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Human Rights Committee**Concluding observations on the fourth periodic report of India***

1. The Committee considered the 4th periodic report of India¹ at its 4134 and 4135 meetings,² held on 15 and 16 July 2024. At its 4144th meeting, held on 22 July, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fourth periodic report in response to the list of issues prior to reporting prepared under that procedure³. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation, after its previous review in 1997, on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and policy measures taken by the State party:

- (a) The Constitution (One Hundred and Sixth Amendment) Act, 2023;
- (b) Protection of Children from Sexual Offences Act, 2019
- (c) Rights of Persons with Disabilities Act, 2016;
- (d) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015;
- (e) The Lokpal and Lokayuktas Act, 2013;
- (f) Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act 2013;
- (g) The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013;
- (h) Prohibition of Child Marriage Act, 2006;

* Adopted by the Committee at its 141st session (1 to 23 July 2024).

¹ [CCPR/C/IND/4](#).

² See [CCPR/C/SR.4134](#) and [CCPR/C/SR.4135](#).

³ [CCPR/C/IND/QPR/4](#)

- (i) Right to Information Act, 2005.
- 4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:
 - (a) The International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182) on 13 June 2017;
 - (b) Convention on the Rights of Persons with Disabilities, on 1 October 2007;
 - (c) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 30 Novembre 2005;
 - (d) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 16 August 2005;
 - (e) The ILO Abolition of Forced Labour Convention, 1957 (No. 105) on 18 May 2000.

C. Principal matters of concern and recommendations

Constitutional and legal framework within which the Covenant is implemented, and declarations and reservations

5. The Committee regrets that while the Supreme Court of India gives effect to the provisions of the Covenant in its sentences, in cases of disparity with domestic law, the Covenant does not prevail. The Committee also regrets that the State party maintains its declarations and reservations to articles 1, 9, 12, 13, 19(3), 21 and 22 of the Covenant; and that it does not intend to become party to the two Optional Protocols (art. 2).

6. The State party should ensure that all the provisions of the Covenant are fully incorporated and given full effect in its domestic legal order. The State party should also ensure that domestic legislation is interpreted and applied in full conformity with its obligations under the Covenant. Additionally, the State party should raise awareness of the provisions of the Covenant and its domestic applicability among judges, lawyers and prosecutors to ensure that its provisions are invoked before and applied by the domestic courts. The State party should reconsider its position regarding these declarations and reservations and take concrete steps to withdraw them, with a view to ensuring the full and effective application of the Covenant. The State party should also consider acceding to the two Optional Protocols to the Covenant.

7. The Committee notes that the provisions of article 9 of the Covenant on the right to liberty and security of person are only applied in the State party if consistent with article 22 of its Constitution, which focuses on the “Protection against arrest and detention in certain cases” and authorizes preventive detentions. The Committee is concerned that, according to information received, article 22, together with the declaration to article 9 of the Covenant, have led to serious human rights violations during pretrial and preventive detentions (art. 2 and 9).

8. The State party should interpret the declaration in full conformity with the object and purpose of article 9 of the Covenant and ensure the effectiveness of judicial control and review of pretrial and preventive detention and guarantee legal assistance to detainees as well as information about the reasons for the arrest, from the very moment of their deprivation of liberty.

National human rights institution

9. While the Committee appreciates that the National Human Rights Commission of India has been accredited an “A” status by the Global Alliance of National Human Rights Institutions (GANHRI) since 1999, it regrets the lack of implementation of the majority of the recommendations by GANHRI, which is deferring its reaccreditation since 2023. The Committee is concerned by the lack of gender balance in the composition of the Commission, as well as the lack of: representation of religious and ethnic minorities; cooperation with civil

society; and transparent and participatory selection and appointment processes. The Committee is concerned by the impact on the independence of the Commission of the involvement of police officers in investigations of human rights violations, by the Commission's lack of authorisation to investigate human rights violations allegedly committed by the armed forces and by the one-year temporal limitation from the date of the alleged violation, applicable to complaints (art. 2).

10. The State party should promptly implement the recommendations of the Global Alliance of National Human Rights Institutions (GANHRI), to ensure that the National Human Rights Commission fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and is able to carry out its mandates effectively and independently. The State party should ensure transparent and participatory selection and appointment processes, gender balance and ethnic and religious minority representation, and meaningful cooperation with civil society. The State party should also ensure that the Commission is empowered to investigate allegations of human rights violations committed by the armed forces, consider abolishing the one-year time limit to investigate human rights violations and decrease the involvement of police officers in investigations that might undermine the independence of the Commission.

Anti-corruption measures

11. The Committee takes note of the measures taken by the State party to fight against corruption, notably as a party to the UN Convention against Corruption. However, the Committee is concerned that, according to information received, corruption is still an important problem at all levels, including government ministries, political officials, police and the judiciary. The Committee has also received information about: a) the killing of more than 60 activists, whistle-blowers, journalists or human rights defenders, reporting or working on the fight against corruption since 2018, as well as online or physical harassment and attacks; b) the fact that most of the requesters of information on the acts of governments do not receive the information sought; and c) the obstacles to open an investigation and criminal prosecution brought by the amendments to the Prevention Corruption Act after 2018 (arts. 2 and 25).

12. The State party should increase its efforts to prevent and eradicate corruption at all levels. In particular, it should:

(a) Increase its efforts to investigate all allegations of corruption in all levels, including the judiciary and public and private sectors, -as well as attacks against journalists, human rights defenders and activists working on the fight against corruption-, promptly, thoroughly, independently and impartially, ensure that perpetrators are prosecuted, and if convicted they are punished with penalties commensurate with the gravity of the offence and provide victims with reparation;

(b) Effectively implement the Right to Information Act, 2005; and amend the Prevention Corruption Act, 2018 in order to strengthen its capacity to effectively combat corruption; improving the ways of allowing the denunciation of cases of corruption to the relevant institutions; and provide adequate protection to whistleblowers.

