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Human Rights Council
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Commissioner for Human Rights in accordance with
paragraph 5 of the annex to Human Rights Council
resolution 16/21****India***

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and the Office of the High Commissioner for Human Rights (OHCHR) and other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period

* * Late submission.

I. Background and framework

A. Scope of international obligations¹

Universal human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1968) ICESCR (1979) ICCPR (1979) CEDAW (1993) CRC (1992) OP-CRC-AC (2005) OP-CRC-SC (2005) CRPD (2007)	--	ICCPR-OP 2 CAT (signature only, 1997) OP-CAT ICRMW CED (signature only, 2007)
<i>Reservations, declarations and/or understandings</i>	ICERD (art. 22) ICESCR (arts. 1, 4, 7 (c) and 8) ICCPR (arts. 1, 9, 12, 13, 19, para. 3, 21 and 22) CEDAW (arts. 5 (a), 16, paras. 1 and 2, and 29, para. 1) CRC (art. 32)	--	--
<i>Complaint procedures³</i>	--	--	ICERD, art. 14 OP-ICESCR ICCPR-OP 1 OP-CEDAW CAT, art. 22 ICRMW, art. 77 OP-CRPD CED, art. 31

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide Geneva Conventions of 12 August 1949 ⁴ ILO fundamental conventions ⁵	Palermo Protocol ⁶	Rome Statute of the International Criminal Court Conventions on refugees and stateless persons ⁷ Additional Protocols to the 1949 Geneva Conventions ⁸ UNESCO Convention against Discrimination in Education ILO fundamental conventions ⁹

<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
		ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries
		ILO Convention No. 189 concerning Decent Work for Domestic Workers

1. In 2012, the Special Rapporteur on the situation of human rights defenders welcomed the commitment of India to ratify CAT and CED and recommended that India take the necessary steps to recognize the competence of the United Nations human rights treaty bodies to receive individual complaints.¹⁰

2. The Committee on Economic, Social and Cultural Rights (CESCR) encouraged India to consider ratifying CAT, ICRMW and ILO conventions including No. 98.¹¹ The United Nations Country Team (UNCT) noted a significant change in the Indian legal framework, and stated that it would be highly beneficial for India to reconsider its declaration to article 32 of the CRC, and to ratify ILO Conventions Nos. 138 and 182.¹²

3. India was also invited to consider ratifying the four conventions relating to refugees and stateless persons;¹³ UNESCO Convention against Discrimination in Education;¹⁴ ILO Convention No. 169;¹⁵ as well as Nos. 155 and 170.¹⁶

4. CESCR was of the view that India had the capability to implement immediately the rights in Part II of the ICESCR as required, and to meet, at the least, its core obligations for the progressive realization of the rights in Part III of the Covenant. Regretting India's position that the realization of the rights contained in the ICESCR are entirely progressive in nature, CESCR urged India to review its position.¹⁷

B. Constitutional and legislative framework

5. While noting the significant role played by the Supreme Court of India in interpreting the Constitution with a view to achieving justiciability of economic, social and cultural rights, CECSR recommended that India take the necessary legal measures to give full effect to the ICESCR in domestic law.¹⁸

6. Concerning the Prevention against Torture Bill (2010) adopted by the Lok Sabha on 6 May 2010, the Special Rapporteur on the question of torture reported that the bill failed to comply with several provisions of CAT. Additionally, the bill required that the Government grant its approval before a court could take up a case, and complaints had to be filed within six months from the date of the offence. The Government replied that the bill was undergoing careful scrutiny in Parliament.¹⁹ The Special Rapporteur on the situation of human rights defenders noted that the bill was before the Rajya Sabha and recommended that it be adopted without further delay.²⁰

C. Institutional and human rights infrastructure and policy measures

<i>National Human Rights Institution²¹</i>	<i>Status during previous cycle</i>	<i>Status during present cycle</i>
National Human Rights Commission of India (NHRC) ²²	A (1999, reconfirmed in 2006)	A (2006)

7. UNCT noted the recent establishment of the National Commission for the Protection of Child Rights and 12 State Commissions and the need to strengthen measures for the effectiveness of these institutions and all other existing commissions.²³ CESCR recommended that India ensure that State and Union Territories establish their respective human rights commissions and courts, and enable the latter to consider violations of economic, social and cultural rights.²⁴

8. Regarding the work of commissions, the Special Rapporteur on the situation of human rights defenders reported on defenders' concerns, also echoed by the accreditation committee of NHRIs, that investigations are conducted by the police, who in many cases are perpetrators of the alleged violations. She also found the one-year limit for submitting complaints to the NHRC highly problematic.²⁵

9. UNCT reported that there was no action plan for follow-up on treaty body recommendations. NHRC would need to coordinate with various ministries and the civil society to develop a plan in a consultative manner.²⁶ The Special Rapporteur on the situation of human rights defenders further recommended that the commissions monitor India's implementation of the recommendations made by the United Nations human rights mechanisms, including special procedures mandate holders, treaty bodies and the universal periodic review (UPR).²⁷

10. UNCT stated that there was very little disaggregated data available on caste and related discrimination.²⁸

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies²⁹

1. Status of reporting

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	March 2007	--	--	Twentieth and twenty-first reports overdue since 2010
CESCR	January 1990	--	May 2008	Sixth report overdue since 2011
HR Committee	July 1997	--	--	Fourth report overdue since 2001
CEDAW	January 2007	Exceptional report, 2009	November 2010	Fourth and fifth reports overdue since 2011

