



**JOINT SUBMISSION OF INDIA
UN COUNTRY TEAM (UNCT) FOR THE UNIVERSAL
PERIODIC REVIEW OF INDIA, 3RD CYCLE**

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INTRODUCTION

1. As India prepares for its 3rd cycle of Universal Periodic Review (UPR) in 2017, this joint submission is being made on behalf of UN Agencies¹ that work in India. A list of recommendations is also included as an accompanying Annexure.
2. India's 2nd cycle of UPR took place in May 2012. In 2014, following the General Elections, a new Government led by the Bharatiya Janata Party came into power.ⁱ
3. This note takes into account the advances made by India in since the last UPR in 2012, based on available information.

BACKGROUND INFORMATION

A. Scope of International Obligations

4. India is a signatory to 10 key international human rights instruments, such as the ICERD, CEDAW, CRC, and CRPD², among others. Legislative reforms have been undertaken in keeping with these commitments.
5. During India's 2nd UPR, there were recommendations for ratifying several other international instruments such as the Convention for the Protection of all Persons from Enforced Disappearance (CED), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol, and key ILO Conventions, including 138 and 183. These have not been ratified.ⁱⁱ The Government has finalized an amended draft of an anti-torture Bill that is expected to be soon placed before the Parliament.ⁱⁱⁱ
6. Although India has not signed or ratified the 2nd Optional Protocol to ICCPR on abolishing death penalty, Law Commission of India in its 262nd Report in 2015 recommended abolition of death penalty "for all crimes other than terrorism related offences and waging war against the nation".
7. Although India has not yet ratified the 1951 Refugee Convention or its 1967 Protocol, it has a long-standing tradition of hosting refugees and the entry and treatment of refugees is in line with International principles of protection and *non-refoulement*.

¹ Contributions for this report were received from UNICEF, UNDP, UNHCR, UN Women, UNFPA, UNODC, WHO, and IOM.

² International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities

B. Constitutional and Legislative Framework

8. Parts III and IV of the Constitution of India provide the normative framework of fundamental rights and Directive Principles of State Policy. Underpinning these rights and State duties, are the principles of rule of law, and equality & non-discrimination on the basis of *religion, caste, sex, place of birth, or any of them*.
9. Judiciary in India has played a pivotal role in advancing the constitutional mandate of protecting and promoting fundamental rights. Since India's last UPR in 2012, landmark judgements have enriched the meaning of right to non-discrimination with regard to gender, right to freedom of speech & expression, right to health, to name a few.
10. Since India's last UPR in 2012, India has undertaken certain key legislative reforms, particularly in the area of violence and harassment against women and children, including the enactment of Child Labour (Prohibition and Regulation) Act, 2016 and the Juvenile Justice (Care and Protection) Act, 2015.

C. Institutional Mechanisms and Policies

11. India has several institutional mechanisms with the express mandate of protecting and promoting human rights, particularly of marginalised population groups. During India's 2nd UPR, recommendations were made to ensure autonomy and effective functioning of the national human rights institutions (NHRIs). In a recent judgement, the Supreme Court of India drew attention to the lack of resources available to the National Human Rights Commission (NHRC), and the need to strengthen its enforcement value.^{iv}

D. Cooperation with International Human Rights Mechanisms

12. Since its 2nd UPR, India has submitted its Periodic Reports to the CRC^v, CEDAW^{vi}, and CRPD^{vii}. Reports to the Committee on Elimination of Racial Discrimination (CERD)^{viii} and the Human Rights Commission (HRC)^{ix} have not been submitted.
13. India extended a Standing Invitation to Special Procedures Mandate Holders during the 18th Session of the HRC in September 2011. Since then, 3 Mandate holders^x have completed their visits. Currently, 15 other Special Procedures have requested for state visit to India, of which 2 have been accepted.^{xi}

PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Equality and Non-Discrimination

14. Although India has not yet enacted an Anti-Discrimination law as was recommended during India's last UPR, steps have been taken to bring legislations such as The Transgender Persons (Protection of Rights) Bill, 2016 and the HIV and AIDS (Prevention and Control) Bill, 2014 that have been approved by the Cabinet; and the Rights of Persons with Disabilities Bill, 2014 that is expected to be considered by the Parliament in the foreseeable future.

1. WOMEN

15. The UNCT welcomes accelerated focus by the Government of India towards improving gender outcomes. The Ministry of Women & Child Development (MWCD) was upgraded to Cabinet rank in the new Government. However, its annual budget is only 0.88% of the total allocations to different Ministries from the Union Budget 2016-17.^{xii} Review of the gender budget statements show that budget allocation on gender issues was around 4.46% over the last two years.^{xiii}

16. The flagship *Beti Bachao Beti Padhao (Save the Girl, Educate the Girl)* campaign was launched in 2015 with the objective of preventing gender biased sex selective elimination and address India's low child sex ratio^{xiv} (919 girls to 1000 boys).^{xv} UNCT urges Government of India to also address the issues of declining participation of women in workforce (49% in 2005 to 36% in 2012 for women 15 years and above),^{xvi} and incidence of Violence Against Women (VAW).^{xvii}

17. Regarding VAW, the Criminal Law (Amendment) Act, 2013 brought far-reaching changes in the legal framework. It criminalized "acid attacks or attempt", voyeurism, stalking, disrobing a woman and parading her naked. However, 'marital rape' continues to be outside the ambit of criminal law; and age of consent was raised from 16 years to 18 years. Section 357-A CrPC has introduced the concept of reparations in criminal cases; all states in India have notified Victim Compensation Schemes though their scope and implementation varies.^{xviii} Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has been enacted.^{xix} However, effective implementation of these initiatives remains a challenge.

18. To strengthen the health sector's response to VAW, guidelines for medico-legal examination of victims/survivors of sexual assault have been formulated.^{xx} Government is also in the process of taking forward the Global Plan of Action on Violence against Women, Girls, and Children through strengthening health service delivery and building health workers'/providers' capacity to respond to violence.

19. Government is investing resources in implementing strong laws on dowry and child marriage to address slow rates of decline. More impetus is required to increase girls' secondary education to help build more equitable gender norms.
20. Strengthening regulatory mechanisms, including recognition of 'equal pay for work of equal value' and women's unpaid care and domestic work along with providing a 'social protection floor' is of urgent need.
21. In the political sphere, women's representation in local governance has seen visible improvement. At the highest level, however, the Constitution (108th Amendment) Bill that proposes 33% reservation in Parliament and State Assemblies is still pending before the legislature.^{xxi}

2. CHILDREN

22. Since India's last UPR in 2012, several steps have been taken to protect rights of children such as the Protection of Children from Sexual Offences (POCSO) Act, 2012 and the new Juvenile Justice (Care and Protection) Act, 2015. There are challenges in the implementation of the legal frameworks. However, provisions such as mandatory reporting and increase in minimum age of consent in POCSO have created an anomaly that requires further discussion. The new Juvenile Justice (Care and Protection) Act, 2015 allows prosecution of juveniles between 16-18 years as adults, for heinous crimes,^{xxii} which raises concern on the general principles governing juvenile justice as per international norms.
23. In July 2016, the Child Labour (Prohibition and Regulation) Amendment Act, 2016 was passed. The amended Act adopts a progressive approach in prohibiting employment of children in all hazardous occupations, for the first time sets a general minimum age for employment (i.e. 14 years), and raises the age for work in hazardous work to 18 years from the erstwhile 14. Some areas of concern for the UNCT are the exception granted to family enterprises that may increase impunity and child labour; and the substantial reduction in the list of professions considered 'hazardous', which could potentially lead to more children working in unregulated conditions. Some of these issues can possibly be addressed in the process of application of the adopted Act, including through implementing regulations, or through improvements in view of the comparative labour law practices.
24. The revamped National Policy for Children, 2013 aims to use a long-term, sustainable, multi-sectoral, and inclusive approach to child development and protection. However, "quality education" and "healthcare of the highest standard" need to be defined, and the institutional mechanism for "protection" has to be matched with adequate budgets.^{xxiii}

25. Greater impetus is required to address issues such as infant mortality which is at 39 /1000 live births;^{xxiv}stunting that affects 62 million children under five; age-appropriate education³; child labour⁴; and crimes against children⁵.

