government has been making efforts to preserve the family with the least intrusion into its privacy. The government is also making efforts to progressively implement the mandates of Article 14, 15(3), 21, 39(e)&(f), 41, 42 and 44 of the Constitution of India. It is also taking measures to secularize the relations in the family and to preserve the institution, which is sacramental to the people of the country.

Marriage

212. The right to marry and form a family is recognized under the relevant personal laws of the communities. Any agreement in restraint of marriage is void under Indian law. In a landmark case the Supreme Court of India declared discriminatory and unconstitutional a service rule, which required the permission of the higher authority before marriage of a lady officer²⁹. The Supreme Court also struck down a rule, which enabled termination of services of Air Hostesses on marriage or first pregnancy as

²⁹ *C.B. Muthamma v. Union of India AIR 1979 SC 1868.*

extremely detestable and abhorrent to the notions of the civil society and an insult to Indian womanhood.³⁰

213. Marriages are generally arranged by the family and performed under the religious/personal laws of the community. The laws applicable to various communities *except the laws of Muslims and few other denominations which are governed by their religious/customary laws*, have been codified and amended to a large extent to ensure equality for women and to remove all legal disabilities from which they suffer.³¹ Marriages between lineal descendants and ascendants and to some degree of cognates and agnates are prohibited and declared void. In addition to marriages in accordance with personal laws, the Special Marriage Act, 1954 recognizes a civil marriage between a male and female of full age, irrespective of their religious beliefs.

214. Marriages are to be solemnized with the consent of the parties. In the absence of consent or if the consent was obtained by fraud, the marriage is voidable at the option of the party who had not consented or was defrauded. The minimum age for marriage has been laid down as 18 years for girls and 21 years for boys under the Child Marriage Restraint Act 1929. Any marriage in contravention of this is not void or unlawful but the persons involved in solemnizing child marriages are punishable. Despite this, child marriages take place in some parts of the Country.

215. Abolition of the practice of child marriage through legislation alone is very difficult, as the practice is the result of some deep-rooted socio-economic factors and the attitude towards a girl child in a patriarchal society. The government has taken several steps to prevent child marriages, like launching a strong media campaign to target prevention of child marriage and has been implementing various schemes for empowerment through education and self-employment of girls and women especially in families below poverty line to improve the position of women.³² As a result mean age of marriage for girls has improved from 17.9 years in 1991 to 19.3 years in 2001 according to 2001 census data. During 2002-03 and 2003-2004, the National Commission for Women launched Bal Vivah Virodh Abhiyan. National Human Rights Commission (NHRC) is also taking steps at its level to address the issue.

216. Recently the National Commission for Women³³ after studying the problem of child marriages has proposed to enhance the punishment under the Act and to declare child marriages void. It has also recommended that registration of all marriages under the personal laws be made compulsory to detect and deter the practice. The Child Marriage Restraint Act is being amended by the Government taking account the suggestions of NCW and NHRC. The proposed amended Bill on the subject will repeal the previous Act and has several new provisions which include annulment of child marriage, strict punishment for offenders, power of court to issue injunction prohibiting child marriage prevention offices within a specified area and others. These are under consideration of the government. As of now registration of marriage is compulsory under the Christian

³⁰ *AIR India v. Nargesh Meerza*, AIR 1981 SC 1829.

³¹ The Christian Marriage Act 1872, The Hindu Marriage Act 1955, The Indian Divorce Act 1969, The Parsi Marriage and Divorce Act 1936 are some of the enactments governing major communities.

³² References to such schemes are made at appropriate places in various articles.

³³ It is a statutory body established under the Act of the Parliament in 1992. It reviews legislation, programmes and policies relating to women and gives recommendations for improvement. It also looks into violations of the rights of women and takes appropriate action.

Marriage Act, 1872, the Parsi Marriage & Divorce Act, 1936, and the Special Marriage Act, 1954 and only optional under Hindu Marriage Act, 1955.

217. The states of Goa, Andhra Pradesh, Maharashtra, Karnataka and Himachal Pradesh have enacted laws for compulsory registration of marriage. NCW has drafted a bill on compulsory Registration of marriages which is under the consideration of the GOI. The Parliamentary Committee on Empowerment of women in its 5th Report submitted to the Parliament on 3.12.2001 recommended that the Government make registration of marriages compulsory in order to prevent bigamy. The Government in its National Policy on Empowerment of Women, 2001 commits to making the registration of marriages compulsory with a view to eliminate child marriages by 2010.

However, this policy aims at encouraging changes in personal laws such as those related to marriage, divorce, maintenance and guardianship so as to eliminate discrimination against women. This will be done with the initiative of and full participation of an stakeholders, including the community and religious leaders. Govt. abides by and ensures that these provisions are in conformity with its policy of non-interference in the personal affairs of any community without its initiative & consent.

218. Under the personal laws of Muslims, marriage can be solemnized if the parties attain puberty, which is normally taken to be 15 years of age. A Muslim man can also have four wives. So also, there is no provision for the registration of Muslim marriages. The government is following a policy of non-interference in the affairs of the minority community unless a demand for change comes from within the community itself.

Matters related to Marriage

219. India is a signatory to the Convention on Elimination of All Forms of Discrimination of Women and ratified it in the year 1993. The country is committed to a progressive and gradual enhancement of the position of women within a family and the society by enactment of Statutes followed by a series of amendments to meet the demands of the changing times.

220. The concept of monogamy has been introduced into the institution of marriage in the country (except for Muslims) by codification of various personal laws. Bigamy is an offence under the Indian Penal Code. The concept of judicial separation, divorce and divorce by mutual consent were also introduced. Under the codified Hindu law the wife could also seek divorce on some special grounds not available to the husband. Recently the Hindu Marriage Act was amended to enable the wife to sue for any matrimonial relief from the place where she resides instead of going to the place where they last resided together. The law relating to Christians was also amended to bring equality between husband and wife in the grounds for divorce and for the quick disposal of cases (Marriage Laws Amendment Act, 2001).

221. The law also makes it the duty of one spouse to maintain the other destitute spouse both during the pendency of a matrimonial proceeding and also permanently even after dissolution of the marriage. A claim for permanent maintenance can be made at the time of divorce or after it.³⁴ A Hindu wife can even claim maintenance from her husband if she

³⁴ For example, S. 25 of Hindu Marriage Act, 1955, S.37 of Special Marriage Act, 1954, S. 37 of Indian Divorce Act, 1869, S. 40 of Parsi Marriage and Divorce Act, 1936.

is living separately, due to the reasons specified in the Hindu Adoptions and Maintenance Act 1956, without obtaining divorce. The Code of Criminal Procedure³⁵ also provides for a summary remedy of maintenance to the destitute spouse. The Code was amended in the year 2001 to enable the court to award interim maintenance and also removing the bar on the upper limit of the amount of maintenance. The Code enables the court to decide every case depending on the means and resources of the spouse.

222. In the case of children, the family is normally responsible for their care and education. In matters relating to appointment of guardian, ordering custody of the children and dealing with property of a minor the State acts as a *parents patriae* keeping in view the best interest of the child. The law restricts the power of the natural or court appointed guardian to deal with the immovable property of the minor.

223. The position of the Hindu mother as a natural guardian has been enhanced and provision is made for the custody of a minor below 5 years of age preferably to the mother.³⁶ The Supreme Court of India has beneficially construed the provision regarding custody and has ruled in a case that the mother can act as a natural guardian of the minor during the life time of the father in case of his 'absence' from the care of the minor's property or person for any reason whatsoever.³⁷

224. Under the Hindu Adoption and Maintenance Act, 1956 a married Hindu male can adopt a child only with the consent of his wife and a Hindu female can adopt a son or a daughter, which she could not do under the traditional Hindu law. A Christian Adoption Bill of 2003 has been passed enabling the Christians to adopt a child. Other communities can adopt a child under Guardianship and Wards Act, 1890.

225. The position of women under Muslim law is not as favourable as the women under Hindu law, which has been progressively secularized to a great extent. Under the Muslim law the husband only has a right to divorce his wife unless at the time of marriage there is a contract entitling the wife to exercise the right of divorce. The wife has a right to maintenance only up to three months from divorce or till the time of delivery if she is pregnant at the time of divorce (Iddat period).

226. The Courts have tried successfully despite initial set backs to extend the right of maintenance of Muslim women and children under the Code of Criminal Procedure. In a landmark case³⁸ the Supreme Court has discussed the problem of a divorced Muslim woman and has ruled that a Muslim husband is liable to make provision for the future of the divorced wife even after the Iddat period. The Supreme Court in another case³⁹ ruled that under section 125 of the Code of Criminal Procedure it is the statutory obligation of the father irrespective of religion to maintain the children. In another positive move, recently the All India Muslim Personal Law Board, which is a body of Muslim intelligentsia, has called for doing away with the practice of *triple talaq* (divorce) at one sitting and also for further secularization of the Muslim personal law.

³⁵ Section 125, Code of Criminal Procedure, 1973.

³⁶ S. 4 & 6 of Hindu Minority and Guardianship Act 1956.

³⁷ [1999] 2 SCC 228

³⁸ *Danial Latifie v. Union of India* AIR 2001 SC 3958

³⁹ *Noor Sabha Khattoon v. Mohd. Quasim* (AIR 1997 SC 3021)

227. A series of amendments has secularized the personal laws of most of the communities excepting the personal law of Muslims in the matters of marriage and divorce. Though these have brought forth a perceptible improvement in the status of women and children there still exists some gap between the de jure provisions and de facto realities, which are sought to be addressed by empowering the weaker sections.

228. The Marriage Law (Amendment) Act, 2001 amended the Hindu Marriage Act, Special Marriage Act, Parsi Marriage and Divorce Act, the Code of Criminal Procedure, providing for the speedy disposal of applications for maintenance and the ceiling that was provided in the Code of Criminal Procedure of Rs. 500/- (about \$12 per month) for claiming maintenance by a woman has been deleted and a wide discretion has been given to the Magistrate to award appropriate maintenance. The Indian Divorce Act was also amended. It has deleted the provisions that were discriminatory to women with regard to the divorce laws; it provided uniform provisions to men and women with regard to divorce and has also deleted the provision of the necessity of obtaining a confirmation decree from the High Court on the decree granted by the Family Court. This was applicable for the Christians alone. The Indian Succession Act was amended in the year 2002 which enabled Christian widows to get a share in the property. The Marriage Act (Amendment) 2003 amended the Hindu Marriage Act and Special Marriage Act that enables women to file cases in the district where they reside, thereby giving a go by to the general law of jurisdiction based on place, where the cause of action arose.

Protection of Family

229. The measures for the preservation and protection of the family has been concentrated in the urban areas as the stress of the family life is more in those areas as against the cushioning effect of the joint family in the rural areas.

230. The Central Social Welfare Board (CSWB) under the Department of Women and Child Development has established family counseling centers to facilitate amicable settlement of family disputes. Family Courts have been established in as many as 85 cities/towns all throughout the country especially in cities having population of more than one million under the Family Courts Act 1984. It has been set up primarily to fill in the void created by the disappearing joint family and secondarily to serve as a court. It provides for a mechanism to resolve family disputes without the intervention and help of lawyers and helps to maintain the personal dignity and privacy of family units by not following the adversarial procedure and by providing for in-camera proceedings. The family courts also provide for support services through marriage counselors, medical services and for the care of children. The court has jurisdiction in various matters including divorce, maintenance, custody of children and property disputes between spouses. The government is now considering setting up of family courts in each district in the country without regard to the population.

231. Family Counseling Centres - These centres run by the Central Social Welfare Board provide preventive and rehabilitative services to women and families who are victims of atrocities and maladjustment and also to those affected by family disputes and social problems. FCCs being run at some police headquarters in 19 States under the administrative control of the State Boards provide speedy crisis intervention to women in distress. These FCCs attempt to arrive at out of court settlement of family discord cases. Some FCCs are being run in Mahila jails and Police Headquarter premises. FCCs running

in women development centres at the various colleges in Delhi known as Premarital Counselling Centres lay special emphasis on pre-marital counseling and other areas of psychosocial crisis for young women.

232. While trying to protect the institution of family the government has recognized the problem of domestic violence / harassment usually against women and children. Domestic violence is a contradiction in terms to the myth of family as a sanctuary of tranquility. Steps have been taken to address these problems in the family. The Dowry Prohibition Act of 1961 makes the giving and taking of dowry and harassment for dowry punishable. An offence of “dowry death” has been inserted in the Indian Penal Code⁴⁰. The giving and taking of dowry is a symbol of prestige and status in the patriarchal society and there is a danger of girls not being married off if dowry is not offered. Very often the victims do not report many of these cases to the law enforcing agencies. With the education and empowerment of women there is a real chance to put an end to this evil practice. There have been some instances of educated girls coming openly against this practice in the media and refusing to offer dowry. The government has been implementing awareness creating programmes through the media and NGOs in the campaign against dowry.

233. An offence of ‘cruelty to wife by her husband or his relatives’ has been made punishable under Indian Penal Code.⁴¹ A legislation for protecting women from being subjected to domestic violence has been enacted as the protection of women from Domestic violence Act, 2005. Under the Act, the term ‘domestic violence’ has been made wide enough to encompass every possibility as it covers all forms of physical, sexual, verbal, emotional and economic abuse that can harm, cause injury to endanger the health, safety, life, limb or well-being either mental or physical of the aggrieved person. Furthermore, the definition of an aggrieved person is equally wide and covers not just the wife but a woman who is sexually partner of the male irrespective of whether she is his legal wife or not. The daughter, mother, sister, child (male or female), widowed relative, in fact any woman residing in the household who is related in some way to the respondent, is also covered by the Act. The respondent under the definition given in the Act is “any male”, adult person who is, or has been, in a domestic relationship with the aggrieved person’s” family.

234. A programme of Short Stay Homes (SSH) for women and girls⁴² is being implemented from 1969 to provide temporary shelter, counseling or psychiatric treatment to women and girls who are the victims of mental maladjustment, emotional disturbances and social ostracism and have either escaped or been made to leave their homes due to family problems, mental or physical torture or who have been sexually assaulted or have been forced into prostitution.

235. The scheme Swadhar is launched by the Ministry of Women & Child Development in 2001-02 for the benefit of women in difficult circumstances like destitute widows deserted by their families in places like Vrindavan, women prisoners released from jail and without family support, women survivors of natural disasters who have been rendered homeless and are without any social and economic support, trafficked women/girls rescued/ run away from brothels/ other places, victims of sexual crimes who are disowned by family or who do not want to go to respective family for various reasons, women

⁴⁰ Section 304 B, Indian Penal Code, 1860.

⁴¹ Section 494, Indian Penal Code, 1860.

⁴² Till the end of the year 2004, 272 SSH have been established benefiting more than 16900 women

victims of terrorist violence who are without any family support and without any economic means for survival, mentally disordered women who are without any support of family or relatives etc. The package of assistance under the scheme includes provisions for shelter, food, clothing, health care & counseling for such women, measures for social & economic rehabilitation through education, awareness, skill upgradation and personality development through behavioural training etc; and helpline and other facilities etc.

236. There are guidelines and policies in the government department to give employment to one of the members of the family (Compassionate appointment) if an employee dies in harness. It is intended to enable the family of the deceased employee to tide over the sudden crisis resulting from the death of the breadwinner who had left the family in penury. In the informal sector, the Department of Rural Development has been implementing a National Family Benefit Scheme-as a component of National Social Assistance Programme, under which a central assistance of Rupees 10,000 will be available to the family on the death of a primary breadwinner of the household, below poverty line. In the case of widow appointed on compassionate grounds she is allowed to continue to service even after remarriage.

237. So also there are guidelines in the government departments, which restrict the transfer of one of the spouses to a different place so as to avoid disturbance to the family. The objective is to ensure the education and welfare of the their children. This is the policy of the Government and it also desire that in all other cases the Cadre Controlling Authority should consider such requests with utmost sympathy. The High Court of Allahabad⁴³ observed that even though guidelines are not imperative and do not have the force of law the family cannot be disturbed by transferring one of the husband and wife to a different place at the whims of the authorities. It is only to be done in exceptional cases and needs to be deprecated.

Maternity Protection

238. The Maternity Benefit Act, 1961 and the Employee State Insurance Act, 1948 are the important enactments providing for leave and security benefits to working mothers before and after childbirth in the organized sector.

239. The Employee State Insurance Act applies only to non-seasonal factories (using power with at least 10 persons or not using power with at least 20 persons) covering employees earning up to Rupees 6500 per month. The Act provides for a paid leave of twelve weeks before /after childbirth and a cash benefit to be paid in case of confinement, miscarriage, sickness during pregnancy, medical termination of pregnancy and premature birth.

240. Maternity Benefit Act applies to all workers who are not covered by the ESI Act irrespective of the number of people working in the establishment, provided the woman has worked for 80 continuous days to be eligible to be covered under the Act. She is protected from dismissal during pregnancy and shall not be compelled to do any arduous work. The mother is entitled to two nursing breaks of 15 minutes each once the mother gets back to work.

⁴³ *Deepa Vasistha v. State of U.P.* 1996 (1) ESC 148 All (DB),

241. Maternity Benefit Act, 1961 granted maternity leave with full pay for 135 days to women who have completed 80 days of work and prohibits discharge or dismissal of a woman during the leave period. This Act extends to factories, mines and plantations and has further been extended to shops and establishments where 10 and more persons are employed. A female government servant including an apprentice can be granted maternity leave for a period not exceeding 135 days. During this period, she is paid leave salary equal to the pay drawn immediately before proceeding on leave. Paternity leave for 15 days was introduced in 1998 for Central Government employees as an important beginning towards creating effective national laws in the sphere of family responsibility.

Maternity leave is also admissible in cases of miscarriage including abortion, (irrespective of the number of surviving children) during the entire service of the female government servant subject to the condition that:

- The leave does not exceed 45 days
- The application for the leave is supported by a medical certificate as required under the Rules. Abortion included under the Medical Termination of Pregnancy Act, 1971 is also considered as a case of abortion for the purpose of grant of maternity leave for a period of 45 days under the Central Civil Services (Leave) Rules, 1972.

242. Maternity leave can be combined with leave of any kind. Any leave of the kind due and admissible (including commuted leave for period not exceeding sixty days and leave not due) upto a maximum of one year applied for in continuation of maternity leave is also granted without production of medical certificate. Leave in further continuation is also admissible on production of medical certificate for the illness of the female Government servant or for the illness of the new born baby to the effect that the condition of the ailing baby warrants mother's personal attention and that her presence by the baby's side is absolutely necessary.

243. Maternity leave is also granted to unmarried female government servants. A female government servant on adoption of a child is also granted leave of the kind due and admissible (including leave not due and commuted leave not exceeding 60 days without production of medical certificate) for a period up to one year or till such time the child is one year old, whichever is earlier. However, this facility is not admissible in case she is already having two surviving children at the time of adoption.

244. The Supreme Court⁴⁴ played an activist role by extending the benefit of Maternity Benefit of Act to muster roll female workers. The Court read Article 11 of CEDAW into contract of service between the Corporation and the women workers and held the workers are entitled to all the benefits conceived under the Act.

245. To cover the unorganized sector and those in need of assistance, the Department of Family Welfare has been implementing the National Maternity Benefit Scheme.

246. Janani Suraksha Yojana: The National Maternity Benefit Scheme (NMBS) is centrally sponsored scheme which provides for 100% central assistance to States/UTs for extending financial assistance at the rate of Rs. 500/- per pregnancy for the first two live births to the women belonging to a household below the poverty line and who have attended 19 years of age or above.

247. Based on the experience gained in administering the National Maternity

⁴⁴ *Municipal Corporation of Delhi V female workers (muster roll)*, (2000) 3 SCC 224

Benefit Scheme it has been felt that the scheme has not made desired impact on Maternal Mortality Rate (MMR)/ Infant Mortality Rate (IMR). Accordingly, this Department proposes to launch a new scheme named as “Janani Suraksha Yojana” in modification of the National Maternity Benefit Scheme with the twin objective of reduction in MMR/IMR by focusing on institutional delivery and protecting and honoring the female fetus. The salient features of the new scheme are as follows:

- The scheme will continue to be a 100% centrally sponsored Scheme.
- The benefit will be available to all women, both rural and urban areas, and aged 19 years and above, belonging to households below poverty line will be eligible for taking benefit of this scheme.
- The implementation in the Scheme in the urban areas will be through Municipal Health Authorities and in rural areas, through the Chief Medical Officers of the districts.
- Assistance to mothers will be in graded system. Pregnant women who opt for sterilization, would be given the financial benefit, even for the birth of third child.
- Three antenatal check-up and Institutional delivery will be insisted upon.
- Transport Assistance up to Rs. 150/- will be provided for transporting the pregnant women to a health center/hospital.
- Dais (midwives) will be paid attendance *feel* incentive amount on graded scale

248. The scheme would be implemented through the State and DT Governments who would set up state, district and municipal level committees for its implementation and monitoring.

249. Till end of 2002 around 0.6 million women have been benefited under the scheme. The scheme only provides for cash benefits without any leave benefits since the government does not exercise control over the unorganized sector. The government has introduced a new bill called The Unorganized Sector Workers Bill 2003 to provide among other things the safety, social security, health and welfare of the unorganized sectors workers which is pending in the parliament.

250. The Maternal Health Programme which is a component of the Reproductive and Child Health Programme aims at improving maternal health and reducing maternal mortality to less than 100 by 2010. The maternal health care services are available to poor women at public facilities free of cost. The major interventions include:

Essential Obstetric Care

251. Essential obstetric care intends to provide the basic maternity services to all pregnant women. The RCH Programme aims at providing at least 3 antenatal check ups during which weight and blood pressure check, abdominal examination, immunization against tetanus, iron and folic acid prophylaxis as well as anaemia management are provided to the pregnant women.

252. Keeping in view the already known weakness in programme implementation and in order to improve the delivery of services, all category C districts of 17 States are being supported for providing additional ANMs in 30% of sub-centres of these districts. In addition, Delhi has been permitted for appointing 140 ANMs for extending services to slum areas. Public Health/Staff Nurses on contractual basis are also provided to 25% PHCs/CHCs in C category districts and 50% PHCs in B category districts.

Emergency Obstetric Care

253. Complications associated with pregnancies are not always predictable. Therefore, emergency obstetric care is; an important intervention to prevent maternal morbidity and mortality. Under the RCH Programme, efforts are being made to strengthen the emergency Obstetric Care Services and make the First Relevant Units (FRUs) operational.

254. Under the RCH programme FRUs are also being strengthened through supply of drugs in the form of emergency obstetric drug kits and skilled manpower on contractual and hiring basis. The sub-district hospitals, CHCs and FRUs are entitled to hire services of Private Anesthetists for conducting emergency operations for which they are to be paid Rs 1000 per case.

Institutional deliveries

255. To promote institutional deliveries, provision has been made under the current RCH Programme to give additional honorarium to the staff to encourage round the clock (24 hours) delivery services at PHCs and CHCs. This is to ensure that at least one medical officer, nurse, and cleaner are available beyond normal working hours.

Referral Transport

256. Time is an important factor for obstetric emergencies. Women who undergo deliveries at home and develop complications often find it difficult to be transported to a referral unit. Under the current RCH Programme Provision has been made to assist women from indigent families in 250/0 of the sub-centres in selected States to provide a lump sum corpus fund to Panchayat through District Family Welfare Offices. Since 2000-2001, the scheme has been extended to all the States and UTs.

257. In view of the International Conventions the Central government has a policy of paternity leave for the employees so that childcare does not become the sole responsibility of the woman but also of the other parent in the family.

Child Care

258. India has the largest child population in the world with about 40% of the population below the age of 18 years. As per Census 2001 the child population below the age of 6 years is 157.8 million which is 15.42% of the total population. India has made significant progress in certain areas relating to children. The literacy rate has increased from 52.21% in 1991 (Census) to 65.38% in 2001 (Census) with female literacy increasing from 39.29% in 1991(Census) to 54.16% in 2001 (Census). Access to safe drinking water has been increased from 68.2% in 1992-93 (NFHSI) to 77.9% in 1998-99 (NFHS-II) and above 90 % during 2003. The Infant Mortality Rate though declined from 80 per thousand live births in 1990(SRS 1990) to 60 per thousand live births in 2002 (SRS 2003) continues to be a matter of great concern. Similarly, the Maternal Mortality Rate, which has declined from 43.7 per million live births in 1992-93 (NFHS-I) to 40.7 per million in 1998 (SRS, 1998) is unacceptably high. Though steady progress is evident regarding all indicators pertaining to children, concerted effort is necessary to accelerate progress and provide children with the necessary environment so that they can achieve their true potential.

259. There are various enactments in India dealing with various industries, which provide for the establishment of crèches at the workplace if a prescribed number of women work in the establishment. The number of women prescribed is different for different industries. Under the Mines Act a crèche should be provided even if there is a single woman worker and under the Factories Act the number is 30 women workers. The Second National Labour Commission 2002 in its report has recommended that the labour legislation should include provision of crèches where there are 20 or more workers irrespective of the gender of the worker so that worker whether mother or father can leave the child in the crèche.

260. Government of India has launched a new crèche scheme known as Rajive Gandhi national Crèche Scheme for the children of Working Mothers with effect from 1.1.2006. The revised scheme also envisages setting up of 700 crèches by the end of the financial year 2005-2006. As per the new scheme, the crèches will be allocated to the central Social Welfare Board and two national level organizations namely, Indian Council for Child and Bhartaiya Adim Jati Sevak Sangh according to the existing crèches being run by them in the ration of 80:11:9

261. For setting up of one crèche unit an amount of Rs.10, 000/- would be given for the meeting non-recurring expenditure and Rs. 42, 384/- per crèche per annum would be given for meeting recurring expenditure which includes Rs. 2000/- per month as honorarium to two crèche workers. Supplementary Nutrition for 25 children @ Rs. 2.08 per child/per day for 26 days and emergency medicine and contingencies of Rs. 315. Collection of users charge by implementing organization amounting to Rs. 20/- per child and Rs. 60/- p.m from APL families have also been included in the scheme.

262. The revised scheme also envisages setting up of 14719 crèches by the end of 10th Five Year Plan in addition to 14800 crèches. The eligibility criteria have also been enhanced from 1800/- p.m family to Rs. 12000/- per month per family.

263. One of the recent initiatives that Government has taken for Children is the adoption of National Charter for Children. The National Charter for Children has been notified in the Official Gazette of India on 9th Feb., 2004 in order to give wide publicity to the document. The document has been disseminated among the Ministries and Departments dealing with issues relating to children and State Governments and UT administrations for

implementation of the provisions of the Charter under their direct purview. The National Charter is a written document, a statement of intent embodying the Government's agenda for Children.

264. The National Charter for Children 2003 has the following objectives-
- (i) to reiterate Government's commitment to the cause of the children. It would incorporate issues of priority pertaining to children and form the basis for programme formulation;
 - (ii) to secure for every child its inherent right to be a child and enjoy a healthy and happy childhood;
 - (iii) to address the root causes that negate the healthy growth and development of children;
 - (iv) to seek the partnership of the community in order to protect children from violation of their rights, while strengthening the family, society and the Nation;
 - (v) to make State and community jointly responsible for protecting children's interest and welfare.

265. The National Charter emphasizes Government of India's commitment to children's survival, health and nutrition, standard of living, play and leisure, early childhood care, education, protection of the girl child, empowering adolescents, 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 and an forms of abuse. The document also provides for protection of children in difficult circumstances, children with disabilities, children from marginalised and disadvantaged communities, and child victims. The document also provides for responsibilities of both parents in rearing their children and also provides for ensuring child friendly procedures for the special care and protection of children in conflict with law.

Schemes and Programmes for Children

266. Several Ministries and Departments of the Government of India are implementing various schemes and programmes for the benefit of children. A list of schemes and programmes of the Government for children is available at Annexure. Details of some of the Schemes and Programmes are given as under:

Integrated Child Development Services

267. The programme is being implemented by the Department of Women & Child Development in the Ministry of Human Resource Development since 1975. The programme aims to improve the nutritional and health status of vulnerable groups including preschool children, pregnant women and nursing mothers through providing a package of services including supplementary nutrition, preschool education, immunisation, health checkup, referral services and nutrition & health education. In addition, the Scheme envisages effective convergence of inter-sectoral services in the anganwadi centres.

Balika Samridhi Yojana

268. The Scheme is being implemented by the Department of Women & Child Development in the Ministry of Human Resource Development, launched in 1997, to cover both rural and urban areas in all districts of the country with the objective to change negative family and community attitudes towards the girl child at birth and toward her mother. The scheme provides for a grant of Rs.500 at the birth of a girl child, and scholarship amount ranging from Rs 300-1000 till Std 10 all of which is placed in a savings bank or post office account and is given to the girl child on attaining the age of 18 years if she is still unmarried. This scheme seeks to improve enrolment and retention of girl children in schools, to raise the age of marriage of girls and to assist the girls to undertake income generating activities. There is a proposal in Planning Commission to transfer the schemes to the State Governments.

269. Crèches : About 14, 800 crèches are being run by the Department of Women and Child Development under the scheme for voluntary organizations for crèches for the children of working and ailing mothers and National Crèche Fund for families of low income group with an annual outlay of approximately of Rs. 250 million. Children of age of 0-5 years are provided with day care services, supplementary nutrition, immunization and pre-school education.

270. Nutrition: A number of direct and indirect nutrition interventions are being implemented by different sectors of the Government to alleviate the problem of malnutrition which include ICDS and Food and Nutrition Education Programmes of Ministry of Women and Child Development; various programmes of Department of Food and Public Distribution to ensure food and nutrition security for people below poverty line. Food security for the poorest is attempted through the targeted Public Distribution System introduced in 1997, the Antyodaya Anna Yojana (AAY), launched in 2000 and some Grain Bank Schemes. Under AAY, the poorest among the BPL families covered under the targeted PDS are identified. This scheme has been further expanded in June 2003, with the addition of another 5 million BPL families. Under the scheme during 2002-04 3.82 million tones of food grains have been lifted against the allocation of 4.56 million tones. Nutrition Component of Prime Minister Gramodaya Yojana and Nutrition Programme for Adolescent Girls in 51 Districts being implemented with additional central assistance given by the Planning Commission, directly and indirectly contribute to promoting nutrition of children. A National Nutrition Mission has been set up under the chairpersonship of Hon'ble Prime Minister vide notification dated 31st July 2003 with a view to give policy direction to concerned Departments of the Government for addressing the problem of malnutrition in a mission mode.

271. Drinking Water Supply is a State subject. Taking into account the magnitude of the problem and to accelerate the pace of coverage of problem villages, the Central Government introduced the Accelerated Rural Water Supply Programme (ARWSP) in 1972-73 but was discontinued for some time and re-introduced in 1977-78. The entire programme was given a Mission approach when the Technology Mission on Drinking Water and Related Water Management, also called the National Drinking Water Mission (NDWM) was introduced as one of the five Societal Missions in 1986. It was renamed as *Rajiv Gandhi National Drinking Water Mission* in 1991. However, Accelerated Rural Water Supply Programme was again discontinued in 1998-99 as the objectives of the

programme could not be attained. The strategies of *Rural Water Supply Programme* were then adopted revolve around the basic premise that provision of safe drinking water is the responsibility of the Government. Increased outlay by the Government, a change in technology focus to handpumps fitted on tube wells and bore wells, had resulted in an impressive increase in the total rural water supply coverage. The objectives are to ensure coverage of all rural habitations especially to reach the un-reached with access to safe drinking water, to ensure Sustainability of the systems and sources and to preserve quality of water.

272. Swajaldhara was launched throughout the country by the Prime Minister on 25th December 2002 wherein beneficiary groups, Village Panchayats, Block Panchayats or District Panchayats can implement water supply schemes with assistance from Government of India to the extent of 90% of the capital cost on the condition that at least 10% of the capital cost and full O&M responsibility will be borne by the community.

273. The *Central Rural Sanitation Programme* launched in 1986 restructured into a community led and people centered Total Sanitation Campaign with emphasis on Information, Education and Communication for demand generation of sanitation facilities. School sanitation and hygiene education is a prominent component of the Total Sanitation Campaign for bringing about attitudinal and behavioral changes for relevant sanitation and hygiene practices from young age. All schools must have toilet facilities and under the scheme of education for girls, separate toilets for girls are to be provided. Due regard is also given to needs of women. A TSC project originates from a district, which conducts a base-line survey of existing sanitation facilities in the district and draws up a Project Implementation Plan and forwards the same, through the State Govt. and takes the approval of to Government of India. A TSC project runs for a duration of 4 years. The main physical components sanctioned in the projects include construction of individual household latrines, toilets for schools, community sanitary complexes, toilets for Balwadisl Anganwadis, Rural Sanitary Marts and Production Centers.

Reproductive and Child Health Programme

274. The programme being implemented by the Ministry of Health and Family Welfare, launched in 1997, provides effective maternal and child health care, micronutrient interventions for vulnerable groups, reproductive health services for adolescent etc. Some important programmes cover:

1. Immunization for children for DTP, Polio and Tetanus Toxoid for women
2. Vit.A administration.
3. Iron and Folic Acid for pregnant women.
4. Control of deaths due to pneumonia.
5. Control of deaths due to diarrhea.
6. Promotion of breastfeeding and appropriate complementary feeding.
7. Integrated Management of Neonatal & Childhood illness (IMNCI)

275. The Integrated Management of Neonatal and Childhood Illness (IMNCI) strategy encompasses a range of interventions to prevent and manage the commonest five major childhood conditions which cause death- Acute Respiratory Infections, Diarrhoea, Measles, Malaria and Malnutrition. It focuses on preventive, promotive and curative aspects, i.e. it gives a holistic outlook to the programme by ensuring enhancement of the skills of health care personnel, strengthening the health system and creating community

participation. It is currently being piloted in five districts under the Border District Cluster Initiative supported by UNICEF. The Government of India has accepted the IMNCI strategy and incorporated it in the log frame of the second phase of the Reproductive and Child Health (RCH) programme. It shall be implemented in at least 125 districts of the country initially.

276. This programme integrates all family welfare and women and child health services with the explicit objective of providing beneficiaries with 'need based, client centered, demand driven, high quality integrated RCH services'. The strategy for the RCH programme shifts the policy emphasis from achieving demographic targets to meeting the health needs of women and children. *Pulse Polio Immunization Programme* being implemented by Ministry of Health and Family Welfare initiated in 1995-96 to cover all children under five years. It is a massive programme which covers 16 million children in every round of National Immunization Day. The other immunization programmes include Hepatitis B, DPT and other routine immunization.

277. Other notable programmes for child health include: Universal immunization programme, control of deaths due to acute respiratory infections, control of diarrhoea related deaths, provision of essential new-born care to address the issue of the neonates, prophylactic programmes for the prevention and treatment of two micronutrient deficiencies relating to vitamin A and iron, Anaemia control programme, Border District Cluster Strategy and Integrated Management of Neo-natal and childhood illness.

New Initiative

278. There are several initiatives being undertaken by the Government for the betterment and welfare of children. Two major of them are as under:

National Commission for Protection of Child Rights:

279. The Government has notified on 20.1.06, the Commission for protection of Child Rights Act which envisages constitution of National Commission and State Commission to ensure that rights of children as enshrined in CRC are not violated and rules being framed.

National Plan of Action for Children, 2005

280. The Ministry of Women & Child Development has prepared in August 2005 a National Plan of Action for Children. This Plan of Action is been prepared after harmonizing the goals for children set in the UN General Assembly Special Session on Children held in 2002 and the monitorable targets set in the Tenth Five Year Plan, and goals for children in related Ministries/Departments. The Action Plan is being monitored in consultation with concerned Ministries and Departments, States/Union Territories Governments, Non Governmental Organisations and experts. The draft National Plan of Action includes goals, objectives, strategies and activities for improving nutritional status of children, reducing IMR and MMR, increasing enrolment ratio and reducing drop out rates, universalisation of primary education, increasing coverage for immunisation etc. The document is likely to be finalised shortly.

281. The schemes for Development of Women and Children in Rural Areas (DWCRA) and Development of Women and Children in Urban Areas (DWCUA) assist women in child care activity also in addition to providing them employment assistance. The programme of Hostels for Working Women also provides day care facilities for children of working women. Till March 2005, 881 hostels were sanctioned to accommodate 62308 women and their 8226 dependant children in the 316-day care centers attached to these hostels.

282. The Integrated Child Development Services (ICDS) Scheme launched in 1975 as a single nation wide programme promotes a holistic approach to the development of children up to the age of 6 years with a special focus on children up to 3 years besides expectant and nursing mothers through a package of six services viz., health check ups, immunization, referral services, supplementary feeding, non-formal pre-school education and health and nutrition education. The scheme has been sanctioned in 6118 blocks including major urban scheme of which 5635 are operational as on 30.9.2005. This scheme caters to 40.75 million children and 9.15 million pregnant and lactating mothers through 7,44,887 operational anganwadi centers. A World Bank assisted ICDS programme was also implemented.

Protection and Development of Children

283. The welfare and development of children has always been given the highest priority in India. The Constitution of India contains several provisions dedicated to children, some of them are indicated below:

- Article 14 provides that the State shall not deny to any person equality before law or equal protection of the laws within the territory of India.
- Article 15(3) states, "Nothing in this article prevents the State from making any special provision for Women and children."
- Article 21 says that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- Article 23 prohibits trafficking of human beings and forced labour.
- Article 24 prohibits employment of children below the age of 14 years in factories, mines or any other hazardous occupation.
- Article 25-28 provides freedom of conscience, and free profession, practice and propagation of religion. Accordingly all persons are equally entitled to freedom of conscience and the Right freely to profess, practice and propagate religion.
- Article 39(e) directs the State to ensure that the health and strength of workers, men and women and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- Article 39(f) directs the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that the childhood and youth are protected against exploitation and against moral and material abandonment.
- Article 45 states that the State shall endeavor to provide early childhood care and education for all children until they complete the age of six years.

284. There are also several Legislations enacted for children. Some of these are:

- The Child Marriage Restraint Act, 1929
- The Child Labour (Prohibition and Regulation) Act, 1986.
- The Juvenile Justice (Protection and Care of Children) Act, 2000.
- The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.
- The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2002.
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The Immoral Traffic (Prevention) Act, 1956. " The Guardian and Wards Act, 1890
- The Young Persons (Harmful Publications) Act, 1956.

285. India has ratified the Convention on the Rights of the Children on December 2, 1992 and has already submitted the second periodic report in the year 2004. India recognizes its obligation to create wide awareness about issues relating to children among the government agencies, the judiciary, implementing agencies, the media, the public and the children themselves. Steps are being taken to translate the CRC into several languages and include it in the curricula in schools.

286. A World Summit on Children was held in 1990 which adopted a Declaration on the survival, protection and development of children and endorsed a Plan of Action for its implementation. The World Summit set goals for children to be achieved by the Member Countries by 2000. On the basis of this a National Plan of Action for Children, 1992 was prepared. It identified national goals relating to survival, health, nutrition, education and protection of children. At the same time at the SAARC Initiative a National Plan of Action for Girl Child was also formulated in 1992 to emphasise commitment for girl child.

287. The UN Special Session on Children held in May, 2002 set, by consensus, after negotiations lasting about a year and a half, fresh quantitative and qualitative goals for children for the present decade relating to survival, health and nutrition, early childhood care and education, and child protection. India has contributed very substantially to the drafting and finalization of the United Nations General Assembly Special Session Outcome Document. The Indian delegation also played a pivotal role and helped to facilitate consensus on the Outcome Document.

288. The current decade has been declared as SAARC Decade of the Rights of the Child. The SAARC session held in May, 2002 has adopted a SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia. India is a signatory to this Convention and has also ratified. India is also signatory to the SAARC Social Charter signed 2003 which encompasses a broad range of targets to be achieved across the region in the areas of poverty eradication, population stabilisation, empowerment of women, youth mobilisation, Human resources development, promotion of health and nutrition and protection of children.

289. The Constitutional Provisions and the Legislations of the Country for Children are reviewed from time to time keeping in view the need of the hour and necessary amendments, additions are made, for example, Article 21 A of the Constitution has been added in order to make provision for free and compulsory education to children in the age group of 6 to 14 years. Juvenile Justice (Care and Protection of Children) Act 2000 has

replaced the earlier Juvenile Justice Act, 1986 to make the relevant provisions in accordance with the provisions of the Convention on the Rights of the Child.

290. The Ministry of Social Justice and Empowerment is implementing a programme called National Initiative on Child Protection under the Social Defence Bureau for creating awareness about child's rights among various members of the public.

