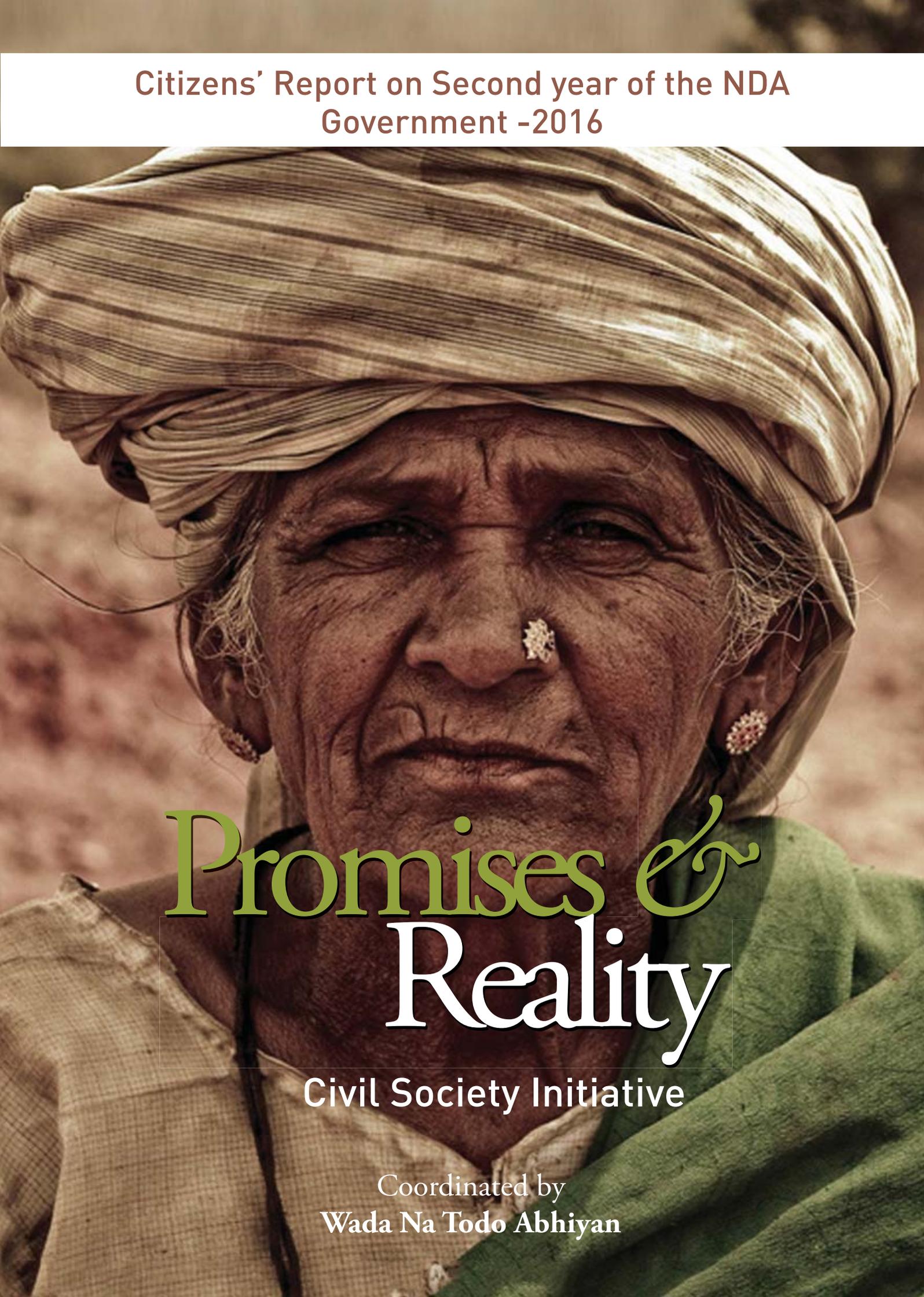


Citizens' Report on Second year of the NDA  
Government -2016



Promises &  
Reality

Civil Society Initiative

Coordinated by  
Wada Na Todo Abhiyan

**WADA NA TODO ABHIYAN** is a national campaign focused on Governance Accountability to hold the government accountable for its promise to end Poverty, Social Exclusion & Discrimination. WNTA emerged from the consensus among human rights activists and social action groups who were part of the World Social Forum 2004 (Mumbai). The purpose was to create an environment through focused and concerted effort and try to make a difference in India where one-fourth of the world's poor live and experience intense deprivation from opportunities to learn, live and work with dignity.

In this regard, WNTA highlights the aspirations and concerns of the most marginalized sections of the society – Dalits, Adivasis, Nomadic Tribes, Women, Sexual Minorities, Children, Youth and the Person with disability to the government through People's Manifestoes before elections. Further, WNTA reviews and monitors the performance of the government on its promises and plans towards the marginalized sections on the framework of Constitutional mandates, National development goals and International commitments set in the UN Millennium Declaration (2000) / The 2030 Agenda for Sustainable Development Goals.

We work to ensure that the concerns and aspirations of the marginalized sections are mainstreamed across programs, policies and development goals of the central and state governments.

Citizens' Report on  
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# Promises & Reality

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Coordinated by  
**Wada Na Todo Abhiyan**

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# Introduction

**'Citizens Report on 2<sup>nd</sup> Year of the NDA Government - 2016: Promises & Reality'** is a Civil Society initiative reviewing government promises and performance with special focus on elimination of poverty and social exclusion. Wada Na Todo Abhiyan (WNTA) anchored the process with contribution from communities and experts. The basis of the assessment is Constitutional mandates, electoral promises made by the government and the national development goals. A number of civil society organisations, networks and campaigns have been consulted and contributed in the process.

WNTA had anchored the civil society review of NDA Government's Performance on on the occasion of it completing 100 days on September 1, 2014. The Annual Review of Year One was published on the 24<sup>th</sup> May 2015. As the NDA government completes the second year, this report, released on 23 May 2016, is an effort to assess the progress made on sixteen thematic areas and nine constituency groups. Thematic areas are - Accountability, Budget, Civil Society Engagement, Education, Environment, Food & Nutrition, Functioning of Parliament, Health, Housing & Urban Poverty, Human Rights, Labour & Employment, Land & Agriculture, Land Rights, Livelihood, Peace, Security & Justice, Water & Sanitation and the constituency groups are LGBT, Children, Dalit, Minorities, Person with Disability, Senior Citizen/ The Elderly, Tribals, Women, and Youth.

In the months leading up to the General Elections 2014, more than 16,00,000 citizens, from 250 parliamentary constituencies across 24 states, scripted the People's Manifesto - a national agenda for development, rights, services, governance and accountability, through direct and indirect consultations. The demands, aspirations and needs of the people were shared with all political parties as inputs for their upcoming election manifestos. When the manifestos of various parties were published, WNTA undertook a comparative review of the commitments/promises of the political parties and the NDA government in particular on '*Achhe Din*' (Good days) to the people and '*Sab Ka Saath Sabka Vikas*' (Development for all and with all).

This Citizen's Report on the NDA year 2 provides facts and reality bites on various issues of people's concerns. It holds a mirror to how people's lives are impacted over the past year. We hope this report contributes to strengthening governance accountability towards deepening our democracy and development processes.



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# Executive Summary

When the civil society came out with its review of the NDA government's first 365 days in office around this time last year, it consciously chose to give the government a long rope. We said the completion of the first year was much more about “symbolism” than real changes and forward movement. This was the right course to take because at that time, contours of the new government's policy preferences—seeped as they were in election-time promise of restoring “good days”—were still in the making. We argued that 365 days, out of a mandate for 1,826 days, constituted a rather small period for fair assessment. Now that we are tracking the NDA dispensation's record for good 731 days, the earlier ‘defence’ of it being a new regime wouldn't stand as strongly as then.

The overwhelming mandate to the NDA government in 2014 is based on its promise of ‘Achche Din’ and ‘Sabka Saath and Sabka Vikas’. As the government is approaching mid-term, the socio-economic impact of its policy decision is becoming more evident. This report in particular is concerned about the government's performance in promoting life with dignity and opportunities for the most marginalized sections in the country. It focuses attention on how the plans and programs of the government have impacted the lives of nine constituency groups on the periphery of our society. Sixteen thematic areas are reviewed through their eyes.

The promise of providing a corruption-free India has met with low performance on constituting the Lokpal, protecting whistle blowers and creating a robust grievance redress mechanism. On the other hand the proposed amendment to the Prevention of Corruption Act may victimize vulnerable citizens who are seeking their rights and entitlements.

The government's budget allocation in 2015-16, the major thrust for development is on investment in infrastructure and housing projects in both rural and urban areas. Data analysis shows allocations to most social sector fell short or had marginal increase which does not address the critical concerns in health, education, civic amenities. There is no sign of improving the low tax-GDP ratio that can contribute to increased investments. The stress on private providers in core areas of health and education stands to undermine these tottering public services.

The RTE Act highlighted as laying the foundation for an educated India is on the verge of major regressive amendments. Allowing children below 14 years to work undermines the RTE Act and all efforts to improve education among the marginalized children. There is little clarity on the New Education Policy which is on the anvil. Health care continues to be poorly resourced at among the lowest globally. Further, the strategy of providing health care through promoting private insurances does not go to build a healthy and vibrant nation. One of the distressing areas is the lack of a comprehensive plan to address malnutrition among children in the age group of 0 to 6 years. Child protection suffers from many casualties including poor budget provision, non-implementation and recent amendments in the Juvenile Justice Act. Despite the high focus on children and young people as the future of India, the budget cut for children of 29% in 2015-16 has been the highest ever. On the question of youth, the outcome of the government's ‘Skill

India's push for "education, skills and job creation" is still not very evident. The target to be able to train over 40 crore people by 2022 is an ambitious one.

The civil society space to function independently in highlighting the concerns of the most marginalized sections, reflecting current policies and provisions in its impact on the vulnerable sections is being limited through political and administrative impediments. The space to build synergy and complementarity between people and the government is shrinking at a time when educated young people from the socially excluded communities are engaging more actively in the civil society spaces. The threat of particular political ideologies encroaching upon the civil society space is of concern.

Coming to specific socially excluded communities, the passing of the amendments to the SC/ST Prevention of Atrocities Act is a welcome step. Recognition of Dr B R Ambedkar as the architect of the Indian state is rightly placed and long overdue. However, the continued poor allocation and implementation of economic provisions under the SCSP and TSP holds the communities in the vice of poverty and under development. Of particular concern has been the impact on higher education where SC/ST scholars are forced to give up their studies and even end their lives. The flagship Swachh Bharat Abhiyan does not seem to have provisions to improve the lives of Dalit Safai Karmchari communities.

Safe-guarding the environment is belied by various actions of the government; in particular the recommendations of the high level committee set up to review important environment, forest, wildlife and pollution acts. The rights and genuine concerns of the people, particularly Tribal communities are overruled through the misplaced trust on private parties and their development investments. There are dangerous trends in the proposed Environment Law Management Act (ELMA) and the Environment Law Amendment Bill 2015.

Crop loss, mounting debt and acute drought situation continue to drive farmers to commit suicide in states like Maharashtra, Punjab, Telangana, Karnataka and Andhra Pradesh. The government could have done better to address the critical situation of rural distress. The country expects that rural insurance schemes like Pradhan Mantri Fasal Bima Yojana and Bhartiya Krishi Bima Yojana do provide the necessary succor to farmers. Agricultural credit, rural electrification and a thrust on increasing the irrigation cover are major challenges that need to be addressed by the government. It is reassuring that the MGNREGA programme is being continued. But the land question remains unresolved and the final shape of the Land Bill would be known only after the government's stand towards the outcome of its examination by a committee of Parliament. The balancing act that the government eventually does between industrial development and market growth on the one side and the rights of the vulnerable sections on the other has to stand the test of time.

Similarly, the impact assessment of the government's Make in India push—which intends to transform the country into a global manufacturing hub—is being eagerly awaited. Despite many commitments, the anticipated foreign investment is not evident. By now, however, there is no doubt that the government has opted for trade and a market-driven economy as its core mantra for development. Concerns, therefore, over livelihood of small landowners, farmers, rural households and economically weaker sections are not totally misplaced.

An overhaul of the urban landscape, too, continues to pose a serious challenge. The government has stressed that the Smart Cities Mission, Atal Mission for Rejuvenation and Urban Transformation and the Pradhan Mantri Awas Yojana have been announced with a concomitant change of approach—to bottom-up from top-down—for effective implementation. Assessing this would turn out to be a tall order because

injecting Rs 3 lakh crore to create 100 Smart Cities and 500 AMRUT cities over the next five years is no small promise. Nor is the construction of 2 crore affordable houses across 4,041 statutory cities and towns over the next seven years.

If verbosity were a virtue, the NDA dispensation has definitely lived up to it in its second year. This becomes all the more evident because the relative “silence” of the earlier UPA regime had come under much criticism. But in a country like India, the spoken promise has often failed to match the work on the ground. It wouldn't perhaps be fair to brand Prime Minister Modi's government as one that talks at the cost of delivering—not yet, that is. However it is now time to 'walk the talk'.



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# 1. Accountability: The anti-corruption jumla

## Two-year report card of the government on issues of transparency and accountability

Tough talk in the lead up to the general elections made many believe that if there was one issue that the Modi government was serious about taking head on, it was corruption. As the principal opposition party, the BJP had vigorously, both inside and outside Parliament, supported the demand for an empowered and independent Lokpal, a mechanism to protect whistleblowers and a legislation to redress grievances of citizens.

The two years of the government have, however, seen no progress on anti-corruption laws. In fact, there has been a concerted attempt to undermine even existing legislations and mechanisms. The Lokpal and the Whistle Blowers Protection laws, passed by Parliament more than two years ago, are yet to be operationalised. In fact, the government is attempting to dilute both laws through introduction of amendments in Parliament. Further, instead of putting in place an effective grievance redress mechanism to ensure proper delivery of rights and services to people, the government is seeking to amend the existing Prevention of Corruption Act (PCA) to make all bribe-givers offenders, which would criminalize even those who are forced to pay a bribe to get their legal entitlements.

## Unpeeling the layers: The Whistle Blowers Protection Act

Close to 60 people have been killed across the country in the last few years for exposing corruption and wrongdoing in the government. The murder of Satyendra Dubey in 2002, an engineer on the golden quadrilateral project who blew the whistle on corruption in the project, led to demands for a mechanism to protect whistleblowers. On the directions of the Supreme Court, the Central government put in place a policy, but the continued attacks on those revealing corruption, exposed the shortcomings of the policy and galvanised the demand for a statutory framework. Finally in 2014, after 12 years of the murder of Satyendra Dubey, the Whistle Blowers Protection Act (WBP) Act was passed on the last day of the 15<sup>th</sup> Lok Sabha, when families of whistleblowers and activists of National Campaign for People's Right to Information (NCPRI) held street protests for over 20 days. The WBP Act provides for the protection of identity of whistleblowers and safeguards against their victimisation.

Despite assurances from senior BJP leaders, including Arun Jaitley and Ravi Shankar Prasad, that they were committed to the WBP Act, the government has taken no step to prevent deaths of whistleblowers by operationalising the WBP law. Instead of promulgating rules to operationalise the WBP law, the government has moved an amendment bill in Parliament which seeks to severely dilute the Act.

The amendments seek to remove safeguards available to whistleblowers from prosecution under the Official Secrets Act and also introduce wide-ranging exclusions by stating that disclosures should not contain information which would prejudicially affect the sovereignty, integrity, security, strategic, scientific or economic interests of the state. Further, information which relate to commercial confidence, competitive position of a third party etc. also cannot form part of the disclosure made by a whistleblower, unless the information has been obtained under the RTI Act. If the competent authority receives a disclosure containing information of the nature mentioned above, then the disclosure will not be inquired into. The exemptions have been modelled on the exemptions provided under Section 8 of the RTI Act to ostensibly bring the WBP Act in line with the RTI Act. This is wholly undesirable as the two laws have different goals—the RTI Act seeks to bring out information into the public domain while the WBP Act provides for disclosures to competent authorities within the government to enable inquiry into allegations of corruption and wrongdoing and provide protection to the whistleblower. The amendment bill completely ignores the predicament of government servants who come across evidence of wrongdoing in the normal course of their working and do not need to file applications under the RTI Act to access information.

The current status of the WBP Amendment Bill is not clear. While the debate on the bill in the Rajya Sabha proposing to refer it to a select committee was not concluded, on April 28, 2016 the concerned minister, in reply to a question in Parliament, stated that the Amendment Bill had been sent to a select committee.

## Unending wait for the Lokpal

The Lokpal and Lokayuktas Act (LL Act) was enacted by the Parliament and notified in the gazette in January 2014. The law has not been operationalized till date. An amendment was required to the LL Act to ensure that in the absence of a recognised Leader of Opposition, the leader of the single largest party in opposition is included in the selection panel for appointing the Lokpal. Instead of moving the single amendment and quickly operationalizing the law, the government has moved several amendments to the Act. The Amendment Bill called “the Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014”, was deliberated upon by the Department related Standing Committee on Personnel, Public Grievances, Law and Justice which presented its report in December 2015. The Amendment Bill is currently pending before the Lok Sabha.

Among other issues, the amendments seek to dilute the Lokpal Act by exempting bureaucrats from declaring assets and liabilities of their spouses and dependent children. Further, the amendment does away with the requirement of public disclosure of the asset declarations on the grounds that disclosure of such information might expose public servants and their families to threats and kidnappings. However, these apprehensions are not borne out by evidence—despite public disclosure of asset declarations of thousands of candidates contesting elections across the country and of judges of the Supreme Court and High Courts, no significant evidence of threats or blackmail had come to light.

In the meantime, the government through proposed amendments to the PCA has introduced the requirement of prior approval of the Lokpal for investigation into cases of corruption related to decisions or recommendations made by public servants. With the Lokpal itself not being set up and operationalised, it is unclear how these provisions will take effect.