3. LGBTQ & PLHIVs

26. In 2014, in a landmark judgment in *National Legal Services Authority v. Union of India & Ors.*,^{xxv} the Supreme Court affirmed the equality rights of transgender persons. The Transgender Persons (Protection of Rights) Bill, 2016 has been approved by the Cabinet.
27. The National AIDS Control Programme follows a rights-based approach to ‘targeted interventions’ with gay, bisexual, and transgender people.^{xxvi} The HIV and AIDS (Prevention and Control) Bill, 2014 recently approved by the Cabinet, makes antiretroviral treatment a legal right of HIV/AIDS patients.⁶
28. In 2014, Supreme Court^{xxvii} overturned a 2009 judgment by Delhi High Court^{xxviii} that decriminalised adult consensual same sex relationships.

4. PERSONS WITH DISABILITIES

29. UNCT commends the Government’s increased focus on disability issues, particularly the nation-wide campaign to achieve universal accessibility - the ‘Accessible India’ Campaign, and ‘Sugamaya Pustakalaya’ an online platform that makes accessible content available to print-disabled people.
30. The ‘Rights of Persons with Disabilities Bill, 2014’, formulated keeping mind India’s commitment to CRPD, is currently pending with the Indian Parliament. The Bill covers 19 disabilities (from the current 7), and gives children aged 6-18 with benchmark disabilities the right to free education in a neighbourhood school’ or special school, if required. It also calls for all public buildings, modes of transport, etc. to be accessible. The UNCT supports the undertaking of a comprehensive legislative gap analysis to enable the alignment of current legislations with the CRPD.^{xxix}

³ Only 32 out of every 100 children finish their school education age -appropriately (District Information System for Education, 2014-15)

⁴ 33 million children between the ages of 5-18 years are working (Census of India, 2011)

⁵ 98354 cases of crimes against children were reported in 2015 - an increase of 5.3% from 2014 (National Crime Records Bureau, Crimes against Children, 2015, Available at: <http://ncrb.gov.in/StatPublications/CII/CII2015/FILES/Table%206.2.pdf>)

⁶ The Bill also prohibits specific acts of discrimination by the state, or any other person, against HIV-positive people, or those living with such people

31. The National Action Plan for Skilling Persons with Disabilities 2015 was launched to address low participation of persons with disabilities in the work force. At present, an overwhelming 73.8% persons with disabilities in the employable age of 15-59 years are non-workers or marginal workers.^{xxx}
32. The Government launched the *Rashtriya Bal Suraksha Karyakram* (RBSK) initiative in 2013 aimed at early identification and early intervention for children from birth to 18 years.
33. Efforts are needed to address the issue of disability certificates required to access entitlements, as only 49.5% people with disabilities in the country have been issued one (August 2015).^{xxxi}

5. RELIGIOUS MINORITIES RIGHTS

34. UNCT welcomes the adoption of various policy efforts to promote the status of religious minorities, including Prime Minister's New 15 Point Programme.^{xxxii}
35. Incidents of religious minorities being targeted during riots, such as in Muzaffarnagar,^{xxxiii} particularly during times preceding elections need to be addressed. Following incidents of violence arising out of allegations of cow slaughter,^{xxxiv} the Prime Minister in a statement^{xxxv} condemned these activities for trying to "poison social harmony".

6. SCHEDULED CASTE & TRIBAL RIGHTS

36. Since India's last UPR in 2012, several key legislations have been enacted. This includes the Scheduled Castes and Tribes (Prevention of Atrocities) Amendment Act, 2015; the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; Abolishment of Manual Scavenging Act in 2013; the Forests Rights Act 2006 (rules amended in 2012). The Mine and Minerals Development and Regulation (Amendment) Act, 2015, has created provisions for sharing the mineral wealth with communities in the mining areas, opening a window of opportunity to uplift the socio-economic status of mining-affected communities which are mainly in tribal areas.
37. Compared to other caste/religion groups, upwards mobility is low for Dalits and even lower for Adivasis.^{xxxvi} The poverty rate for STs is the highest poverty rate among all social groups, almost twice as high as the India average.
38. Although manual scavenging has been abolished by law⁷, estimates suggest that the practice is ongoing. A baseline study to gather information on their socio-

⁷ Abolishment of Manual Scavenging Act in 2013

economic status on three states of Madhya Pradesh, Uttar Pradesh and Bihar showed that only 13% of women manual scavengers benefit under the self-employment and Rehabilitation of Manual Scavengers and their dependents (SMRS) scheme.^{xxxvii}

39. According to National Crime Records Bureau (NCRB), 47,064 cases of crimes against Dalits were registered in 2014, up from 39,408 in 2013 and 33,655 in 2012.^{xxxviii} Uttar Pradesh, Rajasthan and Bihar led the country in the number of cases registered of crimes against Scheduled Castes from 2013-2015, according to National Commission for Scheduled Castes.^{xxxix}

B. Right to life and Prohibition of Torture

1. DEATH PENALTY

40. The Law Commission of India in its 262nd Report in 2015 recommended abolition of death penalty “for all crimes other than terrorism related offences and waging war against the nation”.^{xi} In 2014, the Supreme Court^{xii} commuted the death sentence of 15 convicted prisoners, citing inordinate delay in disposal of mercy petitions, and laid down detailed guidelines in such cases.
41. India voted against the UNGA Resolution calling for moratorium on death penalty. Since India’s last UPR in 2012, Supreme Court upheld the death sentences for three individuals^{xiii} convicted of terror activities, ending India’s moratorium on death penalty since 2004.

2. INTERNAL CONFLICT, AND HUMAN RIGHTS

42. Armed Forces (Special Powers) Act (AFSPA) was withdrawn from Tripura in May 2015, but continues to be in operation in Jammu and Kashmir and parts of the North East. Recommendations for the repeal of the Act have recently been reiterated by the Justice Verma Committee^{xliii} and Justice Hegde Commission^{xliiv}.
43. Protests and violence have marked the aftermath of the killing of a member of a Hizbul Mujahideen, a Kashmir separatist group, leading to imposition of curfew in all 10 districts of the Valley (with periods when it has been lifted briefly), suspension of mobile and internet services, as well as a clampdown on the media in Kashmir, disrupting normal life. Violent clashes with security forces for over 3 months have resulted in civilian injuries and deaths^{xliv}, including through the use of pellet guns that has come in for severe criticism. Several police and security forces have also suffered injuries and losses. In August 2016, the Upper House of the Indian Parliament passed a resolution expressing concerns over the prolonged turbulence, violence and curfew in the Kashmir Valley. The resolution stated that “The House is of the firm and considered view that while there

cannot be any compromise on national security, it is equally imperative that urgent steps are taken to restore order and peace for the alleviation of the sufferings of the people.”

