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**COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS**

Fortieth Session

28 April - 16 May 2008

**CONSIDERATION OF REPORTS
SUBMITTED
BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF
THE COVENANT**

**Concluding Observations of the
Committee on Economic, Social
and Cultural Rights**

INDIA

INDEX FOR THE CONCLUDING OBSERVATIONS

| Topic | Paragraph No |
|--|------------------------------|
| Introduction | 2,3 |
| Positive Aspects | 4-6 |
| Factors and difficulties impeding the implementation of the Covenant | 7 |
| Principal subjects of concern | 8-44 |
| National Human Rights Commission and State Human Rights Commission | 11,49 |
| Human Rights Defenders | 12,50 |
| Right to Non discrimination | 13,52,58(a), |
| Combating Caste based discrimination | 14,53 |
| Sachar Committee Report | 15,54 |
| Rights of Women | 16,53,54,55,57,58(b), 25,65, |
| Declining Sex Ratio | 17,56 |
| Right to Non exploitative practices at the Workplace | 19,57 |
| Right to Work | 20 |
| National Rural Employment Guarantee Act | 21,61 |
| Agricultural Sector | 22 |
| Trade Union Rights | 23,63 |
| Unorganized Sector Worker's Social Security Bill | 24,64 |
| Eliminating Traditional Practices | 25,65 |
| Domestic Violence | 26,67 |
| Trafficking | 27,66 |
| Poverty and Food insecurity | 28,68 |
| Farmers Suicides | 29,69 |
| Housing Rights | 30,70 |
| Displacement and Forced evictions | 31,71 |
| Post Tsunami Rehabilitation Process | 32,72 |
| Right to Health | 33,35,38,73,77,78 |
| Right to Water | 34,74 |
| Right to sanitary and Hygienic conditions in Prisons | 35,75 |
| Survivors of Bhopal Gas Tragedy | 36,76 |

| | |
|---|--------------------|
| Sex Education | 37 |
| Trade in Human organs | 39,79 |
| Right to Education | 40-43,80,81,82,83, |
| Right to Culture | 44,84 |
| Suggestions and Recommendations | 45-89 |
| Disaggregated Data | 51,58(e),16 |
| Rights of Muslims | 54 |
| Rights of Street Children | 58(d) |
| Micro Credit Programmes | 58(c) |
| Prohibited Labour Practices (Bonded labour, Manual Scavenging, Child Labour) | 59,19 |
| Rate of Employment and Economic growth | 60, 20 |
| Minimum Wages | 62, 18, |
| Workers Rights in Special Economic Zones | 63 |
| Right to adequate food | 69 |
| Right to sexual and Reproductive health | 77 |
| Rights of Migrant Workers | 88 |

SUMMARY OF THE CONCLUDING OBSERVATIONS

Disseminate the concluding observations widely among all levels of society, particularly among Federal and State government officials and judicial authorities to inform the Committee on the steps that it has taken to implement the following in the next periodic report

Engage NGOs and Civil Society Groups in the process of discussion at the national level prior to the submission of the next periodic report.

India should submit its sixth periodic report by 30th June 2011 and include detailed information on the steps undertaken to implement the recommendations contained in the concluding observations

- Review legal obligations under the Covenant to take steps towards maximum of its available resources (Under Optional Protocol of the Covenant and General Comment 13 and 14 under core obligations)
- Review all aspects of negotiations with trade agreements, especially EU and EFTA to ensure that rights of disadvantaged and marginalized are not undermined
- Adopt mechanisms to enhance direct applicability of the Covenant by domestic courts. Also, with judicial training, effective measures should be taken to increase awareness of the rights enshrined in the ICESCR among the public at large.
- Enhance the effectiveness of the NHRC and the State Human Rights Commissions, in particular through increased budgetary allocations
- States and UTs to establish their respective Human Rights Commissions and Human Rights Courts
- India should take necessary measures to protect human rights defenders against violence, threats, retaliation, pressure or any arbitrary action as a consequence of their activities.
- Strengthen human rights training for law enforcement officials and ensure that all allegations of human rights violations are promptly investigated and perpetrators persecuted
- Repeal the Armed Forces Special Powers Act
- Provide updated annually collected disaggregated by age, sex, ethnicity, religion and by region, regarding all provisions in the Covenant, paying particular attention to disadvantaged and marginalised groups
- Strengthen enforcement of existing legal prohibitions of discrimination and enacting comprehensive administrative, civil/criminal anti discriminatory legislation, guaranteeing the right to equal treatment and discrimination in the field of employment, social security, housing, health care, education, grounds of race, colour, sex, language religion, political or other opinion, national or social origin, property, birth or other status.
- Enforcement of criminal justice system to strengthen procedures for prompt investigations and effective prosecution of violations under SC and ST (Prevention of Atrocities) Act.

