

## **Universal Periodic Review of India – 10 April 2008**

### Review Session Opening: Ambassador Swashpawan Singh, Permanent Representative of India

#### Introductory Points:

The report by the Government of India had been put together through wide consultation with all stakeholders, including all major NGOs. India has an independent Judiciary and a large and vibrant civil society.

#### Issues Raised:

Acknowledged that much remains to be done for poverty and ignorance.

#### Solicitor General of India, Mr Goolam Vahanrati

Stated that the Government of India gives its full support for the UPR process. Described the background to India's Constitution. Advised that India's Armed Forces have remained a professional force and not subject to politics. Stated that India had taken great steps towards empowering women, that it has a free media, a National Commission for Minorities, that Untouchability has been banned, it has taken affirmative action for disadvantaged persons, stated that caste-based discrimination is not recognised in India as racial in origin, stated that India takes the position that all its people including its Tribal people are indigenous to India, that it is aware of the need to empower the disadvantaged, that it has a nation-wide employment guarantee programme, that it has a National Human Rights Commission that is compliant with the Paris Principles, that the Right to Information Act has led to openness and transparency throughout the Government, that in terms of terrorism it is committed to protecting its people in conformity with human rights obligations, that India is playing a leading role in the struggle for decolonisation, and that problems are inevitable in India given our size. However, that the Government of India has willingness to confront and deal with issues head-on.

#### National Human Rights Commission of India

Stated that the Constitution of India guarantees human rights to all its citizens, that the NHRC is a powerful and independent body, that independence is expected to be the same of that of the Supreme Court of India, that 95% of the NHRC's recommendations have been complied with, that there is a National Action Plan for Human Rights, and that there is a commitment to the human rights of all the people of India.

#### Women and Children

Stated that legislation, policy and programmes have been implemented for the betterment of women and children in India, that it has developed a National Rural Employment Scheme, that it undertakes rehabilitation of victims of trafficking and of rape victims, that it has enacted a Juvenile Justice Act, that it has taken an approach to end child labour, which is operational in 250 districts.

#### Discussion:

##### **UK:**

Stated that the UK enjoys a strong relationship with India as well as sharing a number of its values. Stated that it is aware of the attacks against minorities in India and asked for more information on the recent attacks against religious minorities in Orissa. Asked India about its intended steps in conformity with Treaty Body recommendations about the reform of the Armed Forces Special Powers Act in India. Asked for more information about the Communal Violence Crimes Bill. Asked

India when it would ratify the Convention Against Torture and the Optional Protocol. Recommended that Indian civil society should be fully involved in any follow-up from the UPR process.

**Ghana:**

Commended the Government of India for the steps it has taken. Asked for more information on the implementation of the ban against child labour and on the National Plan of Action for the Girl Child.

**Canada:**

Stated that it was aware that the Armed Forces Special Powers Act allowed the routine use of torture and abuse with complete impunity in areas where the Act is enforced, including the use of sexual violence. Stated that it was aware that the Foreign Contribution Regulation Act has been used to limit NGOs work. Asked what the Government of India intended to do as a follow-up to the report of the Committee for the Convention for the Elimination of Racial Discrimination in respect to the recommendation that India provide statistics on discrimination towards dalits in India.

**Brazil:**

Congratulated the Government of India on actions it had taken given its size. Requested more information on measures undertaken to empower women and mainstream India. Requested more information to end extreme poverty and ensure right to development. Asked how India evaluates the programmes it uses to enhance child rights.

**Bhutan:**

Stated that the report of the Government of India is noteworthy for the broad consultation that was undertaken.

Gave a statement of support for India.

**Mauritius:**

Gave a statement of support for India.

**Russian Federation:**

Congratulated the Government of India for holding consultations with NGOs. Stated that questions remain around situations of vulnerable people within India. Requested further information on the NHRC and the scope and results of Right to Information Law.

**Malaysia:**

Commended India for its report. Asked how India's various human rights institutions relate to one another.

**China:**

Commended India for its report. Asked how India intends to guarantee women's involvement in decision-making.

**Cuba:**

Gave a statement of support for India.

**Singapore:**

Gave a statement of support for India.

Requested more information on steps taken to address caste-based discrimination.

**Belgium:**

Stated that through the report of the Treaty Bodies and through the Special Procedures it is widely known that dalits are discriminated against. Requested information on the measures taken against discrimination of dalits. Recommended that India keep detailed statistics on discrimination.

