



THE ASIA PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS

... a partnership for human rights in our region

ABN 98 099 972 997

Advisory Council of Jurists

Terms of Reference on the legal obligations of States for the implementation of economic, social and cultural rights, with respect to the right to education

Questionnaire for the Background Paper on the Right to Education

Please complete the questionnaire and send all responses by e-mail to Stephen Clark: stephenclark@asiapacificforum.net

Responses to this questionnaire will be used in the Background Paper on the Right to Education which will be distributed to the Advisory Council of Jurists.

The APF Secretariat requests APF members to submit all responses to the questionnaire by **Friday 12 May 2006**. Thank you in advance for your time and contribution.

Information about the Advisory Council of Jurists and the terms of reference on the right to education is available at <http://www.asiapacificforum.net/jurists/>

Documentation

Please provide the APF Secretariat with the following documentation:

Constitutional provisions relating to:

- Right to education;

Ans. Article 21A of the Constitution of India recognises Fundamental Right to Education for children below 14 years of age in these terms “the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.” The fact that Article 21A was added for recognising right to primary education implies that right to personal liberty that is guaranteed by Article 21 is also the basis for a general right to education.

Right to education also finds an expression in Article 41, which is a Directive Principle of State Policy. Article 45 of the Constitution further

provides for early childhood care and education below the age of six years.

Likewise, Article 46 of the Constitution relates to promotion of education and economic interests of Scheduled Castes and Scheduled Tribes and other weaker sections of society.

Article 51A (k) also states that it is the duty of the parents/guardians to provide opportunities for education of their children/ward between the age of six and fourteen years.

- Non-discrimination and the access for all; and

Ans. “Equality before the law” and the “equal protection of laws” within the territory of India is a fundamental right guaranteed by Article 14 of the Constitution. Here the protection provided by the Article is not limited to citizens only but is applicable to all persons. It embodies the principle contained in the Universal Declaration of Human Rights that “all are equal before the law”.

Article 15 enjoins the State not to discriminate against any citizen on grounds only of religion, caste, race, sex, place of birth or any of them. However, Clause 3, 4 of Article 15 further empowers the State to make special provisions for women and children as well as for the socially and educationally backward classes of citizens and the Scheduled Castes and Scheduled Tribes.

The Constitution (93rd Amendment) Act, 2005 has further made an amendment in Article 15 of the Constitution by inserting Clause 5 and stating that “nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions refer to in clause (1) of article 30.”

As already mentioned under the heading ‘constitutional provisions relating to Right to Education’, Article 46 of the Constitution specifically mentions that education and economic interests of Scheduled Castes and Scheduled Tribes and other weaker sections of the society are to be promoted.

- Relevance of international law in the national jurisdiction.

Ans. Article 51 (c) of the Constitution enjoins the State to “foster respect for international law and treaty obligations”. Correspondingly, Indian courts have endeavoured to interpret the Constitution and laws in consonance with the provisions of the international instruments ratified by the Government of India. With this end in view, Article 253 of the Constitution empowers the Parliament to make laws with a view to implementing international agreements. **In the Visakha V. State of Rajasthan case, the Supreme Court has held that in the absence of domestic law to the contrary, the principles laid down in CEDAW must be treated as the international law norm to be adopted by all civilized nations and must be the legal norm in our country too.**

Relevant legislation referring to:

The subject of ‘education’ is listed in Entry 25 of List III (Concurrent List) and Entries 63 to 66 of List I of the Constitution. This provides legislative competence to the State and Union Governments in matters of education. In view of the Union Government being conferred power in the field of higher and technical education, the State Governments are made responsible for dealing with primary, secondary and higher-secondary education. As a sequel, the country has wide range of State primary, secondary and higher-secondary education Acts.

- Right to compulsory and free primary (or basic) education on a non-discriminatory basis;

Ans. Please refer to the answer provided under ‘Right to Education’ above.

This apart, the Apex Court in *Mohini Jain v. State of Karnataka* (AIR 1992 SC 1858) extended the scope of Article 21 further to include under the right to life, ‘right to education’ also. Later, the Apex Court in its order in *J.P. Unnikrishnan & ors. v. State of Andhra Pradesh & ors., etc.* [Judgments Today, 1993 (1) SC 474] declared education of children up to the age of fourteen years as a fundamental right.

Article 51A (h) and (j) also mention that it shall be the duty of every citizen to develop a scientific temperament and work towards excellence in all spheres of life.

- Right to secondary and higher education;

Ans. Secondary education in India is being taken care of by the Central Board of Secondary Education and the State Ministries of Education.

The University Grants Commission Act, 1956; the Institutes of Technology Act, 1951; and the All India Council for Technical Education Act, 1987 are some of the prominent Acts relating to higher education. There are also various Acts governing centralised universities responsible for imparting higher education. For example, the Indira Gandhi National Open University (IGNOU) that has been established under the Act of Parliament, Act 50 of 1985.

- Financing of education;

Ans. Education being a concurrent subject is taken care of both by the Centre as well as the State.

The details provided under the heading 'Constitutional provisions relating to Right to Education and Non-discrimination and the access for all' above may also be referred to.