Also, expand throughout the State preventive programmes to curb violence against persons belonging to SCs, STs, and women

- Provide data regarding the percentage of the GDP allotted for education, health and housing programmes in the country
- Ensure full implementation of the recommendations of the Sachar Committee Report without further delay
- Strengthen efforts to raise public awareness about gender equality, including by providing support to the NCW and STW
- Sensitise and train medical professionals on the criminal nature of sex selection with a view to ensure stringent enforcement of Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act
- Enact legislation on equal pay for work of equal value in both public and private sectors.
- Adopt affirmative actions to promote active political participation of women
- Provide information on situation of women and the extent to which they enjoy the right to own land and property independent of their male relatives to be provided in the next report. Also, the impact of micro credit programmes for women, the difficulties they encounter and the progress achieved. Lastly, detailed information regarding street children
- Take effective measures to ensure that violations concerning bonded labour, manual scavenging and worst forms of child labour are stringently prosecuted and employers duly sanctioned
- Launch a national campaign to abolish manual scavenging and other degrading forms of work and provide results achieved in the next periodic report
- India should ratify the following ILO Convention: No. 2 (Unemployment), 98 (Right to Organise and Collective Bargaining), 102 (Social Security), 182 (Worst Forms of Child labour), 138 (Minimum age) and 174 (Prevention of Major Industrial Accidents)
- Provide information on the measures taken within the framework of 10th and 11th Plans to achieve an adequate rate of employment growth
- Establish an effective system of indexation and regular adjustment of minimum wage to the cost of living
- Enact the Unorganised Sector workers Social Security Bill and entitle workers to social security benefits such as health, maternity benefit, old age benefit, labour accident insurance and dependent benefit.
- Enact a law that criminalises trafficking in persons and commercial sexual exploitation of women
- Provide detailed info on the extent of domestic violence, and on legislative and other measures taken to address this phenomenon, including facilities and remedies provided for victims
- Establish specific mechanisms to monitor implementation of poverty reduction strategies and evaluate the progress achieved. Provide detailed annual data on the incidence and depth of poverty, disaggregated by gender, caste, ethnicity and region

- Ensure full implementation of planned farm debt waiver programme. Develop rural infrastructure, provide financial and other forms of assistance to families of suicide victims, and ensure existing agriculture insurance schemes are fully implemented and accessible to farmers. Review the Seed Bill and provide State subsidies to enable farmers to purchase generic seeds with a view to eliminate their dependency on MNCs
- Develop a national strategy and a plan of action on adequate housing. India should provide detailed info on homelessness and the extent of inadequate housing, disaggregated by interalia, sex, caste, ethnicity and religion
- Provide info on progress achieved, including disaggregated statistics, in terms of measures taken to prevent displacement and forced evictions and undertaking participatory consultations with affected families in the event of any development projects
- India should conduct post-Tsunami rehabilitation process in affected areas and provide detailed info in next periodic report regarding the extent to which the affected groups were consulted throughout the different stages of the process
- Significantly increase health care expenditure. Accord highest priority to reducing maternal and infant mortality rates and preventing and treating serious communicable diseases, including HIV/AIDS. Fully implement NRHM and undertake a systematic assessment of policy measures related to mental illness with a view to improve the treatment and care of such persons
- Ensure equitable access to safe drinking water by enforcing existing laws on water treatment and effectively monitoring compliance
- Strengthen measures to improve sanitary and hygienic conditions in prisons to ensure the right to mental and physical health of all prisoners
- Provide info on measures taken to rehabilitate the survivors of Bhopal Gas tragedy
- Expand availability and accessibility of reproductive and sexual health information for everyone and ensure its incorporation in educational programmes in school curriculum
- Provide info on the measures taken to regulate the private healthcare sector
- Provide info on trade in human organs
- Achieve universal primary education, compulsory and free of charge. The State should allocate more funds to public schools to ensure that teachers are fully trained and qualified
- Intensify literacy programmes for adults, design specific strategies for women and those living in poverty
- Provide human rights education in schools at all levels and in university to cultivate values of tolerance, social inclusion and participation
- Preserve and promote culture and ensure that no development initiatives are carried without effective consultation with the local communities and that any potential negative impact on their rights to take part in cultural life
- Ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and also the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
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Concluding Observations of the Committee on Economic,
Social and Cultural Rights

INDIA

1. The Committee on Economic, Social and Cultural Rights considered the second to the fifth periodic report of India on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/IND/5) at its 14th, 15th and 16th meetings (E/C.12/2008/SR.1416), held on 7 and 8 May 2008, and adopted, at its 25th meeting, held on 16 May 2008, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined second to fifth periodic report of the State party, despite the 15-year delay in its submission. The Committee notes that the report was generally prepared in conformity with the Committee's guidelines, but regrets that no information was provided on articles 1 to 5 of the Covenant. The Committee also regrets that some of its questions posed to the State party in its list of issues (E/C.12/Q/IND/5) have remained unanswered.