Non-discrimination

13. The Committee takes note of the legislation and policies to address discrimination in the State party, however, it is concerned by the absence of a comprehensive anti-discrimination law that provides full and effective protection as required by the Covenant. The Committee is concerned as well about reports about discrimination against minority groups, and violence and derogatory rhetoric against religious minorities, including Muslims, Christians, and Sikhs. The Committee welcomes the Rights of Persons with Disabilities Act, 2016 but notes that discriminatory laws remain and access to public space and reasonable accommodation is still inadequate. The Committee is also concerned by the lack of effective judicial and administrative remedies against discrimination (arts. 2 and 26).

14. The State party should:

(a) Adopt comprehensive legislation prohibiting discrimination, including intersectional, direct and indirect discrimination in both the public and the private sectors and on all grounds prohibited under the Covenant, and ensure access to effective and appropriate remedies for victims.

(b) Strengthen the monitoring and reporting of complaints of discrimination and ensure that all acts of discrimination are promptly and effectively investigated, perpetrators are brought to justice and, if convicted, punished with appropriate sanctions, and that victims are provided with adequate remedies.

(c) Adopt robust measures to effectively prevent acts of discrimination, including by providing training and awareness raising programmes for civil servants, law enforcement bodies, the judiciary and public prosecutors, as well as religious and community leaders and promote respect for diversity among the general public.

15. While the Committee appreciates the constitutional and legal measures adopted to prevent, protect and address discrimination and violence against “scheduled castes” and “scheduled tribes”, such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, it is concerned by reports indicating systemic challenges to the implementation of these measures, such as delayed registration of “first information reports” (FIRs), inadequate police investigations, lengthy trials and non-compliance with the mandate of 60-day case disposal requirement. The Committee remains concerned by multiple reports about widespread discrimination and violence against these groups, including lynching, mob violence, and displacement, as well as attacks on Adivasis practicing Christianity and vigilante lynchings of Muslims. The Committee is further concerned by the non-extension of scheduled caste status and reservation benefits for Dalits who have converted to Islam or Christianity. The Committee acknowledges the State Party’s efforts to prevent manual scavenging, including through the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, however, the Committee has received information that this is not effectively enforced, and the practice continues in several regions, including by local governments (arts. 2 and 26).

16. The State party should ensure that everyone can enjoy the human rights enshrined in the Covenant without discrimination, in particular, it should:

(a) Strengthen the implementation, monitoring and enforcement of its legal and policy framework to prevent and address discrimination and violence against “scheduled castes” and “scheduled tribes”, as well as Dalits and the so-called other backward classes and other ethnic, religious and national minorities, in particular by timely registration of first information reports, effective police investigations, reducing the delay in the judicial proceedings and complying with the 60 day case disposal requirement.

(b) Ensure that all allegations of discrimination or violence against “scheduled castes” and “scheduled tribes”, Dalits and the so-called other backward classes and other ethnic and national minorities and Dalits converted to Islam or Christianity are promptly, impartially and effectively investigated, that perpetrators are prosecuted, and if convicted punished with penalties commensurate with the gravity of the offences and provide victims with full reparation and means of protection;

(c) Consider amending legislation to ensure that Dalit, Muslims and Christians enjoy adequate protection against discrimination and violence;

(e) Effectively implement and enforce existing legal and policy frameworks on addressing manual scavenging, in particular regarding local governments and municipalities, and provide adequate financial resources for rehabilitation.

17. The Committee welcomes the recent repeal of the criminal ban on same-sex conduct between consenting adults, as well as the efforts to combat societal discrimination against LGBTI persons. However, the Committee is concerned about ongoing discrimination and violence against them by public and private actors, including reports of police abuse, arbitrary arrests, derogatory language and coercing victims not to file complaints of discrimination. While noting the existence of some legal protection for same-sex couples in a few states, the Committee regrets that same-sex marriages are not legalized. The Committee recognises that the Transgender Persons (Protection of Rights) Act, 2019 has been a significant step in safeguarding the rights of transgender communities, however reports indicate that harassment and discrimination persist. The Committee is concerned that although the Act allows individuals to self-identify as transgender, significant barriers to gender transition recognition exist in practice, such as the requirement of proof of sex reassignment surgery or other medical interventions before granting certificates authorizing gender recognition (arts. 2 and 26).

18. The State party should increase its efforts to prevent and address all forms of discrimination and violence against LGBTI persons. It should in particular:

(a) Ensure that all allegations of discrimination or violence motivated by the victim's sexual orientation, or real or perceived gender identity are promptly and effectively investigated, that perpetrators are prosecuted, and if convicted punished with penalties commensurate with the gravity of the offence and provide victims with effective access to judicial remedies, with full reparations and means of protection;

(b) Adopt or amend legislation with a view to ensuring the legal recognition of same-sex couples, including access to benefits associated with marriage;

(c) Improve the enforcement of the Transgender Persons (Protection of Rights) Act, 2019, and consider reviewing the provisions to ensure that individuals who seek to change gender and have it recognised can do so without unnecessary medical or administrative hurdles;

(d) Continue combating stereotypes among the public at large about and negative attitudes towards persons on the basis of their real or perceived sexual orientation or gender identity.