291. As mentioned earlier the age of the child for majority in India is 18 years under normal circumstances and 21 years when the court has appointed a guardian for a child. For different purposes the minimum age for legal capacity has been defined in various enactments as follows:

Minimum legal age defined by National legislation		
	Age (Years)	
	Boys	Girls
End of Compulsory Education*	14	14
Marriage*	21	18
Sexual Consent**	Not defined	16 (s.375 of IPC)
Voluntary enlistment in Armed forces *	17 ½ To be effective from August 2004. Previously it was 16. A person is allowed to take part in active combat only at the age of 18	
Criminal responsibility	According to Section 83 of Indian Penal Code, nothing is an offence which is done by a child above seven years of age and under 12 years who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion. It may be noted that children below the age of seven years are deemed to be incapable of criminal offence as per Section 82 IPC	
Juvenile Crime	18 The Juvenile Justice and Protection of Children Act 2000.	
Capital punishment, life imprisonment*	18	

Giving testimony in the court in civil and criminal cases *	Section 118 of Indian Evidence Act states that all persons shall be competent to testify unless the court considers that they are prevented from understanding the question put to them or from giving rational answers to those questions by virtue of tender years, extreme old age, disease, whether of body or mind or any other cause of the same kind.	
Lodging complaints and seeking redress before a court or other authority without parent consent and participating in proceeding affecting the child *	No minimum age prescribed	
Capacity to contract and conduct property transactions	Section 11 of the Indian Contract Act 1872 states that a person is competent to contract only if he/she is the age of majority and is of sound mind	
Consumption of alcohol and other controlled substances **	21	21
Admission to employment or work, including hazardous work, part-time and full-time work*		
Child Labour (Prohibition and Regulation) Act 1986	14	14
Mines Act, 1956	18	18
Mines Act, 1956	14	14
Merchant Shipping Act, 1958	14	14
Motor Transport Workers Act, 1961	14	14
Motor Transport Workers Act, 1961	14	14
Apprentices Act, 1961	14	14
Bidi and Cigar Workers Act, 1966	14	14
Plantation Labour Act, 1951		
Factories Act 1948		

Source:

* NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development., Government of India.

** Responses to the list of Issues raised by the UN Committee on the Convention of the Rights of the Child, Department of Women and Child Development, GOI

Child Labour

292. India is committed to the eradication of child labour though the country is criticized to be one with a very large number of child labour. India has all long followed a proactive policy with respect to the problem of child labour and has stood for Constitutional, Statutory and development measures to combat the problem. The

Constitution of India prohibits forced labour and employment of children below the age of 14 years in any factory or mine or other hazardous occupation.

293. India has ratified six ILO conventions relating to child labour.

Convention	Year of Ratification
1. Night work of Young Persons (Industry) Convention 1919	-July 1921
2. Minimum Age of (Trimmers & Stokers) Convention 1921	-November 1922
3. Medical Examination of Young Persons(c) Convention, 1921	-November 1922
4. Night work of Young Persons (Industry) Convention Revised, 1948	-February 1950
5. Minimum Age (Industry) Convention, 1919	-September 1955
6. Minimum Age (Under ground work) Convention 1965	-1975.

294. However, according to the Census of 1981 the estimated figure of working children in the country was 13.6 million. According to the Census of 1991 the figure came down to about 11.28 million. The Census of 2001 shows a slight increase in the number of working children to 12.50 million out of the total child population of 250.2 million.

295. The share of the child labour was 6 % of the work force in 1981 and 3.59 % of the work force in 1991 and 3.12 % of the work force in 2001. The incidence of child labour was 5.3 percent based on 1991 census reduced to 3.8% based on NSS data in 1999-2000.

296. The Census data for 1991 shows that child labour is concentrated in agriculture and allied activities. The detailed figures on Child labour are not available at present as 2001 Census is not complete.

Child Labour by Sub-sectors (1991), 5-14 years of Age-group (Per Cent) All-India

Sectors	Boys	Girls
Cultivators	37.9	30.8
Agricultural Labourers	39.6	51.9
Manufacturing in house hold industries	20.4	12.7
Others	2.1	4.6
	100	100

Source: Census 1991.

297. There is no general agreement on the estimates of the child labour, as there exists difference in school of thought over the meaning of child labour and the approach to the problem. One is a rights based definition of child labour, which includes all those children not going to school into the category of labour as they are denied the right to education.

This needs every child to be compulsorily withdrawn from work and put in school. The other school recognizes that children work out of necessity and without their earnings the standard of living of their family would decline further. So child labour could not be eliminated without providing any additional source of income to the parents and proper rehabilitation to the child concerned.

298. The second approach is very true with respect to India and the government recognizes that all of a sudden it is not possible to eliminate child labour in all forms due to the existing socio-economic situations. The contribution of agriculture and allied sectors to the country's economy, in which 85 % of the child labour in the country are concentrated, is substantial. The children of Scheduled Castes & Scheduled Tribes form the majority of the workers in the agriculture and home based industries where their parents are piece rate workers.

299. It is an acknowledged fact (World Bank 1998)⁴⁵ that not all child labour is harmful. Many children working in family based occupations within a stable and nurturing environment with their parents or under protection of a guardian develop skills in certain traditional crafts and are benefited in terms of socialization and from informal education and training, thus augmenting the human capital formation of India's developing economy.

300. In its report in the year 1979, the National Committee on Child Labour (Gurupadaswami Committee) recognized that a distinction had to be made between child labour and the exploitation of child labour as though both are a problem they are of different orders. It stressed on the need to prevent exploitation of child labour.

301. During 1980s the government also held the view that child work of any kind had its problems but felt that it was more essential at that stage of national development (two decades ago) to concentrate the efforts for eradication of child labour in those sectors where children are deployed on wage or quasi wage employment outside family, where exploitation was most likely to arise there. The first step in this direction was enacting legislation prohibiting child labour in hazardous occupation.

302. Alongside legislation, many poverty alleviation programmes, self-employment programmes and food for work programmes like Integrated Rural Development Programme, Rural Landless Employment Generation Programme, *Jawahar Rozgar Yojana* were implemented in rural areas for providing employment to adults in the families.

303. The Child Labour (Prohibition & Regulation) Act 1986 prohibits the employment of children below 14 years in certain occupations notified under the Act to be hazardous and exempts family based industries or workshops from its purview. The Act also regulates the employment of children below 14 years in non-hazardous occupations. A Child Labour Technical Advisory Committee is constituted under the ACT to recommend to the Central Government on the addition of occupation and process considered as hazardous to the schedule under the Act. So far 13 occupations and 57 processes are notified to be hazardous under the Act. A notification was issued on May 26th 1993 for regulating the children in non-hazardous occupation.

⁴⁵ Quoted in Report of the Second National Labour Commission, India, p- 1007.

304. The Supreme Court of India in its judgement dated 10th December 1996 in W.P. No (civil) 465/1986⁴⁶ has given various directions for rehabilitation of children working in hazardous occupation and for the regulation of children working in non-hazardous occupation. The government conducted a survey and has formed a *Child Labour Rehabilitation- cum- Welfare fund* by contributions from defaulting employers for each child under the directions of the Supreme Court. The court also directed the employer to provide employment to one adult family member of the child labour or in the place of it deposit additional money in the fund. The government has to pay interest from this fund to the family of the child so withdrawn from employment.

305. The National Policy on Child Labour was formulated in 1987 marking a departure from the earlier approach of dealing with child labour through legislation alone. The focus was on legislative action, general development programmes for the benefit of child labour and their families and project based action plans in areas of high concentration of child labour. A National Authority for the Elimination of Child Labour (NAECL) was set up in 1994 as an umbrella organization to co-ordinate the efforts of the different arms of the government.⁴⁷ The government of India has amended the service conduct rules of its employees prohibiting them from employing any child below 14 years of age for any work.⁴⁸

306. In the Tenth Plan (2002- 2007) India has taken a great step forward by moving in the direction of rights based approach. The Constitutional Eighty Sixth Amendment has made it mandatory for the state to provide free and compulsory education to every child from 6 to 14 years. It is also the fundamental duty of the parents to create an environment for education of their children.

307. A draft law on wages has been proposed based on the recommendations of the Second National Labour Commission removing the provision enabling employer to fix different rates of minimum wages for different persons. This will discourage the employers to engage child labour.

National Child Labour Projects

308. In pursuance of the policy of 1987 the Ministry of Labour implements a scheme of National Child Labour Projects (NCLPs) for rehabilitation of child labour especially in the child labour endemic states. It provides a package of welfare measures including non-formal education, craft training, supplementary nutrition, stipend, and health care to children withdrawn from employment. Industry specific projects started in 1988 were later changed to area specific projects. As of date there are 100 NCLPs in 13 child labour endemic states for rehabilitation of approximately 0.2 million working children withdrawn from hazardous occupations. The government has launched NCLPs in 50 new districts in 2004 and has proposal to add 100 more districts very soon.

⁴⁶ *M.C. Mehta v. State of Tamil Nadu*, AIR 1997 SC 699.

⁴⁷ Secretaries to the Government of India in the Ministry of Labour, Information & Broad Casting, Social Justice and Empowerment, Rural Development, Textiles and the Department of Expenditure, Education, Health & Family Welfare, Women & Child Development are member of the NAECL.

⁴⁸ The Central Services (Conduct) Rules, 1964, amended on 4th Oct 1999 and the All India Service (Conduct) Rules 1968 amended on 1st Feb 2000. Source: Ministry of Personnel, Public Grievance and Pension.

309. A comprehensive study to evaluate NCLPs conducted by independent agencies and coordinated by the V.V. Giri National Labour Institute in 2001 has shown the NCLPs to be successful. One important positive aspect noted by the study was that about 60% of the children in special schools are those withdrawn from work. The Special schools under the NCLPs have been successful in mainstreaming about 0.1 million children so far into the formal system of education in 13 child labour endemic states.

Other measures

310. The Central Board of Workers Education set up in 1958 under the Ministry of Social Justice and Empowerment had been organizing various programmes to implement workers education schemes. In the year 2002 –2003 it has organized 37 programmes from 01.4.02 to 31.8.02 benefiting 1460 persons who were parents of child labour.

311. The government has also initiated schemes for employment generation and training programmes in rural areas and below poverty line families specially targeting women to prevent bonded and child labour. The government also has a scheme of assisting voluntary organization to the extent of 75% of the project cost to take up welfare project for rehabilitation of working children.

312. NAECL is undertaking efforts for integration of *Sarva Shiksha Abhiyan* (Universal Elementary Education) programme to the strategy of elimination of child labour to ensure that children within the age group of 5- 8 years get directly linked to formal school education system. An allocation of Rupees 6675/- million has been made for child labour in the Tenth Plan period (2002-2007) against 2496 million in the Ninth plan.

International Co-operation

313. India was the first country to join the International Programme on the Elimination of Child Labour (IPEC) launched by ILO in December 1991. During the period of 1992-2001, around 165 action programmes were taken up for implementation involving assistance of the order of US \$ 5.6 million. In addition, 11 projects are currently under implementation. A proposal for taking up “New Comprehensive IPEC projects” in 10 identified industries in selected areas in 4 states is also on the anvil.

Children in difficult circumstances

314. The country is committed to ameliorate the children in difficult circumstances and to protect them and provide them with opportunities as obtaining to children under normal circumstances. The children in difficult circumstances include the children with disability, street children, orphans, destitute children, children of sex workers and prisoners and children pushed into prostitution and crimes. The Ministry of Social Justice and Empowerment is the nodal agency for delivering social defence services by assisting voluntary organizations and other agencies involved in protecting these children.

Child Disability

315. The 58th round of NSS survey on Disability in India estimates about 1.8 percent of the total population to be affected by any of the forms of disability. The government has enacted the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 providing for both preventive and promotional measures aiming at the holistic approach to mainstream the disabled persons. The Act stipulates that every child with disability shall have right to free education till the age of 18 years in integrated schools. All children shall be screened once a year to identify the 'at risk' cases.

316. The Act provides for establishment of an office of the Commissioner for persons with disabilities in the center as well as in the states. The Commissioner safeguards and redresses the violation of the rights guaranteed and the facilities provided to the disabled. The Commissioner has disposed of 6004 complaints till January 2003 out of the 6394 complaints received since the establishment of the office.

317. The National Trust for welfare of persons with Autism Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999 seeks to protect persons with these disabilities and strengthen their families. Under this 369 local level committees have been established so far.

318. The Rehabilitation Council of India was converted to a statutory body in 1992. It provides for a mechanism for setting standards of excellence in training and regulating professionals for the care of the disabled. So far 21, 877 professionals are registered with the council.

319. Apart from the legal frame work the government has established several Regional Rehabilitation Training Centres, District Disability Rehabilitation Centres (82 already functional) and Composite Regional Centres to provide comprehensive rehabilitation services to the disabled at their doorsteps. These centers have provided appropriate service to 3, 69,085 disabled persons up to December 2002.

320. Special schemes for education, scholarships for higher education, and for the establishment of special schools and vocational training centers are being implemented. UNDP funded project is in operation in two states of Uttar Pradesh and Karnataka for mainstreaming children with disabilities to regular schools.

321. The Ministry of Social Justice and Empowerment provides financial, technical and administrative assistance under the scheme to promote voluntary action for persons with Disabilities. It encourages parents/guardians of persons with disabilities to form their own organizations to provide rehabilitation services so as to make it community bases. The tenth plan has allocated double the expenditure during the ninth plan for Disability Division.

Street children

322. There is no authentic data in India on street children. The Ministry of Social Justice and Empowerment implements an integrated programme for street children. It targets the most vulnerable group of the street children viz., children without homes and family ties,

children of sex workers and pavement dwellers. The programme provides for shelter, nutrition, health care, education and recreational facilities. Up to 90 % of the cost of the project, subject to a ceiling of 1.5 million is provided by the government and the balance is borne by the grantee organization. Since its inception 2, 50,938 children have been helped through 214 organizations in 24 states/ union territories.

Destitute Children and Juvenile Offenders

323. The Juvenile Justice (Care and Protection of Children) Act, 2000 replacing the 1986 Act, aims to increase the accessibility to a juvenile offender or a destitute child by establishing Juvenile Justice Boards and Child Welfare Committees and Homes in each district or group of districts. The Act lays down the primary law for care, protection, adjudication and disposition of matters relating to children in conflict with law. A programme for Juvenile Justice with 50% Central assistance provides for establishment and maintenance of institutions for juveniles in conflict with law. At present there are 287 observation homes, 290 juvenile homes, 35 special homes and 50 after care institutions in the country assisted under the scheme. The Act makes a distinction between juvenile offender and a neglected child.

Child Adoption

324. The Supreme Court of India in a very important decision took notice of the absence of rules or regulations guiding inter-country adoption of children, which had resulted in many cases of child abuse and traffic in children.⁴⁹ The Court framed rules and guidelines to be followed in cases of inter-country adoption till an agency or an administrative body replaces it. In pursuance of that a Central Adoption Resource agency (CARA) was set up in the year 1990 as an autonomous agency to recognize adoptive agencies for facilitating in-country and inter county adoption to provide best environment for the development of children who are orphans or whose biological parents are not available or not in a position to care for them by finding adoptive or foster care homes. Emphasis is made on finding adoptive families within the country and close to the place of origin of the child. In cases where suitable homes within the country cannot be found children are given in inter-country adoption.

325. The agency conducts sensitization/ awareness programmes under the National Initiative on Child Adoption. The agency gives assistance up to Rupees 0.6 million per year (to cover the costs of maintaining the children, staff, medicines and other necessities) to adoptive homes (*Shishu Greh*) for promoting in-country adoptions. It has set up voluntary coordinating agencies for co-ordination of all matters relating to adoption and also to maintain a list of adoptive parents.

Girl Child

326. The practice of female foeticide and infanticide is a continuing problem. The magnitude of the problem is brought to light by the declining juvenile sex ratio. Based on

⁴⁹ *Laxmikant Pandey v. Union of India*, AIR 1984 SC 469

2001 census, 49 districts have been identified as problem districts with high adverse sex ratio. The states of Punjab, Haryana, Rajasthan, Gujarat, Maharashtra have low juvenile sex ratios. The root cause lies mainly in the attitude of the society towards women and their poor socio-economic conditions as reflected in the practice of dowry.

Number of female children for every 1000 male children (0-6 years) 1981-2001

<u>Census</u>	<u>Sex ratio (0-6 years)</u>
1981	962
1991	945
2001	927

Source: Census of India 2001: Provisional population totals, Registrar General & Census Commissioner, GOI, New Delhi.

327. The enhanced access to scientific techniques for determination of sex of the foetus has resulted in the practice of female foeticide taking a discreet form and difficult to detect and bring to book. This practice is spread all over the country unlike the practice of female infanticide, which is a local phenomenon amongst certain communities.

328. With a view to stop this practice and punish the perpetrators the government enacted the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act in year 1994 to prohibit the use of scientific techniques in genetic counseling centres or clinics for pre-determination of the sex. Any violation of the provisions of the Act is punishable with imprisonment. All the diagnostic clinics have to be registered with the State governments. The PNDT Act has been amended recently to prevent the pre-conception selection of sex also. Rules have been framed under the Act for the implementation. The title of the Act has by an amendment been since changed to the "The Preconception and Pre-Natal Diagnostic Techniques (Regulation of Sex Selection) Act, 1994."⁵⁰ A National Monitoring and Implementation Committee has been constituted (on 03.12.2004) in compliance to the directions of Apex Court, to take stock of the ground realities with regard to the implementation of the PC&PNDT Act by visiting various states/UTs where there has been significant decline in child sex ratio.

329. Under the Indian Penal Code 'causing miscarriage' is also an offence. The Medical Termination of Pregnancy Act, 1971 regulates the practice of abortion and prevents illegal abortions. The government is also implementing Reproductive and Child Health programme⁵¹ to encourage institutional deliveries and regular antenatal check ups to avoid illegal and unhealthy abortions.

330. A scheme called *Balika Samridhi Yojana* was introduced in 1997 for protecting the girl child. The scheme was reviewed in 1999-2000 and recast it. Under this scheme the government makes periodical deposit of money for the first two girl children in a family from the time of birth till they attain the age of 18 years on the condition they have to attend school and should have marriage after 18 years. On maturity the deposit with interest will be given to them. During 1991-92, a special intervention called 'Adolescent Girls Scheme' was launched in 507 blocks, for adolescent girls in the age group of 11-18 years (school drop-outs), using the ICDS infrastructure. In the year 2000, the scheme was

⁵⁰ The Supreme Court in its judgment AIR 2001 SC 207 on a PIL from Centre for the Enquiry of Health and Allied Themes (CEHAT) & others directed the center to implement the PNDT Act in all its aspects. The Court took serious view of the alarming decline in juvenile sex ratio.

⁵¹ Refer report under Article 12 of this Covenant.

revised as “Kishori Shakti Yojaya” with content enrichment, strengthen the training component for addressing the needs of self-development, nutrition and health status, literacy and numerical skills, vocational skills etc. of Adolescent Girls. The scheme has been sanctioned to all the 6118 ICDS blocks in the country. Another scheme called *Kishori Shakthi Yojana* launched in the year 1991-92 aims at preparing the girl child for future productive and reproductive roles. It has been implemented in 6108 ICDS blocks.

331. The state of Tamil Nadu has been implementing the cradle-baby scheme under which the unwanted girl child can be left at the care and custody of the State. The State of Haryana with the lowest juvenile sex ratio has introduced a scheme of incentive to family at the birth of the girl child. The ICDS also aims to eliminate discriminatory feeding practices. The establishment of Crèches and the day care centres for children under the scheme as noted above has also freed the girl child from being a baby sitter as reflected in the increased enrolment rate in the elementary education.

332. The government is also practicing the strategy of ‘Women’s Component Plan’ as recommended by the Planning Commission, whereby 30% of the resources allocated under all the schemes and programmes are spent for empowerment, development and self-employment of women and girl children. The government is also spreading the message of girl child protection through media. Under a ‘Meena Communication Initiative, a package of twelve animation films and stories featuring “Meena” a girl child successfully fighting discrimination in all sectors is being promoted.

Child Prostitution

333. A study conducted by the Central Social Welfare Board during the year 2000 indicates that 30 percent of the prostitutes in the country were children. The overwhelming majority of girl prostitutes were from urban slums and rural areas of drought prone and backward districts where conditions of abject poverty, ignorance and illiteracy prevailed. (Indian Child 2002- A Profile). Except for some castes who have traditionally accepted prostitution as their profession, poverty, is the main cause forcing young children in to prostitution.

334. The Immoral Traffic Prevention Act 1956 as amended in the year 1986 provides for the punishment of those running brothels and involved in child prostitution. The Act is being amended to widen its scope, focus attention on the plight of the trafficked and to make its implementation more effective as well to provide more stringent punishment to the traffickers, brothel owners and clients. India has ratified to the SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution.

335. The Supreme Court of India has given directions in many cases brought before it by public-spirited individuals through the mechanism of Public Interest Litigation for combating trafficking and sexual exploitation of women and children and for their rehabilitation.⁵² The Ministry of Women and Child Development has implemented these directions of the Court by formulating a plan of action and setting up advisory committees to frame recommendations for rescue and rehabilitation of the affected persons.

⁵² *Vishal Jeet v. Union of India* AIR 1990 SC 1412, *Gaurav Jain v. Union of India*, AIR 1997 SC 3021

336. A centrally sponsored scheme call *swadhar* is being implemented from 2001-02 with special focus on rehabilitation of destitute women like sex workers, women and girls offered to temples, victims of domestic violence and other abuses. The tenth plan has allocated Rupees 1000/- million for this scheme. The scheme has a holistic approach and provides shelter, food, health care and training for employment.

337. A help line facility named Childline Services is being operated in the country from 1998-99 as a 24 hours free phone service for children in distress⁵³/ adults on their behalf giving emergency assistance/ referral service with long term follow up and care based upon the child's need. Childline India foundation is the umbrella organization to co-ordinate and monitor the service provided at present in 55 cities. Childline has responded to over 4.9 million calls from children/-concerned adults till 31st December 2003. Similar help line service is available for women in distress.

338. Voluntary organizations are also assisted by the government to provide social defence services in situations, which are warranted by emergency and not covered under the existing schemes. Such assistance has been given to children and widows of those affected by militancy in State of Jammu & Kashmir and those affected by cyclones in the State of Orissa and children and women of riot victims in the State of Gujarat.

339. The Government has ratified on 20th January 2006 the Commission for Protection of Child Rights Act 2005 which envisages constitution of National Commission and State Commissions to ensure that rights of children enshrined in CRC is not violated.

Article-11

Right to An Adequate Standard Of Living

Human Development/ Living Conditions:

340. The preamble to the Constitution spells out some of the main objectives as securing social justice, promoting dignity of the individual and building a socialistic pattern of society. It is also the primary duty of the State to remove various inequalities, raise the level of nutrition and the standard of living as per the directive principles of state policy enshrined in Part IV of the Constitution of India. The Courts in the country have also been very active and have recognized that basic necessities of life form an integral part of the right to life under the Constitution taking within its sweep among other things the right to food, right to clothing the right to decent environment and a reasonable accommodation to live in⁵⁴.

341. The country resorted to the process of planned economic development aimed primarily at increasing the per capita income by establishing a Planning Commission in the year 1951 with the expectation that growth and development would trickle down to the lower levels and raise the standard of living of the poor. It was realized after decades of planning that the growth in the economy was not followed by trickling down of the

⁵³ The main focus of this service is on children living alone in the streets, child labourers working in unorganized sector, domestic workers and sexually abused children.

⁵⁴ *Shantisar Builder v. Narayanan Khumlal Totame*, AIR 1990 SC 630.

benefits. As a result there has been a change of focus in the recent years and change in the meaning of economic development from growth in per capita income to that of expansion of opportunities and human capabilities. In pursuance of various measures / programmes are being implemented primarily aimed at expanding the capabilities of the country's population.

342. These programmes are directed at the problems of poverty, unemployment, and low standards of living and at the widening urban-rural gap as a result of urbanization and industrialization. Adequate access to food, clothing and shelter form an integral part of many programmes. They mainly target the socially deprived classes like landless labourers, unemployed young persons in rural and urban areas, persons in urban slums and women.

343. For the purpose of monitoring and evaluation of these measures, a package of these programmes called the *Twenty Point Programme (TPP-86)* has been in operation since 1975. There are 119 items identified for monitoring out of which 20 items are being monitored on a monthly basis and Monthly Progress Report is made. The Departments/ Ministries concerned with the subjects of TPP-86 set the annual targets in consultation with the states. The Ministry of Statistics & Programme Implementation is the nodal ministry for monitoring the Twenty Point Programme.

344. The Ministry of Rural Development (MoRD) is the nodal agency for matters of policy, action and co-ordination in respect of the programmes relating to rural areas. The Department of Rural Development, Department of Land Resources and the Department of Drinking Water Supply are under the administrative control of the Ministry. Similarly the Ministry of Urban Development and Poverty Alleviation is the nodal agency for similar efforts in urban areas. The Department of Urban Development and Department of Urban Employment and Poverty Alleviation are under the administrative control of the Ministry.

345. These measures have to a great extent improved the standard of living in the country. The human development index of India as estimated by the UNDP has improved significantly from 0.416 in 1975 to 0.590 in 2001. At the same time these programmes have been deficient in their reach and effectiveness in many of the rural areas mainly due to lack of education, awareness about existence of many programmes and in the identification of really deserving beneficiaries. These are being tackled by assigning grass root level democratic institutions like the local bodies/ *Panchayati Raj Institutions* (PRIs)⁵⁵ the task of identifying beneficiaries, operating & managing the programmes and thus ensuring community participation.

Indicators of Current Standard of Living

346. One of the basic indicators of the standard of living used in the official circles and by the Planning Commission is *the number of people below poverty line (Head Count Ratio)*, which is expressed in terms of per capita consumption expenditure conforming to a consumption basket which satisfies the per capita daily calorie norm of 2400 Kilo calories (Kcal) in rural areas and 2100 Kcal in urban areas and meets a minimum of non-food

⁵⁵ The Constitution of India was amended by 73rd and 74th Constitutional Amendment enabling the state governments to establish the three tier local bodies (Panchayat Raj Institutions- PRIs) in the states viz., Municipalities (town level), Zilla parishads (intermediate level) and Panchayats (village level) giving them jurisdiction over local affairs. Almost all the states barring a few, have established these institutions.

requirements such as clothing, shelter, transport. The national poverty line at 1999-2000 prices is Rupees 327.56 per capita per month in the rural areas and Rupees 454.11 per capita per month in the urban areas. Separate poverty lines are estimated for different states by disaggregating the national level poverty line to reflect the relative price differentials prevailing in the different states and the differences in the inflation rates among the States

347. The Planning Commission estimates poverty at national and state level by applying the poverty line to a class-wise distribution of *house hold consumption expenditure* obtained from large sample surveys of household consumer expenditure conducted by the National Sample Survey Organisation every five years. There is a considerable reduction in the percentage of population below the poverty line from 1987 to 2001. In absolute terms the number of poor also declined from about 323 million in 1983 to 260 million in 1999-2000 despite the enormous increase in population of the country. The changes in the poverty ratio over a decade and half are given in the table below.

Percentage of Population Below Poverty Line for States/UTs

States/ UTs	1987-88			1993-94			1999-2000		
	Rural	Urban	Combined	Rural	Urban	Combined	Rural	Urban	Combined
Andhra Pradesh	20.9	40.1	25.9	15.9	38.3	22.2	11.1	26.6	15.8
Arunachal Pradesh	39.4	9.9	36.2	45.0	7.7	39.4	40.0	7.5	33.5
Assam	39.4	9.9	36.2	45.0	7.7	40.9	40.0	7.5	36.1
Bihar	52.6	48.7	52.1	58.2	34.5	55.0	44.3	32.9	42.6
Goa	17.6	35.5	24.5	5.3	27.0	14.9	1.4	7.5	4.4
Gujarat	28.7	37.3	31.5	22.2	27.9	24.2	13.2	15.6	14.1
Haryana	16.2	18.0	16.6	28.0	16.4	25.1	8.3	10.0	8.7
Himachal Pradesh	16.3	6.3	15.4	30.3	9.2	28.4	7.9	4.6	7.6
Jammu & Kashmir	25.7	17.5	23.8	30.3	9.2	25.2	4.0	2.0	3.5
Karnataka	32.8	48.4	37.5	29.9	40.1	33.2	17.4	25.3	20.0
Kerala	29.1	40.3	31.8	25.8	24.5	25.4	9.4	20.3	12.7
Madhya Pradesh	41.9	47.1	43.1	40.6	48.4	42.5	37.1	38.4	37.4
Maharashtra	40.8	39.8	40.4	37.9	35.1	36.9	23.7	26.8	25.0
Manipur	39.4	9.9	31.3	45.0	7.7	33.8	40.0	7.5	28.5
Meghalaya	39.4	9.9	33.9	45.0	7.7	37.9	40.0	7.5	33.9
Mizoram	39.4	9.9	27.5	45.0	7.7	25.7	40.0	7.5	19.5
Nagaland	39.4	9.9	34.4	45.0	7.7	37.9	40.0	7.5	32.7
Orissa	57.6	41.6	55.6	49.7	41.6	48.6	48.0	42.8	47.2
Punjab	12.6	14.7	13.2	11.9	11.4	11.8	6.4	5.8	6.2
Rajasthan	33.2	41.9	35.1	26.5	30.5	27.4	13.7	19.9	15.3
Sikkim	39.4	9.9	36.1	45.0	7.7	41.4	40.0	7.5	36.6
Tamil Nadu	45.8	38.6	43.4	32.5	39.8	35.0	20.6	22.1	21.1

Tripura	39.4	9.9	35.2	45.0	7.7	39.0	40.0	7.5	34.4
Uttar Pradesh	41.1	43.0	41.5	42.3	35.4	40.9	31.2	30.9	31.1
West Bengal	48.3	35.1	44.7	40.8	22.4	35.7	31.9	14.9	27.0
A& N Island	45.8	38.6	43.9	32.5	39.8	34.5	20.6	22.1	21.0
Chandigarh	14.7	14.7	14.7	11.4	11.4	11.4	5.8	5.8	5.8
D & N Haveli	67.1	-	67.1	52.0	39.9	50.8	17.6	13.5	17.1
Daman & Diu	-	-	-	5.3	27.0	15.8	1.4	7.5	4.4
Delhi	1.3	13.6	12.4	1.9	16.0	14.7	0.4	9.4	8.2
Lakshwadeep	29.1	40.3	34.9	25.8	24.5	25.0	9.4	20.3	15.6
Pondicherry	45.8	38.6	41.5	32.5	39.8	37.4	20.6	22.1	21.7
<u>ALL INDIA</u>	39.1	38.2	38.9	37.3	32.4	36.0	27.1	23.6	26.1

Source: Planning Commission, GOI.

348. The distribution of consumption expenditure between food and non-food items over various NSS surveys also shows considerable improvement in the general standard of living in the country as generally poor households are expected to spend substantially more on food items as against the non-food. The expenditure on food as such is increasing in Rupee terms for both the urban and rural areas but there is a huge gap between urban and rural areas. This gap is significant due to the items viz. milk and milk products, beverages, fuel and light, education, miscellaneous consumer goods & services, conveyance and rent which are comparatively high in urban areas. The consumption pattern is shown in the table below.

Consumption patterns over a period under NSS surveys

Item / Sector	Average value of Consumption (in Rupees)					
	43 rd round	50 th round	55 th round	56 th round	57 th round	58 th round
Rural						
Food	100.82	177.80	288.80	278.57	276.35	292.27
Non- food	57.28	103.60	197.36	216.34	221.92	239.21
Total	158.10	281.40	486.16	494.90	498.27	531.49
Urban						
Food	139.73	250.30	410.84	400.57	402.31	429.79
Non- Food	110.18	207.70	444.08	514.01	530.48	582.18
Total	249.92	458.00	854.92	914.57	932.79	1011.97

Source NSS Report 484, 58th round.

43rd round- July 1987- June 1988
50th round- July 1993- June 1994

56th round –July 2000 – June 2001
57th round – July 2001 - June 2002

55th round – July 1999-June 2000

58th round – July 2002- December 2002

349. In order to assess the progress of human development in the country with a physical quality of life index along the lines of the UNDP Human Development Report the Planning Commission for the first time mapped the state of human development in the Country in the National Human Development Report 2001 (NHDR) by applying the indicators used by the UNDP with some deviations/modifications to reflect the socio-cultural condition of the country.

Human Development Index (HDI) and Gender Equality Index (GEI)- Departure from UNDP Indices are indicated below:

Attainment	UNDP Indicators	NHDR- Indicators
Longevity	Life Expectancy at Birth	Life Expectancy at age 1 and Infant Mortality Rate
Educational Attainment	Adult Literacy Rate combined with Enrolment ratio	Literacy Rate 7+ and Intensity of Formal Education
Economic Attainment	Real GDP Per Capita in Purchasing Power Parity \$	Per capita real consumption expenditure adjusted for inequality; Worker-population ratio in case of Gender Equality Index

350. The report informs that there has been an improvement both in the rural as well as in the urban areas though the urban- rural gap is still significant. At the State level there are wide disparities in the level of human development. The index of gender equality measuring the attainments in human development indicators for the females as a proportion of that of the males has improved but only marginally from 0.620 to 0.676 from 1981 to 1991 with women in Southern India better off than those in Indo-Gangetic plain. Overall the human development as reflected in the Human Development Index (HDI) has improved significantly from a value of 0.302 in 1981 to 0.472 in 2001.⁵⁶

Human Development Index for India – Combined for some Major States

States/ UTs	1981 value	1991 value	2001 value
Andhra Pradesh	0.298	0.377	0.416
Assam	0.272	0.348	0.386
Bihar	0.237	0.308	0.367
Gujarat	0.360	0.431	0.479
Haryana	0.360	0.443	0.509
Karnataka	0.346	0.412	0.478
Kerala	0.500	0.591	0.638
Madhya Pradesh	0.245	0.328	0.394
Orissa	0.267	0.345	0.404
Punjab	0.411	0.475	0.537

⁵⁶ The HDI for 2001 has been estimated only for 15 major states for which some data, including the Census 2001, was available.

Rajasthan	0.256	0.347	0.424
Tamil Nadu	0.343	0.466	0.531
Uttar Pradesh	0.255	0.314	0.388
West Bengal	0.305	0.404	0.472
ALL INDIA	0.302	0.381	0.472

Source: National Human Development Report –2001, Planning Commission, GOI

Food Security:

Food Situation in the Country

351. The country has taken various measures in the field of agriculture, livestock and animal husbandry and the various technology missions on food grains as detailed in the initial report under the covenant and has been continuously pursuing and upgrading those measures. As a result the country has attained self-sufficiency in the production of food grains, become the second largest producer of fruits and vegetables in the world and also the fifth largest producer of eggs and the largest producer of milk in the world. The production of food grains has under gone four fold increase since 1951 (394.9 grams per day) except some marginal fluctuation due to monsoon failure as is evident in the marginal decrease of per capita availability of 464.1 grams/ day in 1993 to around 436.3 grams/ per day in 2003. The per capita availability of milk has increased from 128 grams/day in 1980-81 to 226 grams/day in 2002-03.

Food Adequacy &/ Nutritional Status

352. The improvements in the food production ensured that India did not experience any famine like conditions or large-scale mass hunger for the past four decades. However, these improvements had only a marginal effect on the chronic hunger and malnutrition prevailing in some parts of the country among some social groups. The most vulnerable of the population is women across income groups, children, rural landless poor and dwellers in forest and hill areas. The major nutrition problems are the macronutrient deficiency like protein energy malnutrition and the deficiency of vitamin A in children.

353. The availability of adequate food to people i.e. two square meals a day throughout the year is estimated on the basis of the perception of the household regarding sufficiency of food. It is estimated that 0.5% of the households in rural areas are chronically hungry (not getting enough food during any month of the year) and 0.2% in urban areas. As for seasonal hunger (not getting enough food only in some months of the year) it is 1.1% in rural areas and 0.02% in urban areas.⁵⁷

⁵⁷ NSSO Report 484: Household Consumer Expenditure and Employment –Unemployment Situation in India. (July- Dec 2002)

Urban	520	251	229	488	281	232	482	287	230
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* Expressed as a % of a norm level of 2700 Kcal per consumer unit per diem.

357. The estimates of the NSS 58th round Report 484 (July 2002- December 2002) does not show any change in the average calorie intake for rural and urban areas. The calorie intake level is generally low in rural areas not satisfying the recommended daily allowance of 2400 Kcal/day. This is reflected in the decline in the protein intake for rural areas from 62-grams/ day in 1983 to 59 grams/day in 2000. The National Family Health Survey 1998-99 also shows that in rural area nearly fifty percent and in urban areas nearly 39% of the children were malnourished. According to the National Nutrition Monitoring Board (NNMB) data 37.4% of males and 39.4% of females in 2000-01 suffered from Chronic Energy Deficiency in rural areas.

358. The low purchasing power among the poor is the main reason for hunger. The prevalence of malnutrition is because of the absence of education and lack of awareness and proper knowledge regarding child feeding among the masses. The government has adopted a National Nutrition Policy in 1993 and set up a National Nutrition Mission in 2001 with the objectives of reducing malnutrition, vitamin A deficiency, low birth weight in children and the reduction of iron deficiency in women and increased production of food grain and universal iodisation of salt. The government is very much committed to eradicate hunger and malnutrition from the country and has laid down goals to be achieved by the end of the Tenth plan (2007). The Tenth Five Year plan has shifted the emphasis from food security at the household level to nutrition security at the level of each individual.

359. The government has through various measures revamped and made more effective the supply of food grains throughout the country at reasonable prices to the most needy and vulnerable groups through the public distribution system (PDS). Many other welfare schemes targeting women and children especially in rural areas have also been launched for creating awareness about malnutrition and for providing supplementary nutrition. Many of these programmes are implemented jointly with the PDS schemes.

Food Management

360. The scheme of Decentralized Procurement of foodgrains was introduced by the Government in 1997-98 with a view to effecting savings in the form of reduction in the outgo of food subsidy, enhancing the efficiency of procurement and PDS and encouraging local procurement to the maximum extent thereby extending the benefits of MSP to local farmer. Under the decentralized procurement scheme, the State Government itself undertakes direct purchased of paddy and wheat and procurement of levy rice on behalf of Government of India. Purchase centres are opened by the State Government's and their agencies as per their requirements. The State Governments procure, store and distribute foodgrains under TPDS and other welfare schemes. In the event of the total quantity of wheat and rice thus procured falling short of the total allocation made by the Central Government for meeting the requirement of TPDS and other schemes, the Central Government, through FCI, meets the deficit out of the Central Pool stocks.

361. The Central Government undertakes to meet the entire expenditure incurred by the State Governments on the procurement operations as per the approved costing. The Central Government also monitors the quality of foodgrains procured, under the scheme

and reviews the arrangements made to ensure that the procurement operations are carried on smoothly. The State Governments undertaking Decentralized Procurement are as under:-

S. No.	Name of the State	Procurement of Items
1.	West Bengal	Rice
2.	Uttar Pradesh	Rice/Wheat
3.	Madhya Pradesh	Wheat
4.	Chattisgarh	Rice/Wheat
5.	Uttaranchal	Rice/Wheat
6.	Andaman & Nicobar Islands	Rice
7.	Orissa	Rice
8.	Tamil Nadu	Rice
9.	Gujarat	Wheat

362. The State Governments that adopted the decentralized procurement scheme had requested for adequate attention on the following issues:-

- (i) Full reimbursement of expenses and timely, release of subsidy by the Central Government.
- (ii) Sanction of adequate Cash-Credit Limits in time by the Reserve Bank of India. With regard to reimbursement of expenses, the following additional components of costs have already been sanctioned:
 - (i) Transportation cost from the procurement centre to the storage point and from the storage point to the turning point;
 - (ii) Commission to societies at 1% of MSP;
 - (iii) Payment of cost towards transportation of gunnies from railheads to procurement centres;
 - (iv) Enhancement of milling rate of parboiled rice from Rs. 15 per quintal to Rs. 20 per quintal.

363. The Department of Food and Public Distribution has also made suitable recommendations to RBI for sanctioning of adequate Cash-Credit Limit to States for handling the procurement operations. The Food Corporation of India (FCI) and the States have been requested to launch awareness campaign in the print and audio-visual media to educate the farmers about the price support operations being undertaken. The need for opening adequate number of purchase centres, if necessary through mobile vans, was also stressed.