## Lack of an effective grievance redress mechanism

Providing a legal framework for grievance redress was a commitment made in the sense of House resolution passed unanimously in Parliament in August 2011. The 'Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011' (GR Bill), which was introduced in Parliament in 2011, lapsed with the dissolution of the 15th Lok Sabha. It had support of Members of Parliament across party lines. In December 2013 (during the debate on the Lokpal Bill), Members of Parliament from various parties spoke in support of the grievance redress bill. Arun Jaitley and Ravi Shankar Prasad (BJP), Rahul Gandhi and Kapil Sibal (Congress), K N Balagopal and Sitaram Yechury (CPI-M), M P Achuthan(CPI) and Shivanand Tiwari (JD-U) spoke in support of the Bill.

The current government repeatedly stated its commitment to re-introducing and passing the GR Bill. In fact, in a communication dated June 24, 2014, the PMO stated that passing the GR Bill was "part of immediate thrust areas of the government". The concerned minister in Parliament in December 2014, February 2015 and May 2015, reiterated that the government was "committed to bringing in a legislation for ensuring effective redressal of grievances of citizens related to non-delivery of entitled goods and services by the government."

In March 2016, however, in response to a question in Parliament, the government made no reference to the legislation and, instead, stated that it had prepared a scheme known as Delivery of Services and Grievances Redressal Scheme, 2015. The government clearly appears to be reneging on its commitment to bring in a statutory framework for time-bound and effective redress of grievances.

This is even more concerning given that the pending amendments to the Prevention of Corruption Act seek to criminalise all bribe-giving. In the absence of an effective grievance redress mechanism to ensure proper delivery of rights and services to citizens, millions of people across the country are forced to pay bribes to get even their legal entitlements. If the amendments to the PCA are brought in without a statutory framework for grievance redress, it would lead to a double wrong, as people who are forced to pay bribes to access what is legally theirs would also be criminalized and could face up to seven years in prison!

In order to deliver on its promises of a corruption-free India, the Modi government must begin by immediately operationalising the existing Whistle Blowers Protection Act and re-introduce the grievance redress bill. Rather than bringing contentious amendments to dilute the Lokpal law, the government should move a single line amendment allowing for the leader of the single largest opposition party to be a member of the selection panel, so that the Lokpal law can be operationalised urgently. Without an effectively implemented anti-corruption and grievance redress framework, tall promises to rid the country of corruption will remain all talk.

### Recommendations

In order to deliver on its promises of good governance and a corruption-free India, the Modi government must urgently:

- Operationalise the Whistle Blowers Protection Act and withdraw the proposed amendments to the law.
- Operationalise the Lokpal and Lokayuktas Act by moving a single amendment to the law allowing for the leader of the largest opposition party to be a member of the selection panel.
- Re-introduce 'The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011' in Parliament to provide for an effective grievance redress mechanism.

## 2. Budget: Tightened purse strings curb growth

### Again No Focus on Enlarging Fiscal Space

Budget 2016-17 was crucial as it came in the wake of significant changes in India's federal fiscal architecture, and also due to the state of the economy. Before it, the Economic Survey had set the tone for the coming year as a fiscal challenge because of lower-than-projected nominal GDP growth. The economy was looking down and the Budget was expected to address the challenges facing it.

The NDA government's second full Budget showed a marginal decline—from 13.2 percent of GDP in 2015-16 (Revised Estimates) to 13.1 percent of GDP in 2016-17 (Budget Estimates), as share of GDP (after accounting for inflation). In total numbers, however, its size increased from Rs 17.85 lakh crore in 2015-16 (RE) to Rs 19.78 lakh crore in 2016-17 (BE). Of this increased outlay of Rs 1.93 lakh crore, almost two-third was in Non-plan spending (on account of higher interest payments, pensions and defence) while only one-third was in Plan expenditure, including social and infrastructure sectors.

It did provide impetus to investment in infrastructure, particularly in road transport and highways, and also had some emphasis on agriculture and farmers' welfare. In both rural and urban areas, major thrust for development was based on infrastructure and housing projects. In social and related sectors, the major gainers were agriculture, cooperation and farmer's welfare, urban development, rural development drinking water and sanitation, housing and urban poverty alleviation, road, transport and highways and new and renewable energy.

Data analysis shows that allocations for most social sector schemes fell short of expectation. Allocations for school education increased by a minuscule Rs1,367 crore, hardly sufficient to ensure the much-needed expansion and universalisation of good quality secondary education. Basic school infrastructure, teacher training, teacher recruitment, community mobilisation are some of the basic factors to improve quality of education. Yet, the overall budget for school education department in 2016-17 (BE) increased only by 3.2 percent compared to 2015-16(RE). In spite of shortage of trained and qualified school teachers, the allocation for teachers' training was Rs 510 crore in 2016-17(BE), which was Rs 558 crore in the earlier budget estimate. Schemes like *Beti Bachao Beti Padhao* (BBBP), PRAGATI, Udaan, Swami Vivekananda Scholarship for Single Girl Child were announced in the last two years for promoting girls' education, but there was no allocation for these schemes other than Rs 100 crore for BBBP.

Allocation to Ministry of Health and Family Welfare went up by a paltry Rs 4,240 crore, remaining at the same abysmally low level of 0.24 percent of GDP. Allocation for the flagship National Health Mission

(NHM) was lower in 2016-17 (BE) than in 2015-16 (RE). New announcements like the insurance scheme for poor families and a National Dialysis Programme show an increasing dependence on private sector provisioning of health care. The Jan Aushadhi scheme, introduced in 2008, did not really take off as there are only 164 Jan Aushadhi stores at present, out of which 87 are functional. Allocations for the scheme increased only by a small margin in 2016-17 (BE) over 2015-16 (RE). The announcement of opening of 3,000 Jan Aushadhi stores is a welcome idea. But the main problems plaguing the scheme—doctors not prescribing generic drugs and non-availability of medicines under generic names—need to be addressed. In this backdrop, public spending on health needs to be stepped up.

Given the stress faced by rural economy, the budget for the farming community was quite inadequate. The Prime Minister Fasal Bima Yojana (PMFBY) saw an increase from Rs 2,598 crore in 2014-15 actuals to Rs 5,500 crore in this budget, but the increase is directed towards subsidising premiums for the existing insured farmers. This increased funding should have gone to cover a bigger number of farmers instead of going to the insurance companies. About 95 percent of farmers cultivating paddy and wheat do not have insurance, in case of cotton cultivating farmers it is 85 percent. Further, Rs 15,000 crore allocated for interest subvention is too small to meet the requirements of the large farming community. It is a marginal increase over last year's allocation of Rs 13,000 crore. Since the benefit of interest subvention accrues only to a few farmers who have access to formal sources of credit, it will not help tenant farmers and sharecroppers excluded from bank loans.

Addressing gender inequality and other critical issues of women like violence need to reflect in budgetary priorities. Though the magnitude of Gender Budget Statement (GBS) showing how ministries prioritise gender concerns, went up by Rs 11367 crore this year, the number of ministries and departments reporting in the GBS went down from 34 to 31.

Revenue mobilized by government plays an important role in determining its fiscal space for increasing public spending on social sectors. But this year again, the government shied away from an expansionary fiscal policy. This stems from the constraints on the taxation side, especially as the government wants to pursue the targets for reduction of the fiscal deficit. Though need for responsible funding cannot be overlooked, an equal focus on augmenting domestic resources is needed. But the tax revenue growth in this Budget remains very conservative.

Despite India having the lowest tax-GDP ratio among the BRICS countries, it has hardly improved over the last few years. The gross Central taxes to GDP ratio in 2016-17 (BE) was projected to be 10.8 percent, the same level as in 2015-16 (RE). The government should have envisaged expansion in its overall spending capacity for the next few years. The overall government spending to GDP ratio at around 27 percent has been smaller than that of not only developed countries but also of many other developing countries like Brazil, South Africa, Mexico and China. The Centre's inability and unwillingness to pursue any expansion in the overall fiscal policy space has constrained the policy thrust towards fiscal decentralisation, which the 14<sup>th</sup> Finance Commission attempted to provide. As estimates of public spending on essential services have been showing stagnation, the government should work at boosting its finances by improving the tax-GDP ratio in order to allocate resources better.

Budget estimated 11.7 percent growth in gross central tax revenue, which is less compared to its previous year's growth of 15.8 percent. Most direct taxes fall in the central tax system, but the Union Government's dependence on indirect taxes has been increasing despite indirect taxes being regressive in nature. The overall impact of the tax proposals depicted a net gain of Rs 19,610 crore as compared to 2015-16 RE. The government has been ambitious in projecting an overall revenue growth of 25

percent in 2016-17 over the revised estimates for 2015-16. However, past experience shows that non-tax revenue sources are less certain. In 2014-15, the actual collection of non-tax revenue was 7 percent lower compared to the budget estimate for the year. The issue of revenue foregone due to exemptions in the central tax system has been widely debated in the last few years. The Economic Survey has raised concerns about the unproductive and inefficient nature of some of the tax exemptions provided by the government. The Budget should have paid adequate attention to this issue.

The Budget proposed an Income Declaration Scheme for persons who have not paid full taxes in the past. They would pay tax at 30 percent, surcharge of 7.5 percent plus a penalty of 7.5 percent, taking it to a total tax rate of 45 percent of the undisclosed income declared. The scheme gives chance to those with undisclosed foreign assets to come clean and provides immunity from prosecution. Such schemes have largely failed in past, the last time the government gave a general amnesty from prosecution in 1997, it collected 0.6 percent of GDP. The attempts to bring back illicit funds through this proposed scheme may not be very effective as voluntary disclosure initiative would yield little in terms of declarations. Last year, it resulted in declarations of Rs 3,770 crore (later revised to Rs 4,147 crore) between the previous compliance window declared from July 1 to September 30, 2015. Instead of bringing back black money, the government's focus should be on curbing the generation of illicit flows or black money by checking trade mis-invoicing.

Following the recent changes in fiscal architecture brought about by the 2015-16 Budget, the fund sharing pattern in Centrally Sponsored Schemes (CSS) between the Union and State governments has been set at 60:40 for most of the prominent social sector schemes like *Sarva Shiksha Abhiyan*, Mid-Day Meal, National Health Mission, Integrated Child Development Services and *Swachh Bharat Abhiyan*. Thus, in a host of CSS, the increased autonomy given to the States in setting their expenditure priorities has been accompanied by reduction in the central share of funding. Priorities fixed in the State Budgets would play a stronger role now in determining the overall allocation of budgetary resources in a range of development sectors in the country. The Centre needs to take cognisance of social and regional disparities in development. It needs to play a crucial role in addressing these disparities by investing more in areas and for the marginalised sections that lag behind. And, the social sector schemes are perhaps the only channel available for the Centre to do so.

The government wants to do away with the distinction between Plan and Non-plan spending from 2017-18. However, there are no consultations on the future of important planning strategies like the Schedule Caste Sub Plan and Tribal Sub Plan. As these two strategies were applicable only over the Plan budgets, it is necessary to have in-depth discussions with a broad range of stakeholders. The distinction between Revenue and Capital expenditure, which the government is likely to adopt in budget books, should not give rise to neglect of social sectors like education and health since large proportions of expenditure in these sectors are in the Revenue account.

## Recommendations

1. To step up significantly the budget outlays for all programmes / schemes recognised as Core of the Core / Core interventions in social sectors by Niti Aayog's Panel of Chief Ministers on Centrally Sponsored Schemes.
2. The overall pool of resources by the Union government needs to be expanded if the government intends to fulfill the RTE norms in all elementary schools. Allocation for each of the basic factors- school infrastructure, teacher training, teacher recruitment, community mobilization that helps improve quality of education, needs to go up.
3. At around 1% of GDP, India has one of the lowest spending on healthcare sector, as compared to 3% in China and 8% in UK. This budget shows government's continued commitment to health insurance, for which allocations have increased sharply. Instead, focus should be on provision of free medicines and diagnostics to help address the larger issue of access to healthcare.
4. The Nirbhaya fund introduction in Union Budget with a total corpus of Rs 3,000 crore, has remained largely unutilized. There is a need to make a strong push to operationalise the Fund and increase the magnitude of resources under it.
5. India is at the lower end of spectrum when it comes to collecting taxes, hence the government needs to increase the tax revenue through a progressive tax system. This can be improved by emphasising direct taxes over indirect taxes; reinstating inheritance tax; reviewing tax exemptions to richer private sector; plugging loopholes to prevent tax evasion.
6. Instead of bringing back black money, the focus of the government should be on curbing the generation of illicit flows or black money by first and foremost checking trade misinvoicing.

# 3. Children: One step forward, two steps back

## **Regressive policies prevent children from getting their due share to survival, development and protection.**

Over 40 percent of our population is children below the age of 18 years. Based on their development needs and necessary provisions, they are classified and their development tracked under three broad age groups – 0 to 6 years, 6 to 14 years and 14 to 18 years. Further, children do not constitute a homogenous uniform category, their development and opportunities are influenced by various factors – caste and ethnicity, religion, geographic location, poverty in the family, language, disability, gender and many others. The Constitution provides special protective and supportive measures for the optimum development of children in a non-discriminatory environment, with special provisions for children from SC, ST communities, minority religion and other socio-economic exclusion and deprivation. India is also signatory to the UN CRC which favours the ‘best interests of the child’.

The NDA government while coming to power in 2014 promised to have special focus on vulnerable children, especially – SC, ST, OBC, migrant, urban poor, street dwellers and those with disabilities. It expressed commitment to address malnutrition, child labour, child trafficking and missing children, sexual abuse, school dropouts and increasing crime rate among juveniles. A review of the performance in 2015-16 shows many gaps including fault-lines in approach and strategies as seen below. Some silver-lining can also be noted, though limited.

### **Under Six – Stark Realities**

The under-six population in the country is estimated at 13% of the total population (2011 census). While an estimated 26 million children are born every year, an estimated 12.7 lakh children die every year before completing 5 years of age. 10.5 lakh of the deaths are of those below one year. Neonatal mortality, infant mortality and under-five child mortality reflects on the extremely poor government provisions and support available to children and the inability of the families to cater to the needs of their children. It shows a colossal breakdown in the system to protect children as a whole. The gender bias against girl children is stark in the decreasing child-sex ratio (CSR), going down from 945 in 1991 to 927 in 2001 and 918 in 2011. The government ‘Beti Bachao Beti Pado’ campaign launched in January 2015 in 100 low CSR districts is a welcome step and is reported to have positive impact.

Many other realities like malnutrition among the under-six are matters of grave concern. 38.7% of children in the 0-59 months are reported stunted, 17.3% among them being severely stunted; 15.1%

wasted with 4.6% being severely wasted; 29.4% being underweight (Rapid Survey on Children 2013-14). In this context the cutting down of ICDS budget by 54.19% between 2014-15 and 2015-16 threatens the very survival of children in this age group. Even prior to the budget cut, the ICDS is a poorly resourced programme with 26.9% of children not accessing any anganwadi/pre-school programme, 37.9% of the children attending the government run anganwadi centres, and 30.7% attending privately run institutions. The budget cut for the programme by the government belies government promises and undermines the very foundation of the population dividend India aspires for. The lack of adequate health care for mothers and children and maternal benefits act as deterrants to the healthy growth of young children. Privatisation also erodes the values of equality, fraternity and equal opportunities promised to all children in the country.

The state has also ignored the need to proactively examine and fill the gaps in the Constitutional framework with regard to children under six. The ECCE policy 2013 promised to develop a rights based framework for children under six years, no action has been forthcoming. This needs immediate intervention as early childhood is the foundational stage of human development upon which the child's future health and capacity are built.

## **Health care to children**

The child nutrition and mortality reflects the inadequate health care facilities available to children. The budget speech of the finance minister made special mention of providing for the health care of the population. 'Catastrophic health events are the single-most important cause of unforeseen out-of-pocket expenditure which pushes lakhs of households below the poverty line every year'. However, the approach to solving the problem is limited to providing insurance cover and access to medicine. There is no guarantee that the socially excluded communities and vulnerable population groups who are in the grip of poor health and health care will be able to meet their health care needs through insurance coverage. There seems every chance for the insurance coverage to be a means for private parties making money than meeting the health needs of people. The 'universal health for all' seems to be a forgotten by-liner.

## **The Right and Support to Education**

The Right to Education Act promising universal education to all children in the 6 to 14 years age group has completed its mandated period of 5 years in 2015 to ground the Act in full implementation. The government has acknowledged that the necessary infrastructure and basic provisions for providing education to this age group is woefully inadequate; with only 10% of the schools compliant with RTE norms. A numbers of children who are out of school varies widely across different data sets, about 60 lakhs to 100 lakh children from vulnerable sections may still be out of school. Various progressive provisions of the Act as no-detention, age appropriate admission, additional support to achieve age-appropriate learning are under threat with the government diluting the provisions and initiating discussions to reverse them. The amendment in the child labour act allowing children below 14 years to work is a stark reflection of the government's bias to learning and building aspirations among the most vulnerable children in the country.

The budget of the Human Resource Development Ministry has been cut down by 17% between 2014-15 and 2015-16 which severely impact the education opportunities for children from the vulnerable communities depending upon the government schools and provisions. The special education support to children from vulnerable sections has also seen a cut – pre-matric scholarship of minorities (-5.45%),

post matric scholarship for minorities (-3.07%), upgradation of merit of SC students (-20.41%) and incentives to children of vulnerable groups among SC (-75%). The budget cuts totally belie the promises and even the intention of the government to promote the wellbeing, education and development of the most marginalised children in the country.

A highly publicised programme has been school sanitation campaigns as part of the 'Swachh Bharat' abhiyan with special attention to girl child education. While the government and corporate sector is said to be contributing hugely to the programme, the claim on success is contested on the ground.