CRC	January 2004	2011	--	Third and fourth reports Initial OP-CRC-AC and OP-CRC-SC reports to be considered
CRPD	--	--	--	Initial report overdue since 2010

11. Committee on the Elimination of Discrimination against Women (CEDAW)³⁰ CESCR³¹ and UNCT while expressing appreciation for the submission of reports, noted that they were long overdue. UNCT stated that it would welcome the Government increasing opportunities for consultations on child rights issues with all stakeholders.³²

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2008	Repeal the Armed Forces (Special Powers) Act (AFSPA) Acts of sexual violence and exploitation against Dalit and tribal women; right of ownership by members of tribal communities over lands traditionally occupied by them Complaints about acts against members of scheduled castes (SC) and scheduled tribes (ST)	

B. Cooperation with special procedures³³

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	No	Yes
<i>Visits undertaken</i>	Health (22 November-3 December 2007) ³⁴ Food (20 August-2 September 2005) Violence against women (28 October-15 November 2000).	Freedom of religion (3-20 March 2008) ³⁵ Toxic waste (11-21 January 2010) ³⁶ Human rights defenders (11-21 January 2011) ³⁷
<i>Visits agreed to in principle</i>	Toxic waste Freedom of religion	Summary executions (19-30 March 2012) Adequate housing Arbitrary detention Sale of children (16-27 April 2012)
<i>Visits requested</i>	Torture (1993 and 2007) ³⁸ Human rights defenders (2002, 2003)	Torture (2010) ³⁹

and 2004)	Racism (renewed request 2008) ⁴⁰
Racism (2004 and 2006)	Indigenous people (requested 2008)
Summary executions (2000, 2005 and 2006)	Water and sanitation (requested 2009)
Sale of children (2004)	Trafficking (requested 2010)
Arbitrary Detention (2004, 2005 and 2006)	Disappearances (requested 2010, reminder sent 2011)
	Independence of judges and lawyers (requested 2011)
	Violence against women (requested 2012)
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 98 communications were sent. The Government replied to 76.

12. In 2012, the Working Group on Disappearances noted that since its establishment, it had transmitted 433 cases to the Government; 12 of which had been clarified on the basis of information provided by the source, 68 cases had been clarified on the basis of information provided by the Government.⁴¹

13. The Government did not respond to the request for follow-up information on freedom of religion.⁴²

C. Cooperation with the Office of the High Commissioner for Human Rights

14. India contributed financially to OHCHR annually.⁴³

15. In his 2010 and 2011 reports, the Secretary-General referred to three cases of alleged reprisals against persons cooperating with United Nations human rights mechanisms on human rights violations against women, monitoring human rights in West Bengal⁴⁴ and victims of the Gujarat riots. In the first case, the Government found the allegations to be inaccurate.⁴⁵

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

16. CESCR was deeply concerned that despite the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and, often, socially accepted discrimination, harassment and/or violence persisted against members of certain disadvantaged and marginalized groups, including women, scheduled castes and tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities, such as the Muslim population, persons with disabilities and persons living with HIV/AIDS.⁴⁶ The Special Rapporteur on the situation of human rights defenders indicated that defenders working on such issues

faced particular risks.⁴⁷ CESCR recommended that India strengthen enforcement of existing legal prohibitions on discrimination and consider enacting comprehensive anti-discrimination legislation, specifically prohibiting discrimination in employment, social security, housing, health care and education. CESCR urged India to step up efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts.⁴⁸

17. In 2011, UNICEF reported that the child sex ratio consistently showed a declining trend and was now an alarming 914 females to 1,000 males in the 0 to 6 years age group.⁴⁹ CESCR was deeply concerned at the lack of progress achieved by India in eliminating traditional practices and provisions of personal status laws⁵⁰ that are harmful and discriminatory to women and girls, including *sati*, *devadasi*, witch-hunting, child marriages, dowry deaths and honour killings, despite legal prohibitions.⁵¹ With regard to religion-based personal laws, the Special Rapporteur on freedom of religion or belief recommended that such laws be reviewed to prevent discrimination based on religion or belief, as well as to ensure gender equality.⁵²

18. In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations encouraged India to undertake in-depth studies into the reasons for the wide gender remuneration gap.⁵³ CESCR recommended that India continue making use of affirmative action measures to promote the active political participation of women.⁵⁴

19. In 2009, the Special Rapporteur on freedom of religion or belief recalled the recommendation made by CERD to restore the eligibility for affirmative action benefits of all members of SC and ST having converted to another religion. The Special Rapporteur recommended that the SC status be delinked from the individual's religious affiliation.⁵⁵

20. CESCR noted with concern that the recommendations of the 2006 Sachar Committee Report had not been sufficiently followed up and recommended that India ensure their full implementation, particularly for Muslim Other Backward Classes (OBCs) and Muslim women.⁵⁶ In 2010, CEDAW was alarmed at information indicating that the educational certificates of many Muslim children were destroyed during the Godhra riots and that the government had not replaced the certificates or facilitated the resumption of the children's education.⁵⁷

21. A UNICEF report indicated that the HIV/AIDS bill which addresses issues of stigma and discrimination has been on hold since 2006. It was expected that a revised version might be introduced in Parliament soon.⁵⁸