44. The Government of India has taken strong exception to the Kashmir issue being raised at or by the United Nations, in keeping with its policy of not tolerating any third party intervention in domestic issues.
45. Currently, 106 districts in 10 states have been identified by the Government of India as Left Wing Extremism (LWE) affected districts in the country. Militant extremism and the ongoing actions against LWE have affected development work and rights of inhabitants in these areas.^{xlvi} The Central Government. Is providing ‘Additional Central Assistance (ACA) for LWE affected districts’ to the States, with flexibility to conceive and implement schemes/programmes suited to local needs and aspirations, including requirements to bridge the developmental deficit gaps in backward regions within the States.
46. In India, data on displaced persons is limited to people registered in camps. As per publicly available estimates, there are at least 616,140 displaced persons.^{xlvii}

C. Access to justice and Rule of law

47. UNCT commends recent initiatives by the Judiciary and the Government. In particular, UNCT notes the creation of National Mission on Justice Delivery and Legal Reforms to strengthen case management systems, the E-courts Mission Mode project, the National Judicial Data Grid, and setting up of Fast Track Courts.^{xlviii}
48. The Department of Justice commissioned a study on making courtrooms gender sensitive in rape trials, which has made several key recommendations that could be reviewed and implemented.
49. Law Commission’s 245th Report highlighted issues of poor quality and inadequate legal aid services, particularly for marginalised groups; less than optimal strength of judicial officers;^{xlix} and lack of an effective case management system as major reason for inordinate delays in disposal of cases.
50. UNCT notes recent positive steps such as setting up of all women police stations; and amendments in law aimed at enforcing police accountability, including removal of the ‘*prior sanction*’ requirement to prosecute public servants, and penalties for a police officer for failure to record a complaint and investigate. However, greater efforts are needed to realize police reforms in India, particularly in implementing model laws on police and prisons.^{li}

D. Freedom of religion, and speech & expression

51. Women's freedom to enter into places of worship was the subject of constitutional challenge in separate judicial cases. The Bombay High Court, in two cases, held ban against women from entering places of worship as unconstitutional and a violation of fundamental rights.^{lii liii}
52. Supreme Court reaffirmed freedom of speech in the landmark *Shreya Singhal* judgement^{liv} that held unconstitutional, Section 66A of the Information Technology Act, 2000, used to criminalise 'objectionable' comments against political leaders on social media.^{lv} Agitation at the Jawaharlal Nehru University, and the protests following a Dalit student's suicide in Hyderabad University in 2016 also triggered debate on the application of penal provisions relating to 'hate speech', 'sedition', and use of Section 144 to prohibit right to assemble and protest.
53. The assassinations of well-known rationalists have added to the concerns about the reducing space for free speech and expression. Several artistes and writers marked their protest on the lack of free speech by returning awards given by the State.^{lvi} People expressing opposing views have faced harassment and even threats on social media.^{lvii}
54. The recent use of Foreign Contribution Regulation Act (FCRA) to prevent foreign funding to NGOs^{lviii} for alleged violations has raised triggered debate and discussions. In June 2016, a statement issued by three UN Special Rapporteurs called for repeal of the FCRA.^{lix}

E. Right to privacy, marriage and family life

1. RIGHT OF CHOICE IN MARRIAGE

Right of choice in marriage is guaranteed as per India's international obligations^{lx} and Constitutional freedoms. 'Honour killing' is a violation of this right. The Law Commission 242nd Report^{lxi} suggested a legal framework for addressing 'honour crimes' and affording better protection to consenting young adults. This issue is not been addressed by available laws.

2. CHILD MARRIAGE

55. The Prohibition of the Child Marriage Act 2006 creates a good legal framework against child marriage. However, national and large scale programmes to prevent child marriage are insufficient. The Census of 2011 indicates that 30 per cent of ever married women were married before they turned 18.

56. Cash incentive Schemes to encourage education and delayed marriage have shown varied results. These needs to be complemented with improved supply side services to achieve desired outcomes. ^{lxii}
57. In 2013, the Government proposed a National Strategy on Elimination of Child Marriage and an Action Plan to implement it. However, these are pending finalization. ^{lxiii}

3. ISSUES RELATING TO PERSONAL LAWS

58. The Supreme Court is currently hearing a challenge to constitutionality of triple *talaaq*⁸ along with practices of '*halala*'⁹ and polygamy under Muslim Personal Law. ^{lxiv} The Government has filed an affidavit submitting that the validity of triple *talaaq* needs to be re-considered in light of the principles of gender justice and overriding principle of non-discrimination, dignity and equality.
59. The Marriage Law (Amendment) Bill, 2013 that addresses issues of right to privacy, marriage and family life in the context of proposed introduction of "irretrievable breakdown of marriage" as a ground for divorce is a positive step. The Bill reiterates the need for legal recognition of a woman's right to matrimonial property, however its implementation will require more active engagement with stakeholders including the civil society.

F. Prohibition of trafficking, slavery and other forms of exploitation

60. The Criminal Law (Amendment) Act, 2013 for the first time, defines 'trafficking' as an 'offence', and grades punishments accordingly. In 2014, the National Crime Records Bureau (NCRB) report, included for the first time, data on trafficking investigations, prosecutions, and convictions, showing how India is continuing stepping up efforts in the area of fighting trafficking. The Ministry of Women Child Development (MCWD) has recently invited public comments on the Draft Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2016^{lxv}; its final version is currently under discussion.
61. The Integrated Child Protection Scheme recently renamed Child Protection Services is mandated to address child trafficking among other child protection issues but further efforts are needed to improve the implementation of the scheme.

⁸ Triple *talaaq* is a practice that Muslim men can employ to divorce their wives instantaneously and without their consent, merely by uttering the word *talaaq* three times.

⁹ When a woman is divorced through triple *talaaq*, she cannot go back to her husband unless after she marries another man.

62. The Ujjwala Scheme of the MWCD is a promising step towards implementation of recommendations made in the 2nd UPR. A total of 330 Anti Human Trafficking Units (AHTUs) are proposed throughout the country by Ministry of Home Affairs, of which 225 are operational.^{lxvi}
63. Ministry of Home Affairs has issued advisories to all states on trafficking issues.^{lxvii} It has recently launched a web portal to facilitate access to services and redressal.^{lxviii}

G. Right to Education

64. All states and union territories have notified their rules for the Right to Education Act and have set up mechanisms for monitoring its implementation.
65. In 2014, 96.7% of children (in the age group 6- 14 years) were enrolled in school in rural India – the 6th year in a row that enrolment rates have been 96% or above.^{lxix} The *Beti Bachao Beti Padhao* campaign has created a momentum towards ensuring education and participation of the girl child. Gender parity has improved with the girls to boys ratio in primary classes at 1.02 while that in secondary school at 0.94 according to a 2015 UN report.
66. The National Early Childhood Care and Education (ECCE) Policy approved in 2013 caters to all children under six years of age and commits to universal access to quality early childhood education. The number of out of school children in the age group of 6-13 years has gone down from 8 million to 6 million children. However, UN estimates suggest that India has 17.8 million out of school, and that 34% of children with disabilities between the ages of 6-14 are out of school. Dalit, Adivasi, Muslim children and those from female-headed households, are particularly vulnerable to educational exclusion.^{lxx}
67. The Government of India has initiated a process for preparation of National Education Policy to meet the changing dynamics of the population's requirement with regard to quality education, innovation and research, aiming to make India a knowledge superpower by equipping its students with the necessary skills and knowledge and to eliminate the shortage of manpower in science, technology, academics and industry.
68. In 2013-14, a total of 244,000 schools did not have toilet facilities. The '*Swacch Vidyalaya Abhiyan*' (Clean School Campaign) was launched in 2014 to ensure that all schools have access to separate functional toilets for boys and girls. Significant progress has been made in keeping with this commitment.