Equality between men and women

19. Despite the measures adopted by the State party to promote gender equality and increase the participation of women in the public and private sector, the Committee is concerned that inequality between men and women, stereotyping, multiple and intersectional forms of discrimination and the societal inferiority of girls and women continue to be structural problems. The Committee regrets that the Constitution (One Hundred and Sixth Amendment) Act also known as the Women Reservation Act, 2023 will only come into force in 2029 after the completion of the census and ratification by the majority of states and will only reserve one third of seats for women at the Lok Sabha, State legislative assemblies and Delhi legislative assembly. The Committee takes note of the steps taken by the State party towards equality in matters governed by personal laws of religious communities or customs, however it remains concerned about persisting inequalities and discriminatory practices, such as those related to the infringement of the right to inherit or own land and the dowry system (arts. 2, 3 and 25).

20. The State party should take more robust measures to guarantee *de iure* and *de facto* equality between men and women. In particular, it should:

(a) Strengthen its efforts to increase the representation of women in all spheres of society, including in decision-making positions;

(b) Consider amending the Women Reservation Act to increase to 50% the reserved seats for women, speed up its implementation, and take the necessary measures to increase the presence of women in politics, including by enhancing civic education for young girls and women;

(c) Ensure that all personal and customary laws are in full conformity with the provisions of the Covenant; and eradicate all practices that go against the integrity and dignity of women;

(d) Step up its efforts to eliminate discriminatory attitudes and gender stereotypes regarding the roles and responsibilities of women and men in the family and society.

Violence against women and harmful practices

21. Despite the measures taken by the State party, including the Protection of Women from Domestic Violence Act, 2005 and some provisions of the Bharatiya Nyaya Sanhita, 2023, the Committee remains concerned by the endemic violence against women and girls, which is manifested by practices including marital and gang-rapes, domestic violence, acid attacks and public humiliation involving naked women being paraded through the streets. The Committee is concerned that this violence is exacerbated when directed against women and girls from Indigenous Peoples, ethnic and religious minorities and lower castes; and that it goes largely under-reported. The Committee is concerned about information concerning practices such as so-called “honour crimes”, female genital mutilation, accusations of witchcraft and child marriages. The Committee is also concerned that the definition of rape under the Bharatiya Nyaya Sanhita, 2023 does not include marital rape (arts. 2, 3, 6, 7, 8 and 26).

22. The State party should adopt a comprehensive legal and policy reform to prevent, address and eradicate violence against women and girls and other harmful practices, in all their forms and manifestations. In particular, it should:

(a) Ensure that all cases of violence and harmful practices against women and girls are thoroughly and promptly investigated, that perpetrators are prosecuted, and if convicted punished with penalties commensurate with the gravity of the offence;

(b) Ensure that victims receive the necessary legal, medical, financial and psychological support and have access to effective remedies and means of protection;

(c) Establish an effective mechanism to facilitate and encourage the reporting of cases of violence and harmful practices against women and girls, in particular those belonging to Indigenous Peoples, ethnic and religious minorities and lower castes, including by ensuring that all women have access to information about their rights and to remedies, addressing the social stigmatization of victims, and raising awareness among the public at large about the criminal nature of such acts;

(d) Ensure that the domestic legislation on rape is in compliance with the provisions of the Covenant, and amend the new criminal code, Bharatiya Nyaya Sanhita, 2023 in order to explicitly criminalize marital rape.

Termination of pregnancy, maternal mortality and sexual and reproductive rights

23. While the Committee takes note of the information provided by the State party on the legislative framework concerning abortion, it notes that several legal and practical obstacles prevent or hinder effective access to safe and legal abortion, such as the lack of clarity of the legislation, including the new Criminal Code, the Bharatiya Nyaya Sanhita, 2023, fear of reprisals against medical practitioners, very severe restriction on abortion for medical reasons after the 20th week of pregnancy, the obligation to obtain an authorization from a third party in many cases and conscientious objections on the part of the medical personnel. The Committee regrets that these circumstances lead women, including minors, to resort to clandestine and unsafe abortions, which increase the risk of maternal mortality. The Committee is also concerned by sex-selective abortions, which according to information received is widely practised despite domestic legislation banning it. The Committee is also concerned by reports about a practice of forced sterilizations, under the guise of family planning, particularly among the poorest sections of the population (arts. 2, 3, 6 and 7).

24. In light of paragraph 8 of the Committee’s General Comment no. 36 (2018) on the right to life, the State party should take all necessary measures to ensure that women

and girls do not have to resort to clandestine or unsafe abortions. The State party should:

(a) Ensure that women and girls have effective access to safe and legal abortion; that medical service providers who assist them are not subject to criminal penalties; and lift barriers, such as those related to third party authorization, that induce women and girls to resort to unsafe abortions;

(c) Increase its efforts to ensure full and unimpeded access to sexual and reproductive health services and reproductive health education among women, men and adolescents, with a view to reducing maternal mortality and preventing unintended pregnancies

(d) Ensure that domestic legislation banning selective abortions is effectively enforced;

(e) Ensure that forced sterilizations are eradicated and that the free and informed consent of the patients is provided in all sterilization procedures.

Trafficking in persons and forced labour

25. The Committee takes note of the efforts carried out by the State party to address trafficking in persons; however, according to reports, trafficking in persons, sexual exploitation and bonded labour continues to be of concern and the measures taken are not sufficient across all states. In particular, the Committee is concerned by information received indicating that: the conviction rate for trafficking in persons is very low; the measures to assist, protect and provide remedies for victims are inadequate; and that government officials are sometimes complicit in these practices (arts. 7, 8 and 24).