B. Right to life, liberty and security of the person

22. In his 2009 report, the Secretary-General indicated that India was one of the countries retaining the death penalty, and the date of the last execution was 2004.⁵⁹ In 2010, India voted against General Assembly resolution 65/206 on the "Moratorium on the use of the death penalty."⁶⁰

23. In 2012, the Working Group on Disappearances remained concerned about allegations of widespread enforced disappearances between 1989 and 2009 and the existence of mass graves.⁶¹

24. The Special Rapporteur on the situation of human rights defenders acknowledged the security challenges faced by the country, and remained disturbed at the draconian provisions of the public security laws.⁶² Recommendations for the repeal of the AFSPA were made by CESCR⁶³ and the Special Rapporteur on the situation of human rights defenders, who also recommended that India repeal the National Security Act, the Unlawful

Activities Act, the Jammu and Kashmir Public Safety Act and the Chhattisgarh Public Safety Act.⁶⁴

25. In 2008, the Special Rapporteurs on extrajudicial, summary or arbitrary executions, the question of torture and the right to freedom of opinion and expression sent a joint communication alleging 43 deaths in Jammu and Kashmir as a result of excessive use of force by state security forces in confronting demonstrations, and the beating of 13 journalists by the Central Reserve Police Force.⁶⁵ The Government replied that the action taken by the security forces was minimal.⁶⁶

26. In 2011, UNCT⁶⁷ and UNICEF⁶⁸ expressed concern about children living in areas affected by violence, such as Jammu and Kashmir, where violence escalated in the summer of 2010; various states in the north-eastern region (especially Assam, Manipur and Nagaland), where the insurgency concerned ethnic and cultural issues; and centre/west of the country (Chhattisgarh, Jharkhand, Maharashtra, Andhra Pradesh, Orissa, Bihar and West Bengal), where a large area was affected by left-wing extremism and Naxalite violence, in particular 90 districts with high concentrations of tribal populations.⁶⁹

27. The Special Rapporteur on the question of torture sent communications concerning torture and ill-treatment allegedly committed by Border Security Forces (BSF)⁷⁰ particularly in West Bengal. The Government⁷¹ indicated, inter alia, that adequate mechanisms were in place to monitor human rights violations by the BSF.⁷² The Special Rapporteur on the situation of human rights defenders noted that most of the human rights violations reported to her were attributed to law enforcement authorities, particularly the police.⁷³ The Special Rapporteur on the question of torture sent communications concerning allegations of torture and ill-treatment in police stations,⁷⁴ including in Manipur.⁷⁵ The Government requested additional information,⁷⁶ and indicated that evidence did not support the allegation.⁷⁷

28. Three special procedures sent communications relating to alleged inhumane prison conditions affecting 65 Pakistani members of the Mehdi Foundation International who have been detained in jail since April 2007. In its reply, the Government denied the allegations.⁷⁸ CESCR recommended that India strengthen its measures to improve sanitary and hygienic conditions in prisons.⁷⁹

29. One or more human rights mechanisms raised particular concern about violence against women and girls,⁸⁰ violations against SC and ST,⁸¹ members of religious minorities⁸² and human rights defenders.⁸³ Recommendations for the conduct of prompt, thorough and impartial investigations into violations and the prosecution of perpetrators, on a systematic basis, were made. Fair and effective remedies should be available to victims, including for obtaining compensation.⁸⁴ Further measures were called for to prevent communal violence⁸⁵ specifically targeting women,⁸⁶ and curb violence against persons belonging to SC and ST, especially women.⁸⁷

30. In 2010, the ILO Committee of Experts noted that the *devadasi* system was linked to the practice of trafficking in girls for commercial exploitation and that most people subjected to such exploitation were from SC and ST.⁸⁸ CESCR recommended that India enact a law criminalizing trafficking and commercial sexual exploitation.⁸⁹ The ILO Committee of Experts hoped that the Immoral Traffic Prevention Bill (2006) would soon be adopted.⁹⁰

31. Concerned about the exceptionally high incidence of domestic violence,⁹¹ CESCR recommended that India ensure that the Protection of Women from Domestic Violence Act and Section 498-A of the Indian Penal Code are enforced effectively.⁹²

32. CESCR raised concerns about exploitative labour conditions.⁹³ In 2010, the ILO Committee of Experts urged India to explore ways to undertake a national survey of bonded

labour⁹⁴ and address the shortcomings in the vigilance committees established under the Bonded Labour System (Abolition) Act (1976).⁹⁵ UNCT stated that the existing Child Labour Prohibition and Regulation Act 1986 did not ban all forms of child labour for 6-14 year-old children⁹⁶ and should be reviewed and harmonized with the more progressive Juvenile Justice Act (2000) and the Right to Education Act (2009).⁹⁷

33. CESCR recommended that India give high priority to addressing the problem of trade in human organs.⁹⁸

34. In his 2011 report, the Secretary-General indicated that reports of recruitment and use of children by Maoist armed groups, also known as “Naxalites,” especially in some districts in Chhattisgarh, were received.⁹⁹

C. Administration of justice, including impunity and the rule of law

35. In 2012, the Special Rapporteur on the situation of human rights defenders referred to reports that the functioning of the judiciary was hampered by a backlog and significant delays in administering cases of human rights violations was due to a lack of capacity, manpower and resources. High costs of litigation had reportedly restrained access to justice for victims. Police intimidation was said to play a role in deterring victims from filing cases.¹⁰⁰ Related concerns were raised by CESCR.¹⁰¹