3. The Committee appreciates the opportunity afforded to hold a dialogue with representatives of the State party and the answers to the questions raised by the Committee. The Committee regrets however, that the information provided was in some cases not sufficiently detailed to advance the Committee's assessment of the level of enjoyment of the rights provided for in the Covenant in the State party.

B. Positive aspects

4. The Committee notes with satisfaction the legislative and other measures adopted by the State party to promote the enjoyment of economic, social and cultural rights, in particular:

- The 2006 Prohibition of Child Marriage Act;
- The 2005 National Rural Employment Guarantee Act recognising employment as a matter of right;
- The 2005 Protection of Women from Domestic Violence Act;
- The “Sarva Shiksha Abhiyan” (Education for All) programme adopted in 2005;
- The “National Rural Health Mission”, launched in 2005, aimed to provide accessible, affordable and accountable quality health services;
- The 4-year time-bound plan, “Bharat Nirman” aimed to upgrade the rural infrastructures, launched in 2005;
- The 2005 Right to Information Act, aimed to ensure accountability of the government;
- The 2004 amendments to the Indian Divorce Act and the Hindu Succession Act widening the scope for women to exercise their rights to divorce, ownership and inheritance;
- The 2003 amendment to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;
- The 2002 Constitution (86th Amendment) Act, making education free and compulsory for all children aged 6 to 14; and
- The 2000 Juvenile Justice (Care and Protection of Children) Act, as amended by the 2006 Juvenile Justice (Care and Protection of Children) Amendment Act.

5. The Committee welcomes the ratification, by the State party, of:

- The Convention on the Rights of Persons with Disabilities, in 2007;
- The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, in 2005; and
- The ILO Convention No.105 on Abolition of Forced Labour, in 2000.

6. The Committee notes with appreciation the important contribution made by the Supreme Court of the State party to the development of international jurisprudence in favour of the justiciability of economic, social and cultural rights, through its proactive interpretations of the Constitution.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee notes the absence of any factors and difficulties impeding the implementation of the Covenant by the State party.

D. Principal subjects of concern

8. The Committee notes with regret the position of the State party with regard to its legal obligations arising under the Covenant, specifically, that the realisation of the rights it contains are entirely progressive in nature.

9. The Committee is concerned that, despite 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, the Covenant is not given its full effect in the legal system of the State party due to the absence of relevant domestic legislation. The Committee is also concerned by the non-implementation of court decisions by state authorities.

10. The Committee is concerned about the absence of effective mechanisms to coordinate and ensure, at both the federal and state levels, administrative and policy measures relating to economic, social and cultural rights, which constitutes a major impediment to the equal and effective implementation of the Covenant in the State party.

11. The Committee notes with concern that the National Human Rights Commission (NHRC) and the State Human Rights Commissions are not supported by adequate financial and other resources. The Committee is also concerned that the establishment of Human Rights Courts at the district level as envisaged by the 1993 Human Rights Act has not been implemented in most parts of the country, and that the mandate of the Human Rights Courts does not cover violations of economic, social and cultural rights.

12. The Committee is deeply concerned about reports that human rights defenders, including those assisting individuals and communities in asserting their economic, social and cultural rights, are threatened, harassed and subjected to violence by state officials and law enforcement officers. In this connection, the Committee notes with concern the existence of national security legislation which grants impunity to state officials who violate human rights, including economic, social and cultural rights.

13. The Committee is deeply concerned that in spite of 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 persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and scheduled 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. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long-delays in court proceedings and the non-implementation of court decisions by government authorities.

14. The Committee notes with concern the lack of progress achieved by the State party in combating the persistent *de facto* caste-based discrimination that continues to prevail in spite of the legal prohibitions in place, most notably the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee is particularly concerned by the low rate of prosecution of crimes against persons belonging to scheduled castes and scheduled tribes, and that discriminatory attitudes and prejudices in the enforcement of the law, especially by the police, is a serious obstacle in the victims' access to justice.

15. The Committee notes with concern that the recommendations of the 2006 Rajinder Sachar Committee Report on Social, Economic and Educational Status of the Muslim Community of India have not been sufficiently followed-up, and regrets the lack of actions taken by the federal and state union governments in this regard.

16. The Committee is deeply concerned that, in spite of the commendable efforts by the State party in promoting equality of men and women, such as the adoption of the National Policy on the Empowerment of Women (2001) and the adoption of the amendments to the Hindu Succession Act and the Indian Divorce Act in 2005 and 2001 respectively, widespread gender inequalities, cultural stereotypes and personal laws of minority groups continue to prevail, affecting negatively the equal enjoyment of economic, social and cultural rights by women. The Committee notes with concern in particular that all the statistical data available before the Committee indicate the disadvantages disproportionately suffered by women in their enjoyment of economic, social and cultural rights, in particular, those belonging to disadvantaged and marginalised groups.

17. The Committee is concerned about the weak enforcement of the Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act, as amended in 2003, which has resulted in the high rate of abortion of the girl foetus and a skewed sex ratio which continues to worsen.