69. Education was listed amongst the nine pillars identified by the Finance Minister in his budget speech in February 2016. However at 3.9% of GDP India's spending on education is the lowest among all BRICS nations.^{lxxi}
70. Estimates suggest that half of fifth grade students in rural India are not being able to read at second grade level.^{lxxii} However, several new initiatives and programmes such as *Padhe Bharat Badhe Bharat* and *Rashtriya Avishkar Yojana* have been introduced to enhance quality of education.

H. Right to Health

71. UNCT welcomes Government of India's new Draft National Health Policy (2016) that aims to double Government expenditure on health to 2.5% of GDP by 2020, and ensure provision of good quality, affordable and equitable health services to all citizens. The Supreme Court has directed the Government to finalise this Policy that has been pending for two years, by December 2016.
72. The new health insurance scheme as per 2016 budget for below poverty line families will be another critical step for ensuring right to health and addressing financial burden on poor due to illnesses.
73. Sustained efforts by Govt. of India has resulted in eradication of Poliomyelitis in 2014 and elimination of Maternal and Neonatal Tetanus in 2016.
74. India's HIV/AIDS programme has been successful in reversing the trend of the epidemic in India, and currently more than 900,000 people are placed on antiretroviral treatment (see paras 26-28 for more information).
75. In 2014, Government launched the National Adolescent Health Strategy – *Rashtriya Kishore Swasthya Karyakram* for adolescents and young people between the age of 10-19 to improve their nutrition, reproductive health, enhance mental health, prevent injuries and violence and prevent substance abuse. However, implementation needs to be strengthened.
76. The 'Delhi Declaration' signed by over 20 participating countries at the Global Call to Action hosted by India in August 2015 called for accelerated progress towards ending preventable child and maternal deaths.
77. The Mental Health Care Bill, 2013 that provides for protection and promotion of rights of persons with mental illness during the delivery of health care and decriminalizes suicide, was passed by the Upper House of the Parliament.
78. Despite some improvements, the public sector only provides about 30% of all health services. Vast inequalities in access to health services persist across

different regions and social groups, while high out of pocket expenditure on healthcare pushes about 63 million people into poverty.^{lxxiii}

79. Women's access to information and counselling services remains limited, though efforts have been made under the National Health Mission to build awareness through ASHAs¹⁰. A formal counsellor cadre system is required.
80. The recent Supreme Court judgement putting an end to sterilisation camps is an opportunity to bring about far reaching changes in the quality of contraceptive services.

I. Right to Food

81. The Government of India has enacted the National Food Security Act (NFSA), 2013. This Act provides for coverage of up to 75% of the rural population and up to 50% of the urban population for receiving subsidized food grains. NFSA also makes provision for nutritional support to pregnant women and lactating mothers as well as children through the Integrated Child Development Services (ICDS) and Mid-Day Meal Scheme (MDMS). Currently, 32 states and union territories are implementing this Act.
82. An efficiently functioning Public Distribution System is key to the successful implementation of the National Food Security Act. A study conducted in six states reveals that there are gaps in the identification of the priority households and there is leakage in the system as the households are not receiving their full entitlement of the food grains (NCAER, 2015). For the last two years, the Government has focused on PDS reforms and aims to ensure that all the states uniformly carry forward PDS reforms so that pilferage and inefficiency in the system could be removed.^{lxxiv} While acknowledging these achievements, it is important to note that India ranked 97th among 118 countries in the recent Global Hunger Index¹¹

J. Right to adequate standard of living, including housing, water & sanitation

83. The Government has a target to make India "Open Defecation Free" by 2019 and achieve this target through the flagship *Swachh Bharat Mission* (SBM). Although, 564 million people are still defecating in the open (JMP, 2015), the 5-yearly rate of decline has been faster between 2010 and 2015 (almost 12%)¹².

¹⁰ ASHAs are Accredited Social Health Activists and community health workers instituted by the government of India under the National Rural Health Mission

¹¹ <http://ghi.ifpri.org/>

¹² Based on JMP, 2015

84. According to Census 2011, about 13.75 million urban households or 65 to 70 million people live in informal settlements, and around 1.8 million people are homeless.^{lxxv} According to National Sample Survey data (2013), 54.71% of Scheduled Caste households are landless.^{lxxvi} The post-Sachar Evaluation Committee noted poor living conditions of Muslims in urban areas, and the lack of basic services in settlements with high Muslim populations in urban and rural areas.^{lxxvii}
85. The 2011 Census showed that 46.6% of households had access to drinking water within premises and another 35.8% had drinking water near the premises. India has made good progress in the provision of water even to areas with predominantly Scheduled Tribe (ST) and Scheduled Caste (SC) populations. The critical challenge that applies to all water supplies is how to reduce the current high bacteriological contamination of water sources especially in rural areas.

K. Right to Development

86. India has lifted an impressive 133 million people from poverty between 1994-2012. However, poverty continues to be concentrated in low-income states, with three large lower-income states alone (Uttar Pradesh, Bihar and Madhya Pradesh) accounting for 44% of India's poor. The poorest 40% of households have seen their incomes grow at a slower pace than the population as a whole.^{lxxviii} The Government has constituted a Task Force on Elimination of Poverty in India¹³ In its recent Report, the Task Force recommended constituting a separate Committee to identify people below poverty line¹⁴
87. India has requested for new mechanisms such as a Special Rapporteur on the Right to Development to strengthen the work of the Human Rights Council on the Right to Development particularly in the context of 2030 Agenda¹⁵. The Human Rights Council has created a mandate on the right to development^{lxxix}
88. UNCT commends that India has begun important steps toward the development of an integrated social protection system for the country. One of the key components of the Government of India's social welfare agenda is the 'JAM' trinity through which social protection programmes, including cash transfer programmes would be efficiently targeted. This comprises (i) the *Jan Dhan Yojana* to facilitate financial inclusion, that has resulted in the creation of 250 million Bank accounts¹⁶; (ii) the *Aadhar card* that uses unique biometric identification for each individual and is linked to the bank account. About 1

¹³ <http://niti.gov.in/writereaddata/files/taskforce2.pdf>

¹⁴ http://www.business-standard.com/article/pti-stories/task-force-on-poverty-files-report-proposes-new-panel-on-bpl-116091100399_1.html

¹⁵ https://www.pminewyork.org/adminpart/uploadpdf/80746mos_22sept_dvlpt.pdf

¹⁶ <http://pmjdy.gov.in/>

- billion Indians have Aadhar Cards¹⁷, and (iii) Mobile phones to which the Aadhar card and the bank account would be linked. Approximately 1 billion Indians have mobile phones.
89. In August 2016, the government (NITI Aayog) has rationalized the central sponsored schemes to bring in greater focus for social protection and social inclusion forming the core of the core schemes.
90. UNCT commends the Government of India for taking steps to nationalize the Sustainable Development Goals. NITI Aayog followed by the State governments are practicing “whole of the government” approach to the implementation of the SDGs.
91. Several communities such as the Jats in Haryana, Patidars or Patels in Gujarat, Marathas in Maharashtra and Kapus in Andhra Pradesh, have raised the demand for quota. Relatively prosperous farming communities, are increasingly seeking “*backward caste*” status for a variety of reasons, including because of little increase in decent jobs over the past decade. The reservation policy which was initiated as a temporary provision in the Indian Constitution in 1950 for 10 years for the socially and economically excluded Scheduled Castes (SC) and Scheduled Tribes (ST), has expanded its scope over the last seven decades providing opportunities through affirmative action.
92. The UNCT commends the Government of India’s commitment to addressing climate change and welcomes India’s decision to ratify the Paris Agreement and its leading role in the International Solar Alliance. However, it notes the concerns arising from the relaxation in the norms for Environmental Impact Assessments (EIAs), and application procedures under the Forest Conservation Act (FCA).