26. The State party should strengthen its efforts to effectively prevent, combat and punish trafficking in persons and bonded labour, including:

(a) Ensuring that instances of these practices, including those involving public officials, are promptly, thoroughly and impartially investigated, that perpetrators are prosecuted and if convicted punished with penalties commensurate with the gravity of the offence,

(b) Providing victims with protection and assistance and access to effective remedies, including rehabilitation and reintegration support services;

(c) Increasing awareness raising campaigns for the general public and training, including on standards and procedures for prevention, identification and referral of victims of trafficking and bonded labour, to all relevant state officials, including the judiciary, prosecutors, law enforcement and border authorities;

(d) Ensuring that sufficient financial, technical and human resources are allocated to all institutions responsible for preventing, combating and punishing trafficking in persons and bonded labour, as well as to those providing protection and assistance; including the Anti Human Trafficking Units.

Counter-terrorism and security measures and accountability for serious human rights violations

27. The State party reports that certain “disturbed areas” suffer from terrorism and insurgency, leading to an acute “law and order situation” necessitating the involvement of the armed forces, which operate under the Armed Forces (Special Powers) Act, 1958 and the Jammu and Kashmir Armed Forces (Special Powers) Act, 1990. The Committee notes that while these measures could constitute emergency measures, the State party has not officially declared a public emergency, as provided in Article 4 of the Covenant and General Comment no. 29 on States of Emergency. The Committee is therefore concerned that provisions of such Acts and related counter-terrorism legislation are not in compliance with the Covenant. The Committee is particularly concerned by the provisions of counter-terrorism legislation regarding the: a) extensive powers to use lethal force; b) preventive detention without charge or judicial review during exceptionally long periods; and c) extensive power granted to executive bodies under broadly and vaguely defined terms, including designating individuals

responsible for acts that are “likely to threaten” or “likely to strike terror in people”, which could infringe the presumption of innocence and be misused against dissidents and activists. As a result of this legislative framework and its application, the Committee remains concerned that the application of counter-terrorism legislation for decades in “disturbed areas” such as districts in Manipur, Jammu and Kashmir and Assam and other territories, has led to widespread and grave human rights violations, including excessive use of force leading to unlawful killings, arbitrary detention without formal charges for years, habeas corpus petitions that are not dealt with expeditiously, sexual violence, forced displacement and torture and ill-treatment (arts. 2, 6, 7, 9, 14 and 26).

28. The State party should review existing counter-terrorism legislation, including the Armed Forces (Special Powers) Act, 1958, the Jammu and Kashmir Armed Forces (Special Powers) Act, 1990, the National Security Act, 1980, the Unlawful Activities (Prevention) Act, 1967, the Jammu and Kashmir Public Safety Act, 1978 and the Chhattisgarh Special Public Security Act, 2005, that does not comply with the Covenant and ensure it fully complies with its obligations under the Covenant, as well as the principles of legal certainty, predictability, necessity and proportionality. The State party should also:

(a) Ensure that counter-terrorism legislation is not invoked or applied to unjustifiably limit any right enshrined in the Covenant, including the rights to life, liberty and security of person, procedural guarantees, such as the presumption of innocence, and freedom of expression and association and to crack down on human rights defenders, journalists, peaceful protesters and political opponents, among others;

(b) Ensure that persons suspected of or charged with terrorist acts or related offences are provided, in law and in practice, with all appropriate legal and procedural safeguards, including against arbitrary detention; that their detention is reviewed in a prompt, thorough and impartial manner by relevant judicial authorities, including through effective *habeas corpus*; and that anyone arbitrarily detained is released without conditions and adequately compensated;

(c) Ensure that counter-terrorism and other security/counter insurgency related measures in disturbed areas are temporary, proportionate, strictly necessary and subject to judicial review;

(d) Establish a mechanism with guarantees of independence, transparency and genuine investigation power to initiate a process to acknowledge responsibility, ascertain the truth and foster and preserve memory regarding human rights violations in disturbed areas.

29. The Committee is concerned that the requirement of mandatory prior authorization of the government for the prosecution of the members of the security and armed forces in the context of counter-terrorism and security and military operations creates a climate of widespread impunity regarding allegations of human rights violations. In this regard, the Supreme Court of India in 2016 stated that allegations of extrajudicial killings “must be thoroughly enquired into”; however according to reports, out of the 1,528 documented instances of extrajudicial killings in Manipur from 1979 to 2012, only 39 First Information Reports were registered, of which not all have been scheduled for trial, due among other reasons refusal of sanction for prosecution (arts. 2, 6, 7, 9, 14 and 26).

30. The State party should abolish the requirement of mandatory prior authorization of the government for the prosecution of members of the security and armed forces, investigate promptly, thoroughly and impartially all human rights violations in the context of counter-terrorism, security and military operations, ensure that perpetrators are prosecuted and if convicted punished with penalties commensurate with the gravity of the offence, and that victims have access to effective remedies.

Right to life

31. The Committee is concerned that the State party continues to impose a high number of death penalty sentences, including on offences not involving intentional killing; and that

according to information received persons belonging to socio-economically marginalized communities and religious minorities are disproportionately affected (arts. 2, 6 and 26).

32. In light of the Committee's general comment No. 36 (2018) on the right to life, the State party should refrain from carrying out executions by keeping a *de facto* moratorium and take concrete steps towards adopting a *de iure* moratorium and the abolition of the death penalty. If the death penalty is maintained, the State party should take all measures necessary to ensure that: the death penalty is provided only for the most serious crimes involving intentional killing, is never mandatory, and pardon or commutation of the sentence is available in all cases. The State party should also ensure that the death penalty is never imposed in violation of the Covenant, including in violation of fair trial procedures or as a result of discriminatory bias. The Committee encourages the State party to give due consideration to abolishing the death penalty and acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person

33. While the Committee takes note of the measures adopted by the State party to prevent torture, the Committee remains concerned by reports about: 324 custodial deaths between 2019 and 2022; threats and intimidation to families of victims inquiring about such deaths; cases of rape by police officers of female and male detainees, particularly members of minorities and the refusals of the police to register rape complaints; and torture. The Committee is also concerned by the absence of an offence of torture in the new criminal code, the Bharatiya Nyaya Sanhita, 2023. The Committee regrets that while the State party already indicated a commitment to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the previous dialogue in 1997, ratification is still pending (arts. 7 and 9).