18. The Committee notes with concern the disproportionate representation of women in the informal labour market and the significant gender disparities in wages. The Committee also notes with concern the low representation of women in decision-making.

19. The Committee notes with concern, despite the legal prohibitions in place, including the 1993 Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, the 1976 Bonded Labour System (Abolition) Act and the 1986 Child Labour (Prohibition and Regulation) Act, the prevalence of bonded labour, the worst forms of child labour and other exploitative labour conditions in the State party. The Committee is concerned about the insufficient enforcement of existing labour legislation at the federal and the state levels, as well as the lack of awareness among employers on the existing rules and standards.

20. The Committee notes with concern that the rapid and sustained economic growth in the State party has not been translated into employment growth that is sufficiently substantial to ensure compliance with the core obligations under Article 6 of the Covenant, as highlighted in the Committee's General Comment No.18 on the right to work (2005).

21. The Committee is concerned that, in spite of the enactment of the National and Rural Employment Guarantee Act in 2006, the high and increasing rate of unemployment and underemployment persists in the State party, particularly in the rural areas.

22. The Committee notes with concern the weak enforcement of the existing state minimum wages. The Committee is also concerned that the low levels of wages, particularly in the agricultural sector, are insufficient to provide a decent standard of living for workers and their families.

23. The Committee is concerned about the numerous requirements of the State party with respect to trade unions, particularly those in the informal sector, in obtaining collective bargaining licences such as the minimum membership requirement for a union of 100 workers or 10% of the workforce under the 1926 Trade Unions Act, and a complete ban on strikes under the Essential

Services Maintenance Act which does not prescribe an official list of the essential services that falls under its purview. The Committee also notes with concern that, pursuant to the 1964 Central Civil Services (Conduct) Rule, civil servants' right to join trade unions and to strike is severely restricted.

24. The Committee is concerned that, pending the adoption by the Parliament of the Unorganised Sector Worker's Social Security Bill, workers in the State party, a majority of whom are employed in the unorganised/informal sector, does not currently benefit from state-administered social security protection.

25. The Committee is deeply concerned about the lack of progress achieved by the State party in eliminating traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls, including *sati*, *devadasi*, witch-hunting, child marriages, dowry deaths and honour killings, in spite of the legal prohibitions such as the 2005 Domestic Violence Act, the 1961 Dowry Prohibition Act, the 1982 Prohibition of Dedication Act, the 1939 Child Marriage Restraint Act and the 2006 Prohibition of Child Marriage Act.

26. The Committee is concerned about the exceptionally high incidence of domestic violence against women and children in the State party, as well as the high proportion of children who are subjected to sexual abuse at home, in spite of the enactment of the Protection of Women from Domestic Violence Act of 2005. In this regard, the Committee deeply regrets the lax enforcement of the existing legislation for the protection of victims of domestic violence and the low rate of prosecution for such crimes under Section 498-A of the Indian Penal Code.

27. The Committee notes with concern that trafficking in persons remains a serious problem faced by the State party. The Committee is particularly concerned that women and children belonging to scheduled castes and scheduled tribes make up a large proportion of victims of trafficking and sexual exploitation. The Committee is also concerned that victims of trafficking and sexual exploitation, rather than being afforded protection and rehabilitation, are prosecuted under the Immoral Trafficking Prevention Act (ITPA), and that there is no legislation that specifically criminalises trafficking in persons.

28. The Committee is deeply concerned that, despite the rapid economic growth achieved under the Ninth Plan (1997-2002) and the Tenth Plan (2002-07), high levels of poverty as well as serious food insecurity and shortages persist in the country, disproportionately affecting the population living in the poorer states and in rural areas, and the disadvantaged and marginalised groups. The Committee is also concerned that the State party, in its pursuit of economic growth, and in its definition of the poverty threshold exclusively in terms of consumption, has overlooked its obligations to fully integrate human rights, particularly economic, social and cultural rights, in its poverty-reduction strategies. The Committee is also concerned by reports of corruption, inefficiency and discrimination in distribution that hamper access to food, particularly by the disadvantaged and marginalised groups of society who have been excluded from the benefits of the State party's economic growth.

29. The Committee is deeply concerned that the extreme hardship being experienced by farmers has led to an increasing incidence of suicides by farmers over the past decade. The Committee is particularly concerned that the extreme poverty among small-hold farmers caused by the lack of

land, access to credit and adequate rural infrastructures, has been exacerbated by the introduction of genetically modified seeds by multinational corporations and the ensuing escalation of prices of seeds, fertilisers and pesticides, particularly in the cotton industry.

30. The Committee is concerned about the lack of a national housing policy which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party. The Committee is also concerned that while housing is under the responsibility of the state government, the oversight exercised by the federal government is insufficient to ensure effective implementation of the existing strategies and policies to ensure the right to housing for all.