364. The Tariff Commission has been requested to conduct fresh studies for recommending suitable milling charges for various zones. Similarly, FCI has been requested to conduct studies through reputed institutions, for recommending appropriate out-turn ratio for milling of rice preferably on zonal basis. The total procurement of rice in States which have adopted decentralized procurement was 3.9 million tones in 2001-02 and 3.1 million tones in 2002-03. This went up sharply to 7.8 million tones during 2003-04. The procurement in the States is likely to cross 9.8 million tones during Kharif Marketing Season 2004-05. The progressive procurement of rice in the States which have adopted decentralized procurement was 29,967 tones in 2004-2005 (upto to 10.11.2004 compared to 16,951 tonnes in 2003-04 in the same period. In respect of wheat, the

procurement during Rabi Marketing Season was 1.46 million tonnes, which has increased to 2.1 million tonnes during Rabi Marketing Season 2004-05.

365. FCI through a series of operations builds stocks of food grains in the Central Pool at the same time safeguarding the interests of the farmers. Food grains are procured from the market at the declared procurement price. The mechanism Minimum Support Price is also used (MSP) to provide market and price assurance to the farmer to sustain higher yields without fear of decline in prices or market. Food stocks are maintained to (i) meet the prescribed Minimum Buffer stock norms for food security, (ii) for monthly releases of food grains for supply through the PDS/Welfare schemes, (iii) to meet emergent situations arising out of unexpected crop failure, natural disasters etc. (iv) for market intervention to augment supply so as to help moderate the open market prices. The Government reviews, on a monthly basis, the position of foodgrains stocks held in the Central Pool by FCI and the State Governments and their agencies.

366. There are 26 million MTs (owned & hired) of storage capacity in over 1484 as on 30.09.2004 godowns all over India located strategically with scientific storage facility using the indigenous method of Cover and Plinth (CAP)⁵⁹. Grain storage is continuously scientifically graded, fumigated and aerated by trained and experienced personnel. There are testing laboratories spread across the country to ensure the stored food grains retain their essential nutritional qualities. The transport of food grains for storage to the depots and to food deficient States is done by FCI during 2004-05 moving about 31 million tonnes to food grains over an average distance of 1451-1474 kilometers. In so far as storage capacity available with Central Warehousing Corporation (CWC) and State Warehousing Corporation (SWCs) is concerned, Storage capacity available with CWC is 9.84 million Metric Tones in over 472 godowns and that with the SWCs is 19.76 million Metric Tonnes in over 472 godowns and that with the SWCs is 19.76 million Metric Tonnes is over 1590 centres as on 1.11.2004. Wherever required, this storage capacity is utilized for storage of foodgrains using scientific technique of storage.

367. The Public Distribution System (PDS) has evolved as a major instrument of the Government's economic policy for ensuring availability of food grains to the public at affordable prices as well as for ensuring the food security for the poor. PDS with a network of more than 0.47 million Fair Price Shops (FPS) is, perhaps, the largest distribution network of its type in the world. PDS is operated under the joint responsibility of the Central and the State Governments. The Central Government is responsible for procurement, storage, transportation and bulk allocation of food grains. The State Government distributes the same to the consumers through the network of FPSs, identifying families below poverty line, issuing ration cards, supervising & monitoring the functioning of FPSs. The *Panchayati Raj* Institutions are also involved in the implementation of the PDS.

368. The PDS as originally conceived did not succeed to serve the needy population below the poverty line, which had urban bias due to system of same prices for all (one Central Issue Price-CIP). Realizing this, the government streamlined the PDS and introduced the Targeted Public Distribution System (TPDS) from June 1997 by issuing separate cards and separate Central Issue Prices to families Below Poverty Line (BPL) and

⁵⁹ It is a term given to the storage of food grains in the open with adequate precautions such as rate and damp proof plinths, use of dunnage and covering of stacks with specially fabricated polythene covers.

Above Poverty Line (APL). This is intended to benefit about 60 million poor families for whom a quantity of about 7.2 million tonnes of food grains was earmarked annually.

369. A scheme called *Antyodaya Anna Yojana* (AAY) was launched in December 2000 as a part of the TPDS targeting the poorest among the poor suffering from chronic hunger. ten million families were identified as beneficiaries under this scheme providing them with 35 kg of food grains per month and a highly subsidized rate of Rupees 2 per kg of Wheat and Rupees 3 per Kg of Rice. The scope of AAY has been expanded to cover additional 10 million BPL families by including, inter alia, all household at the risk of hunger.

370. Under the TPDS the total off take of food grains has increased to 22.79 million tonnes during 2003-04 as compared to 20.1 million tonnes during 2002-2003. Under the BPL and the AAY and other welfare schemes, the off-take has been increasing every year. The off-take of foodgrains under AAY during the year 2002-2003 was 86%.

371. The Central Government had also issued a Model Citizen's Charter, providing for vigilance committees to provide services under the PDS in a more transparent and accountable manner. All the State Governments/ Union Territories have adopted it. The Central Government also notified the PDS control order 2001 under the Essential Commodities Act to maintain supplies, securing availability and distribution of essential commodities especially through fair price shops. Vigilance committees in the FPS level; Block/ *Mandal* level, District Level and State level are at present functioning in most of the States.

372. To make assessment about the functioning of PDS in the State/UT Area Officers are appointed from the Department of Public Distribution for different States and are required to visit the States allotted to them with an element of surprise and objectivity and make assessment by visiting Fair Price Shops, Stock Agents, FCI Depots, and beneficiaries.

Programmes targeting hunger & malnutrition

373. There are many schemes for providing adequate food and supplementary nutrition, to the vulnerable sections of people. Some of the schemes Wheat based nutrition programme, scheme for supply of food grains to SC/ ST/ OBC hostel/ Welfare institutions, *Annapurna* scheme, Special component of *Sampoorna Gramin Rozgar Yojana*, Integrated Child Development Services, Nutrition Programme for adolescent girls, Emergency feeding programme and the Grain Bank Scheme. These schemes are outlined below.

374. The Mid-Day-Meal-Scheme (MDM) was launched by the Ministry of Human Resource Development (Department of Elementary Education and Literacy) with effect from 15th August 1995 for the benefit of students in primary schools in Employment Assurance Scheme (EAS)/earlier Revamped Public Distribution System (RPDS) blocks (2368). The Scheme covers students (Class I-V) in the Government Primary School/ Primary School aided by Government and the Primary School run by local bodies. In January 2005, Ministry of Human Resource Development has constituted a National Level Steering-cum-Monitoring Committee (NSMC) to monitor the Scheme.

375. Foodgrains (wheat and rice) are supplied free of cost @ 100 gram per child per school day where cooked/processed hot meal is being served with a Minimum content of

300 calories and 8-12 gms of protein each day of school for a minimum of 200 days and 3 kgs per students per month for 10 months in a year, where food grains are distributed in raw form.

376. The Wheat Based Nutrition Programme (WBNP) ⁶⁰ is implemented by the Ministry of Women and Child Development.. The foodgrains allotted under the Scheme are to be utilized by the States/UTs under the Integrated Child Development Scheme (ICDS) for providing nutritious/ energy food to children below 6 years of age and expectant lactating women.

377. Under the Scheme for SC/ST/OBC Hostels/Welfare Institutions⁶¹, the residents of the hostels having 2/3rd students belonging to these categories are eligible to get 15 kg of foodgrains per resident per month.

378. Annapurna Ann Yojana: The Ministry of Rural Development launched the scheme in 2000-2001. Indigent Senior Citizens of 65 years of age or above who though eligible for old age pension under the National Old Age Pension Scheme (NOAPS) but not getting pension are covered under the Scheme. 10 Kilograms of foodgrains are supplied under the Scheme.

379. From 2002-03 it has been transferred to State Plan along with the National Social Assistance Programme comprising the National Old Age Pension Scheme and the National Family Benefit Scheme. The funds for the transferred scheme are being released by the Ministry of Finance as Additional Central Assistance (ACA) to the State Plan and the States have the requisite flexibility in the choice of beneficiaries and implementation of the Scheme. The implementation of the Scheme at the ground rests with the States/UTs.

380. For the inmates of above mentioned hostels and welfare institutions viz., Nari Niketans, N.G.Os. etc., an additional allocation of food-grain equal to 5% of the BPL allocation of each State/UT is made at BPL rates.

381. Under the Sampoorna Gramin Rozgar Yojana foodgrains are supplied to the States/UTs free of cost to implement schemes aimed at providing employment and food security to the poor in the rural areas. A Special component of this scheme is also launched to provide for food security in places of natural calamity. Under Sampoorna Gramin Rozgar Yojna (SGRY) and Special Component to SGRY, the foodgrains are allocated and monitored by the Ministry of Rural Development.

382. Nutritional Programme for Adolescent Girls (NPAG): To address the problem of under nutrition among adolescent girls, the Planning Commission launched Nutrition Programme for Adolescent Girls (NPAG) in the year 2002-03. Under this programme 6 kg of free food grains were supplied to under nourished Adolescent Girls and Pregnant and Lactating mothers. The programme was continued in 2003-2004. However, in 2004-05 the programme was not implemented. The Government has, recently, approved the implementation of NPAG through the Ministry of Women and Child Development in the year 2005-06 to provide 6 kg of free food grains to undernourished adolescent girls only.

⁶⁰ Foodgrains supplied by FCI at BPL rates. Department of Women and Child Development is the nodal agency for this scheme.

⁶¹ This scheme is partly financed by the Ministry of Social Justice & Empowerment

The scheme is being implemented in 51 identified districts across the country i.e. in 2 backward districts each, in major States, identified on the basis of ranking developed by RD (Rural Development) Division of the Planning Commission and in the most populous district excluding the capital district) each, in smaller States/UTs.

383. Grain Bank Scheme: The Scheme has now been transferred to Department of Food and Public Distribution from Ministry of Tribal Affairs. Under the existing scheme, one time grant is provided towards purchase of foodgrains of locally preferred variety at the rate of one quintal per member family for initial stock of bank, setting up of storage facilities of traditional type and purchase of weights and scale. Member families could take loans of foodgrains in installment during the period of scarcity and repay it with nominal interest at the time of next successful harvest. Allocation of foodgrains was made for the first time during 2002-03, under the scheme.

384. The objective of the scheme is to provide safeguard against starvation during the period of natural calamity or during the lean season when the rural people do not have purchasing power.

385. The National Food for Work Programme: In pursuance of Hon'ble Prime Minister's Speech on 15th August, 2004, a new National Food for Work Programme has been launched in October 2004 in 150 most backward of the country. The scheme will provide 100 days of employment at minimum wages for at least one able-bodied person from each household in the country.

386. To further enhance the access of people to food, a 'Pilot Project on implementation of Food Credit Cards in PDS would be launched in the selected districts in some States under the PDS scheme.

Consumer Co-operatives

387. As a policy the government encourages the development of Consumer Co-operatives to protect the interest of the common consumers. They play an important role in providing essential and other commodities at reasonable prices. India has a four tier structure with the National Consumer Cooperative Federation of India Limited (NCCF) at national level followed by institutions at State level (28), district level (709) and at the primary level (23,173) primary stores. The NCCF is the nodal agency for the GOI scheme called "*Sarvapriya*" to distribute 11 essential items of daily use to the population. There is also a National Co-operation Development Corporation for the development of cooperative society. Most of the State Governments have standing instructions to give priority to the consumer cooperative societies for allotment of New Fair Price Shops under PDS.

Other Initiatives

388. In addition to the activities for reaching the poorest of poor and undernourished through various schemes other areas of natural resources management, consumer protection, land redistribution, technological inputs for increased production and conservation and access to credit facilities for the farmers are also being paid adequate attention aimed at improving the overall food situation in the country.

389. The price monitoring cell of the Department of Consumer Affairs and the High Powered Price Monitoring Board review the prices and the availability of the essential commodities regularly. The Consumer Protection Act, 1986 was amended in year 2001 to strengthen consumer forums and facilitate quicker disposal of consumer complaints. A new integrated *Jagruti Shivar Yojana* has been launched in June 2001 to spread awareness amongst the BPL families about the benefits available to them under various welfare schemes.

390. At present there are enactments like Prevention of Food Adulteration Act, **1954**, Agriculture Produce (Grading & Marking) Act, **1937**, Essential Commodities Act 1955 and Prevention of Black-marketing and Maintenance of Supply of Essential Commodities Act, 1980 dealing with various aspects of food situation in the country. The Government is considering the harmonization of these laws to evolve an Integrated Food Law and also to set up a Food Regulatory Authority.

391. As a result of the various initiatives of the Government of India the use of fertilizers has been in a much more balanced form than before. The NPK (Nitrogen, Phosphorus and Potassium) ratio has improved to 6.4: 2.5: 1 during 2002-03 from 7.0: 2.7: 1 during 2000-01. The Central Government also sponsors the scheme of 'Balanced and Integrated use of Fertilizers' to popularize soil based application of fertilizers in balanced quantities and production of useful organic manure from city waste/ garbage etc. Another scheme of Production & Promotion of Bio-Fertilizers provides assistance for setting up capacities for production of bio fertilizers. There are at present 125 bio-fertilizer units with an annual capacity of 18,000 tonnes.

392. There are also schemes for conservation of soil and water in catchments of River valley Projects, in flood prone rivers and for reclamation of alkali soil in Northern States of the country. The Department of Agriculture has evolved 'Macro Management of Agriculture' by integrating 27 schemes under which the Central Government compliments and supplements the efforts of states in agricultural development to yield quick results and benefits percolate down to the poorest farmers. For better management and production around 187.76 million acres of cultivable land had been consolidate till year 1995.

393. Protection of Plant Varieties & Farmers Rights Act, 2001 has been enacted complying with the WTO-TRIPS and also taking a big step forward. The Act recognizes the role of farmers as cultivators and conservers and the contributors of traditional, rural and tribal communities to the country's biodiversity and food security by listing the farmer's rights in a separate chapter.

394. The Department of Agriculture & Cooperation has launched a seed bank scheme in the finance year 1999-2000 to make available seeds for contingences arising out of natural calamities and also to develop necessary infrastructure for storage of seed. This is implemented through National Seeds Corporation and State Corporations. A draft Seeds Act is also under consideration to replace the Seeds Act, 1966 based on the seed policy review group recommendations. A National Agricultural Insurance Scheme (NAIS) 1999-2000 and a scheme for Seed Crop Insurance are also implemented from 1999.

395. The Agricultural Technology Information Center of the Indian Council for Agricultural Research along with other institutes and State Agricultural Universities are providing a 'Single Window' delivery system for technology available in the institutes to

the farmers. Under the Technology Assessment, Refinement and Transfer the *Krishi Vigyan Kendras* (KVKs- farmers science centers) organize training programmes for farmers, farm women and vocational and skill oriented training programmes for rural youth in various aspects of agriculture.

396. To minimize the post harvest losses in foodgrains a Save Grain Campaign (SGC) is implemented through a network of 17 SGC offices in close collaboration with the State Governments, NGOs and corporate houses facilitating the transfer of the technical know how developed by Indian Grain Storage Management and Research Institute (IGMRI) to the farmers. Assistance for purchase of metal bins and other inputs are also provided to the farmers. During 2002-2003 and 2004-2005 (upto December 2004) 38,475 and 31,226 farmers respectively were trained in the training programmes, 12,744 and 12,899 metal bins distributed, 18,387 and 14,217 non-metallic storage structure improved/constructed respectively and 434 and 315 nucleus villages developed respectively. E.R.C has recommended for the discontinuance of Save Grains Campaign. The five SGC offices namely Ahmedabad, Chennai, Varanasi, Raipur and Thirunanthapuram are proposed to be closed down on 20.02.2005 in pursuance of ERC's recommendations and their area of operation to be covered by the offices at the SGC Jaipur, Hyderabad, Lucknow, Bhopal and Banglore respectively.

397. A *Kisan Credit Card* scheme is also implement from 1998 to facilitate access to credit from Commercial Banks and regional Rural Banks. Around 41.28 million cards have been provided involving Rupees 640655.7 million till May 2004.

Land Reforms

398. The Department of Land Resources in the Ministry of Rural Development is the nodal agency for policy formulation and co-ordination with the State Governments, which has jurisdiction in this matter. The Land Acquisition Act 1894 has been amended in 1984 and another amendment is under consideration. So far 284 legislations have been passed prescribing family ceiling, acquisition, abolishing *zamindari* and intermediary system and conferring tenancy rights and protecting the cultivators against eviction by landlords. Till 2003, 12.42 million tenants have got their rights protected over an area of 156.30 acres. Around 7.37 million acres of land has been declared surplus in the entire country, out of which 6.5 million acres have been taken possession of and 5.39 million acres have been distributed to 5.64 million beneficiaries of whom 36% are Scheduled Castes and 15% are Scheduled Tribes. So also 14.74 million acres of Government wastelands has been distributed among landless rural poor. So far 163.34 million acres of land have been consolidated all over the country for the development of villages and increased agricultural output.

International Co-operation

399. FAO and the Ministry of Agriculture on behalf of Government of India have signed a Pilot Project for Developing National Food Insecurity and Vulnerability Information and Mapping System (FIVIMS) in India in the two states viz. Himachal Pradesh and Orissa and an Inter-Ministerial Committee has been formed for its implementation.

Housing/Shelter

Housing Situation

400. The status of the human settlement in India has shown a progressive upward trend over the period of time both in terms of the quality of life and also in the per capita income. The country has been able to meet the challenges posed by the rural-urban migration both in terms of the survival and development of urban sector. The country has been able to reduce the houselessness over the period of time due to the various housing programmes being implemented by both Central and State Governments have catered to the group housing needs to a great extent.

401. The National Building Organization has estimated the housing shortage based on the 2001 Census of India data as 24.68 million consisting of 14.12 million in Rural India and 10.56 in Urban India. Total housing shortage was 22.90 million (8.23 million in urban and 14.67 million in rural) as per 1991 census. Tenth Plan Working Group on Urban Housing (2002-2007) has, on the basis of the provisional population figures, estimated the total requirement of 22.44 million housing unit out of which 8.89 million is the housing shortage at the beginning of the 10th plan period and 17.05 million is the new requirement during the Tenth Plan period. Of this 43%, 38%, 11% and 8% of the units are attributed to EWS, LIG, MIG and HIG respectively.

402. Regarding the occupancy status the *NSS survey 2002, 58th Round [Report 484]* has estimated that about 93% of the household in rural areas and 60% in urban live in owned dwelling units. As for the type of dwellings, in rural areas 36% live in pucca structures, 43% in semi-pucca and the remaining 21% in katcha structures and in urban slum areas, 67% of the dwellings were pucca and overall 77% were pucca, 20% semi-pucca and only 3% katcha structure.⁶²

403. About 15% of the dwellings in the urban slums and squatter settlements, 63% of dwelling units in other urban areas and 11% of the units in rural areas are estimated to have all the three facilities of drinking water, latrine and electricity within their premises. At the other extreme, none of the three facilities were available within their premises of about 30% of dwelling units in rural, 11% of dwelling units in urban slums and squatter settlements, and 4% of dwelling units in other urban areas of the country.

404. About 97% of rural dwellings and 99% of urban dwellings has drinking water within half of kilometer of their premises. As per *NFHS-II*, the share of population having access to safe drinking water was nearly 78% in 1998-99 as against 62% in 1993-94. As per Census of India 2001 [excluding the State of Jammu & Kashmir], the coverage of households having access to safe drinking water was 77.9 percent with 90% in urban households and around 73% in rural households. Residents of around 76% rural dwellings

⁶² A Katcha structure is one whose walls and roof are made of mud, bamboo, grass, leaves, reeds, thatch or unburnt bricks.

A pucca structure is one whose walls and roof are made of burnt bricks, stone, cement, concrete, jackboard and timber. Tiles, galvanized tin or asbestos cement sheets used in construction roofs will be regarded as pucca materials.

A semi pucca structure is one of which either the roof or the walls but not both is made of pucca materials like burnt bricks, stone, cement, concrete or timber.

[more than 90% in 1991 census] and 18% of urban dwellings [36% in 1991 census] do not have access to any latrine facility.

405. The *NSS survey 2002, 58th Round* also estimated about 52,000 slums⁶³ in urban areas with about 8 million urban households living in these slums. This represented as high as 14% of the total urban households in the country.

406. About 65% of the slums were built on public land owned mostly by local bodies, state government etc., electricity was available in 99% of the notified slums⁶⁴ but the same was available in about 84% of non-notified slums. There were pucca roads inside 71% of notified and 37% of non-notified slums. About 73% of the notified slums and 55% of the non-notified slums were connected with motorable approach road. Only 17% of the notified slums and about 51% of non-notified slums did not have any latrine facility. Majority of the slums experiencing improvement in the condition of the slum during the last five years have reported government as the source of it.

407. The *NSS survey 58th Round [Report 484]* also shows that about 25% of all the rural households and 1 in 7 urban households had undertaken some construction activity during the last 5 years. During the period of 1998-2002 in rural areas 41 million constructions had been initiated and 34 million completed compared to 17.5 million in 1989-93 and in urban areas 8.5 million constructions had been initiated and 7.2 million completed compared to 3.6 during 1989-93. In both urban and rural areas there has been increase in percentage of pucca constructions from 64% to 74% and 34% to 38% form 1989-93 to 1998-2002 respectively.

Right to Housing

408. Right to shelter is recognized as an integral part of the fundamental right to life under the Constitution of India. The Supreme Court has through many judgements stressed the importance and spelt out the content of this right. In *Chameli Singh v. State of Uttar Pradesh*⁶⁵ the Supreme Court emphasized the right to shelter and expounded its concept of shelter referring to the UNGA resolution [No. 35/76] on the problem of homeless people in developing countries. It observed:

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

409. Housing is the responsibility of the State government under the Constitutional scheme in the country. The Union government however has been taking initiatives and directing the programmes in that sector through the process of planning, by formulating policies, establishing institutions for financial and technical support, implementing social

⁶³ A slum is defined as a compact settlement with a collection of poorly build tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic condition.

⁶⁴ Areas notified by slums by the respective municipalities, corporation, local bodies or development authorities were treated as notified slums.

⁶⁵ AIR 1996 SC 1051

housing development schemes, alongside amending laws and implementing fiscal measures to provide incentives for investing in the housing sector.

410. In the background of Global Shelter strategy, the National Housing Policy 1988 was formulated to eradicate houseless, to improve housing conditions of the inadequately housed and to provide a minimum level of basic services and amenities to all. The policy envisaged a major shift in the Government's role to act more as a facilitator than as a provider. The policy also recognized the magnitude of requirement for new housing stock needs involvement of various agencies including Government, co-operative sector, the private sector and the community.

411. India is a member of United Nations Center for Human Settlement Habitat (UNCHS) and attended the Istanbul + 5 UNCHS [Habitat] Conference. India adopted the Habitat Agenda and has decided to locate a National Urban Observation in the TCPO. The country has submitted a report on the progress of implementation of the Habitat Agenda [1996-2000] in 2001.

412. After a thorough review, the National Housing and Habitat Policy 1998 (NH&HP) was evolved stressing the issues of sustainable development, infrastructure development and strong public private partnerships for shelter delivery. The NH&HP 1998 is under review & revision due to major changes in habitat & human settlement issues since 1998 and recommendation emerged in the conference of Housing Ministers' of all States in November, 2004. The revised draft policy is under consideration and is likely to be finalized shortly.

Draft National Urban Housing & Habitat Policy, 2005

413. Shelter is one of the basic human needs just next to food and clothing. Need for a National Housing and Habitat Policy emerges from the growing requirements of shelter and related infrastructure. These requirements are growing in the context of rapid pace of urbanization, increasing migration from rural to urban centres in search of livelihood, mismatch between demand and supply of sites and services at affordable cost and inability of most new and poorer urban settlers to access formal land markets in urban areas due to high costs and their own lower incomes, leading to a non-sustainable situation. This policy intends to promote sustainable development of habitat in the country, with a view to ensure equitable supply of land, shelter and services at affordable prices.

414. Taking into account the development on National and International scene on Shelter and related issues, a National Housing Policy was evolved in 1988. The policy document outlined the strategy under the 8th Plan was endorsed by Parliament in 1994. The long term goal of this National Housing & Habitat Policy was to eradicate houselessness, to improve the housing conditions of the inadequately housed and to provide a minimum level of basic services and amenities to all. After a thorough review, the present National Housing & Habitat Policy came into existence in 1998.

415. Since the current National Housing & Habitat Policy came into existence in 1998, there have been major changes in habitat and human settlement issues. The housing and real estate sector have witnessed several changes in the last few years. Also, one of the major recommendations that emerged in the Conference of Housing Ministers of

States/UTs organized by the Ministry on 29-30 November 2004 at New Delhi was to review and revise the existing Housing Policy.

416. The Task Force which was constituted by the Ministry submitted a formal draft policy to the Ministry. The Central theme of the proposed policy is strong public-private partnerships for tackling housing and infrastructure problems. The Government would act as enabler and provide fiscal concessions, carry out legal and regulatory reforms and create supportive environment. The private sector as the other partner is expected to come forward to undertake actual construction activities and invest and also run infrastructure services. Whereas the private sector would also be encouraged to make houses for the EWS/LIG through cross subsidy. FAR relaxation and other modes, public sector would, however, retain a key role in social housing in the EWS/LIG. The proposed National Urban Renewal Mission is seen as an important component of social housing delivery.

417. This policy also plans further expansion of fiscal concessions and incentives to motivate persuade and encourage various stakeholders to participate in the delivery of housing and infrastructure. However, the public sector shall continue its direct interventions to safeguard the interest of the poor and marginalized sections of the Indian society.

Role of Housing

418. Housing, besides being very basic requirements for the urban settlers, also holds the key to accelerate the pace of development. Investments in housing like any other industry, has a multiplier effect on income and employment. It is estimated that overall employment generation in the economy due to additional investment in the housing/construction is eight times the direct employment (IIM-Ahmedabad Study 2000). The construction sector provides employment to 16% of the work force (absolute number 14.6 million – 1997). It is growing at the rate of 7%. Out of this, the housing sector alone accounts for 8.55 million workers. However, nearly 55% of them are in the unskilled category. Skill up gradation would result in higher income for the workers. However, nearly 55% of them are in the unskilled category. Skill up gradation would result in higher income for the workers. Housing provides employment to a cross-section of people which importantly include poor. Housing also provides opportunities for home-based economic activities. At the same time, adequate housing also decides the health status of occupants. Therefore, on account of health and income considerations, housing is a very important tool to alleviate poverty and generate employment.

419. This draft policy envisages the Government's special focus on shelter for all and development of related infrastructure with a particular reference to poor and promotion of economic development, quality of life and safe environment. In this regard, Government of India has initiated NURM (National Urban Renewal Mission) with the objective to accelerate the supply of land, shelter and infrastructure taking into account the requirements of economic development with a particular reference to balanced regional development, poverty alleviation and rapid economic development.

420. A draft Cabinet Note in this regard has been prepared and circulated to concerned Ministries/Departments for their comments. The comments of some of the Ministers/Departments for their comments. The comments of some of the

Ministries/Departments are awaited. It has been decided to place the matter before the Committee of Secretaries (COS).

421. A special plan of Action on Housing [*known as Two Million Housing Programme*] was introduced in 1998-99 in furtherance of the National Agenda for Governance and the 1998 NH & HP policy to facilitate construction of adequate housing facilities particularly for Economically Weaker Section and Low Income Group sections of the population and also to cater to the needs of SC/ST and other vulnerable groups. Out of the 2 million additional houses, 0.7 million houses are to be constructed in urban areas and remaining 1.3 million in rural areas. Government has also launched a comprehensive action plan for rural housing encouraging construction of 2.5 million houses annually in rural areas as also upgradation of unserviceable *katcha* house.

422. The government is also implementing many programmes both in rural and urban areas for providing safe drinking water, sanitation and electricity and approach roads to all habitations. Measures are also taken to control the migration of people from rural to urban areas in search of jobs and better living. There have been steps to provide a legal regime, fiscal and financial system, which is user friendly to shelter delivery and also to promote environment friendly and low cost housing. A package of incentives and concessions to attract private sector participation has been introduced.

Legal Reforms

423. The Urban Land (Ceiling & Regulation) Act, 1976 which was a major bottleneck in land assembly in the urban areas has been repealed in 1999. It is expected that nearly 0.2 million hectares of urban land would be available for housing actually. The National Housing Bank Act, 1987 has been amended to facilitate easy foreclosure to boost investor's confidence and ensure flow of greater funds to the housing sector.

424. Many states have implemented the recommendations of the Central Government to rationalize stamp duty to reduce burden on housing related instruments. Modifications to the Registration Act have been recommended to prescribe easier procedures for registration of property and mortgages. A stiff vacant land tax has been proposed to promote construction activity by discouraging land loading.

425. Amendments to the Land Acquisition Act to facilitate litigation free acquisition of land for public purposes are under consideration. This will help development of slums on privately owned lands by mitigating delays in acquiring land. The Central Government has also circulated Model Rent Act, Model Apartment Ownership Act and Model Property Regulation Act to the states for adoption. Several states have already adopted these measures.

426. The Housing and Urban Development Corporation [HUDCO, which funds the remunerative housing and urban development programme and the National Co-operative Housing Federation have respectively prepared model legislations to make housing boards and housing cooperatives more effective in shelter delivery.

Secure Tenure

427. The government is tackling the problem of tenure in slums through a three prolonged strategy, viz,

- [a] in-situ up gradation of slums;
- [b] partly in-situ upgradation and part relocation where a part of the land is essential for relocation;
- [c] relocation of slum dwellers by following a project approach with a package of all benefits that is needed to improve the quality of life.

A National Policy on Resettlement and Rehabilitation of Project-affected Families is prepared and is under the consideration of the government.

A Brief Note on Relocation of Slums of Delhi

428. The Slum and JJ Department (MCD) has estimated that there are about 1080 Jhuggi clusters in Delhi with nearly 0.6 million jhuggi families. These jhuggi dwellers have encroached primarily upon public land of DDA and other local bodies. The policy of the Government is not for forcible removal but of relocation or insitu regularization.

429. Government of NCT of Delhi has adopted the following strategy in regard to slum/jhuggi dwellers since 1990.

- (i) Where land is required urgently for public purpose, JJ dwellers are re-located at plots cut by DDA/MCD after acquisition of land. Allotment of 18 sq.mt plot is made to pre-1990 squatters and 12.5 sq.mt plot to post -1990 but pre- 31.12.98 sq.mt. The allotment is done on licence fee basis.
- (ii) In-situ upgradation of the JJ clusters where the land owning agency gives NOC to the effect that it does not need land in foreseeable future.
- (iii) Civic amenities like water supply, street lightning, roads, storm water drains, etc. are provided in JJ clusters, which do not fall in categories (i) and (ii) above.

430. Relocation of jhuggi dwellers is primarily done by Slum & JJ Wing of MCD. DDA also relocates squatters from its land as per the above policy.

431. The cost of the relocation plot is shared by the land owning agency, plan assistance of Government of NCT of Delhi and the beneficiary as follows:

- Rs. 44000/- for plot of 18 sq. mts.
(share of land owning agencies Rs. 29000/- + plan assistance by GNCTD Rs. 10000/- + contribution from beneficiaries Rs. 5000/-)
- Rs. 35000/- for plot of 12.5 sq. mts.
(share of land owning agencies Rs. 20000/- + plan assistance by GNCTD Rs. 10000/- + contribution from beneficiaries Rs. 5000/-)

432. The Delhi High Court in an order passed on 29.11.2002 in CWP NO.4441/94 & No.2112/2002 Okhla Factory Owners Association vs. GNCTD & others and Wazirpur Bartan Nirman Sangh vs. Union of India, set aside the relocation policy. Union of India and Government of NCT of Delhi have filed SLP in Supreme Court against the order. The Apex Court in its interim orders of 19.02.2003 and 03.03.2003 stayed the order of Hon'ble Delhi High Court and has allowed Government to continue with the existing policy and allot land for relocation subject to the result of the petition.

Financial Support

433. The National Housing Bank (NHB) set up in 1988 supervises and controls various Housing Finance Institutions. Since August 1997 the NHB implements a scheme under which loan is provided for house construction on one's own land or for repairing an old house in rural areas on condition that recipient of loan must contribute 1/3rd of the total cost by his own sources.

Housing and urban development cooperation

434. The Housing and Urban Development Corporation Ltd. (HUDCO) was set up in 1970 as a fully owned Government Company to Finance and undertake.

- Housing and Urban Development programme in India with special emphasis on low cost housing.
- Development of new townships and their infrastructural needs.
- Development of buildings material technology and industries.
- Consultancy services with India and abroad

Resources Base

435. Starting with an equity base of Rs. 20 million, the present paid up capital of HUDCO is Rs.20010.9 million and in addition is reserve and surplus of Rs. 15590.37 million (as on 31.12.2005) unaudited.

Housing

436. As on 28.2.2006, HUDCO contributed to the construction of 14.13 million dwelling units including upgradation of 41.28 units all over the country. Of this 8.6 million houses benefits the rural housing needs and the balance 5.53 million the urban housing needs.

437. 55% of housing loan pf HUDCO has been allocated for Economically Weaker Section (EWS) and Low Income Group (LIG) which carries a concessional rate of interest of 8.5% (floating) to 9.5% (floating) over 90% of the dwelling units sanctioned by HUDCO benefit these sections of society.

438. In the last 34 years, HUDCO has reached people in over 1788 towns and hundreds of villages. Much of the assistance is project oriented, ensuring that the housing in affordable, technically sound, financially viable, legally acceptable and above all environmentally appropriate.

439. HUDCO plays a major role in implementation of National Housing Policy. It has been entrusted with the implementation of the priority programmes of the Ministry like Low Cost Sanitation, Night Shelter for Footpath Dwellers, Shelter Upgradation under Nehru Rozgar Yojana, Rural Housing under Minimum Needs Programme.

HUDCO Niwas

440. The HUDCO Niwas individual home loan scheme, since its launch in March 1999, has completed its 6th year of successful operations. HUDCO Niwas with the network of 37 outlets across India, has its reach in all State Capitals/Union Territories. It is offering customer friendly loans under fixed and floating rates of interest for various purposes like construction of house, purchase of house/plot, house improvement, registration of property, loan against property etc. with valued added benefits.

441. The National Housing Cooperative Society is responsible for the delivery of shelter through a network of 90,000 societies all over the country. Government has given several concessions to these societies to promote housing activity. NGOs are being increasingly involved in shelter delivery and community infrastructure through provisions of micro-credit for self-employment and house construction. Public sector banks have also been directed to lend three percent of their incremental deposits each year for housing.

Fiscal Incentives for Social Housing

442. This paper brings together the broad framework and focus areas of fiscal incentives given to promote social housing in India. The paper also identifies areas for further consideration of the government of India to help the stakeholders to accelerate supply of social housing in a desirable manner. This includes scope for employee housing, rental housing for elderly and encouraging investment in urban **renewal activities**.

Emerging Focus

443. Focus on social housing in India during a period of last 15 years deserve special mention which began with the Economic Liberalization Policy of 1991, National Housing Policy, 1994 National Housing & Habitat Policy, 1998 and follow up of 73rd and 74th Constitution Amendment of 1992. These policy initiatives specially focused on transition of public sector role as 'facilitator' decentralization and development of fiscal incentives and concessions.

Requirements for Social Housing

444. Requirements for urban housing are estimated as 22.4 units during the plan period of 2002-2007 (Planning Commission). Most of these requirements form part of social housing. More than 80% of this requirement pertains to the economically weaker sections and low-income groups. As per Census of India 2001, approximately 20 million households (37% of all urban household) had no exclusive room or lived in one-room units. Thus, urban housing problem is as much a problem of congested and dilapidated housing condition as of low housing stock. Understandably, it is the poorer sections of population who live in congested and dilapidated housing.

Fiscal Incentives:

445. Government of India has extended a range of fiscal incentives to incentives investment in social housing. These include income tax exemption and concessions along with similar steps in the wealth tax. At the same time financial institutions are also given

concessions for external soft loans. These have had a salutary impact on supply of social housing in the past few years. Considering the magnitude and nature of the requirement for social housing, additional fiscal concessions are also emerging for taking into consideration to encourage investment in and supply of social and rental housing (which could be an affordable housing option for the lower income groups), in upgradation, repair, extension and renewal of housing stock. These fiscal concessions will go a long way to promote social housing, which has a direct relationship with productivity, environment, quality of life and equity.

446. The key areas of existing fiscal concessions and areas under consideration for further concession are as follows:

- i) Soft loans for Social Housing;
- ii) Rental Housing;
- iii) Employee housing/Staff Housing for workers;
- iv) Housing for the Elderly;
- v) Encouraging Investment in Extension, Renewal and Repairs; and
- vi) Continuation of Existing Fiscal Incentives under Sector 24 and 88

(i) Soft loans for Social Housing

Government of India has been providing soft loans to various public housing agencies under different schemes (e.g. EWS housing, VAMBAY, NSDP) which include inter-project and intra-project subsidies. These carry differential rates of interest in favour of poor as per norms prescribed by Planning Commission, Government of India. Valmiki Ambedkar Awas Yojana (VAMBAY) provides subsidy to acquire houses for urban poor where as National Slum Development Programme (NSDP) is for the purpose of basic services for the urban slum dwellers. Social Housing is also linked with the support in terms of income generation for the poor. Government of India launched Swarna Jayanti Shari Rojgar Yojana (SJSRY), which develops community structures to enable them to mobilize savings and absorb subsidized loan finance for job creation and income generation. This is implemented among all the urban centres in the country. Housing Boards (HBs) and Development Authorities (DAs) have performed a stellar role in providing housing for the lower income groups. According to estimates made by the National Cooperative Housing Federation 87% of dwelling units constructed by HBs and 66% of those constructed by DAs comprised of 1-2 room units. These units would be affordable by the lower income groups. More soft loans need to be provided to HBs and DAs for providing housing for economically weaker sections (EWS) and lower income groups (LIG) (under the benefit of section 10(23G) of Income Tax Act).

ii) Rental Housing

Rental Housing is a feasible/affordable option not only for the poor but also for newly formed household, young persons and mobile population. In the stage of economic growth mobility is at a premium, it is important that Rental Housing option is available to general population. Its non-availability or expensiveness can reduce mobility and depress productivity. It is the absence of affordable rental housing for the lower income groups (LIG), which spawns slums in cities. At present, rental housing (RH) is offered only by the households. Corporates do not invest for the LIG but also for the middle and higher

income groups (MIG & HIG). RCA is a deterrent. However, even in the absence of RCA, the rate of return from investment in RH is low due to heavy taxation.

In order to encourage investment in rental housing the following proposals could be considered:

- i. Tax exemption of income from rental housing in case rental income per dwelling unit is lower than Rs.15,000 p.a. (or built up area is less than 500 sq.ft). and a flat rate of 10% income tax for houses above this bracket.
- ii. Accelerated depreciation on Rental Housing built by Corporates for the poorer sections. The eligibility conditions could be prescribed.
- iii. Presently, Wealth Tax is not levied on residential properties that have been let out for a period of a minimum of 300 days in a year. Since it is a productive asset, rental housing should not be assessed for Wealth Tax at all.
- iv. At present TDS on rental is 15% for individuals and 20% for Corporates. It may be reduced to 5%. In case of rental housing, low rents and permitted deduction lead to low net income and low incidence of taxation. A high TDS leads to unnecessary increased administrative work of handling refundable claims.

iii) Employee housing/Staff Housing for Workers

A large section of urban inhabitants including urban poor work in industries or other business establishments. Provision of staff housing can ameliorate their housing conditions. Presently, depreciation of 40% is being provided for staff housing. Since rental income from such housing will not provide an adequate rate of return (ROR) on investment in staff housing, fiscal concessions may be made available to employers for providing staff housing. Following areas have emerged for suitable policy interventions:

- i) Accelerated depreciation on purchase/Construction of new housing for the staff
- ii) Exemption from income tax on rental income from such staff housing. This will reduce slum formation, improve housing satisfaction of employees and also reduce pressure on urban transport.

iv) Housing for the Elderly

- i. At present exemption from Capital gains taxation is provided if the sale proceeds from residential house are invested in another residential house or in specified bonds for a certain period. At this stage in life cycle, these may not be the optimal options for the elderly. It is therefore required that capital gains accruing on sale of a dwelling unit owned by an elderly person be exempted from capital gains tax. Alternatively, the eligible asset for investment may include investment in old age houses.
- ii. A larger and larger percentage of elderly would be opting (out of choice or constraint. Apart from Government provided old age houses turn out to be very expensive. To encourage investment in old age houses, the fiscal incentives available for housing projects under 10 (23G) and 801B need to be extended to old age housing also.

(v) Encouraging Investment in Extension, Renewal and Repairs

There is a need to have a provision to be extended to projects undertaken for repair, renewal, densification and retrofitting. At present Section 88 of IT Act permits deduction of 20% of specified investment from income tax. The specified investments include repayment of loan borrowed for the purpose of purchase or construction of a residential property. In order to encourage expenditure on repair/renewal etc. the benefit of Section 88 need to be extended to repair etc. also up to a limit of Rs.30,000/- It should be available both to owner occupied and rented properties.