- Minimum age of employment;

Ans. Articles 23 and 24 of the Constitution provide protection against exploitation through traffic in human beings, *begar*¹ and other forced labour, employment of children in factories, etc. The basic idea is not to allow the State or anyone to compel a person to work against his/her will or to accept employment of hazardous nature below the age of 14 years, which is the age for his/her compulsory education in terms of Article 21A. A case in point is the M.C. Mehta v. State of Tamil Nadu & ors. (AIR 1997 SC 699) wherein the Apex Court issued extensive directions that not only prohibited working children in hazardous employment but created new penalties for employing such children. One of the directions was to withdraw children working in hazardous industries and ensure their admission to formal or non-formal schools.

- Minimum age of marriage; and

Ans. As per the Child Marriage Restraint Act, 1929 the minimum age of marriage is 18 years for a girl and 21 years for a boy for all communities. Major amendments have been proposed to the said Act by the NHRC, which also includes the minimum age for marriage. The proposed Act

¹ Under the old zamindari system, the tenants were sometimes forced to render free service to their landlords. This was called *begar*.

will repeal the existent Act so as to do away with the practice of child marriage.

- Minimum age of criminal responsibility

Ans. Children below the age of seven years are considered to be incapable of committing a criminal offence as per section 82 of Indian Penal Code. Likewise, section 83 of the Indian Penal Code delineates that nothing is a offence which is done by a child above seven years of age and under twelve, if it is shown that s/he has not attained sufficient maturity of understanding to judge the nature and consequences of his/her conduct.

NGO reports

- Reports on education by local, national and / or international non-governmental organisations within your country, especially the shadow reports produced for the country sessions of the UN Treaty Bodies.

Ans. Reports on education are produced by local, national and international non-governmental organisations independently as well as on the request of the Government. Similarly, some of the NGOs also produce and submit shadow reports for the country sessions of the UN Treaty Bodies like United Nations Committee on the Convention on the Rights of the Child.

Part 1: Issues raised in the Terms of Reference

Preliminary Questions

Education Policy and Programs

1. Please provide an overview of the framework of government education policies and programs in your country, including the division of responsibilities and financing between national, state and local governments.

Ans. The National Policy on Education (NPE), 1986, as modified in 1992, has been framed in consonance with the constitutional resolve to provide basic education to all. Education being a concurrent subject, is dealt both by the Central and State Governments, exclusively as well as in partnership. Currently all out efforts are being made for setting the stage for greater decentralisation of power and a significantly enhanced role of local bodies, community organisations as well as voluntary agencies.

Having ratified the United Nations Convention on the Rights of the Child (CRC) in the year 1992, the Government of India formulated a National Plan of Action for Children in the same year. This too lays significant emphasis on the educational needs of children. Similarly, the State Plans of Action for Children have emphasised the importance of education. As a result, both the Centre and the State Governments are making all out efforts to focus on education in all its facets, be it the early child care education, elementary education, secondary education, gender equality in education, education of children with special needs, vocationalisation and education of Scheduled Castes, Scheduled Tribes, Minorities and other backward classes.

Accordingly, a separate Department of Elementary Education and Literacy has been created, which together with the Department of Secondary and Higher Education, has introduced a number of initiatives in order to meet the needs of human resource development. The provision of Universal Elementary Education (UEE) has been a salient feature of India's National Policy on Education. The Government of India's other initiatives have been the District Primary Education Programme (DPEP), provision of food grains and cooked meals to children under the National Programme for Nutritional Support for Primary Education (popularly known as the Mid-Day Meals Programme) and recruitment of teachers and provision of teaching-learning material under the scheme of Operation Blackboard. *Lok Jumbish* and *Shiksha Karmi* in Rajasthan, *Gyankalash* in Himachal Pradesh and *Nali Kali* programme in Karnataka are some of the other State specific initiatives. Likewise, the *Janshala* (Gol – UN) programme is a collaborative effort of the Government of India and five United Nations agencies – the UNDP, UNICEF, UNESCO, ILO and UNFPA. The programme provides support to the on-going efforts towards achieving UEE. The programme covers 139 blocks in nine States of India. The programme has been instrumental in starting a large number of alternative schools in small and remote habitations in the programme areas, besides evolving strategies and setting-up schools with community participation.

In the year 2000, the *Sarva Shiksha Abhiyan* (Education for All) was launched by the Government of India to achieve the goal of UEE through a time bound integrated approach in partnership with States. The programme further aims to provide elementary education to all children in the 6-14 age group by 2010. The *Sarva Shiksha Abhiyan* has a special focus on the educational needs of girls, Scheduled Castes and Scheduled Tribes and other children in difficult circumstances. An important component of *Sarva Shiksha Abhiyan* is the Education Guarantee Scheme and Alternative and Innovative Education, which is

specifically designed to provide to children in school-less habitations and out-of-school children, access to elementary education.

In a nutshell, the Government of India is committed to the development of children by placing the young child right at the top of country's development agenda. For this, a National Charter for Children, ensuring that no child remains illiterate, has been framed. Further, it has been the endeavour of the Government of India to achieve universal primary education under Millennium Development Goal 2 as well as gender parity in education as elucidated in Goal 3.

Rs.28,750 crore has been allocated for elementary education in the 10th Five Year Plan period (2002-07), which is 75% higher than the earlier Plan. An Education Cess @ 2% has been imposed since 2004 to augment resources for elementary education.