## Child Protection issues

Child protection has always been an under-sourced programme. The Integrated Child Protection Scheme (ICPS) and the Juvenile Justice Act provides the framework for child protection. The framework suffers from not building 'prevention in protection' in the framework. Children in the 0-6 years who are vulnerable to abandonment, trafficking/stealing, sexual abuse etc are not addressed by the present legal and policy framework. The reach of the child protection schemes are patchy and inadequate across the country, in particular in remote and rural areas. The passing of the Juvenile Justice Act 2014 which tries children as adults in cases of 'heinous crimes' is a regressive step and goes against the UNCRC framework.

The cabinet's decision to amend the child labour law to allow home-based work for children below 14 years, contradicting the right to education is a regressive step for the nation. According to NFHS 3 one in every 7 children in the lowest and second lowest wealth index category was working. According to NSSO reports children from SC and ST communities are twice as likely to be child labour compared to children from dominant sections. A study by the VV Giri National Labour Institute in the 'Home based Lock Industry' reports how child labour thrives in these home based industries where the bigger industries are broken down to smaller units and exploit the families and children. According to Maplecroft's child labour index 2014 India is one of the countries that pose extreme child labour risk to supply chain of companies. It is very difficult to measure the loss a child faces due to child labour. It is estimated that children who forego school in order to work reduce their potential life-time earnings by an estimated 13-20% and increase their likelihood of being poor in later life by as much as 30%<sup>1</sup>.

## Budget Cuts

The fall in the total budget announced for the children in the 2015-16 at 29% was the highest ever, budget cut for children. The budget of the MHRD was cut by -17%, of the MWCD by -51% and the MoFHW by -13% compared to 2014-15. It contradicted all promised made by the government on behalf of children.

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1 N. Ilahi, P. Orazem and G. Sedlace, How does working as a child affect wages, income and poverty as an adult, World Bank, 2005)

Percentage fall in budget Allocation between 2014-15 and 2015-16 in Education programmes	
Sarva Shiksha Abhiyan	-20.74
Mid-day meal scheme	-30.11
RMSA	-28.7
6000 model schools of excellence at the block levels	-99.92
Support to education including teacher training	-36.55
ICDS	-54.19
Deendayal disabled rehabilitation scheme	-33.33
NRHM-RCH flexible pool	-21.63
Manufacture of sera vaccine	-18.03
National programme for youth and development	-28.75
Scheme for prevention of alcohol and substance (drug) abuse	-66.81

## Recommendations

1. Create a rights based framework for the nutrition, health care, education and protection of children in the 0 to 6 years age group as promised under the ECCE policy 2013.
2. Implement the Right to Education Act and extend it to cover children from 3 to 6 years and 14 to 18 years.
3. Provide adequate equity measures to ensure vulnerable children are able to address their historical and current educational inequalities by (scholarships, additional residential facilities, transport facilities, special teachers, equipments and infrastructure to ensure that vulnerable SC, ST, Muslim minority and children with disability are able to access quality education.
4. Eliminate all forms of child labour till the age of 18 years and provide appropriate rehabilitation to children who are currently engaged in child labour.
5. Legislate and put in mechanisms to monitor and address all forms of discrimination against any child in education, health care, protection and participation.
6. Ensure budgets for children are not cut, but made adequate as per current demands of 6% for education and 5% for health care.
7. Ensure supportive and enabling environment of families and communities to provide for children through maternity care programmes, family support mechanisms, national food security Act, NRLM and NREGA.

# 4. Civil Society Engagement: Shrinking civil society space

## Government must engage with voluntary groups as development partners

The Indian civil society has evolved by contributing towards socio-economic development and protecting people's rights guaranteed under the Constitution. Civic activism can be credited for the enactment of the Right to Information, Right to Food and Right to Education legislations. Civil society has been instrumental in mobilising people to raise their voice against government policies that impinge on the interests of the masses. Simultaneously, CSOs have been part of numerous government projects and initiatives. The Planning Commission acknowledged the engagement with voluntary organisations since the 6th Plan. In May 2007, the Union Cabinet approved the formulation of National Policy on Voluntary Sector. However, the policy, which enumerated the ground and scope for government-voluntary organisations partnership, is yet to be approved by Parliament. Relations between voluntary organisations and the government have been witnessing various changes. Depending on the requirement and circumstances, the government either co-opts, takes action or regulates the civil society.

Civil society is an important pillar of democracy. It has, however, increasingly faced the challenge of shrinking democratic space. In February 2016, addressing a BJP-sponsored farmers' rally on the issue of Pradhan Mantri Fasal Bima Yojana at Bargarh in Odisha, Prime Minister Narendra Modi said NGOs were conspiring to defame him and bring down his government. He said the efforts to make NGOs accountable for the money they receive from abroad had turned them against his government. PM Narendra Modi said that when the details on FCRA accounts held by NGOs were asked, all the NGOs have come together to defame and oppose the union government. This he said has created a mistrust driving NGOs to defame or harm the Government.

Many organisations affiliated to the Rashtriya Swayamsevak Sangh (RSS), incidentally, are among NGOs that receive foreign funds. It is said that organisations like RSS exert considerable influence on the government. The Vanvasi Kalyan Parishad is one such RSS affiliated organisation working with tribal communities in Rajasthan. This organisation is said to be conducting a survey of grassroots NGOs which are working in the tribal sub-plan areas of Rajasthan. The survey seeks to collect detailed information on whether these organisations concur with the RSS viewpoint on key issues.

Irrespective of the government in power, some of the challenges faced by voluntary organisations are perennial. Right at the inception stage, these organisations have to get registered under archaic laws like Society Registration Act 1860, Trust Act 1882 and Companies Act 1956, rules under which vary from state to state. For tax exemptions, organisations have to engage with the Income Tax Department. The Foreign Contribution Regulation Act (FCRA), administered by the Union home ministry, is a control

mechanism adopted by the government. These legislations lack transparency and consistency while cumbersome paperwork adds to the problems of voluntary organisations.

In 2010, the UPA government promulgated FCRA as an ordinance. Since then many rigorous rules for organisations dependent on foreign funding have been introduced. Voluntary organisations have been harassed for accepting foreign funds for project implementation, that too with stringent restrictions. Initially, due to communication gap between the Union home ministry and the voluntary sector, many organisations faced difficulty in interpreting and understanding the law. One such initiative is the digitalisation of FCRA by the NDA government in December 2015. The online system will surely help organisations to update and file their information in a time-bound manner, besides enhancing transparency. But this has left many grassroots organisations struggling for technical support. This year, the renewal process has been delayed and now the onus of complying with FCRA regulations falls upon organisations. The Budget has also made it legal for political parties to accept foreign resources.

The Companies Act 2013 has introduced several provisions that changed the face of Indian corporate sector. The legislation applies to companies which have had a net profit of Rs 5 crore or more or net worth of Rs 500 crore or more or a turnover of Rs 1000 crore or more in any financial year [Section 135(1)]. Such companies must spend a minimum of 2 percent of the average net profit made during the three immediately preceding financial years (Section 135(5)) on corporate social responsibility (CSR) activities. The CSR provision provides an opportunity for the voluntary organisations to work in collaboration with corporate groups on development projects. Budget 2016-17 also announced the setting up of a not-for-profit organisation — Higher Education Financing Agency (HEFA)—with an initial capital base of Rs 1000 crore. Finance Minister Arun Jaitley said this organisation would leverage funds from the market to work on infrastructure in top institutions of India. The funds of this GONGO (Government Organised Non Governmental Organisation) will be supplemented with donations and CSR funds. This initiative will push companies to invest in HEFA, rather than directly into NGOs. Companies find collaboration with NGOs cumbersome from the point of view of meeting short-term targets and reporting. In this case, the responsibility of reporting and accountability will fall upon HEFA, and not on respective companies. In the past, the NDA government's increasing support to companies has led to a flow of CSR funds into the Prime Minister's Relief Fund, Swachh Bharat Kosh and Clean Ganga Fund, which provide 100 percent tax deduction as well as minimum accountability.

The government and the civil society are not necessarily on the logger heads all the time. This was evident at the 2015 United Nations Climate Change Conference, COP 21. This conference was historic because, for the first time, there was a near consensus in reaching an agreement over the grave environment challenge which affects all countries. Its key criticism is that the deal has put undue pressure on countries like India, while developed nations like the US have not taken enough responsibility in dealing with the issue. COP 21 saw the Indian civil society supporting the government. The discourse of American and European NGOs ignored the plight of the vulnerable and poor communities. This led to a positive consonance between the approach of the Indian civil society and the government.

The Indian government and civil society were, once again, on the same page at the UN-backed Third International Conference on Financing for Development held in Addis Ababa, Ethiopia, in July 2015. The conference focused on analysing possible measures to generate funds to finance the Sustainable Development Goals (SDGs). The Indian delegation was headed by Minister of State for Finance Jayant Sinha, who said: "We have managed to forge a global consensus on some very crucial issues related to the need for balanced development, and also managed to ensure a commitment of 0.7 percent of GDP

from developed nations towards official development assistance (ODA), so the overall outcome has been quite successful.”

“The story does not end here. We will continue to push the agenda at other fora like OECD (Organisation for Economic Co-operation and Development) and G20, where India has a significant voice.” he added. Participating Indian CSOs backed the official stand. Moreover, Indian CSOs have an opportunity to deliberate on development cooperation through FIDC (Forum for Indian Development Cooperation).

When interests converge, the government supports the voluntary sector. Voluntary organisations, for instance, have been acknowledged as key agents for outreach to the people for the implementation of the Swachh Bharat Abhiyan. Earlier governments also depended on voluntary organisations for implementing many of their social sector programmes. Ministries regularly seek voluntary organisations for ideas and project implementation. But as soon as interests diverge, a resistance to the activities of voluntary organisations is noticed, particularly the activities of rights-based organisations.

Lack of representation of voluntary organisation at the government level is the main reason for civil society’s shrinking space. Unlike the corporate affairs ministry, which is responsible for the overall regulation of companies, the voluntary sector needs adequate representation from ministries and departments for raising issues related to voluntary affairs. This will not only create space for the civil society, but also boost its image at national and international levels.

To ensure a vibrant presence of civil society, organisations should be allowed the freedom to operate and conduct their affairs in a flexible, non-interfering manner. The government’s approach appears to be stifling the civil society space. The government should review and amend the restrictive clauses of FCRA and Income Tax Act. Moreover, the Prime Minister’s anti-NGO exhortations have portrayed the civil society in a negative light and raised suspicions about their conduct. Lack of finances is affecting the work of voluntary organisations. The voluntary sector has been at the helm of innovation and articulated citizen grievances in society. It is, therefore, imperative that the government proactively engages with the civil society as partners in development.

## Recommendations

1. National Policy on the Voluntary Sector: The erstwhile Planning Commission had built the groundwork for the National Policy on the Voluntary Sector 2007. The document laid the ground for institutionalizing the engagement between the voluntary sector and the government. But, Parliament is yet to approve the policy by enacting it into law.
2. Formation of Nodal Ministry/ Department for Voluntary Sector: The Planning Commission of India's (Steering Committee) report of 2012, recognises the need for creation of a nodal ministry for voluntary organisations in India. Formation of an exclusive ministry for the voluntary sector, in the lines of Ministry of Corporate Affairs will also help in fostering an enabling environment for the sector and assist the government in monitoring of social development programmes. This ministry would facilitate communication between the government and voluntary sector, as well as liaise with the corporate sector on CSR.
3. A National Registration Law for the Voluntary Development Organisations: The Societies Registration Act 1860, the Indian Trusts Act 1882 and the Companies Act 1956, should be amended to allow for multistate activity. Any non- profit entity ranging from large private hospitals to foundations, and even small voluntary development organisations are currently registered under the same act. This has not only created ambiguity about the nature, scope and scale of the voluntary sector, but also created question of identity for voluntary development organisations. Creation of a national registration law will help in professionalising the voluntary sector, and also maintain uniformity of regulatory and reporting mechanisms.
4. Government should provide the civil society a structured space for implementation and monitoring of SDGs. Localisation of SDGs has to take place with civil society acting as a facilitator.

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# 5. Dalit: The Dalit agenda

## Government misses the target

Assessing how the NDA government has fared from the perspective of the Dalit community becomes relevant in the 125<sup>th</sup> birth year of Dr B R Ambedkar. The community constitutes 16.6 percent of the population (2011 Census). Year 2015-16 began on a good note with the government introducing a scheme to encourage Dalit entrepreneurship under the Make in India initiative. Start-Up India links Dalit entrepreneurs with credit facilities worth Rs 1 crore and marks their shift from being job seekers to job creators. The scheme, which aims at refinancing through smaller industries, is meant to benefit the educated Dalits. But it comes in the backdrop of massive cuts in higher education and scholarships.

## Dalit ministers

The NDA government has an inadequate representation of the Dalit community with the ministry being dominated by non-Dalit members. As many as 20 of the 46 ministerial berths are occupied by members from the dominant castes, five by OBCs, six by STs while it has only three Dalits. Majority in the Cabinet is formed by the upper castes and only two Dalits are represented<sup>2</sup>. They are Ram Vilas Paswan as Minister of Consumer Affairs, Food and Public Distribution and Tarachand Gehlot, the Minister of Social Justice and Empowerment<sup>3</sup>. Post its July-2015 shuffle, the ruling BJP, too, has no Dalit general secretary or vice-president.

## Access to justice: SC-ST (Prevention of Atrocities) Act 1989

National Crime Records Bureau (NCRB) data shows that between 2011 and 2014, as many as 188,991 crimes against SCs were registered under different laws. NCRB data for 2014 reveals a 19.4 percent increase in crimes against SCs under heads like dacoity, rape, kidnapping & abduction and hurt, in general, and SC-ST (Prevention of Atrocities) Act specifically<sup>4</sup>. In 2014, 48.36 percent of the total crimes against Dalits were registered under IPC and other laws, and 21.3 percent under the SC-ST (Prevention of Atrocities) Act. Of the 40,300 cases registered under this Act, the rate of pendency in investigation was 25 percent. Consequently, charge sheets were filed for 72 percent of cases. This results in reduced punishment for perpetrators, loss of appropriate compensation, and investigation by officers below the rank of deputy superintendent of police. The 2014 data shows the registration of caste-based atrocity cases has increased under the PoA Act as compared to previous years.

2 TNN. "Upper castes rule Cabinet, backwards MoS." Times of India. May 27, 2014 <http://timesofindia.indiatimes.com/news/Upper-castes-rule-Cabinet-backwards-MoS/articleshow/35624877.cms> (accessed April 30, 2016)

3 Correspondent, DNA. "Where are the BJP's Dalit leaders?" DNA. July 8, 2015. <http://www.dnaindia.com/india/report-where-are-the-bjp-s-dalit-leaders-2102588> (accessed April 30, 2016)

4 Source: National Crime Records Bureau, Crimes in India 2011-2014

Although the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015 was passed by this government, more thought needs to be put in effective implementation of the act. One can see that atrocities have increased in the last one year and heinous crimes against Dalit women have only gone up. We can see with the case of Delta and also Jisha, there has been a total apathy of the government to address violence and the culture of impunity continues. It outlines additions to sexual exploitation of SC and ST women, new offences like social boycotting of Dalits from public spaces and rituals, social sanctions against inter-caste marriage by dominant castes on Dalits, garlanding with footwear, compelling to dispose, or carry, human or animal carcasses or manual scavenging, publicly abusing SCs and STs by caste name, attempt to promote feelings of ill-will against SCs and STs, disrespecting any deceased person held in high esteem, and imposing or threatening a social or economic boycott. It also defines the role public servants and courts.

## **Budgetary allocations under Scheduled Caste Sub Plan and Tribal Sub Plan**

The SC Sub Plan and the Tribal Sub Plan have existed for more than three decades. These help in poverty and unemployment reduction, creation of productive assets and income generating opportunities, human resource development by enhancing access to education and health services and enhancing quality of life by providing basic amenities in SC and ST localities. The plans, however, suffer from misallocation and diversions to irrelevant schemes.

In the last 2 years only about 8.5 % has been allocated for SC community as opposed to the designated 16.6 % of the plan outlay for the year. This year too we can see the allocation is poor, the allocations for SC under the Union Budget 2016-17 is only 7.6% when the due amount under SCSP budget should be Rs. 91,301 Crore (16.6% ). The allocated amount is only Rs. 38,823 Crs (7.06%). However the targeted amount that directly benefits the SC community is only Rs. 6570 Crs (1.19%)<sup>5</sup>. The gap between the due and targeted is Rs. 84,731 Crs. Further the Dalit-Adivasi women continue to fare only in the margins, by allocating a measly 1% to Dalit women, the schemes lack an understanding of their lived reality and is blind to the concerns of the Dalit women.

## **Higher education**

The January 2016 suicide of Rohith Vemula, which led to a movement for more democratic educational spaces, exposed the layered violence and discrimination faced by Dalits. It highlighted the government's inability to provide scholarships on time. In a similar case reported by *The Hindu*, a PhD scholar at Jawaharlal Nehru University had not received his monthly stipend of Rs 25,000 for about five months, forcing him to borrow from his friends. Besides the monetary crunch, students face intolerance, prejudices and harassment. The caste bias manifests itself in the lack of attention from teachers, unjustly failing them in exams, social exclusion, physical abuse, and the universities' unwillingness to support Dalit students. A disproportionate number of SC/ST students have committed suicide in the past.