31. The Committee, while noting that the draft Resettlement and Rehabilitation Bill is currently before Parliament, remains deeply concerned about the reports of displacement and forced evictions in the context of land acquisition by private and state actors for the purposes of development projects, including constructions of dams and mining, and that the members of disadvantaged and marginalised groups, in particular, the scheduled castes and scheduled tribes, are adversely affected by such displacement from their homes, lands and their sources of livelihood. The Committee is also concerned that urban renewal projects, sporting events, infrastructure expansion, environmental projects and more recently, the designation of large areas as tax-free Special Economic Zones, have resulted in the displacement of millions of families, most of who have not received adequate compensation and rehabilitation. Furthermore, the Committee is concerned about the lack of effective consultations and legal redress for persons affected by displacement and by forced evictions, and the inadequate measures to provide sufficient compensation or alternative housing to those who have been removed from their homes and/or their ancestral lands.

32. The Committee is concerned about the reported delays and inadequacies of the post-tsunami rehabilitation process in the affected districts of Tamil Nadu. The Committee notes with concern that, according to the Public Accounts Committee in its 2007-08 report, large amounts of tsunami funds have been diverted from rehabilitation. The Committee regrets that the State party has not provided adequate information on the post-tsunami situation.

33. The Committee is concerned that, despite the economic growth achieved by the State party, healthcare expenditures remain exceptionally low at around 1% of GDP, and that a significant proportion of the population continues to have limited or no access to basic health services, resulting in alarmingly high rates of maternal and infant mortality, as well as high incidences of tuberculosis and other communicable diseases. The Committee is also concerned by the rising HIV/AIDS infections, and the lack of reliable information available regarding persons affected by mental health illnesses.

34. The Committee is concerned about the shortage of access to safe drinking water and the presence of heavy metals in ground water.

35. The Committee is concerned about the overcrowding and sub-standard conditions in prisons which are operating at 200-300% of their maximum capacity, which have given rise to a disproportionately high rate of tuberculosis and other health problems affecting the prisoners.

36. The Committee is concerned that survivors of the 1984 gas leak from the Union Carbide India Limited pesticide plant in Bhopal are continuing to suffer serious long-term health effects of the gas exposure, and that the State efforts to provide rehabilitation and monetary compensation have largely been inadequate.

37. The Committee is concerned that the prevailing widespread phenomenon of early marriages, the high rate of maternal mortality and the rapid spread of HIV/AIDS and other sexually transmitted diseases in the State party, can be attributed largely to the lack of sex and reproductive education that is still viewed to be taboo in the State party.

38. The Committee notes with concern that the universal healthcare scheme in the State party falls short of providing for universal coverage, excluding a considerable portion of the population. The Committee is also concerned that the quality and the availability of the health services provided under the scheme have been adversely affected by the large-scale privatisation of the health service in the State party, impacting in particular on the poorest sections of the population.

39. The Committee is concerned that trade in human organs, particularly in kidneys, is prevalent in the State party and that it is on the increase.

40. The Committee is concerned that, despite the efforts made by the State party to achieve universal primary education, including the adoption of the Constitution (86th Amendment) Act in 2002 which makes the right to primary education a fundamental right, and the “Sarva Shiksha Abhiyan” (Education for All) programme, aimed at achieving 100% primary enrolment, the wide disparity in enrolment and drop out rates in primary schools continue to persist, negatively affecting, in particular, girls, Muslim children and children belonging to scheduled castes and scheduled tribes.

41. The Committee notes with concern the generally low quality of education in, and the under-funding of, public schools.

42. The Committee is concerned that adult illiteracy rates continue to remain high, especially among disadvantaged and marginalized groups, women and among those living in poverty.

43. The Committee notes with regret the absence of human rights education in the school curricula in the State party.

44. The Committee notes with concern that some of the development measures and projects that have been carried out have not sufficiently taken into account the way of life and specific forms of livelihood of numerous communities in India, in particular the scheduled tribes in the northeast, thus affecting their right of everyone to take part in cultural life.

E. Suggestions and Recommendations

45. The Committee is of the view that the State party has within its power the ability to immediately implement the rights in Part II of the Covenant as required, and to meet, at the least, its core obligations for the progressive realization of the rights in Part III of the Covenant. The Committee therefore urges the State party to review its position regarding its legal obligations arising under the Covenant in light of the Committee's statement on the evaluation of the obligation to take steps to the "maximum of its available resources" under an Optional Protocol to the Covenant (E/C.12/2007/1), and its General Comments No. 13 (1999) and No. 14 (2000) in relation to core obligations. The Committee also encourages the State party to ensure that the provisions of the Covenant are taken into consideration in legislative and administrative policy and decision-making processes.

46. The Committee recommends the State party to review all aspects of its negotiations with trade agreements, including those with the EU and the EFTA, in light of its obligations under the Covenant to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.

