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**STATEMENT BY**

**H.E. MR. GOOLAM E. VAHANVATI**

**SOLICITOR GENERAL OF INDIA**

**THE UNIVERSAL PERIODIC REVIEW OF INDIA**

**HUMAN RIGHTS COUNCIL**

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**SOLICITOR GENERAL OF INDIA,**  
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**GENEVA (10<sup>TH</sup> APRIL, 2008)**

**Mr. President,  
High Commissioner for Human Rights,  
Honourable Delegates,  
Ladies and Gentlemen,**

I feel privileged to be present here today on behalf of my country to participate in the historic first session of the Universal Periodic Review Working Group of the Human Rights Council. I am confident that this new mechanism will have a smooth, effective and meaningful beginning. On behalf of the Government of India, I assure you of our full support in this endeavour.

Mr. President,

India has a long tradition of promoting and protecting human rights. Even before independence, it was in the forefront of the struggle against apartheid. The vision of our nation's founding fathers who framed our constitution was based on a solid commitment to human rights. It has always been our firm belief that in a truly pluralistic society, like India, growth and welfare of citizens can be ensured only through promotion and protection of human rights.

Ours is a country with a long and diverse history and a vibrant ancient culture. However, as an independent Nation we are relatively young. Whilst determining the future of our country, the challenge before our founding fathers was to choose a political set up which would ensure a free and independent society and human dignity, freedom and advancement. They chose democracy. This was the first step. The second was to draft and adopt a written constitution, so as to effectuate a constitutional democracy which becomes an organic guarantee of human freedoms and rights. And thirdly in the forefront of the Constitution, they incorporated a Chapter on fundamental rights contained in Articles 12 to 32 of the Constitution.

It is not an overstatement to say that the Chapter of fundamental rights in India's written Constitution is one of the most definitive, detailed and well-thought of expositions of rights available in the world today. The accent in the Chapter on Fundamental Rights is on human dignity and human freedom. The three pillars of human rights are (i) the Right to Equality including the prohibition of discrimination in any form, (ii) the six vital freedoms of citizens (including the right to speech and

expression) and (iii) the Right to Life guaranteed to all persons. These rights have been recognised to be inalienable, unalterable and part of the basic structure of the Constitution which cannot be abrogated. The expansion of the concept of equality by our Supreme Court as eschewing arbitrariness in any form has been appreciated by jurists worldwide. And perhaps, even more importantly, the enumeration of various aspects of the right of life over the years by various judicial interpretations has been breath-taking and revolutionary. Our Supreme Court has interpreted the Right to Life as including the right to live with dignity, right to health, education, human environment, speedy trial and privacy, to name but a few.

The Constitutional guarantee of human rights is ensured by making fundamental the right to access the Supreme Court for enforcement of human rights. Simultaneously, the broadest possible powers have been given under Article 226 of the Constitution to the High Courts in the State to issue high prerogative writs for the enforcement of human rights and for any other purpose.

The record of our judiciary, both the Supreme Court as well as the various High Courts, in protection of human rights is exemplary and perhaps unparalleled worldwide.

Mr. President,

The functioning of our democratic institutions for the last six decades has been extra-ordinary. It is not just that we have the Election Commission of India - a constitutional body - which has functioned with fierce independence and without any interference, and ensures the conduct of free and fair elections. Equally, and if not more importantly we must acknowledge the smooth and seamless transfer of power on conclusion of elections. This is a phenomenon which every Indian is proud of, and for this the political leadership of our country must be given credit for their maturity and their commitment to democratic values. It is also not out of place to mention that the Armed Forces in our country has remained a professional force, subject to civilian control but insulated from politics.

The commitment to developing democracy from the grassroots is another salient feature of our set up. The Constitution was amended to ensure constitutionally mandated elections to village and municipal councils. This process has produced no less than 3 million elected representatives in the country. This has brought democracy closer to the people.

Much of the focus of our Governmental activity has been to improve the provision of services through grassroots local self-governance institutions, particularly in rural areas. For instance, we have launched a massive rural development programme called "*Bharat Nirman*" to transform rural India, implemented through the local governing bodies, which we call Panchayati Raj institutions. This is because we

believe that development through decentralized democratic institutions is more equitable and accountable.

Mr. President,

India has taken an important initiative for the empowerment of women by reserving one-third of all seats for women in urban and local self-government, thus bringing over one million women at the grassroots level into political decision making.

Mr. President,

We consider and accept a free media as one of the most vital pillars of democracy and a valuable guardian for the protection of human rights. There has been an exponential growth in the media in our country, both print and electronic. The media have been competitively alert to detect cases of human rights violations, to expose the offenders and those who have abused authority. We are not unmindful of the fact that a small section of the free media may, at times, transgress certain limits but the commitment of our country to freedom of speech and expression is so engrained that we prefer to tolerate such aberrations as the price we have to pay for freedom of speech and expression.

Mr. President,

I said earlier that we are a diverse and pluralistic society. We have guaranteed human rights to all persons in India and this includes our commitment to secularism and the protection of minorities. We have secured their right to practice and preserve their religious and cultural beliefs as a part of the Chapter on Fundamental Rights. An array of legislative and executive measures has been taken for the effective implementation of safeguards provided under the Constitution for the protection of interests of minorities. These include a statutory body in the form of a National Commission, establishment of a new Ministry of Minority Affairs, as well as the launch of the Prime Minister's New 15 Point Programme for the Welfare of Minorities.