Justiciability of economic, social and cultural rights with respect to the right to education

2. Please provide details of cases from the national courts of your country with respect to the justiciability of economic, social and cultural rights, with a particular focus on the right to education.

Ans. Some of the pertinent cases with regard to the above are as follows:

Kerala Education Bill 1957 (1959 SCR 995): This case emphasised the fact that no citizen would be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Ahmedabad St. Xavier's Society v. State of Gujarat [1974 (1) SCC 717]
&
St. Stephen's College v. University of Delhi [1992 (1) SCC 558]:

In both the above cases it was held that the minorities enjoyed special status in matters of setting-up educational institutions and securing the rights of the children of minorities.

Islamic Academy of Education v. State of Karnataka [2003 (6) SCC 697]
& *T.M.A. Pai Foundation v. State of Karnataka (AIR 2003 SC 355)*: In both these cases guidelines were laid down regarding admission and reservation for children as well as selection of teachers for educational institutions.

P.A. Inamdar v. State of Maharashtra [2005 (6) SCC 537]: The Supreme Court in this case accorded wide freedom to private non-State funded educational institutions and made them beyond State control and regulation.

Prof. Yashpal v. State of Chhattisgarh [2005 (5) SCC 420]: This case gives importance to the overall quality and standard that is to be maintained in institutions of higher education and accords primacy to the Union Government's policies on education.

3. Please provide information about remedies available and the enforceability of the decisions of national courts with respect to the right to education.

Ans. Under Articles 32, 226, 227 of the Constitution, remedies are available to the citizens on denial of the constitutionally guaranteed rights to education.

4. Please provide information relevant to your government's position regarding the proposed Optional Protocol for the International Covenant on Economic, Social and Cultural Rights.

Ans. No comments.

**The right to receive an education:
available, accessible, acceptable, and adaptable**

Availability

Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. (CESCR General Comment No. 13)

Expenditure

5. Please provide an overview of government expenditure on all levels of education in your country. Where there is a divide in education expenditure between national, state and local governments please provide this information. Where possible, figures should be disaggregated (primary, secondary, higher education, formal and non-formal) and expressed in both real terms and as a percentage of gross national product.

India is a welfare state where most of the funding towards the education are being borne by the State, both at the of Central and State levels. Education at the primary, secondary and higher levels is also funded by the non-State private enterprises including minority institutions. Since the private education initiatives are taken by diverse agencies as such it may not be possible to have the details

concerning their contribution in the education sector. Further more, primary and secondary education is primarily the concern of the State Governments whereas the higher and technical education is a matter looked after by the central Government. The Central Government provides the funding of centrally aided Central Universities through the University Grants Commission, an apex body of higher education, to the extent of 100% of expenditure on account of development as well as maintenance grant whereas State universities are provided with only development grant. The State Government education department provides all other types of grants required for the smooth running of State Universities besides providing the grant to State run institutions of primary, secondary and higher secondary education. In addition the Central Government. is funding the non-formal education for which an appropriate plan allocation is made by Central Government itself. The detail of expenditure on education incurred by the Union Government in the last 50 years through the University Grants Commission is reflected in **Annexure**.

Besides this, the combined total expenditure on education by Central and State Governments was 3.49% of GDP in 2004-05 Budget Estimate (BE). Central Plan Allocation for education was increased from Rs.8,225 crore (1.6 billion dollars approx.) in 2004-05 Budget Estimate (BE) to Rs.15,244 crore (3 billion dollars approx) in 2005-06 (BE) with Rs.12,242 crore (2.4 billion dollars approx) for elementary education, Rs.2,90 crore for adult education and Rs.2,712 crore for secondary and higher education.

6. Please provide information about education funding models used in your country. Issues for consideration could include (but are not restricted to):
 - Funding for state and non-state (private) education institutions;
 - The dependence on school fees in any form, direct or indirect
 - Use of education vouchers;
 - Privatization of the education system.

Reply to the main question is the same as above. However, regarding the dependence on school fee it is again stated that no fee is charged at the primary level of schooling in the State funded schools. Moreover, they are also provided with free books, uniform and mid day meal etc. in some States like Delhi, whereas in the private school, children have to pay heavy fee at pre-primary and primary level. Though for privately run institutes, the Government does provide land, water and other necessary facilities at the subsidized rates. The same pattern of State and private educational institutions continues even at secondary and higher secondary levels going up to university education level. The trend of setting up deemed university under the University Grants Commission rules and regulations by private parties is becoming more common to fulfilling growing educational needs. These privately run schools, colleges and universities have considerable freedom in matter of fee structure, facility extended to students, services conditions and salaries of the staff. In addition to this, there are large number of minority educational institutions which enjoys

a Constitutional status by virtue of Article 29 and 30 of Constitution of India. These minority educational institutions are managed by Christian, Muslims, Sikhs and other regional minority groups. Concerning use of education vouchers, it is stated that the Government provides land and other facilities for opening of the school and as such as against this facility to the educational institution provide concessional education and also seats are fixed for girl child and children drawn from poor socio-economic strata. On the issue of privatisation of educational system, the Government has allowed the private partnership in furthering institutions of education in order to cater to the educational needs of region, state and the country as a whole.

7. Please provide information about your government's laws, policies and programs regarding acceptance of international assistance and cooperation in relation to education.

