

INDIA

CESCR E/1990/23

(arts. 13-15)

212. The initial report of India on the rights covered in articles 13 to 15 of the Covenant (E/1988/5/Add.5) was considered by the Committee at its 16th, 17th and 19th meetings, held on 25 and 26 January 1990 (E/C.12/1989/SR.16, 17 and 19).

213. The report was introduced by the representative of the State party who referred, in particular, to the constitutional provisions of his country which guaranteed the right of everyone to education, and provided for instructions at primary level in mother tongues or where necessary in minority tongues. He stated that a new educational policy put into effect in 1986 ensured that all students had access to education of the same quality, through a common educational system which aimed at promoting such values as the cultural heritage of India, egalitarianism, democracy, secularity, equality of sexes, suppression of social barriers, family planning and inculcation of scientific spirit.

214. With regard to the campaign against illiteracy, he said that the Indian Government had decided to launch a campaign to provide 80 million people with instruction in functional literacy by 1995.

General matters

215. With regard to the general framework within which the Covenant was implemented, members of the Committee wished to be informed of the general features of India's demographic profile, with particular reference to the young generation, races, social classes, the caste system, the national income, the educational system, the national budget for education. Statistical data were also requested on the above points.

216. In reply, the representative of the State party gave the following demographic data: females 48 per cent of the total population; scheduled castes and scheduled tribes 24 per cent; age group of 5-14, 180 million, that is 27 per cent; age group of 15-35, 215 million, that is 32 per cent; young persons thus constituted 60 per cent of the whole population. With regard to literacy, he gave the following statistical data: 47 per cent for males and 25 per cent for females. It was expected that in 1990 the total population would be in the order 820,580,000 inhabitants, of which 129,200,000 would relate to the scheduled castes and 58,070,000 to scheduled tribes.

217. He stated that if Assam, for which no figures were available, was excluded, the division of the population, according to religious beliefs would be the following: Hindus, 82.63 per cent; Muslims, 11.36 per cent; Christians, 2.43 per cent; Sikhs, 1.96 per cent and Buddhists, 0.71 per cent.

218. He added that, taking into account the millions of primary schools in India and the difficulty in centralizing the data, the rate of drop-outs was quite high: 50.5 per cent during the first five years and 63.8 per cent during the first eight years. The national budget for education was 85 per cent

public funds, and 15 per cent private funds, which hardly represented 3 per cent of the GNP, but it was hoped that it would pass 6 per cent.

Articles 13 And 14: Right to education

219. Members of the Committee wanted to know whether the recognition of castes implied the legal affirmation of discrimination based on social origin in India, and to what extent was equality of access to education guaranteed for the children from those castes. Further information was requested concerning the difficulties confronted, such as the caste system, and other traditional social systems and attitudes, in implementing the right of everyone to education. Information was also sought concerning illiteracy in India, for example, the link between illiteracy and social class, family income, etc.; a breakdown of illiteracy by gender, by generation and urban/rural was requested. Members of the Committee asked to be provided with the percentage of the population enrolled by each grade in elementary, secondary and tertiary education; and whether real progress had been made in providing free and compulsory education at the primary and secondary levels. Statistical data were requested, disaggregating, in particular, urban and rural, regional, racial and caste.

220. Information was sought on the financial implications of secondary and tertiary education by comparing the cost to average family income. The members asked to be informed of the governmental programme for the promotion of the right to education of lower social classes, other than the scheduled castes and scheduled tribes; and to what degree the States made primary education compulsory. The members observed that, according to many sources, disparity of access to educational opportunities between the poor and the rich was growing in India, and in that regard wished to know what measures was the Indian Government actually taking to combat that trend. It was asked to what degree was there, in reality, in Indian higher education, a two-tier system, in the sense of one system being available to the common people and a more advanced one to the elite. And it was asked whether the Indian Government had considered limiting the role of the private sector in education, in view of what the Committee considered the waste of resources and the political patronage involved.

221. Members of the Committee asked the representative of the reporting State to explain the Government textbook requirements and the impact they had on teaching methods. The Committee wanted to know whether the concern that the Government might intend to dilute the contents of article 45 of the Indian Constitution by possibly providing free education only up to the age of 12 and relaxing the requirement of compulsory education was justified. Information was sought on operation "Blackboard" and whether in the meantime it had been completed. Further information was also requested on the development of Navodaya Vidyalayas, the percentage of girls actually enrolled, and whether that programme had led to further inequality between the primary school facilities available by channelling scarce resources away from regular schools.

222. With regard to the provisions of article 30 of the Constitution of India, which provided to all minorities, whether religious or linguistic, the fundamental right to establish and administer educational institutions of their choice, it was asked whether the application of that provision would not lead to difficulties, especially in States where there was a Muslim majority. A member asked whether public education was totally secular. Information was also requested concerning copyrights

and patents, whether there was case-law on the subject or whether copyrights and patents were handled simply by administrative tribunals.

223. Lastly, it was asked what was the specific percentage participation in the educational system by the various castes and tribes, and also what punishment under criminal law was applicable to persons violating the right of “untouchables” to equality, a right guaranteed by the Constitution.

224. In reply, the representative of the reporting State stated that discrimination based on social origin was prohibited by several provisions of the Constitution and by law. A Commissioner for Scheduled Castes and Scheduled Tribes was responsible for investigating all matters relating to the rights of such castes and tribes and reporting thereon to the President and to Parliament. The Commissioner would soon benefit from the assistance of a National Commission for Scheduled Castes and Scheduled Tribes. A special parliamentary commission supervised the application of the constitutional guarantees concerning the scheduled castes and scheduled tribes. He stated that untouchables had been abolished by the Constitution; however, he admitted that it was one thing to promulgate a prohibition and another thing to apply the law effectively. It was noted that in most cases cultural backwardness generally went hand in hand with economic backwardness; it was thus on the latter that efforts should be placed.