L. Other marginalised/vulnerable groups

1. Refugees/IDPs/Asylum seekers

93. As mentioned in Para 7, India a long-standing tradition of hosting refugees. Currently, it is home to 212,074 refugees and asylum-seekers.
94. India has put in place ad-hoc protection and administrative frameworks, including an intensified issuance of long-term visas in 2015 for UNHCR registered refugees as well as access to education, healthcare, legal aid and child protection systems. However, challenges remain with regard to access to national services in certain locations, including lack of documentation like Aadhar Cards.^{.lxxx}

¹⁷ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=138555>

95. There are currently no alternatives to detention of asylum seekers under the Foreigners Act 1946 although only approximately 1% of asylum seekers are reportedly detained in border areas for irregular entry and breach of the Foreigners Act 1946. They are detained primarily in West Bengal which borders Bangladesh.
96. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 was enacted to ensure a humane, participative, informed and transparent process for land acquisition. However challenges remain as the process is considered time consuming.

M. Human rights training and awareness

97. Awareness generation on a large scale and using diverse approaches is critical to ensuring respect for human rights. The recommendations of the Justice Usha Mehra Committee¹⁸, the Justice Verma Committee¹⁹ and the Law Commission^{lxxxi} are significant steps particularly with respect to violence against women.
98. UNCT commends the advances made in training justice system actors, including law enforcement personnel, especially after December 2012, and recommends a systematic rollout of the same
99. National curriculum framework of National Council of Educational Research and Training (NCERT) includes a human right education component and training as part of social science subjects. Several states have adapted the training programmes on a pilot basis.

CONCLUSION

This report shows that since 2012, India has taken important steps, including strengthening the legal framework for marginalized population groups and initiating programmes for protection and social security. However, multiple and intersecting challenges, including inadequate systemic capacities, bias, and conflict of rights and interests remain. The key to India's success therefore, lies in balancing competing rights and interests, as it moves towards accelerated economic and equitable development.

¹⁸ The Justice Usha Mehra Committee was set up after the *Nirbhaya* case to identify the lapses, if any, on the part of police or any other authority.

¹⁹ Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The Committee submitted its report on January 23, 2013.

i Shri Pranab Mukherjee, The President of India, statement to the Parliament, Central Hall of Parliament, New Delhi, 09 June, 2007. Available from: <http://presidentofindia.nic.in/sp090614.html>

ii ILO Conventions No. 138 on Minimum Age, No. 182 on Worst Forms of Child Labour, and No. 189 on Decent Work for Domestic Workers

iii 'Amended draft of anti-torture Bill ready: Govt', The Hindu, May 11 2016. Available at: <http://www.thehindu.com/news/national/amended-draft-of-antitorture-bill-ready-govt/article8585596.ece>

iv *Extra Judicial Execution Victim Families Association (EEVFAM) & Anr. v. Union of India & Anr.*, Writ Petition (Criminal) No.129 OF 2012 (Supreme Court of India), judgment delivered on July 8, 2016, (JJ. Madan Lokur & UU Lalit).

v India submitted its 3rd & 4th combined Periodic Report in 2011 (due in 2008), which was considered by the CRC in 2014. Concluding observations were published on 6th July 2014. Available at: <http://tbinternet.ohchr.org/> (last accessed 26th September 2016).

vi India's 4th & 5th combined Periodic Report to CEDAW was initially submitted in 2012 (due in 2010), with reply to list of issues submitted in 2014. The Report was considered by the Committee in its 58th Session and Concluding Observations published on 24th July 2014. India was also asked by the CEDAW to submit a Follow-up Report on Gujarat carnage, which has been submitted recently in July 2016. Available at: <http://tbinternet.ohchr.org/> (last accessed 26th September 2016).

vii India submitted its 1st Periodic Report to the CRPD on 30th October 2015 (due in 2010). The Committee is yet to consider the Report. Available at <http://tbinternet.ohchr.org/> (last accessed 26th September 2016)

viii Due in 2010; India's last periodic report was in 2006

ix The detailed list of India's submissions to the Treaty Bodies can be found at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=IND&Lang=EN (last accessed 26th September 2016)

x Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on violence against women, its causes and consequences; and Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

xi For details of requests for state visits by Special Procedures, please refer to http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en

xii 'Budget 2016: Where the money comes from and where it goes', The Hindu, March 01 2016, available at: <http://www.thehindu.com/business/budget/budget-2016-where-the-money-comes-from-and-where-it-goes/article8297149.ece>

xiii Union Budget 2015-16: Gender Budget: Unfulfilled Promises for Gender Equality?, March 14 2015, available at: <http://www.mainstreamweekly.net/article5532.html>

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- xiv 'Child sex ratio at its lowest: Govt.', The Hindustan Times, August 12 2014, available at: <http://www.hindustantimes.com/india/child-sex-ratio-at-its-lowest-since-1947-govt/story-4DXbV64f0l4D18EcNrLJuJ.html> (last accessed 3rd October 2016)
- xv See: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>
- xvi Urmila Chatterjee, Rinku Murgai and Martin Rama (2015), 'Job Opportunities along the Rural-Urban Gradation and Female Labor Force Participation in India', Policy Research Working Paper 7412, World Bank.
- xvii It must be noted that increase in incidence of VAW may be due to increase in reporting of crimes, as a result of heightened awareness and better access to institutional mechanisms. In the absence of large-scale national data collection exercises, it is difficult to draw definite conclusions.
- xviii In Odisha, maximum limit of compensation for rape is Rs. 150,000, which is the same in case of rape / sexual assault of child victims (Government notification dated 12th July 2012); Delhi Victim Compensation Scheme provides a minimum compensation of Rs. 200,000 for rape, and a maximum compensation of Rs. 300,000 for rape; in West Bengal, on the other hand, compensation is as low as Rs 20,000/- in case of rape, and Rs. 30,000/- in case of rape of a minor (Government notification dated. 1st November 2012)
- xix *Vishaka and Ors. v. State of Rajasthan*, 1997 (6) SCC 241 (Supreme Court of India)
- xx Ministry of Health & Family Welfare, "Guidelines and Protocols: Medico-legal care for survivors / victims of Sexual Violence", 2014, available at: <http://www.mohfw.nic.in/showfile.php?lid=2737> (last accessed 28th September 2016)
- xxi 'Twenty Years Too Long: Women's Reservation Bill Continues to Languish in Lok Sabha', Available at <http://thewire.in/66260/womens-reservation-bill-in-lok-sabha/> (last accessed on 3rd October 2016)
- xxii Section 15, Juvenile Justice (Care and Protection) Act, 2015, available at: <http://wcd.nic.in/sites/default/files/JJAct2015.pdf> (last accessed 27th September 2016)
- xxiii Manzoor Ali, 'National Policy for Children 2013: High on Promises, Low on Budget', Economic and Political Weekly, December 28, 2013, Vol. XIVIII No. 52, pgs. 22-24
- xxiv Sample Registration Survey (SRS), Government of India, 2014; available at: http://www.censusindia.gov.in/vital_statistics/SRS_Bulletin_2014.pdf (last accessed 27th September 2016)
- xxv *National Legal Services Authority vs. Union of India and others*, Writ Petition (Civil) No.400 of 2012 (Supreme Court of India)
- xxvi Human Rights Watch Dispatch, available at: <https://www.hrw.org/news/2016/01/06/dispatches-tackling-indias-archaic-lgbt-law> (last accessed 28th September 2016); Media reports - <http://www.dailymail.co.uk/indiahome/indianews/article-3443090/LGBT-Indians-beaten-raped-police-Supreme-Court-reads-accounts-gay-transgender-men-tortured-abused-custody-activists-battle-end-gay-sex-ban.html>; <http://timesofindia.indiatimes.com/city/chennai/Police-harass-transgenders-most-says-study/articleshow/51869919.cms>.
- xxvii *Suresh Kumar Koushal v. Naz Foundation of India & Ors.*, CIVIL APPEAL NO.10972 OF 2013 (Supreme Court of India)