36. CESCR, while recognizing the significant role of the Supreme Court of India,¹⁰² was concerned by the non-implementation of court decisions by state authorities.¹⁰³ It urged India to ensure all court decisions are fully implemented by the relevant authorities without delay.¹⁰⁴ India replied that the concern was unfounded.¹⁰⁵

37. CEDAW urged India to, *inter alia*, be proactive and take all necessary measures and initiatives to ensure that the rule of law is upheld and justice is delivered instead of waiting for directives from the Supreme Court on petitions filed by third parties.¹⁰⁶

38. In 2008, CESCR stressed the need for determined enforcement of the criminal justice system.¹⁰⁷ CESCR recommended that India improve its human rights training for law enforcement officials, especially police officers, and ensure that all allegations of human rights violations are promptly and thoroughly investigated by an independent body capable of prosecuting perpetrators.¹⁰⁸ In 2012, the Special Rapporteur on the situation of human rights defenders recommended that the Supreme Court judgment on police reform, which had ordered the establishment of independent Police Complaints Authorities,¹⁰⁹ be fully implemented in line with international standards, in particular at the state level.¹¹⁰

39. CEDAW urged India to accelerate its efforts to widen the definition of rape in its Penal Code, expeditiously enact proposed legislation on communal violence, and ensure that inaction or complicity of State officials in communal violence be addressed urgently under this legislation.¹¹¹ The Special Rapporteur on freedom of religion or belief recommended that any specific legislation on communal violence take into account the concerns of religious minorities and not reinforce impunity of communalized police forces at the state level.¹¹²

40. CEDAW made recommendations to address the situation of persons displaced by the Gujarat violence,¹¹³ and urged India to take immediate, effective and gender-specific measures to sufficiently rehabilitate and compensate women victims of violence, including sexual violence, and their families in Gujarat so as to enable them to rebuild their lives.¹¹⁴ CESCR recommended that India provide adequate compensation, and wherever possible, rehabilitative measures, to the survivors of the Bhopal gas leak.¹¹⁵

41. CEDAW commended India for the establishment, in 2002, of the Commission of Inquiry tasked with inquiring into the causes of the Godhra riots and the role and conduct of former high-ranking government officials and politicians.¹¹⁶ CEDAW called on India to consider developing, coordinating and establishing a truth and reconciliation commission in Gujarat.¹¹⁷ The Special Rapporteur on freedom of religion or belief suggested that the State envisage setting up of truth and reconciliation commissions to create a historical account, contribute to healing and encourage reconciliation in long-standing conflicts, such as the one in Jammu and Kashmir.¹¹⁸

42. The Special Rapporteur on the situation of human rights defenders recommended that a comprehensive and adequately resourced protection programme for human rights defenders and witnesses be devised.¹¹⁹

D. Right to privacy, marriage and family life

43. In 2011, UNICEF reported that India had a huge backlog of unregistered births.¹²⁰

E. Freedom of religion or belief, expression, association and peaceful assembly

44. In 2009, the Special Rapporteur on freedom of religion or belief indicated that the laws and bills on religious conversion in several Indian states should be reconsidered, particularly because of discriminatory provisions and vague or broad terminology. A public debate on the necessity of such laws and safeguards to avoid abuse of these laws seemed vital to prevent further vilification of certain religious communities.¹²¹ The Special Rapporteur was concerned that such legislation might be perceived as giving some moral standing to those who wish to stir up mob violence. She emphasized that the right to adopt a religion of one's choice, to change or to maintain a religion is a core element of the right to freedom of religion or belief and may not be limited in any way by the State.¹²² The Special Rapporteur recommended that the Representation of the Peoples Act (1951) be scrupulously implemented, including the provision on disqualification for membership in Parliament and state legislatures of persons who promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language.¹²³

45. In 2010, the ILO Committee of Experts noted that section 3 of the Official Secrets Act (1923) was worded in terms broad enough to be susceptible to be applied as a means of punishment for the expression of political views or views ideologically opposed to the established system.¹²⁴ UNESCO recommended that the Act be overhauled or amended in line with international standards.¹²⁵

46. The Special Rapporteur on the situation of human rights defenders was of the opinion that provisions in the Foreign Contribution Regulation Bill might lead to abuse when reviewing applications of organizations that were critical of the authorities and recommended that the Act be critically reviewed or repealed.¹²⁶

47. In 2012, the Special Rapporteur on the situation of human rights defenders recommended the enactment of a law on the protection of human rights defenders, with emphasis on defenders facing greater risks, developed in full and meaningful consultation with civil society and on the basis of technical advice from relevant United Nations entities.¹²⁷

48. The Special Rapporteur stated that the enactment of the Right to Information Act (RTI), of which the Government was justifiably proud, was a major achievement for India.