The foreign contribution is governed by the Foreign Contribution (Regulation) Act, 1976. According to this Act, the applicant organization should be a legal entity i.e. registered as a society, trust or charitable organization and have been working for a period of at least three years. An organization can accept foreign contribution only after obtaining prior permission of the concerned department. Every organization in receipt of foreign contribution must furnish the balance sheet of the fund received, a list of contribution in kind and utilization thereof within stipulated time from the closing of financial year. A separate set of books of account must be maintained exclusively for foreign contribution received and utilized.

8. Please describe the role and impact of non-state actors such as international financial institutions and trans-national corporations on the realisation of the right to education in your country. For example, if your country has adopted a structural adjustment program, has this impacted upon government expenditure on education policies and programs?

Non-state actors such international financial institutions and trans-national corporations have a marginal role in the realization of right to education as all the foreign funding are governed by the provision of Foreign Contribution (Regulation) Act, 1976. In this regard, the accredited NGOs and minority institutions have different positions in sense that the Government does allow them to receive foreign contributions, which in turn can be extended to legitimate educational institutions as per rules.

Infrastructure

9. Please provide information the availability and adequacy of infrastructure, especially for girls, for schools and other educational institutions in your country, including classrooms, library, sanitation facilities, safe drinking water and any other relevant facilities.

There are three types of educational institutions in existence i.e. educational institutions exclusively for boys, educational institutions exclusively for girls and co-ed institutions. However, at primary level the co-ed institutions are being encouraged and the Government has made a provision to give special consideration and also have fixed percentage of girl child in school and also in institutions of higher education. The Government has a provision for hostels both boys and girls child but these hostels are maintained at separate buildings and endowed with differing living and security arrangements. In addition, tribal students also enjoy the facility of separate hostels. In some States the girl child of a single child families are provided free education upto the level of high school. In addition, the appropriateness of class room, library, sanitation and safe drinking water facilities are not only being extended but also improved and facilitated at all levels of institutions of education keeping in mind particularly by the girl child. Needless to say the Government has also made provision for recreation and common room for female students in university and colleges. These aspects are being closely monitored by the Government at all levels.

Teachers and support staff

10. Please provide information about the availability of qualified teachers and support staff for all levels of education in your country, on teacher training initiatives to meet 'education for all' goals, and any other relevant issues that impact upon this availability.

In India, the recruitment of teacher is carried out at the level of Central Government for schools centrally administered and also by the State Govts. for the State administered schools. For a teacher, a Bachelor of Education degree is a must besides a basic degree in the concerned branch. In the same order, for a college/university teacher, a research degree is mandatory besides a consistently high academic record. Concerning the availability of qualified teachers at the both level i.e. primary and higher education, the Government takes all initiative to ensure that only the qualified teachers are put on the job. As such the Government has a network of institutions like National Council of Teacher Education, State Council of Educational, Research and Training, National Council for Educational Research and Training. These institutions are concerned with creating appropriate manpower required for teaching activities not only this they are also concerned with training the trained teachers for keeping them abreast with the innovation and development in respective discipline of study. By and large, we have a vast pool of qualified and competent teachers at all levels of education.

Teaching facilities and materials

11. Please provide information about the availability and adequacy of teaching facilities and materials including: classrooms, books and writing materials, information and communications technology equipment, libraries, laboratories, workshops, sporting equipment and facilities and other relevant materials.

The country has, by and large, developed a massive educational infrastructure in the last five decades of its independence. The teaching facilities in term of class-room, books and writing material are in existence and are being continuously upgraded to meet the present and to suit the future requirements. We have adequate structure of research laboratories. Libraries are being updated at institutional level as well as national level in progressive manner. When it comes to information and technology, the Government as well as educational institutions as their own including the University Grants Commission has made available intranet and internet connectivity for colleges and universities.

However, the sports facilities and sport equipments have also been upgraded at the level of primary, secondary and higher education.

In answering questions 5-11, please give consideration to the issue of diversity and the impact of 'availability' on the rights of minorities and indigenous people.

Accessibility

Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. (CESCR General Comment No. 13)

Non-discrimination

12. Please provide details of legislation and government policies and programs relevant to issues of non-discrimination, equal treatment and equality of opportunity in education. Information provided should include (but is not limited to) consideration of issues of access for people living with disabilities, internally displaced persons, non-nationals, prisoners, refugees and other minorities.

Ans. Please see information already provided above.

Gender parity and gender equality

13. Please provide details of legislation and government policies and programs directed to improving gender parity and gender equality in education at all levels.

Ans. Please see information already provided above. The bold decision to declare education as a fundamental right reflects the Government's concern and commitment to ensure that everyone borne in this country is literate/educated. The aim of the National Policy on Education as well as that of the National Policy for the Empowerment of Women, 2001 has been to bring about gender parity and gender equality in education. Thus, through the specially targeted programme of Sarva Shiksha Abhiyan launched in 2000 (SSA) efforts are being made to reach the un-reached women and the girl child. Thus, all out efforts are being made

during the current 10th Five Year Plan (2002-07) to ensure that SSA achieves its commitment within the set timeframe. Given below are some of the other programmes initiated by the Government of India to bring about gender parity and gender equality in education at all levels:

- The Mahila Samakhya Programme (Education for Women's Empowerment)
- Sarva Shiksha Abhiyan (Education for All)
- District Primary Education Programme
- Universalisation of Elementary Education
- Early Childhood Care and Education Programmes, which include the Integrated Child Development Scheme (ICDS), Crèches, Balwadis, Child to Child Programmes
- Kasturba Gandhi Balika Vidyalaya Scheme
- Balika Smriddhi Yojana

(For details of the above scheme please log on to <http://www.wcd.nic.in> and <http://www.education.nic.in>)

Physical accessibility

14. Please describe the main issues regarding geographical location of and physical access to educational institutions for people from urban, rural and remote communities, as well as for people with physical disabilities.