## **Nutrition**

One in every third woman in reproductive age group has a BMI less than normal. Almost 50 percent of women and 80 percent of children are anaemic. Malnutrition during pregnancy and at a very early age

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5 [http://www.ncdhr.org.in/Dalitsinnews/Final\\_Budget\\_Watch\\_2016-17\\_Union.pdf](http://www.ncdhr.org.in/Dalitsinnews/Final_Budget_Watch_2016-17_Union.pdf)

has long-lasting and irreversible effects. Yet, nutritional programmes are not adequately reaching infants, very young children and pregnant women. India houses about 38 percent of the world's stunted children and 40 percent of malnourished children. The SCs and STs are the worst affected. About 26 percent of the population—268 million—is considered food-insecure, consuming less than 80 percent of minimum energy requirements. The interlocked nature of social exclusion and nutritional insecurity underlines the need for sensible policy initiatives. Recurrent perpetuation of underdevelopment for the excluded communities complicates the process. Exiting this trap becomes difficult without external support.<sup>6</sup>

Despite severe malnutrition, allocation for Integrated Child Development Services (ICDS) under SCSP-TSP budget was slashed from Rs 18,195 crore in 2014-15 to Rs 8,335.8 crore in 2015-16. Consequently, the Ministry of Women and Child Development could not launch some critical nutrition programmes. ICDS has been hit by a 54.19 percent cut. Allocations to *Sarva Shiksha Abhiyan* and Mid-Day Meal schemes were also slashed by 20.74 percent and 30.11 percent respectively.

### SCP, TSP share in major food and nutrition programmes in Budget 2015-16 (In Rs crore)

Source: Flair Working Paper—Nutrition Finance (Version 3) June 2015<sup>7</sup>

Major Nutrition Programmes	Provisions under general head	Provisions under SCP head	Provision under SCP head as % of total provision	Provisions under TSP head	Provision under TSP head as % of total provision
ICDS	8448.77	1987.35	23.5	843.51	10.0
MDM	9236.4	1857	20.1	991.79	10.7
SABLA	10	0	0.0	0	0.0
NFSM	1300	232	17.8	127	9.8
NRDWP	2611	575	22.0	261	10.0
NBA/SBA	3625	797	22.0	362	10.0
NRLM	2505	327.54	13.1	237.19	9.5
MGNREGA	34699	0	0.0	0	0.0
NHM/ Mission for Integrated Development of Horticulture	1950	0	0	56.4	34.2
Price Stabilization Fund for Cereals and Vegetables	400	72.9	18.2	36	9.0

6 Source: Vision Plan for Nutritional Security from The Perspective Of Socially Excluded Communities by NACDAOR, 2015

7 <http://www.cmamforum.org/Pool/Resources/Nutrition-finance-India-FLAIR-working-Paper-June-2015.pdf>

If one looks at the status of malnutrition in 18 states<sup>8</sup> indicates a clear picture of the deprivation faced by SCs, STs and OBCs due to various social and economic factors. Within these groups, uneducated women and lower economic group population women are more deprived in comparison to higher income group and educated women.

Census 2011 and the Multi-Dimensional Poverty Index (MPI, 2010)<sup>1</sup> show that poverty levels remain very high with 43 percent child malnutrition and some human development indicators worse than sub-Saharan Africa or war-ravaged states. SCs and STs are disproportionately represented in the poverty and deprivation rankings. SCs have MPI of 0.361—more than double that of India (0.157)—almost double the percentage of MPI poor (65.8 percent to 33.3 percent) with sharply higher intensity (54.8 percent to 47.2 percent).

### Multidimensional Poverty Across Hindu Castes and Tribes

States	MPI	Percentage of MPI Poor	Average Intensity
Scheduled Caste	0.361	65.80%	54.80%
Scheduled Tribe	0.482	81.40%	59.20%
Other Backward Class	0.305	58.30%	52.30%
General	0.157	33.30%	47.20%

Source: Oxford Poverty and Human Development Initiative India Country Brief p5

## Dalit exclusion in sustainable development agenda

India's role in Sustainable Development Goals adopted by the UN has restricted the focus of inclusion of communities who are discriminated based on work and descent (DWD)<sup>9</sup> or discriminated based on caste. This leads to a dichotomy. On the one hand the government claims to follow Ambedkar's path, and on the other the Indian representation to UN has been instrumental in non-recognition of DWD. India is home to more than 201 million out of 260 million Dalits worldwide, but it has not been a strong player on the global platform in addressing the issue of descent-based exclusion.

## Safaikaramcharis

The Safai Karamchari Andolan recently presented a memorandum to the Prime Minister demanding that the government should issue a national apology for the "historical injustice" done to the Dalit community. It also demanded modernisation of septic tanks and sewer lines to end manual cleaning, a cause for accidental deaths<sup>10</sup>. The total allocation for the rehabilitation of safai karamcharis is only Rs 201 crore this year.

8 Study conducted by NACDOR in 18 states on malnutrition

9 The draft UN principles and guidelines for the effective elimination of Discrimination Based on Work and Descent, 2009 state that "discrimination based on work and descent exacerbates poverty and constrains progress"

10 Deshmane, Akshay. Safai karamcharis to appeal to PM Modi for eradication of manual scavenging. March 22, 2016. [http://articles.economicstimes.indiatimes.com/2016-03-22/news/71732651\\_1\\_manual-scavenging-pm-modi-eradication](http://articles.economicstimes.indiatimes.com/2016-03-22/news/71732651_1_manual-scavenging-pm-modi-eradication) (accessed April 30, 2016)

## Ambedkar's 125<sup>th</sup> birth anniversary

In 2015, the government adopted a programme for the celebration of Ambedkar's 125<sup>th</sup> birth anniversary. While various schemes have been announced to mark the 125<sup>th</sup> anniversary, there is a reduction of the funds for higher education and public services. The government appears to be felicitating Ambedkar, the father of the Constitution, but not Ambedkar, the social and political reformer.

### Recommendations:

1. Legislate Scheduled Castes Sub Plan and Tribal Sub-Plan with necessary institutional and administrative resources for its effective implementation.
2. The government must formulate, legislate and enact "Rohith Act" to effectively address caste based discrimination in all kinds of educational institutions of the country.
3. Ensure allocation of PDS shops to Dalit, Adivasi and minorities in order to ensure inclusion and ensure access considering the reports that some upper castes individuals owning shops are harassing Dalits, Adivasis and not giving the supplies as per the provision.
4. Ensure procurement from through the food producer companies customizing nutritional intake as much as possible while ensuring the fulfillment of calorie needs. Balance should be maintained
5. Increase the Dalit representation at the Central level
6. Increase the number of special courts and special public prosecutors, to facilitate the investigation and registration of cases for a speedy trial.
7. Effective implementation of the SC ST PoA Act and the amendments
8. Ensure the funds allocated are effectively implemented and the also utilized for schemes that directly benefit the community.
9. Eliminate Manual Scavenging and ensure rehabilitation of the women currently engaged in this practice. Sufficient funds to be allocated to implement this.

# 6. Education:

## RTE: Poorly implemented

### Government focus is on enrollment, not education

Education is vital for the socio-economic growth of a country. It is, therefore, the government's responsibility to ensure quality education to its citizen. The Right To Education Act, 2009, came into force to educate children, especially those who belong to the marginalized section.

There was little argument over the thought that universalization of elementary education would ultimately restructure the hierarchies of class and caste by providing equal opportunities to all. It would break social barriers and realize the broader goals of social justice and social mobility.

Six years after the Act was implemented, the only thing that seems to have been achieved is sound enrollment of children in schools. Government's figures show that 98 percent of the children in India are enrolled in schools. There has been increase in the number of primary and upper primary schools in the country, to implement the provision of neighbourhood schools. The total number of schools rose from 1,362,324 in 2010-11 to 1,445,807 in 2014-15.

As per the government's figures, six million children remain outside the system. Out of those enrolled, 41 percent are likely to drop out before completing elementary education. Those who dropout are largely from the poor and marginalized sections. The girls in upper grades leave school to do household chores, others leave because the education system fails to motivate them. Some of these are street children, child labourers, children living in conflict zones and the differently abled.

On the other hand, six years after the RTE Act was implemented, less than 10 percent schools across the country comply with the norms of the Act. The sensitiveness and the will of the political class to educate all the children remain questionable.

### Financing the Act

The budget for Sarva Shiksha Abhiyan (SSA), the vehicle for implementation of the Act, has been low, even after requests by the Ministry of Human Resource Development.

Fifty years back, Kothari Commission, the first Education Commission, recommended allocation of 6 percent of the country's GDP to education. Unfortunately, we are yet to cross the 4 percent mark.

The Union Budget's estimate for 2015-16 for school education was Rs 42,186.50 crore and Rs 43,554 crore for 2016-17. This indicated an increase of just 3.2 percent allocation. For SSA, the revised Budget Estimate for 2015-16 was Rs 22,015.06 crore while the Budget Estimate for 2016-17 was Rs 22,500 crore, indicating an increase of 2.2 percent. However, there has been reduction from 2014-15 to 2015-

16—Union Budget 2015-16 proposed allocation of Rs 22,000 crore to SSA, reducing 28.5 percent from the Budget Estimates of 2014-15.

In an attempt to make better schools best, the 2016 Budget allocated resources to create 62 Navodaya Vidyalayas (schools created to foster education of meritorious students, not necessarily belonging to marginalized communities). While it is good to recognize and incentivize merit, it is equally important for the government to think about the children of low strata over the meritorious ones.

Majority of the 1.5 million government school enrollments constitute children from the marginalized sections of society. These schools are currently facing a severe crisis of resources and unspent funds caused due to shortage of 9.5 lakh teachers in primary and upper primary schools, inadequate and dysfunctional teacher training institutes, unsafe drinking water, lack of functional toilets (separate for girls) and single teachers in 8.3 percent schools often teaching multiple grades at the same time.

Education backwardness of the country can only be improved through proper public expenditure on education.

## **Addressing human resource gaps**

The national average does not reflect the status of primary and upper primary schools that have deplorable pupil-teacher ratio due to delays in teacher appointments and deployments in government schools. In fact, teachers continue to be appointed on contractual basis, in violation to the principles of the RTE Act. Around 20 percent permanent teachers and 30 percent temporary teachers have not obtained professional qualifications required as per the RTE Act. More than half a million teachers are under-qualified as per the RTE norms. These are mostly concentrated in low performing states such as Uttar Pradesh, Bihar, West Bengal, Assam, Odisha, Chhattisgarh and Madhya Pradesh. Spending on teachers' training has reduced considerably and there is little monitoring of teachers' attendance and teaching times in schools.

Teachers are often burdened with administrative work beyond school hours due to shortage of support staff in schools. Although the RTE Act clearly indicates the non-academic duties for which teachers may be appointed, in reality, the list is endless and teachers are often forced to do unnecessary non-academic tasks instead of spending time in classrooms.

## **Role of the school management committees**

The role of school management committee (SMC) must be strengthened as per the Act for the better functioning and monitoring of schools. Multiple problems have emerged. These are mainly related to the selection of SMC members, the process of SMC formation, the ability to carry forth their responsibilities, their capacity to prepare School Development Plans, their autonomy and ability (and inability) to question the school authorities. SMCs continue to remain unequipped to carry out assigned tasks due to their limited powers, or inadequate training. They have limited decision-making authority, and, as widely reported, their recommendations are neither accepted nor respected.

On the other hand, in certain pockets within states, SMC members (with the help of civil society) are beginning to assert their rights. At the same time, several states are beginning to form federations of SMCs. Thus, Karnataka has a School Development and Monitoring Committee (SDMC) federation

that precedes the notification of the RTE Act. Manipur also has an SDMC federation. Civil society organizations in Jharkhand and Uttar Pradesh have also taken steps to form SMC federations.

## **Present status and emerging challenges**

Challenges have emerged that threaten the spirit of the RTE Act and the education system in the country.

Efforts to remove the no-detention policy: Clause 16 of the RTE Act prohibits holding back a child in the same class, and expelling him/her before the child completes education. Central and the state governments have made efforts to amend this clause. With the implementation of the Continuous and Comprehensive Evaluation (CCE), children are assessed in innovative ways throughout the year, instead of at the end of the year. No concept of 'pass' and 'fail' may reduce stress on the child.

This is also to prevent children to drop-out or being pushed out of the education system. Moreover, there is no evidence anywhere that points towards improvement in learning after being detained in the same class. So, why must India continue to retain an archaic detention system? The detention system pins down the entire failure of learning on the child, often forgetting that different stakeholders are responsible for the learning on the child.

If amendments are made in the Act, it should be intended towards expanding the scope of the Act.

Mass closure of government schools: The term 'uneconomical schools' denotes schools which, often, have less than 20 children, and the cost of running these schools is too high. In the last two years, around 17,000 schools were closed or merged by the government in Rajasthan. In Maharashtra, the number of schools closed lurked around 13,000. In some urban areas, government schools have been closed down despite a good number of children because the cost of the land on which the schools are situated has increased and the land mafia wanted to acquire the land for market purposes. More than one lakh government schools have been reported to have shut down in recent days. Although in Rajasthan, due to the interventions of the RTE Forum and other civil society organizations, around 3,000 schools were revived. The situation in other states remain the same. Thus, the number of drop-out children, especially girls, has increased.

Globally it is seen that universal education has only been achieved through the public system of education. In our country as well, government schools provide education to majority of the children. Therefore, the government has little choice other than reviving the state of government schools which can alone provide equal opportunity to all without any discrimination. In fact, in India, there has been a history of discourse on the common school system, reiterated in almost all the education policies.

Privatization of education: Some states exert Public-Private Partnership Policy to school education or signing MOU, handing over management of public schools to private players. There is around 25 percent increase in the number of private schools from 2010 to 2015, and less than two percent growth of government schools. Student enrollment increased to 25 percent in private schools as against nine percent decline in enrollment in government schools during the same period. Data also reflects that private schools are more in urban areas.

The belief that the private schools are the sole providers of good quality education while multiple research evidence point out to the failure of the private sector in addressing equity issues and providing social justice and also indicating minor differences in the learning levels of children from private schools and

government schools if the socio-economic background is kept constant, the government is yet to curb the growth of private providers in education.

On the contrary, Kendriya vidyalayas have been icons of providing quality education historically, and that needs to be brought back to memory and reinforced through action.

The five-year timeline to implement all the provisions of the RTE Act lapsed in March 2015 and the focus has now shifted away to development of the New Education Policy. However, the manner in which the policy is being formulated is still unclear. RTE seems to be absent from the themes of the policy released on the MRHD website. This is extremely worrisome as the RTE Act is much more than a mere scheme. It is derived from the fundamental right to education that was incorporated in the Constitution of India through the 86th Constitutional Amendment. Therefore, the state is legally bound for its provision.

The RTE Forum has submitted its views to the drafting committee for keeping the New Education Policy under the perspective of the Constitutional spirit and values and ensuring the Universalization of Education in the manner of equitable and quality education to all children.

# 7. Environment: Biggest casualty of the present regime

## **Blatant acts of exploitation belie government's Save-Environment rhetoric**

If there is one broad area that has been the casualty of the present regime, it is the environment. The various safeguards built over the past years have been falsely targeted as the villain.

EIA Resource and Response Centre<sup>11</sup> filed a series of Right To Information (RTI) requests to the Ministry of Environment, Forest and Climate Change (MoEF & CC) to know the number of projects approved and challenged. Only the Committee for Coastal Regulation Zone (CRZ) and Miscellaneous Projects responded. This is indicative of the trend. All big construction projects, airports and malls are appraised by this committee.

Between January 2013 and March 2015, a total of 118 projects were granted environmental and CRZ clearances. Of the 118 projects, only four were challenged before the National Green Tribunal. Of these four, the National Green Tribunal revoked environmental clearance of only one project—KGS Aranmula Airport in Kerala. Thus out of 118 projects approved, only one environmental clearance was revoked.

Immediately after assuming power, the NDA government began its exercise to curtail safeguards, dilute provisions of the existing laws and bring changes through office memorandums and instructions. Several dilutions were affected in the name of decentralisation of power. Blatant support to some controversial projects involving huge ecological and social impact calls for condemnation.

In the first two years of “less government and more governance” the government has been living with rhetoric on saving the environment while acting diametrically opposite to the cause. While some of these trends were visible in the dying stages of the previous regime, the new government has accelerated the process of completely undermining the environment.

## **Tampering with environmental legislations**

The first serious attempt to bring about dilution in environmental legislations was the formation of a high level committee. The committee was constituted on August 29, 2014 by MoEF & CC to review various environmental laws. It submitted its report to the Central government on November 20, 2014. The committee was entrusted to review the Environment (Protection) Act 1986, the Forest (Conservation) Act 1980, the Wildlife (Protection) Act 1972, the Water (Prevention and Control of Pollution) Act 1974,

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11 [www.ercindia.org](http://www.ercindia.org)

and the Air (Prevention and Control of Pollution) Act 1981. The Indian Forest Act 1927 was added subsequently to this list.

The recommendations include a single window approval process, a fast track treatment for power and coal projects, a special procedure for strategic and national projects. There is also an introduction of what can be termed as the ‘private trust’ doctrine as opposed to the ‘public trust’ doctrine.

Under ‘private trust’, there is implicit trust in whatever information is submitted by the private business entities under the concept of ‘utmost good faith’ and at the same time, there is a sense of suspicion on the community by requiring the people to prove their bona fide and by limiting public participation to only those the committee describes as “genuine local people”.

In less than three months, the committee has not only suggested radical changes that would undermine the laws it was tasked to review, but has also recommended changes to render less effective a number of laws it was not charged to review. It has recommended a brand new legislation, strangely called Environmental Laws (Management) Act or ELMA, which would prevail over all contrary court judgments issued in the past decades or the provisions of any environment law promulgated till date.

Angry environmentalists said, “Calling the committee report radical is an understatement. It is revolutionary, but a revolution against the environment, voice of the people, and democratic processes<sup>12</sup>.”

There is also an attempt to bring in the Environmental Law (Amendment) Bill, 2015. The Bill aims to provide effective deterrent penal provisions and introduce the concept of monetary penalty for violation and contraventions. The effective deterrent is as regressive as the position of the government in the case of nuclear liability. Just as it restricts the liability of the project entity to Rs 500 crore in case of nuclear disaster, it also envisages a maximum fine of Rs 20 crore on a polluting industry. Devoid of any scientific basis, the Bill proposes the following categories of violations and penalties.