47. The Committee recommends that the State party take necessary legal measures to give full effect to the Covenant in domestic law, and to provide the Committee in its next periodic report, with further clarification regarding the direct applicability of the Covenant by domestic courts and citing relevant case law. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant (1998). Furthermore, the Committee urges the State party to ensure that judicial training take full account of the justiciability of Covenant rights and that all court decisions are fully implemented by the relevant authorities without delay. The Committee also recommends the State party to take effective measures to increase awareness of the rights enshrined in the ICESCR among the public at large.

48. The Committee recommends the State party to ensure that the complexities arising from the federal structure of government and the delineation of responsibilities between federal and state levels do not result in the lack of effective implementation of the Covenant in the State party.

49. The Committee recommends that the State party increase its efforts to enhance the effectiveness of the National Human Rights Commission and the State Human Rights Commissions, in particular through adequate budget allocations. The Paris Principles as well as General Assembly Resolution 48/134 relating to the status of national institutions for the promotion and protection of human rights, should be taken into consideration in matters relating to the reform of the NHRC and the establishment of State Commissions. The Committee further recommends the State party to ensure that State and Union Territories establish their respective Human Rights Commissions and Human Rights Courts, and enable the latter to consider violations of economic, social and cultural rights.

50. The Committee urges the State party to take all necessary measures for the protection of human rights defenders against any violence, threats, retaliation, pressure or any arbitrary action as a consequence of their activities. The Committee recommends that the State party 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. The Committee also recommends the State party to consider repealing the Armed Forces Special Powers Act.

51. The Committee requests the State party in its next periodic report to submit updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also requests the State party in its next periodic report to include annual comparative data, disaggregated by sex, age, caste, ethnicity, religion and by region, the percentage of the gross domestic product allotted for education, health and housing programmes in the country.

52. The Committee recommends that the State party strengthen enforcement of existing legal prohibitions of discrimination and, in addition consider enacting comprehensive administrative, civil and/or criminal anti-discrimination legislation guaranteeing the right to equal treatment and protection against discrimination, specifically prohibiting discrimination in employment, social security, housing, healthcare and education on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as stipulated in article 2.2 of the Covenant. The Committee also urges the State party to step up efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts.

53. The Committee stresses the need for a determined enforcement of the criminal justice system, and recommends that the State party strengthen procedures for prompt and impartial investigations and effective prosecutions of all allegations of violations under the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee also recommends that the State party improve awareness-raising and training programmes regarding the treatment of caste-based and other crimes related to discriminatory attitudes and prejudices, for professionals engaged in the administration of justice including judges, public prosecutors, lawyers and law enforcement officials, in particular members of the police, and remove any other existing obstacles faced by victims in accessing justice. The Committee further encourages the State party to expand throughout the State, preventive programmes to curb violence against persons belonging to scheduled castes and scheduled tribes, especially women.

54. The Committee recommends the State party to ensure full implementation of the recommendations contained in the Sachar Committee report without further delay, with a view to ensuring the realisation of the economic, social and cultural rights of Muslims in the State party, in particular, Muslim Other Backward Classes (OBCs) and Muslim women.

55. The Committee recommends that the State party further strengthen efforts to raise public awareness about gender equality, including by providing adequate support to the National Commission for Women and the State Commissions for Women.

56. The Committee recommends the State party to sensitize and train medical professionals on the criminal nature of sex selection with a view to ensuring stringent enforcement of the Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act.

57. The Committee recommends the State party to undertake and enforce effectively measures to ensure equal treatment between men and women in the labour market, and to consider enacting legislation on equal pay for work of equal value in both the public and the private sectors, and for such legislation to be adopted at the State level. The Committee also recommends the State party to continue to make use of affirmative action measures to promote active political participation of women.

58. The Committee requests the State party to include in its next periodic report, in addition to the requests already mentioned in previous paragraphs, a specific section on:

- a) the results of the measures taken to combat discrimination of all forms;
- b) the situation of women and the extent to which they enjoy the right to own land and property independent of their male relatives;
- c) the impact of the micro-credit programme for women, the progress achieved and the difficulties encountered;
- d) detailed information regarding street children; and
- e) annual data, disaggregated by age, sex, caste, ethnicity and religion, as well as specific benchmarks, to enable adequate monitoring and evaluation of the progress achieved.

59. The Committee recommends that the State party ensure the right to decent work and provide sufficient resources to the labour inspectorate to enable regular and independent inspections of health and safety conditions in all sectors. In this regard, the State party should take effective measures to ensure that violations concerning prohibited labour practices, such as bonded labour, manual scavenging and the worst forms of child labour are stringently prosecuted and employers duly sanctioned. The Committee recommends the State party to launch a national campaign to abolish manual scavenging and other degrading forms of work and to provide information on the results achieved in its next periodic report. The Committee further recommends that measures to rehabilitate affected children, to monitor their work conditions and their living conditions following removal from such work, be strengthened and significantly expanded to cover all children engaged in the worst forms of child labour. The Committee also recommends that the State party consider ratifying the following ILO Conventions: No. 182 on the **Worst Forms of Child Labour**; No. 138 on **Minimum Age**; No. 174 on **Prevention of Major Industrial Accidents**.