However, there had been as many as 10 cases of extrajudicial killings of individuals who had filed requests under the RTI had been recorded in 2010.¹²⁸

49. UNESCO indicated that between 2008 and 2011, its Director-General publicly condemned the killings of eight media professionals who had died carrying out their professional responsibilities. Physical intimidation of media professionals was widespread, especially in rural areas or conflict regions.¹²⁹

F. Right to work and to just and favourable conditions of work

50. CESCR was concerned that, despite the enactment of the National and Rural Employment Guarantee Act, a high and increasing rate of unemployment and underemployment persisted in India, particularly in rural areas. CESCR made recommendations, inter alia, to encourage private-sector employers to create additional jobs.¹³⁰

51. CESCR recommended that India remove, in law and practice, obstacles to trade unions' rights to conduct collective bargaining, paying particular attention to workers' rights in Special Economic Zones (SEZs) and Export Processing Zones (EPZs). India should consider amending the 1964 Central Civil Services (Conduct) Rule, and clearly define "essential services".¹³¹ Related concerns were raised by the ILO Committee of Experts in 2010.¹³²

G. Right to social security and to an adequate standard of living

52. CESCR recommended that India adopt the Unorganized Sector Workers Social Security Bill without delay, and ensure that the very large sections of the population become entitled to social security benefits.¹³³

53. CESCR was concerned by reports of corruption, inefficiency and discrimination in distribution that hamper access to food,¹³⁴ and recommended that India take urgent measures to address the issue of poverty¹³⁵ and food insecurity, and review its national poverty threshold.¹³⁶ In 2011, FAO stated that India had started legislating on food security.¹³⁷

54. CESCR was deeply concerned that the extreme hardship being experienced by farmers had led to an increasing incidence of suicides by farmers over the past decade. CESCR urged India, in addition to implementing fully the planned farmer debt waiver programme, to address extreme poverty among small-holding farmers and increase agricultural productivity as a matter of priority. India should review the Seed Bill (2004).¹³⁸

55. Expressing concern about the lack of a national housing policy, CESCR urged India to adopt a national strategy and a plan of action on adequate housing and build or provide low-cost rental housing units.¹³⁹

56. CESCR recommended that India take immediate measures to enforce laws and regulations prohibiting displacement and forced evictions effectively, and ensure that persons evicted from their homes and lands are provided with adequate compensation and/or offered alternative accommodation. Prior to implementing development and urban renewal projects, sporting events¹⁴⁰ and other similar activities, India should undertake open, participatory and meaningful consultations with affected residents and communities.¹⁴¹

57. A 2011 UNICEF report indicated that sanitation was one of the biggest challenges in India.¹⁴² In 2010, the ILO Committee of Experts urged India to ensure that the practice of

manual scavenging is eliminated effectively, including through low-cost sanitation programmes and promoting decent work opportunities for persons liberated from scavenging.¹⁴³ CESCR recommended that India take effective measures to ensure equitable access to safe drinking water by rigorously enforcing existing laws on water treatment and effectively monitoring compliance.¹⁴⁴

H. Right to health

58. UNICEF reported on the eight states with the highest under-five mortality rate¹⁴⁵ and that two-thirds of maternal deaths occurred in Bihar, Jharkhand, Orissa, Madhya Pradesh, Chhattisgarh, Rajasthan, Uttar Pradesh, Uttaranchal and Assam.¹⁴⁶ The best performing state was Kerala.¹⁴⁷ In 2010, the Special Rapporteur on the right to health stated that India had a legally binding international human rights obligation to devote its maximum available resources to the health of its population. Public spending on health that continued to bracket India with “the lowest in the world” was in breach of this international legal obligation.¹⁴⁸ In many districts, life-saving care was unavailable to women giving birth. Recourse to the private sector impoverished many women and their families. The Special Rapporteur concluded that in India, monitoring, accountability and redress in relation to the public and private health sectors were egregiously underdeveloped.¹⁴⁹ CESCR urged India to take all necessary measures to ensure universal access to affordable primary health care;¹⁵⁰ and to take effective measures to fully implement the National Rural Health Mission (2005-2012).¹⁵¹

59. In 2010, the Special Rapporteur on the right to health stated that the rate of maternal deaths in India was shocking.¹⁵² Taking into account resource availability, the Special Rapporteur considered that India was in breach of its right to health obligations because it fell far short of having a sufficient number of skilled birth attendants.¹⁵³ There was a gulf between India’s commendable maternal mortality policies and their urgent, focused, sustained, systematic and effective implementation.¹⁵⁴ The Special Rapporteur strongly recommended that the Government urgently establish an independent body to accelerate progress by galvanizing action and ensuring that those in authority properly discharge their responsibilities to reduce maternal mortality.¹⁵⁵ CESCR recommended that India expand availability of and accessibility to reproductive and sexual health information and services.¹⁵⁶

60. In 2010, the Special Rapporteur on toxic waste noted that the health and safety situation prevailing at the shipbreaking yards continued to remain critical, especially in Mumbai, and urged yard owners to comply with their obligations under national legislation.¹⁵⁷ Concerned about the extremely dangerous recovery processes and techniques used in the informal e-waste recycling sector, and the widespread contamination caused by the unsound disposal of e-waste,¹⁵⁸ the Special Rapporteur called for the finalization of the e-waste (management and handling) rules, and development of a national implementation plan to ensure the sound management and disposal of e-waste.¹⁵⁹

I. Right to education

61. Despite the efforts made, including the *Sarva Shiksha Abhiyan* (Education for All) programme, in 2008, CESCR expressed concern that the wide disparity in enrolment and drop-out rates in primary schools continued to persist, negatively affecting in particular girls, Muslim children and children belonging to SC and ST.¹⁶⁰ UNCT stated that the Right to Education Act came into force on 1 April 2010, establishing the right of all 6 to 14 year-old children to free and compulsory education as justiciable.¹⁶¹ CESCR urged India to take further initiatives to eliminate child marriages and child labour, especially of school-aged

children, and targeting disadvantaged and marginalized groups in particular. CESCR recommended that India intensify its adult literacy programmes.¹⁶²