(vi) Continuation of Existing Fiscal Incentives under Section 24 and 88

Existing incentives (under Section 24 and 88) have lowered the cost of housing finance for a sizeable section of population making housing more affordable. Fiscal incentives for HIG/MIG groups also have positive implication for social housing, as they will minimize incidence of filtering. In this regards, various fiscal incentives are emerging for consideration of policy makers. These include:

- i) Investment in housing up to Rs.1.5 million be exempted from income tax over a five years period. This will give an immediate and immense boost to housing construction and economic activity.
- ii) Currently, one owner-occupied house is exempt from wealth tax. This restriction of only one house for wealth tax exemption should be removed.
- iii) Owner of self occupied property be allowed depreciation/deduction for repair/maintenance renovation and house tax up to Rs.10,000/- annum.
- iv) Bonds issued by Urban Governments for financing urban infrastructure are given a tax-free status. The same should also be applied to shelter and services related to shelter.
- v) Amendment of Section 36 (viii): Lending for housing for the poor by HFIs (other than HUDCO) is very limited. To encourage HFIs and Commercial Banks to lend for housing for the lower income groups, additional incentive need to be provided to them. Currently, Income Tax provision (Section 36-viii) enables a housing finance company to transfer to a special reserve, 40% of the profits derived from the business of providing long term finance for purchase.

447. In the Financial Year 2002-2003 Urban Reforms Incentive Fund (URIF) was set up to provide reforms linked assistance to States. It was used for providing incentive for undertaking specified urban reforms like repealing of Urban Land (Ceiling and Regulation) Act, Rationalization of Stamp Duty and registration charges, reform of rent laws, introduction of computerized process of registration, reform of property tax, levy of reasonable user charges and introducing double entry system of accounting in Urban Local Bodies. The scheme has since been discontinued w.e.f. 01.04.2005 and has since been subsumed with the proposed Jawaharlal Nehru National Urban Renewable Mission (JN-NURM) recently launched on 03.12.2005.

448. In the backdrop of the magnitude of housing shortage, the available domestic funds despite the above measures leave a huge resource gap. To bridge this gap and augment resources for housing sector and to promote inflow of foreign exchange a scheme for non-

resident Indian [NRI]/People of Indian Origin/Overseas Corporate Bodies investment in Housing and real estate development was launched. In January 2002, 100% FDI is allowed for development of integrated township, including housing, commercial premises, hotel resorts, city and regional level urban infrastructure facilities such as, roads & bridges and Mass Rapid Transit System and manufacture of building materials.⁶⁶

Technology Initiatives

449. The National Building Organization (NBO) was established in 1954 to take up the research in low cost housing designs, improvement of the building and housing conditions along with the socio economic aspect. The organization was restructured in 1992 mainly to take up the socio economic information management system (MIS) and creation of data bank relating to housing and infrastructural statistics. It is being again restructured during 2006 with the mandate to cater to the statistical needs of the planners and policy makers, work as the documentation centre relating to housing, poverty, slums and infrastructure, training hub for the statistical personnel engaged in collection, validation and dissemination of housing statistics and to coordinate with all the State Govt./Research Institutions/UNCHS/International bodies. The Building Promotion Technology Promotion Council (BMTPC) was set up for the promotion of large-scale commercial production of innovative building materials as a society which is supported by the Ministry of Urban Employment and Poverty Alleviation.

450. The state government, rural development agencies, credible NGOs/private entrepreneurs, professional associations, autonomous institutions and corporate bodies including public sector agencies are assisted financially in setting up rural building centers by HUDCO through a centrally sponsored scheme to train artisans and others for transfer of appropriate technology to rural and urban areas. As on 31st March 2003, approval has been given for 584 building centers out of which 485 have become functional. These centers have trained over 0.2 million construction workers.

451. A scheme called Innovative Scheme for Rural Housing and Habitat Development was also launched on April, 1999 to promote innovative and proven housing technological designs and materials in the rural areas, to encourage the use of cost effective, environment friendly, scientifically tested and proven indigenous and modern designs, technology and materials. A National Mission for Rural Housing & Habitat has been set up to facilitate the induction of science and technology inputs on a continuous basis in the rural housing sector.

Schemes for Housing

452. The following Government sponsored schemes for housing and upgrading living conditions in urban and rural areas are in vogue in the country.

Valmiki Ambedkar Awas Yojana [VAMBAY]

453. This scheme was launched in 2001 to ameliorate the conditions of urban slum dwellers living below poverty line who do not possess adequate shelter to facilitate construction and upgradation of dwelling units and provide health and enabling

⁶⁶ [Govt. Press Note 3/2002 dated 04-04-2002]

environment through community toilets under *Nirmal Bharat Abiyan*, a component of the scheme. A central subsidy of Rupees 2919.1 million has been released including Rupees 263.7 million to Gujarat for repairing/reconstruction of partially/completely damaged houses of the riot victims. Since implementation of the scheme construction of 1,37,659 dwelling units and 26,093 toilet seats have been assisted.

National Slum Development Programme (NSDP)

454. This was launched in 1996 for upgradation of urban slums by providing amenities like water supply, storm water drains, community bath, widening and paving of existing lanes, sewers, community latrines, street lights, etc. Besides the funds under NSDP is used to provide community infrastructure and social amenities like pre-school education, non-formal education, adult education, maternity, child health and primary health care including immunization. The programme also has a component of shelter upgradation as construction of new houses. Since the inception of the programme up to 1st June 2003, about 36.6 million of slum dwellers were benefited.

Night Shelter Scheme

455. A night shelter scheme for footpath dweller was in operation in metropolitan and other major urban centres. The scheme had since been transferred to State sector w.e.f. 01.04.2005.

Indira Awas Yojana (IAY)

456. It was launched in 1985 to help rural people below poverty line belonging to SC/STs, freed bonded labourers and non SC/STs categories in construction of dwelling units and upgradation of existing unserviceable katcha houses. Benefits are extended to ex-serviceman; widows of next of kin of defence personnel killed in action and retired paramilitary forces. Three percent is reserved for disabled below poverty line. The allotment of the house is done in the name of female members of the household or in the joint names of husband and wife. Sanitary latrine and smokeless *chullahs* (Stoves) are integral part of IAY house. Since inception 9.3 million houses have been built till 2003. In the year 2002-03 an additional amount of Rupees 4125.2 million was released for construction of houses for victims of natural calamity, riot etc., in Orissa, Gujarat, A.P., H.P., and J&K.

Credit -cum-Subsidy Scheme (CCSS)

457. The scheme targets rural families having annual income up to Rupees 32,000. The subsidy is borne by government and the credit is disbursed by commercial banks, housing financial institutions etc. Since inception 85,564 houses were constructed. The central allocation under IAY/ CCSS has been combined form 2002-03.

Samagra Awas Yojana

458. This is a comprehensive housing scheme integrating provision of shelter, sanitation and drinking water to improve the quality of life of the people as well as overall habitat in

rural areas, targeting preferably those BPL. This is being implemented in one block each in 25 districts and 24 states and one union territory.

Central Rural Sanitation Programme (CRSP)/ Total Sanitation Campaign (TSC)

459. This scheme was launched in 1986 to improve quality of life of rural people and provide privacy and dignity to women. The concept of sanitation was expanded in 1993 to include personal hygiene, home sanitation, safe water, garbage and excreta disposal and waste water disposal. It was restructured as total sanitation campaign in 2004 based on the principles of demand-driven approach in a phased manner. It emphasizes the awareness-building component and meets the demand through alternate delivery mechanism. Under TSC so far 179 projects have been sanctioned.

Low Cost Sanitation Scheme

460. The integrated Low Cost Sanitation scheme operated through HUDCO seeks conversion of dry latrines into low cost water seal pour flush latrines and construction of new sanitation toilets where none exists. Till March, 2006, 870 schemes in 1533 towns were sanctioned for conversion/construction of 48,81,817 dry latrine/pour flush toilets.

Drinking Water Supply

461. Towards the objective of National Agenda for Governance to supply safe drinking water to all rural habitations by 2004 programmes like Accelerated Rural Water Supply Drinking Water [ARWSP], *Pradhan Mantri Gramoday Yojana* -Rural Drinking Water [PMGY-RDW] are being implemented. As on March 2004, 95% of rural habitations have been fully covered and 5% are partially covered and 0.4% is not covered with drinking water facilities.

462. In order to defray huge operation and management cost, and to bring in a sense of participation and better management the schemes were decentralized, made demand driven and community based. This reform initiative was successfully implemented in 67 selected pilot districts. As a result it has been extended to cover entire country under the name of *Swajaldhara*, which will be implemented, maintained and owned by the community.

463. In urban areas the scheme of Accelerated Urban Water Supply Programme [AUWSP] as on 10.01.2005, out of 2151 eligible small towns as per 1991 census, water supply schemes for 1148 towns have been approved at a total estimated cost of Rs. 16327.6 million and Central share of Rs. 6796.8 million has been released since launching of the programme in March, 1994.

Electrification

464. Rural Electrification Corporation was established in 1969 to finance various projects. Rural electrification programme involving production oriented activities like

mines, irrigation, rural industries etc. and electrification of villages are being implemented. Under the programme 4,91,760 villages out of 5,87,258 villages were electrified up to March 2003.

465. A *Kutir Jyoti* programme is launched in 1988-89 for improving the living standards of the SC/STs including rural families living below poverty line for providing single point connection. Till March 2002, 4.85 million single point connections were released. Recently the government has approved a scheme for 'accelerated electrification of 0.1 million villages and ten million house holds' replacing the existing schemes.

Road Connectivity

466. Recognizing the link between road connectivity and growth the *Pradhan Mantri Grama Sadak Yojana* (PMGSY) was launched in December, 2000, to provide road connectivity to 0.16 million inhabitations with population of 500 persons or more (250 in case of hilly deserted or tribal areas) in rural areas by 2007. 20,740 road works have been completed till March 2004.

Urbanization

467. The migration of people from rural to urban areas presents a formidable problem for the infrastructural development and the standard of living of people in the second largest urban system in the world. Many schemes are being implemented to reduce migration by providing gainful employment in rural areas and also to upgrade the infrastructure of urban areas and for providing urban employment.

468. The Scheme for integrated development of small and medium towns [IDSMT] was started during the sixth plan period (1979-80) to provide adequate infrastructural facilities in the small and medium towns. Under the scheme, towns upto 0.5 million population as per 1991 census are provided assistance for infrastructural development. As on 31.12.2004, 1752 towns have been covered under the scheme.

469. A scheme of infrastructural development in mega cities was started in 1993-94 in five mega cities of Mumbai, Chennai, Kolkata, Hyderabad and Bangalore under which financial assistance is provided for urban infrastructure projects including water supply, sewages, drainage, sanitation, city transport networks, land development, slum development, solid waste management etc.

470. Expounding the right to shelter in the context of urbanization the Supreme Court in a landmark case has held that eviction of even a slum dweller should be according to the fair, just and reasonable process under law as it not only results in deprivation of shelter but also would also inevitably lead to deprivation of their means of livelihood⁶⁷

International Cooperation

471. KfW, Germany and Japanese Bank of International Cooperation (JBIC) have given financial assistance to HUDCO for implementation of several schemes and for infrastructural developmental projects. The Department for International Development

⁶⁷ *Olga Tellis v. Bombay Municipal Corporation* AIR 1986 SC 180

[DFID] of the Government of UK is supporting slum improvement projects in different Indian cities, IBRD, ADB are assisting HUDCO in Housing Projects and in the road connectivity. USAID loans are granted for infrastructure projects including water supply sanitation and solid waste management.

472. In addition to the programmes and schemes stated above various other poverty alleviation and employment generation programmes touching the standard of living of the people in the country are outlined in this report under Article 7 of the Covenant.

ARTICLE 12

Right to Enjoyment of Physical and Mental Health

473. There has been substantial reduction in the aggregate and group-specific prevalence of blindness in India as per Blindness Surveys conducted during the last 2 decades as indicated in the table given below:

COMPARISON OF PREVALENCE OF BLINDNESS:
NATIONAL SURVEYS ON BLINDNESS IN 1986-89 & 2001-02

Parameters	Survey 1986-89	Survey 2001-02	Difference +/-in %
Estimated Prevalence (%) of Blindness (Visual Acuity <6/60)	1.49	1.1	-26.2
Male	1.42	0.91	-35.9
Female	1.60	1.29	-19.4
Rural	1.63	1.14	-30.1
Urban	1.01	0.84	-16.8
Illiterates	NA	1.36	Strong
Primary	NA	0.62	Relation-ship
Middle	NA	0.30	
High School & above	NA	0.25	
			-67.7
Farmers	2.26	0.73	-38.6
Labour	1.27	0.78	-57.3
House work	2.13	0.91	-73.4
Service/Business	1.09	0.29	-84.0
Retired/Too Old	15.58	2.49	

These surveys indicate that prevalence of blindness was higher in women, rural population and low literacy groups though there has been reduction in prevalence in these groups over time.

474. The right to a healthy life is recognized as an integral part of the right to life under the Constitution of India. The Constitution directs the State to improve public health [Article 47] and endeavour to protect and improve the environment [Article 48-A]. It also casts a fundamental duty on the citizens to protect and improve the natural environment [Article 51A(g)]. The Supreme Court of India⁶⁸ and the High Courts have time and again

⁶⁸ *State of Punjab v. Mahinder Singh Chawla*, AIR 1997 SC 1225; *Paschim Banga Khel Mazdoor Society v. State of West Bengal*, AIR 1996 SC 2426, *State of Punjab v. Ram Lubhaya Bagga*, AIR 1998 SC 1703

recognized that it is the primary duty of the Government to provide adequate medical facilities for the people to the extent the finances of the State permit. The Courts have recognized that hygienic environment is an integral fact of the right to healthy life as it is not possible to live with human dignity without a humane and healthy environment and have been active in preventing environmental pollution affecting the quality of life.⁶⁹

475. The matters regarding the public health and sanitation, hospitals and dispensaries are under the responsibility of the State Governments in the federal scheme of things. Population control and family planning, medical education, adulteration of foods stuffs and other goods, drugs and poisons, medical profession, lunacy and mental deficiency are under the responsibility of both the Centre and the State. However, the Central Government has been playing a vital role in formulating and implementing various National Health Programmes for communicable, non-communicable and other major diseases and supplementing the State's efforts by providing funds and arranging assistance from foreign agencies. The Union Ministry of Health and Family Welfare is the nodal agency for these efforts through Department of Health and Department of Family Welfare. The Ministry of Environment and Forest is the agency responsible for safeguarding the environment.

476. India is a signatory to the *Alma Ata Declaration of 1978* with the commitment to the goal of "Health for All" by 2000 A.D. The National Health Policy 1983 was evolved in this background as a blue print for combined action by the government and voluntary agencies stressing the preventive health care and the need of establishing comprehensive primary health care services to reach the people in the remotest areas. It called for a decentralized system of health care and people's participation viewing health and human development as vital components of overall integrated socio-economic progress.

477. Though the goal of "Health for All" has still not been achieved the country has made great improvements in the health status of its population. These are as a result of the improvements in the reach of the health care system, coverage of immunization programmes and the control of communicable diseases.

Some of the select indicators of physical health situation are shown in the table below:

Select Health Indicators

Parameter	1951	1981	1991	Current level
Crude Birth Rate (Per 1000 Population)	40.8	33.9	29.5	25.0(2002*)
Crude Death Rate (per 1000 Population)	25.1	12.5	9.8	8.1(2002*)
Total Fertility Rate (Per Women)	6.0	4.5	3.6	3.2 (1999)
Maternal Mortality Rate	NA	NA	437(1992-93)	407 (1998-

⁶⁹ *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388

(MMR) per 100,000 live births –NFHS				99)
Infant Mortality Rate (IMR) per 1000 live births	146 (1951-61)	110	80	64 (2002*)
Child (0-4 years) Mortality Rate per 1000 children	57.3 (1972)	41.2	26.5	19.5 (2000)
Couple Protection Rate (percent)	10.4 (1971)	22.8	44.1	48.2 (1998-99) NFHS
Life Expectancy at Birth				
Male	37.2	54.1	59.7(1991-95)	63.9(2001-06)
Female	36.2	54.7	60.9 (1991-95)	66.9 (2001-06)

Note: The dates in the brackets indicate years for which latest information is available
NFHS: National Family Health Survey NA: Not Available * Provisional

Source: Ministry of Health & Family Welfare.

478. It is estimated under the Tenth Plan that around 10 to 15 percent of the population suffers from mental health problem and the stress of modern life is resulting in an increasing prevalence of mental illness. Moreover, about ten million people are affected by serious mental disorders, 20 to 30 million people have neurosis or psychosomatic disorders and 0.5 to 1 percent of all children have mental retardation.

479. Various health indicators depicting the rural-urban and male –female perspective have been shown in the tables below with the latest available data as the completed data for Census 2001 is being prepared.

Expectation of Life at Birth 1992-96

	Male	Female	Persons
All India – Rural	58.9	59.8	59.4
All India – Urban	64.9	67.7	66.3
All India – Combined	60.1	61.4	60.7

Source: Compendium of India's Fertility and Mortality Indicator 1971 to 1997, based on Sample Registration System (SRS) Registrar General of India, 1999

Infant Mortality Ratio – 1991

All India	Male	Female
77	74	79
All India	Rural	Urban
77	84	51

Source: Occasional Papers No. 1 of 1997, Table 3 pages 112-113, Census of India

Note: The urban-rural gap is slightly reduced according to estimates obtained by SRS 1999, to 75 and 44 from the ratio as obtained in 1991 as shown in the table.

Death Rate – 1997

All India	Male	Female	Persons
Rural	9.8	9.4	9.6
Urban	7.0	6.0	6.5
Combined	9.2	8.6	8.9

Source: Compendium of India's fertility and mortality Indicators 1971-97, Registrar General of Census of India, 1999

Health Indicators of various social groups

Social Groups	IMR	U5 MR	% Under Nutrition
SC	83.0	119.3	53.5
ST	84.2	126.6	55.9
Other disadvantaged group	76.0	103.1	47.3
Others	61.8	82.6	41.1
India	70	94.9	47

Source: NHP, 2002

480. These data show a significant urban-rural gap in all indicators reflecting the ineffective reach of health care facility in rural areas. However, the life expectancy and death ratio for females are better than males. But female infant mortality rate compared to male infants is very high. This is a major reason for the declining juvenile sex ratio. The indicators also show the poor health situation of Scheduled Castes, Tribes and other disadvantageous groups.

481. The status of deliveries, which are attended by qualified persons and in institutions, are showing improvements. The current status is outlined in the tables below.

Births attended by Health Professionals – All India

Survey	Rural	Urban	Combined
NFHS 1992-93	25	65.3	34.2
NFHS 1998-99	33.5	73.3	42.3

Note: Doctors, Auxiliary Nurse Midwife, Lady Health Visitor and other Health Professional not including Traditional Birth Attendants and others.

Birth delivered in Medical Institutions

Survey	Rural	Urban	Combined
NFHS 1992-93	16	57.6	25.5
NFHS 1998-99	24.6	65.1	33.6

Note: Public or Private health facility/institution including non-governmental organization [NGO]/Trust

Type of Medical Attendance received by mothers at child birth [1995-96]

All India	No attendance	Govt. appointed Doctors	Other Doctors	Govt. appointed Nurse/Midwife	Other Nurse/Midwife	Others
Rural	35.80	7.60	8.00	8.60	19.50	17.00
Urban	15.90	22.60	27.90	8.30	16.00	7.00
Combined	32.20	10.30	11.60	8.50	18.90	15.20

Source: National and Child Health Care in India, NSS 52nd Round, July 1995 – June 1996, Report No. 445

482. Though there have been appreciable improvements in the various health indicators over a period, there still exists geographical and social disparities and unacceptably high mortality and morbidity rates. The major reason has been the inadequacy of resources at the disposal of the State governments. As a consequence the public health expenditure capacity was far shorter than necessary to achieve the goal of NHP-1983 by 2000 A.D.

483. The public health investment in the country over the years have been comparatively low and as a percentage of GDP has declined from 1.3 percent in 1990 to 0.9 percent in 1999. The aggregate health expenditure is 5.2% of the GDP out of this about 17% of the aggregate expenditure is public health spending, the balance being out of pocket expenditure. The contribution of central resources to over all public health funding has been limited to 15 percent. Over the period of 1990 to 1999 the budgetary allocation for health in the states has declined from 7.0 percent to 5.5 percent.

484. In this background, a National Health Policy, setting out a new framework for achieving health goals, was launched in 2002. It is aimed to achieve an acceptable standard of good health amongst the general population of the country. Some of the objectives of the policy are to increase the access to the decentralized public health system by establishing new infrastructure in deficient areas and upgrading those in existing one to ensure a more equitable access to health services across the social and geographical expanse of the country and to increase health sector expenditure to 6 percent of GDP, with 2 percent of GDP being contributed as public health investment by the year 2010. The states are also expected to increase the commitment to the health sector. The policy also aims at mainstreaming the Indian Systems of Medicine and Homeopathy (ISM&H) for extending the public health services and as a complementary system to the modern medicine. The private sector contribution in providing health services for the population group that can afford to pay for services is sought to be enhanced.

485. For the first time a separate National Policy on Indian Systems of Medicine and Homeopathy – 2002 was formulated to promote good health, expand the out reach and to ensure affordable ISM & H services to the people, as also integrate ISM & H in health care delivery systems in the national programmes.

Medical Service Delivery System

486. The central and the state governments primarily provide medical Services in the country. Many charitable, voluntary and private institutions also provide medical relief. There has been improvement in the number and reach of the health delivery systems. The recent trends in health care are shown in the table below.

Health Infrastructure	1951	1981	2003	[Period/Source]
SC/PHC/CHC*	725	57,363	1,63,195	[March 2001-RHS**]
Dispensaries and Hospitals [All]	9209	23,555	38,031	[Jan 1, 2002-CBHI***]
Beds [Private and Public]	117198	569495	914543	[Jan. 1, 2002-CBHI]
Nursing Personnel	18054	143887	832000	[Dec. 31, 2001-INC@]
Doctors [Modern System]	61800	268700	605840	[Dec. 31, 2002-MCI@@]
* SC/PHC/CHC: Sub Centres/Primary Health Care Centres, Community Health Centres ** RHS: Rural Health Statistics *** CBHI: Central Bureau of Health Intelligence @ INC: Indian Nursing Council @@ MCI: Medical Council of India Source: Planning Commission, Ministry of Health and Family Welfare				

487. The country has a wide spread primary health care infrastructure to provide first level of contact between the population and health care providers. The government funded primary health care institutions include:

- [1] The rural, modern medicine primary health care infrastructure created by the states consisting of:
 - [a] Sub-centres
 - [b] Primary health centers
 - [c] Community health centers
- [2] Sub-divisional / *taluk* hospitals/ specialty hospitals
- [3] Rural family welfare centre, urban health posts, urban family welfare centre, district post partum centres and sub-district post partum centres funded by the department of family welfare.
- [4] Urban health services provided by municipalities
- [5] Health cares for central governmental employees by central government health scheme [CGHS]
- [6] Hospitals and dispensaries of railways, defence, and similar large departments providing the health care to their staff.
- [7] Medical infrastructure of public sector undertakings and large industries

[8] Employee's State Insurance Scheme [ESIS] hospitals and dispensaries providing health care to employees of industries

488. The Sub-Centre (SC) is the most peripheral health institution in rural areas manned by an auxiliary nurse-mid-wife [ANM] and a male-multipurpose worker covering a population of 5000 in plain areas and 3000 in hilly/ tribal/ backward difficult terrain areas. There are 1,37,311 sub-centres throughout the country (31st March, 2001).

489. The primary health centre (PHC) is a referral unit for six sub-centres covering a population of 30,000 in plain areas and 20,000 in tribal / difficult terrain areas. It has one medical officer, 14 para-medical and other supporting staff. There are 22,842 PHCs in the country (31st March, 2001). All PHCs provide outpatient services and have a four to six in-patient beds. Essential drugs for the treatment of common ailments are distributed through PHCs. Nearly one third of the health budget of central government and the state government is spent on providing drugs free of cost.

490. The Community Health Centre (CHC) is the first referral Unit [FRU] for four PHCs offering special care covering a population of 80,000 in tribal areas and 1,20,000 in plain areas. It has at least 30 beds, one operation theatre, x-ray machine, labour room and laboratory facilities and staffed by at least four specialists, i.e., a surgeon, a physician, a gynecologist and a pediatrician supported by 21 para-medical and other staff.

491. In order to ensure adequate access to health care services for the tribal population, 20,769 sub-centre, 3286 primary health centre, 541 community health centre, 142 hospitals, 78 mobile clinics and 2303 dispensaries have been established in tribal areas. In addition SC, PHCs, CHCs are centered in villages with more than 20% tribal population and most of the centrally sponsored disease control programmes have a focus on the tribal areas.

492. The secondary health care infrastructure is the district hospitals and urban hospitals, which also take care of the primary health care needs of the population in the city/town in which they are located. Territory care/super specialty institutions have been set up both by government and private entrepreneurs. Many states have provided land, water and electricity to cover cost to private entrepreneurs to set up these institutions on the conditions that they provide out-patient and inpatient care free of cost for the people below the poverty line.

493. There exists interstate /inter-district/urban-rural differences in availability and utilization of these services. There are unused diagnostic facilities and drugs in some places while others suffer from shortages mainly because of defined norms for care at each level and referral. Over crowding in some co-exist with under utilization in other most secondary and tertiary care institutions have good facilities with skilled staff, but they face difficulty in running institutions because of changing health care needs, rapid advances in technology, obsolescence of equipment and rapid turnover of staff.

494. In order to reduce these imbalances in the health care delivery system, Tenth Five Year Plan [2002-07] focused on the reorganization and restructuring of existing health care infrastructure at primary, secondary and tertiary levels so that they have the capacity to render health care services to population residing in well defined geographical areas and have appropriate referral linkages with each other. It is also envisaged to delegate power

to *Panchayati Raj Institutions* to ensure local accountability of public health care providers. State Health Development Projects are also under implementation in seven states under the assistance of World Bank especially in the secondary health care area. Other states are also being urged to take up such projects.

495. **A Pradhan Mantri Swasthya Suraksha yojana** [PMSSY] has been designed with a object to reduce the gaps that remain in the availability of tertiary care hospitals/medical colleges providing speciality/super speciality services across various state and to mitigate the difficulties of people from under developed states who have to travel to institutions like All India Institute of Medical Sciences, New Delhi leading to inconvenience and high cost to patients. Under the scheme, AIIMS like institutions are proposed to be set up in six backward state of Bihar, Chattisgarh, Madhya Pradesh, Orissa, Rajasthan and Uttaranchal. The Scheme will also provide one time assistance to one institution in each of the six other states of A.P., J & K, Jharkhand, TN, UP and West Bengal to enable these institutions to upgrade their facilities to AIIMS level.

496. As per 2001-02 survey, 70% of the affected population was able to get eye care services requiring cataract surgery through trained manpower. Access to eye care services have been increased by organizing eye camps in rural and remote areas.

497. As it has already discussed above, illiterate population, particularly in remote rural areas and geographically difficult terrains have higher prevalence of blindness and low access to eye care services. Following measures are being taken to reduce disparity in vulnerable and disadvantaged groups in underserved areas:

- Organising screening camp to identify and treat blind/visually impaired
- Conducting village blind registry through village based link workers
- Providing free services to poor persons in Government hospitals
- Providing subsidy to NGO's to provide free services to affected people
- Grant-in-aid to NGO's to strengthen/expand eye care services in rural areas

498. Goals have been set to reduce prevalence of blindness to 0.5% by 2010 and 0.3% by 2020 under "Vision 2020: The Right to Sight" initiative. This would be achieved by gradual increase in Cataract Surgery Rate, increase in coverage, improving quality of services and providing comprehensive total eye care covering all causes and age groups.

499. Though Prevalence of blindness in vulnerable and disadvantaged groups has declined, following problems were encountered in complete coverage of these groups:

- Lack of Eye Care Infrastructure and Human Resources in underserved areas.
- Poor Transportation and Communications facilities.
- Poor level of awareness for prevention and timely treatment of eye ailments.
- Misconceptions, wrong beliefs and unhealthy habits
- Lack of community participation

500. Steps taken by the Government to prevent and control blindness include the following:

- Public awareness on Eye Hygiene and preventive care through Mass Media
- Organizing screening camps to identify & treat blind/visually impaired
- Providing free services to poor persons in Government/NGOs hospitals
- School Eye Screening Programme to detect and correct refractive errors in children
- Performing Cataract Surgery to restore vision in the blind

- Promoting eye donation for treatment of Corneal Blindness

501. Most of the blinding disorders affect the aged population including Cataract, Glaucoma etc. Government sponsors free eye care services including care services including cataract surgery for the poor persons so that rising costs of care do not infringe upon the right of the people to see. There has been tendency to limit the costs of eye care by providing three tiers of care: Free, Subsidized and Paid, so that all sections of the society have access to High Quality of Eye Care.

502. Community participation has always been an important element providing Community Eye Care in organizing eye camps, motivating and transporting affected population to fixed facilities, follow-up services and preventive eye care. Use of Local Self Government (Panchayats), Informal and Formal Community Leaders and elected representative of the community have been encouraging participation of the community at large.

503. Government of India through National Programme for Control of Blindness has been supporting public awareness activities at National, State and District Levels to educate the masses about preventive eye care, early recognition and treatment of eye disorders and timely treatment of blinding diseases. Use of mass media like Television, Radio and Newspapers printed educational material and traditional means of communication like announcements in Village Bazaars, Drum Beating, Folk Dances, Puppet Shows etc, are also used for educating the masses. Interpersonal communication through beneficiaries and village based link workers has also been instrumental in increasing the awareness towards eye care.

504. Government of India, realizing the need for additional resources for controlling blindness sought soft credit form the World Bank to reduce the prevalence of blindness due to cataract between 1994 and 2002. This has revamped eye care services in the country. In addition, technical support from WHO and bilateral assistance form Danida have made significant strides in developing eye care services in the country.

505. A separate Tribal Development Planning Cell is functioning under the Directorate of General Health Services (DGHS) since 1981 to coordinate the policy, planning, monitoring, evaluation etc., of the Health Care schemes for welfare and development of STs and SCs. Special attention to tribal areas is given as noted above in establishing health care infrastructure and measures are taken to address their unwillingness to approach care centers and lack of awareness about the modern systems of medicine.

506. A new scheme entitled "Medical care for remote and marginalized Tribals and Nomadic communities" has been launched in the 9th plan period [1999-2002] and the Indian Council for Medical Research has taken up four projects.

507. An Emergency Medical Relief Division is functioning under the DGHS is responsible for coordination and supplementation of physical and logistic support to the State to counter the effects of natural disaster in the health sector. There are six central medical stores across the country, which are kept in readiness to provide essential drugs, and other medical supplies to states as and when demanded. The Central Government provides financial assistance under a Pilot Project for upgradation and strengthening of

emergency facilities in State Hospitals of town/cities located on National Highways, which fall in the most accident-prone area.

508. All hospitals even those providing secondary or tertiary care also provide primary health care services to rural and urban population. Over three fourths of the medical practitioners work in the private sector and majority of them cater to the primary health care needs of the population. The private sector health services range from those provided by large corporate hospitals, smaller hospitals/nursing homes to clinics/dispensaries run by qualified persons and services rendered by unqualified practitioners. The private sector accounts for 82 percent of all outpatient visits and 52 percent of hospitalization at the all India level with no significant variations across income groups. Apart from purely private providers it is estimated that more than 7000 voluntary agencies are involved in health-related activities more specifically in areas of family welfare and in preventing diseases like leprosy.

Complementary System

509. India is currently undergoing demographic and life style transition resulting in increased prevalence of non-communicable disease and life style related problems for which there are no effective drugs in the modern system of medicine. It was realized that Indian System of Medicine and Homeopathy, which includes *Ayurveda*, *Siddha*, *Unani*, Homeopathy and therapies such as Yoga and Naturopathy, could play an important role in the prevention and management of these disorders. Moreover, they provide a cheap and effective complementary system of care along with the modern system of medicine.

510. In order to mainstream and give a focused attention to this branch, a separate department of Indian System of Medicine and Homeopathy was setup in 1995 under the Ministry of Health and Family Welfare. A vast infrastructure has been created under ISM&H with 3845 hospitals 65,159 beds and 23,630 dispensaries. There are around 0.69 million-registered practitioners of this system of medicine. In some states like West Bengal and Gujarat ISM & H practitioner alone are posted in PHCs in some remote rural and tribal areas. In Kerala, ISM & H practitioner provides a complimentary system of care in the PHCs.

Medical Education and Research

511. The Government has established various institutions and bodies for the upkeep of medical, pharmacy and nursing education and for carrying out research in medicine to ensure adequate human resources for the health sector.

512. The Medical Council of India (for modern system of medicine), Dental Council of India, one Central Council each for Indian Systems of Medicine (*Ayurveda*, *Siddha* and *Unnai*) and one for Homeopathy were set up as statutory bodies under the Acts of the parliament to prescribe courses and curricula for maintaining the standards of medical education and to maintain a register of qualified medical practitioner and regulate them. After the year 1993 by an amendment to the Acts it is mandatory to obtain the approval of Ministry of Health and Family Welfare for opening new medical college/increase of seats, starting new courses in order to regulate the standard of medical education in the country.

The Pharmacy Council of India and Indian Nursing Council were also constituted under the Act of parliaments with similar responsibilities in relation to pharmacist and nurses, midwives, auxiliary nurse midwives and health visitors.

513. The National Academy of Medical Sciences was established in 1961 for promoting growth of medical sciences. The Academy along with National Board of Examinations, professional bodies and associations is implementing a programme of continuing medical education [CME] since 1982 to keep medical professional abreast with new problems and update their knowledge in those fields for the required delivery of health care. The Central Health Education Bureau under the Directorate General of Health Services is also engaged in health promotion and health education activities in the country through health and family planning programmes.

514. The Indian Council for Medical Research is engaged in medicine research. It also carries out its research through various institutions, centers and also by granting fellowships. ICMR works towards strengthening the indigenous capabilities and developing a broad-based and balanced cadre of research personnel and facilities to tackle the present and future health problems. Its priorities coincide with the national health priorities as highlighted in various programmes and schemes. Four apex research councils have also been established to initiate aid, guide, develop and coordinate scientific research in various aspects of Indian Systems of Medicine and Homeopathy, financed by the government. The NHP 2002 proposed to increase the government-funded research to a level of 1% of total health spending by 2005 and 2% by 2010.

Medicine production

515. India has a large pool of technically skilled manpower and research infrastructure both in government and private sector. The India Pharmaceutical Industry with strength of around 9000 manufacturing units produces variety of drugs at very low cost, using commercially viable chemical procedures. The Indian Pharmaceutical Industry has also made significant progress in the development and production of drugs based on recombinant DNA technology (biotech products). The Indian Pharma sector has now reported to be the 4th largest producer of drug and cosmetics in the country and prohibits import manufacture and sale of sub-standard, spurious adulterated or misbranded drugs. Number of important amendments in the Rules has been made in the recent years. The requirements of Good Manufacturing Practices (Schedule-M) have been upgraded in consonance with the international benchmarks. The norms for undertaking clinical trials in the country for drug development research have been published. New requirements for registration for all imported drugs and the corresponding overseas manufacturers have been introduced. Government has constituted an independent Indian Pharmacopoeia Commission to ensure timely publication of India Pharmacopoeia editions and preparations of reference standards required for monitoring quality of drugs. Central Drug Standard Control Organization (CDSCO) exercises control over import of drugs and introduction new drugs in the country. CDSCO also acts as Central Licence Approving Authority for various categories of dregs. Provisions concerning manufacture and sale of drugs as well as monitoring of quality are enforced by the State Governments through their respective drug control organizations. Various control and State drug testing laboratories are functioning in the country to test quality of drugs. CDL, Kolkata is the appellate authority under the Drugs and Cosmetic Act, 1940 to test the samples sent to it by courts.

516. In order to generate adequate scientific data on the safety of drug marketed in the country, the Government has recently launched a National Pharmacovigilance Programme involving large number of monitoring centres at various medical colleges in the country.

517. The Government has set up separate *pharmacopoeia committees* for each of ISM & H to evolve standards for drugs and has also set up pharmacopoeia laboratories to provide technical support to the committees by testing and laying down formulations of drugs. Drugs Technical Advisory Board are constituted under the Drugs and Cosmetic Act, 1940 separately for modern and Indian systems of medicine to advise the Central and the State government on technical matters.

518. The domestic production of all vaccines except oral polio vaccine is sufficient to meet the requirement of the immunization programme in the country. To assess and monitor the status of vaccine production, a vaccine production board was constituted in 1976 and reconstituted in 2000. Quality control of vaccines is exercised under the Drugs and Cosmetics Act, 1945. Three consecutive batches of each vaccine are to be cleared by the National Control Laboratory before they are released for use.

519. The Government has constituted National Medicinal Plants Board for regulating medicinal plants sector and to coordinate the related activities like conservation, cultivation, quality control, and standardization etc., of medicinal plants needed for the production of drugs under ISM&H. The Government has also made certificate of “Good Manufacturers Practices” mandatory from the year 2000 for medicines under ISM & H. This ensures raw materials used are authentic and free from contamination, quality control measures are adopted, the manufactured drugs are of acceptance quality and that the procedures for the manufacture of drugs will be documented for reference and inspection. The National Drugs Policy evolved in 2001 reviewed the instances of some poor quality drugs reaching the market and has suggested remedial measures.

520. To accelerate the growth of the industry Foreign Direct Investment (FDI) up to 100% is allowed from the year 2003 in drugs and pharmaceuticals (excluding those which attract compulsory licensing under Patents Act or are produced by recombinant DNA technology and specific cell / tissue targeted formulations). The Patents Act, 1970 had been amended twice first in the year 1999 and then in the year 2002 and a third amendment is under process to provide for product patents in food products and pharmaceuticals from 2005 to comply with the WTO- TRIPS regime. At the same time amendments have been made incorporating adequate safeguards to enable the country to cope with situations of public health emergency or others threatening national security by widening the scope of compulsory licensing. The country has been actively pursuing the implications of TRIPS regime on health for developing countries in various multilateral forums and in the WTO ministerial conferences. The Doha declaration on public health and the subsequent decisions taken at the WTO council meet in August 2003 in Geneva enabling developing countries to produce for its own use and also to export in some cases present a comfortable situation.

Environment Protection

521. The country has been taking various measures not restricted to legislative, regulatory and policy for the protection and preservation of the environment and to ensure

a healthy and hygienic life. The Indian Constitution under the Article 42 provides specific responsibility on the States Governments to protect and improve environment and to safeguard the forests and wildlife of the Country. Further, the 7th schedule classified the various legislation topics as responsibilities of the Central Government, the State Government, or both. The Water (Prevention and Control of Pollution) Act, 1974, Water (Prevention and Control of Pollution) Act, 1981, Indian Forest Act, 1927, Forest (Conservation) Act, 1980, the Environment (Protection) Act, 1986, the Wildlife (Protection) Act, 1972, Public Liability Insurance Act, 1991, Merchant's Shipping Act, 1958, Insecticides Act, 1968, Biomedical Waste (Management and Handling) Rules under Act 1998, Air (Protection and Control of Pollution) Act, 1954, Factories Act, 1948, Prevention of Food Adulteration Act, 1954 are some of the legislations in place for protection and safeguarding the environment. The above environmental legislations and their implementation have not only direct bearing on the environmental protection for the people but also for the improvement of customs, culture and habits etc., particularly on environmental aspect. A Central Pollution Board was set up in 1974 as an autonomous body under the Ministry of Environment and Forest for prevention of air, water and land pollution and advise the Central government on these matter. It co-ordinates the activities of the State Pollution Control Boards and Pollution Control committees.

522. The Ministry of Surface Transport has also formulated the National Auto Fuel Policy for addressing air pollution from motor vehicles and has laid down emission standards for various stages (*Bharat I, Bharat II*) on the lines of the Euro emission norms. From November 2002 Compressed Natural Gas is used as the fuel for public transport vehicles in the National Capital Territory of Delhi pursuant to the directions of the Supreme Court in a series of cases. This has been introduced in cities of Mumbai, Baroda and Surat and would be extended in a gradual manner to other highly polluted cities.

