

Universal Periodic Review of India 2012
(24th May 2012, Geneva)

Opening Statement by Leader of the Indian delegation
H.E. Attorney General of India Shri. Goolam E. Vahanvati

I thank you for the opportunity to make a presentation on India's National Report for the Second Universal Periodic Review 2012. The mechanism of the Universal Periodic Review has emerged as an extremely useful vehicle for the Human Rights Council and the world community to engage in an open discussion on the promotion and protection of human rights in member countries. India accepts all positive suggestions and constructive criticism in the right spirit. We certainly see this process as one of constructive engagement. The fact that we have brought with us a delegation consisting of experts from various ministries of the Central Government who have domain expertise in various aspects of Human Rights bears testimony to our commitment to the UPR.

2. We have prepared our current National Report after an extensive and inclusive consultation process involving various Ministries of the Government of India, experts and a range of civil society. The draft UPR report was posted on the website to make it accessible for the general public. Prof. Ranbir Singh, Vice Chancellor of National Law University, Delhi took up the task of preparing the National Report after extensive involvement of various special interest groups. I will request him later to give the Council an overview of this unique exercise.

3. We have also tried to highlight, in the annexures, the evolution of India's fundamental rights enshrined in Part III of our Constitution through judicial pronouncements over the years. This is, in our opinion, a unique addition to our UPR. The intention is to help you get a perspective on a vibrant and evolving Constitution which places human rights right in the forefront of our governance. This steady evolution at the hands

of the Supreme Court of India and our Government has opened up new vistas in the field of human rights and fundamental freedoms. I may proudly assert that the contribution of the Indian Supreme Court in this behalf is unparalleled.

4. Over the last several years, several significant developments have taken place in the field of human rights. Let me highlight some important features. The Right to Information Act has revolutionized the concept of good governance and made it transparent and accountable. Several seminal legislations have brought in a rights-based approach to those areas which are fundamental to human existence inter alia work and employment, education and food security. These include the landmark Mahatma Gandhi National Rural Employment Guarantee Act, the Right to Education Act of 2009 and the National Food Security Bill, which has been introduced in Parliament a few months ago to provide food security. I will shortly elaborate on each of these issues.

5. The Government is bringing about transparency in governance through the Right to Information Act, Citizens Charter and E-governance and this has had an impact particularly on the way civil and political rights are being administered. The right to approach the Supreme Court, the highest court of the land, for enforcement of Fundamental Rights, is elevated by the Constitution to the status a Fundamental Right. The High Courts can also be moved. These provisions are used frequently and effectively. Advancement of social, economic and political rights has been achieved by the effective use of "public interest litigation" by the High Courts and the Supreme Court.

6. The challenges we face are by no means small. There are threats to the fabric of our country. Our country has been the target of terrorist activities over the last three decades. Terrorism and insurgency posed existential threats to us. Left-wing extremism and violence is an internal challenge which is

being met with resolve coupled with compassion and people-oriented development.

7. We are aware of the concerns expressed regarding The Armed Forces Special Powers Act of 1948. It may be noted that this Act has been upheld as constitutional by our Supreme Court. Let me say that several checks and balances have been introduced to ensure that there are strict guidelines for the armed forces when dealing with terrorists and insurgents, and that violations are dealt with swiftly and transparently. We are constantly reviewing the implementation of this Act.

8. In response to our extending a standing invitation to the UN Special Procedures last year in this Council, we have just had the visit of Mr. Christoph Heyns, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

9. The Supreme Court and National Human Rights Commission promptly look into allegations of enforced disappearances. India has been working closely with the United Nations Office on Drugs and Crime to strengthen response against trafficking in persons.

10. At this point, I would like to underline, our age-old ethos of religious tolerance and understanding, and the strength of our secular Constitution. Over centuries, India has been welcomed all religious denominations, minorities and refugees, including the Jewish community which has become part of our fabric and lived in India for thousands of years without discrimination, and the Zoroastrians/Parsis over hundreds of years or, more recently, refugees from Tibet, Sri Lanka, Myanmar and other countries. Our practices on refugees are far more developed, caring and humane than the current international regime can provide for.