Equally, the disadvantaged sections of our society get special focus. India has been deeply conscious of the need to empower the Scheduled Castes and Scheduled Tribes and is fully committed to tackle any discrimination against them at every level. The Constitution of India abolished 'untouchability' and forbids its practice in any form. There are also explicit and elaborate legal and administrative provisions to address caste-based discrimination in the country. There are ministries for Social Justice and Empowerment and for Tribal Affairs as well as statutory bodies in the form of National Commissions. India's affirmative action programme for the empowerment of weaker sections of society is without parallel in its scale and dimension. Only today, a Constitution Bench of the Supreme Court of India has

upheld the reservation of seats for disadvantaged persons including Other Backward Classes in higher education institutions established or assisted by the Central Government.

The Council is familiar with the position of India that caste-based discrimination is not under the purview of the definition of racial discrimination under Article 1 (1) of the Convention on the Elimination of All Forms of Racial Discrimination. The caste system, which is unique to India, is not racial in origin, and therefore, caste based discrimination cannot be considered a form of racial discrimination.

The inclusion of India's scheduled tribes in the rubric of "indigenous people" is often posed to us in multilateral fora. As far as we are concerned, at independence after the departure of the colonizers, all our people, including our tribal people, are indigenous. This position has been clarified on various occasions, including while extending our support to the adoption of the Declaration on the Rights of the Indigenous People at the Human Rights Council and the UN General Assembly.

Mr. President,

Gender justice is an issue which is engaging our democracy at every level. Mrs. Manjula Krishnan from the Ministry of Women and Child Development would elaborate on the various measures taken for the protection of women and amelioration of their status.

Mr. President,

We are conscious of the need to empower the disadvantage. Every one in our society is entitled to fair and equal treatment and the access to means of advancement. Empowerment takes many forms. Education has been our priority programme. This is an essential building block for development. Elementary education has been declared to be a fundamental right. For the last seven years, we have implemented a novel and comprehensive educational programme known as *Sarva Shiksha Abhiyan* (Education for All). The goal is to achieve 100% cover in primary schools. We have implemented a Mid-day Meal Scheme which feeds more than 120 million children every day, probably the largest in the world.

Most importantly, India is now among the few countries to have a nation-wide employment guarantee act. The right to work is being significantly realized with the National Rural Employment Guarantee Programme. It provides a legal entitlement that only a handful of countries offer their citizens. It should not only provide employment but also check distress migration and most importantly, create productive assets for the community. More than 30 million rural families already have a "job card".

It is in this context that the social and economic revolution and inclusive growth that is now taking place in India has great significance for the future of entire humankind. Nowhere else you find a country of a billion people seeking its social and economic emancipation in the framework of an open society and an open economy and a polity committed to the rule of law and respect for fundamental human values

Major institutional mechanisms have been set up to make human rights secure and enforceable. Under the Protection of Human Rights Act 1993, a powerful and independent National Human Rights Commission has been working with an exemplary record for over a decade. Mrs. Anita Choudhary from the Ministry of Home Affairs will speak about the Human Rights Commissions in our country.

Another revolutionary change has been the enactment of the Right to Information Act. This enables citizens to seek and demand the right to information about the governmental officials and decision making which has led to transparency, accountability and openness in the governmental process. Individuals all over the country are using this Act and the institutions set up to obtain precise information pertaining to infringement, if any, of their rights. Under the Right to Information Act, various authorities have been constituted with the Central Information Commission as the head to ensure compliance with legitimate requests for information.

Mr. President,

One major challenge that the international community is confronted with today is that emanating from terrorism. We have had more than our share of this problem. During the last more than two decades, terrorism has claimed the lives of thousands of innocent men, women and children in our country. The international community should recognize that terrorism is a direct violation of human rights, in particular the most basic rights, the right to life and liberty. While our commitment to protecting our people is of paramount importance we will achieve this in conformity with our commitment to human rights. Ensuring the security of its people is the first responsibility of a government, and the state is the first line of defense against terrorism. Terrorism has to be fought internationally by the community of civilized nations for which States must have the requisite means at their disposal.

Mr. President,

India's commitment to the promotion and protection of human rights is not limited only to our domestic concerns. It is also integral to our foreign policy. As a founder member of the UN India has participated actively and contributed to the UN's effort in developing and elaborating the conventions and covenants of human rights. India attaches the highest importance to the work of the human rights institutions

including Treaty Bodies and has actively participated in and contributed to their effective function both at the official-level and through nomination of the experts as members of these bodies.

We have actively participated in deliberations on human rights in international fora for promotion and protection of human rights and fundamental freedoms for all. India played a leading role in the historical struggle for decolonization and abolition of apartheid. We were among the very few select countries who were members of the former Commission of Human Rights throughout the 60 years of its existence.

It is not being suggested to you that we are a country without problems. Given our size and large population problems are inevitable. The transition from a colony to independent nation is bound to be fraught with problems and aberrations. However, we are proud to say that, in this sense, India is *sui generis*. We have the maturity to recognize what goes wrong and we also have the capacity, willingness and the ability to embark on the course of correction and rectification. Thus if certain sections of our country have, at times, had problems it is more important to recognize the commitment of all our national institutions including the judiciary, our media and civil society in general to confront and deal with these issues head on.

India is proud of its achievement in nurturing a diverse, multi-religious, multi-faceted society. India will continue to play its part and contribute to the realization of the ideals enshrined in the International Bill of Human Rights.

I thank you for listening to me patiently.

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