34. The State party should eradicate torture and ill-treatment. It should in particular:

(a) Amend the new Criminal Code, the Bharatiya Nyaya Sanhita, 2023 to establish a specific crime of torture, in accordance with article 7 of the Covenant with sanctions commensurate with the gravity of such offence;

(b) Conduct thorough, independent and impartial investigations into all allegations of torture and ill-treatment and deaths in custody in accordance with the Istanbul Protocol and the Minnesota Protocol; prosecute perpetrators, including of law enforcement officers; and, if they are convicted, punish them with sanctions commensurate with the gravity of the crime; provide victims with full remedy and redress, including rehabilitation;

(c) Take all measures necessary to prevent torture and other cruel, inhuman or degrading treatment or punishment, including by strengthening the human rights training provided to judges, prosecutors, law enforcement officials and forensic medicine personnel, and including training on international human rights standards, such as the Méndez Principles;

(d) Ensure that all persons deprived of their liberty have access to an independent, secure and effective complaints mechanism for the investigation of allegations of torture and ill-treatment; and guarantee the protection of complainants against reprisals;

(e) Consider ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.

Liberty and security of person, administration of justice and fair trial

35. The Committee regrets that decisions of the Supreme Court of India relevant for the implementation of provisions of the Covenant have not been effectively or fully executed by the State party. The Committee is also concerned about information received regarding cases of police arbitrarily arresting persons or detaining individuals for custodial interrogation

without identifying themselves or providing arrest warrants. While the Supreme Court of India has provided extensive guidelines to grant compensation for violations of human rights, victims of unlawful arrest or detention rarely receive it. The Committee is also concerned by: the fact that despite the efforts made by the State party to strengthen the legal aid framework, individuals accused of criminal offences have limited access to legal aid, particularly in police stations; by initiatives for non-lawyers to provide legal aid; and by reports of poor-quality legal aid. The Committee is also concerned by information about foreign nationals confined in prison after having completed their terms of sentence while waiting repatriation. Furthermore, the Committee regrets the application of the Unlawful Activities Prevention Act, 1967 to Arundhati Roy in response to her comments on Kashmir made at a conference in 2010, and to Sheikh Showkat Hussain accusing him of aiding secessionist movements in Kashmir (arts. 2, 7, 9 and 14).

36. In accordance with the Committee's general comment No. 35 (2014), the State party should:

(a) Take necessary measures to ensure that the decisions of the Supreme Court related to the implementation of the provisions of the Covenant are duly and promptly executed;

(b) Investigate promptly, thoroughly and impartially cases of arbitrary detention, prosecute perpetrators and punish them with penalties commensurate with the gravity of the offence if convicted. Victims should have access to effective remedies and adequate compensation;

(c) Ensure that detained and arrested persons suspected of or charged with terrorist acts or related offences are provided, in law and in practice, with all appropriate legal and procedural safeguards in accordance with the Covenant, including against arbitrary detention and provide effective access to skilled legal aid lawyers;

(d) Ensure that foreigners who have completed their sentences, are released and repatriated, ensuring that the principle of non-refoulement is respected.

37. The Committee is concerned that more than 75% of the prison population was under trial in 2022, with a disproportionate presence of Muslims, Dalits and Adivasis and people living in poverty. The Committee takes note of the measures adopted by the State party to facilitate timely judicial proceedings, but it is concerned about the extraordinarily lengthy pretrial detention periods, judicial delays and case backlogs, as well as the insufficient number of judges and magistrates. The figures of the undertrial prison population are also exacerbated by the priority given to jail over bail, the difficulty of obtaining bail, as well as the arbitrary arrests and illegal detentions. The Committee is also concerned about the reversal of the presumption of innocence with respect to bail applications by those accused of terrorism offences under the Unlawful Activities (Prevention) Act 1967 (arts. 2, 7, 9 and 14).

38. In the light of the Committee's general comment No. 35 (2014) on liberty and security of person, the State party should significantly reduce the use of pretrial detention including through the wider application of non-custodial measures as an alternative to incarceration; and ensure that all detained persons are afforded in practice all the fundamental legal and procedural safeguards from the outset of their detention. In particular, it should:

(a) Ensure that persons being held in pretrial detention are informed of their rights, that they have prompt access to counsel, that criminal charges are promptly filed --when relevant-- and that trials are held expeditiously and in public;

(b) Increase the availability of and recourse to alternatives to pretrial detention, in the light of the Tokyo and Bangkok Rules, including by giving due consideration to such alternatives, particularly when delays in investigations or trials are unavoidable, and promote and ensure an effective access to the right to bail;

(c) Ensure that pretrial detention is exceptional, only imposed when necessary and for a period of time that is as short as possible; that detention is imposed without any discrimination; and that statutory limits on detention are strictly enforced;

(d) Establish systematic and regular judicial monitoring of the duration of pretrial detention and provide effective access to judicial review of the legality of detention and to remedies for those unlawfully held in custody beyond statutory limits;

(e) Increase the financial, technical and human resources provided for the administration of justice and support its effective and timely functioning.