523. Various notifications have been issued under the Environment (Protection) Act, 1986 covering diverse areas. Noise Pollution (Regulation and Control) Rules, 2000, Hazardous waste (Management & Handling) Rules, 1989, Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989, Manufacture, Use, Import, Export and Storage of Hazardous Microorganism/ Genetically engineered organisms or cell Rules, 1989, Biomedical Waste Rules, 1998, Municipal Solid Waste (Management and Handling) Rules, 2000 all provide guidelines and ensure that various hazardous substances are used and disposed off in a safe manner. A National Hospital Waste Management Committee was constituted in 1998 under the Department of Health and guidelines have been prepared and circulated to the States and Union Territories. Hospital Infection Control and Waste Management is a component of World Bank assisted secondary health system projects in the States. There are river water action plans to control pollution in river water and lakes.

524. Special emphasis has been given in the National Health Policy 2002 for environmental and occupational health. The policy invites the implementation of the linked programmes in the health sector to the extent that they are complimented by appropriate policy and programme in the other environmental related sectors.

The various legislative measures also have been taken for the protection of the occupational diseases:-

1. Factories Act, 1948;
2. Indian Mines Act, 1923;
3. Employees State Insurance Act, 1948.

525. The following Research Institutes are also functioning in India in the field of occupational health:-

1. Central Mining & Research Institute under Council of Scientific & Social Research (CSIR);
2. Industrial Toxicology Research Centre, Lucknow;
3. National Environmental Engineering Research Institute, Nagpur;
4. All India Institute of Hygiene & Public Health, Calcutta;
5. Indian Institute of Technology, Kanpur;

526. Environment Impact Assessment (EIA) introduced in India in 1978-79 for river valley project had been made mandatory under the Environment Protection Act 1986 for 30 categories of developmental activities in industrial sector, thermal power, nuclear power, mining, infrastructure, tourism and communication. The EIA notification was amended in 1997 in order to make public hearing an integral part of the assessment procedure. The government also formulated an environment programme in 1994 to strengthen EIA of various projects through organized system of natural resource accounting and environmental statistics. An Ecomark scheme was also launched in 1991 to encourage customers to buy products of less harmful environmental impacts.

527. The Courts have been actively expanding the environmental jurisprudence by encouraging recourse to law through *Public Interest Litigation/ Social Action Litigation* by public-spirited individuals/ consumer forums and also by initiating enquiries on its own based on newspaper reports and by evolving new principle of 'polluter pays' and doctrine of 'absolute liability' and doctrine of 'public trust' etc.⁷⁰ An individual whose quality of life is affected or endangered by pollution of air or water or land can approach the Supreme Court of India under Article 32 of the Constitution (Right to Constitutional Remedy) for removing such pollution detrimental to the quality of life.⁷¹

528. The use of tobacco and cigarette has also been controlled especially in public places and could not be sold to children below 18 years of age. The Supreme Court of India banned smoking in public places to prevent air pollution and avoid inconvenience to non-smokers.⁷² In pursuance of the Cigarette and other Tobacco Products [Prohibition of Advertisement, Regulation of Trade and Commerce, Production, Supply and Distribution] Act, 2001 has been enacted. The Act prohibits selling of tobacco products to persons below the age of 18 and within 100 meters of educational institutions, smoking in public places and advertisements.

529. The measures for protecting occupational health and hygiene are detailed in the report under the Article 9 of the covenant.

⁷⁰ Indian Council For Enviro-Legal Action v Union of India, AIR 1996 SC 1446, M.C. Mehta v. Union of India, [1997] 3 SCC 715

⁷¹ Subash Kumar v. State of Bihar, AIR 1991 SC 420.

⁷² Murli S. Deora v. Union of India AIR 2002 SC 40

Programmes of Action for various diseases

530. The Central Government has been implementing National Health Programmes for control, eradication of various communicable diseases non-communicable disease, and mental health problem.

Communicable Diseases Programme

531. There are programmes for prevention and control of malaria, filarial, *kala-azar*, Japanese encephalitis, dengue, tuberculosis, leprosy, and sexually transmitted diseases, AIDS etc. A National Institute of Communicable Diseases is the nodal agency for implementing the programmes. Under the Guinea Worm Eradication Programme the country has successfully eradicated the disease and was declared a Guinea Worm Disease – free country on 15th February 2000. Small pox was successfully eradicated from the country in 1977.

Vector Borne Diseases

532. National anti-malaria programme [NAMP] is the world's biggest health programme against a single communicable disease and continues to be the most comprehensive and multi faceted public health activity. The annual incidence of malaria was drastically reduced from 75 million in 1951 to 2.7 million in 1981 and after that a slow decline to 1.65 million [according to provisional figures] in 2003. World Bank assistance NAMP is being implemented since September 1997 in 100 hardcore and tribal predominated districts and 19 problematic towns of various states. In addition to malaria, the control activities of Japanese encephalitis and dengue/dengue haemorrhagic fever are being implemented under the NAMP in the problem areas.

533. A National Filariasis Control Programme launched in 1956 was revised in 1997. A pilot project of administering a single dose of di-ethyl carbamzine citrate [DEC] mass drug annually was initiated in several states with remarkable results. The infection rate declined from 13 to one percent in the state of Tamil Nadu.

534. A *kala-azar* control programme [visceral leishmaniasis] has been operating since 1990-91 for control of the disease in endemic areas. The programme has been successful in reducing both morbidity and mortality, as there has been 84 percent decline in the annual incidence and 85 percent in deaths in 2000 as compared to 1992.

535. In pursuance of the concept of convergence, a National vector borne disease control programme [NVBCP] has been started from 2003-04 by covering all the above three programmes to pursue the goals of NHP-2002 of eliminating *kala-azar* by year 2010, filaria by the year 2015 and reducing mortality on account of malaria and other vector borne diseases by 50% by the year 2010.

Leprosy

536. The World Bank assisted National Leprosy Elimination Programme [Previously Eradication Programme] has been decentralized to states / districts leprosy societies and services under the programme have been integrated with general health care services for

greater reach. The second phase is being implemented from 2001 with the objective of achieving elimination of leprosy by the end of 2004-05 thereby reducing the caseload to less than 1/10,000 population.

537. National Leprosy Eradication Programme has been decentralized to states / districts leprosy societies and services under the programme have been integrated with general health care services for greater out reach. The second phase of World Bank assisted NLEP was implemented from 2001-04. Now the programme is continuing with Govt. of India funds.

538. The leprosy prevalence rate has declined from 57.6 per 10,000 in 1981 to 1.34 per 10,000 population as on March 2005. As a result of hard work & meticulously planned and executed activities, India has achieved the goal of leprosy elimination (i.e. PR less than 1 case / 10,000 population) at National level in the month of December 2005 with PR of 0.95/10,000 population. Significant aspect under the programme was Modified Leprosy Elimination Campaign that were carried out during 1998 to 2004 and Block Leprosy Awareness Campaign in 2004 and 2005. As on December 2005, 26 States / UTs. have reached the level of leprosy elimination.

539. The programme focus will continue for elimination of leprosy in the remaining 9 States / UTs. Focused attention will also continue in the remaining endemic districts and blocks, endemic urban localities, districts showing high disabilities rate and States with high child proportion.

S.N	Health Infrastructure	1951	1981	2002	2004	Period/ Source
1	Dispensaries and Hospitals (all)	9209	23,555	37,684	NA	As on Jan. 1, 2002 – HII of CBHI
2	Beds all types (private and Public)	117198	569495	914543		-do-
3	Govt. allopathic Hospitals				5479	-do-
4	Govt. allopathic hospital & beds				380993	-do-

HII – Health Information of India

CBHI – Central Bureau of Health intelligence

N.B:-

- i) Hospital Dispensaries information in row 1 & 2 exclude CHCs and PHCs
- ii) Beds all types (Private & Public) relate to allopathic establishments – Hospitals, Dispensaries, CHCs, PHCs & Sub-centres Sanatorium and TB clinics and other health establishments.
- iii) From 2004, information will be available only for indicators at sl. No. 3 and 4, which may be started as a new series.

Tuberculosis

540. India accounts for one fifth of the global Tuberculosis burden. Every year 1.8 million people in India develop tuberculosis (TB), of which 0.8 million are sputum positive cases that are infectious. More than 350,000 die from TB every year – almost 1000 every day. Tuberculosis has devastating social costs as well – data suggests that each year more than 300,000 children are forced to leave school because their parents have TB, and more than 100,000 women with TB are rejected by their families. This continued burden of disease is particularly tragic because TB is nearly 100% curable. Untreated patients can infect 10-15 persons each year; poorly treated patients develop drug resistant and potentially incurable TB.

541. The Revised National TB Control Programme (RNTCP) based on the globally recommended DOTS strategy, was launched in 1997 with the objective of curing at least 85 percent of new sputum positive patients and detecting at least 70 percent of such patients. As of Jan 2006, more than 97% population of the country has access to RNTCP services. Full countrywide coverage is expected to be achieved before end of fiscal year 2005-06. RNTCP is supported by World Bank, GFATM, USAID and GDF. Over 5.1 million patients have been initiated on treatment since the inception of program. Almost 1.3 million patients were put on treatment in 2005 alone. The cure rate has more than doubled and deaths reduced seven fold as compared to the earlier National TB Program. Over 959,000 additional lives have been saved since inception of program.

AIDS

542. The National AIDS Control Programme [NACP] was launched in 1987 with assistance from World Bank and WHO. The National AIDS control organization [NACO] was set up by the Ministry of H & FW to implement various activities of the programme. In August 1995, an AIDS control board was constituted to give direction to the programme.

543. The first phase of the programme was assisted by the World Bank (1992-1999). The second phase (AIDS- II) is being implemented with the assistance of the World Bank, US Agency of International Development and Department for International Development. It aims to stabilize the infections levels of HIV/AIDS in the general population, reduce the blood borne transmission of HIV to less than one percent of total transmissions, attain awareness level of not less than 90% among the youth and others in reproductive age group and achieve condom use of not less than 90% among high risk categories like commercial sex workers, truckers etc.

544. The implementation has been decentralized and all states/UTs have constituted state AIDS control societies with adequate support from NACO. The National AIDS prevention and control policy and National blood policy has been evolved with a holistic approach towards prevention and control of HIV/AIDS looking at it as developmental problem and not as a mere public health issue. Nation wide sentinel surveillance is conducted every August – October by NACO to track trends of the spread of HIV/AIDS infections in the country and states are categorized on this basis of the survey. It is estimated that 4.58 million men/women and children were living with HIV/AIDS at the end of 2002.

545. Targeted interventions are the major component at the AIDS – II Project. A single dose of anti-retroviral [nevirapine] is provided to the HIV positive mother and child pairs in centres established for prevention of parent to child transmission. Government is committed to providing anti-retroviral treatment free of cost in a phased manner to priority segment of people with HIV/AIDS such as women covered under PPTCT, children with AIDS under 15 years of age and AIDS cases seeking treatment in public sector hospitals in the six high prevalence states.

546. A family health awareness campaign [*Swasth Youvan Mela*] is organized to address the management of sexually transmitted infections and HIV/AIDS by generating awareness among rural and urban slums by social mobilization through community participation. In order to enhance the awareness level among the general population the government has initiated various programmes such as ‘learning for life’, a training module in schools, talk AIDS project in universities, television talk shows for both rural and urban population etc. A toll free national AIDS telephone help-line has been setup to provide access to information and counseling on HIV/AIDS related issue.

547. The Supreme Court has given directions in a case⁷³ to remove the serious deficiencies and shortcomings in the matter of collection, storage and supply of blood through blood centers in the country in the context of incidence of HIV cases. In pursuance of that NACO is implementing blood safety programme. Commercial donor system has been banned in the country with effect from January 1, 1998. From June 2001 it has been made mandatory to test all donated blood for hepatitis C virus antibodies, besides hepatitis B, HIV, syphilis and malaria, which are already being implemented.

548. NACO has strengthened/modernized blood banks in several states and established storage centers in areas where it is not feasible to operate blood banks. Central licensing approval authority at CDSCO, New Delhi along with state licensing authorities approves the licenses for blood banks, blood products, large volume parenterals, sera and vaccines.

Non-Communicable Diseases

549. The decline in the death rate and increase in life expectancy, finding expression in the epidemiological and demographic transition has resulted in the increase in non-communicable diseases. There is also an increase in the prevalence of non-communicable diseases in younger people due to life style changes, obesity stress and exposure to environmental risk factors and use of tobacco. Efforts are being made to improve preventive, curative and rehabilitative services for non-communicable disease as envisaged in the Tenth Plan (2002-2007).

550. The most common NCDs are Cardiovascular Diseases, Diabetes, Mellitus, Cancer and Chronic obstructive pulmonary diseases. Tobacco, Unhealthy Diet and Inadequate Physical Activity have been identified as the important lifestyle risk factors. Economic transition, urbanization, industrialization and globalisation bring about lifestyle changes that trigger NCDs. Rapidly increasing life expectancy leads to population being exposed to these risk factors for longer periods resulting in NCDs. New emerging cardiovascular disease risk factors like low birth weight, Folate deficiency and infections are also more frequent among the poorest in low and middle-income countries including India.

⁷³ *Common Cause v. Union of India* AIR 1996 SC 929

551. A comprehensive National Programme to address the most common NCD's like Diabetes, Cardiovascular diseases and stroke is being considered for the country which offers the possibility of control of these diseases through health promotion and integrated intervention strategies.

Cancer

552. The National Cancer Control Programme that was launched in 1975 has been revised periodically in order to meet the changing needs/ demands of the disease. The last revision was in December 2004 with emphasis on correcting the geographical imbalance in the availability of cancer care facilities. The Programme focuses on augmentation/ strengthening of cancer care facilities in the country and decentralized activities for prevention and early detection of cancers. Financial assistance is provided under five different schemes for the above-mentioned activities. There are 24 Regional Cancer Centres in the country that provide comprehensive cancer care. There are 210 centres with 345 Radiotherapy machines. A comprehensive legislation for control of tobacco in the country has been already been passed which is expected to have far reaching effects in cancer and other NCD control. A tobacco cell has also been established in the Ministry of Health and Family Welfare.

Blindness

553. The National Programme for Control of Blindness was launched in the year 1976. Under the programme 11 regional institutes of ophthalmology, 82 medical colleges upgraded, 445 district hospitals equipped for ophthalmic services. 307 new eye ward and operation theatres have been constructed under the World Bank Assisted Cataract Blindness control project. More than 1000 eye surgeons have been trained in Inter-Ocular Lens [IOL] implantation, 80 central and 341 district mobile units organize screening of eye camps. At the primary level, 5633 PHCs have been upgraded by providing ophthalmic equipments and posting ophthalmic assistants. 580 district blindness control societies are functioning. Over 3.8 million [provisional] cataract surgeries were performed during 2002-03.

Iodine deficiency

554. To emphasize and cover the whole spectrum of iodine deficiency disorders a National Iodine Deficiency Disorders Control Programme was in 1992 after redesigning the previously implemented National Goitre Control Program. To ensure balanced iodine intake by all the population the government encourages iodizing the salt sold for edible for purposes. So far 31 states/UTs have completely banned the sale of salt other than iodized salt for edible purpose, while two states have imposed a partial ban.

555. Under the Yaws Eradication Programme a pilot project is started on Koraput district in Orissa in 1996-97. National Institute of Communicable Disease is the nodal agency for Yaws eradication programme in the country.

Mental Health

556. The National Mental Health Programme was started in 1982 to ensure availability of minimum mental health for all in the foreseeable future. The district mental health programme was launched in 1996-97 envisaging a community based approach to tackle mental health problems within the community at the periphery and aims at early detection and treatment of cases as well as follow up of cases discharged from the mental hospitals of the community level. Central Mental Health Authority and State Mental Health Authorities has been constituted to implement the Mental Health Act, 1987 which protects the patients suffering from mental illness from stigmatization and discrimination. Mental illness is also included as one of the disabilities under the “Persons with Disabilities [Equal Opportunities Protection of Rights and Full Participation] Act of 1995. Currently 50% of medical colleges have a psychiatry department. There are 20,000 beds in mental hospitals and 2000 to 3000 psychiatric beds in general and teaching hospitals. The NHRC along with Central Government also monitors the conditions in the mental health hospitals. The National Institute Mental Health and Neuro Sciences, Bangalore has been providing technical help wherever necessary.

Surveillance mechanism for diseases

557. National Surveillance Programme on Communicable Disease (NSPCD) has been merged with the Integrated Disease Surveillance Project (IDSP) that has now been extended to 23 states and includes the original 101 districts of NSPCD. In another year all the districts of the country are likely to come under the cover of IDSP. The programme also brings in newer diseases and conditions under the ambit of surveillance over and above what was there in NSPCD.

Maternal and Child Health

558. The country has been implementing family welfare programmes from 1950s for controlling the growth of population and advocating family planning and child spacing practices. Services related to maternal and child health are the most important part of the family welfare programmes. The Department of Family Welfare has been implementing many programmes over years specifically aimed at reducing the infant and maternal mortality rates. A National population policy 2000 has been evolved providing a policy framework for advancing goals and prioritizing strategies during the next decade to meet the reproductive and child health needs of the people of India. The country aims to reduce infant mortality rate to 45 per 1000 by 2007 and 28 per 1000 by 2012 and the maternal mortality rate to 2 per 1000 live births by 2007 and 1 per 1000 live births by 2012.

559. The Universal Immunization Programme [UIP] was launched in 1985 to provide universal coverage of infants and pregnant women with immunization against six vaccine preventable diseases, viz., tuberculosis, diphtheria, pertusis, tetanus, polio and measles. There has been a significant improvement both in coverage and the reduction of the incidence of these diseases as shown in the table below:

Immunization status [% of coverage]

Disease	Coverage	
	1985-86	2001-02
For pregnant women- Tetanus Toxoid	40	85.6
For infant		
BCG	29	100.4
Measles	44	90.8
DPT	41	95.4
Polio	36	96.0

Source: Annual Report 2002-03 – Ministry of Health and Family Welfare

Incidences of diseases

Diseases	1987	2001	% Of decline
Polio	28,257	268	99.05
Diphtheria	12,952	4,954	61.75
Pertussis	1,63,786	28,900	82.36
NNT	31,844	1,354	95.75
Measles	2,47,519	45,301	81.70

560. A supplemental pulse polio immunization programme was launched in 1995 covering all children of 0-5 age by giving them two doses of oral polio vaccine (OPV) at an interval of six weeks during the national immunization day/sub-national immunization days every year. Under the programme National Polio Surveillance Project [NPSP] with a network of 9000 reporting units and 258 surveillance medical officers is functional. During the year 2003, facilitated by a high quality of immunization activities, the number of cases has declined drastically to 214 cases as on Dec. 31, 2003. The country is committed to obtaining polio-free certification by 2007.

561. A pilot project is being implemented in slum areas of 15 metropolitan cities during 2002-03 and 32 districts during 2003-04 introducing hepatitis-B vaccine for infants under the UIP. This is supported by Global Alliance for Vaccines and Immunization (GAVI).

562. From the year 1992-93 the UIP has been strengthened and expanded into the child survival and safe mother hood [CSSM] project. It involves sustaining high immunization coverage level under UIP and augmenting activities under oral rehydration therapy for diarrhoeal diseases, prophylaxis for control of blindness and control of acute respiratory infections. The safe motherhood component involved training of traditional birth attendants [TBA – Dais Training Programme] provision of aseptic delivery kits and strengthening of first referral units to deal with high risk and absolute emergencies.

563. There has been a slight decline in the maternal mortality from 437/100,000 live births in 1992-93 to 407/100,000 live births in 1998. The NFHS-II survey shows that 37% of births to women in last four years before the survey did not involve any antenatal care while 13% received care at home from a health worker, 40% from a doctor and 9% from other health professional. Among those who did not receive any antenatal care during pregnancy, 13% lacked knowledge of services, 59% felt it was not necessary, 5% were not permitted to seek the care, 6% could not afford and 5 percent did not have time.

564. A Reproductive and Child Health programme (RCH) was launched in 1997 with a new approach integrating and strengthening the services/interventions under the CSSM and family planning services and adding to it new areas on reproductive tract/sexually transmitted infection [RTI/STI]. The programme provides need based, client control, demand driven high quality services to the beneficiaries with a view to enhancing the quality of reproductive life of the population.

565. The maternal health programme, which is a component of RCH programme, aims at reducing maternal mortality rate to less than 180 by 2010. The major interventions under this programme are:

- [a] Provision of emergency obstetric care through establishment of first referral units;
- [b] Promotion of institutional delivery by providing round the clock delivery services in health centres
- [c] Ensuring early antenatal registration of pregnant women to provide regular checkups to enable to detect complications and to enable prompt action
- [d] At least three ante-natal checkups to monitor the progress of the pregnancy as well as three post natal check ups to monitor post natal recovery and
- [e] Linking the community with service delivery system through *panchayat* by providing corpus fund for transportation costs of the pregnant women from poor families.

566. The programme is mainly offered through PHCs and is supported by World Bank, European Commission, UNIFPA, UNICEF and other bilateral donors.

567. According to Sample Registration System of the Registrar General of India, 1998, unsafe abortion account for about 8.9% of all maternal deaths in the country. The Medical Termination of Pregnancy Act, 1971 (MTP) addresses the problem of maternal morbidity and mortality due to unsafe abortions. The Act provides for termination of pregnancy on grounds of maternal health, foetal abnormalities and social and other causes like pregnancies due to rape and contraceptive failures. However, it is estimated that about million unsafe abortions take place annually. In order to increase access and decentralize early safe abortion service at grass root level in the health care system, a project is under consideration for introducing the manual vacuum aspiration [MVA] technique in 8 selected states. Dai training camps (Traditional Birth Attendants) have been organized in 156 districts in 18 states/UTS. Totally 1971 RCH camps have been organized in 9 weak states till from 2001 to 2003.

568. The RCH programme has also programmes for essential new born care, immunization, nutrition etc which include exclusive breast feeding for six months, timely introduction of complementary feeding, detection and management of growth faltering, massive doses of vitamin A supplementation and iron supplementation if needed. The Infant Milk Substitutes, Feeding Bottles and Infant Food (Regulation of Production, Supply and Distribution) Act, has been amended in 2003 to promote breast-feeding up to six months. The ICDS, *kishori shakthi yojana* and other nutrition based programmes noted in report under Articles 10 and 11 of this covenant, provide supplemental health and nutritional care to new born, lactating mothers and young girl children.

Health Insurance

569. There are schemes for health insurance under many enactments dealing with employers/ workers in service /industries. Private Sector companies also have schemes for medical allowance and insurance for their employees in place. In this background a community based 'universal health insurance scheme' has been launched by four public sector general insurance companies in July 2003 with government assistance to make health insurance affordable to below poverty line (BPL) families. Up to March 31, 2004 a total of 0.41 million families including 1.16 million persons have been covered under the scheme. Some state governments (Kerala, Delhi, Madhya Pradesh, Himachal Pradesh, Andhra Pradesh) have also taken initiatives for below poverty line families.

National Illness Assistance Fund [Rasthriya Arogya Nidhi]

570. Individuals, corporate bodies, and philanthropic organizations in India and abroad could subscribe the Fund set up in 1997. The fund provides necessary financial assistance to below poverty line patients suffering from major life threatening diseases to enable them to receive medical treatment at any of the super specialty hospitals/institutes or other government/private hospitals. All states/UT have also been advised to set up an illness assistance fund.

Patient's rights and duties

571. The health sector services have been brought under the Consumer Protection Act 1986 and any deficiency in providing health service/medical negligence is actionable wrong under the Act for which compensation can be awarded. The Indian Medical Association [IMA] has evolved a 'Charter of Patients Rights and Responsibilities' to salvage the deteriorating relationship between medical men and patients in public as well as private practice. The Indian Council for Medical Research (ICMR) has also drafted a code of ethics on how research in India should be conducted when human beings are used as subjects.⁷⁴ ICMR will revise the guidelines every five years in view of rapid advance in biomedical research.

ARTICLE 13 AND 14

Right to Education

572. Since independence, there has been considerable expansion in the educational facilities and its quality at all stages. National Policy of Education (NEP) in 1968 and in 1986 has impressive achievements. The detailed information on this right has been provided in the initial report submitted to Committee by India.⁷⁵ This report provides further information concerning this right.

⁷⁴ A 28-member committee headed by a former Chief Justice of India prepared the code of ethics

⁷⁵ E/1988/5/Add.5, para 1-24.

Equal Access to All Levels of Education

573. Apart from the biggest democracy in the world, India has the unique distinction of being a multi-religious and multi-lingual country. The Constitution of India has provisions for the safeguarding of this special character of the Country.

574. Under the Constitution of India every minority either religious or linguistic group has right to establish and administer their own educational institutions.⁷⁶ Besides this, the Constitution of India provides for preferential treatment in case of schedule caste (SC) and scheduled tribes (ST) and also the socially and educationally backward classes (*Preeti Srivastva v. State of M.P.*, AIR 1999 SC 2894).

575. A landmark judgment in *T.M.A. Pai Foundation v. State of Karnataka*,⁷⁷ deals with the various facets of establishment and administration of educational institutions in general and with minority education in particular. The Supreme Court reviewed its earlier decisions⁷⁸ on various issues and held that state governments and universities cannot regulate the admission policy of unaided educational institutions run by linguistic and religious minorities, but state governments and universities can specify academic qualifications for students and make rules and regulations for maintaining academic standards. The same principle applies in the appointment of teachers and other staff. An unaided minority educational institution would be free to hire as it pleased as long as some essential qualifications were adhered to. Minority educational institutions would have to comply with conditions laid down by universities or boards to get recognition or affiliation. They have the right to admit students of their choice, but subject to an objective rational and transparent procedure of selection and compliance of conditions of any, requiring admission of a small percentage of students belonging to weaker sections of the society by granting them freeships and scholarships. In admissions, the court said, the management should not ignore merit of the students.

576. In seeking recognition or affiliation, the court held that the minority educational institutions will have to comply with conditions laid down by the Board or the University to get recognition or affiliation. Further, the minority educational institution does not lose its minority character simply because it receives aid from the government, but at the same time the court clarified that they would have to admit non-minority students whose constitutional rights under Art. 29(2) are not to be infringed.

⁷⁶ Article 29(1) guarantees to any section of the citizens residing in any part of India having a distinct language, script or culture of its own, the right to conserve the same, i.e. language, script or culture. A minority community can preserve its language, script or culture by and through educational institutions. This right is guaranteed to them by Article 30(1) which says that all minorities whether based on religion or language shall have the right to establish and administer educational institutions of their choice. This right is further protected by Article 30(2) which prohibits the State in granting aid to educational institutions for discriminating against any educational institutions on the ground that it is under the management of a minority whether based on religion or language. This right is, however, subject to clause (2) of Article 29, according to which no citizen shall be denied admission into any educational institutions maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. Article 29 applies only to citizens while Article 30 applies to both citizens and non-citizens.

⁷⁷ AIR 2003 SC 355.

⁷⁸ *Unni Krishnan J. P. v. State of A.P.*, AIR 1993 SC 2178; *St. Stephen's College v. University of Delhi*, AIR 1992 SC 1630; *R. Chitrlekha v. State of Mysore*, AIR 1964 SC 1823; *P. Rajendran v. State of Madras*, AIR 1968 SC 1012.

577. In case of aided minority educational institutions offering professional courses, the court held that admission can only be through a common entrance test conducted by a state or university. “The authority may also devise other means to ensure that admission is granted to an aided professional institution on the basis of merit”.

578. On the question of whether non-minorities can run institutions in the same way as minorities, the court held that under Art. 19(1)(g) all citizens have the right to establish and administer educational institutions, but their rights are subject to the constitutional provisions.

579. After independence, the Government of India has taken several steps to strengthen the educational base of the SC/STs in accordance with the Constitution of India. In addition to the provisions of the Constitution and the decisions of the Supreme Court, role of Government of India has played a key role in the advancement of the SC/STs/OBCs/minority.

580. Pursuant to the NEP 1986 and the Programme of Action 1992 was implemented. It provided for the launching of a National Literacy Mission for the achievement of the goal of Universal Elementary Education (UEE). In this order, the following special provisions for SCs and STs have been incorporated in the existing schemes of the Departments of Elementary Education and Literacy and Secondary and Higher Level of education.

581. Shiksha Karmi Project (SKP) of the government aims at universalisation of primary education in remote and backward villages in Rajasthan with primary attention to girls. The project at present covers 3,692 villages in 150 blocks. The project provides primary education to 0.21 million children in day schools and *Prehar Pathshalas* (PPs) (schools of convenient timings). The success of SKP has attracted national and international attention.

582. The Mahila Samakhya Programme (education for women’s equality) is a concrete programme for the education and empowerment of women in rural areas, particularly of women from socially and economically marginalized groups. It is being implemented in more than 9000 villages in 56 districts of ten states. This scheme is to enhance the self image and self confidence of women; to create an environment where women can seek knowledge and information.

583. Janshala Programme of Government of India in collaboration with five UN agencies provides support to the ongoing efforts towards achieving UEE. It is a community based primary education programme, aims to make the primary education for girls and children of deprived communities, marginalized groups, SC/STs/minorities, working children and children with specific needs. This is a block⁷⁹ based programme with emphasis on community participation and decentralisation. The programme which was to run for five years, from 1998 to 2002 has now been extended till 2004 covering 139 blocks spread over nine states. The programme has so far set up approximately 1500 alternative schools and 58,000 teachers have been provided one round of training on different pedagogical aspects.

⁷⁹ The blocks have been selected on the basis of different indicators such as low female literacy, incidence of child labour, and concentration of SC and ST population.

System of Schools

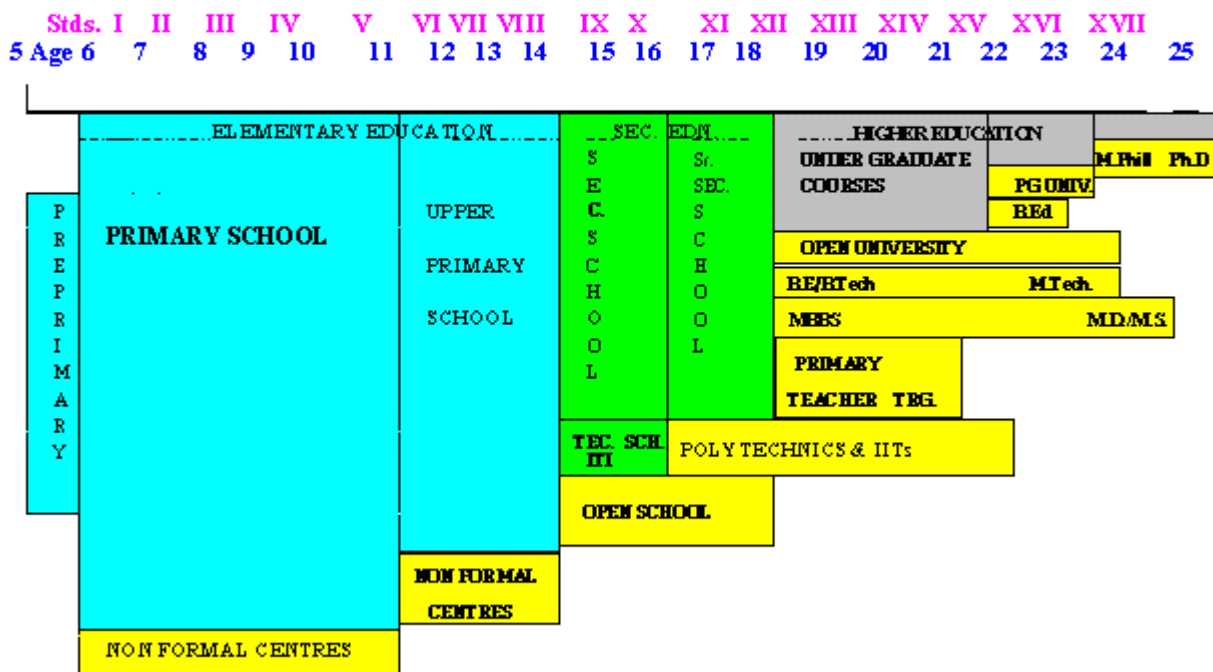
584. School education of India comprises four levels: primary, upper primary, secondary and higher secondary. Almost a uniform education structure has now been accepted in all parts of the country. The National Policies on Education [1968 and 1986, and the latter's revised formulation of 1992] envisaged a uniform [10+2] pattern of school education across the states. Although education is on the concurrent list, states are free to evolve their own pattern of school education. Eight years of elementary education comprises two stages: a primary stage of grades I-V and an upper primary stage of grades VI-VIII. However, 8 years of compulsory education have been envisaged as one integrated unit. It is this compulsory stage that has been incorporated as a directive principle in the Constitution. The official age of entry to grade 1 is 6 but in a few states 5 is the entry-age. The Government has recently introduced 86th Amendment Act making elementary education a fundamental right. This is implemented as a part of the Sarva Shiksha Abhiyan [Education for All]. Majority of states and Union territories have already made elementary education compulsory.

Structure of Education

585. Like the elementary education, grades comprising secondary education differ in states. While secondary stage consists of grades IX and X in 19 states, it consists of grades VIII, IX and X in 13 states. Within a state, however, complete uniformity prevails. Government, local bodies and private managements maintain schools. In addition, private unrecognised institutions, both in rural and urban areas, are also in existence in large number.

586. In most of the states, after 10 years of schooling, 2+3+2 pattern is prevalent which consists of two years of higher secondary education, 3 years of first degree education and 2 years of post-graduate education.

STRUCTURE OF EDUCATION IN INDIA



-- COMPULSORY EDUCATION -----

SOURCE: Development of Education in India, 1990-92

Educational Facilities

587. In India, there are well-organised education facilities. There has been substantial expansion of primary and upper primary schools during the post-independence period [See Table 13.1]. The average annual growth rate of primary and upper primary schools during 1951-99 was 2.30 per cent and 5.58 per cent respectively. However, regional variations in the growth of educational institutions exist.

Table 13.1. Number of Schools in India

Year	Primary	Upper Primary	Ratio of Primary to Upper Primary Schools	High/Hr.Sec/ Intermediate
1950-51	209671	13596	15.4	7416
1955-56	278135	21730	12.8	
1960-61	330399	49663	6.7	17257
1965-66	391064	75798	5.2	
1970-71	408378	90621	4.5	36738
1975-76	454270	106571	4.3	
1980-81	494503	118555	4.2	51006
1985-86	528872	134846	3.9	
1990-91	560935	151456	3.7	79796
1995-96	590421	171216	3.4	98134
1998-99*	626737	190166	3.3	112438
Rate of	1.40	2.89		4.4

growth(%) 1990-98				
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*Provisional

588. The formal system of education does not cover the large number of children due to various socio-economic constraints. The scheme of non-formal education was introduced in 1979-80 and focused on children of the age group 6-14, who have remained out of the formal school. During 2000, an amount of 1172.9 million to State/UTs and Rs. 394.4 million to voluntary agencies was released for the implementation of the formal education programme. Both the Central and State Governments have initiated a number of programme in the Operation Blackboard under which schools are provided with additional teachers, classrooms and teaching-learning equipment.

589. The number of recognised high/higher secondary/intermediate/junior colleges which was 7,416 in 1950-51 increased to 88,411 in 1993-94, and further to 1,12,438 [provisional] in 1998-99.

590. Total number of colleges for general education increased from 370 in 1950-51 to 11,089 in 1999-2000. The total number of colleges for professional education increased from 208 in 1950-51 to 2,113 in 1998-99. In 1950-51, the total number of universities in the country was 27, which increased to 237 in 1998-99. The average annual growth rates of colleges for general and professional education were 6.5 percent and 4.9 percent respectively during the period 1950-51 to 1998-99. During the same period, the growth rate of universities in the country was 4.6 per cent. During the post-independence period, the number of students and teachers at higher education level has also registered a substantial growth.

591. Despite increase in the number of habitations and population, both the percentage of habitations and rural population served by primary and upper primary schools/sections within a distance of 1 and 3 kms. respectively has increased significantly. The percentage of population in habitations covered by primary schools within the habitation or at a distance of 1 km was 94 in 1993. Of the 10,61,000 rural habitations in the country, 52,800 [about 50 percent] had a primary school/section each within the habitation itself in 1993-94. About 83.4 per cent habitations had a primary school/section each within a distance of 1 km.

Girls Enrolment

592. Over the past decade participation of girls in the field of education has been tremendous. The girl's enrolment in the schools has shown tremendous growth. The number of girls' enrolment per hundred boys are indicated in Table 13.2. The girl's enrolment has increased from 39 to 79 in primary classes, 18 to 72 in Upper Primary and 16 to 65 in Secondary Classes for every 100 boys since 1950-51.

Table -13.2 Number of Girls enrolment per hundred boys enrolled

YEAR	PRIMARY (I-V)	MIDDLE (VI-VIII)	SECONDARY (IX-X)
1950-51	39	18	16
1960-61	48	32	23
1970-71	60	41	35
1980-81	63	49	44
1990-91	71	58	50
1991-92	72	62	52
1992-93	72	61	51
1993-94	76	66	57
1994-95	75	65	57
1995-96	76	65	57
1996-97	76	66	58
1997-98	77	67	58
1998-99*	77	68	62
1999-2000*	77	68	65
2000-01*	78	69	63
2001-02*	79	72	65

593. The participation of girls at all stages of education has been increasing steadily through the years as may be seen from Table 13.3. Since 1950-51 girl's participation has increased many fold in Primary, Middle, Sec./Hr.Sec stages and Hr. Education levels from 28.1% to 44.1%, from 16.1% to 41.8%, from 13.30% to 39.5%, and from 10.0% to 39.9% respectively. However, the girl's participation is still below fifty per cent at all stages of education.

Table 13.3. Percentage of Girls Enrolment to Total Enrolment by Stages

Year	Primary I-V	Middle VI-VIII	Sec./Hr.Sec/ Intermediate (IX-XII)	Hr. Education (Degree & level) above
1950-51	28.1	16.1	13.3	10.0
1955-56	30.5	20.8	15.4	14.6
1960-61	32.6	23.9	20.5	16.0
1965-66	36.2	26.7	22.0	20.4
1970-71	37.4	29.3	25.0	20.0
1975-76	38.1	31.3	26.9	23.2
1980-81	38.6	32.9	29.6	26.7
1985-86	40.3	35.6	30.3	33.0
1990-91	41.5	36.7	32.9	33.3
1995-96	43.1	39.5	36.1	36.0
1996-97	43.2	39.9	36.4	36.7
1997-98	43.5	40.3	36.6	37.5

1998-99*	43.5	40.5	37.8	38.1
1999-2000*	43.6	40.4	38.9	38.7
2000-2001*	43.7	40.9	38.6	39.4
2001-2002*	44.1	41.8	39.5	39.9

Table 13.4. Enrolment of Scheduled Tribe Students in School Education (in thousands)

Year	Primary (I-V)			Middle (VI-VIII)			High/Hr. Secondary (IX-XII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1	2	3	4	5	6	7	8	9	10
1980-81	3133	1527	4660	537	205	742	246	83	329
1985-86	4174	2406	6580	893	390	1283	420	165	585
1990-91	4958	2911	7869	1131	576	1707	567	238	805
1995-96	5589	3826	9415	1448	837	2285	763	359	1122
1996-97	5896	4057	9953	1508	894	2402	790	385	1175
1997-98	5667	4000	9667	1541	943	2484	778	396	1174
1998-99*	5312	3989	9301	1589	967	2556	856	452	1308
1999-2000*	6139	4511	10650	1804	1101	2905	918	504	1422
2000-01*	6330	4665	10995	1879	1205	3084	955	535	1490
2001-02*	6691	5040	11731	2054	1306	3360	1079	622	1701

Provisional

Table 13.5: Sex-wise Enrolment by Stages/Classes Since 1950-51 (in million)

Year	Primary (I-V)			Middle/Upper primary (VI-VIII)			High/Hr. Sec./Inter/pre Degree (IX-XII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1970-71	35.7	21.3	57.0	9.4	3.9	13.3	5.7	1.9	7.6
1980-81	45.3	28.5	73.8	13.9	6.8	20.7	7.6	3.4	11.0
1990-91	57.0	40.4	97.4	21.5	12.5	34.0	12.8	6.3	19.1
1991-92	58.6	42.3	100.9	22.0	13.6	35.6	13.5	6.9	20.4
1992-93	57.9	41.7	99.6	21.2	12.9	34.1	13.6	6.9	20.5
1993-94	55.1	41.9	97.0	20.6	13.5	34.1	13.2	7.5	20.7
1994-95	60.1	45.1	105.1	22.1	14.3	36.4	14.2	7.9	22.1
1995-96	60.9	46.2	107.1	22.7	14.8	37.5	14.6	8.3	22.9
1996-97*	62.5	47.9	110.4	24.7	16.3	41.0	17.2	9.8	27.0
1997-98*	61.2	47.5	108.7	23.7	15.8	39.5	17.1	10.2	27.2
1998-99*	62.7	48.2	110.9	24.0	16.3	40.3	17.3	10.5	27.8
1999-2000*	64.1	49.5	113.6	25.1	17.0	42.1	17.2	11.0	28.2
2000-01*	64.0	49.8	113.8	25.3	17.5	42.8	16.9	10.7	27.6

*Provisional

Source: Selected Educational Statistics 2000-01, Ministry of Human Resource Development

Primary Education

594. Universalisation of Primary Education has been accepted as an important national goal since India becomes a sovereign republic in 1950. The Constitution of India, the national policies on education (1968 and 1986) and the successive five year plans from 1952 to the present have all stressed the need for expanding provision for primary education, especially for disadvantaged groups and backward areas. In order to achieve this goal, concerted efforts have been made by the central and state governments. There has been a spatial spread, an increase in the infrastructure facilities; wider coverage of children and increased availability of primary schools.