Nature of Offence	Definition	Penalty Proposed
Substantial damage	Within 5 kms of the outer boundary of the project	Minimum Rs 5 crores and maximum Rs 10 crores
	Beyond 5 kms of the outer boundary of the project within 10 kms	Minimum Rs 10 crores and maximum Rs 15 crores
	Beyond 10 kms	Minimum Rs15 crores and maximum of Rs 20 crores
Non-substantial damage		Maximum Rs 1 lakh and maximum Rs 5 crores
Minor violation		Minimum Rs 1,000 and maximum Rs 10,000

It is common sense that impacts and cost of remediation would vary with the nature of the project, and pollution’s effects cannot be capped arbitrarily on the basis of some kilometres. If amine-dump or ash-dam breach are regular in mining areas and coal-fired thermal power plants, the impact has to be beyond 10 kilometers for evoking the maximum fine. The Environment Protection Act came in the backdrop of the disastrous Bhopal accident. But even after spending over thousands of crores of rupees the problem is still unresolved. A similar accident post this law would mean that the company pays Rs 20 crore but

12 The High Level Committee Report on Environmental Law: A Recipe for Climate Disaster and Silencing People’s Voice  
Ritwick Dutta, Manoj Misra, Himanshu Thakkar

remains in business. This Bill envisages creation of adjudicating authorities thereby restraining the role of the National Green Tribunal.

## **Dilution of the provisions**

It is a cardinal principle of law that there is no power to confer legislative power on the executive. The Supreme Court has held that essential legislative function cannot be delegated by the legislature, that is, there can be no abdication of legislative function or authority by complete effacement, or even partially in respect of a particular topic or matter entrusted by the Constitution to the legislature. Power to make subsidiary or ancillary legislation may, however, be entrusted by the legislature to another body of its choice, provided there is enunciation of policy, principles, or standards either expressly or by implication for the guidance of the delegate in that behalf. Entrustment of power without guidance amounts to excessive delegation of legislative authority.<sup>13</sup>

The proposed legislation aims at excessive delegation and this will certainly be a cause of rent-seeking. Many of the existing laws have been diluted through executive action. For instance, projects which have a capacity of expansion of 25 percent do not have to go through a process of fresh environmental assessment process and public hearing. This opens the way to increase capacities multiple times and avoid due diligence. Environmental clearances have been made transferrable even if it is known that the new possessor is a habitual violator and may need greater safeguards. Linear projects no longer require the consent of gram sabhas, as if linear projects do not have an impact on the resources or land of the villages. Similar has been the case with the effort to do away with the provisions of Social Impact Assessment and consent in the Right to Fair Compensation and Transparency in Land Acquisition Resettlement and Rehabilitation Act 2013 in the omnibus category of “infrastructure” projects.

Dilution of provisions is also being encouraged through the states in the name of decentralisation and cooperative federalism. Several state governments want to keep the implementation of the forest rights act in abeyance in areas where they want to grant mining leases, promote hydropower projects or industries. This seems to be done with active knowledge and in collusion of the respective Central authorities. In the case of national highways, the government has done away with the environmental clearance for projects below 100 km, paving the way for breaking them into projects below this length as is been done with the NH-21 from Chandigarh to Manali. It has been broken into four segments. The Govind Sagar Sanctuary has been denotified to enable the construction of a four-lane highway and ironically dump waste into the Bhakra reservoir. In March 2016, the government did away with environmental clearances for a new “white” category of industries which includes hydropower projects under 25 Megawatt and several industries whose products may be harmless or less harmful. But the process could involve pollution in the presumption that these have virtually no impacts.

The most recent in this series of dilutions through delegation is the proposal to establish a District Environmental Impact Assessment Committee and Authority to grant clearance to mining projects of up to 5 hectares of lease area. The irrigation engineer is nominated as head of this authority. Everyone knows that he has a conflict of interest if it involves materials for irrigation projects. Further, when even the national- and state-level formations are so bereft of knowledge and courage to undertake unbiased and technical evaluations, this authority will only be a rubber-stamp and a new opportunity for rent-seeking.

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13 1968 AIR 1232

## Projects with disastrous consequences

Several disastrous projects, that were in abeyance, have begun to come back into reckoning. This includes the interlinking of rivers. The Ken-Betwa link is a classic example of such projects. The project will significantly destroy the Panna Tiger reserve. This was a reserve where all the tigers were eliminated and over the years, crores of rupees were spent to bring back tigers. Today, it claims to have over 20 tigers. While people are being displaced in the name of conservation, the corridor between Panna and Navardehi Wildlife sanctuaries is under serious threat. The government is trying its best to enable a global company with an extremely bad reputation to open a diamond mine there, sacrificing nearly 1,000 ha of forests.

The Polavaram project, which will involve displacement of over 300 villages, is another example where despite alternatives, the project is being surreptitiously pushed ahead.

The case of Vizhinjam port is actually astonishing as it involves a company which is seen as the blue-eyed boy of the government. It originally touted as a naval infrastructure and obtained most clearances on that basis. The project is now turning out to be a “port-estate”. The naval component has been abandoned and the company is being allowed to build luxury apartments and hotels with access to the sea-face. It avoids the coastal zone and other regulations.

The new legislation to commercialise over a hundred waterways and the fact that these would completely alter the lives our rivers is a matter of deep concern.

While the government is lauding itself for the high targets it has set for renewable energy, and claims to be very conscious of the climate, it is doubling the coal output and promoting production through polluting sources almost with a vengeance. The result is that we have coal inventories mounting and thermal power plants are forced to either reduce production or sell at prices below par.

If the trend continues, it is certain that there will be no meaningful environmental protection in the next decade. This calls for seriously bringing environment to the core of our governance agenda.

### Recommendations:

1. Stop diluting the environmental safeguards and abandon the making of the new legislation.
2. Ensure strict compliance of existing laws and impose more stringent penalties on violators.
3. Give up disastrous projects which will have long term consequences to the ecosystems.
4. Encourage greater public participation in decision making instead of making them fearful of the state.

# 8. Food and Nutrition: Insecurity Unlimited

## How the right to food fared in 2015-16

The right to adequate food and nutrition continued to remain peripheral in the state discourse even as rural distress deepened with the impact of drought felt in a quarter of the country.

Any review of the situation of the right to food in India must begin with the status of implementation of the National Food Security Act (2013). The NDA Government extended the date of implementation of the NFSA on three occasions, after coming into power. While the official reason offered for this, which was only partially true, was that States had not identified the entitlement-holders and taken their preparatory measures under the Act, the extension served to reduce the food subsidy bill. The last extension granted was in March 2015 for six months.

These extensions were made through executive orders and not by amendments as required by law to the NFSA rendering them illegal and has been challenged in the Supreme Court. The CAG report on the implementation of the NFSA has also noted this as “irregular”.

As of now, 33 states have implemented the Public Distribution System of the NFSA. Tamil Nadu, Nagaland and Kerala being the exception. Even in those States where the implementation has been shown as started, in many instances it is only partial. For instance, in Uttar Pradesh the distribution of the new cards has still not been undertaken except for Bundelkhand, and the full rollout is only expected only by June 2016.

The year also saw major reversals in food policy, despite the NFSA being in place. For instance, the Food Ministry introduced crucial changes in the PDS Control Order for the Antodaya Anna Yojana (AAY), which went against the spirit of the NFSA. These changes included the introduction of citizenship as a requirement for accessing entitlements under the NFSA, curtailing the expansion of the scheme by directing the States not to add any new family in case a family was dropped from the AAY (effectively phasing out the scheme) and depending on the decadal census results rather than annual population projections to increase the allocations of food grains. Of these three changes, action by civil society could only ensure the rollback of the decision not to allow for new families to be added to the AAY list. The other two changes are still being contested.

The most glaring act of omission of the government in the implementation of the NFSA was the fact that the maternity entitlements of at least Rs. 6000 for every pregnant and nursing mother was not initiated. Even the rules for implementing the program have still not been framed by the Ministry of Women and Child Development (WCD). The pilot program, Indira Gandhi Matritva Sahayog Yojana (IGMSY) which is being implemented in 53 pilot districts, continues to discriminate on the basis of the age of marriage and

number of children. A significant proportion of the most marginalized women in the country are left out of the ambit of the maternity entitlement by the enforcement of the two child norm and the requirement for the mother to be at least 19 years of age at the time of the delivery.

This is not just a violation of the spirit of the NFSA which has done away with such conditionalities but also a blatant disregard for women's rights. Especially since women have no control over their bodies, the agency to exercise their reproductive rights, decision-making about the age of their own marriage or consent in when and how many children they should have. The IGMSY institutionalises the discrimination against women by reinforcing these conditionalities. Of the Rs. 15,000 crores that would be needed to implement the scheme fully, just 400 crores were allocated in the budget (the RE was 438 crores) for this program, which effectively was the only new legal entitlement created by the NFSA.

Fiscal neglect of other key programs of the NFSA continues unabated. For instance the ICDS saw a budget cut of nearly 50% in allocations, even though some of this amount was restored in the RE. The budget for the ICDS was brought down in 2015-16 to Rs.8000 crores from the previous years allocation of 16,000 crores. This was subsequently addressed partially in the RE for the last year, and increased to 14,000 crores in the current fiscal. It is to be noted that even this increase is far short of the requirement for the program. Many of the demands of the campaign and commitments like crèches have been ignored all together. In terms of impact, in the last fiscal only 67.23 % of children were covered as per the registered recorded by the Anganwadi worker for the Supplementary Nutrition Program. The real figure of children attending the AWC regularly, is far lower. The other five services of the ICDS fare worse and pre-school education remains on paper in most state of the country.

The biggest setback to the ICDS has also been in the Government of India's insistence to allow private contractors and manufacturers to supply the Take Home Ration (THR) in violation of Supreme Court orders which have directed that these supplies should be made by local Self Help Groups (SHGs).

The Mid Day Meal Scheme similarly saw reductions in budget allocation of close to one third. The allocation for 2015-16 was 9700 crores, up from 8900 crores in the last year. However this is significantly less than the 13,215 crores which was the allocation for 2013-14. Not only do these figures not factor in inflation, as a result of which the conversion costs for cooking have remained static, they have seen an extra burden on the state exchequer. That these reductions have been made at a time of increasing food inflation and spiraling of the prices of pulses, spices and condiments, have led to a significant deterioration of the quality of the meals that are being served across the country.

Fiscal conservatism is not the only way in which the NFSA has been impacted. Many aspects of the NFSA, especially those pertaining to grievance redressal have been significantly whittled down. For instance, in the absence of any guidelines to the States on the appointment of the State Food Commission and the District Grievance Redressal Officer (DGRO), in most cases this exercise has only been tokenistic. Either existing institutions which are already over-burdened like the State Human Rights Commission, Consumer Forums or in the worst cases, these have been populated by political appointees. Some States have even designated District Food Supply Officers as the DGROs giving the notion of conflict of interest a bad name ! At best, states have designated Sub Divisional Magistrates (SDMs) and Additional Collectors as DGROs. All of this is a far cry from the independence of the grievance redressal mechanisms as envisaged in the spirit of the NFSA.

The right to adequate food and nutrition is an indivisible right contingent on the enjoyment of all other human rights. The experience with the NDA government so far has been that there is a lack of enthusiasm

for the human rights framework. Viewed holistically, there has been a significant curtailment of human rights across the board, which has also impacted the right to adequate food and nutrition. For instance the blanket beef bans and the subsequent vigilante action against alleged consumers and traders has led to the drop of prices of cattle across the country, and an impingement on the food sovereignty of citizens, besides a reduction in the availability of animal protein in the diets of consumers of beef.

Similarly the budget cuts in the NREGA has deepened the crisis in rural India, and led to the reduction in the available wages, exacerbated distress migration, and led to an effective reduction in the available resources in the family pot for food consumption. Distress migration also leads to severe curtailment of the right to adequate food and nutrition of the children of migrants who are either left behind with siblings or unable to exercise their entitlements at the destination of migration to basic services like the ICDS and MDMS.

The only silver lining in this scenario over the last year has been the actions of the judiciary which has repeatedly stepped in to protect right to adequate food and nutrition and mitigate some of the rural distress in drought affected areas. Litigation on the right to food has expanded considerably in the States and matters pertaining to it are being heard in High Courts across the country. Similarly even in the Supreme Court a slew of litigations against the government were heard by the Court in the period of review, orders for which are now being passed.

Going by the past two years of the NDA government, the battle to ensure the right to adequate food and nutrition is likely to intensify in the remaining years of the tenure of this government. This battle will unfold in the courts, on the streets, in Parliament and through public action across the country in the coming years, as India journeys on a long walk to achieve a universal right to adequate food and nutrition.

## Recommendations:

1. Implement forthwith the full and universal coverage of maternity entitlements under the NFSA by making the required budgetary allocation of Rs.15,000 crores.
2. Restore the budget of the Integrated Child Development Services to ensure the full coverage under the scheme and provisions of the NFSA. Inflation index the hot cooked meals and take home rations so that the amounts can be increased annually.
3. Ensure compliance with Supreme Court directives to eliminate manufacturers and private contractors from the scheme and hand over the provisioning of THR and hot cooked meals to local womens SHGs and mahila mandals.
4. Restore the budget of the Mid Day Meal Scheme to at least Rs.16,000 crores to begin with and draw up new guidelines for the nutritional content of the Mid Day Meals in line with the recommendations of the Vinod Paul Committee.
5. Inflation index the unit costs of all the components of the Mid Day Meal Scheme to account for rising food prices and other elements of the cooking and conversion costs.
6. Implement the NREGA in letter and spirit with the payment of at least minimum wages in all States and full employment of 100 days to begin with, for all rural households in the country.
7. Issue guidelines for the establishment of an independent grievance redressal mechanism under the NFSA in the states.

# 9. Functioning of Parliament:

## Parliament's performance

### Sessions in both the Houses marred by disruptions, adjournments

Parliament, one of the pillar institutions of the Indian democracy, occupies a unique position. Its activities represent the operations of the government. After coming to power in 2014, the National Democratic Alliance (NDA) government led by Bhartiya Janta Party (BJP) announced that it will take all steps essential to stop corruption, bring back black money, ensure good governance, accountability, and development for all.

The performance of the government can be studied at three levels—amendments and bills introduced, the degree of time utilized, and debates and discussions in the Parliament.

In the last one year, the two Houses were less productive than previous years regarding discussions and debates. Many discussions were disrupted on the issues such as Dadri lynching incident, intolerance, secularism, National Herald case, re-promulgation of the Land Acquisition Ordinance, derogatory remarks made by a member of the Opposition, agrarian crisis and farmers' suicides, non-establishment of a separate high court for Telangana, widening the scope of probing the issue of tapping phone calls of parliamentarians, Vyapam scam, appointment of the Governor of Bihar without consulting the State government, political crisis in Uttarakhand, and allegations of bribery and corruption in Augusta Westland Chopper Deal.

Last year, three sessions—5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup>—of the 16<sup>th</sup> Lok Sabha had a total of 70 sittings. In this, 357.51 hours of sitting took place, while 49.45 hours were lost due to disruptions or forced adjournment. This is higher than last years' disruptions. In Rajya Sabha, the last three sessions—236<sup>th</sup>, 237<sup>th</sup>, 237<sup>th</sup> and 238<sup>th</sup>—witnessed 72 sittings. In this, 233 hours' work took place and 148 hours were lost due to disruptions or forced adjournment. One major reason behind the disruptions in the Rajya Sabha was the lack of majority for any party or alliance in the House. While the debate is necessary, the absence of majority leads to lack of consensus and constant logjams. According to an NDTV study, the cost of running each House is Rs 29,000 per minute. The loss of hours in the Rajya Sabha has cost nearly Rs 10 crore to the exchequer. The loss of hours can be easily understood in numbers.

### Time Lost In Parliament: Last Six Sessions

Session	16th Lok Sabha	Session	Rajya Sabha	16th Lok Sabha	Session
	Sitting Hours	Time Lost		Sitting Hours	Time Lost
First	23 hours 51 min	16 min	232	142 hours	34 hours
Second	167 hours	13 hours 51 min	233	76 hours	62 hours
Third	129 hours 21 min	3 hours 28 min	234	109 hours	17 hours
Fourth	242 hours 54 min	7 hours 4 min	235	72 hours	21 hours
Fifth	42 hours 27 min	34 hours 4 min	236	9 hours	72 hours
Sixth	117 hours 14 min	8 hours 37 min	237	59 hours	47 hours
Seventh	198 Hours 10 min	0*	238 & 239	155 hours	29 hours

*\*Time loss is not mentioned on Lok Sabha Business till 18<sup>th</sup> May 2016.*

*Source: Lok Sabha website (<http://loksabha.nic.in/>) and Rajya Sabha website (<http://rajyasabha.nic.in/>)*

In the Budget Session 2016, from February 23 to March 16 and from April 25 to May 13, 25 Bills were passed. Of these, eight bills were related to Finance and Appropriation. As many as 55 bills are still pending in Parliament. Some important pending bills are the Lokpal and Lokayuktas and other Related Laws (Amendment) Bill, 2014, and the Factories (Amendment) Bill, 2014. Rajya Sabha has been more productive in this session (91 percent) as compared to the past two sessions (51 percent in Winter Session 2015 and 9 percent in Monsoon Session 2015). This session of Lok Sabha was most productive in last 15 years regarding utilisation of time. But if we see the time spent on the discussion on bills, Rajya Sabha passed five Bills without debate, while Lok Sabha passed one bill.