Treatment of persons deprived of liberty

39. While the Committee takes note of the measures adopted by the State party to improve conditions in prisons, the Committee remains concerned about the extreme overcrowding of detention centers and deplorable conditions regarding, among other, access to: adequate medical services, including for mental care; hygiene and sanitation; adequate nutrition and drinking water; and the possibility to contact family, counsel and diplomatic or consular officers (for foreign detainees). The Committee is also concerned by the lack of capacity to provide adequate conditions of confinement of pregnant and lactating women and children; lack of access to sanitation, hygiene; and proper hygiene. The Committee is also concerned by reports about juveniles being detained with adults, especially in rural areas (art. 10).

40. The State party should significantly and promptly reduce overcrowding in prisons, and other places of detention, including through the wider application of non-custodial measures as an alternative to imprisonment, as mentioned above. It should also:

(a) Intensify its efforts to ensure that conditions of detention fully comply with relevant international human rights standards, including the Mandela and Bangkok Rules, the UN Rules for the Protection of Juveniles Deprived of their Liberty, and the UN Standard Minimum Rules for the Administration of Juvenile Justice; assuring an adequate access to health services (including mental health), food, drinking water, hygiene and sanitation; as well as rehabilitation and reintegration support services;

(b) Ensure adequate access to counsel and diplomatic or consular officers when required, as well as regular family visits;

(c) Guarantee that women deprived of their liberty, particularly those who are pregnant and those with dependent children, receive adequate care and services that meet their specific needs and take account of the best interests of their children.

Treatment of aliens, including refugees and asylum seekers

41. Despite the tradition of the State party of openness and of welcoming refugees and asylum-seekers, the Committee regrets that the situation has seriously deteriorated since the previous Concluding Observations. The Committee is concerned by reports about the lack of access of migrants to health services, jobs, education and housing; and the precarious situation of migrant children, including unaccompanied minors. It is also of concern about the application of the criminal law to migrants in an irregular situation, as well as “undocumented” or “non-authorized” migrants in detention centres, who are kept in indefinite detention under deplorable conditions. The Committee is also concerned by anti-migrant hate speech, including by public officials, which is becoming increasingly violent, particularly with regard to Muslims, including Rohingyas from Myanmar, who are publicly identified as a threat to national security. Finally, the Committee is concerned by deportations to Myanmar, including regarding plans to deport more than 5,000 asylum-seekers from the Kuki and Chin communities (arts. 7, 9, 13 and 24).

42. The State party should enhance the protection of migrants, refugees and asylum-seekers without discrimination. In particular it should:

(a) Consider adopting a general law on asylum and refugee status, in accordance with relevant international standards, clarifying the procedural guarantees available to all asylum-seekers;

(b) Ensure that migrants and asylum-seekers, have a non-discriminatory and equal access to basic services;

(c) Refrain from criminalizing the irregular entry or stay of migrants and persons in need of international protection, and uphold the principle of non-refoulement;

(d) Ensure that immigration detention is used only as a measure of last resort and for the shortest possible period of time, and increase the use of alternatives to detention that are respectful of human rights; ensure that those in detention have access to legal aid services and language interpretation, and that their living conditions and treatment is in conformity with international standards;

(f) Condemn and combat hate speech against migrants, asylum seekers and refugees, including by public officials and politicians;

(g) Consider the ratification of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugee, as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Right to privacy

43. The Committee is concerned by information received about the use by the State party of the Pegasus spyware to target the mobile phones of journalists, activists, and government officials from mid-2017 to 2023. The Committee is also concerned by information about multiple security breaches and vulnerabilities relating to the information stored in the Aadhaar Identification database; the de facto requirement for the mandatory use of Aadhaar; and the increasing use of facial recognition technology for surveillance, and access to public benefits and voting rights; as well as by the lack of adequate privacy safeguards in content and data regulation legislation and in the context of search and seizures (art. 17).

44. The State party should ensure that legislation regarding surveillance, content and data regulation, as well as related activities, and any other interference with privacy, such as search and seizure activities, is in full compliance with article 17 of the Covenant and with the principles of legality, proportionality and necessity. The State party should also:

(a) Ensure that such legislation includes effective safeguards, including judicial review, independent oversight and adequate remedies to protect the right to privacy;

(b) Enhance the security of the Aadhaar biometric infrastructure and refrain from using facial recognition and other mass surveillance technologies at a minimum until it is thoroughly tested for accuracy and fairness and all adequate safeguards are in place.

Freedom of conscience and religious belief, non-discrimination, and prohibition of advocacy of national, racial or religious hatred

45. The Committee is concerned about the very high levels of violence against religious minorities, such as the incidents in Manipur since May 2023, and the riots in Gujarat in 2002, and the resulting lack of accountability for human rights violations, including extrajudicial killings. The Committee is also concerned by other violent incidents, such as the demolitions of religious minorities' places of worship and private homes following the riots during Ram Navami processions in 2022, most of them belonging to Muslims, and the reports of violence and lynching by "cow vigilantes" against Muslims and Christians. The Committee is also concerned by the application of national security and counter-terrorism laws to target religious minorities and about reports of public officials engaging in hate speech and inciting public violence against religious minorities (arts. 2, 18, 20, 26 and 27).

46. In accordance with article 18 of the Covenant and General Comment 22 on the right to freedom of thought, conscience and religion of 1993, the State party should ensure respect for freedom of thought, conscience and religion for all and prevent,

combat and address all forms of discrimination and violence against religious minorities. In particular it should:

(a) Increase its efforts to prevent, investigate promptly, thoroughly, independently and impartially all acts of discrimination and violence, and the instances of hate speech and incitement to public violence against religious minorities by public officials. The State party should also; ensure that perpetrators, including security and armed force members, are prosecuted, and if convicted punished with penalties commensurate with the gravity of the offence and provide victims with reparation;

(b) Ensure that the national security and counter-terrorism legislation is not arbitrarily applied to arrest, detain or target religious minorities;

(c) Consider adopting national legislation to expressly outlaw violence and lynching by “cow vigilantes”.