Article 19 (1)d of the Constitution of India guarantees to the citizen to move freely throughout the territory of India therefore the student from any geographical area can seek education in any part of the country and move from urban to rural, or vice versa areas for furthering his choice regarding education.

The Government has made sincere efforts for the last couple of plan period to provide education at all levels keeping in view the geographical location and has further ensured that the education as mentioned above is within the physical access of people from urban, rural and remote communities besides its accessibility to physically disabled person. North Eastern State of India which is an area of Insurgency and as well as remote area. For such areas the Government has a regular routine support for the accessibility of education for the above said categories. Over and above this the Government has a special provisions to allocate and provide 10% extra grant to the

educational institution. In addition the Government has also carried out a survey of institutions in particular in remote and hilly areas against which the necessary institution and infrastructures have been developed. For providing access to education by the physically disabled people the Government has made a provision of scholarships/fellowships availability of reading materials access to building through developing ramps and also the provisions of specially designed toilets for disabled. The Government besides having developed integrated programme has also provision of special schools for children with disabilities.

The Government has also made a provision of separate hostel facilities for boys and girls of rural/tribal/backward areas for access to and promote education amongst them.

Economic accessibility

Primary education

15. Is primary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs. For example, does your government have a plan of action for making primary education free?

Ans. Please refer to information already provided above.

16. Please provide information about any school fees, charges and other costs imposed on parents or guardians for primary education. Please describe the extent of financial assistance available for the completion of primary education.

Ans. For information on this question please log on to <http://www.education.nic.in>

Secondary education

17. Is secondary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs.

Ans. Secondary education serves as a bridge between elementary and higher education and prepares young persons between the age group of 14-18 for entry into higher education or work situations.

Secondary education is neither compulsory nor free for all in India. It is a concurrent subject but for all practical purposes States provide and regulate it through State legislations.

The National Policy on Education, *inter alia*, states that access to secondary education will be widened with emphasis on enrollment of

girls, Scheduled Castes and Scheduled Tribes, particularly in science, commerce and vocational streams. Boards of Secondary Education are being reorganised and simultaneously efforts are being made to provide computer literacy so that children are well equipped with necessary computer skills in the changing technological world.

A Committee of Central Advisory Board of Education (CABE) has been constituted to prepare a blue print for the universalisation of secondary education consequent upon the attainment of universalisation of elementary education.

18. Please provide information about any school fees, charges and other costs imposed on parents or guardians for secondary education. Please describe the extent of financial assistance available for the completion of secondary education.

Ans. For answer to this question please log on to the website of Department of Secondary and Higher Education, Ministry of Human Resource Development, Government of India <http://www.education.nic.in>

Higher education

19. Please provide information about fees, charges and other costs for higher education. Please describe the extent of financial assistance (if any) available for the completion of higher education.

The fees at the higher education were highly subsidized at graduate and post graduate level including research degree programmes, until the end of the century. However there has been a steep rise in the fee structure at graduate level cutting across all the areas of studies ranging from the traditional courses, i.e., BA, BSc, B.Com to Vocational / professional courses, where the fees structure is rupees 3000 to 7000 per annum. The rising fees structures has had linear upward progression with no possibility of downward trend. More so the cost of higher education varies from subject to subject, region to region, university to university. Furthermore, the cost of technical education including medical and professional educations has gone up considerably in the last decade. The financial assistance for the completion of higher education is certainly available through private bank loans to all the cross section of society across all the field of studies at a very low interest rates.

Non-formal education

20. Please provide information about access to non-formal education in your country. Issues for consideration include (but are not restricted to):

- The existence of and support for Community Learning Centres
- The legal and policy framework for the improvement of literacy for women.

Ans. The Scheme of Non-Formal Education (NFE) was introduced in 1977-78 on a pilot basis and subsequently expanded to focus on out-of-school children in the 6-14 years age group who have remained outside the formal system due to socio-economic and cultural reasons. Due to some inherent deficiencies in the Scheme, the programme was renamed the Education Guarantee Scheme and Alternative and Innovative Education in 2000.

Likewise, the National Literacy Mission was set up in 1988 to impart functional literacy to non-literates in the age group of 15-35 years. The National Literacy Mission fully recognises the vast potential of NGOs in furthering its objectives.

Acceptability

The form and substance of education, including curricula and teaching methods, have to be acceptable (eg – relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents. (CESCR General Comment No. 13)

Quality education and minimum standards

21. Please identify the relevant national and/or local institutions which are responsible for the implementation of the right to education. In particular, are there any specialised agencies, authorities or officials that have a mandate on the right to education?