Disagreements are the cornerstone of a healthy parliamentary discourse. A constructive discussion on the points of contention is imperative for the passage of important bills. However, disagreements can be deliberated upon through dialogue instead of disruptions. Lok Sabha functioned for just 355 hours. To make matters worse, Rajya Sabha worked for abysmally meagre 32 hours out of the scheduled working duration of 140 hours. Most importantly, the dispersal of debates through disruption is perceived by both the Houses as a threat to its prestige, legitimacy, and, therefore, its institutional reproduction.

During this time some important bills passed were the Sugar Cess (Amendment) Bill, 2015, the Indian Trusts (Amendment) Bill, 2015, and the Atomic Energy (Amendment) Bill, 2015. During the Budget session 2016-17, that concluded on March 20, 2015; seven bills were passed by both the Houses. These include the Real Estate (Regulation and Development) Bill, 2013, the Juvenile Justice (Care and Protection of Children) Bill, 2014, the Coal Mines (Special Provisions) Amendment Bill, 2015, the Constitution (Scheduled Castes) Orders (Amendment) Bill, 2014, the Andhra Pradesh Reorganisation (Amendment) Bill, 2015 and the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016.

The Sugar Cess (Amendment) Bill, 2015 amended the Sugar Cess Act, 1982, and provides for the imposition of cess as an excise duty on the production of sugar. It has raised the ceiling of the import from Rs 25 to Rs 200 per quintal, a measure that will help sugarcane growers and cash-starved mills. This bill will contribute to increasing the accruals to the Sugar Development Fund, which facilitates rehabilitation and modernization of sugar mills, thereby improving cane growers.

The Real Estate (Regulation and Development) Bill, 2013 will contribute to regulating the sector and bring in clarity for both the buyer and the developer. It establishes the State Real Estate Regulatory Authority as the government body to be approached for redress of grievances against any builder. This bill will help consumers in accountable, transparent and fair deals in a sector notorious for delays, shortchanging and overpricing. But the bill has also left ample room for unforeseen problems, such as the recent floods that ravaged Chennai.

Under the Juvenile Justice Bill, the age of trying a juvenile as an adult in heinous crimes like rape was brought down from 18 years to 16 years. The Bill violates UN conventions by treating children as adults. It has no provision for separate jails for the 21-year-olds. Unfortunately, the debate on this bill did not discuss the acute shortage of trained professionals and physical infrastructure.

The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 was passed to provide good governance, efficient, transparent and targeted delivery of grants, benefits and services through unique identity numbers. This bill has been adopted by the Lok Sabha as a money Bill. Thus, it could not be rejected or amended by the Rajya Sabha. The Upper House can only make recommendations for amendments, but these have to be agreed upon by the Lok Sabha to become effective. The government has taken this step because it is short of a majority in the Upper House. Also, it dreaded that the Bill may see the fate of the previous Goods and Services Tax (GST) Bill. This bill has been criticised by scholars, leaders and subject experts for labelling it as a money Bill. M R Madhavan said the Aadhaar Act contains matters “only” those incidental to expenditure from the consolidated fund. Pratap Bhanu Mehta said this was a subversion of “the spirit of the Constitution.” Former secretary-general of the Lok Sabha P D T Achary expressed concern about the attempts to pass off financial bills like Aadhaar as money bills, as a means to circumvent and erode the supervisory role of the Rajya Sabha. Arvind Datar said if the primary purpose of a draft law is not governed by Article 110(1), then certifying it as a money bill is unconstitutional. They also criticised the government for making Aadhaar numbers mandatory for claiming government benefits and services. There is also a petition that claims Aadhaar may be in violation of the right to privacy. A five-judge Bench of the court is examining whether the right to privacy is a fundamental right.

Some major bills are still pending in the Parliament. These are the Constitution (122nd Amendment) (GST) Bill, 2014, the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2014, the Electricity (Amendment) Bill, 2014, the Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014, and the Child Labour (Prohibition and Regulation) Amendment Bill, 2012. Here, it is important to note that the current government has tried to bring some important bills in the form of money Bill as it does not have the majority in the Upper House.

Parliament is first and foremost the most reliable mechanism of law making and deliberative democracy. The decline of the Indian parliament is becoming evident in the shortening sessions and decrease in time spent on scrutinizing legislative and budgetary bills. Parliament suffers from serious practical and structural limitations in this regard.

## Recommendations

1. Time should be properly utilized and disruptions minimized in the both the Houses.
2. Proper discussions should be done in both the Houses before passing a Bill.
3. Setting up coordination committees with members of ruling party and opposition for smooth conduct of the House.
4. Accord private member bills more space and respect.
5. Give teeth to the role of the Speaker to run the House.
6. Increase the number of sittings of Parliament.
7. There is a need to strengthen the legislative process to make it more rigorous and time-bound.

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# 10. Health: Inadequate budget

## Ill-health capital of the world gets least funds for healthcare

About one-third of the world's 1.2 billion poorest people live in India, estimates the United Nations. The country has the highest number of women dying in childbirth and the highest number of deaths of children under the age of five. With one doctor for 1,700 people, India has a healthcare system that ranks 112th among 190 countries. The country also bears 21 percent of the world's burden of disease, which is worsened by poor basic health and sanitation.

India has a high growth rate of population and an ambitious growth aspiration, but it has always had a disproportionately small health budget. In 2016, despite some gains in the last decade, the government still spends only 1.2 percent of the GDP on health, one of the lowest in the world (Mohan & Rajagopal, 2015).

India is, arguably, the ill-health capital of the world. Home to 17 percent of the world's population, India accounts for 17 percent of global maternal deaths (500,000), 21 percent of deaths among children below five years (1.35 million) and 29 percent of newborn deaths (779,000). These statistics are vital indication of the poor state of public health in the country (Sengupta, 2015). These also point towards the dire need of pumping in more money, reforming the system, and ensuring quality in both public and private sectors.

There has been some increase in the total allocations under the Ministry of Health and Family Welfare. However, if we look at the allocations as percent of GDP (see table), it remains at about 0.25 percent. To address the development deficits in the health sector and the shortages in infrastructure and availability of healthcare personnel in the country, there is a need to increase India's public spending on health to significantly higher levels. India's total public expenditure on health—Centre and states combined—is far from meeting the 12<sup>th</sup> Five-Year Plan target of 2.5 percent of GDP (CBGA, 2016). While it is true that higher disbursement of tax revenue gives more flexibility to the states to invest more in health, both Central and state spending needs to increase substantially to achieve targets India has set for itself.

### Allocations across ministries (In Rs crore)

Ministry/Department	2012-13 (Actual)	2013-14 (Actual)	2014-15 (Actual)	2015-16 (RE)	2016-17 (BE)
Department of Health & Family Welfare, Department of AIDS control	26,449	28,618.4	30,626.4	32,819	37,061.5
Department of health research	720	874.1	910.8	1,012.6	1,144.8
Ministry of Health & Family Welfare	27,169	29,492.5	31,537.2	33,831.6	38,206.3
Ministry of AYUSH	715	642.4	616.8	1,125	1,326.2

Source: CBGA

It is a matter of great concern that under the National Health Mission, government's flagship programme in the health sector, the allocations in 2016-17 (BE) are lower than those in 2015-16 (RE). In the context of National Urban Health Mission, which enhances population coverage substantially, this development can potentially undo the gains over the last decade.

## **Announcements in Budget 2016-17**

The government announced a new health protection scheme for the poor and economically weak families against unforeseen out-of-pocket expenditure with a health cover up to Rs 1 lakh per family. Senior citizens will get an additional top-up package of up to Rs 30,000. A National Dialysis Services Programme will be started to deal with the high costs involved in renal dialysis processes. As part of the programme, every district hospital will have renal dialysis facilities. The equipment of dialysis will be exempt from customs duty, fully or partially. Funds will be made available through Public-Private Participation mode under the National Health Mission, to provide dialysis services in all district hospitals.

The Jan Aushadhi scheme, introduced in 2008, has not really taken off. At present, only 164 Jan Aushadhi stores have been opened, out of which only 87 are functional, shows the official website of Jan Aushadhi. Allocations for the scheme have increased only by a small margin in 2016-17 (BE) over 2015-16 (RE). The announcement of 3,000 Jan Aushadhi stores is a welcome step but some of the main problems plaguing the scheme still need to be addressed. The problems include doctors not prescribing generic medicines to the patients, non-availability of medicines under generic names, and provision to provide adequate number of free medicines.

Allocations under Pradhan Mantri Swasthya Suraksha Yojana have increased but the Comptroller and Auditor General of India's (CAG) report has mentioned that in 2014-15 there were nearly 70 percent savings (or unutilised funds) under the head "Establishment of AIIMS-type Super-Specialty Hospitals-cum-Teaching Institutions and upgrading of State Government Hospitals" (CBGA, 2016).

More AIIMS-type hospitals in different states is a welcome move, but the allocations are meagre. The Delhi AIIMS has a budgetary provision of Rs 1,470 crore and for the other AIIMS-type institutions (as of now about 10), the budget is a mere Rs 1,756 crore. That apart, getting appropriate faculty and other staff remains a huge challenge for the AIIMS in the other states which have already started operations (Duggal, Shocking Neglect of Health Care, 2015).

For the second year in a row, the Modi government has reduced funds for child nutrition interventions. This, despite National Family Health Survey (NFHS)-4 data for 15 states showing that 37 percent of children under the age of five are stunted; 22 percent are wasted while 34 percent under the age of five are underweight. Although there is significant improvement in indicators from previous rounds, they are still unacceptably high, and a cut in spending defies logic.

The Integrated Child Development Scheme (ICDS) has suffered a massive cut, from Rs 15,483.77 crore last year to Rs 14,000 crore in the latest budget. The scheme, implemented by the Ministry of Women and Child Development, is the country's flagship and the largest intervention programme in the world for the nutrition of marginalized children. That's not all. The percentage share of the Mid-Day Meal scheme in the total Union Budget allocation has gone down from 0.74 percent in 2014-15 (BE) to 0.49 percent in 2016-17 (BE). Allocation for the Mid-Day Meal scheme for 2016-17 stands at Rs 9,700 crore (2016-17 BE). The budget comes a week after the Economic Survey states that India needed to increase

investments on child nutrition programmes if it were to capitalize on the demographic advantage offered by its young population (The Hindu: Huge budget cut for ICDS, 2016).

## Prioritization of privatization

India's health system is one of the most privatized in the world and public expenditure is one of the lowest. Of the total expenditure on healthcare in India only 32 percent is public expenditure—the 16th lowest among 190 countries in the World Bank Database, in the company of countries such as Sierra Leone, Afghanistan, Haiti and Guinea. Allocations by the Central government have shown an increasing trend in the past decade—at current prices it increased almost four times. But from 2011-12, the difference between allocations and actual spending has been widening.

Unfortunately, a fundamentally ideological opposition to public services lies at the heart of the present government's approach to healthcare. The BJP's 2014 election manifesto talked about "health assurance"—a concept never defined concretely. An expert group was constituted with substantial fanfare in the early days of this government on health assurance but was subsequently given a quiet burial. A draft National Health Policy was unveiled and has remained a draft for over six months. It is rumoured that the draft is caught up in a controversy reflecting divergent views expressed by the Ministry of Health and the Niti Ayog. Recently, the Niti Ayog came down heavily on the draft policy for suggesting a key role for public services.

The arguments lie at the heart of present government's approach to healthcare. It would like to cap public expenditure at a minimum level and at the same time, through public policy measures, encourage the growth of private providers. In spite of the earlier Planning Commission's High Level Expert Group's clear recommendation to wind up the government's health insurance scheme (Rashtriya Swasthya Bima Yojana, now Rashtriya Swasthya Suraksha Yojana), the government is aggressively pushing forward the insurance scheme because the main service providers attached to the scheme are private. The increased rebate on health insurance premiums from Rs 15,000 to Rs 25,000 must be creating euphoria in the insurance industry, but it is bad for the health of the *aam aadmi*. This is a clear message from Modi Government that people are expected to arrange for their own healthcare through purchase of insurance. In other words, "healthcare is your personal responsibility" (Duggal, Shocking Neglect of Health Care, 2015). The government is also aggressively pushing for private health insurance and the 2015-16 Budget explicitly encourages this by announcing tax relief to those who purchase private health insurance. At the same time, states such as Rajasthan are leasing out existing rural public facilities to the private sector (Sengupta, 2015).

Parliamentary Standing Committee on Health and Family Welfare released its 93rd Report on the Demands for Grants for the 2016-17 budget, in which it severely indicted the failure of the 12<sup>th</sup> Plan. The Plan had proposed a total of Rs 2,68,551 crore over the five years, but the final allocation was drastically reduced to Rs 1,25,117 crore. This is mere 46.6 percent of the original planned allocation. The report concludes that if the entire allocation of the 12<sup>th</sup> Plan was made available to the Ministry of Health and Family Welfare, it would have effectively strengthened district health systems, provided free drugs and diagnostics mandated in the plan, effectively implemented the Indian Public Health Standards, and would have facilitated the rollout of the Universal Health Coverage. Most importantly, it would have been on track towards reaching the goal of 2.5 percent of GDP for health. Even for the National Health Mission, instead of the original outlay of Rs 1,93,406 crore for the plan period, only Rs 90,023 crore of final allocations was made for the five years. This is a mere 46.5 percent of the original

planned allocation. Lastly, the committee recommended that the Centre's share of the health budget should be at least 40 percent, and all barriers to delays in fund flows from the Centre to states should be removed so that implementation does not get affected. (Duggal, *The Economic and Political Weekly*, 2016)

## Key recommendations

1. There is a need to increase health spending by both the Centre and states to reach the goal of 2.5 percent GDP. Currently, the policy direction suggests a trade-off, as states increase their spending through funds from increased devolution.
2. India needs block or district level health indicators that help de-centralised planning and informed debates. Health management information system as well as government surveys need to be fine-tuned to address the challenges.
3. There is a need to align flagship schemes of the government to achieve public health goals.
4. As the government rolls out Rashtriya Swasthya Suraksha Yojana (RSSY), which is actually revised Rashtriya Swasthya Bima Yojana (RSBY), the government should make the data of RSBY public. Independent evaluation of the schemes will help assess RSSY implementation.
5. The government should commission a comprehensive study to understand the impact of the 14<sup>th</sup> Finance Commission recommendation on overall health spending trends at the district levels.

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# 11. Housing and Urban Poverty: NDA's urban development plan decoded

## Ambitious projects are mere revision of old programmes. Mistakes are left uncorrected

Complete overhaul of the urban landscape that will make cities a better place to live, for the rich as well as for the poor. This was Prime Minister Narendra Modi's promise to the country in 2015.

To make this real, he announced Smart Cities Mission, Atal Mission for Rejuvenation and Urban Transformation (AMRUT) and Pradhan Mantri Awas Yojana (PMAY). These are based on bottom-up approach. The fundamental premise is that the Centre will no longer be involved in sanctioning and appraising projects. Instead, states will have the freedom to design and formulate the plans. The big talk is that the Centre will release Rs 3 lakh crore to create 100 Smart Cities and 500 AMRUT cities over the next five years, and build 2 crore affordable houses across 4041 statutory cities and towns over the next seven years.

**Model State Affordable Housing Policy:** This aims to create an enabling environment to provide "affordable housing for all" so that no individual is left without shelter. The emphasis is on vulnerable sections among the urban poor such as those belonging to the EWS and LIG categories, Scheduled Castes, Scheduled Tribes, Other Backward Classes, minorities, senior citizens and the physically challenged. The policy promotes public-private participation. The key interventions and action points are focused on land, finance, legal and regulatory reforms, technology support and its transfer, provision of infrastructure, satellite/integrated townships, institutions, capacity building and sustainability. The draft policy outlines:

- Liberalized development control regulation to make land available
- Waiver of taxes and increase in fund flow to affordable housing plan
- Legal and regulatory reforms for entitlement/tenure rights
- Cost-effective sustainable technologies to bring down housing prices
- Social and physical urban infrastructure for better quality of life.

**Model Tenancy Act:** This aims to create a conducive legal atmosphere to help unlock existing properties so that they can be rented out. These can be used for mass scale investment in new rental housing stock. The Model Tenancy Act proposes to establish a legal framework to regulate residential and commercial tenancy matters, and to balance the rights and responsibilities of landlords and tenants. This would include fast adjudication process to resolve disputes. Model Tenancy Act is neither an Act of

the Parliament, nor a Central Bill. It is a template for the state governments to adopt.

**Draft National Urban Rental Housing Policy:** The vision of the Draft is “to create a vibrant, sustainable and inclusive rental housing market” in the country. It aims at promoting rental housing as an option for the destitute, homeless and the disabled; social rental housing for the EWS and LIG sections; affordable rental housing for specific target groups such as migrant labourers, working women, students and so on; rental housing as a stop gap arrangement for aspirant home buyers, and; institutional rental housing for the working class. The policy will enable:

- Formalization of rental housings through regulatory and legal frameworks
- Fund flows along with incentives for rental housing
- Organizations to construct, manage, maintain and operate rental housing stock—Residential Management Corporations (RMCs), Residential Real Estate Investment Trusts (REITs), and Employee Housings.

**Smart Cities Mission:** It involves application of ‘smart’ solutions, technology and data in urban infrastructure and service delivery. Each smart city will receive Central assistance of Rs 100 crore. It will be implemented through a Special Purpose Vehicle where the state and the Urban Local Body will be equal equity holders. Public-Private Participation will be the main source of mobilization.

**AMRUT:** It aims at achieving optimal level of basic services provisions such as water supply, sewerage, drainage, waste management, urban mobility and green spaces. It is applicable for 500 cities that have more than 1 lakh population. AMRUT is linked to a set of 11 reforms that states will undertake. These reforms include e-governance, better tax collection, devolution of funds to Urban Local Bodies, adherence to Swachh Bharat mission, GIS-based master plans, simpler building by-laws, sound credit rating of Urban Local Bodies and so on.