47. The Committee is concerned by the misuse of legislation in force in several states in India that, while nominally intended to prevent coerced religious conversions, is applied in ways that restrict and violate the right to freedom of religion. The Committee has particular concerns about provisions that: require individuals to notify authorities of their intention to convert; contain vague wording that gives officials broad power to decide on religious conversions; impose enhanced punishments for conversion by minority groups; consider interfaith marriages as presumptively unlawful; or shift the burden of proof to the accused to show that a conversion was not coerced. The Committee is also concerned about vigilante attacks against religious minorities. The Committee is concerned by “ghar wapsi” – or “homecoming” – ceremonies, where religious minorities are allegedly coerced to convert to Hinduism; according to reports received, over the past decade, thousands of Christians and Muslims have been converted to Hinduism during these ceremonies (arts. 2, 18, 20, 26 and 27).

48. The State party should guarantee, in law and in practice, the effective exercise of freedom of religion and belief and refrain from imposing any restrictions on those rights beyond the narrow limitations permitted under article 18(3) of the Covenant. The State party should in particular:

(a) Repeal or amend all legislation and policies, including on religious conversion, that discriminate on the basis of conscience and religion and ensure they are in full conformity with article 18 of the Covenant;

(b) Prevent, combat and sanction attacks against religious minorities; and take measures to exclude any form of coercion from “ghar wapsi” or “homecoming” ceremonies and protect religious minorities accordingly.

Freedoms of expression and peaceful assembly

49. The Committee is concerned by arbitrary restrictions in law and practice to freedom of expression online and offline in the State party, including the broad and frequent use of internet shutdowns, such as the complete ban on mobile internet facilities for months in Jammu and Kashmir in 2016 and for 18 months in 2019, the blockage of online content on vaguely defined grounds and without court authorization, the banning of books and films. While the Committee commends the abolition of the offence of sedition in the former Penal Code, it remains concerned that Section 150 of the new Penal Code, Bharatiya Nyaya Sanhita, 2023 includes forms of expression that endanger the sovereignty, unity and integrity of the State party. The Committee is also concerned about the misuse of vague and broadly formulated provisions of legislation, such as on counter-terrorism, which according to information received is misused for the arbitrary arrest and prosecution of minority groups, journalists and other individuals expressing minority or dissenting views and exercising their right to peaceful assembly (arts. 19 and 21).

50. The State party should take all measures necessary to guarantee the full enjoyment of freedom of expression by everyone, in accordance with article 19 of the Covenant and the Committee’s general comment No. 34 (2011), and that any restrictions complies with the strict requirements of article 19 (3) of the Covenant. In particular, the State party should:

(a) Revise and amend legislation unduly restricting freedom of expression – including through Internet shutdowns, the blocking of websites and online resources– and ensure that any restriction complies with the requirements of the Covenant; and refrain from censoring arbitrarily books, films and other material and reinstate them.

(b) Consider decriminalizing defamation, insult and the offence of section 150 of the new criminal legislation and resort to criminal law only for the most serious cases; and ensure that criminal laws and counter-terrorism legislation are not applied to suppress the expression of critical and dissenting opinions and the exercise of peaceful assembly.

51. The Committee is concerned by the killing of 59 journalists since 2006, as well as by allegations that human rights defenders have been barred from travelling outside India and engaging with United Nations bodies, such as in the case of Khurram Parvez, a Kashmiri human rights defender who was prevented from travelling to Geneva to attend the Human Rights Council and has been arbitrarily detained since 2021. The Committee is concerned by information regarding the transnational repression of political opponents and human rights defenders. The Committee is also concerned about the frequent disruption of demonstrations and cases of excessive use of force, such as in the protests in Tamil Nadu in 2018 that resulted in 13 deaths; and the use of pellet-firing shotguns for crowd control purposes resulting in numerous persons injured, in particular in Kashmir since 2010. The Committee is concerned by the possibility of the arbitrary application of certain provisions of the new criminal legislation, such as those on public order related to peaceful assemblies (arts. 19 and 21).

52. The State party should take measures to guarantee that everyone can exercise the right to freedom of expression, as well as the right of peaceful assembly in accordance with article 21 of the Covenant and the Committee’s general comment No. 37 (2020) on the right of peaceful assembly. In particular, the State party should:

(a) Prevent and combat acts of harassment, intimidation, persecution and violence, -including arbitrary detention and prosecution- against journalists, media workers, human rights defenders and anyone expressing criticism against the actions or policies of public authorities; and take all necessary measures to guarantee the effective protection of these persons and ensure that they are free to carry out their work without fear of harassment, violence and/or reprisals;

(b) Ensure that all allegations of harassment and intimidation and violence against journalists, human rights defenders, and protestors, as well as of excessive use of force by State agents, are promptly, thoroughly, independently and impartially investigated, perpetrators prosecuted and, if convicted, punished with sanctions commensurate with the gravity of the crime, and victims are provided with effective remedy;

(c) Foster an enabling environment for the exercise of the right to peaceful assembly and ensure that limitations of that right are in strict compliance with article 21 on the Covenant and the principles of proportionality and necessity. Ensure that any decision about the prohibition of a peaceful assembly based under the criminal legislation is subjected to judicial control;

(d) Take all necessary measures to prevent and eliminate all forms of excessive use of force by law enforcement officials, including the use of pellet-firing shotguns, and provide training on the use of force, on the employment of non-violent means of crowd control, especially in the context of demonstrations, on the need to strictly adhere to the principles of necessity and proportionality and on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.