**Netherlands:**

Stated that it had an advance question on initiatives to fight child labour. Recommended that India review its reservation to the Convention on the Rights of the Child and sign the ILO Conventions. Asked India how recommendations have been taken up on scheduled castes.

**Saudi Arabia:**

Commended India for its report. Requested more information on the National Action Plan on Human Rights. Asked whether there was a new Ministry for Minorities. Asked for information on the role played by civil society in India.

**Luxembourg:**

Stated in reference to Para 30 and 33 of the report of the Government of India, supporting the recommendation made by Belgium. Stated that it shares the concerns raised by the Committee on Human Rights especially in regard to the rights of women and the right to food for rural populations.

**Germany:**

Asked about the implementation of existing legislation for the equal treatment of dalits, the recommendations of the CERD Committee, the recommendations of the CEDAW Committee, the recommendations to repeal the Armed Forces Special Powers Act, and the implementation of laws to end child labour.

**USA:**

Asked what India is doing to ensure freedom of all religious minorities, corruption, the ratification of the Convention on the Rights of the Child, women, and caste-based discrimination.

**Algeria:**

Commended India for its report. Requested information on the increase of social stratification between wealthy and extremely poor.

**Bangladesh:**

Commended India for its report. Welcomed fact that report was drafted in line with UPR guidelines. Stated that it has concerns about the disparities of minorities, albeit it noted the development of the Ministry of Minorities. Asked whether the Government of India saw its human rights education programme as being limited by the fact that few Indians get higher schooling/secondary schooling.

**France:**

Asked India on its intentions to ratify and implement the Convention Against Torture. Requested more information on the NHRC, and the National Commissions for Women, Tribals etc.

**India Response:**

Convention Against Torture – The Government of India stated that it is committed to the objectives of CAT and that its Penal Code has compatible provisions that are applicable throughout India.

Armed Forces Special Powers Act – The Government of India stated that its national laws have always had clear elements of administrative and judicial reviews, that the Constitutionality of the Act had been upheld, and that special training and operating procedures are in force.

Foreign Contribution Regulation Bill – The Government of India stated that the bill's primary purpose is to reconcile the law for bona fide activities against actions detrimental to national interest.

Orissa Clashes – The Government of India stated that the underlying cause of the clashes by Hindus against Christians in retaliation to wanting to be recognised as scheduled tribes. The Government advised that the situation was quickly brought under control and that a rehabilitation package had been provided to all those who had been afflicted.

### **Discussion Continued:**

#### **Korea:**

Commended India for its report. Requested more information about the Government's plan for the protection and promotion of indigenous peoples and dalit women.

#### **Mexico:**

Commended India for its report. Recommended in reference to Para 24 of the Government of India's report, with reference to the National Action Plan for Human Rights, that the Government view positively recommendations made by the Treaty Bodies. Recommended that the Government of India ratify the Convention Against Torture, and develop a National Plan of Action for Human Rights Education.

#### **Nigeria:**

Requested that the Government of India provide evidence of the practical measures put into place to protect and promote human rights. Recommended that the Government of India ratify the Convention Against Torture, and bring economic improvements to enhance the lives of all Indians.

#### **Italy:**

Stated that many people were aware of the problem of traditional practices in India around the treatment and status of women, caste and backward classes. Requested information on the Government of India's intentions to ratify the Convention Against Torture and for information on the National Child Labour Project.

#### **Latvia:**

Recommended that the Government of India offer all Special Procedures a standing invitation to visit India.

#### **Venezuela:**

Stated that the right to health needed to be recognised as a basic social right. Recommended that all workers in the informal sector should receive the benefit of all rights available to the formal sector.

#### **Switzerland:**

Stated that it is aware of reported cases of torture in India. Stated that it would welcome the ratification of the Convention Against Torture 11 years after signature. Stated that it would appreciate additional information on the steps taken towards ratification. Recommended that a

Special Rapporteur on Torture be allowed and a standing invitation be offered to all Special Procedures.

**South Africa:**

Requested further information on the functioning and results of the National Commissions, and information on the system of food distribution.

**Azerbaijan:**

Asked which practical measures need to be taken to target inequality in India. Asked what additional steps need to be taken to ensure human rights in India. Requested further information on the situation of internally displaced persons in India. Requested information on the attendance rates of children in rural areas. Requested information on human rights education of dalits.

**Iran:**

Requested that the Government of India elaborate on the steps taken to realise ESCRs, particularly the right to development. Requested further information on the role of civil society. Requested information on how the Government of India was integrating human rights into Indian society.

**Nepal:**

Gave a statement of support for India.

Requested that India share its experience of its NHRC given its independence and credibility.