**PMAY:** The scheme targets the homeless, the urban poor and those belonging to Economic Weaker Section (EWS) and the Lower Income Group (LIG) categories. PMAY will ensure ownership of 2 crore houses to female members of the family. They could also be joint owners of the house along with their husbands. PMAY will be implemented in three phases—Phase 1 from April 2015 to March 2017 in select 100 cities, Phase 2 from April 2017 to March 2019 in another 200 cities, and Phase 3 from April 2019 to March 2022 covering all remaining cities.

**Deendayal Upadhyaya Antyodaya Yojana National Urban Livelihoods Mission (DAY-NULM):** This will focus on organising urban poor in their strong grassroots level institutions, creating opportunities for skill development leading to market-based employment and helping them set up self-employment ventures by ensuring easy access to credit. The mission aims to provide shelter equipped with essential services to the urban homeless in a phased manner. In addition, the Mission would address livelihood concerns of the urban street vendors.

## Verdict

- The NDA government’s ambitious AMRUT is nothing more than a revised version of UPA government’s Jawaharlal Nehru National Urban Renewal Mission (JnNURM). PMAY is just another name for Rajiv Awas Yojana, the housing for all by 2022 scheme. DAY-NULM was launched by replacing Swarna Jayanti Shahari Rozgar Yojana. For the NDA, smart cities must have bullet trains, expressways and metro trains. These are devoid of livelihood, housing and other basic human rights.

- The government announced PMAY without doing its homework on the technical feasibility of building millions of houses in such a short time. Given the huge housing shortage (26.53 million and growing), it needs to build over – 9781 (from 2015, & every day missed, this will get added to the numbers) houses per day to reach the target! The government did not bother to examine why people evicted from various urban slums are reluctant to move into hundreds of units constructed under earlier schemes like JnNURM and the Basic Services for Urban Poor. The government tends to believe that housing shortage is turning acute due to increasing urbanization and migration.
- Homeless urban workers—the City Makers—were looked down upon. No effort was made to give them adequate shelters in cities in spite of the orders of the Supreme Court of India and many High Courts. In New Delhi, a proposed smart city, NDMC shut down a permanent homeless shelter in 2004. Till date, this richest municipal body in Asia does not have a permanent shelter for the homeless in its precincts. NDMC houses the elite of the country—Members of Parliament, bureaucrats, business and corporate top notches. NDMC is already out of bounds for the poor. Making New Delhi ‘Smart’ will further convert it into a fortress, which even now it is!
- Smart cities may pave the way for apartheid in cities, with Smart Cities being only for the rich and the elite—fully gated and secured. Will the Constitution of India be applicable here? Or, will these cities be modelled on Special Economic Zones and Special Tourism Zones?
- No effort has been made on the ground to end homelessness or even to provide adequate shelter to the homeless.
- Forced evictions and demolitions are the norm in many cities, despite numerous landmark judgements (in 1981, 1985, 1990, 1996, 2003, 2010 ) of the Supreme Court and many High Courts as well, while the government continues to talk big.

## Recommendations

1. Recognize that India’s urban challenge is massive and complex, which needs tangible solutions with a bottom-up approach.
2. Give up the notion of economic growth percolating down and focus on the individual poor, rights and entitlement-based and welfare-oriented development agenda. Urban poverty needs elimination, not alleviation. It is achievable.
3. Recognize that in-situ slum development with secure land titles or property rights, along with strategic preventive, curative and futuristic measures, works both for the slums and the cities.
4. Increase urban investment and provide for effective capacity building of all urban local bodies.
5. Announce a moratorium on all forced evictions and uphold the fundamental tenets of the Constitution. The need is to develop a national social housing strategy which addresses homelessness as part of a comprehensive plan.
6. Develop and increase the supply of rental housing to low-income groups and all migrants in cities. No one should be homeless!
7. Recognize ‘Housing is a Human Right’ and focus on ‘adequate housing’ with provision for social and physical infrastructure (accessible, safe and healthy, environmentally sustainable) for vibrant living for all in cities. Equal access for livelihood opportunities is critical for a productive city, while people-friendly governance is required for inclusive, equitable and caring city.

# 12. Human Rights:

## Status of Human rights

### Rights must be ensured for all

#### Summary

The central government continued its clampdown on civil society organizations critical of official policies, and increased restrictions on foreign funding. Religious tensions intensified, gender and caste-based discrimination and violence remained pervasive. Freedom of expression on university campuses came under assault. Censorship and attacks by hardline Hindu groups grew.

Scores of artists, writers and scientists returned national honours in protest against what they said was a climate of growing intolerance. Controversial land acquisition measures were dropped following popular opposition. Abuses by armed groups continued to threaten civilians. The criminal justice system remained flawed, violating fair trial rights and failing to ensure justice for abuses. Extrajudicial executions and torture and other ill-treatment persisted.

#### Abuses by Armed Groups

In May 2015, around 250 villagers were abducted and held hostage for a day in Sukma, Chhattisgarh state, reportedly by Maoist fighters attempting to pressurize the state government to stop work on a bridge. Maoist armed groups were accused of threatening and intimidating Adivasi (Indigenous) people and occupying schools.

In Jammu and Kashmir, armed groups threatened mobile phone operators and attacked mobile towers and telecom offices in May, June and July 2015, killing two people. In September, unidentified gunmen killed a three-year-old boy and his father in Sopore. The same month, the bodies of four armed group members suspected to have been killed by rival groups were found in the state.

In July 2015, armed group members attacked a police station and bus station in Gurdaspur, Punjab state, killing three civilians.

In August 2015, the government announced a peace agreement with the National Socialist Council of Nagaland (Isak-Muivah faction) armed group, which civil society groups said could improve the human rights situation in Nagaland state and parts of northeast India.

## **Caste-Based Discrimination and Violence**

Incidents of violence against Dalits and Adivasis were reported from several states including Uttar Pradesh, Bihar, Karnataka and Tamil Nadu.

In July 2015, an official census stated that over 180,000 households were engaged in “manual scavenging” – the practice of cleaning human waste carried out mainly by Dalit people. Activists said the figure was an underestimate.

In October 2015, two Dalit children were burned to death in an arson attack near Delhi, allegedly by dominant caste men.

In December 2015, Parliament amended the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, recognizing several new offences. The amendments also required that special courts be established to try these offences and that victims and witnesses receive protection.

In March 2016, unidentified men killed Shankar, a 22-year-old Dalit man in Tiruppur, Tamil Nadu, allegedly for marrying an upper caste Hindu woman.

In April 2016, Jishamol, a 30-year old Dalit law student, was found dead in her home in Vattalipodi, Kerala. An autopsy found 38 wounds and signs of rape on her body; and her intestines had been partially removed. Jisha’s mother said earlier complaints to the police about harassment and threats from the family’s neighbours had been ignored.

Dominant castes continued to use sexual violence against Dalit and Adivasi women and girls.

## **Children’s Rights**

In May 2015, the cabinet approved amendments to child labour laws which prohibited the employment of children under 14. The amendments made an exception for children working in family enterprises or in the entertainment industry, which activists said would encourage child labour and disproportionately affect children from marginalized groups and girls.

In December 2015, despite opposition from various child’s rights groups and official bodies, Parliament passed amendments to juvenile justice laws which allowed children aged 16 to 18 to be treated as adults in cases of serious crimes, in violation of India’s international legal obligations.

## **Communal and Ethnic Violence**

Authorities failed to prevent hundreds of incidents of communal violence across the country. Politicians contributed to religious tensions by making speeches justifying discrimination and violence. At least four Muslim men were killed in 2015 in attacks by mobs which suspected them of stealing, smuggling or slaughtering cows.

In August 2015, the central government extended by one year the term of a team formed to reinvestigate closed cases related to the 1984 Sikh massacre and file charges. The team’s functioning has not been transparent, and government responses to Right to Information applications suggest that the team has made little progress in its investigation

In September 2015, a commission investigating communal violence in Muzaffarnagar, Uttar Pradesh state, in 2013 submitted a report which blamed police and senior administrative officials, but exonerated the leadership of the Uttar Pradesh state government.

In the same month, at least eight people were killed in ethnic clashes in Manipur over demands for regulating the entry of non-domicile people into the region, and the enactment of laws affecting the rights of Indigenous people.

## **Corporate Accountability**

Vulnerable communities in resource-rich areas were forcibly evicted from their lands in Korba and Raigarh, Chhattisgarh. India's Ministry of Environment, Forests and Climate Change sought to abolish a requirement for consent from village assemblies for certain infrastructure projects.

In August 2015, the Madhya Pradesh state government incinerated 10 tonnes of the waste in Pithampur, 250km from Bhopal, which activists said had violated Supreme Court orders and endangered the health of local residents.

In August 2015, following nationwide opposition from farmers' groups, civil society and political parties, the central government said it would not pursue amendments to India's central land acquisition laws which removed requirements relating to obtaining consent and conducting impact assessments for a range of industrial projects. However many industries, including public sector coal mines, railways and highways, are still not required to obtain the consent of Indigenous communities or conduct social impact assessments for land acquisition.

In April 2016, the Gujarat government passed amendments to the central law on land acquisition which mirrored the central amendments that were dropped, and undermined the rights of communities to participation and genuine consultation.

## **Death Penalty**

On 30 July 2015, Yakub Abdul Razak Memon was hanged at the Nagpur Central jail. He had been convicted under the Terrorist and Disruptive Activities Act 1987, a law that contains provisions incompatible with international fair trial standards, for his involvement in a series of bomb blasts in Mumbai in March 1993 which killed 257 people.

In August 2015, two members of parliament introduced bills seeking abolition of the death penalty. The same month, the Law Commission of India submitted a report to the government favouring speedy abolition of the death penalty. The Commission said that the death penalty in India is "an irreversible punishment in an imperfect, fragile and fallible system" but recommended that it be retained for terrorism-related offences and "waging war against the state".

In May 2016, the National Law University, Delhi released a study of the administration of the death penalty in India, which found that over 75 percent of those sentenced to death between June 2013 and January 2015 were from economically weak sections, marginalized castes and religious minorities.

## Freedom of Association

Central government authorities took several measures to repress civil society organizations, including using the Foreign Contribution (Regulation) Act (FCRA) – which restricted organizations from receiving foreign funding – to harass NGOs and activists. In December 2015, the government passed amendments to the Foreign Contribution (Regulation) Rules which increased reporting requirements for NGOs.

The central government took a series of actions against Greenpeace India ordering the organization's bank accounts to be frozen in April 2015 and cancelling its FCRA registration in September 2015. High Courts ruled that some of these steps were illegal.

In July 2015, the Central Bureau of Investigation registered a case against human rights activists Teesta Setalvad and Javed Anand for allegedly violating provisions of the FCRA. In September, authorities suspended the registration of an NGO run by the activists to receive foreign funding.

In April 2016, the United Nations Special Rapporteur on Freedom of peaceful assembly and association stated that the FCRA law was not in conformity with international law and standards.

## Freedom of Expression

There were several instances of intimidation and attacks against journalists, authors, artists and human rights defenders. Laws which did not meet international standards on freedom of expression were also used to persecute human rights defenders and others.

In August 2015, rationalist writer MM Kalburgi was killed in Dharwad, Karnataka in an attack thought to be related to his criticism of religious intolerance and idolatry. In October, Dalit folk singer Kovan was arrested in Tamil Nadu for writing songs criticizing the state government and Chief Minister.

Between July 2015 and March 2016, four journalists – Santosh Yadav, Somaru Nag, Prabhat Singh and Deepak Jaiswal – working in Bastar, Chhattisgarh, were arrested on politically motivated charges. Another journalist, Malini Subramaniam, was forced to leave Bastar in February 2016 following attacks on her home and police pressure on her landlord.

In February 2016, Adivasi activist Soni Sori was assaulted by three unidentified men who threw a black substance on her face, temporarily blinding her. Human rights lawyers Isha Khandelwal and Shalini Gera, who provide free legal assistance to Adivasi prisoners in Bastar, were asked to leave their home and office.

In February 2016, Hindi journalist Karun Mishra was shot dead by gunmen on motorcycles in Sultanpur, Uttar Pradesh. The state police said that the journalist had been targeted for his reports on illegal soil mining. In May 2016, Hindi journalist Rajdeo Ranjan was shot dead by unknown assailants in Siwan, Bihar. He had covered local politics and crime extensively.

In September 2015, authorities proposed – and withdrew after facing opposition – a draft encryption policy which would have threatened free expression and privacy.

## **Rights of Lesbian, Gay, Bisexual, Transgender and Intersex People**

Section 377 of the Indian Penal Code continued to be used to criminalize same-sex relations between consenting adults. Senior government officials made contradictory statements about whether the law should be retained. In December 2015 and March 2016, the introduction of a bill to decriminalize same-sex relations was defeated in the lower house of Parliament.

In February 2016, the Supreme Court referred a batch of petitions against Section 377 to a five-judge constitution bench for a possible in-depth hearing.

## **Rights Violations on University Campuses**

In February 2016, several students from Jawaharlal Nehru University were arrested for allegedly committing 'sedition'. The Delhi police, which reports to the central Ministry of Home Affairs, arrested Kanhaiya Kumar, Umar Khalid and Anirban Bhattacharya for allegedly raising 'anti-national' slogans at a peaceful demonstration inside the university. Delhi police also arrested Delhi University professor SAR Geelani for organizing an event where 'anti-India' slogans were allegedly raised.

On 15 February, at Kanhaiya Kumar's hearing at a Delhi trial court, journalists, students and teachers were threatened, slapped and beaten up by lawyers. Several eyewitnesses say that Delhi police personnel did not intervene, despite repeated requests.

In March 2016, peacefully protesting students and faculty from the University of Hyderabad were beaten up and arrested by the Hyderabad police. The students were protesting against the return of the vice-chancellor of the university who they held responsible for the suicide of Dalit Student, Rohith Vemula, in January 2016. In April, the Jammu and Kashmir state police were accused of using excessive force against student protestors at the National Institute of Technology in Srinagar.

# 13. Labour and Employment: Workers pushed to neglect zone

## **NDA shows little concern for unorganised sector**

A whopping 487 million people in India are workers, states Census 2011. Of this, 94 percent work in agriculture, construction, manufacturing, vending, trade, communication and transport sectors, reveals a survey done by the National Sample Survey Organisation (NSSO) in 2009-10. Many of these workers are part of the unorganised sector and engaged in home-based units such as beedi-making, agarbatti-making, paapad-making, tailoring and embroidery work. Most of them are illiterate or semi-literate and are not aware of their rights and, therefore, extremely vulnerable to exploitation. However, it can be indisputably said that the unorganised sector makes a significant contribution to the country's growth.

The question, therefore, is: Why has this vital sector remained neglected for years in the labour laws, government policies and social security schemes? Even the current NDA government has not taken enough initiatives to protect the workers.

## **Government initiatives for workers**

The NDA government merged three labour laws—Industrial Disputes Act 1947, Trade Unions Act 1926, and Industrial Employment (Standing Orders) Act 1946. The new legislation was called the Labour Code on Industrial Relations Bill, 2015. The draft Bill states that it shall “consolidate and amend the law relating to registration of trade unions, conditions of employment, investigation and settlement of disputes and the matters related therewith or incidental thereto”.

But this draft Bill does not show any concern for the unorganised sector. It states that all workers employed in industries for more than a year will get three months' notice in case of retrenchment. This shall not apply to an “undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction works”. A large number of the unorganised labour force is employed in the construction sector. This clause can leave several jobless without a warning. The draft Bill, whose provisions are still under consideration, has also increased the number of workers whom they can sack without prior government permission from 100 to 300 (The Hindu Centre for Politics and Public Policy, 2015). This will leave informal workers at the mercy of their employers, who can freely practise the policy of hire and fire.

In 2015, the government introduced the Unorganised Worker Identification Number (U-WIN) card under the Unorganised Workers' Social Security Act 2008. This was to provide social security schemes to workers. It has been reported (The Indian Express, April 19, 2016) that Aadhaar will replace U-WIN. This is because some of the mandates of U-WIN and Aadhaar are the same and can lead to duplication of work. Aadhaar card itself is not without problems. Its biometric machine often fails to read fingerprints of people who work continuously with stone, cement and limestone. These workers will not be able to benefit from the social security schemes linked to Aadhaar such as ration and pension schemes.

In July 2015, the NDA government launched the Skill India Mission, which aims to train over 400 million people in different skills by 2022. The flagship scheme under the mission, the Rs 1,500-crore Pradhan Mantri Kaushal Vikas Yojana (PMKVY), seeks to train 2.4 million youth. The mission will also offer loans ranging from Rs 5,000 to Rs 1.5 lakh to 3.4 million youth to attend skill development programmes.

Skill India Mission seems to be just a new name given to UPA National Skill Development Policy (NSDP). The UPA government had set a target of skilling 500 million people by 2022, much higher than the NDA government's target (*The Hindu*, September 24, 2015). The NDA government's Make in India campaign is also criticised for its over-emphasis on strengthening only one sector—manufacturing. The campaign made no effort to include the service sector which could generate more jobs for the youth and help economy grow.

The NDA government also proposed amendment to the Child Labour (Prohibition and Regulation) Act, 1986 to ban employment of children under 14 years in commercial enterprises. But it did not include works done in family enterprises and on farmlands after school hours and during vacations. Family enterprises include matchbox making, carpet weaving and gem polishing industries where child labour is rampant. The new norms can also be used to deny education to the girl child who can get stuck with household work.

## Social security schemes

Last year, the NDA government introduced the Atal Pension Yojana. It provides pension to workers above 60 years in the unorganised sector. But the pension amount does not take into account the inflation rate and the cost of living. Rs 1,000, Rs 2,000, Rs 3,000, Rs 4,000 and Rs 5,000 per month fixed depending upon their contributions is far too little for a family to survive.