Freedom of association

53. The Committee is concerned by the misuse of the Foreign Contribution (Regulation) Act 2010 (FCRA) which, according to information received, is used to target nongovernmental organizations critical of the government and to silence dissenting voices, including NGOs working on human rights issues. The Committee has been informed that the

State party has cancelled the FCRA licenses of more than 20,600 NGOs between 2011 and 2021 (art. 22).

54. The State party should guarantee, in law and in practice, a safe and enabling environment for civil society organisations, and that any restriction is in conformity with article 22 of the Covenant. In particular, it should:

(a) Review and amend the Foreign Contribution (Regulation) Act 2010, clarify its vague and broad provisions and ensure that the Act and regulations governing foreign funding do not limit the exercise of the right to freedom of association or result in practice, in undue control and interference over the ability of civil society organizations to operate freely and effectively;

(b) Ensure that civil society organizations can operate free of undue State interference or influence and without fear of reprisals or restrictions on their operations contrary to the provisions of the Covenant.

Citizenship and prevention of statelessness

55. The Committee is concerned by the fact that the Citizenship Amendment Act, 2019 and the Citizenship Amendment Rules, 2024 establish access to citizenship for asylum seekers and refugees according to religious criteria, discriminating in particular against Muslims. According to this legislation citizenship is reserved to Hindus, Sikhs, Buddhists, Parsis, Christians and Jains from Pakistan, Bangladesh and Afghanistan. In addition, the Committee is concerned by the excessively complex proceedings faced by Muslims and the evidence requested to be included in the National Population Register and enlisted in the National Register of Citizens. As a consequence, over 2 million Muslims in Assam who already hold citizenship risk statelessness and being placed in detention centres for an indefinite period before being expelled from the territory of the State party. The Committee is also concerned by the fact that according to the 1986 Circular issued by the Ministry of Home Affairs, Sri Lankan refugees who are Indian Origin Tamils do not have access to citizenship; as well as by the difficulties refugee parents face to register their children (arts. 2, 3, 18, 24, and 26).

56. The State party should repeal or amend the Citizenship Amendment Act, 2019 and the Citizenship Amendment Rules, 2024 and ensure they comply with the provisions of the Covenant, including the prohibition of discrimination on religious grounds; as well as with international customary law that prohibits the arbitrary deprivation of nationality, including on religious grounds. It should also:

(a) Ensure that no person becomes or remains stateless, by granting citizenship or by issuing identity documents to stateless persons, where appropriate; and guarantee the right of every child to acquire a nationality;

(b) Consider repealing or amending the 1986 Circular issued by the Ministry of Home Affairs (MHA) stipulating that no Sri Lankan refugee will be naturalized or registered under the provisions of the Citizenship Act, 1955.

Participation in public affairs

57. The Committee is concerned that persons designated by article 16(b) of the Representation of the People Act, 1951 as persons with an “unsound mind and stands so declared by a competent court”, are denied the right to vote. The Committee regrets that in some states, quotas for government jobs and subsidies are still maintained for adults with no more than two children (arts. 25 and 26).

58. In accordance with article 25 of the Covenant and General Comment no. 25 (1996), the State party should give full effect to the right of every person to participate in public affairs without discrimination, including persons with intellectual or psychosocial disabilities. It should ensure the full transparency of the electoral process, including the funding of political parties. It should also guarantee that every citizen has access to public services on general terms of equality.

Rights of minorities and indigenous peoples

59. While acknowledging the efforts of the State party to envisage affirmative action and empowerment in favour of certain communities, the Committee is concerned that the Scheduled Tribes (ST) remain amongst the most disadvantaged socio-economic groups. The Committee is also concerned that rights to land of Indigenous and Tribal Peoples are often threatened by development projects and the activities of extractive and other industries, without a proper consultation and obtaining their free, prior and informed consent. The Committee is also concerned that the laws enacted to protect land rights, and to prevent violence and discrimination against Indigenous and Tribal Peoples are inadequately enforced. The Committee is also concerned by information received that in Raigarh, Chhattisgarh 1,176 cases of tribal lands acquired under coercion and without seeking free, prior and informed consent remain still unaddressed and the recommendations of the National Commissions of Scheduled Tribes on this issue are not being implemented (art. 27).

60. The State party should ensure that the rights of Indigenous and Tribal Peoples to own, use and develop their ancestral lands and resources are recognised, respected, and protected, in law and in practice. It should also:

(a) Guarantee the systematic application of participation processes necessary to obtain free, prior and informed consent of Indigenous and Tribal Peoples in relation to all decisions that affect them and in accordance with international standards, as well as ensuring compliance with the agreements reached with the State and public and private companies;

(b) Ensure the effective implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 and other international standards on the rights of Indigenous Peoples such as the United Nations Declaration on the Rights of Indigenous Peoples;

(c) Ensure that evictions, when unavoidable, are carried out in accordance with due process of law, are preceded by consultation with the persons concerned and consideration of alternatives, and are subject to appeal and result in restitution or adequate compensation;

(d) Improve the provision of essential public services to Indigenous and Tribal Peoples in situations of vulnerability;

(e) Ensure adequate access to prompt and effective justice and remedies and fair and adequate reparation and compensation, including regarding the 1,176 cases of tribal lands that remain unaddressed in Raigarh, Chhattisgarh.

D. Dissemination and follow-up

61. The State party should widely disseminate the Covenant, its 4th periodic report and the present concluding observations, with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the official languages and consider translating them into other languages commonly used in the State party.

62. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 23 July 2027, information on the implementation of the recommendations made by the Committee in paragraphs 12 (Anti-corruption measures), 16 (Non-discrimination) and 28 (Counter-terrorism and security measures and accountability for serious human rights violations) above.

63. In line with the Committee's predictable review cycle, the State party will receive in 2030, the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its fifth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In

accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2032.