**Sri Lanka:**

Gave a statement of support for India.

Stated that certain insurgencies, particularly in the North East of India, have persisted, lending support to the need to ensure the end of such intractable insurgencies. Stated that it sees the preservation of human rights in India as an Indian matter.

**Ecuador:**

Recommended that the promotion of social and cultural rights should be advanced to all. Asked the Government of India how it can adopt social and cultural rights without altering tradition.

**Palestine:**

Gave a statement of support for India.

**Syrian Arab Republic:**

Gave a statement of support for India.

Requested more information on the role played by the Judiciary in setting the framework for human rights.

**Egypt:**

Requested more information on the implementation of the Right to Information Act. Requested more details on the successes and challenges in integrating women in economic development.

**Slovenia:**

Requested more information on cases of Corporal Punishment in schools and homes. Asked how the Government of India had integrated a gender perspective in its report for the UPR. Asked what

steps the Government of India had taken given the concern reflected in the CEDAW Report about the lack of equal property rights for women in India.

**Sweden:**

Recommended that the Government of India ratify the Convention Against Torture, the Refugee Convention, and the ILO Conventions on Child Labour. Requested information on what steps the Government of India had taken to ratify the above conventions. Stated that it was aware that the Indian Penal Code prohibited homosexuality, asked what measures were being taken to ensure equality regardless of sexual orientation.

**Tunisia:**

Gave a statement of support for India.

**Israel:**

Stated that institutionalising principles of freedom of expression is very important. Stated that during 2004, the Committee of the Convention on Child Rights had expressed concern on the limited facilities and teachers for disabled children. Asked how India will implement and integrate the recommendations of the Committee.

**Qatar:**

Gave a statement of support for India.

Asked the Government of India what measures they had adopted to guarantee and secure the rights of children in order to stop abuse.

**Morocco:**

Gave a statement of support for India.

**India Response:**

The Government of India advised that it would take on all comments after it returned to India after the review. India then went on to respond to several of the issues that were raised, including:

**Economic Equity** – The Government of India stated that every effort is being taken to ensure sustained growth and equal access to economic growth in India. It advised that it had written off the debt of farmers, developed Special Economic Zones, and provided opportunities to remove disparities.

**Armed Forces Special Powers Act** – The Government of India responded that the Canadians had stated that there was impunity in India. They went on to state that the Government of India completely disagreed with the Canadians statement and that such a statement was “completely off the mark”. The Indian Government stated that the Indian Armed Forces are strictly controlled and court martial can be called in where violations occur.

**Convention for the Elimination of Racial Discrimination** – The Government of India stated that it did not recognise casteism as racial discrimination.

**Minorities** – The Government of India stated that minorities enjoy special status in India and have the fundamental rights that are repeatedly protected. They stated as evidence that there are an increasing number of Muslim women turning to education in the secular sphere.

Castes/Tribals – The Government of India advised that statistics are available in respect to caste and Tribals in the public domain.

Human Rights Education – The Government of India advised that it pushes human rights education as one of the main programmes, including national legal education programmes.

Tribals – The Government of India responded to the issue of displacement of Tribals advising that the Tribals mostly stay in forest areas and that they cannot be displaced except by rulings of the Forest Committee and the Supreme Courts.

Conversion – The Government of India stated that it checks and regulates forced conversions.

Disappearances – The Government of India advised that it signed the Convention on Enforced Disappearances and is in the process of ratification.

Special Procedures – The Government of India advised that it cannot agree to Standing Invitations, but that it can agree to visits with proper notification.

Courts – The Government of India stated that Courts in India have open access and are as accessible to ordinary people as is possible.

Right to Information Act – The Government of India stated that the Act was one of the greatest achievements in its legislative history so far. Stating that it has had a great effect on the Legislature and the workings of Government.

Homosexuality – The Government of India responded to the issue of the criminalisation of homosexuality by advising that around the early 19<sup>th</sup> century England had frowned upon homosexuality and as a result many homosexuals from England had come to India, which was seen to have had a more liberal stance. The term “unnatural acts” is actually a Western term and is not defined in s377 of the Indian Penal Code. The Law Commission in India has stated that Indian society does not accept homosexuality as an acceptable practice.

**Close:**

**Ambassador Singh:**

Stated that he was touched by the warm good will towards India. Thanked those who had participated in parallel submissions and who took part in the development of the Government Report.

Advised that implementation is always a challenging task. They have noted observations and suggestions. That the Government of India has a commitment to abide by the human rights principles as enshrined in the Constitution of India.