595. The government is fully committed to the goal of Universalisation of Elementary Education (UEE) for promotion of education and social justice. The government's commitment to gain UEF is reflected in its various laws, plans and formal and non-formal schemes. The parliament has passed the Constitutional (86th) Amendment Act, notified on 13th December, 2002, making free and compulsory education a fundamental right, for all the children in the age group of 6-14 years.⁸⁰

Article 45 of Part IV dealing with directive principle is also altered as follows:

“The State shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years.”

Introduction of a new fundamental duty Article 51A(k) in part IVA reads as follows: -

“Who is a parent or guardian to provide opportunities for education to his child, or as the case may be, ward between the age of 6 and 14 years”.

These amendments have a significant effect for measures for achieving the goal of education for all (EFA).

596. By now 14 states and 4 union territories have passed legislations making elementary education compulsory either in their own state or in certain notified area.⁸¹ However, all states governments have abolished tuition fees in Government Schools up to upper primary level. Education in schools run by local bodies and private aided institutions is also mostly free. Other costs of education such as text books, uniforms, school bags, transport fees, etc., are not borne by states except in a few cases by way of incentives for children from poor and deprived segments of population including in some cases for the girl child.

597. Elementary education system in India is the 2nd largest in the world with 149.4 million children of 6-14 years enrolled and 2.9 million teachers. This is about 82% of the children in the age group.

⁸⁰ The constitutional amendment provides for the following :

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

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

⁸¹ These states are Assam, Andhra Pradesh, Bihar, Gujarat, Haryana, Jammu & Kashmir, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Kerala and West Bengal. The 4 union territories are Chandigarh, Delhi, Pondicherry, and Andaman & Nicobar Islands.

598. There are at present 130 plan schemes in the department with a total eighth plan outlay of Rs. 74430 millions. The total plan outlay of the department for the year 1996-97 is Rs. 33827 millions.

599. There are 18 centrally sponsored schemes which account for 65.7% of the total plan outlay. *Midday Meal Scheme* is the major centrally sponsored scheme with 1996-97 outlay of Rs. 14000 millions. Other centrally sponsored schemes are operation black-board, non-formal education.

Formal Schemes of the Central Government for Primary Education

600. Government has approved the innovative scheme of Sarva Shiksha Abhiyan (SSA).⁸² The SSA has a special focus on girls and children of weaker sections. A number of initiatives including the provision of free text books, target these children under the programme. NPEGEL is being implemented in educationally backward blocks where the rural female literacy is less and gender disparity is higher than the national average as one of the components of SSA.

Other Projects under SSA Programme

601. The District Primary Education Programme [DPEP] in 273 districts and Janshala [in 139 blocks] is being implemented within the SSA framework.⁸³

Allocation of funds under DPEP

Position of Budget Estimates Revised Estimates and Actual Expenditure for last three years is given as under:

Year	BE	RE	Actual
2000-01	969.00	820.00	856.39
2001-02	1098.00	1198.00	1198.00
2002-03	1380.00	1380.00	1285.03
2003-04	1200.00	800.00	791.19
2004-05	600.00	600.00	363.00 (31.12.2004)

602. Major Achievements of DPEP

⁸² Objective of the Sarva Shiksha Abhiyan:

1. All children in the 6-14 age group in schools/EFA Centres/bridge course by 2003.
2. All children in the 6-14 age group complete 5 years of primary education by 2007.
3. All children in the 6-14 age group complete eight years of schooling by 2010.
4. Focus on element education of satisfactory quality with emphasis on education for life. Bridging of all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010.
5. Universal retention by 2010.

⁸³ DPEP is Centrally sponsored scheme providing special thrust to universalisation of primary education. It operates the strategy through district specific planning with emphasis on decentralised management.

The programme mainly aims at providing access to primary education for all children, reducing primary dropouts rates to less than 10% increasing leaning achievement of primary school students by at least 25% and reducing the gap among gender and social groups to less than 5%. 25% of the project [DPEP] cost is met by the Government of India and remaining 15% by State government.

Fund sanctioned as under SSA and DPEP programme by Government Page 64 – Annual Report 2002-03.

(i) DPEP has so far opened more than, 1,60,000 new schools, including almost 84000 alternative schooling centers. The AS centers cover nearly 3.5 million children, while another 2 million children are covered by bridge courses of different types.

(ii) Enrolment in DPEP-I districts has increased from 7.93 million in 1997-98 to 9.26 million in 2001-02. In the districts covered under DPEP in the subsequent phases, the overall enrolment has increased from 18.53 million in 1997-98 to 60 million in 2002-03.

(iii) The school infrastructure created under DPEP has been considerable. Works completed include 52758 school buildings, 58604 additional classrooms, 16619 resource centers, 29307 repair works, 64592 toilets and 24909 drinking water facilities. Another 3285 school buildings, 5348 additional classrooms, 1027 resource centers, 2599 toilets, 2119 drinking water facilities and 766 repairs are in progress in the 129 districts of 9 states where the project continues.

(iv) The total number of children with disabilities enrolled in DPEP is 420203, which represents almost 76% of 553844 children with disabilities identified in the 9 DPEP states. 0.6 million teachers have been trained in IED in DPEP through various teacher-training programmes. Aids and appliances have also been provided to disabled children through convergence with various schemes. Attempt to incorporate barrier free features in new school buildings are in progress. Awareness programmes have been conducted in all the states, with focus on community mobilization, through which 618508 VEC members have been oriented to IED.

(v) Despite the increase in enrolments over the years, the average Student Class Ratio (SCR) for schools covered under DPEP was 42 in 2002-03 compared to nearly 50 in 1996-97.

(vi) A study was conducted to estimate the dropout rate from the 2001/01 and 2001/02 EMIS data on enrolment and repeaters using the Reconstructed Cohort Method. The percentage of children who dropped out between grade I and the last grade of primary school was found to be less than 10% in 20 out of the 102 districts and less than 20% in one-third of the districts. The gender gap was less than 5% points in 62% districts, but the high dropout rate in a large number of districts is still a matter of concern.

(vii) A study was undertaken in four states to find out the reasons of high drop out rate. These studies highlighted both home background and school related factors responsible for children dropping out from school. The parents of dropouts, in general were poor and uneducated who could provide little help to the child in studies. The prominent school related factors were shortage of teachers, their inability to provide remedial teaching, lack of facilities and uncongenial atmosphere in schools that make schools unattractive to the child.

(viii) The enrolment of girls has shown significant improvement. In DPEP-I districts, the share of girls enrolment in relation to total enrolment has increased from 48% to 49%, while this increase in the subsequent phases of DPEP districts has been from 46% to 47%.

(ix) Village Education Committees/ School Management Committees have been set up in almost all project villages / habitations/schools.

(x) About 1,77,000 new teachers, including para-teachers I Shiksha Karmis have been appointed.

(xi) About 3380 resource centers at block level and 29725 centres at duster level have been set up for providing academic support and teacher training facilities.

(xii) According to Terminal Assessment Survey conducted in 49 Phase-I districts in 2001 and 83 Phase-II districts in 2003, in over 95% districts the average marks in class I tests of both Language and Mathematics, exceeded 60%, whereas in class III/IV, the percentage of districts in which the average marks exceeded 60 out of 100 was 43.2% in language and 28,8% in Mathematics tests.

(xiii) Some of the significant milestones achieved in the quality improvement initiatives under the District Primary Education Programme include organization of frequent need based decentralized training programmes; child friendly textbooks developed with intensive participation of teachers; extension of onsite academic support to teachers; establishment of resource centers and provision of teachers grant for TLM preparation.

This certainly encompasses the broad gamut of initiatives undertaken in DPEP for quality improvement. There are also certain other activities which have contributed to the quality improvement under DPEP. They include the following:

- School library programme in West Bengal, Andhra Pradesh in collaboration with the NBT and several NGOs through mobile book van, book festivals and workshops on development of supplementary reading materials; Jharkhand, Uttar Pradesh, Rajasthan and Orissa also have taken interest in promoting children's reading habit through school libraries.
- Experiments in multi-grade multi-level (MGML) situations: Several States have attempted to develop materials for MGML situation, identified schools, trained teachers and piloted in selected schools for enhancing the learning achievement of children.
- Problems related to tribal children have been addressed through development of contextual materials in A,P, , Orissa etc,
- States have attempted to improve the quality of their learners' evaluation and have designed remedial strategies to address the needs of the slow learners.
- The academic resource groups formed at state, district, block and cluster level in most states have contributed to more contextual planning and implementation of quality factors in the programmes,
- Initiatives like the resource enhancement programme (REP) at the national level have strengthened the understanding and practices of the teacher educators to a good extent.
- Teachers and teacher educators have been exposed to a wide range of resource materials and practices related to quality improvement. This has and will have its impact on the quality improvement on a continuous manner.

603. Janshala programme is a collaborative effort of the Government of India and five UN Agencies. UNDP, UNICEF, UNESCO, ILO, UNFAA to provide programme support to the ongoing efforts towards achieving UEE.⁸⁴

National Programme of Nutritional Support to Primary Education is a nation wide programme of nutritional support to primary education [popularly known as mid-day meals scheme or MDM] was launched in 15th August, 1995 with the objectives to give a boost to UPE and simultaneously impacting on the nutritional status of students in primary classes studying in government, local body and government aided schools.⁸⁵

Table 13.6

Year	No of children (in million)	Quantity of food allocated (in MTs)	Quantity of food lifted (in MTs)	Expenditure in million (Rs.)
1995-96	33.4	713223	536016	4412.1
1996-97	55.7	1585388	112489	8000.0
1997-98	91	2567372	1810164	10703.8
1998-99	97.9	2706274	1147917	16001.5
1999-2000	99	2767251	1401765	15000
2000-01	105.4	2480692	1517816	13000
2001-02	103.5	2862475	2076764	10302.7
2002-03	102.6	2826248	901756	9524.4

(upto September 2002)

Judiciary even supported these schemes of the government of India in different cases and gave direction to make it more effective.

- Under the non-formal programme the government has Education Guarantee and Alternative and Innovative Education (EGS & AIE).⁸⁶

Table 13.7 Number of EGS/AIE

State	No. of centers
Andhra Pradesh	11011
Jammu & Kashmir	2273
Karnataka	1552

⁸⁴ Janshala is community based primary education more accessible and effective, especially for girls and children in deprived communities, marginalised groups, SC & STs minorities, working children. This programme is block-based programme with emphasis on community participation and decentralisation. The programme covers 139 blocks including 10 cities in 30 districts of 9 states. The programme was initially for 5 years only from 1998 to Dec. 2002 which has now been extended for 2 more years i.e. upto December 2004.

⁸⁵ The central support under this programme is to provide free of cost foodgrains to children at the rate of (i) 100gm per student per school day in States/ UTs where cooked meal is provided, (ii) 3 kg per student foodgrains are distributed subject to 80% of attendance. The programme has seen All India coverage during 1997-98 except for Lakshadweep. The year wise details of children targeted for coverage and quantity of foodgrains allocated and lifted by state agencies and expenditure incurred is given below.

⁸⁶ The scheme applicable throughout the country is flexible and operationally proactive and would support the following broad strategies:

Setting up of the schools in school-less habitations (EGS)

Interventions for mainstreaming of 'out - of - schools' children viz. bridge courses, back to schools camps etc.

Strategies for the very specific, difficult groups of children who cannot be mastermind.

Madhya Pradesh	20378
Maharashtra	4478
Orissa	9673
Uttar Pradesh	2179
Uttaranchal	373

The expenditure on elementary education was 1.78% of GDP in 1990-91. The percentage expenditure on elementary to GDP shows a gradual fall to 1.65% in 1994-95 and then a gradual rise to 2.02% in 2001-02.

The share of expenditure on elementary education to total expenditure on all sectors was 6.19% during 1990-91 and shows irregular rise and fall and finally settled at 6.61% during 2001-02.

604. Secondary Education

Table 13.8 Number of total Secondary school in the country as tabulated

Year	Higher/Higher S. Schools/ Inter/Pre degree college	Students [million]	Teachers [in million]
1950-51	741.6	1.5	0.1
1990-91	7979.6	19.1	1.3
1995-96	9013.4	24.9	1.4
1998-99	11243.8	27.7	1.7
1999-2000	11682	28.2	1.7

Source selected education statistics, MHRD, 1999-2000

The number of secondary and senior secondary schools increased from 1,16,000 in 1999-2000 to 1,21,951 as on September 30, 2002, with a student enrolment of 28.8 million. Participation of private sector in the management of secondary education is also recognised. Private organisations currently manage around 51% of secondary schools and 58% of higher secondary schools.

605. In order to meet the educational needs of those who have not been able to enroll themselves in the formal system, opportunities have been provided through the National and State open schools. National Institute of Open schooling (NIOS) has emerged as the biggest open schooling system in the world. According to the annual report of 2002-03, it has more than 0.7 million student enrolled at the secondary and senior secondary level. It has a network of 10 regional centers and about 2000 study centers for the programmes. For neo-literate, school drop-outs/ left-outs and non-formal education completers, open basic education, as an alternative programme is prevalent. The NIOS has been offering the course in 12 languages as subjects viz., Hindi, English, Bengali, Marathi, Telugu, Urdu, Gujarati, Kannada, Sanskrit, Punjabi, Assamese and Nepali for secondary examination and Hindi, English and Urdu for senior secondary examination.

606. To enhance the accessibility of the secondary education among the rural areas various scholarships at the secondary stage is provided. A total of 38,000 scholarships have been awarded to students.

Vocational Education

607. A centrally sponsored scheme of vocationalisation of secondary education was launched in February 1988. Since 1988 (revised in 1992-93) government has created a massive infrastructure of 19,608 sections in 6800 schools providing for diversion of 1 million students at 10+2 level.⁸⁷

608. The centrally sponsored scheme of pre-vocational education at lower secondary state was launched in 1993-94 with the objective imparting training in simple marketable skills to the students of class IX and X. Assistance has been provided so far to 10 states/UTs for introduction of prevocational courses in 652 schools.

609. A Central substitute of vocational education named "*Pandit Sunderlal Sharma Central Institute of Vocational Education [PSSCIVE]*" was set up at Bhopal in 1993 under the overall umbrella of NCERT.⁸⁸

610. In the year 2001-02 computer literacy and studies in school [CLASS] was introduced with the main schemes of directing the state to formulate a Computer Education Plan [CEP] and State government to contribute 25% of the funds required for the scheme.⁸⁹

611. National Educational Policy 1986 has the scheme to financing the state/UTs for science kits to upper primary schools. A detailed information on technical education has been provided in report submitted to Committee by India on this point.⁹⁰

Higher Education

612. Over the year there has been a significant growth in the number of new universities and institutions of higher learning in specialized areas in the country. Detailed information has been provided on the higher education in India in its reports submitted to Committee by India.⁹¹ This report provides further information in the backdrop of globalisation. During the ninth plan an outlay of 25206 million was allocated for the university and higher education sub- sector against which an expenditure of Rs. 22709.2 million was incurred.

613. Despite serious handicaps of means and resources, the country has built up during the last 50 years a very large system of education and has created a vast body of men and women equipped with a high order of scientific and technological capabilities. There are

⁸⁷ 100% Central Assistance is given for district vocational surveys, workshops for development of curricular, instructional materials, a text book, training of teachers, equipment, construction of worksheds, monitoring, evaluation and field visits. The central government bears 75% of expenditure on salary of management staff at the state directorates, SCERTs and district levels and for raw material. The state government have to bear 100% expenditure on contingencies, examination, certification and vocational guidance.

⁸⁸ The Institute acts as an apex level research and development organisation in the field of vocational education and provides directs and academic support to the programmes.

⁸⁹ During financial year 2001-02 a provision of Rs. 845 million has been earmarked for the purpose of making the basic computer facility possible.

⁹⁰ E/1988/5/Add.5, para. 19.

⁹¹ E/1988/5/Add.5, para. 18.

now 273 universities/deemed to be universities (including 18 medical universities and 40 agriculture universities) and 12,300 colleges (of which 4,683 are in the rural areas).

614. Higher education in India is coordinated by several agencies (UGC etc.).⁹² There is yet another type of coordinating agency called Association of Indian Universities (AIU) which was earlier known as Inter-Universities Board of India. In formal higher education UGC plays a major role. A major programme of vocationalising of the education has initiated in 35 subjects at the undergraduate level. The UGC provides financial assistance to all eligible central, state and deemed universities. For improving infrastructure and basic facilities UGC updates the curriculum of different disciplines.

Distance Learning Programme

615. The non-formal system (distance and open learning) amounts for only a 13% of the total enrolment of higher education.⁹³ At present there are 9 state open universities and 64 institutes of correspondence courses and directorate of distance education in conventional universities. Indira Gandhi National Open University (IGNOU) has expanded its regional base to 48 regional centers and 119 studies centers. It has 82 programmes consisting of more than 800 courses consisting of Ph.D., master degree programme, advanced/PG diploma, etc. During the year 2003 over 0.3 million students were registered for various programmes of study. IGNOU has established 269 study centres for women, SC/ST and physically challenged persons. On 26 January 2001, it has launched its educational channel Gyandarshan which is now a 24 hour channel. In 2001 it has also launched FM radio network for providing additional students support, which is to be expanded to 40 FM stations in course of time. The launch of another satellite channel for technological education, viz., 'Eklavya channel' on 26 January 2003 is another milestone in the growth and development of distance education.

616. For the section of the deprived section of the society the government has fixed reservation of seats for SC and STs in the central government institutions of higher education including IITs, IIMs, Regional Engineering Colleges, Central Universities, etc. There is also relaxation in the minimum qualifying cutoff stages for admission in universities colleges and technical institutions, apart from reservation. The UGC established SC/ST cells in 109 universities including central universities to ensure proper implementation of the reservation policy.

617. In the first year of the 10th plan, the UGC has plan budget estimates amounting to Rs. 5167.5 million for 5 sectors consisting of around 70 schemes/programmes. About 45% of the 9th plan scheme/prorammes have been dropped and 40 new schemes have been added for implementation during the 10th plan period. The five broad sectors of the 10th plan are general development of universities and colleges (2190 million plan budget estimates), enhancing access and equality (195 million), promotion of relevant education

⁹² While the universities System falls within the jurisdiction of UGC, professional institutions are coordinated by different bodies. The All India Council for Technical Education (AICTE) is responsible for coordination of technical and management education institution. The other statutory bodies are Medical Council of India (MCI), Central Council of Indian Medicine, the Homeopathy Central Council, the Indian Council of Medical Research (ICMR), Indian Nursing Council of Agriculture, the Dental Council, the Bar Council of India, the Indian Council of Agricultural Research (ICAR) etc.

⁹³ Out of 7.7 million students enrolled in university and college the distance education/ correspondence courses covered only million students.

(700 million), quality and excellence (992.5 million) and strengthening of research (990 million).

618. Higher education in India is not free, though very economical comparable to the other developed countries. In the case of deprived sections the government further subsidized the amount. Like reservation of seats for SC/STs in central government institutions of higher education like IIMs, IITs, Regional Engineering institution. Relaxation in the minimum qualifying cut off stages for admission is also available.

Adult Education

619. In the year of 1977-78 the government decided to accord due weightage to adult education along with the programme of UEE and National adult education was put on the education agenda of the nation.

620. Further the National Literacy Mission (NLM) aims to attain a sustainable threshold level of 75% literacy by 2007 by imparting functional literacy to non – literates in the age group of 15-35 years. Total literacy campaign is the principle of NLM for eradication of illiteracy. These programmes are area specific, time bound, participative, cost effective and outcome oriented.

621. The NLM has covered 96.64 million persons under various adult literacy schemes upto December 2001. At present, out of 593 districts in the country, 160 districts are covered under Total Literacy Campaign (TLC), 264 under PLC (Palli Literacy Campaign) (including 30 under the rural functional literacy programme) and 152 under the continuing education programme. NLM is now engaged in the task of imparting functional literacy to persons in the 15-35 age group and has set the goal to achieve literacy level of 75% by 2005.

622. In India, there is a continuing education scheme providing further learning opportunities to neo-literates by setting up of Continuing Education Centers (CECs) which provides area specific need based opportunities for the basic literacy, upgradation of literacy skills pursuits of alternative educational programmes vocational skills and also promote social and occupational development.

The Central Directorate of Adult Education also provides academic and technical resource support to national literacy mission. The 10th plan targets for adult education are: -

- To achieve full literacy i.e, a sustainable threshold level of 75% by 2005.
- To cover all left over districts by 2003-04.
- To remove residential illiteracy in the existing districts by 2004-05.
- To complete post literacy campaign in all districts.
- To launch continuing education programmes in 100 districts by the end of the plan period.

623. The focus of the 10th plan is to mitigate the regional disparities and special problems of low literacy states like UP, Bihar, Rajasthan, Madhya Pradesh, AP, Jammu & Kashmir , Jharkhand and Chattisgarh and which have been given greater attention.

624. Expenditure on Education

Public expenditure on education

Table 13.9 shows the public expenditure on education in India during the period 1951-52 to 2001-2002.

I) Government expenditure on education (Trg. & Rev) by education and other Departments. (center+state)

II) Total Government expenditure on all sectors (Rev)

III) GDP at current prices (at factor cost) base year 1993-94

IV) % of Expenditure on Education to Expenditure on all sectors

V) % of Education Expenditure to GDP

Table- 13.9 Public Expenditure on Education in India (In million)

Yr.	1951-52	1955-56	1960-61	1965-66	1970-71	1975-76	1980-81	1985-86
I	644.6	1183.9	2395.6	4326.1	8923.6	18494.7	38842	87130.2
II	8141.3	11112.6	19979.3	44048.2	87871.2	179590	363984	670914
III	100800	103320	162200	255860	422220	757090	1301780	2495470
IV	7.92	10.65	11.99	9.82	10.16	10.30	10.67	12.99
V	0.64	1.15	1.48	1.69	2.11	2.44	2.98	3.49

Yr.	1990-91	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02
I	196159	38178	43897	48552	61579	74816	82487	84180(R.E)
II	146712	286195	329390	380729	439768	512519	572160	639048
III	510954	1073271	1243546	1390148	1598127	1761932	1917724P	2094013Q
IV	13.37	13.34	13.33	12.75	14.00	14.60	14.42	13.17
V	3.84	3.56	3.53	3.49	3.85	4.25	4.30	4.02

625. Over the period 1980-81 to 1998-99 'education expenditure ratio' i.e., the percentage of public expenditure on education to the total public expenditure has increased consistently at both Central and State level (Statistical Appendix Tables 7.5 to 7.8). In case of the former, the ratio increased from 2.7 to 3.9 between 1980-81 and 1998-99. Together for all, the Ratio increased from 13.89 in 1980-81 to 17.36 in 1991 and further to 17.39 in 1998-99. In the 1990s, this ratio increased considerably in Rajasthan, Orissa and also in Bihar but declined significantly in Andhra Pradesh, Kerala and West Bengal.

626. The increase in the share of public expenditure on education to a total public expenditure has also been mirrored in the growth in private expenditure on education. In the last two decades, as per the National Accounts Statistics for India, the share of private expenditure on educational services to the total private consumption expenditure increased from around 2.5 per cent, in the early eighties to over 3.5 per cent in the late nineties. An aspect of this is reflected in the growing presence of private and missionary schools from the kindergarten level to the vocational and professional colleges throughout the country. Budgetary allocation of fund.

Table 13.10 Public Expenditure on Education in India (1950-51 - 1997-98)

Year	At current Prices			At constant prices		
	Total [Rs. In 10 millions]	Per capita [Rs.]	Per pupil [Rs.]	Total [Rs. in 10 millions]	Per capita [Rs.]	Per pupil [Rs.]
1950-51	114.4	3.2	35.6	558.7	15.6	173.9
1960-61	334.4	7.9	53.7	1446.9	33.2	225.6
1970-71	1118.3	20.7	141.7	2626.2	48.6	332.8
1980-81	3649.6	53.2	319.7	3640.6	53.2	319.7
1990-91	17193.7	203.2	1071.6	7714.0	91.1	480.0
1997-98B	41246.0	419.6	2223.8	10260.2	104.4	553.2

Notes : 1990-91 onward government expenditure only

B = Budget estimates

US \$ 1 = Indian Rupees 46.33

627. The growth of the education system is also reflected by increase in expenditure on education, which has been impressive, educational expenditure increased from Rs. 1.1 billion in 1950-51 to Rs. 412 billion in 1997-98 [budget estimates] indicating a staggering increase of 360 times. The expenditure per pupil, however, increased by 62 times during the same period. [See above table].

628. Despite such sizable increase in public expenditure on education, the government considers it insufficient. The stated position of the government in this regard is that public expenditure on education should be increased to 6% of GDP. A first step to achieve this target has been to impose on "education" less of 2% on all central government taxes since 2004-05.

Literacy Rate

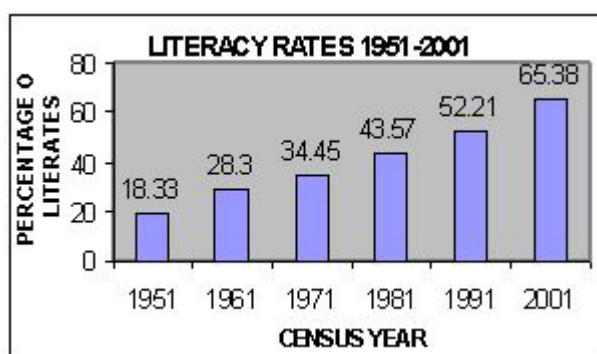
629. The Census of India currently defines the literacy rate as proportion of literates to total population in age group 7 years and above. During the past fifty years, India has made rapid strides with regard to the spread of education. It was merely 18.3 per cent (for the age group 5 years and above) in 1951, 43.6 percent in 1981 and is 65.2 per cent as per the Census 2001. In the decade 1991-2001 the number of illiterates declined, for the first time since the Census of 1951, by almost 32 million in absolute terms. There are, however, large inter-State variations in literacy rates in the country. At one end, proportion of literates was the highest in Kerala, at over 90 per cent, and at the other it was less than 50 per cent in Bihar for the year 2001. The regional variations in literacy rates have declined

since 1981, though the disparities exist if one takes into account rural-urban differences or the differences between male and female literacy rates. The corresponding figures for males and females were 75.85 and 54.16 percent respectively. The literacy rates are given as below:

Table – 13.11 Literacy rates (% age)

Census year	Persons	Males	Females	Male-Female gap in literacy rate
1	2	3	4	5
1951	18.33	27.16	8.86	18.30
1961	28.30	40.40	15.35	25.05
1971	34.45	45.96	21.97	23.98
1981	43.57	56.38	29.76	26.62
1991	52.21	64.13	39.29	24.84
2001	65.38	75.85	54.16	21.70

Source: Census of India



630. The literacy rate in rural areas increased from about 36 per cent in 1981 to 59 per cent in 2001. The corresponding rates in urban areas were about 67 and 80 per cent, respectively. Thus, rural-urban gap has declined from about 31 to 21 percentage points. During this period, there has been appreciable progress in the literacy rate for males rose 76 per cent in 2001. For rural areas, gender gap declined from 28 to 24 percentage points, whereas in case of urban areas the decline was a little higher at 7 percentage points. The inter-State variations in literacy rate for males were much lower in comparison to females. Of the larger States, while Kerala is among the best performers in terms of literacy rate – both for males and females – Bihar continues to be at the bottom.

631. As against the overall literacy rate of 52.2 per cent in 1991, the literacy rate for Scheduled Castes and Scheduled Tribes was 37.4 per cent and 29.6 per cent, respectively. For others, the literacy rate was 57.7 per cent. Less than one-fourth of Scheduled Tribes were literate. In case of Bihar less than 10 per cent of Scheduled Caste females were literate in 1991. The situation was much worse in 1981, when only about 1 per cent of Schedule Tribe females in Rajasthan were literate. At the other extreme, nearly three-fourths of the females from among male and female literacy rate among Scheduled Castes and Scheduled Tribes were much higher than those for the rest of the population.

Scheduled Castes Enrolment:

632. The total Scheduled Castes enrolment at the primary (I-V), upper primary (VI-VIII) and secondary / senior secondary (IX-XII) stages of school education from 1980-81 to 2001-2002 (Table 13.12), increased by 1.9, 3.4 and 3.7 times respectively. The Scheduled Caste girl's enrolment increased by 2.5, 4.9 and 6.6 times respectively during the same period in the above stages of school education.

Table 13.12 Enrolment of Scheduled Caste Students in Schools (in ooo')

Year	Primary (I-V)			Middle (VI-VIII)			High/Hr. Secondary (IX-XII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1	2	3	4	5	6	7	8	9	10
1980-81	7213	3768	10981	1621	602	2223	906	246	1152
1985-86	8727	5194	13921	2537	1082	3619	1378	432	1810
1990-91	9737	6057	15794	2747	1413	4160	1703	635	2338
1995-96	11284	7892	19176	3453	1992	5445	1854	887	2741
1996-97	11754	8368	20122	3621	2176	5797	1952	975	2927
1997-98	11898	8659	20557	3786	2283	6069	2026	1048	3074
1998-99*	11123	8377	19500	3748	2388	6136	2068	1149	3217
1999-2000*	11810	8625	20435	3881	2420	6301	2385	1399	3784
2000-01*	12059	9136	21195	4066	2628	6694	2418	1394	3812
2001-02*	12251	9253	21504	4551	2945	7496	2693	1622	4314

Table 13.13 Enrolment of Scheduled Tribe Students in School Education (in thousands)

Year	Primary (I-V)			Middle (VI-VIII)			High/Hr. Secondary (IX-XII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1	2	3	4	5	6	7	8	9	10
1980-81	3133	1527	4660	537	205	742	246	83	329
1985-86	4174	2406	6580	893	390	1283	420	165	585
1990-91	4958	2911	7869	1131	576	1707	567	238	805
1995-96	5589	3826	9415	1448	837	2285	763	359	1122
1996-97	5896	4057	9953	1508	894	2402	790	385	1175
1997-98	5667	4000	9667	1541	943	2484	778	396	1174
1998-99*	5312	3989	9301	1589	967	2556	856	452	1308
1999-2000*	6139	4511	10650	1804	1101	2905	918	504	1422
2000-01*	6330	4665	10995	1879	1205	3084	955	535	1490
2001-02*	6691	5040	11731	2054	1306	3360	1079	622	1701

Provisional

633. Number of Primary Schools

There has been considerable rise in the number of primary schools during the period 1950-51 to 2001-02. During this period the number of primary schools increased by 3 times.

Table 13.14

Year	Primary	Upper Primary
1950-51	209671	13596
1995-96	593410	174145
1996-97	603646	180293
1997-98	619222	185961
1998-99	626737	190166
1999-2000	641695	198004
2000-01	638738	206269
2001-02	664041	219626

Table 13.15 Percentage of Primary Schools under Different Management

Year	Government	Local Body (LB)	Private aided	Private unaided
1973-74	50.88	42.47	5.01	1.64
1978-79	38.96	55.03	4.42	1.59
1986-87	41.37	51.71	4.34	2.57
1993-94	44.63	47.47	3.78	4.12
1996-97	47.78	43.88	3.34	5.00
2001-02	47.45	43.47	3.07	6.01

Table 13.16 Growth of Enrolment Sex wise [in millions]

Year	Boy	Girl	Total
1950-51	13.8	5.4	19.2
1995-96	60.9	46.2	107.1
1996-97	61.4	46.8	108.2
1997-98	62.3	48.0	110.3
1998-99	62.7	48.2	110.9
1999-2000	64.1	49.5	113.6
2000-2001	64.0	49.8	113.8
2001-2002	63.6	50.3	113.9

Table 13.17 Teachers by Type of Schools

Year	Male	Female	Total
1950-51	456	82	538
1995-96	1176	558	1734
1996-97	1190	566	1756
1997-98	1226	597	1823
1998-99	1246	658	1904
1999-2000	1236	683	1919
2000-01	1221	675	1896
2001-02	1213	215	1928

The above figures do not capture the significant increase in primary schools that have taken place since 2002-03 on account of “ Sarva Siksha Abhiyan”, which is a campaign to achieve universal elementary education in India. The target for this programme is to ensure that no child should have to travel more than 1 Km to attend elementary school.

Adult Literacy

634. The position with regard to the population 15 years and above during all these four decadal censuses and the 52nd and 54th Rounds of NSSO is given in Table 13.18. However, according to the 52nd round, the literacy percentage for 1996 in the age-group 15 years and above is 54.32% (total); 67.25% Males and 40.67% Females and the 54th NSSO Round for 1998 has placed the adult literacy of India at 57% (70% M & 44% F).

Table- 13.18 Adult Literacy 15 Years and Above

Particulars	1961	1971	1981	1991*	1996@	1998#
I- Illiteracy %age						
Male	58.55	52.31	45.09	38.11	32.75	30
Female	86.85	80.64	74.30	65.91	59.33	56
Total	72.24	65.92	59.18	51.46	45.48	43
II- Literacy %age						
Male	41.45	47.69	54.91	61.89	67.25	70
Female	13.15	19.36	25.70	34.09	40.67	44
Total	27.76	34.08	40.82	48.54	54.32	57

*Excluding J&K @ NSSO 52nd Round 1995-96 # NSSO 54th Round 1998

635. It was 50 per cent for rural areas and 78 per cent for urban areas. The proportion of adult literates among females in urban areas of nearly 68 per cent was more than twice that of the ratio prevailing in rural areas. This difference in case of males was much less. The urban adult literacy rate for males was 86 per cent, whereas in case of rural areas it was 64 per cent. For a number of States, adult literacy rate for females in rural areas was 25 per cent or less. Among the larger States that fall in this category, include Bihar, Madhya Pradesh, Uttar Pradesh and Rajasthan. Overall, the States of Andhra Pradesh, Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh had an adult literacy rate of less than 50 per cent in the first half of 1998.

Drop out

636. Through various schemes, Government of India has significantly reduced the drop out cases. The regional disparity in drop out has also been considerably reduced. As per the latest estimates available from the Ministry of Human Resources Development, of students enrolled in classes I-V, over 40 per cent dropped out in 1999-00, as against 58.7 per cent in 1980-81 and 65 per cent in 1960-61. Similarly, nearly 55 per cent of students enrolled in classes V\I-VIII dropped out in 1999-00 as against nearly 73 per cent in 1980-81 and 78 per cent in 1960-61. The drop out rate of girls has also been reduced. It was 42.3 per cent for classes I-V and 58 per cent for classes I-V and 58 per cent for classes I-VIII in 1999-00 as against 62.5 per cent and 79.4 per cent respectively, in 1980-81. At State level, the drop out rate has been quite high in Bihar, Jammu-Kashmir, Orissa, Rajasthan, UP, West Bengal and most of the States in North East for classes I-V and in

Andhra Pradesh, Assam, Bihar, Gujarat, Karnataka, Orissa and West Bengal, apart from the North Eastern States for classes I-VIII in 1999-00. The drop out rate in classes I-X was over 68 per cent for the country.

637. The rates of drop out have decreased from 64.9% in 1960-61 to 39.0% in 2001-2002 in primary classes. The rate of dropouts which was 78.3% in 1960-61, has come down to 54.6% in 2001-2002 in the upper primary classes, similarly, the rate of dropouts which was 82.5% in 1980-81, has decreased to 66.0% in 2001-2002 in the secondary classes, implying an improvement in retention rates as would be evident from Table 13.19. In order to improve retention at the primary school level, the government has launched a scheme of mid-day meals for children at school. It is proposed to extend coverage of this programme to the upper primary level in the coming year.

Table –13.19 Drop-Out Rates at Primary, Elementary & Secondary Stages

	1960-61	1970-71	1980-81	1990-91	1992-93	1999-2000*	2001-2002*
Classes I-V							
Boys	61.7	64.5	56.2	40.1	43.8	38.7	38.4
Girls	70.9	70.9	62.5	46.0	46.7	42.3	39.9
Total	64.9	67.0	58.7	42.6	45.0	40.3	39.0
Classes I-VIII							
Boys	75.0	74.6	68.0	59.1	58.2	52.0	52.9
Girls	85.0	83.4	79.4	65.1	65.2	58.0	56.9
Total	78.3	77.9	72.7	60.9	61.1	54.5	54.6
Classes I-X							
Boys	N.A	N.A	79.8	67.5	70.0	66.6	64.2
Girls	N.A	N.A	86.6	76.9	77.3	70.6	68.6
Total	N.A.	N.A	82.5	71.3	72.9	68.3	66.0

*- Provisional

Languages and Media of Instruction in Schools

638. India is a multilingual country, with 1,652 mother tongues as per the Census of India, 1961. In its Eighth Schedule the Constitution of India has specified 15 Modern Indian Languages.⁹⁴ Of these, Hindi has been accorded the status of the official language of India and English of an associate language.

639. The language policy of India is basically embodied in Part XVII of the Constitution of India along with the Eighth Schedule (Articles 344 and 351) and in the Articles dealing with the Fundamental Rights.

640. Since Independence, the Government of India has appointed various Committees and Commissions to study the language policy exclusively for or as a part of the total educational system. These committees and commissions recommended various formulae for the study of languages at different school stages. The three-language formula has been considered a national need.

⁹⁴ Language recognized by the Constitution: Asamese, Bengali, Gujarati, Hindi, Kannada, Kasmiri, Malayalam, Marathi, Oriya, Punjabi, Sanskrit, Sindhi, Tamil, Telugu, Urdu.

641. According to the modified three-language formula (i) the mother tongue or the regional language is to be taught from the first standard to the tenth as the first language, (ii) the second language could either be Hindi or English, which is to be taught compulsorily from the fifth standard to the tenth. At this stage, a student can also offer English or Hindi (whichever is not offered as a compulsory language) as an optional language, and (iii) the third language, to be taught between the eighth and tenth standards, could either be Hindi or English, whichever is not studied previously.

642. During these three years a student can also study optionally one or more modern Indian languages. At the higher secondary stage, a student has to study compulsorily any two of the languages he had studied earlier or any other two of the following and one or more Indian languages optionally.

- i. Modern Indian languages
- ii. Classical language (Indian or Foreign)
- iii. Modern Foreign languages

The National Council of Educational Research and Training (NCERT) has conducted five All-India Educational Surveys. The fifth (NCERT) survey has revealed that the number of languages used as media of instruction is 43 at the primary stage, 31 at the upper primary stage, 22 at the secondary stage, and 20 at the higher secondary stage.

643. According to the present survey, 27 languages are used as the first languages at the primary and upper primary stages while 28 languages are used at the secondary stage.

Languages Taught in Schools

644. According to the National Language Policy, a child is required to study three languages in school. These are termed as the First Language, the Second Language and the Third language, in the order in which these are introduced in schools.

645. In all, there are 44 languages used in schools as the First, the Second, or the Third Languages. The languages used in India schools as First Language, Second Language or third Language are given in Table 13.20.