xxviii *Naz Foundation v. Govt. of NCT of Delhi & Ors.*, WP(C) No.7455/2001 (Delhi High Court)

xxix A Legal Review undertaken by National Disability Network (N.D.N.) and Disabled Rights Group (D.R.G) in 2013 found the total discrimination against all persons with disabilities on grounds of legal incapacity in over 150 laws (civil, criminal, family, taxation, military, banking, other). While a larger number of laws do apply solely to persons of 'unsound mind' or to both 'lunatics' and 'idiots', an equal number of laws apply not only to such persons, but to a wider range of people with disabilities.

xxx Census 2011

xxxi Annual Report (2015-16). Department of Empowerment of Persons with Disabilities. Ministry of Social Justice & Empowerment. Government of India.

xxxii <http://pib.nic.in/newsite/PrintRelease.aspx?relid=124320>

xxxiii See Human Rights Watch Testimony, available at: <https://www.hrw.org/news/2014/04/04/plight-religious-minorities-india> (last accessed 29th September 2016). See <http://www.thehindu.com/news/national/other-states/probe-panel-intel-failure-laxity-of-cops-led-to-muzaffarnagar-riots/article8320841.ece> (last accessed 29th September 2016). An independent fact finding enquiry by academics & activists called for end to impunity to attackers and effective prosecution - <http://www.epw.in/journal/2014/2/reports-states-web-exclusives/fact-finding-report-independent-inquiry-muzaffarnagar> (last accessed 29th September 2016)

xxxiv 50-year old Mohd. Akhlaq was lynched by a mob and his son brutally attacked for allegedly eating and storing beef in Dadri village in Uttar Pradesh on 28th September 2015.. See <http://www.thehindu.com/news/national/other-states/branded-culprits-proven-victims-one-year-since-the-dadri-lynching/article9158650.ece> (last accessed 29th September 2016)

xxxv See: <http://indianexpress.com/article/india/india-news-india/narendra-modi-fake-gau-rakshak-rss-beef-ban-cow-slaughter-gujarat-dalit-thrashing-2962750/>

xxxvi 'Balcazar Salazar, Carlos Felipe; Desai, Sonal; Murgai, Rinku; Narayan, Ambar. 2016. Why did poverty decline in India? A nonparametric decomposition exercise. Policy Research working paper; no. WPS 7602. Washington, D.C.: World Bank Group. <http://documents.worldbank.org/curated/en/432721468197079833/Why-did-poverty-decline-in-India-a-nonparametric-decomposition-exercise>

xxxvii Socio Economic Status of Women Manual Scavengers. UN Women (2014). Available at: http://in.one.un.org/img/uploads/Socio_Economic_Status_of_Women_Manual_Scavengers_Report.pdf (last accessed on 3rd October 2016)

xxxviii 'Violence against Dalits on the rise', Live Mint October 23 2015, available at: <http://www.livemint.com/Politics/Zj4UG1k9FOOeXQUQctvLoK/Violence-against-Dalits-on-the-rise.html> (last accessed on 3rd October 2016)

xxxix U.P., Bihar lead in crimes against Dalits, The Hindu July 25 2016, available at: <http://www.thehindu.com/data/up-bihar-lead-in-crimes-against-dalits/article8894336.ece> (last accessed on 3rd October 2016)

xl Law Commission Of India, Report No.262, the Death Penalty, August 2015

xii *Shatrughan Chauhan v. UOI*, (2014) 3 SCC 1 (Supreme Court of India). Full text of the judgment is available at: <http://supremecourtindia.nic.in/outtoday/wpc552013.pdf> (last accessed 29th September 2016)

xiii The full text of the sentence on Ajmal Kasab can be accessed here:
<http://www.nia.gov.in/acts/Ajmal%20Kasab%20-%20Supreme%20Court%20Judgment.pdf>

The full text of the sentence on Afzal Guru can be accessed here:
<http://www.judis.nic.in/supremecourt/imgs1.aspx?filename=27092>

The full text of the sentence on Yakub Memon can be accessed here:
http://supremecourtindia.nic.in/FileServer/2015-07-31_1438358472.pdf

xiii See:
<http://www.prsindia.org/uploads/media/Justice%20Overma%20committee/js%20overma%20committe%20report.pdf>

xiv See: <http://www.hrln.org/hrln/criminal-justice/reports/1501-santosh-hegde-commission-submits-report-on-manipur-extra-judicial-killings.html>

xiv See: <http://www.thehindu.com/news/national/fresh-violence-rocks-parts-of-kashmir-valley/article9094474.ece>; <http://www.huffingtonpost.in/2016/09/13/kashmir-violence-claims-two-more-lives-death-toll-rises-to-78/>; <http://indiatoday.intoday.in/story/another-protester-killed-in-kashmir-clashes-death-toll-reaches-84/1/763145.html>

xvi Press Release, Press Information Bureau, Government of India. Available at:
<http://pib.nic.in/newsite/PrintRelease.aspx?relid=136706>

xvii These approximate estimates are by the Internal Displacement Monitoring Centre (IDMC). Available at: <http://www.internal-displacement.org/south-and-south-east-asia/india/figures-analysis/> (last accessed 27th September 2016)

xviii Press Release, Press Information Bureau, Government of India, available at:
<http://pib.nic.in/feature/feyr2001/fmay2001/f010520012.html>

xix Available data shows that 22% of sanctioned strength in lower judiciary was vacant; in case of the High Courts, this was higher at 42%.

i Over 3 crore cases are pending in various courts throughout the country. Of these, about 38.5 lakh cases are pending in 24 High Courts. Speech by the President of India at the inauguration of the Fourth Retreat of Judges of the Supreme Court (16th April 2016), available at:
<http://pib.nic.in/newsite/PrintRelease.aspx?relid=138918>

ii Model police legislations were drafted in 1981, 2005, and recently in 2013; none have however, been adopted. Model Prison Acts were formulated in 1996, 1998 and most recently in 2016, but the majority of State prisons are still regulated by the 1894 Act.