Ans. Please refer to information already provided above.

22. Please provide information about measures adopted by education authorities to provide quality education and to establish minimum education standards and an effective and transparent system for monitoring standards.

Ans. Constitution of the Central Advisory Board of Education which is the highest advisory body to advise the Central and State Governments in the field of education.

- The National Policy on Education (NPE) and Programme of Action, 1992
- State Programmes of Action
- Constitution of the Bharat Shiksha Kosh
- Setting up of the National Commission on Higher Education
- Bringing about reforms and transparency in the functioning of accrediting and affiliating institutions like the Central Board of Secondary Education, All India Council for Technical Education, University Grants Commission, etc.

For details on the above please log on to the website of Department of Secondary and Higher Education, Ministry of Human Resource Development, Government of India <http://www.education.nic.in>

23. Please describe the indicators (including human-rights-based indicators) used by education authorities to monitor the realisation of the right to education in your country.

Ans. The indicators are: rate of enrolment, drop-out rate, gender disparity in enrolment, availability of institutions in neighbourhood, mid-day meals and other incentives, school buildings and infra-structural facilities, teacher-student ratio, etc.

24. Please provide details of legislation and government policies, practices and programs which may impact upon academic freedom and the autonomy of educational institutions.

Ans. The respective State legislations, University Acts and Ordinances provide for measures relating to practices and disciplinary norms. Such measures and norms are operated through designated authorities, committees and bodies that retain the power of enquiry and disciplinary actions. However, all such actions are subject to judicial review.

Discipline

25. Please provide information about the legal status of corporal punishment and other forms of discipline that operate within the education system in your country.

Ans. Corporal punishment is banned in India though stray incidents do occur for which remedial measures are taken immediately.

Curriculum

26. Please provide an overview of how education authorities determine curriculum development at all levels of education within your country.

Ans. The National Council of Educational Research and Training (NCERT) is an apex resource organisation set up by the Government of India (Ministry of Human Resource Development), with headquarters at New Delhi, to assist and advise the Central and State Governments on academic matters related to school education. One of its tasks is to work on the curriculum development at the school level.

The Central Board of Secondary Education (CBSE), another autonomous body working under the aegis of the Ministry of Human

Resource Development, Government of India is responsible for updating and designing of school curriculum.

The University Grants Commission serves as a coordinating body between the Union and State Governments and institutions of higher learning. Besides, its role of providing grants to universities and colleges, it also advises Central and State Governments on the measures, which are necessary for the development of higher education that includes curriculum development also.

27. To what extent is human rights education incorporated into the curriculum of primary, secondary and higher education?

Ans. Human rights education, at the school level, has been made part of the social science at the primary level and as part of civics at the secondary level.

In India, human rights education at the higher level is provided by 37 universities and institutions out of which 11 offers degree course, 10 offer certificate course and 15 offer diploma in human rights.

Parents / Legal Guardians

28. Please describe the extent to which parents and legal guardians are able to exercise freedom of choice with regards to educational institutions and educational programs.

Ans. The parents and legal guardians are only able to exercise freedom of choice if their ward or child clears the entrance admission test procedure prescribed by the educational institution concerned.

Religious and cultural practices, languages of minority groups

29. Please provide details of relevant legislation and government policies and programs regarding respect for religious and cultural practices and the use of languages of minority groups within schools and other educational institutions.

Ans. Articles 29 of the Constitution recognises the right of certain sections to preserve their language, script and culture, while retaining the right to secure admission in educational institutions maintained or aided by the State. Similarly, Article 30 confers a right on all minorities to establish and administer educational institutions of their choice.

Correspondingly, Article 46 of the Constitution looks after the education and economic interests of the weaker sections of the people, in particular, the Scheduled Caste and Scheduled Tribes.

Adaptability

Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (CESCR General Comment No. 13)

Education and work

30. Please provide details of legislation which prescribes the age for the completion of compulsory education and the minimum age of employment in your country.

Ans. Please refer to the information provided earlier.

31. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of those people who would otherwise not be able to undertake education. For example: working children and young people; children and young people in juvenile detention; working women; prisoners and other people in detention.

Ans. To cater to the needs of differently abled children, the scheme of Integrated Education for Disabled Children (IEDC) was launched way back in 1974. This scheme was last revised in 1992. The scheme provides educational opportunities for disabled children in common schools to facilitate their integration and ultimate attention in the general schools system. It is being implemented through the education departments of State Governments and Union Territory administrations as well as through NGOs.

With the aim of catering to the persons with their disabilities in the higher education system, the UGC has been operating two schemes, namely, Teachers Preparation in Special Education and Higher Education for Persons with Special Needs for the differently abled persons. The main objective of the scheme is to develop courses for special teachers and counsellors and also to provide facilities in various forms for differently abled persons.

The National Literacy Mission was set up in 1988 with the goal of imparting functional literacy to non-literates in the age group of 15-35 years, which is the productive and reproductive age group and constitutes a major segment of the workforce. Besides this age group, persons outside this age limit are not excluded from the programme, particularly children in the age group of 9-14 years who are also dropouts.

This apart, there is the Continuing Education Scheme that provides further learning opportunities to people in the country.

Education for women

32. Please provide details of legislation which impacts upon the right to education of women. Issues for consideration could include (but are not restricted to):
- The minimum age of marriage
 - Pregnancy

Ans. Please refer to the information provided earlier.