Table 13.20 Languages used in Schools

S. No.	Language
1.	Angami
2.	AO
3.	Arabic
4.	Assamese
5.	Bengali
6.	Bhutia
7.	Bodhi
8.	Bodo
9.	Dogri
10.	English
11.	French
12.	Garo
13.	Gujarati

14. German
15. Hindi
16. Kannada
17. Kashmiri
18. Khasi
19. Konkani
20. Konyak
21. Laddakhi
22. Lepcha
23. Limboo
24. Lotha
25. Malayalam
26. Manipuri
27. Marathi
28. Maithili
29. Mizo
30. Nepali
31. Nicobaree
32. Oriya
33. Oriya (lower)
34. Persian
35. Portuguese
36. Punjabi
37. Rajasthani
38. Sanskrit
39. Sema
40. Sindhi
41. Tamil
42. Tibetan
43. Urdu
44. Zeliang

Table 13.21 Schools According to the First Language

School Stage	Area	One Language	Two Languages	Three Languages	More than three languages
Primary	Rural	548593 (98.55%)	7699 (1.38%)	356 (0.06%)	4 (0.00%)
	Urban	72207 (96.72%)	2306 (3.09%)	137 (0.18%)	6 (0.01%)
	Total	620800 (98.33%)	10005 (1.58%)	493 (0.08%)	10 (0.00%)
Upper Primary	Rural	141119 (97.03%)	2399 (1.65%)	1509 (1.04%)	2 (0.00%)
	Urban	39981 (93.91%)	2224 (5.23%)	334 (0.78%)	34 (0.07%)
	Total	181100 (2.46%)	4623 (2.46%)	1843 (0.98%)	36 (0.02%)
Secondary	Rural	43971 (96.25%)	1210 (2.65%)	500 (1.09%)	3 (0.00%)

	Urban	19361 (89.81%)	1813 (8.41%)	349 (1.62%)	34 (0.16%)
	Total	63332 (94.19%)	3023 (1.62%)	849 (1.26%)	37 (0.05%)

646. The fifth survey has revealed that 24 languages are used as the second languages at the primary stage and 26 at the upper primary stage and at the secondary stage.

The survey has also revealed that 1,73,756 schools (27.52% at the primary stage, 1,87,482 (99.94%) at the upper primary stage, and 67,045 (99.71%) at the secondary stage offer the second language.

Table 13.22 Area-wise Teaching Second Language

Area	Number of Schools at					
	Primary Stage	%	Upper Primary stage	%	Secondary Stage	%
Rural	153551	27.58	144917	99.92	45543	99.69
Urban	20205	27.06	42565	99.98	21502	99.74
Total	173756	27.52	187482	99.94	67045	99.71

647. Management-wise distribution reveals that the percentage of schools offering the second language is the highest amongst schools under private-aided managements at the primary stage and the local bodies at the upper primary and secondary stages.

Third Language

648. The present survey has revealed that in all 29 languages are used as the third languages in Indian schools. There are 16 languages at the primary stage, 23 at the upper primary stage, and 23 at the secondary stage which are used as the third languages.

649. The survey has revealed that 1,337 schools (0.21%) at the primary stage, 1,71,273 (91.30%) at the upper primary stage, and 49,457 (73.55%) at the secondary stage offer the third language.

650. Management-wise distribution of schools reveals that the percentage of schools offering the third language is the highest amongst the government schools at the primary stage, and the local body schools at the primary and secondary stages.

Table 13.23 Area-wise Schools Teaching the Third Language

Area	Number of Schools at					
	Primary Stage	%	Upper Primary stage	%	Secondary Stage	%
Rural	687	0.12	132548	91.39	34541	75.61
Urban	650	0.87	38725	90.96	14916	69.19
Total	1337	0.21	171273	91.30	49457	73.55

Conditions of Teaching Staff

651. The Government of India pays deep attention to the livelihoods of teachers. Salary scales of Elementary Teachers in different states of the country after the fifth pay commission is as below:

	Pre-revised	Revised 1997	Pre-revised	Revised 1997
Central Govt.	1200-2040	4500-7000	1400-2600	6500-10500
Tamil Nadu Govt.	1200-2040	4500-7000	1400-2600	5900-9900
Maharashtra Govt.	1700-2040	4500-7000	2000-3500	7500-12000
Goa Govt.	1200-1800	4000-6000	1400-2600	5000-8000
Kerala Govt.	1125-1725	4000-6090	1640-2900	5500-9075
Karnataka Govt.	1130-2110	3300-6300	1400-2675	4150-7800

The pay scale of Civil servant at the same time is as follows

Civil Servants	Pre 1997	After 1997
IAS/IFS	3200-4750	10650-325-15850
IPS	3000-4500	10000-325-15200
Indian Forest Service	3000-4500	10000-325-15000
Central Services	3000-4500	10000-325-15000

IAG

IAS/IFS	3950-5000	12750-375-16500
IPS	3700-5000	12000-375-16500
Indian Forest Service	3700-5000	12000-375-16500
Central Services	3700-5000	12000-375-16500

Promotional Opportunities

652. Promotional opportunities to teachers are available. The teachers can become headmasters of primary schools on the basis of their seniority and experience. Teachers may get promotion as inspectors of schools. Positions are significant in number. There were around 400 inspectors of schools in 1995 for a 2,00,000 strong primary teaching force. In some state, posts of educational assistance to assist the block level education officers have been created and paid salaries higher than that of a headmaster of a primary school. But the posts are quite limited in number.

653. Promotional opportunities for elementary teachers are available to 25% of the teachers who enter the profession. Rests of them are paid a higher salary as commensurate with their length of service in the profession.

Welfare Benefits for Primary Teachers

654. There is a national foundation for teachers welfare [NFTW] setup in 1962 under the charitable endowments Act 1890 and located at New Delhi. The objective of NFTW is to provide relief to teachers who are in indigent circumstances. September 5 every year is celebrated in India as Teachers Day in memory of Sarvepalli Radhakrishnan who rose to

the position of the President of India being a University teacher during his formative life. The NTFW collects donations for the teachers day through the sale of one inch colourful flag. Central Social Welfare Board of India, All India Women's Conference, National Council for Women's Education, Universities, Colleges, Schools and other organisations and prominent citizens help the NTFW in collecting donation in this way. The NTFW allows the states/UTs to retain 80% of the collections with them and transfer the rest of the 20% to the corpus fund of the NTFW.

655. Non - Government Effort

Percentage of Primary Schools under different management

Table 13.24 Primary School

Year	Government	Local body	Private aided	Private un-aided
1973-74	50.88	42.47	5.01	1.64
1978-79	38.96	55.03	4.42	1.59
1986-87	41.37	51.71	4.34	2.57
1993-94	44.63	47.47	3.78	4.12
1996-97	47.78	43.88	3.34	5.00
2001-02	47.45	43.47	3.07	6.01

Table 13.25 Upper Primary School

Year	Government	Local body	Private aided	Private un-aided
1973-74	50.71	26.86	17.75	4.67
1978-79	40.31	38.13	16.90	4.66
1986-87	42.79	32.33	16.30	8.58
1993-94	45.94	33.51	9.53	11.02
1996-97	46.41	29.13	10.25	14.20
2001-02	47.36	29.05	7.81	15.77

Table 13.26 Percentage in High/Higher Secondary Schools

Year	Government	Local body	Private aided	Private un-aided
1973-74	26.54	10.85	57.02	5.59
1978-79	30.44	8.71	57.30	3.55
1986-87	37.49	7.73	44.79	9.99
1993-94	37.76	9.29	37.78	15.17
1996-97	38.96	6.74	36.20	18.10
2001-02	36.16	6.29	33.99	23.56

656. In order to achieve UEE, the 10th plan has schemes to form synergy of public-private partnership. The 10th plan thinks of the following steps:

- More collaborative efforts with the private sector and expansion of the role of private initiatives.
- Improve the functioning of government schools in partnership with the private sector, within the broad parameters of state policy.
- Provide support to initiatives introduced by private school for deprived children.

- Encourage the opening of private schools without compromising on equality.
- Provide computer education to children, utilising the expertise and resources of the private sector.

Difficulties Identified by Government of India in the Realisation of the Right to Education

657. In 2003 the right to have compulsory education is introduced by the amendment in the constitution. Though this right is subject to the discretion of state policy. Prior to this amendment the constitution under Article 45 enjoins that the state shall endeavour to provide, within a period of 10 years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of 14 years. However this constitutional obligation has been deferred successively to 1970, 1980, 1990 and then to 2000. In the absence of constitutional obligation compulsory and free primary education had not received much importance, due to socio-economic compulsion. Now by elevating the free and compulsory primary education as fundamental right under the constitution, the legislature has shown its commitment for this.⁹⁵

658. The previous schemes of the government use to be centralised. So the impact was less on ground level. Realizing this now the government has introduced the Sarva Shiksha Abhiyan which is decentralised in its approach and community oriented ones. Another difficulties is that most of the project are central government funded.

659. The government has time bound policy as Sarva Shiksha Abhiyan in partnership with the states, the local governments and the community, to provide elementary education to all children in the age group 6-14 years by 2010. It recognizes the importance of community owned system organized in a mission mode for improving reach and performance of the school system.⁹⁶

660. According to the broad assessment made by the Department of Elementary Education and Literacy, Government of India, nearly Rs. 600000 million additional budgetary resources are required from the central and the state governments over the next ten years for implementing this initiative.

661. The new amendment in the form of 86th amendment creates the importance of making the education free and compulsory through out India.

⁹⁵ By now 14 states and 4 union territories had passed acts making elementary education compulsory either in entire state or in certain notified areas. These states are Assam, AP, Bihar, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Kerala and West Bengal. The union territories that have also enacted acts on compulsory elementary education include Chandigarh, Delhi, Pondichery and Andaman & Nicobar Island.

⁹⁶ In particular, its objectives are:

all children in school, education guarantee center, alternate school, back to school camp by 2003;
all children to complete five years of primary schooling by 2007;
all children to complete eight years of schooling by 2010;
focus on quality elementary education with emphasis on education for life;
to bridge all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010; and
Universal retention by 2010.

Role of International Assistance

662. International assistance in education is in the form of cultural exchange or financial assistance. UNESCO has international cooperation cell [IC Cell] to coordinate the work relating to bilateral and international collaboration in the area of education and formulation and implementation of educational exchange programmes.

663. With the increased development of transport and communication, the global village is witnessing a growing emphasis in international cooperation and action to find satisfactory solutions to problems that have global dimensions. India has been in the forefront to adopt the new information policy technologies such as distance education and the interest to forestall the further widening of the gap between itself and the advanced countries. International cooperation in education is seen in this context of partnership – rather than aid where countries assist each other by sharing their successful experiences, technologies, material and financial resources and learning to appreciate each other's cultural heritage.

664. The Indian National Commission for cooperation with UNESCO [INC] has set up in 1949. From then onward India is playing an active role in UNESCO's work. So far 9 UNESCO chairs have been set up in India in diverse areas such as cultural development, eco-technology, science education, peace, human rights and democracy, energy, small industries and teacher education. INC operates the UNESCO international coupon programme which assists individuals and institutions working in the fields of education, science, culture and communication to impart its bonafide requirement of educational publications, scientific equipment etc.

665. The Department of Education in the Ministry of Human Resources Development has also built relations with other international organisations such as the commonwealth secretariat, commonwealth of learning, SAARC, UN organisations and NAM and Shashi Indo-Canadian institutes etc. The external academic unit of the department handles policy matters to promote India's external academic relations with more than 97 countries with whom India has bilateral cultural exchange programmes [CEPs] and other collaborative arrangements and monitoring of the educational component of the bilateral and collaborative programmes with other countries.

666. The Bilateral Exchange Programme connected with the university sector, between India and other countries are implemented by the UGC on behalf of the government of India. In 1996-97, such programmes had been initiated with 70 countries.

667. Apart from the cultural exchange programme various international organisations are giving assistance to various programme run by the Government. In District Primary Education Programme the Government of India finance 85% of the project cost as a grant to the DEPE state. Central Government's share is resourced by external funding. Till now IDA has approved credit amounting to \$ 260 million and \$ 425 million under phase I and phase II respectively. The European Council [EU] is providing a grant of 150 million ECU. The ODA [UK] is extending a grant of \$ 80.21 million. The grant from the Netherlands amounts to \$ 25.8 million. The current position of external assistance tied up for DPEP:

Funding Agency	Amount	Period	States and No. of Districts Covered
DFID (U.K.) (Grant)	£ 42.5 million (Rs. 2200 million)	August 1999 to 2005	DPEP Phase-II Andhra Pradesh (5)
	£ 37.71 million (Rs. 2070 million)	April, 1997 to 2004 (extension process)	DPEP Phase-III West Bengal (5)
World Bank (Soft Loan) + UNICEF	US\$ 152.4 million (Rs. 5300 million) + US\$ 10 MILLION (Rs. 360 million)	February, 1998 To September,	DPEP Phase-III Bihar (20), Jharkhand (9)
World Bank (IDA)	Us\$ 137.4 million (Rs. 570 million)	February, 1999 to 30.9.2005	DPEP-APREP : Andhra Pradesh (14)
IDA (Soft Loan)	US\$ 85.7 million (Rs. 3600 million)	July, 1999 To 31.12.2004 (extension upto 31.12.2005 process)	DPEP-IV : Rajasthan (10)
WORLD (IDA)	US\$ 182.4 million (About Rs. 8000 million)	February 1999 To 30.9.2005	UP-DPEP-III Uttar Pradesh (36), Uttaranchal(6)
DFID (UK)	£ 30.00 million (About Rs. 2000 million)	February, 1999 To September, 2006	DPEP-Expn. West Bengal ()
DFID (UK)	£ 41.21 million (About Rs. 3000 million)	January To January, 2008	DPEP-Expn. : Orissa (8)
IDA (Soft loan)	US\$ 74.34 million (About Rs. 3700 million)	July, 2001 31.12.20	DPEP-Expn. Rajasthan (9)
Netherland (Grant)	Amount Rs. 1250 million (US\$ 26.47 million)	2001-02 to 2005-	DPEP-Expn Gujarat (6) Out of 6 Districts (districts would be funded by State
Total External Assistance up for PPEP	Approx. Rs. 69380 million		IDA Credit: Rs. 51370 million Grant: 18010 million

668. In Bihar Education Project [which was launched in 1991] the total outlay for the second phase [1996-98] was estimated to be Rs. 613 million which was shared between

UNICEF, Government of India and Government of Bihar as per the ratio of 3:2:1. Similarly a project "education for all" presented by the Government of UP was approved by the World Bank. World Bank Assisted ICDS – II Project was in operation in 210 blocks of Bihar and 244 blocks of Madhya Pradesh.

669. International Development Agency, the soft loan window of the World Bank provided a credit of US \$ 163.1 million.

670. The Shiksha Karmi Project [SKP] is being implemented since 1987 with assistance from the Swedish International Development Cooperation Agency [SIDA]. The project aims at universalization and qualitative improvement of primary education in the remote and socio economically backward villages of Rajasthan with primary focus on girls. The project is being implemented as an externally aided scheme with reimbursement of 90% in phase I and 50% in phase II from SIDA. The project has an outlay of Rs. 212 million in phase I and Rs. 490 million in phase II.

671. Lok Jumbish is a Rajasthan Project with a wide and successful in the primary education. In the first phase of the project was for a period of 2 years from the 1992-97 with the expenditure shared between SIDA, Government of India and Government of Rajasthan on the ratio of 3:2:1. The second phase stretches upto 1998 with the sharing modality remaining the same. A Norwegian grant of Rs. 200 million is also available.

672. The European Community [EC] has been extending economic assistance to India since 1976. The priority sectors for EC are education, health and environment. Presently there are two ongoing central projects in education sector [District Primary Education Project] and Health Sector [Health and Family Welfare Sector Development Programme] with EC assistance of EURO 150 million and EURO 200 million respectively. EC has committed EURO 200 million [approximately Rs. 9000 million] for a new sector development programme in the education sector entitled Sarva Siksha Abhiyan.

673. During the Indo-EC sub commission meeting in May 2002, it was agreed that EC would select one or two states among the 7 states of Chattisgarh, Uttaranchal, Jharkhand, Assam, Sikkim, Rajasthan and Jammu & Kashmir for its state partnership programme.

674. International Development Association [IDA] assistance to India began in June 1961 and has been an important component of external assistance programme. Upto 30-6-2002, IDA's cumulative lending to India is US \$ 28,844.60 millions for projects in various sectors such as Education Health, Nutrition etc.

UK

India is the largest recipient of British Development Assistance. The aid from UK is used for mutually agreed on projects in various sectors viz. education, slum improvement, health and family welfare, etc. There are currently 28 local costs grants projects [mainly for poverty alleviation, education etc.] in central and state level are in process.

Sweden

India has been a recipient of Swedish assistance since 1964. The Swedish assistance is channelised through the Swedish International Development Agency [SIDA].

Netherlands

The Netherlands government has provided NLG 94.426 million [equivalent to 1736.9 million] for reconstruction and repair programme of primary school in earth quake affected district of Gujarat.

Australia

Major projects having assistance from Australia in education sector are Primary Education Enhancement Projects through UNICEF [Phase II] and HIV/AIDS prevention and care project.

ARTICLE 15

Right to Take Part in Cultural Activities and Enjoy the Benefits of Scientific Progress

675. The Constitution of India guarantees to its citizens the right to take part in the cultural life, the freedom to form associations and to establish institutions for preservation and promotion of their distinct language, culture or religion within the secular and democratic fabric safeguarding the unity and integrity of the country. The Directive Principle of State Policy also requires from citizens to protect monuments, places and objects of historical interest and national importance along with the right to cultural freedom guaranteed by Part III of the Indian Constitution. Both Centre and the State/UTs have responsibility in cultural matters. A separate Ministry of Culture and Tourism was established in the Centre and a Department of Culture functions within the Ministry. The department promotes cultural exchange programmes, supports new projects in the field of archaeology, art, music, and literature, establishing scholarship/fellowships and grants financial aid to societies or voluntary organizations established for the purpose of cultural activities. A great variety of institutions including libraries, museums, academies of art, music, drama, theatre etc as noted in the initial report under the covenant under this Article have been established and supported for the promotion and preservation of the cultural matters.

676. Organizationally, the Ministry of Culture is the nodal agency in the Central Government on cultural matters. The Ministry has two attached offices and a number of subordinate offices and other autonomous organizations under it to deal with specified cultural matters. The Archeological Survey of India and the National Archives of India are attached to the Ministry. The subordinate offices are the Anthropological Survey in India, National Museum, National Gallery of Modern Art, National Library, Central Reference Library and National Research Laboratory for Conservation of Cultural Property. The autonomous organisations under the Ministry of Culture are the Rashtriya Manay Sangrahalaya, National Council of Science Museums, Nehru Memorial Museum and Library, Sangeet Natak Akademy, Sahitya Akademi, Lalit Kala Akademi, National School

of Drama, Centre for Cultural Resources and Training, Gandhi Smriti and Darshan Samiti, Allahabad Museum, Delhi Public Library, Raja Ram Mohan Roy Library Foundation, Central Institute of Higher Tibetan Studies, Central Institute of Buddhist Studies, Nav Nalanda Mahavihara, Namgyal Institute of Tibetology, Victoria Memorial Hall. Indian Museum, Asiatic Society, Salarjung Museum, Khuda Baksh Oriental Public Library, Rampur Raza Library, Thanjavur Maharaja Serfoji's Sarasvati Mahal Library, Kalakshetra Foundation, National Museum Institute of History of Art, conservation and Museology, Maulana Abul Kalam Azad Institute of Asian Studies, Indira Gandhi National Centre for the Arts.

677. The country has officially recognized 22 different languages in the Schedule of the Official Languages under the Constitution respecting the feelings of diverse linguistic groups. The country has also set up National Commission one each for Minorities (religious), Schedule Castes and Scheduled Tribes to safeguard their religious and cultural interests and provide remedies for violation of their right. A Commissioner on linguistic minorities has been set up to protect the interest of those sections in matters of language. The Constitution also enables the President of India to nominate twelve members having special knowledge or practical experience in matters of literature, science, art and social service to the upper house of the Parliament.

Fine Arts, Music, Dance, Drama

678. The government has established national level institutions like *Lalit Kala Academy*(1954)for fine arts, *Sangeet Natak Akademy*(1953) for music, dance and drama and *Sahitya Akademy* (1956) for literature. A National School of Drama (1959) was established by the *Sangeet Natak Akademy* for promoting activities relating to all aspects of theatre. These institutions carryout various activities including training persons in various arts, arranging programmes for showcasing their talents, promoting research, honouring eminent personalities for their contribution to culture, documentation and preservation of rare literature etc.

679. The *Lalit Kala Academy* has a regular programme on research and documentation. Scholars are given financial assistance to undertake projects in contemporary folk, field projects on various aspects of Indian society and culture. The *Sangeet Natak Akademy* is supporting training programmes in *Chhau* dance of *Mayurbhanj and Seraikella* as also *Koodiyattam* in Kerala.

680. The National School of Drama has been promoting the theatre-in-education company [*Sanskar Rang Toli*-1989], which is involved in production of plays for children, organizing summer theatre workshops in the schools of Delhi and also promoting children theatre through Saturday club. Since 1998, the school has organized National Theatre festival for children christened '*Jashne Bachpan*' every year. A National Theatre Festival (*Bharat Rang Mahostav*) has been held every year since 1999.

681. The *Sahitya Akademy* holds a week long '*festival of letters*' every year. The academy has carried out special projects and has published ten volumes of best of Indian writing over five millennia like the Ancient Indian Literature, Medieval Indian Literature and Modern Indian Literature. It is implementing many projects, which include translation and publication of tribal literature and translation of 100 Indian classics. Another project is in Archives of Indian literature to document literature through films,

videos, audios, CDs and to preserve manuscripts, photographs and other materials associated with eminent Indian writers.

682. A National Mission for Manuscripts was launched in the year 2003 to locate and catalogue and more importantly to enhance their access, improve awareness about cultural inheritance and encourage its use for educational and research purpose. It was estimated that around 75 percent of India's intellectual heritage is unknown, inaccessible and fragmented.

Archeology

683. Archeological Survey of India (1861) is responsible for maintenance, conservation and preservation of Centrally protected monuments/ sites and remains, conducting archeological explorations and excavations; chemical preservation of monuments and antiquarian remains and training in archeology etc. ASI is responsible for the implementation of the Antiquities and Art Treasures Act, 1972. It supervises 3060 centrally protected monuments of national importance including 26 monuments in the list of world heritages. The Government has envisaged an Indian Archaeological and Heritage Services in the lines of the Civil Services to bring professionalism and better understanding in the administration of Archaeological Survey of India. Those selected would be put through a 20-month diploma programme at the Institute of Archaeology. In order that the Survey could pay more attention to monuments and sites declared to be of national importance, it has established 21 main circle and 3 mini circles in different parts of the country. In order to preserve important groups of monuments, the Survey has initiated the policy of preparing master plans for their conservation. The first South Asian Archeological Congress was held in New Delhi in 1986 as part of the programmes of the South Asian Association for Regional Co-ordination (SAARC). To create and develop awareness among young people about our cultural heritage, the Survey organized youth camps. ASI has declared 3644 monuments/sites to be of national importance in the country. The number of Indian Monuments in the World heritage List is 17.

684. The country has been carrying on underwater Archeological research in 1981 by establishing Marine Archaeology Centre in the National Institute of Oceanography, Goa to reconstruct the history of past seafaring activities from material remains and study of submerged archaeological sites. Explorations have been conducted in submerged sites of ancient cities of *Dwarka*, *Somnath*, *Poompuhar* and around islands of Lakshwadeep regularly for the past decade and a half leading various new findings.

Museums and Libraries

685. A detailed reference had been made in the initial report under this Covenant to Museums, which are repositories of India's Cultural Heritage. Some of the important Museums in India are the National Museum, Durbar Hall Delhi, the Nehru Memorial Museum and Library, New Delhi, the National Council of Science Museums (NCSM), Kolkata, the Allahabad Museum, the National Research Laboratory for Conservation of Cultural Property (NRLC) Lucknow, the National Gallery of Modern Art, and the *Salar Jung* Museum, Hyderabad. The main activities of the National Museum are in the field of the acquisition, exhibition and conservation of, and publication and education reorganization and modernization of Galleries relating to, objects of art. National Museum is pursuing its objectives vigorously for which it was set up by holding exhibitions, by

reorganization/modernization of Galleries holding training programmes, seminars and workshops, memorial lectures and other auxiliary activities. A special exhibition entitled "Cultural Treasures, Textiles of Malay World form the Collection of Islamic Arts Museum, Kaulalampur, Malaysia, was organized for three months in February, 2003. An exhibition entitled "Art of Mathura" was opened at Tokyo National Museum, Japan for a period of one and a half month starting from the end of October to mid December, 2002. It traveled to other cities of Japan and remained on view till August, 2003. An exhibition Raga: North India, Glory of Princess, tribute to Gods comprising 35 musical instruments was sent to Cite de la Musique, Paris in March, 2003 under Cultural Exchange Programme (CEP). Similarly, an exhibition "The Sublime and the Ascetic in Early Sculptures from India mounted at the Museum for Indian Art Berlin, Germany from September, 2002 to January, 2004. The Museum also organized a Photographic exhibition in April, 2003 and organized an exhibition in connection with the international Dialogue Among Civilizations organized by Ministry of Human Resource Development and UNESCO in July, 2003. The Museum has undertaken modernization of its permanent galleries of Harappan civilization and Gallery of Indian Miniature paintings. They organized 31st Short Term In-Service Training Course in Museology for the curators of different museums and also provided ten days' practical training in Museology of Museology to students of Museology of Jiwaji University, Gwalior in 2003. There are 53,668 books in the library for research and reference facilities. The National Museum Institute of History of Art, Conservation & Museology to students of Museology of Jiwaji University, Gwalior in 2003. There are 53, 668 books in the library for research and reference facilities. The National Museum Institute of History of Art, Conservation & Museology conducts MA and Ph. D Courses in History of Art, Conservation and Restoration of Works of Arts and Museology. Indian Museum, Kolkata is the largest and the oldest multipurpose Museum in the entire Asia Pacific Region. It has six cultural and scientific sections viz. Art, Archeology, Anthropology, Geology, Zoology and Economic Botany. It organized five exhibitions including one international exhibition, held training programmes, seminars, special lectures, cultural activities, etc. in 2003-04. The Salar Jung Museum – named after Salar Jung-III, Mir Yousuf Ali Khan – which is a museum of national importance, has a very rare and important collection of 40,000 art objects, coming from different parts of the world. The art collection of the museum is basically divided into Indian, Middle Eastern, Far Eastern and European Art. Apart from this, there is a gallery devoted exclusively to children's section, a reading room, a rare Reference Library and a Manuscript Section with Arabic, Urdu and Persian manuscripts. The Library has 57, 882 printed volumes in India, Arabic and Turkish languages. The museum is also active in reorganization of new galleries, digitization of museum objects and holding exhibitions, lectures, children week 14-20 November, conference, seminars etc. regularly. It celebrated 118th Birth Day of Salar Jung III in December, 2003. In the field of contemporary history and art, the Victoria Memorial Museum is financed by the Government of India. The Victoria Memorial Hall is a museum of material importance. It continued to collect materials and data required to set up an extensive gallery for projecting order to reorient the museum as a Museum of Indian history. It has a rich collection of more than 26,000 artifacts including paintings of famous artists of the world. The primary objective of National Gallery of Modern Art, New Delhi, is dissemination and propagation of modern art in the country. To this end, it has formulated several schemes, such as, the art collection and development of sculpture gardens, renovation of galleries, development of special exhibition programmes, development of publication programmes, development of a restoration laboratory and photo studio, and teaching of the history of art and conservation of oil paintings. It has a rich collection of 16140 works of art representing over 1742 contemporary Indian artists

and pursuing its objectives by digitization and photo documentation of Art Collection, holding Educational activities, exhibitions, seminars etc. The Nehru Memorial Museum illustrates through visual materials, the life and times of Jawaharlal Nehru. It continues to be a focus of interest for visitors from India and abroad. The National Council of Science Museums is primarily engaged in the task of popularizing science and technology in urban and rural areas both among the students in particular and the masses. It manages the Birla Industrial and Technological Museum at Kolkata, Visvesvaraya Industrial and Technological Museum at Bangalore, the Nehru Science Centre at Mumbai which in turn have their own institutional projects and district science centres at different places. In all, it administers 28 Science Centres in 10 States. It is also developing Maharaja Ranjit Singh Panorama at Amritsar, Kalpana Chawla Planetarium at Kurukshetra and Science Centres in Ranchi, Gangtok, Pondicherry and Chhatisgarh. The National Laboratory for Conservation of Cultural Property, Lucknow (NRLC) established in 1976 and developed as a centre of excellence for conservation of cultural property provides conservation services to museums, archives, archeology Departments, develops and standardizes better methods and materials for conservation, imparts training in different aspects of conservation and disseminates knowledge in conservation. NRLC has conserved a score of wall paintings and different types of museum objects and two coral stone monuments of the Republic of Maldives. It has carried out scientific studies on the conservation problems of Taj Mahal, Ajanta, Hukuru Mosque, Male, etc. Three of the methods on the conservation of bronzes developed by NRLC are being followed worldwide. One of the Ministry's most important activities concerns the holding of national and international exhibitions. The Department has organised a series of these exhibitions through institutions like the National Gallery of Modern Art, National Museum and Lalit Kala Akademi. The themes include Henry Moore in India, World Heritage Monuments and Sites, Art of the Himalayan region, women painters and sculptors.

686. The National Archives of India, New Delhi, hold in trust the national non-current records of the Government of India which are of permanent value. These records serve as the primary source of information of the economic, political and social development of the country and form a priceless part of our cultural heritage. The Archives have also acquired private papers of over 70 eminent national humanists. In addition, under its project for obtaining microfilm copies of documents of Indian interest from various repositories in other countries, it has acquired around 41,000 microfilm rolls from about 70 institutions. The Archives provide research facilities to scholars and conducts training courses through its School of Archival Studies. The school imparts training under its one year Diploma in Archival Studies and various short term courses to Indian and foreign trainees. The Archives has organized various exhibitions for creating archival awareness amongst the people. It has one regional office at Bhopal (Madhya Pradesh) and three record centres at different places in the country. The Archives has large number of microfilms, public records and historical records. As parts of Indo-Singapore MOU, an exhibition on the Indian National Army and Subash Chandra Bose was organized at Singapore in 2003. Data Entry of 5,42,131 files and online validation/checking of 1,41,635 files have been done. A scheme has been developed under which financial assistance is given to voluntary organizations, universities, libraries, museums, etc. for cataloguing, editing, preservation, etc. of rare manuscripts. The main objective of the scheme is to preserve the rich cultural heritage of India which is available in the form of manuscripts and is in danger of deterioration because of the lack of measures for proper preservation, study and research.

687. The National Council of Science Museums was established for popularizing science and technology has developed a large number of interactive indoor and outdoor exhibits and robotic dinosaurs. It has also planned a unique venture called 'science city' in Kolkata, which would be a major attraction for residences of the metropolis, national and international visitors. The National Archives of India, which was the Imperial Record Department, originally is the official custodian of all non-current records of permanent value to the Government of India and its predecessor bodies.

688. The Libraries are the responsibility of the State under the Constitution except those libraries established by the Centre and those, which are declared to be of national importance. The Central Government is not a lawmaker for the library system of the country as a whole for the subject of libraries falls under the jurisdiction of States. Some States have introduced Public Library Legislations and the remaining States have been urged by the Central Government to follow suit. Central Government takes initiatives to secure voluntary cooperation of the State Governments in promoting coordinated development of national and state library systems. The Central Government gives full grants for libraries declared to be of national importance. The prime source for acquisition of current publications, books, newspapers, and journals is the Delivery of Books and Newspapers (Public Libraries) Act, 1954 under which all new publications have to be supplied to the four depository libraries - the National Library, Kolkata; the Connemara Public Library, Chennai; the State Central Library, Mumbai and the Delhi Public Library. The Act is presently under review to make it more broad based by including material in audio-visual media also. Besides being one of the four depository libraries, the National Library receives all publications emanating from the United Nations and its various agencies. This Library has a gift and exchange programme with 215 institutions in 93 countries all over the world and under this programme it acquires material which are not readily available in the normal books trade channel. Other important Libraries include the Central Secretariat Library, Delhi; the Central Reference Library, Kolkata; the Khuda Bakhsh Oriental Public Library, Patna; the Rampur Raza Library; the Asiatic Society, Kolkata, the Asiatic Society, Mumbai; Thanjavur Maharaja Serfoji Saraswati Mahal Library etc. Not to be left behind is the Raja Rammohan Roy Library Foundation, Kolkata which was established in 1972 to take the library movement to the smallest town and village in the country in cooperation with the state governments and voluntary organizations. The volume of assistance rendered by this Organisation in upgrading library infrastructure in the country is presently over RS.100 million annually.

689. National Library, Kolkata serves as a permanent repository of all reading and information material produced in India as well as printed and written materials by Indians and concerning India written by foreigners. It has established exchange relations with 211 libraries of 86 countries. The Central Library, Mumbai was taken over from the Asiatic Society of Bombay by the State government of Maharashtra under the Maharashtra Public Libraries Act, 1967 and has now become the State Central Library [1994].

690. The Delhi Public Library, Delhi established in 1951 with financial and technical assistance from UNESCO has developed into a metropolitan public library system with a central library, a zonal library and with branches and sub branches spreading all over the area. It has a Braille library for the visually handicapped with a network of 13 mobile service units and a library at the central jail for prisoners.

691. The Asiatic Society, Kolkata which is an institution of national importance had recently expanded its activities considerably in the sphere of establishing inter cultural relationship with various countries of the world. It has been chosen by UNESCO as one of the best institutions for its memory of the world programme.

Other Cultural Initiatives

692. The Anthropological Survey of India (1945) has initiated projects on cultural dimensions of tourism, study of syncretism in India, dormitory system in India, physical growth of adolescents and DNA study on ancient skeleton remains and on contemporary populations. Over the years, the survey, has generated information from the grass-root level through sustained research by its Head Office at Kolkata, seven Regional Centres, one sub-Regional Centre, one permanent field station and eight other field stations located in various parts of the country besides a camp office at Delhi. Besides other projects, the survey is also taking up DNA study on ancient skeletal remains and on contemporary populations. They have also organized several exhibitions and have also brought out six publications recently. The Survey has launched a project called "People of India" to study the cohesive cultural, social and anthropological factors that unite the various communities in India. The status of the erstwhile National Museum of Man was changed to that of an autonomous organization from 1985 with a new name, Indira Gandhi Rashtriya Manav Sangrahalaya. The new institution is considered as an organic whole and a growing movement. It is dedicated to depicting the story of mankind in terms of human biological and cultural - evolution, with particular reference to the growth and development of Indian civilization.

693. The *Indira Gandhi Rastriya Manav Sangralaya* (National Museum of Mankind) has developed an open air and in-door exhibition on different habitats and different stages of biological and cultural evolution of mankind with particular reference to Indian civilization. It is carrying out programmes like multi-media documentation of cultures, salvage of anthropological objects of natural heritage and research projects.

694. In addition to the vast network of libraries and museums are other institutions which are committed to the promotion of the cultural heritage in India. Particular reference has to be made to three Academies and the National School of Drama devoted to fine arts, letters, performing arts and theatre which through the system of governance by creative people themselves seek to further cultural efforts. Sahitya Akademi, The National Academy of Letters, is an autonomous organization set up by the Government of India in 1954 to work actively for the development of Indian literature and to set high literary standards, to foster and co- ordinate literary activities in all Indian languages and to promote through them the cultural unity of the country. Some of the functions of the Akademi are publication of books in 24 Indian languages recognized by it; translation of classics from one Indian language into another and from foreign languages into Indian languages; conducting workshops, informal literary gatherings, organizing seminars and symposia at local, regional, national and international levels to provide opportunities for the coming together of those who are interested in creative literature and to contribute to a wider awareness and better understanding; travel grants to authors; publication of Journals; preparation of reference works such as Encyclopedia of Indian Poetics, Encyclopedia of Indian Literature (six volumes already published carrying 1000 pages each on an average), Who's Who of Indian Writers in two volumes, National Bibliography of Indian literature (five volumes already published up to 1953, the work of updating the

Bibliography to cover the period up to 2000 has been taken on hand), Who's Who of Sanskrit Scholars, a Register of Translators in three volumes, histories of literatures in different languages, unique volumes of anthologies such as Ancient Indian Literature (three volumes), Medieval Indian Literature (three volumes) and Modern Indian Literature (four volumes) and honouring authors with its annual Awards and Bhasha Sammans as also annual Translation Prizes. The Sangeet Natak Academy - the National Academy of Music, Dance and Drama - was established as an autonomous organization by the Government of India in 1953 for preserving and promoting the performing arts of the country, traditional as well as classical. In recent years, priority has been given to projects pertaining to the folk and tribal arts threatened by rapid socioeconomic changes. The Academy has set up two training institutes, namely, Kathak Kendra at New Delhi, and Jawaharlal Nehru Manipur Dance Academy at Imphal, where training is imparted in Kathak and Manipuri dance respectively. The Akademy confers fellowships and awards to the eminent artists in the different disciplines of performing art. It organized Bade Ghulam Ali Khan Centenary and also celebrated its Golden Jubilee in the year 2003-04. Festivals of traditional arts were also organized at different places in the country. The Academy also honours every year outstanding performing artists with awards in their respective fields. The Lalit Kala Akademy working principally for the promotion of art has a program of conducting surveys of folk and traditional art as well as contemporary art on an all India basis in order to preserve the cultural heritage of the country. It has an extensive publication programme. It publishes multicolour reproductions of paintings, prints and monographs on the works of individual artists, and has taken up special publications on folk and tribal art. It organizes exhibitions both in India and abroad and purchases works of art to encourage artists, and has taken up special publications on folk and tribal art to encourage artists. To encourage deserving individual artists, the Academy sponsors their exhibitions and provides gallery space free of rent. Research award are presented to artists to achieve higher standards in their respective fields. The Academy is maintaining a well-equipped library and archives of colour slides and photographic records of contemporary Indian art. It accords recognition to art organizations and State academies and gives grant-in-aid each year for promotion of art in the States. The Akademy has established five regional centres at different places in the country. Amongst other regular exhibitions, the Akademy has so far organized 11 "Triennale India" an exhibition of contemporary world art. The National School of Drama (NSD) - one of the foremost theatre institutions in the world and the only one of its kind in India was set up by Sangeet Natak Akademy in 1959. Later in 1975, it became an autonomous organization, totally financed by Ministry of Culture. The objective of NSD is to train students in all aspects of theatre, including theatre history, production, scene design, costume design, lighting, makeup etc. The training course at NSP is of three years' duration. Each year, 20 students are admitted to the course. The eligible applicants for admission to the course are screened through two stages. The Diploma of NSD is recognized by the Association of Indian Universities as equivalent to M.A. Degree for appointment as teachers in colleges/ Universities and for purposes of registration for Ph.D.

Major Activities

695. Following are the major activities of the School:

- i) Academic Activities related to the training programme of the students.
- ii) Production of plays by the students.

- iii) Production and performance of plays by the Repertory company – The Performing Wing of NSD.
- iv) Activities of Theatre-in-Education company (T.I.E. company) which functions for the promotion of Children Theatre.
- v) Extension Programme under which workshops are organized in various States in collaboration with the local agencies.

A brief account of these activities and the landmarks achieved since 1988 are given in the succeeding paragraphs.

Academic Activities

696. The School provides a comprehensive 3-year course of training in Dramatic Arts. After the completion of the course, a diploma in Dramatics is awarded to the successful candidates. For the first year, an integrated course of study is common to all students. It consists of courses in dramatic literature, aesthetics, theory & practice of acting including components of mime & movement, martial arts, yoga & music, theory & practice of stage techniques, such as, scenic design, costume design, lighting, make up and theatre architecture.

697. In the 2nd year, students have to opt for specialization either in acting or theatre techniques and design. The same specialization is continued in the 3rd year. From the academic session 2002-2003, Children Theatre has been introduced as one of the subjects for specialization.

698. As part of the training, students are taken on educational study tours to various historical places in India to provide them an opportunity to see the famous monuments, cave paintings and miniature. Film Appreciation Courses are also organized for them.

699. Since 1988, 367 students are passed out from National School of Drama. The School has produced a galaxy of talented actors, directors, script writers, designers, technicians and educationists who have excelled not only in theatre but in films and TV also.

Productions by students

700. As part of the training, students are required to perform plays which provides them a sound grounding in the various facets of Acting. The selection of plays is broad based. It covers classical Indian plays, plays belonging to the genre of world theatre literature which includes plays penned by George Bernard Shaw, Maxim Gorky, Anton Chekov, Bertolt Brecht, Dario Fo, John Osborne, Admond Roland, Edward Bond, Samuel Becket, etc. etc. Major classics in short stories are also produced by the students under the collective title 'Katha Collage'.

Repertory Company

701. The Repertory Company is a regular performing wing of the School. It was set up

with the dual purpose of establishing professional theatre on one hand and continuing with the regular experimental work on the other hand. Over the years, the Repertory Company has produced a variety of plays ranging from stylized musicals to realistic Indian drama, translations and adaptations of foreign plays. Besides staging plays in Delhi, the Repertory Company also performs outside Delhi under sponsorships and occasionally undertakes tours abroad. Since 1988, the Repertory Company has produced 78 new plays. Besides the new productions, the Repertory Company gives performances of its old popular plays.