11. The last four years have seen tremendous strides in focusing on groups needing special attention including children, women, Scheduled Castes and Scheduled Tribes and minorities, and disabled and elderly.

12. Our efforts in the sphere of social and economic advancement have been significant. Poverty has declined by 9% in a decade. Our rights-based welfare schemes focus on taking people out of poverty and enhancing quality of their life.

13. The Rural Employment Guarantee Act has played an extremely crucial role. It has provided 54 million households employment in 2010 and 2011. 48% of the total employment created went in favour of women. A huge programme of this kind is bound to require effective monitoring which is being done not only by various arms of Government but also, wherever necessary, under directions of the Supreme Court. Social audit is also conducted and is available on the website to monitor performance.

14. The declining trend in the unemployment rate in rural and urban areas between 2004-2005 to 2009-2010 is equally visible among Scheduled Castes and Scheduled Tribes and minorities. It is a matter of satisfaction that the rising tide has been lifting all boats. The Central Vision of our 12th Five-Year Plan is to trigger a development process which ensures broad based improvement in the quality of life encompassing in an inclusive manner, all sections of society.

15. India is also striving to achieve the Millennium Development Goals. While there is considerable ground which needs to be covered, the progress in the last few years on some of the important indicators has been appreciable, given the enormity of the task which we were faced with. Apart from sharp decline in poverty levels in both rural and urban areas between 2004-05 and 2009-10, we are also on course to meet the universal primary education goals. The infant mortality rate has decreased appreciably from 58 per thousand live

births in 2005 to 47 in 2010. Maternal mortality rate is down from 254 in 2004 to 212 in 2008 though much more needs to be done.

16. The Right to Education Act was brought into force on 1st April, 2010. It is an innovative concept meant to give effect to Article 21A of the Constitution, this article was inserted in 2002 by a Constitutional Amendment to make primary education a Fundamental Right and required the State to provide, by law, free and compulsory education to all children of the age of 6 to 14 years. The Right to Education Act contains several visionary changes. Free and compulsory education to all children, has been extended to all schools requiring them to admit at least 25% of children belonging to weaker sections and disadvantaged groups. This is a significant step towards social and cultural integration and elimination of disparities in the country.

17. I would like to draw the attention of the London-based "Global Initiative to end all corporal punishments to children" to the contents of section 17 of the Right to Education Act which mandates that no child shall be subjected to physical punishment or mental harassment.

18. The success of Government's programmes such as Sarvashiksha Abhiyan has led to achievement of high levels of enrolment in schools. Every effort is now made to contain and deal with the problem of drop outs. This programme has been fine-tuned to bring the Right to Education Act to reality.

19. Equal emphasis has been made on children's well being with emphasis on enhancement of their food and nutrition through Mid-day Meals programme in schools and also the availability of teachers and their retention. Civil society has contributed positively towards this end. Rural habitation with access to primary school has increased from 87% in 2002 to 99% in 2008. Female literacy has also shown considerable improvement by nearly 50% in the last decade. The good news

is that the marginalized and minority group trends have also been converging towards the national average in terms of literacy rate.

20. While the figures of child labour have dropped sharply in the last decade, the problem of children who are neither working nor studying continues. There is no magic wand to solve the issues relating to child labour. It requires sensitivity and understanding. We remain fully conscious of these issues. In 2007, the National Commission for the Protection of Child Rights was established. The aim is to ensure that all legislative and administrative measures are in consonance with child rights as enshrined in the Constitution of India and the Convention on the Rights of the Child.

21. I would like to draw your attention to a unique feature in the quest for empowerment of Women. There are over 3 million elected local representatives in Panchayats, which are the units of local self-government at the village level, out of which around one million are women. We are mainstreaming gender through several initiatives, including gender budgeting in all Government policies and programmes. A National Mission for Empowerment of Women was launched in March 2010.

22. India's programme of affirmative action is unique in scale and dimension. Our jurisprudence recognizes that the guarantee of equality enshrined in Part III of the Constitution is a positive mandate for eradication of inequalities and discrepancies, requiring the State to take all steps to give disadvantaged an opportunity to lead a full and meaningful life.