Girls and young women in India are expected to manage both educational and domestic responsibilities which often results in poor academic performance and early drop-out from the educational system. This has long lasting consequences on all aspects of women's life. In order to enable women to enjoy not only de-jure but also de-facto rights and fundamental freedom at par with men in all spheres, it is the endeavour of the Government to completely eradicate female foeticide and female infanticide through effective enforcement of both the Indian Penal Code, 1860 and the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. This apart, the Government is initiating action to amend existing legislations impacting on women so as to ensure gender justice as well as facilitate them into the mainstream of the society.

33. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of women.

Ans. Please refer to the information provided earlier.

Special Needs Education

34. Please provide information about any special needs education policies and programs that have been developed and implemented by government and non-governmental organisations in your country.

Ans. Please refer to the information provided earlier. This apart, in consonance with the policy of providing a complete package of welfare services to the physically and mentally disabled individuals and groups and in order to effectively deal with the multi-dimensional problem of the disabled population, the following National Institutes/apex level institutions have been set up in each major area of disability:

- National Institute for the Visually Handicapped at Dehradun.
- National Institute for the Orthopaedically Handicapped at Kolkata.
- Ali Yavar Jung National Institute for the Hearing Handicapped at Mumbai.

- National Institute for Mentally Handicapped at Secunderabad.
- National Institute for Rehabilitation Training and Research at Cuttack.
- Institute for the Physically Handicapped at New Delhi.

The above Institutes are forerunners as well as trendsetters in their respective areas of specialisation. They have been staffed with talented professionals and equipped with modern and scientific equipments. To develop manpower for delivery of services to the disabled persons, the Institutes run various specialised courses to train professionals in the different areas of disability like Degree courses in Physiotherapy, Occupational Therapy, Prosthetic and Orthotic Engineering, Bachelors Degree Courses in Mental Retardation, Diploma in Special Education (Mental Retardation), Diploma in Vocational Training (Hearing Impaired), Bachelors and Masters Degree in Hearing, Language and Speech Bachelors and Masters Degree in Audiology and Speech Rehabilitation, Primary and Secondary level Teachers Training Programme for Visually Handicapped and Training Course for Orientation and Mobility Instructors for Visually Handicapped, etc.

For more information please log on to the website of Ministry of Social Justice and Empowerment, Government of India www.socialjustice.nic.in

35. To what extent are schools able to adapt to the special education needs of individual students?

Ans. The schools, by and large, are able to adapt to the special education needs of individual students.

Part 2: Activities of National Human Rights Institutions

1. Please describe the mandate of your Commission for the protection and promotion of economic, social and cultural rights. What methods and approaches does your Commission use for the protection and promotion of human rights?

Ans. The National Human Rights Commission of India was created by an Act of Union Parliament – the Protection of Human Rights Act 1993. As per the said Act, it is the statutory responsibility of the Commission to provide for 'better protection of human rights' in the country and 'for matters connected therewith or incidental thereto'. Human rights, as per the Act, encompass civil and political rights as well as economic, social and cultural rights.

The methods and approaches used by the Commission for the protection and promotion of human rights are as follows:

- Inquiring, suo-motu or on a petition presented to it by a victim or any person on his/her behalf.
- Intervening in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
- Undertaking visits to jails/institutions under the control of the State Government, where persons have been detained/lodged for purposes of treatment, reformation or protection so as to study the living conditions of the inmates and make recommendations thereon.
- Reviewing the safeguards of the Constitution or any law concerning protection of human rights and recommending measures for their effective implementation.
- Reviewing the factors including acts of terrorism that inhibit the enjoyment of human rights and recommending appropriate remedial measures.
- Studying treaties/international instruments on human rights and making recommendations for their effective implementation.
- Undertaking and promoting research in the field of human rights

- Spreading human rights literacy through publications, media, training programmes, seminars, etc.
 - Encouraging the efforts of non-governmental organisations/institutions working in the field of human rights.
2. Has your Commission received complaints from individuals or groups relating to the right to education? If so, please provide a breakdown of the different type of complaints and, where possible, describe some of the most important cases and the role of your Commission in resolving these complaints.

Ans. Yes, the Commission has received complaints in the past relating to education. Not only this, it has also intervened in numerous instances to assist individuals experiencing harassment, intolerance or discrimination on grounds of disabilities.

In a notable case concluded in 2002 after a number of hearings, a medical student, who had lost his eyesight while still studying for an MBBS degree at the All India Institute of Medical Sciences was enabled to complete his studies and take his final examination.

3. Has your Commission conducted research and/or public inquiries on the issue of the right to education? If so, please provide the results of this research and the outcomes and recommendations of any public inquiries.

Ans. The Commission has dealt with the issue of right to education with regard to the problem of child labour. As such, the study conducted by it was titled as “Impact, Community Response and Acceptance of Non Formal Education under the National Child Labour Project – A Case study of Carpet-Weaving belt of Mirzapur – Bhadhoi and Glass – Bangle region of Ferozabad”. For details please log on to www.nhrc.nic.in

In 2005, the Commission also prepared a Status Paper on Human Rights Education. The main objective of the Status Paper was to find out whether human rights education constituted an integral part of the existing school curriculum at various levels. The methodology adopted comprised a subject analysis of the NCERT textbooks of class I to XII and the SECRT textbooks of class I to VIII. This apart, the concerned researcher held discussions with key officials of NCERT, the SECRT and the CBSE all of which are based in Delhi. However, the said Status Paper has yet to be placed before the Commission.