Theatre-in-Education Company

702. Theatre-in-Education Company was established in October 1989 for promoting Children Theatre. With the passage of time, the TIE Company has diversified its activities, all focused on promotion of Children Theatre. These activities are: -

- (i) Production of plays;
- (ii) Summer Theatre Workshop with Children;
- (iii) Imparting of theatre training to children through Sunday Club;
- (iv) Organization of workshops and plays in local schools;
- (v) And the last but not the least, organization of Jashnebachpan (National Theatre Festival for Children) under which children theatre groups from various States of India showcase their productions at a common platform.

703. Jashnebachpan was started in 1998 and has since become a regular annual feature. Plays included in Jashnebachpan usually contain subtle messages for growing children as well as for their parents. Since 1988, the TIE Company has produced 20 new plays for children. Besides these plays which are performed by adult artistes, the plays are devised with children by the members of TIE Company. Since 1991, the TIE Company has devised 56 plays with children.

Extension Programme

704. To reach the vast majority of theatre artistes in various States with diverse languages and cultural backgrounds, who cannot have access to the regular training course provided by the School, a short term teaching & training programme titled 'Extension Programme' was started in 1978. Under this Programme, the School organizes workshops in collaboration with the local theatre groups / artistes. These programmes are invariably held in the local languages. The workshops could be broadly divided under three categories, viz., Production Oriented Workshops, Production Oriented Children Workshops and Teaching & Training Programme in Theatre. During 90s of 20th century, the Extension Programme got a spurt and the number of workshops has been steadily increasing every year.

Bharat Rang Mahotsav

705. Initiated as part of Golden Jubilee Celebrations of India's Independence, the School organized the first ever National Theatre Festival of India of its kind in 1999 which was christened Bharat Rang Mahotsav. The Festival brought many a creative works together on a common platform. The leading theatre groups from almost all parts of the country participated with 60 plays in Hindi as well as regional languages. Because of warm response given to the Mahotsav by spectators and media both, it has been made a regular annual feature. Every year some new dimension is added to the Festival.

706. The IGNCA is a premier national institution engaged in, and dedicated to inter-disciplinary and cross-cultural study, research and programmatic initiatives. The IGNCA seeks to place the arts within the natural human environment for providing a forum for a critical dialogue between the diverse arts. The main objective is to develop bridges between the life and the arts, arts and the sciences, between indigenous knowledge systems of different regions of the country; between India and the world, between diverse local communities in India and similarly placed communities in the world.

707. It is concerned with research, field studies documentation, publication on conservation, dissemination, training and revitalization of community knowledge systems, skills and technologies which are culture -specific, that shore up the economic, cultural and social rights of the individual and the community.

708. In this endeavor, since its inception in 1986, the IGNCA has accomplished the following:

Reference Library

- The IGNCA has put together a Reference Library of 1,27,291 Books including several personal collections & rare books. Has over 400 Journals.
- Has documented in microfilms more than 10 millions in 16,000 rolls; has 1,42,090, microfiches,
- Has approximately 1 lac 35 mm slides.
- Has digitized more than 85,000.
- Has collected more than 10,000 photographs.
- Has Video Documentation of 121 projects.
- Has Cultural Archives and Ethnographic Collections of Paintings, Scroll Paintings, Musical Instruments and Recordings, Puppets, Jewellery, Embroidery and costumes, Masks and Bronzes etc.

Publications

- Has published 6 volumes in the Kalatattavakos Series comprising of India Key Concepts and made a lost of about 250 terms of concepts for future publication.
- Has published 18 blocks in the Kalamulasastra Series with annotated texts and translations relating to the Indian Arts.
- Has published 44 books in the Kalasamalocana Series by eminent scholars who have created bridges of communication by juxtaposing diverse traditions.

- Has published over 50 books in the following series, Rock Art Series, Art and Aesthetic Series, Prakriti Series (5 volumes), Life Style Studies Series, Kshetra Sampada Series, Culture and Development Series, Prof. Nirmal Kumar Bose Lectures Series, Children's World Series, and Adi Sravya Series.

Research

- Has carried out over **70 Field based Projects** to study the lifestyles of cultural communities all over India.
- Is carrying out holistic life style studies in certain cultural centres namely; **Brhadisvara Temple** complex and **Vraja area** in U.P.
- Has conducted major research on Village India under the aegis of UNESCO.
- Has conducted many UNESCO Projects in Maharashtra and Santhal Parganas.

Area Studies

- Has organized two major cells of Area Studies, namely, on China and Russia.

Audio Visual Programmes

- Is conducting a project on Adi Drshya (Primeval sight) and Adi Shravya (Primeval sound).
- Has Video Documentation of **121 programmes** from all over India covering the cultural diversity of our heritage.

Children's Programmes

- Has carried out several projects on puppetry and Children's literature the legends of Panchatantra.

Exhibitions

- Has held **over 75 exhibitions on diverse topics** such as The Legacy of Raja Deen Dayal, Exhibition on Shadow Puppets etc. Has held **8** major ones, presenting a cross cultural, Interdisciplinary view of Fundamental concepts of Civilizations, such as Space, time, Prakriti, Rita-Ritu, Man & Mask, Murda etc.

Multi-media Exhibition

- Has held the first multi-media presentation on Gita-Govinda by Jaideva, a 10 Century Love Poems on Radha Krishna.

Conferences, Seminars and Workshops

- Has conducted more than **180 Conferences, Seminars and Workshops.**

Public Lectures/Memorial Lectures

- Has conducted more than 180 Conferences, Seminars and
- More than 450 lectures have been delivered by eminent Scholars. Three series of Memorial Lectures namely; Acharya Hazari Prasad Dwivedi, Prof. Nirmal
- More than 450 lectures have been delivered by eminent Scholars. Three series of Memorial Lectures namely; Acharya Hazari Prasad Dwivedi, Prof. Nirmal Kumar Bose, and Dr. Suniti Kumar Chatterjee

Kumar Bose, and Dr. Suniti Kumar Chatterjee are being continued.

- Over a dozen CD-ROM Projects are underWay such as Gita-

CD-ROM Projects

- Over a dozen CD-ROM Projects are underway such as Gita-Govinda, Agnicayana, Visvarupa, Brhadisvara Temple, Rock Art, and Devnarayan etc. Two have been completed.

Web Site of IGNCA (www.ignca.nic.in)

- Has launched their Web Site consisting of over **4,700 text pages** with 2500 images with total Space coverage of **63 MB.**

IGNCA Branch Offices/Networks

The IGNCA has two branch offices namely; in **Varanasi** and in **Bangalore**. The Centre networks with all Governmental agencies, International Institutions and National agencies, Universities and selective NGO's to promote its activities.

Multi-lateral collaborations through cultural exchange programmes

- Has collaborated with international agencies like UNESCO, UNDP, Ford Foundation, and Japan Foundation, etc.

709. The Centre for Cultural Resources & Training, an autonomous organization fully financed by the Central Government has the task of dissemination of culture among school and college students. It designs and organizes a variety of programme to make schooling relevant and dynamical, and to ensure that students are provided with an educational experience to meet the challenges of a changing culture and society with a view to promoting a spirit of national integration. The Centre organizes orientation refresher courses to create an awareness of the fundamental principles underlying the development of Indian art and culture and the entire gamut of the literary, visual and performing arts. The Centre

has also been implementing the Cultural Talent Search Scholarships Scheme, since 1982 which aims at spotting talent within the age group of 10-14 years and awards scholarships to the outstanding young children with a view to developing their talents in different cultural fields.

710. Zonal Cultural Centres have been conceptualized with the aim of projecting cultural kinships which transcend territorial boundaries. The idea is to arouse and deepen awareness of the local cultures and to show how these merge into zonal identities and eventually into the rich diversity of India's composite culture. These centres have already established themselves as a premier agency in the field of promotion, preservation and dissemination of culture in the entire country. They are not only promoting performing arts but also making a significant contribution in the associated field of literary and visual arts. The seven zonal cultural centres were established under this scheme during 1985-86 at Patiala, Kolkata, Thanjavur, Udaipur, Allahabad, Dimapur and Nagpur. The participation of States in more than one zonal cultural centre according to their cultural linkage is a special feature of the composition of the zonal centres. With the approval of the Cabinet, a Corpus fund for each ZCC was created by Govt. of India and the participating State Governments to enable the ZCCs to finance their activities from the interest earned on the investment of this Corpus Fund. The Govt. of India provided a grant of Rs.50 million to each ZCC and each constituent State provided RS.10 million. In the event of a State being a member of more than one centre, the State's contribution would not exceed RS.10 million in all. From 1993 all the Zonal Cultural Centres have been sending their folk artists for participation in the Republic Day Folk Dance Festival. This festival is inaugurated by the Hon'ble President of India every year on 24th/25th January at the Talkatora Indoor Stadium. The Festival provides a unique opportunity for folk artistes to perform at the national level. A Crafts Fair is also held in the various zones along with the Republic Day Folk Dance Festival. Master craftsmen and artisans from various ZCCs participate in this Crafts Fair. The Crafts Fair has been providing a valuable opportunity for crafts persons from different parts of India to exhibit their products as well as their process of manufacturing directly to the customers. Documentation of various Folk and Tribal Art forms especially those which are rare and on the verge of vanishing, is one of the main thrust areas of ZCCs. Under the National Cultural Exchange Programme (NOEP), exchanges of artists, musicologists, performers and scholars between different region within the country take place. It has been extremely useful in promoting awareness of different tribal/folk art forms in different parts of the country and thus a very useful expressions of the concept of unity within diversity of our country. A scheme of Theatre Rejuvenation to provide an opportunity to theatre work, students, actors. Artists, directors and writers to perform on a common platform and to interact with each other. To promote development of new talents in the field of music and dance by introducing a scheme of Guru Shishya Parampara where masters will be identified in the zone, pupil assigned to them and scholarship provided for the purpose. The ICCs also providing promotion and marketing facilities to craftsmen through Shilpgrams. ICCs have also started a new scheme for recognition and encouragement of young talents in which each ICCs will identify the different performing/folk Art forms in their area and select one or two talented artists in each of the fields.

711. Festival of India was introduced in 1982 with the objective of promoting cultural links with foreign countries by holding Festivals of India in those countries and also organizing reciprocal festivals of those countries in India. This also helps in projecting India's cultural image abroad and also enhances the tourism potential of various

destinations in India. So far, Festivals of India were held in U.K., France, U.S.A., Sweden, U.S.S.R., Japan, Germany, China, and Thailand. Reciprocal festivals of Russia (U.S.S.R.), Japan, France, Sweden, China, and Thailand were held in India.

712. The Festival of Germany was held in India during the period from October 2000 to March 2001. Thereafter during 2003-04 Festival of India was organized in Bhutan between June-November, 2003. Bhutan was the first South Asian Country where FOI was organized. The FOI in Bhutan dedicated to eternal friendship and cooperation between India and Bhutan was jointly inaugurated by Bhutanese Prime Minister Lyonpo Kinzang Dorji and the then Indian Minister of State for External Affairs Sh Vinod Khanna on 5th June, 2003 at the India House, Thimpu with Indian classical music and dance. A large number of distinguished persons including high level officials of both the countries attended the inaugural function. 66 traditional artists from different parts of India, renowned flutist Mr. Rajendra Prassana and the Kathak dance group Kadamb choreographed by Mrs. Kumudini Lakhia performed at the inaugural function of the festival.

713. In the six month long kaleidoscope of festivity, several other programmes/events/exhibitions included in the Festival were a spectral of folk dances of India, Textile and Handicrafts Exhibition, Film Festival, Food Festival, Science Exhibition and a collaborative dance drama production on the revered Budhist Saint Milarepa. The collaborative Bhutanese India dance-drama production of "Eternal Journey" were shown in Thimpu on November 26 which was the last programme. The show was jointly inaugurated by the Prime Minister of Bhutan Lyonpo Jigmi Y. Thinley and the then Indian Minister of State for Culture Mrs. Bhavnaben D Chikhalia. The production also attempted to create a "linguistic fusion" where characters spoke in Hindi as well as Dzongkha. Twenty artists each from India and Bhutan took part in the dance drama programme.

714. It is expected that the festival will go a long way in developing a deep and long lasting bond between India and Bhutan which is the objective of such festivals. Festival of India in Bhutan added another dimension in the bilateral age-old relationship between Bhutan and India. This type of festival always strengthen in cementing the relation and give chance to know vast cultural, educational, social heritage of both organizing and hosting country and give back up to the tourism industries, trade a new dimension and create zeal to learn history, geography, culture of different countries.

715. The list of countries where Festival of India was held and reciprocal festivals of different countries were held in India since 1982 is given below:

Festival of India Abroad

Sl. No.	Name of the Country	Year
1	UK	1982
2	France	1985-86
3	USA	1985-86
4	Sweden	1987
5	USSR	1987-88
6	Japan	1988
7	Germany	1991
8	China	1994
9	Thailand	1995-97
10	Bhutan	2003

Reciprocal Festival in India

Sl. No.	Name of the Country	Year
1	Festival of USSR in India	1987-88
2	Japan Month in India	1987
3	Festival of France in India	1989-90
4	Festival of Sweden in India	1991-93
5	Festival of China in India	1992-93
6	Festival of Thailand	1997
7	German Festival in India	2000-2001

716. The Government of India has been actively pursuing the Policy of cultural cooperation with many countries across the world. So far, India has entered into 114 Cultural Agreements with various countries with a view to project India's culture and promoting bilateral cooperation between India and other countries in the areas of Art and Culture, Mass-media, Youth Affairs and Sports, etc. besides inculcating a spirit of international understanding. The Cultural Agreements help in the establishment of new relations, strengthening old and historic relationships and for reorienting existing relationships. Cultural Agreements lay down the broad principles of cooperation and are implemented through Cultural Exchange Programmes (CEPs.), which are framed on the basis of mutual understanding. These includes the exchange of artists, performing troupes, organizing of exhibitions, celebration of Cultural Days / Weeks, holding of festivals,

organizing of seminars / conferences, exchange of technical know how in the fields of Archaeological conservations, museums, libraries, mass-media etc. besides exchange of delegates. The Indian Council of Cultural Relations (ICCR) is also playing a significant role in the development of Cultural activities with foreign countries.

717. The Centre for Cultural Resources and Training (CCRT) has been taking steps for revitalizing the education system by creating an understanding and awareness among students about the plurality of regional cultures of India and integrating this knowledge with education. It organizes academic programmes on Indian Art and Culture for foreign teachers and students. It implements the Cultural Talent Search Scholarship Scheme for providing scholarship to 300 outstanding children in the age group of 10-14.

718. A scheme of *Jawahar Nawadya Vidyalayas* is being implemented setting up co-educational residential schools with a unique feature of migration. Under this 30% of students of class IX from a *vidyalaya* located in Hindi speaking area spend one academic year in a *vidyalaya* located in non-hindi speaking area and vice versa to promote national integration through understanding of the diversity and plurality of country's people, their language and culture.

719. *National Bal Bhavan* established in 1956 also contributes to enhance creativity amongst children in the age group of 5-16 years especially from the weaker sections of the society. The children are encouraged to pursue activities of their choice like creative arts, performing arts, environment, astronomy, photography, integrated activities, physical activities, science related activities etc.

720. A Central sector scheme of assistance, under the National Policy on Education 1986 as revised in the year 1992, for strengthening of culture and values in education is being implemented under which financial assistance is given to governmental, non-governmental and *Panchayati Raj Institutions* for strengthening cultural and value education inputs in the school and non-formal education system and strengthening the in-service training of art, craft, music and dance teachers.

Fellowship and financial assistance

721. Fellowship schemes were introduced in 1998-99 to encourage application of modern ideas, principles, methodologies, and technology covering ideology, cultural economics, structural and engineering aspect of monuments, monasteries, epigraph, scientific and technological principles of conversation, sociology of culture, management of heritage and art and culture institutions and studies relating to application of science and technology in archaeological sites, material ceramics, metal crafts, etc.

722. A scheme of senior/junior fellowships is provided by the various national academies. A scheme of financial assistance to outstanding young artists in the age group of 18-25 years for advanced training within India, in the fields of music, dance, usual arts, drama and folk traditional and indigenous arts is being implemented.

723. Institutions of all India character, engaged in the development of cultural activities are given financial assistance to meet part of their expenditure on maintenance and development activities. The institutions assisted are the Institute of Historical studies, Kolkata and the Institute of Traditional Culture, Chennai. The government also provides

scholarships to Indian scholars for post graduate/research/post doctoral studies abroad on the basis of offers received from foreign governments under the various cultural/educational exchange programmes. During the year 2002-03 105 scholarships were awarded.

724. A programme of 'festival of India' was introduced with the objective of giving a focused glimpse of vast heritage as well as contemporary dynamism of Indian culture. Since 1982 festivals of India have been held in the UK, USA, France, USSR, Japan, Sweden, Germany, China and Thailand. Reciprocal festivals of erstwhile USSR, Japan, France, China, Thailand, Sweden and China were held in India.

Mass media in Culture

725. The government has also been supporting and promoting the people's participation in the cultural life of the nation through various instruments of mass communication. The government was the sole broadcaster before a decade and a half. Today the broadcasting sector has about hundred private channels and cable network all over the country. The Ministry of Information and Broadcasting is the nodal agency. The government-broadcasting sector consists of *Prasar Bharati* formed by an Act of 1997 by subsuming *Doordarshan* and All India Radio under it. One of the objectives of the *Prasar Bharati* Corporation includes providing adequate coverage to the diverse cultures, sports and games and youth affairs.

726. The All India Radio (AIR) operates in a linguistically diverse country like India in 24 languages and 146 dialects. AIR operates following channels [1] primary channel, [2] national channel, [3] commercial broadcasting service [*Vividh Bharathi*], [4] FM channels and [5] external service channel. The primary channel of AIR promotes art and culture with a major emphasis on Indian classic music, around 40% of total broad cast on primary channel comprises music which includes classical music, light, folk, film and music of various other languages. National channel and *Vividh Bharti* also promote music. Aiming to keep the overseas listeners in touch with ethos of India the external service division of AIR covers about 100 countries in 27 languages, 17 of them foreign and 10 Indian. AIR has a sound archive of 12,500 tapes of music, which are now being transformed in to a compact disc format for longer preservation. It has a separate reference library of folk and tribal music in all principal languages and dialects of the country.

727. *Doordarshan* operates various national channels and 12 regional channels. It has a three-tier programme service viz., national, regional and local. It shows documentaries on science, art, and culture, environment, social issues, music, dance, drama, and feature film in national programme. In the *DD-Bharati* the new edutainment channel of India, the cultural heritage of India is depicted in the late evening art and culture segment with programmes on music, dance, art, appreciation, heritage, tourism etc. DD India is its international channel with the objective of building a Communication Bridge with Indians living abroad and to showcase the real India; its culture, its values, its tradition, its modernity, its diversity, its agony and its ecstasy, to the entire world.

728. The government is concerned that the instruments of mass communication should be used constructively and should contribute to a decent and healthy development of human beings especially children. With that in view the Cable TV network Act has been amended with objectives of preventing advertisements for liquors, tobacco, and infant

milk substitutes to prevent showing pirated movies and for ensuring that the cable network show at least three Doordarshan channels.

729. Filmmaking is in the non-governmental sector. The government's presence in this sector consists of Films Division, Directorate of Film Festivals, National Film Development Corporation, the Central Board of Film Certification, Film archives of India and Children's Film Society.

730. The Directorate of film festivals (DFF) was set up in 1973 to promote good cinema and to organize Film festivals of various countries. Festivals of films from Italy, Poland, Norway, Croatia, Vietnam and South Africa were organized. Indian film weeks were organized in Hong Kong, Egypt, Chicago, Switzerland, Georgia, United Kingdom, Japan and Bhutan. More than 170 Indian films were shown in about 65 festivals all over the world. DFF also helps various individuals by issuing no objection certificates for participation in film festivals abroad. Film and Television Institute of India, Satyajit Ray Film and Television Institute and Indian Institute of Mass Communication are some renowned institutes for imparting training in all aspects of filmmaking.

731. Films can be publicly exhibited in India only after they have been certified by the Central Board of Film Certification [CBFC] whose advisory panel includes eminent educationalist, art critics, journalists, social workers, psychologists, etc. The Board examines films for certification in accordance with the provisions contained in the Cinematograph Act 1952 and the Cinematograph [Certification] Rules, 1983 and the guidelines issued by the Central government.

732. The National Film Development Corporation [NFDC] has the primary objective to foster excellence in cinema and to develop state the art technology in audio-visual and related fields. It endeavours to promote culture and understanding of cinema by organizing film weeks, Indian panorama, and film festival in collaboration with film societies, national film circle and other agencies representing Indian and foreign films. From the year 2003 the government has liberalized the shooting of foreign films and co-productions in the country by providing for quick and easy clearances except in exceptional cases.

733. In the year 2001 total of 51960 newspapers and periodical were being published in India. There were 5638 dailies, 348 tri/biweeklies, 18582 weeklies, 6881 fortnightly, 14,634 monthly, 3634 quarterly, 469 annuals and 1774 of other periodicals. A non-aligned new agencies pool is functioning under an arrangement for the exchange of news of non-aligned countries. The Indian institute of mass communication, New Delhi is recognized as a premier institute for training in journalism in the non-aligned countries, and offers a regular diploma course in developmental journalism to media persons from non-aligned countries.

734. An Indian council for cultural relations [ICCR] established in 1959 has been active in promoting inter-country cultural activities. It is engaged in wide range of activities that include exchange of cultural delegations, exhibitions and distinguished visitors, besides administering scholarship programmes and organizing seminars. In the year 2002 the Indian Council of World Affairs [ICWA] an institute of national importance organized a national seminar on India-Africa: New Horizons and a 'Africa centre' was also inaugurated during the seminar.

735. The country has evolved a National Tourism Policy in the year 2002. In pursuance of the objectives of the policy steps are initiated to set up 35 hubs at least one in each state to synthesis elements of tourism, culture and clean civic life. Places of tourist interest and cultural heritage are being linked at the hub with improved infrastructure. Documentation centre and interpretation centre, handicrafts emporium and other similar facilities are being created at these hubs to familiarize with the rich heritage and civilization values.

Science and Technology

736. The country is always committed to achieve scientific progress and enable all its population to enjoy the benefits from the progress. The Constitutional directs all citizens, to develop scientific temper and to strive towards excellence in all spheres of individual and collective activity so that the nation rises to higher levels of endeavour and achievement. The scientific policy resolution of 1958 was formulated to encourage individual initiative and to ensure that creative talent of men and women finds full scope in scientific activity. Over the past five decades various agencies, institutions and departments have been put in place to promote and aid the science and technology activity in the country.

737. At Central level the Ministry of Science and Technology is the nodal agency with three departments, Department of Science and Technology [DST], Department of Scientific and Industrial Research [DSIR] and the Department of atomic Energy. Electronics, ocean development, and space are other scientific departments. The Ministry of Environment and Forests and the Ministry of Non-conventional energy sources are also concerned with scientific endeavours. To enable various socio economic ministries to formulate long-term S & T programmes, Science and Technology Advisory Committees have been set up in individual ministries. Inter-sectoral S & T advisory committees [IS-STAC] have been set up for coordinating the efforts of STAC and monitoring the activities of the various ministries.

738. States and Union Territories also have science and technology councils. Integration of S&T planning with national socio economic planning is done by the planning commission, with the effective participation of scientific community at national, agency, laboratory and university levels. There also exists a three level apex structure for coordinating science and technology activities comprising (1) a cabinet committee on S & T under the chairman ship of Prime Minister, (2) a committee of secretaries of S & T under the cabinet secretary and (3) a scientific advisory committee to the cabinet (set up in 1997 consisting of several eminent scientists, academicians, technologist, and social scientists as well as representatives of the industry and the NGO sector).

739. Science and technology activity in India are carried out through a wide set up consisting of government departments, autonomous funded agencies under government departments at the central and the state level, universities, higher institutes of technologies, private and recognized research institutions receiving grants, public and private sector industries with in house R & D centers and non profit institutions/associations. There are over 1200 in- house research and development units in industrial undertakings supporting research in their respective industries.

Science and Technology Policy

740. The major direction of the S & T activity in the country is as underlined in the scientific policy resolution 1958. During the first three decades of S & T activity the country was heavily dependant on imported technology and much of that did not cater to national priorities and also put a heavy burden on the resources. As a result a Technology Policy statement was evolved in 1983 laying emphasis on the development of indigenous technology and efficiency for absorption and adoption of imported technology appropriate to the national priorities and resources. Major developments took place in almost all areas of S & T and many programmes for the development of rural areas were implemented reaching the grass root level. This has led to considerable improvement in the standard of living in the country.

741. The emergence of globalization and the consequent structural reforms in the Indian Economy and other developments in the International Scenario brought in new areas of concern/ set of challenges, which necessitated a rethink on the S & T front. A new technology policy statement was evolved in the year 1993 addressing these new fronts. The policy aimed at upgrading existing technologies and building newer technologies comparable to international levels and developing state of the art cleaner technologies for limiting the effect on environment and natural resources and stressed the need for enhancing investment in Research & Development & Engineering and improving the human resources in the country. The need for easy access and greater spread use of technology and development of such technologies were stressed aimed at improving the quality of life especially of the vulnerable/ weaker sections

742. After a decade of initiatives the government has evolved a science and technology policy in the year 2003 giving a blue print for future programmes and initiatives of science and technology. The policy, among other things, highlights the following objectives.

- [a] Utilization of physical and knowledge resources on the issues of national concern
- [b] Fostering scientific research in higher educational institutions and attracting young persons to concerns in S&T by creating suitable environment and creating centres of excellence to raise the level of work.
- [c] Empowering women in this field
- [d] Dissemination and communication of science to all people to advance scientific temper and for its application for human welfare.
- [e] Establishment and protection of intellectual property regime
- [f] Development of systems and technologies for mitigation and management of natural hazards
- [g] Encouraging interaction in key areas between public and private institutions and
- [h] Promoting international cooperation.

These objectives are also stressed by the Tenth Plan document.

Promotion of Science and Technology Activities

743. The Department of Science and Technology coordinates and supports the S&T activity by providing grants in aid to 16 autonomous scientific institutions and professional bodies in the country. It implements various programmes for augmentation of infrastructure at research institutions, provides scholarships and fellowships to encourage young scientists in research work and implements programmes for promoting and encouraging research in newly emerging/ advanced and challenging areas of science and engineering through a Science and Engineering Research Council⁹⁷(SERC) established in 1974. Every year around 1000 projects are received for consideration in the department.

Infrastructure Development

744. The SERC implements a scheme called Intensification of Research in High Priority Areas (IRPHA) under which core groups/units are created around an outstanding scientist, national facilities in areas of high priority are set up and programmes are evolved for co-ordination in high priority multi-disciplinary areas and training is given to young scientists in these areas.

745. Many Sophisticated Analytical Instrument Facilities (SAIFs) have been set up in different parts of the country to provide such facilities to the research workers in general and to those specially from the institutions which do not have access to such instruments to enable them to keep pace with developments taking place globally. This benefits currently about 6000 users from all over the country.

746. A major initiative called "Fund for Improvement of S&T infrastructure in universities and higher educational institutions (FIST)" has been launched to rebuild the Science & Technology infrastructure, promote R&D in new and emerging areas and to attract fresh talent in the universities and other related institutions. The State governments are implementing a project with World Bank assistance to upgrade the polytechnics (institutes for training technical manpower at middle level) in quantity, quality and efficiency.

747. A number of inter-university centres have been set up to provide common research facilities to research scientists from various universities. A Programme has been started in consultation with the committee for strengthening of infrastructure in science and technology [COSIST] to help, selectively, the established university departments to achieve international standards.

748. The government has recently converted 10 out of 17 Regional Engineering Colleges (RECs) in to National Institute of Technologies (NITs) and one REC in to an Indian Institute of Technology (IITs) effecting a change in their status and management. The NITs have been granted deemed to be university status giving them full autonomy in academic matters in addition to complete administrative freedom to decide their own affairs.

⁹⁷The Council includes eminent scientists, technologists drawn from various universities/national laboratories and public and private sector industries.

Human Resources Development

749. The DST supports different programmes aimed at identifying new talent and providing them with financial assistance in the form of fellowship for pursuing research in front line areas of science and technology. The scheme are outlined below. It also supports training programmes, summer schools and contact programmes. Financial assistance is provided to professional bodies, seminar/symposia and journals and also to Indian scientists for participations in conferences/ international events abroad.

750. A *Swarna Jayanti* Fellowships scheme is being implemented from the year 1997 under which a selected number of young Indian scientists (from India or abroad), with proven track record are extensively supported⁹⁸ to enable them to pursue basic research in frontier areas of science and technology with a freedom and flexibility in terms of expenditure for a period of five years.

751. Young scientists below the age of 35 years are supported for a period of three years under the FAST TRACK PROPOSALS FOR YOUNG SCIENTISTS to undertake quick research, of high standard in frontier areas of science and engineering, subject to peer review and other suitable mechanisms. Another programme called the "Better Opportunities for Young Scientists in Chosen Areas of Science & Technology (BOYSCAST)" provides fellowships of three to twelve months duration every year to the selected young Indian scientists/technologists holding regular positions in recognized S & T institutes in India to visit international institutions for gaining exposure to latest research techniques and to enable them to participate and contribute to the latest developments in specially chosen areas of science & technology.

752. A scheme of SERC Schools encourages Young Scientists to take up challenging research and development activities. A Program Advisory Committee is promoting the program in disciplines like Life, Chemical, Physical and Engineering Sciences. An active Scientist is identified as course director. During the 5-year tenure a group of around 40 students in each school is taken up for duration of 2-3 weeks.

753. Women Scientist scheme has been launched during the year 2002 providing approximately 100 scholarships under specialized subject areas. Under the Utilization Of the Scientific Expertise Of Retired Scientists (USERS) the country also utilizes the expertise and potential of large number of eminent scientists in the country in S&T development activities even after their retirement especially in preparation of books /monographs/ state-of-the-art reports.

754. A National Children Science Congress is conducted every year for children in the age group of 10-17 years from all over the country to encourage students to relate the learning of science to the environment around to their immediate social and physical environment and provide them a forum to interact with scientist.

⁹⁸ In addition to fellowship, grants for equipment, computational and communication facilities, consumables, contingencies, administrative support, national and international travel and other special requirements are covered.

755. The Central government is providing financial assistance to State/UTs under scheme called 'improvement of science education in schools' for provision of science kits to upper primary schools, setting up/upgradation of science laboratories in secondary/senior secondary schools and training of science and mathematics teachers. Voluntary agencies are also assisted in conducting experimental and innovative programmes. Under this various delegation of students have been sent to international science symposiums successfully winning four gold, nine silver, and six bronze medals during 2002.

756. A National Science Olympiad Programme covering Mathematics, Physics, Chemistry and Biology is operational in the country for promoting excellence in science among pre-university students and selecting teams to represent the country at the respective International Olympiads. The students from the country have performed well in the International Olympiads 2001 with 3 gold, 2 silver in Physics; 1 gold and 3 silver in Chemistry; and 1 gold and 3 silver medals in Biology.

757. Talented students of Science, Engineering and Medicine are encouraged under *Kishore Vaigyanik Protsahan Yojana (KVPY)* to take up careers in research in these fields ensuring that the best scientific talent is tapped for research and development establishments. A generous scholarship is provided (up to the Pre-Phd level) to the selected students. In addition, summer programmes in prestigious research and education institutions in the country are organized, and preferential access to facilities such as libraries, laboratories, museums, etc. are provided.

758. The country also has institutions and schemes in place for S & T information, communication and popularization. The National Science and Technology Management Information System [NSTMIS] collects, collates, analysis and disseminates vital scientific and technological information. Information on manpower and financial resources devoted to S&T activities is made available so that a judicious utilization of scarce resources may be planned. The National Council for Science and technology, Communication [NCSTC] for S & T communication/ popularization and inculcation of science and temper among the people. *Vigyan Prasar* established in 1989 also takes up large-scale science popularization programmes through mass media. It also strives to create awareness about science and encourage scientific methodology in practical life through a network of science clubs.

Technology Development Programmes

759. A Technology Information, Forecasting and Assessment Council (TIFAC) was set up by DST in pursuance of the technology policy statement of 1983 to generate technology forecasting, technology assessment and techno market survey documents. It has set up a technology information system TIFACLINTE that is interactive and nationally accessible. It has also created a new database and has linkages with industrial bodies and other multilateral regional associations. TIFAC has carried out its activities in areas of human settlement planning, building technology and skills, steel, sugar industry, materials technology and skills, steel, sugar industry, materials technology and prospects for bio technological products in India. New initiatives have been taken in surface engineering and high performance computational facilities among other things. It has also bought out a

25-volume report Technology Vision 2020 presenting a long-term technology forecast in diverse areas.

760. Patent Facilitating Centre (PFC) was set up by DST under TIFAC as a single window facility on All-India level to provide patent support to the academic sector and smaller scientific institutions in the Central or the State sector where in-house facilities are not available unlike other major scientific establishments. PFC has facilitated filing of 231 patent applications during the period June 1995 to September 2003.

761. The DST has been promoting the area of Instrumentation through its Instrumentation Development Programme (IDP), which makes a great impact on vital sectors of national activities such as education, scientific research, industry, agriculture, medicine and health etc. A scheme on 'Drugs and Pharmaceuticals Research' is also implemented to support collaborative R&D projects jointly submitted by drug companies and the academics national R&D institutions aimed at development of new drugs and cleaner processes technologies and enhance the nation's self-reliance in drugs and pharmaceuticals especially in areas critical to national health requirements.

762. The Government of India constituted a Technology Development Board as a statutory body 1996 to provide financial assistance to industrial concerns attempting the development and commercial application of indigenous technology or adapting imported technology to wider domestic application. So far the Board assisted 97 projects in the emerging areas of health and medicine, engineering, chemical, agricultural, energy and waste utilisation, air and road transport, information technology and telecommunication, etc.

763. A New Technology Fund is established for providing financial assistance for commercial application of indigenous technology and for the research and development institutions engaged in developing indigenous technology or adaptation of imported technology. Many products have been successfully produced and marketed as a result of the assistance. The Fund is kept at the disposal of DST and is administered by the Technology Development Board. The board has instituted a 'National award for successful commercialization of indigenous technology' by an industrial concern from 1999 onwards.

764. The DST has initiated multi institutional programmes in emerging areas of technology; such as instrument development, advanced materials, critical technology, sugar technology, fly ash utilization and advanced composites.

Entrepreneurship Development

765. A National Science and Technology Entrepreneurship Development Board [NSTEDB] established in 1982 operates various entrepreneurship development programmes to encourage young scientists to become entrepreneur in applying scientific and technological development to the social sector, especially in backward and the tribal areas.

766. Science and Technology Entrepreneur Parks [STEP] and Entrepreneurship Development Cells have been established in and around several S&T institutions in the country to facilitate to promotion of entrepreneurship and provide avenues of self-

employment among qualified S&T persons. A technopreneur promotion programme [TePP] is being implemented under which various forms of assistance including financial support forwards improving the idea/innovation know how/designs to working models] prototypes/pilot plants, appropriate R&D facilities, patent facilitation and interface as tie up with financial institutions for commercial exploitation are provided to projects of individual innovators.

Societal programmes

767. The DST has evolved and implemented a number of programmes with S&T inputs to improve the quality of the life of people by creating productive jobs, reducing drudgery, improving general health and environment and inculcating scientific temper among people. Some of these programmes are as follows:

768. *Science and technology for women:* Under this programme various projects covering herbal plants, horticulture, sericulture, wasteland improvement and mahila vigyan project are implemented for the benefit of women belonging to the weaker sections of the society. The Mahila Vigyan Project aims at developing software for training of and creating awareness among women involved in income generating activities.

769. Science and technology application for weaker sections [STAWS]: Many projects relating to diverse areas are implemented for the benefits of the weaker section. Some of the important activities are:

- (a.) Programme on electrical, electronics and computer technology training servicing and production activities
- (b.) Project on sustainable livelihood through energy enterprises technology choice and dissemination.
- (c.) Project for development of rural artisanal pottery and
- (d.) Projects in the agriculture, animal husbandry and allied fields.

770. Science and Technology application for rural development: Outstanding work has been done under this in development, modification and adaptation of appropriate technology for rural development with noticeable achievements in [1] low cast construction technology [2] integrated land, weaker and cover management [3] upgradation of artisanal skill and [4] small and medium enterprises based on local available resources and [5] renewable energy systems.

Tribal sub-plan

771. With the full participation of the tribal people S & T inputs in the field of agriculture, watershed development, collecting and storing of stream water and in-situ conservation and runoff control are imparted to them. In pursuance of a project on 'production of good quality crude drugs by *adivasis* of Western Ghats' the tribal people have undertaken propagation of medicinal plants by quick vegetative means and processing the plant parts for producing crude drugs.

Special Component Plan [SCP]

772. Projects are implemented for improving the habitations of scheduled caste people; training is imparted to adopt new technologies for improving activities like spinning, weaving, mushroom, cultivation etc. Projects involving low cost latrines, treatment of sewage water for irrigation are also implemented. Children of scavengers among scheduled castes are given training under this project in activities like signboard/screen printing, computer graphics, photography, maintenance of electrical appliances and fabrication of garments.

Young Scientists in Societal Programmes

773. Young scientists are given opportunity for pursuing and applying innovative research ideas for solving day-to-day problems faced by the weaker sections of society. Some of the projects being assisted are [a] low cost animal feeds using feed stuff available in rural areas [b] soil fertility management strategy for *ragi* and ground nut [c] bio-environmental methods for control of malaria [d] low cost technologies for water shed management and [e] optimizations of oyster mushroom and its cultivation techniques.

Science and Society Programme

774. Science & Society Division (SSD) aims at providing opportunities to motivated scientists and field level workers to take up action oriented and location specific projects aiming towards socio-economic upliftment of poor and disadvantaged sections of the society through appropriate technological interventions especially in the rural areas. Under this program efforts have been made to associate concerned National Labs or other specialist S&T institutions with each major program so as to build-in expert input, utilize national S&T infrastructure and link it up with grassroots S&T interventions/initiatives.

Media Lab Asia

775. The Media Lab Asia is a network of national as well as overseas people, projects, and laboratories established as company under the Indian Companies Act. The basic idea is to facilitate the invention, refinement and deployment of innovation of the most advanced information technologies to the neediest people in the remotest areas of the country. There are 24 ongoing projects in various research themes of Media Lab Asia.

Legal Measures

776. The country has a well-developed Intellectual Property Regime. The Copyright Act 1957 protects the literary, musical and artistic creations. The computer programmes are considered as literary creations under protected under the Act. The Indian Patents Act 1970 provides for grant of patent for inventions. The Act has been recently amended to bring it in line with the WTO-TRIPS provisions. The Designs Act 2000 has been enacted separating the protection of designs from the patents Act for non-utility designs.

777. The country has also taken steps for protection the traditional knowledge and entails benefits of such protection to the interested persons. The Biological Diversity Act 2002 is a step in that direction, which provides for equitable sharing of benefits arising out

of the use of biological resources traditional knowledge and matters related to it. The protection of plant varieties and farmers right Act 2003 gives rights to farmer entitling them for benefit sharing for the use of bio-diversity conserved by the farming community.

778. To encourage the electronic commerce and provide legality for the transactions in the electronic environment the government has enacted the Information Technology Act 2000, and has notified rules under the Act. Hacking of websites, breach of Confidence and Privacy in the Internet are punishable under the Act.

International Cooperation

779. There are three levels of international science and technology cooperation; bilateral cooperation with developed and developing countries, regional cooperation such as with SAARC, ASEAN and BIMSTEC countries, and multilateral cooperation through NAM Science and Technology centre, COSTED, UNESCO etc. India has bilateral science and technology cooperation programmes with more then 57 countries of the world.

780. A major bilateral programme in the form of Indo-US Science and Technology Forum has been launched. It has been registered as an autonomous society in India. The forum has received an endowment grant from the US side whereas the Indian side will contribute an annual matching grant on the interest of the endowment. A new project based personnel exchange programme with German Academic Exchange Service [DAAD] has been launched.

781. Indian, scientists have conducted experiments in various fields, and received advanced training and international research facilities under various international science and technology cooperation programmes. The following joint R&D centres have been established under international science and technology cooperation programme; Indo Russian Research Centre in Advanced Computing, at Moscow; International Advanced Research Centre for Powder Metallurgy [ARC-I], at Hyderabad; Indo Uzbek Centre for Medical Application of Low Level Lasers for treatment of Tuberculosis and Allied Diseases, at New Delhi.