62. According to UNESCO, most teachers belonged to upper castes, and several expressed strong prejudice against Dalit and Adivasi children. Such prejudices translated into Dalit and Adivasi children being more likely to face corporal punishment. Parents had few ways to challenge discriminatory practices because they do not have a strong voice in parent-teacher associations and education committees.¹⁶³

63. UNESCO stated that Naxalite insurgent groups systematically attacked schools to damage government infrastructure and instil fear in communities in Chhattisgarh. In some cases, security forces were also implicated in using school buildings. A high court ruling had called for the withdrawal of armed forces from schools.¹⁶⁴

64. CESCR encouraged India to provide human rights education in schools at all levels and in universities, cultivating values of tolerance, social inclusion and participation.¹⁶⁵

J. Cultural rights

65. CESCR recommended that India ensure that no development initiative is carried out without effective consultation with the local communities, and that any potential negative impact on the right of everyone to take part in cultural life be taken into serious consideration when conducting social audits.¹⁶⁶

K. Persons with disabilities

66. UNESCO stated that, in 2005, just 18 per cent of India's schools were accessible to children with disabilities in terms of facilities. National education policies reflected the growing awareness of the problems associated with disability.¹⁶⁷

L. Minorities and indigenous peoples

67. The ILO Committee of Experts noted that a national tribal policy was still under consideration, but not yet finalized; it encouraged India to draw on ILO Convention No. 169.¹⁶⁸

68. In August 2011, the High Commissioner for Human Rights stated that, in India, social unrest and conflicts over land acquisition for development and mining projects had increased in recent years. Adivasis defending their ancestral lands and community forests were often subject to threats and harassment, despite the existence of constitutional protections, Supreme Court judgments and progressive national legislation requiring consent of tribal communities, and community rights over forest use. In a positive development in 2010, the Ministry of Environment and Forests stopped the Orissa government and Vedanta, a multinational company, from mining in the Niyamgiri hilltop in Kalahandi district, since such an operation would severely affect the ecology of the area and the situation of the Dongria Kondh Adivasi people living in the mountains.¹⁶⁹ Related concerns were raised by the ILO Committee of Experts in 2010.¹⁷⁰

M. Migrants, refugees and asylum-seekers

69. UNHCR stated that India had a long-standing tradition of hosting refugees, however, the absence of a national refugee protection framework served as a practical barrier in the delivery of refugee protection.¹⁷¹ Refugees and asylum-seekers were able to access

employment in the large informal Indian economy. They were subjected to exploitation by employers and competition for scarce resources had led to disputes with the host community. Instances of gender-based violence and child labour were common. Complex bureaucratic procedures had significantly slowed down the process of local integration.¹⁷²

N. Right to development and environmental issues

70. CESCR noted with concern that, according to the 2007-2008 report of the Public Accounts Committee, large amounts of the 2004 Tsunami funds had been diverted from rehabilitation; it recommended that India conduct the post-tsunami rehabilitation process with transparency.¹⁷³

71. CESCR recommended that India review all aspects of its negotiations with trade agreements, to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.¹⁷⁴

Notes

1 Unless indicated otherwise, the status of ratifications of instruments listed in the table
may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April
2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty
Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.
Please also refer to the United Nations compilation on India from the previous cycle
(A/HRC/WG.6/1/IND/2).

2 The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance

3 A table in the previous compilation contained information on the recognition of
specific competences of treaty bodies.

4 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick
in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the
Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second
Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention);
Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth
Convention); For the official status of ratifications, see Federal Department of Foreign Affairs of
Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

5 International Labour Organization Convention No. 29 concerning Forced or
Compulsory Labour; Convention No. 100 concerning Equal Remuneration for Men and Women
Workers for Work of Equal Value; Convention No. 105 concerning the Abolition of Forced Labour;
Convention No. 111 concerning Discrimination in Respect of Employment and Occupation.

6 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women
and Children, supplementing the United Nations Convention against Transnational Organized Crime.

7 1951 Convention relating to the Status of Refugees and its 1967 Protocol; 1954
Convention relating to the Status of Stateless Persons; 1961 Convention on the Reduction of
Statelessness.

8 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the
Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the
Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-
International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12
August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

9 International Labour Organization Convention No. 87 concerning Freedom of
Association and Protection of the Right to Organise; Convention No. 98 concerning the Application
of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 138
concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the
Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

10 A/HRC/19/55/Add.1, paras. 22-23 and 148.

11 E/C.12/IND/CO/5, paras. 59, 61, 63-64 and 88.

12 UNCT submission to the UPR on India, pp. 9-10.

13 UNHCR submission to the UPR on India, p. 3.

14 UNESCO submission to the UPR on India, para. 34.

15 ILO Committee of Experts on the Application of Conventions and Recommendations,
Individual Observation concerning Indigenous and Tribal Populations Convention, 1957 (No. 107),

2010, Geneva, doc. No. (ILOLEX) 062010IND107, 3rd para.

A/HRC/15/22/Add.3, para. 85.

E/C.12/IND/CO/5, paras. 8 and 45.

Ibid., paras. 9 and 47.

A/HRC/16/52/Add.1, para. 57.

A/HRC/19/55/Add.1, paras. 14 and 147.