60. The Committee recommends that the State party provide, in its next periodic report, information on the measures taken within the framework of the 10th and the 11th Plans to achieve an adequate rate of employment growth in order to ensure the fullest possible enjoyment of the rights under Article 6 of the Covenant. The Committee further recommends that the State party provide the necessary conditions to encourage private sector employers to create additional jobs in the process of economic growth.

61. The Committee recommends that the State party reinforce its programmes designed to reduce unemployment and in this regard, to target on a priority basis the most affected groups and regions. In this connection, the Committee recommends that the State party consider ratifying the ILO Convention No. 2 on unemployment. The Committee further recommends the State party to take necessary measures to ensure effectively the full implementation of the provisions foreseen under the National Rural Employment Guarantee Act.

62. The Committee encourages the State party to ensure that the state minimum wages are fully enforced throughout its territory, and in all sectors, with a view to enabling all workers and their families to enjoy an adequate standard of living. The Committee also encourages the State party to establish an effective system of indexation and regular adjustment of the minimum wage to the cost of living.

63. The Committee recommends that the State party remove, in law and practice, obstacles to trade unions' rights to conduct collective bargaining, and to pay particular attention to the workers' rights in Special Economic Zones (SEZs) and Export Processing Zones (EPZs). In particular, the Committee recommends that the State party consider amending the 1964 Central Civil Services (Conduct) Rule with a view to lifting the restrictions imposed on civil servants' right to join trade unions and on their right to strike, and to clearly define "essential services" as stipulated by the Essential Services Maintenance Act. The Committee recommends the State party to consider ratifying the ILO Convention No. 98 on the Right to Organize and Collective Bargaining.

64. The Committee recommends that the State party adopt the Unorganized Sector Workers Social Security Bill without delay, and ensure, in line with the Committee's general recommendation No.19 on the right to social security (2007), that the very large sections of the population which are still not adequately covered by the social security system of the State party become entitled to social security benefits which provide for the minimum standards in respect of, *inter alia*, health, maternity benefit, old age benefit, labour accident insurance and dependants benefit. The Committee recommends that the State party consider ratifying the ILO Convention No.102 on **Social Security** (Minimum Standards), and requests that it provide detailed information in its next periodic report on the extent of the coverage of its social security system for the unorganised/informal sector.

65. The Committee strongly recommends that the State party strictly enforce the law prohibiting harmful and discriminatory practices that violate the rights of women and girls, and to undertake effective public education measures, including awareness-raising programmes designed to eliminate genderbased prejudices, traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls. The Committee requests that the State party provide detailed information in its next periodic report on the extent of these practices and the measures being taken to strictly enforce its laws for the protection of women and girls from such harmful practices.

66. The Committee recommends that the State party enact a law that criminalises trafficking in persons and commercial sexual exploitation of women and children. The Committee also recommends that the State party, while strengthening its efforts to bring perpetrators to justice, ensure that victims are not penalized and are systematically provided with rehabilitation and legal assistance. The Committee further recommends that the State party strengthen preventive measures, such as awareness-raising campaigns, that target economically-depressed areas as well as disadvantaged and marginalised groups.

67. The Committee recommends that the State party ensure that the Protection of Women from Domestic Violence Act and Section 498-A of the Indian Penal Code are enforced effectively in

all of its states and union territories, and that law enforcement officials, judges, lawyers, social workers and medical professionals are duly trained on the serious and criminal nature of domestic violence. The Committee requests that the State party provide in its next periodic report, detailed information on the extent of domestic violence, and on the legislative and other measures taken to address this phenomenon, including facilities and remedies provided for victims.

68. The Committee recommends that the State party, in the context of the 11th Plan (2007-12), take urgent measures to address the issue of poverty and food insecurity. In this regard, the Committee recommends the State party to review its national poverty threshold, taking into account its Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001 (E/2002/22E/C.12/2001/17, annex VII) and establish specific mechanisms to monitor the implementation of poverty-reduction strategies and evaluate the progress achieved. The Committee requests the State party to provide, in its next periodic report, detailed annual data on the incidence and depth of poverty, disaggregated by gender, caste, ethnicity and by region.

69. The Committee urges the State party, in addition to the full implementation of the planned farmer debt waiver programme, to take all necessary measures to address the extreme poverty among small-holding farmers and to increase agricultural productivity as a matter of priority, by *inter alia*: developing the rural infrastructures including irrigation as part of the *Bharat Nirman* programme; providing financial and other forms of assistance to families of suicide victims; ensuring that the existing agricultural insurance schemes, including the Crop Insurance Scheme and the Calamity Relief Fund, are fully implemented and are accessible to all farmers; providing state subsidies to enable farmers to purchase generic seeds which they are able to re-use, with a view to eliminating their dependency on multinational corporations. The Committee also recommends the State party to review the Seed Bill (2004) in light of its obligations under the Covenant and draw the attention of the State party to para. 19 of the Committee's General Comment No.12 on the right to adequate food (1999).

