

## INDIA

### **Follow-Up: State Reporting Action by State Party**

**CESCR, E/C.12/IND/CO/5/Add.1 (2009)**

### **Comments by the Government of India on the Concluding Observations (E/C.12/IND/CO/5)**

1. The Government of India thanks the Committee for the opportunity for a free and frank exchange of views during the consideration of India's second to fifth periodic reports at its fortieth session held on 7-8 May 2008. The points made in the concluding observations were fully responded to by the Government of India, during the presentation of its report. We would, therefore, request that copies of the responses of the Government of India be made part of the official records of the proceedings of the fortieth session of the Committee and be posted on the website as well. These include:

- (a) Statement made by the Permanent Representative of India, 7 May 2008;
- (b) Statement made by the Secretary, Ministry of Statistics and Programme Implementation, 7 May 2008;
- (c) Statement made by the Additional Secretary, Ministry of Social Justice and Empowerment, 8 May 2008 ;
- (d) Statement made by the Joint Secretary, Ministry of Tribal Affairs, 8 May 2008;
- (e) Replies by the Indian delegation on various specific issues raised by the Committee members, 7-8 May 2008;
- (f) Concluding remarks by the Permanent Representative of India, 8 May 2008.

2. India is committed to seek for its people full realization of all human rights including economic, social and cultural rights in accordance with the provisions of the International Covenant on Economic, Social and Cultural Rights. India's democratic polity with an independent and impartial judiciary, free and independent press, a vibrant civil society and powerful and independent National Human Rights Commission provide the requisite framework for the promotion and protection of human rights. A range of legislative and administrative measures have been taken to seek improvement in all aspects of human life.

3. The importance of economic, social and cultural Rights was recognized in the Indian Constitution even before the Covenant came into being. India's periodic report presented in detail the Constitutional and legal framework in respect of each of the rights covered in the Covenant as well the steps taken by successive Governments in India for the realization of these rights. Additional information on the new initiatives launched by the Government was also provided during the interaction with the Committee.

4. It is incorrect to say that for a country as vast, populous and diverse as India is, there are no difficulties "impeding the implementation of the Covenant by the State party". It is evident that India faces many challenges and constraints in pursuing socio-economic development of its over one-billion large population within a democratic and secular framework. The efforts of the Government towards the realization of economic, social and cultural rights have to be commensurate with the resources available. This, however, does not mean that pursuit of these rights is without any target setting. Our programmes, as reflected in our Five-Year Plan documents, seek to achieve tangible progress in a time bound manner.

5. Realization of economic, social and cultural rights in India is being pursued by the Government by providing an environment for inclusive and accelerated growth and social progress within the framework of a secular and liberal democracy. All the major initiatives of the Government, in agriculture and rural development, in industry and urban development, in infrastructure and services, in education and health care and in every other facet of life, are aimed at promoting "inclusive growth".

6. The Indian Constitution prohibits discrimination on the grounds of, inter alia, religion, race, caste, sex, descent and place of birth. A wide range of constitutional, legal and administrative measures have been undertaken to protect and empower the disadvantaged sections of Indian society including scheduled castes, scheduled tribes and minorities. India's affirmative action programme for the empowerment of weaker sections of society is without parallel in its scale and dimension. India has also undertaken many initiatives for the empowerment of women including reserving one-third of all seats for women in urban and local self-government.

7. The Indian Supreme Court has given landmark judgments which have enhanced the justiciability of economic, social and cultural Rights in India. Under article 141 of our Constitution, the law declared by the Supreme Court shall be binding on all courts within the territory of India. Further, article 142 of the Constitution states that any order of the Supreme Court is enforceable throughout the territory of India. Any entity responsible for non-implementation of the Court's decisions/orders can be held liable and punished by the Court. The Committee's expression of concern regarding non-implementation of decisions of the Supreme Court in paragraph 9 of the concluding observations is unfounded.

8. The National Human Rights Commission of India (NHRC) is an independent and powerful body set up under an Act of the Indian Parliament. It is required to be headed by a former Chief Justice of India. The status and conditions of service of the Chairperson is same as that of Chief Justice of India, and of Members of the Commission of Judges of the Supreme Court. They are appointed by the President on the recommendation of a Committee with a representative membership including the leaders of the opposition. The NHRC of India is one of the most Paris Principles compliant national institutions in the world. Its mandate covers the entire territory of the Union of India and the entire gamut of human rights including economic, social and cultural rights. Apart from inquiring into complaints, the Commission also actively seeks out issues in human rights which are of significance, either, *suo moto*, or when brought to its notice by the civil society, the media, concerned citizens, or expert advisers. The recommendations of the Commission receive the highest attention from the Government. The reports of the Commission are placed in the Parliament with the action taken report by the Government. The assertions made by the Committee in paragraph

11 of the concluding observations are, therefore, unfounded.

9. We regret the sweeping nature of conclusions made by the Committee on a number of other issues based on unverified, unsubstantiated information and without taking into account the detailed information presented by the Government of India in its report as well as in its presentations during the interactive discussion. The Indian delegation had endeavoured to be frank, objective and comprehensive in responding to the comments and questions of the Committee members. We also believe that there was a clear and positive recognition of our efforts and that many initiatives launched by India were viewed by the Committee members as examples of best practices. We are disappointed to note that the concluding observations do not reflect the constructive spirit of our engagement with the Committee and also contain several factual inaccuracies. We look forward to receiving an objective and more balanced assessment from the Committee in the future.

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