According to article 5 of the rules of procedure for the ICC Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are A: Voting Member (Fully in compliance with each of the Paris Principles), B: Non-Voting Member (Not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (Not in compliance with the Paris Principles).

For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/16/77, annex.

UNCT submission to the UPR on India, pp.1-2. See also E/C.12/IND/CO/5, para. 11.

E/C.12/IND/CO/5, para. 49.

A/HRC/19/55/Add.1, para. 60; also A/HRC/19/55/Add.1, paras. 149-150 and 152.

UNCT submission to the UPR on India, pp.1-2.

A/HRC/19/55/Add.1, para. 157.

UNCT submission to the UPR on India, p. 4.

The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities

CEDAW/C/IND/CO/SP.1, para. 3.

E/C.12/IND/CO/5, para. 2.

UNCT submission to the UPR on India, p.1.

Abbreviations used follow those contained in the communications report of special procedures (A/HRC/18/51 and Corr.1).

A/HRC/14/20/Add.2.

A/HRC/10/8/Add.3.

A/15/22/Add.3.

A/HRC/19/55/Add.1.

A/HRC/10/44, para. 7

A/HRC/16/52, para. 6.

A/HRC/11/36, para. 40.

A/HRC/19/58, para. 282.

See Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to India (3-20 March 2008), available at <http://www.ohchr.org/Documents/Issues/Religion/FU-India.pdf>.

See OHCHR 2008 Report Activities and Results, p. 174; OHCHR Annual Report 2009, pp. 190 and 207; OHCHR Annual Report 2010, pp. 282 and 291; OHCHR Annual Report 2011 (forth coming).

See A/HRC/10/44/Add.4, para. 86; A/HRC/18/51, p. 50 and 78; A/HRC/19/55, para. 133.

A/HRC/14/19, paras. 24-26; A/HRC/18/19, paras. 37-47.

E/C.12/IND/CO/5, para. 13

A/HRC/19/55/Add.1, chapter III, paras. 103-132.

E/C.12/IND/CO/5, para. 52

UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 36, available at

http://www.unicef.org/india/The_Situation_of_Children_in_India_A_profile_20110630_.pdf

See also E/C.12/IND/CO/5, para. 16.

E/C.12/IND/CO/5, para. 25.

A/HRC/10/8/Add.3, para. 72.

ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Equal Remuneration Convention, 1951 (No. 100), 2010, Geneva, doc. No. (ILOLEX) 062010IND100, 1st para.

E/C.12/IND/CO/5, para. 57.

A/62/18, para. 179; A/HRC/10/8/Add.3, para. 71.

E/C.12/IND/CO/5, paras. 15 and 54.

CEDAW/C/IND/CO/SP.1, para. 30.

UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 14.

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Economic and Social Council, Report of the Secretary-General on the capital punishment and implementation of safeguards guaranteeing protection the rights of those facing the death penalty, 18 December 2009 (E/2010/10), p. 58.

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A/65/PV.71, p. 19.

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A/HRC/19/58, para. 283.

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A/HRC/19/55/Add.1, para. 30.

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E/C.12/IND/CO/5, para. 50.

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A/HRC/19/55/Add.1, para. 145.

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A/HRC/10/44/Add.4, para. 84.

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A/HRC/13/39/Add.1, para. 97.

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UNCT submission to the UPR on India, p. 16.

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UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), pp. 33-34.

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UNCT submission to the UPR on India, p. 16; UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), pp. 33-34.

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A/HRC/18/51, p. 133; A/HRC/16/52/Add.1, paras. 53 and 60; A/HRC/13/39/Add.1, paras. 91 and 95; A/HRC/10/44/Add.4, paras. 83, 85, 87.

71

A/HRC/16/52/Add.1, paras. 53, 60, 64, 66; A/HRC/13/39/Add.1, paras. 91, 98, 99.

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A/HRC/16/52/Add.1, para. 64.

73

A/HRC/19/55/Add.1, para. 55. See also paras. 57 and 36.

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A/HRC/16/52/Add.1, para 61, pp. 136-139.

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A/HRC/18/51, p. 144 and A/HRC/13/39/Add.1, paras. 93-94.

76

A/HRC/16/52/Add.1, pp. 136-139, para. 61.

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Ibid., pp. 142-142, para. 65.

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A/HRC/18/51, p. 134. Government reply received and to be published in forthcoming communications report.

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E/C.12/IND/CO/5, para. 75

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CEDAW/C/IND/CO/SP.1, paras. 16 and 19.

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E/C.12/IND/CO/5, paras. 14 and 53. See also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010IND111, 3rd para.

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A/HRC/10/8/Add.3, para. 67.

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E/C.12/IND/CO/5, paras. 12 and 50; A/HRC/19/55/Add.1, chapter III.

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A/HRC/19/55/Add.1, para. 142.

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A/HRC/10/8/Add.3, para. 67.

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CEDAW/C/IND/CO/SP.1, para. 15.

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E/C.12/IND/CO/5, para. 53.

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ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 092010IND029, 4th para.

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E/C.12/IND/CO/5, para. 66.

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ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010IND029, 12th para.

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E/C.12/IND/CO/5, para. 26.

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Ibid., para. 67.

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Ibid., para. 19.

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ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010IND029, 2nd para.

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ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010IND029, 4th para.

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UNCT submission to the UPR on India, p. 9.

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Ibid., p. 10.

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E/C.12/IND/CO/5, para. 79.