70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and by building or providing low-cost rental housing units, especially for the disadvantaged and low income groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under article 11 of the Covenant and refers to its General Comment No. 4 on the right to adequate housing (1991) to guide the Government's housing policies. The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, *inter alia*, sex, caste, ethnicity and religion.

71. The Committee recommends that the State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and/or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its General Comment No. 7 on forced evictions (1997). The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful

consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its General Comment No. 4 on the right to adequate housing (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions.

72. The Committee urges the State party to conduct the post-tsunami rehabilitation process in the affected areas of Tamil Nadu with transparency and in full consideration of its obligation to respect and protect the economic, social and cultural rights of the survivors. The Committee requests the State party to provide detailed information in its next periodic report regarding the rehabilitation process and the extent to which the affected groups were consulted throughout the different stages of the process.

73. The Committee recommends the State party to significantly increase its healthcare expenditure, according the highest priority to reducing maternal and infant mortality rates and to preventing and treating serious communicable diseases, including HIV/AIDS. The Committee further recommends that the State party take effective measures to fully implement the National Rural Health Mission (2005-2012) and ensure the quality, affordability and accessibility of health services without hidden costs, especially for disadvantaged and marginalised individuals and groups. In this respect, the Committee draws the attention of the State party to its General Comment No. 14 on the right to the highest attainable standard of health (2000) and requests the State party to provide detailed information, on a disaggregated and comparative basis, regarding the progress it has achieved in this regard in its next periodic report. The Committee also recommends the State party to undertake a **systematic assessment of policy measures and the realities of mental illness in the State party** with a view to improving the treatment of and care for persons with mental illnesses.

74. The Committee recommends the State party to take effective measures to ensure equitable access to safe drinking water by rigorously enforcing existing laws on water treatment and effectively monitoring compliance. The Committee requests the State party to report on these issues by providing comparative and disaggregated data in its next periodic report, bearing in mind the Committee's general comment No. 15 (2002) on the right to water.

75. The Committee recommends that the State party strengthen its measures to improve the sanitary and hygienic conditions in prisons and to ensure that the right to mental and physical health of all prisoners is respected, in accordance with Article 12 of the Covenant.

76. The Committee recommends the State party to provide, without further delay, adequate compensation, and wherever possible, rehabilitative measures, to survivors of the Bhopal leak and their families. The Committee requests the State party to provide detailed information in this regard in its next periodic report.

77. The Committee recommends that the State party expand availability and accessibility of **reproductive** and sexual health information and services for everyone, and ensure that the educational programmes, including within the school curriculum, as well as services on sexual and reproductive health, are widely available.

78. The Committee recommends the State party to substantially increase funds allocated to public health and to provide additional incentives in order to prevent further loss of medical professionals from the public health services. The Committee also urges the State party to take all necessary measures to ensure universal access to affordable primary health care. The Committee also requests the State party to provide information on the measures to regulate the private healthcare sector.

79. The Committee recommends that the State party give high priority to address the problem of trade in human organs and to provide information on the progress achieved in its next periodic report.

80. The Committee urges the State party to continue to make determined efforts to achieve universal primary education, compulsory and free of charge, by *inter alia*, taking further initiatives to eliminate child marriages, child labour especially of school-aged children, and targeting disadvantaged and marginalised groups in particular.

81. The Committee recommends that the State party allocate increased funding to public schools, ensuring that teachers are fully trained and qualified.

82. The Committee recommends the State party to intensify its literacy programmes for adults, and to adopt awareness-raising campaigns and programmes on the value of literacy. Such strategies and awareness-raising campaigns and programmes should be designed and targeted especially for the disadvantaged and marginalized groups, in particular, women and those living in poverty.

83. The Committee encourages the State party to provide human rights education in schools at all levels and in universities, cultivating values of tolerance, social inclusion and participation. The Committee also encourages the State party to make increased efforts to raise awareness about human rights, in particular economic, social and cultural rights, among State officials, the judiciary and the public at large.

84. The Committee recommends the State party to consider going beyond the creation of museums and hosting of exhibitions as a way of preserving and promoting culture, and to ensure that no development initiative is carried out without effective consultation with the local communities, and that any potential negative impact on their right of everyone to take part in cultural life be taken into serious consideration when conducting social audits.

85. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among federal and State government officials as well as judicial authorities, and to inform the Committee on the steps that it has taken to implement them in its next periodic report.

86. The Committee also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

87. The Committee invites the State party to submit its core document in accordance with the 2006 harmonized guidelines on a common core document (HRI/GEN/2/Rev.4).

88. The Committee encourages the State party to consider ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without further delay. The Committee also encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

89. The Committee requests the State party to submit its sixth periodic report by 30 June 2011 and to include in that report, detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.

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