Similarly, an exercise has been carried out at State level by sending a questionnaire to all the States so as to find out the existent status of human rights education. Information from almost all the States has been received. The data so far gathered reveals that human rights education

is not being taught as a separate subject but forms a part of other subjects like Civics and Social Science.

4. To what extent has your Commission identified laws / policies / practices in your country that impact on the realisation of the right to education?

Ans. Ever since the Commission was constituted, it has concentrated on the need for the provision of free and compulsory primary education up to the age of 14 years.

As the Commission has expressly been mandated to promote human rights literacy and awareness vide Section 12 (h) of the Protection of Human Rights Act 1993, the Commission pursued with the Government to develop a National Action Plan for Human Rights Education. This Plan was finalised and circulated by the Government in the year 2001.

The Commission also urged the Government to give human rights education the importance it deserves. As per the information available with the Commission, action has been taken by the Government to introduce human rights courses in universities as well as preparation of resource material kit for human rights education. 35 universities/colleges have introduced certificate, diploma and post-graduate courses on human rights with the financial assistance from the UGC.

The National Institute of Human Rights (NIHR) was set up in the National Law School of India University, Bangalore through an MoU signed in September 1999. The NHRC has established a Chair on Human Rights at the NIHR and created an endowment in order to meet the expenses relating to the Chair.

5. Has your Commission conducted awareness and education campaigns relating to the right to education? If so, please provide information about these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.

Ans. Yes. The details are as follows:

- With a view to spreading awareness of human rights issues among universities, the Commission conducts internship programmes during summer and winter vacations every year.
- The Commission in the year 2003 created a Training Division so as to impart training to different segments of society on range of human rights issues that have primarily emerged from the complaints received, like child rights, women's rights, bonded labour, child labour, custodial management, custodial violence, custodial deaths, alleged atrocities by police, conditions in prisons,

short-comings in the criminal justice system, rights of disabled and mentally ill persons, refugees, terrorism, rape and torture.

- Likewise, training programmes/workshops/seminars and programmes are continuously being organised for civil servants, police officers, prison officials, judicial officers, paramilitary and armed forces officials, educators, NGOs and human rights activists.
- It has organised training programme on 'human rights investigation, interviewing skills and custody management' in collaboration with the British Council for police officers in different ranks.
- It also took a collaborative project in partnership with the Canadian Human Rights Commission and the Indira Gandhi National Open University for the protection of human rights of persons with disabilities.

6. Please provide information about your Commission's general human rights education activities, including: materials used, information produced and how these activities have been made accessible to the community.

Ans. The Commission brings out monthly newsletters, an annual journal in English and Hindi, annual report in English and Hindi, manuals, handbooks, information kits, posters on varied subjects relating to human rights. The aim of these publications is to generate a new thinking in respect of protection of human rights and the promotion of human dignity in the country. A detailed list of these publications are available on the Commission's website www.nhrc.nic.in

In the year 2004, eight booklets in the 'Know Your Rights' series were brought out relating to international human rights conventions, sexual harassment of women at the work place, manual scavenging, etc. These series have been translated in regional languages for wider dissemination.

Last year it brought out a manual on human rights disability and law.

It also encourages original writings on human rights issues, in Hindi.

It also provides financial assistance to NGOs for educating the people on human rights.

7. Has your Commission addressed the issue of the right to education in its annual reports? If so, please provide a copy of the relevant sections.

Ans. Yes. For details please log on to Commission's website www.nhrc.nic.in

8. Has your Commission intervened in court proceedings on an issue related to the realisation of the right to education? If so, please provide details of the cases, the role of the Commission and the outcomes of the cases. Please provide copies of any submissions and court decisions.

Ans. No.

9. If your government has ratified any of the international human rights conventions listed below, has your Commission been approached by the government to contribute to the periodic reports to the relevant Committees, or alternatively, has your Commission provided a shadow report to the relevant Committees? If so, please provide copies of the sections relevant to the issue of the right to education.

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- 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
- Convention Against Discrimination in Education;
- Minimum Age Convention 1973
- Worst Forms of Child Labour Convention 1999

Ans. The Commission has never provided a shadow report to the United Nations Committees in connection with the international human rights conventions ratified by the Government of India. The Ministry of Women and Child Development, Government of India had approached the Commission to be a part of the exercise of preparing the periodic report on CEDAW for submitting it to the CEDAW Committee. Keeping in view its status as an autonomous institution, the Commission expressed its inability for the same. However, it stated that it would be happy to offer its observations/comments, if any, on the final report.

10. Does your Commission work in collaboration with civil society including the private sector, government or United Nations agencies or multilateral donors such as the World Bank, the International Monetary Fund and the Asian Development Bank on the issue of the right to education? If so, in what way?

Ans. The Commission works in collaboration with the Government, international organisations, NGOs and the civil society on the issue of right to education. Details of these have already been mentioned above.

This is the end of the questionnaire. Thank you for taking the time to respond.