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Children and armed conflict, report of the Secretary-General (A/65/820-S/2011/250), para. 165.

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A/HRC/19/55/Add.1, para. 58.

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E/C.12/IND/CO/5, para. 13.

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Ibid., paras. 6 and 9.

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Ibid., paras. 9 and 13.

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Ibid., para. 47.

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E/C.12/IND/CO/5/Add.1, para. 7.

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CEDAW/C/IND/CO/SP.1, para. 24.a.

107 E/C.12/IND/CO/5, para. 53; see also ILO Committee of Experts on the Application of
Conventions and Recommendations, Individual Observation concerning Discrimination (Employment
and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010IND111,
3rd para.

108 E/C.12/IND/CO/5, para. 50.
109 A/HRC/19/55/Add.1, para. 35.
110 Ibid., para. 143.
111 CEDAW/C/IND/CO/SP.1, para. 27.
112 A/HRC/10/8/Add.3, para. 67.
113 CEDAW/C/IND/CO/SP.1, para. 33.
114 Ibid., para. 35.
115 E/C.12/IND/CO/5, paras. 36 and 76.
116 CEDAW/C/IND/CO/SP.1, para. 8; and A/66/38, p. 98, para.13.
117 CEDAW/C/IND/CO/SP.1, para. 37.
118 A/HRC/10/8/Add.3, para. 68.
119 A/HRC/19/55/Add.1, para. 139.
120 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 28.
121 A/HRC/10/8/Add.3, para. 70.
122 Ibid., para. 70.
123 Ibid., para. 69.
124 ILO Committee of Experts on the Application of Conventions and Recommendations,
Individual Direct Request concerning Abolition of Forced Labour Convention, 1957 (No. 105), 2010,
Geneva, doc. No. (ILOLEX) 092010IND105, 5th and 6th paras.

125 UNESCO submission to the UPR on India, para. 36.a.
126 A/HRC/19/55/Add.1, paras. 31 and 146.
127 Ibid., para. 144.
128 Ibid., paras. 28 and 94.
129 UNESCO submission to the UPR on India, para. 32.
130 E/C.12/IND/CO/5, paras 20-21 and 61.
131 Ibid., para. 63.
132 ILO Committee of Experts on the Application of Conventions and Recommendations,
Individual Direct Request concerning Abolition of Forced Labour Convention, 1957 (No. 105), 2010,
Geneva, doc. No. (ILOLEX) 092010IND105, 7th to 10th paras.

133 E/C.12/IND/CO/5, para. 64.
134 Ibid., para. 28; and UNICEF, *The Situation of Children in India: A Profile* (New
Delhi, 2011), p. 3. .
135 See also, E/C.12/IND/CO/5, para. 28.
136 E/C.12/IND/CO/5, para. 68.
137 FAO submission to the UPR on India, p. 1.
138 E/C.12/IND/CO/5, paras. 29 and 69.
139 Ibid., paras. 30 and 70.
140 See also A/HRC/18/51, page 128.
141 E/C.12/IND/CO/5, paras. 31 and 71.
142 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), pp. 10-11.
143 ILO Committee of Experts on the Application of Conventions and Recommendations,
Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958
(No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010IND111, 4th to 6th paras.
144 E/C.12/IND/CO/5, para. 74.
145 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 15.
146 See MAPEDIR – Generating local evidence for local action, available at
http://www.unicef.org/india/health_3057.htm.
147 UNICEF, *The Situation of Children in India: A Profile* (New Delhi, 2011), p. 19.
148 A/HRC/14/20/Add.2, para. 95.
149 Ibid., paras. 21 and 90.
150 E/C.12/IND/CO/5, para. 78
151 Ibid., para. 73.
152 A/HRC/14/20/Add.2, summary.
153 Ibid., paras. 21 and 30; and UNICEF, *The Situation of Children in India: A Profile*
(New Delhi, 2011), p. 19 .
154 A/HRC/14/20/Add.2, summary.
155 Ibid., para. 91.
156 E/C.12/IND/CO/5, para. 77.
157 A/HRC/15/22/Add.3, summary and para. 95.
158 Ibid., summary.
159 Ibid., para. 101-102.
160 E/C.12/IND/CO/5, para. 40.

161 UNCT submission to the UPR on India, p. 9.
162 E/C.12/IND/CO/5, paras. 80-82.
163 UNESCO submission to the UPR on India, para.11.
164 Ibid., para. 13.
165 E/C.12/IND/CO/5, para. 83.
166 Ibid., para. 84.
167 UNESCO submission to the UPR on India, para. 12.
168 ILO Committee of Experts on the Application of Conventions and Recommendations,
Individual Observation concerning Indigenous and Tribal Populations Convention, 1957 (No. 107),
2010, Geneva, doc. No. (ILOLEX) 062010IND107, third para.
169 Statement by the United Nations High Commissioner for Human Rights for 9 August,
the International Day of the World's Indigenous People, 5 August 2011, available at
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11284&LangID=E>
170 ILO Committee of Experts on the Application of Conventions and Recommendations,
Individual Observation concerning Indigenous and Tribal Populations Convention, 1957 (No. 107),
2010, Geneva, doc. No. (ILOLEX) 062010IND107, 1st, 2nd and 6th paras.
171 UNHCR submission to the UPR on India, pp. 1-3.
172 Ibid., p. 2.
173 E/C.12/IND/CO/5, paras. 32 and 72.
174 Ibid., para. 46.