iii Shani Shingapur row: Allow women entry to temples, says Bombay HC, The Indian Express, March 31 2016, available at: <http://indianexpress.com/article/india/india-news-india/women-cant-be-barred-from-entering-shani-shingapur-temple-bombay-hc/> (last accesses on 3rd October 2016)

liii Haji Ali shrine give full access to women, says court. Not Ok, says trust. NDTV August 26 2016, available at: <http://www.ndtv.com/mumbai-news/will-ban-on-women-entering-mumbais-haji-ali-dargah-go-high-court-verdict-today-1450588> (last accessed on 3rd October 2016)

liv *Shreya Singhal v. Union of India*, Writ Petition (Criminal) No.167 of 2012, (decided on March 24 2015), (Supreme Court of India)

lv For a comprehensive analysis of Section 66A IT Act use and the Supreme Court judgment, see <http://www.thehindu.com/opinion/lead/the-judgment-that-silenced-section-66a/article7032656.ece>

lvi See: <http://timesofindia.indiatimes.com/city/hubballi/Literary-meet-to-protest-against-killing-of-rationalists/articleshow/52370096.cms>

lvii See: <http://www.dailyo.in/politics/trolls-social-media-bhakt-tweets-aaptards-chetan-bhagat-narendra-modi-shah-rukh-khan-aamir-khan-intolerance/story/1/8200.html>

lviii Sabrang Trust, Lawyers Collective, Greenpeace being key examples

lix OHCHR. UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID=E> (last accessed on 3rd October 2016)

lx CEDAW Article 16; Concluding Comments of CEDAW Committee on India's 4th & 5th combined Periodic Report; Recommendations 138.41 and 138.85 on India's 2nd UPR.

lxi Law Commission of India; Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework; 242nd Report (2012)

lxii Sushmita Mukherjee, Sampuna Singh, Sreela Das Gupta, Rohini Pande, Sharmishtha Basu, 2008, "Knot Ready: Lessons from India on Delaying Marriage for Girls"; See discussion on programmes and schemes, and their deficiencies, available at: <http://www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/HAQCentreForChildRights1.pdf> (last accessed 29th September 2016)

lxiii Press Release, Press Information Bureau, Government of India, (November 2013), available at: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=100741>

lxiv Referred to as the *Shayara Bano* case, the matter initially arose out of a suo moto referral by a 2-judge Bench of the Supreme Court to a Constitutional Bench, seeking review of discriminatory Muslim personal laws. A set of petitioners have since been added to Shayara Bano's initial petition; and is being opposed by the All India Muslim Personal Law Board. <http://blogs.timesofindia.indiatimes.com/toi-edit-page/end-triple-talaq-divorce-shayara-bano-case-will-be-critical-for-gender-justice-to-muslim-women/> (last accessed 29th September 2016). For AIMPLB opposition, see <http://www.financialexpress.com/india-news/personal-laws-cant-be-interfered-with-aimplb-to-sc/365865/>

lxv Ministry of Women and Child Development. Government of India. Available at: <http://wcd.nic.in/acts/trafficking-persons-bill-2016-draft> (accessed on 3rd October 2016)

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lxx Centre for Equity Studies (2014), India Exclusion Report 2013-14, Books for Change, New Delhi. See: <https://www.oxfamindia.org/sites/default/files/PB-Right-to-Education-Act-Claiming-Education-120315-EN.pdf>

lxxi See: <http://www.thehindu.com/business/budget/budget-2016-where-the-money-comes-from-and-where-it-goes/article8297149.ece>

lxxii See: <http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/National%20PPTs/aser2014indiaenglish.pdf>

lxxiii <http://timesofindia.indiatimes.com/india/63-million-people-faced-with-poverty-due-to-healthcare-expenditure/articleshow/45748485.cms>

lxxiv Press Information Bureau. Government of India. See: <http://pib.nic.in/newsite/mbErel.aspx?relid=146019>

lxxv UN Special Rapporteur on right to a adequate housing: 'No law or policy in place to ensure homeless have access to housing'. The Indian Express April 23 2016, available at: <http://indianexpress.com/article/india/india-news-india/united-nations-india-right-to-adequate-housing-govt-housing-for-all-scheme-2766389/> (last accessed on 3rd October 2016)

lxxvi See: <http://www.secc.gov.in/stateSummaryReport>

lxxvii Housing and Land Rights in India: Status Report for Habitat III, Housing and Land Rights Network, New Delhi, 2016

lxxviii Urmila Chatterjee, Rinku Murgai and Martin Rama (2016), 'Pathways to Reducing Poverty and Sharing Prosperity in India', The World Bank.

lxxix <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20616&LangID=E>

lxxx Aadhar Card is a Unique Identification document issued by the Government of India to residents of India. Although it is currently a voluntary process, availability of an Aadhar Card has been linked to access to various Government welfare schemes and programmes. Please refer to <https://uidai.gov.in/beta/your-aadhaar/about-aadhaar.html> for more details.

lxxxi Law Commission 172nd Report on Review of Rape Laws, 226th Report on Inclusion of Acid Attacks as Criminal Offences, 259th Report on Early Childhood Development.

Annexure 1: (to be read along with the main Report)**LIST OF RECOMMENDATIONS FOR INDIA'S UNIVERSAL PERIODIC REVIEW 3RD CYCLE****A. Scope of International Obligations**

In keeping with recommendations made during India's 2nd UPR, UNCT in India encourages the Government of India take steps to ratify the international instruments.

B. Institutional Mechanisms and Policies

The UNCT urges the Government to continue efforts to strengthen institutional mechanisms, to function in compliance with the Paris Principles.

C. Cooperation with International Human Rights Mechanisms

The UNCT looks forward to the Government of India making pending submissions before the Treaty Bodies and to the visits of Special Procedures.

PROMOTION AND PROTECTION OF HUMAN RIGHTS**A. Equality and Non-Discrimination**

The UNCT looks forward to the enactment of a comprehensive Anti-Discrimination law, as recommended during India's 2nd UPR; as also to the early enactment of the progressive bills mentioned in Para 14 of the UNCT Report.

1. WOMEN

UNCT commends the government for the measures it has taken to focus on the welfare of girls and women. It recommends the *passage* of the Women's Representation Bill; *strengthening* implementation of measures to address VAW, including the recent victim-friendly approach to the criminal justice response, and *recognising* marital rape as a crime; *implementation* of the Sexual Harassment Act, particularly for informal sector & domestic workers; *accelerating* measures to address women's declining participation in workforce, including recognizing 'equal pay for work of equal value' and women's unpaid care work; and *addressing* specific vulnerabilities of women from marginalised groups, including women with disabilities.

2. CHILDREN

The UNCT recommends a *review* of legal provisions to amend/repeal laws that are not aligned with well-recognised principles and international commitments relating to protection and care of children; *effective implementation* of progressive laws such as the POCSO Act, 2012, the National Child Policy, including through adequate budgetary allocations; *strengthening* national programmes to prevent violence against girls and boys.

3. *LGBTQ & PLHIVs*

UNCT recommends that the Government of India take steps to decriminalise adult consensual same sex relationships, and urges that the Government undertake a comprehensive review of all laws, policies, and programmes to ensure that LGBTQs and HIV affected and infected communities do not face discrimination.

4. *PERSONS WITH DISABILITIES*

The UNCT *looks forward to* an early passage of the Rights of Persons with Disabilities Bill, 2014; *recommends* comprehensive legal review to ensure that laws that are discriminatory towards persons with disabilities are amended and/or repealed in a time-bound manner; *recommends* the integration of inclusive education and teaching and learning practices as an integral element of teacher training, and the establishment of clear guidelines and monitoring mechanisms to ensure schools are accessible to children with disabilities; *recommends* enhanced Inter-ministerial, and departmental coordination and convergence for greater coherence for schemes and provisions related to children with disabilities; *recommends* strengthened measurement instruments to enumerate persons with disabilities, particularly children.