23. While our Universal Periodic Review report gives details of development over the last four years, I would just like to underline that several recent steps have been taken to impact positively on the lives of the Scheduled Castes as well as the tribal population in India. In particular, under the Scheduled Tribes and other Traditional Forest Dwellers (recognition of

Forest Rights) Act, 2006, as on February this year, we have disposed 2.72 million claims out of the 3.17 filed i.e 86% of the claims and 1.25 million titles have been distributed already. Prime Minister's new 15-point programme for the welfare of minorities is being actively pursued. Certain proportion of development projects is being earmarked for minorities' concentration areas.

24. In a significant progress, we have been able to provide access to improved sources of drinking water both in rural and urban areas. More than 90% of the households used improved sources of drinking water in 2008-09.

25. The National Food Security Bill is a historic initiative for ensuring food security of the people. It marks a paradigm shift from welfare to rights based approach. The highlights are food and nutritional security in human life cycle approach, ensuring access to adequate quantity of quality food at affordable prices, to enable people to live a life with dignity. About two-thirds of the population will be entitled to receive subsidized foodgrains under Targeted Public Distribution System (TPDS). It will entitle upto 75% of the rural population (with at least 46% belonging to the priority households) and upto 50% of the urban population (with at least 28% belonging to the priority households) to subsidized foodgrains. There is a special focus on women, children and other Special Groups.

26. The Public Service Delivery Acts enacted by more than 12 states of India guarantees specified service standards including assurance of service, stipulated time frame, grievance redressal and accountability, to the vulnerable sections of the society – a testimony to the fact that rights based legislation has been infused into the states' domain also. I must also draw attention to "Aadhaar", which will give a unique identity for all residents to ensure streamlined and effective access to social and organized infrastructure, including the public delivery systems.

27. India's establishment of the National Green Tribunal is yet another innovative action widely welcomed internationally. The intervention of courts in the matter of protection of the environment and other areas has not only been timely but also led to a wide spread understanding and appreciation of citizens' rights.

28. Last year, Ms Margaret Sekkagya, UN Special Rapporteur on Human Rights Defenders also visited our country. Allow me to mention here the increasing role being played by the civil society in the area of human rights. Government has actively started associating the civil society right from the planning to the implementation stage. Needless to add, in an open and free society like India and with the Right to Information Act in place, the Indian media, civil society and other activists have helped the Government to be vigilant against transgressions and ensured that best practices are disseminated. Human Rights defenders continue to play an important role. Our National Human Rights Commission has strived to strengthen the edifice of our human rights practices and serve as the moral compass of the nation.

29. Allow me also to address one more aspect in a spirit of openness. This concerns freedom of religion in our country. Freedom of Religion is constitutionally guaranteed right under Article 25 of the Constitution. Everybody has a right to choose and follow his own path. The problem arises when the act of propagating one's religion transgresses the limits and stops being voluntary, and becomes coercive or induced. Some States have taken exception to this. Let me assure you that if any particular legislation exceeds Constitutional limits, this can be challenged and the person has every right to approach the Courts.

30. I would like to take this opportunity to thank the "Troika" countries of Kuwait, Mexico and Mauritius for facilitating the entire process.

31. We reiterate the pledge of continued enhancement of our engagement with the United Nations and the Human Rights Council. In recent years, we have made several voluntary contributions to human rights related bodies in the UN.

32. India is a huge country and by reason of its area and diversity alone there are bound to be problems. We cannot wish away problems. Problems can be dealt with if their existence is acknowledged. Moreover, India has the ability to self correct and has redressal mechanisms available. However, we cannot lose sight of the larger picture which is very reassuring. As Mahatma Gandhi said "You must not lose faith in humanity. Humanity is an ocean. If a few drops of the ocean are dirty, the ocean does not become dirty". India is a vast ocean. We have full faith in our resolve and resources. We are confident that we will be able to deliver to every person living in our country his full share of rights and entitlements.

Thank You.

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