225. Concerning the compulsory nature of primary education, he said that laws had been enacted, but the Committee would no doubt acknowledge that it was difficult to prosecute parents who failed to send their children to school. The Government had launched many programmes to try to close the gap between rich and poor.

226. In response to the question of freedom of teaching in a multi-cultural society like India, the representative of the State party said that freedom of teaching was total and without reservations. For example, in a school establishment wholly financed by the Government, it was not allowed to give religious instruction; on the other hand, in those school establishments partially financed by the Government, religious instruction was authorized, on condition that the students and the parents did not oppose it. Education in India was thus totally secular. He further stated that the National Council for Educational Research and Training was currently concerned with the establishment of teaching models and writing school manuals; and those manuals played an important role in combatting obscurantism and religious fanaticism by placing the emphasis on the history of India and on the conception of non-violence preached by Gandhi. The Council also screened the old school manuals in order to remove any element that could hurt the sensibility of a particular group or community. The specialists charged with writing those school manuals came from all the regions of India.

227. With regard to the question on the existence of a two-tier system in higher education in India, he admitted that it could be said that there were inequalities between the public sector and the private sector, although that situation was not by design. He stated that graduates of Indian institutes of higher learning were highly thought of and managed to obtain posts of high responsibility; as a result the fees at such institutes were very high. He said that only 5 per cent of the students at such institutes of higher learning came from families with modest income and 95 per cent came from rich families. Measures had been taken by the Government to eliminate such inequalities and in time more equality would be established in the field of education.

228. In response to the questions on operation “Blackboard”, he stated that the programme was to provide schools with a basic infrastructure, in terms of both additional teaching staff and more adequate premises; the programme also aimed at providing minimum non-formal education to children who work; the Navodaya Vidyalayas scheme was to provide good quality education for talented rural children; and the programme provided also for a national literacy campaign. Once the requirements of the programme had been ascertained, funds from the central Government were directed, via the authorities at State level, to the schools most in need of assistance.

229. He further stated that a sense of fairness and a concern to ensure equality of opportunity in education prevailed in Government policy, which in that regard reflected the attitudes of society at large. A similar concern could be seen in the Government’s efforts to bring education within reach of the scheduled tribes. He stated that taking the residential schools in rural areas as an example, experience had shown that differences in religious background and castes in no way constituted an obstacle to social interaction. He said that it was evident from the statistics that participation of girls in secondary and higher education was much lower than was desirable, but his Government was making every effort to redress that imbalance. As regards the “untouchables” he said that legislation to prohibit such discrimination had indeed been enacted. Attitudes in rural areas regarding castes, however, tended to remain conservative and change would only come about through education.

230. In reply to the questions concerning the education of handicapped children, he stated that the Government’s policy was increasingly to attempt to keep children in the regular school system, depending on the extent of their disability. That was to help them gain confidence and to become part of the mainstream of Indian life. For that reason the Government had implemented a scheme called “Integral Education for the Disabled”, which provided assistance to State Governments primarily for hiring specialized teachers and persons to take the children to and from school. With regard to the question on copyright and patent law, he said that litigation in all such cases fell within the competence of a statutory body constituted under the law relating to corporations.

Article 15: Right to take part in cultural life and to benefit from scientific progress and from the protection of the interests of authors

231. Members of the Committee wished to know the measures taken by the Indian Government for the preservation of the culture of minority groups, and how the Government harmonized the policy of promoting the official language with the policy of conserving local languages. Members further asked how the Indian Government reconciled the fact that cultural and scientific institutions in India remained under official tutelage and control with the principle of cultural freedom underlined in the report, and to what degree were national institutions for the arts and cultural centres autonomous in fact, particularly in the financial field.

232. In reply, the representative of the State party stated that the Government had enacted laws and directives which governed the functions of minority-managed educational institutions. On the question of promoting the official language parallel to local languages, he said that article 351 of the Indian Constitution provided for the promotion of Hindi as the main means of expression of the composite Indian culture. Several institutions had been established: the Central Institute of Indian Languages, Central Hindi Institute and Rashtriya Sankrit Sansthan. With regard to cultural and

scientific institutions, he said that they were not totally financed by the Government and thus had a measure of autonomy; furthermore, under the Societies Registration Act, those institutions were registered as autonomous bodies. As to why few Indian films were exported, he stated that India itself was a vast market. Indian culture was characterized by eroticism, both in literature and in architecture. The presentation of sex in Indian films was often not to foreign taste. For those reasons Indian films were exported mainly to expatriate communities in Africa and the Caribbean.

Concluding observations

233. The Committee expressed its appreciation to the delegation of India for its helpful and constructive attitude and for supplying the Committee with additional information. It was, however, observed that for a country such as India, whose large population and territory, great regional diversity and social disparities aggravated its difficulties in protecting the right to education, descriptions of the provisions of the Constitution and the 1986 National Policy on Education, which took up most of the report, were not sufficient to provide the Committee with an idea of the actual situation regarding education in India. Appreciation was expressed for the statistical information submitted by the representative in response to the list of questions. It was noted that flow charts accompanying the explanation of the division of competence among central, State and local authorities would make the entire system easier to understand.

234. It was said that the policy in the field of education with regard to changing discriminatory attitudes towards the scheduled castes, scheduled tribes and other lower castes and ensuring equal opportunity of education for those groups was unclear. Concerning the difficulties faced by India on enforcing compulsory education, the Committee would appreciate more information on the social difficulties involved and the measures taken to combat them. Finally, with regard to the right to culture, the Committee observed that more attention should be given to preserving the cultural traditions of minorities and to promoting access to cultural life by ordinary people.