5. *RELIGIOUS MINORITIES RIGHTS*

UNCT urges the Government of India to continue measures to address the concerns of minority communities regarding access to services, security, and communal violence.

6. *DALIT & TRIBAL RIGHTS*

The UNCT encourages the Government to continue its efforts towards promoting rights of Dalits and Tribal, and recommends sensitization of law enforcement and the judiciary for effective response towards crimes against Dalits; steps to strengthen the National Commission for Scheduled Castes and to ensure that issues of deprivation facing Dalits and Adivasis, particularly women, are addressed; and disaggregated data is made available to enable better targeting of development programmes.

B. Right to life and Prohibition of Torture

1. *DEATH PENALTY*

UNCT urges the Government to consider implementing the Law Commission's 262nd Report and abolish death penalty, so as to bring the domestic legal framework in line with international standards.

2. *INTERNAL CONFLICT, AND HUMAN RIGHTS*

UNCT looks forward to the recent progressive judicial pronouncements enabling stronger implementation of human rights standards in conflict areas, including protection to Human Rights Defenders. It also urges Government of India to consider repealing of the AFSPA as recommended during the 2nd UPR. In order to promote the rights of individuals UNCT

encourages the Government to combat xenophobia, racism and discrimination, ensuring equality and non-discrimination. The Government of India might consider reinforcing migration policies and programmes with adherence to international standards and the fulfillment of migrants' rights, to alleviate migrant vulnerability, irrespectively of personal characteristics (e.g. age, gender, sexual orientation), circumstances (e.g. victim of trafficking or other violence, extreme poverty, refugee, separated from family, stranded) or legal status (e.g. regular, undocumented, irregular, dependent)

C. Access to justice and Rule of law

UNCT urges the judiciary and Government to continue its efforts towards improving access to justice & service delivery, including urgently addressing inadequate judicial officers at all levels; simplifying case management; and institutional strengthening of the courts, legal aid, police and prisons.

D. Freedom of religion, and speech & expression

The UNCT urges the Government of India to ensure that laws such as the FCRA, the IT Act, and the IPC provisions are not used to inhibit constitutionally guaranteed freedoms of speech and assembly, and prevent NGOs and common public from freely expressing opinions and continue rights work within the constitutional democratic framework.

E. Right to privacy, marriage and family life

1. RIGHT OF CHOICE IN MARRIAGE

UNCT recommends the *criminalisation* of 'honour crimes' with appropriate penalties, ensuring effective implementation of Prohibition of Child Marriage Act; *fast-tracking* the adoption of a National Plan of Action on Child Marriage; *review* of discriminatory personal law provisions in a participatory and holistic manner, so as to bring them in line with India's international obligations; *recognition* of women's right to equitable share in matrimonial property through appropriate legislation; *systematic collection* of data on child marriage; and *strengthening* existing national flagship programmes, secondary education and social protection schemes to reduce child marriage.

F. Prohibition of trafficking, slavery and other forms of exploitation

The UNCT recommends the Government of India consider reinforcing migration policies to combat human trafficking, and in the domestic front, increase the number and strengthen Anti-Human Trafficking Units (AHTUs); taking urgent measures for decriminalising trafficking victims, including restrictions on their travel, and for effective investigations and prosecutions; strengthening Programmes to prevent and address child labour, including on social protection, access to quality education and parent/community mobilization; strengthening existing national programmes and policies such as Integrated Child Protection Scheme to prevent and address child trafficking; *addressing* the exception granted to family enterprises and the substantial

reduction in the list of professions considered 'hazardous' in the Child Labour Bill, including through implementing regulations, or through improvements in view of the comparative labour law practices; and ratification of ILO Conventions 138 and 182.

G. Right to Education

The UNCT recommends *undertaking* urgent steps to eliminate inequalities and discrimination in education faced by marginalised groups, particularly Dalits, Adivasis, and children with disabilities; continuing with the commitment to ensure gender parity in education; *developing* a clear roadmap for the realization of the provisions of Right To Education (RTE) Act with a focus on Right to Learn with enhanced budgets and allocation, particularly investing in early childhood care and education, and teacher training; *extending* the legal framework of RTE to cover pre-primary education and secondary education; *strengthening* monitoring mechanisms for RTE implementation

H. Right to Health

The UNCT looks forward to the Government of India *continuing* the process towards Universal Health Coverage (UHC) by increasing investments in health, improving service delivery, *strengthening* public health and augmenting governance and accountability; *developing* a time bound plan for implementation of Draft National Health policy, 2016; *take steps* to eliminate HIV by 2030 in accordance with SDG 3 and *strengthen* its National AIDS Control Programme with adequate resource allocation; and strengthen training of counsellors at district and sub-district levels, for a range of counselling services, including GBV counselling; and of Auxiliary Nurse Midwives (ANMs) and village level Accredited Social Health Activists (ASHA); and strengthened reach of prevention, care and treatment services to those at risk of HIV infection and mitigating impact of HIV through provision of HIV sensitive social protection.

The UNCT looks forward to the Government of India *continuing* the progress towards Universal Health Coverage (UHC) by increasing investments in health, improving service delivery, *strengthening* public health and augmenting governance and accountability; *developing* and implementing a time bound step-by-step plan for Draft National Health policy, 2016; *take steps* to strengthen rural and urban components of national health mission, improve health infrastructure, HRH and access to essential medicines, end preventable maternal, newborn and child deaths, eliminate HIV, TB, malaria and neglected tropical disease and universalize reproductive health services by 2030 in accordance with SDG 3; effectively *implement* National Multi-sectoral Action Plan to curb the risk factors leading to Non communicable Disease (NCDs) including mental illnesses and road accident injuries; as well as *strengthen* integrated disease surveillance for early identification and response to health security threats. . WHO

I. Right to Food

The UNCT compliments the Government for the innovations made in the Food Distribution System and looks forward to continued efforts to ensure that food grains are reaching their desired beneficiaries by strengthening delivery mechanisms, particularly the Public Distribution System.

J. Right to adequate standard of living, including housing, water & sanitation

The UNCT urges the Government to *continue working* towards stimulating supply of variety of affordable and accessible housing options, particularly resilient green housing and integrated solutions for energy, water and sanitation; *adoption* of policies to ensure that the proposed Smart Cities are safe and inclusive; *continue addressing* the reduction of open defecation including the management of solid and liquid waste including faecal sludge to ensure safely managed sanitation for all by 2030, to *progressively address* the issue of microbial contamination of water to ensure safe water for all by 2030; and recommends Government programming to address behaviour change communication for hand-washing, menstrual hygiene management, and good food hygiene practices.

K. Right to Development

The UNCT recommends the *acceleration* of poverty reduction by addressing the urban-rural continuum for ensuring sustainable livelihoods in agriculture, manufacturing/industry and service sectors; *addressing* both social and spatial exclusion ; *strengthening* data collection for better measurement of progress and gaps; *continuing* Government's commitment towards protection of the environment and adopting rights based approach in strategies towards mitigating impact of climate change; and increasing investment in integrated social protection through the life cycle approach.

L. Other marginalised/vulnerable groups

1. Refugees/IDPs/Asylum seekers

UNCT recommends that India accedes to international Conventions relating to refugees to reinforce its long-standing tradition of hosting refugees and the entry and treatment of refugees.

M. Human rights training and awareness

UNCT recommends strengthening technical capacities of justice system actors and other professions through capacity building to ensure institutional readiness; undertaking intensive awareness-generation through diverse approaches; underscoring the importance of sex education and involvement of men & boys; and making human rights education and training an integral part of teacher training programme.