The Pradhan Mantri Suraksha Bima Yojana (PMSBY) and the Jeevan Jyoti Bima Yojana (JJBY) give one-year accidental death and disability cover, and life risk cover respectively. The two schemes target the poor who are neither covered by any form of insurance nor get pension for support after any tragedy. They have to pay nominal fee of Rs 12 and Rs 330 per year for PMSBY and JJBY respectively to avail the benefits. But these too are not without problems.

The low premium pricing model may not be sustainable in the long run. Subscribers do not require any pre-medical test. The informal migrant worker could find it difficult to save and pay the premiums. Worse, JJBY lapses when the subscriber turns 50. The years after 50 are most crucial for informal workers as they suffer from many health problems given their poor and hazardous conditions of work.

## Status of informal workers

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act was passed almost two years ago, but no state has fully implemented it. Many urban local bodies are yet to establish Town Vending Committees, so street vendors are still being forcefully evicted from their work space. Constant evictions and bribery, despite the Act, go against the street vendors' fundamental right to livelihood.

The Building and Other Construction Workers Welfare Cess Act 1996 mandates all states to form a welfare board, and collect one percent of the construction cost from employers and developers. The amount collected should be used for the education of workers' children, their medical treatment, in case of accidents, as pension and loans. The Supreme Court has criticised the NDA government for diverting Rs 27,000 crore collected under this head for purposes other than workers' welfare (Indian Social Institute, 2015). Of the Rs 4,179 crore cess collected by eight states in the last three years, only about Rs 361 crore was spent on the welfare of construction workers.

According to the National Urban Livelihood Mission (NULM) scheme formulated in 2013, state governments are to build permanent, all-weather shelters for the urban homeless with basic infrastructure like water supply, sanitation, safety and security. The Supreme Court has found severe financial loopholes in the scheme. The Centre released Rs 1,078 crore to states to construct shelters for nine lakh urban homeless, but only 208 houses were built. Also, funds were 'utilised' only by 14 states. Uttar Pradesh constructed 37 houses for Rs 180 crore, but Maharashtra did not construct a single house from the Rs 170 crore it was allotted (Business Standard, July 24, 2015).

The Pradhan Mantri Awas Yojana (PMAY), which aims to make India slum-free and promises to provide houses to all by 2022, ignores housing for migrant informal workers. In fact, the PMAY guidelines state that migrant workers should be excluded from housing schemes as it would induce people to migrate from rural areas. Notably, the rural poor migrate to cities in search of livelihood, not because they do not have houses in rural areas. This apart, those who have pucca houses in any part of India are not eligible for the scheme. This means that slum-dwellers (largely migrant informal workers) who have pucca houses in their place of origin will not have any housing rights in the cities they migrate to.

Smart cities, as envisaged by the NDA government has no space for labourers. Guidelines for the mission do not enumerate where they will stay despite the fact that labourers would be needed for the construction of smart cities as well as to provide various services after they are constructed. Experts speculate that over-planning of smart cities may lead to exclusion of informal workers from the cities and their resettlement in urban peripheries. It could also lead to indiscriminate growth of informal housing within the cities.

## Status of Rural Labour Force

The UPA government had launched the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) as its flagship scheme in 2005. It guarantees 100 days of work every year to each rural household. The NDA government claims MGNREGA was "revived" in the last one year. The government has announced that the focus now would be to simplify and strengthen the scheme's procedures, and towards building sustainable assets to benefit the poor.

In the last financial year, the government gave Rs 34,699 crore for MGNREGA and promised to provide another Rs 5,000 crore based on the actual utilisation of funds by states and Union Territories. Incidentally, the government had promised another Rs 5,000 crore for the programme in last year's budget, but it released only Rs 2,000 crore. As per the Union Budget 2016-17, the government has increased the fund allocation for MGNREGA to Rs 38,500 crore. Despite increased budgetary allocation, the revised MGNREGA wage rates are still below the existing minimum wages fixed by the state (The Economic Times, April 4, 2016). MGNREGA is further criticised for the outstanding payments due to states and the issue of wage delays. Data presented by the Ministry of Rural Development showed that over 70% of the wages to be paid under MGNREGA were delayed in the financial year 2014-15 whereas according to the Act, payments are supposed to be made within 15 days of completion of work. Due to this ad-hoc releases of funds by the Centre, several states faced serious fund crunches, especially, West Bengal and Punjab which merely received 8% of the wages on time (Indian Express, January 29, 2015).

Farmers in drought-hit areas of Chhattisgarh and Maharashtra have not received adequate compensation from the Central government (People's Archive of Rural India Network, 2015). In some cases, the beneficiaries' names do not figure in the compensation list. Also, as in the case of Maharashtra, the disbursed compensation was returned to the state coffers because a large number of farmers do not have bank accounts, mandatory to receive compensation under the Jan Dhan Yojana. In case of disasters when there is need for immediate relief, Jan Dhan Yojana proves to be a failure. This is because of poor banking coverage, banks' reluctance to open accounts under the scheme, and a large number of non-functional or duplicate accounts.

The compensation amount is also a cause for concern. According to the norms set for the State Disaster Relief Fund, farmers in non-irrigated areas get Rs 1,875 per acre. But farmers in assured irrigated areas get Rs 3,750 per acre. The disparity at the time of natural calamities not only shakes the farmers' confidence in the government but also leads to large-scale rural-urban migration.

## Recommendations

- Too many single, unorganised workers migrate from rural areas to cities in search of livelihood. So a provision for rental housing should be introduced in the PMAY guidelines.
- Establishment of a universal helpline for the unorganised sector workers. It could offer them legal aid and support during any crisis they face at their place of work.
- Basic Service Facilitation Centres should be introduced in every city which provide help in creating identity cards such as Aadhaar cards as well as support services to the unorganised sector workers.
- Welfare boards for the benefit of all types of informal workers should be strictly enforced in every state.
- Rather than focussing on bringing about new Acts and schemes which are ultimately shelved, the government should first strengthen and properly implement the already existing labour Acts/laws/schemes.

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# 14. Land & Agriculture: Extreme farmers' conditions

## **It's high time we understood that farmers' well-being is country's well-being**

Environmental justice is a factor embracing all aspects of life today, be it global warming, toxic waste production and management, or food and energy crises. Reports of food crisis have emerged from all over the world. In India, the situation is grave.

A major part of the country's population depends on agriculture. Extreme climatic conditions and inappropriate diversification in agriculture have led to shortage of staple food materials. The apparent shortage has caused prices of necessary food items to soar.

The government's renaming the Ministry of Agriculture to the Ministry of Agriculture and Farmers' Welfare gave the country hope that the ministry will now traverse the path beyond agriculture input. Successful launch of the Pradhan Mantri Fasal Bima Yojana (PMFBY) and allocation of Rs 5,500 crore in the 2016-17 Budget are welcome steps.

In any of its policies, the government has not considered land division, land alienation and encroachment of productive land for non-agricultural purposes, which have led to reduction of agricultural land. The input cost of agriculture has increased significantly in the past few years, as additional inputs are required due to use of inorganic inputs. Input cost of seeds has increased due to dependency on external market. Cost of fertilizers, farming equipment, human labour and electricity charges have also increased. These have had a huge impact on the profit margin of the farmer. These have also forced farmers to take heavy loans and eventually sell their land. And, these are the reasons that have led many farmers to commit suicide. The government looks clueless to address these issues.

Under the animal husbandry, dairying and fisheries departments, the government has proposed four new projects—Pashudhan Sanjivani, E-Pashudhan Haat, National Genomic Centre for indigenous breeds, and advanced breeding technology. An amount of Rs 850 crores has been allocated for these four projects. But these projects are far from getting down from paper to reality. The marginalized people are also not aware about these projects. The government needs to work along with the civil society to reach out to these schemes to the actual beneficiaries.

In its budget, the government proposed Krishi Kalyan Cess at 0.5 percent on all taxable services and 7.5 percent surcharge. This would be used exclusively for financing initiatives for the improvement of agriculture and the welfare of farmers. This is a good government initiative to enhance investments on the agriculture sector to address the distress situation of farmers in drought-hit areas.

In its budget, the government dedicated Long Term Irrigation Fund in NABARD with an initial corpus of about Rs 20,000 crores. For this, Rs 12,517 crore has been made through budgetary support. People at large are totally unaware of the use of this corpus.

The agriculture sector is most vulnerable to climate change. Consistent warming trends and more frequent and extreme weather events such as droughts are now observed in many parts of the country. There is a need to adopt climate-resilient agriculture practices—go for diversified climate-resilient cropping systems. For instance, cultivation of pulses could be an important strategy under climate-resilient agriculture, which the government should promote in a much bigger way. Second, there is crop insurance scheme which can be used for climate-resilient agriculture. In this context, the Pradhan Mantri Fasal Bima Yojna is a step in the right direction. In the previous schemes premium was high and coverage was less. The new scheme corrects these two problems. It broadens the scope for risk by including yield losses, preventive sowing and post-harvest losses. Along with the above, more focus is needed to broaden the scope for using the MGNREGS work in the rural areas particularly for the creation of assets like farm ponds, land leveling, bunding, irrigation channels and trenches. In this way, MGNREGA can be a good and potential aspect of climate-resilient agriculture. More research and extension services are needed for effective climate-resilient agriculture, particularly in the current environment of droughts and climate risks.

Now, it is time to understand that a better future for the farmers can be achieved with sustainable use of natural resources. Farmers are the core producers of the country. Their well-being is the well-being of the country as well, especially in India where agriculture is the main stay of the economy. Sustainable natural resource management is the basis of life in a world which is going through an environmental crisis. Adaptation of sustainable agriculture techniques will ensure low-cost and sustainable input for agriculture in the country. While ensuring food security, it is important to look into the quality of the food and health aspects. While farmers are made aware of the sustainable agriculture practices, it is also important to create awareness among the consumers on the organic food. A conscious effort is needed to increase food production while ensuring the protection of natural resources and indigenous knowledge. Conflicts over water are a reality now. State-level and farm-level conflicts are expected to increase over time. Water shortage is not really an issue. But thought needs to be given on thinking more about its efficient use. Multiple approaches are needed to ensure this.

## Recommendations

1. In the present scenario, civil society organizations have a crucial role to play in advocating the communities and the government authorities on the requirement of a common effort to bring down the impact of present situation on the poor and the marginalized communities. Civil society organizations need to work with the government to:
2. Build awareness among the rural communities on the present agriculture scenario and give proper guidance to overcome the crisis.
3. Create awareness on the need for land and water management measures.
4. Promote Integrated Sustainable Agriculture Techniques to make land productive. This will increase farmers' confidence and they may not be forced to sell their land.
5. Promote better marketing facilities for the farming community.
6. Water level management should be the priority for the government.

# 15. Land Rights: Empty promises for the deprived

## It's time the NDA government stood for the rights of the landless

There can be no better time than now to bring an end to the incomplete chapter of land reforms. Almost a third of the country's population is deprived of its identity, dignity and better livelihood. In the past few years, gradual increase in landlessness, instability in the agriculture sector, farmers' deaths, drought and famine, and thereby migration of people in large scale indicates the grim reality in the country. In this context, only reforms in the land and agriculture sectors can ensure social justice and economic independence to the 30 crore landless people. It is feared that the government could well take people for a ride as far as pending land reforms are concerned, throwing them in the vicious cycle of poverty.

These incomplete debates and temporary measures form the gist of the last two years of the NDA regime.

The socio-economic survey of 2015 and Census 2011 laid bare the perturbing situation of the landless and the impoverished of rural India. It was compulsion rather than opportunity for the government to respond to issues such as homelessness, recognition to agriculture and community land, and distribution and promotion of such land by making appropriate laws. The government may be aware of the result of leaving these fundamental issue undealt with, but it is also common knowledge the government has, till now, not stood for the rights of the 29.98 landless people of the country.

In 2015, the government could have ensured social justice and economic growth to the distressed by clearing the Land Acquisition Bill 2013, the National Land Reform Policies 2013, the Women Farmers' Entitlement Bill 2011, and the National Tribal Policy 2014. It could have alleviated rural poverty by enforcing land reform Acts and policies. But nothing of the sort happened, creating doubts about the ethical and political commitments of the NDA government.

In 2015, implementation of the Forest Dwellers Act 2006 also created confusion to a substantial extent. Only 20 percent of the Act was implemented in the last eight years. This is more political irresponsibility, less administrative failure. The Centre has not created a monitoring mechanism to properly implement this Act. So the state governments implement it as per their own perceptions, and by now, they have largely debarred the landless from getting their rights. The Ministry of Tribal Welfare Affairs has sent a circular to the state governments to properly implement the Act, but the states have not taken this up on priority basis.

The Centre could have played a more coordinative and facilitative role in the implementation of the Act. In its absence, the country is promoting social injustice and economic inequality.

The government must reduce the gap between the rich and the poor. Any other step will be very challenging for the country to handle. Creating village-level opportunities by equitable sharing of resources is the best option to promote social justice. There can be no better way of responding to the needs of such a large population.

That the government finally thinks for the deprived is imminent.

### **Recommendation:**

1. Implement National Homestead Land Rights Act for ensuring homestead land to each rural homeless poor
2. Implement National Land Reforms Policy for securing land and livelihood rights to the marginalized community
3. Constitution of National Land Reforms Council for executing land reforms on State level• Implement Women Farmers Entitlement Act for ensuring land entitlement to the women community
4. Setting up National Task Force on Forest Rights Act for proper execution of Forest Rights Act in a time bound manner
5. Setting up District Mineral Foundations for developing mechanism of benefit sharing with the affected community
6. Setting up Fast Track Courts for resolving pending land disputes in order to ensure timely justice to deprived community
7. Constituting National Task Force on PESA for enforcing the States towards execution of PESA

# 16. LGBT: Being LGBT in India

## **Government took a step forward, but failed to address homophobia and transphobia in society**

In a path-breaking judgement, the Supreme Court affirmed the constitutional rights and freedoms of transgender persons, including those who identify as third gender and those who identify as a gender opposite to their biological sex, i.e., persons assigned female sex at birth identifying as male and persons assigned male sex at birth identifying as female. The judgment came to be known as NALSA Judgment of 2014. In September 2014, the Ministry of Social Justice and Empowerment moved the Supreme Court and asked the government to bring transgender persons in the Other Backward Class category so that welfare schemes could be developed for them.

The Rights of Transgender Persons Bill 2014 was unanimously passed in the Rajya Sabha on April 24, 2015. It guaranteed them reservation in education and jobs, legal aid, pension, unemployment allowance and skill development. It contained provisions to prevent abuse, violence, discrimination in work, and exploitation of transgender people. This apart, it provided for the establishment of welfare boards at the Centre and state levels, and for transgender rights courts. This was the first time in the history of Rajya Sabha that a private member's Bill was passed. It was introduced by Tiruchi Siva, Member of Parliament, Dravida Munnetra Kazhagam (DMK).

However, the Bill lacks clarity on how various ministries will coordinate to implement the provisions of the Bill. A year after the Bill was passed, its status remains unknown.

In June 2015, the Ministry of Social Justice and Empowerment announced a different Bill. This was to provide transgender people the rights enjoyed by the Scheduled Castes and Scheduled Tribes. The Bill was made open to feedback from organizations and activists working on the rights of transgender people. It was tabled in the Lok Sabha in February 2016. As part of inter-ministerial consultation, its draft was circulated in all the ministries for comments in March. The ministries were to give their feedback within 15 days. But when the Social Justice and Empowerment Ministry did not get any response, it sent the Draft Bill on the Rights of Transgender Persons Bill 2016 to the law ministry for finalization, before sending it to the Cabinet for approval.

The Draft Bill brings actions specific to the transgender community in the ambit of atrocities and violence, thereby providing protection to them. The actions include:

- Forcing a transgender person to leave a village or residence
- Forcibly disrobing him or her

- Enticing a transgender person to beg or do similar forms of bonded labour
- Wrongfully dispossessing a transgender person from his or her land or premises, and forcing or causing a transgender to leave house, village or other place of residence
- Insulting or intimidating a transgender person in public
- Assaulting or using force on a transgender person to dishonour or outrage his or her modesty
- Denying a transgender person the right of passage to a place of public resort, and preventing him or her from using the place.

The last one year has been encouraging for the transgender community as many institutions accepted them with open arms. West Bengal got the country's first transgender college principal, the country's first transgender mayor was elected in Chhattisgarh, and the first transgender banker was appointed at a bank in Patna. Many universities across the country now have a third gender category in their admission forms.

Some states have started the process of setting up state-level transgender welfare boards. Kerala assessed the requirements of the transgender community and, in November 2015, became the first state to roll out a transgender policy. It was introduced with the vision to end the societal stigma towards the sexual minority group and ensure them non-discriminatory treatment. The policy confers four major rights to the transgender community—right to equality, right to dignity and a life without violence, right to freedom of expression, and right to equal participation in development. In March 2016, the Bihar government announced the extension of government jobs to the transgender community.

However, society at large still needs to accept the community. Transgender people still face discrimination and violence. Transmen, who do not identify themselves with the binary, continue to remain invisible in our public discourse.

## **Apathetic attitude**

After the Supreme Court dismissed *Naz vs Kaushal* case in December 2013, it took two years for a Lok Sabha member to introduce a Private Member's Bill in the Lower House. Tabled twice by Congress MP Shashi Tharoor, it was rejected on both the instances. Dattatreya Hosabale, a Rashtriya Swayamsevak Sangh office-bearer, gave a statement that homosexuality is socially immoral and homosexuals need to be treated as psychological patients.

In February 2016, the Supreme Court referred eight curative petitions against Section 377 of the Indian Penal Code to a Constitution Bench. The apex court's three-judge bench accepted the argument that Section 377 poses a threat to the right to privacy and dignity of transgender people. It results in injustice indicating reconsideration of the section. However, the bench neither admitted the petition nor issued notice to the government, leaving the decision up to the next Constitution Bench.

## Recommendations

1. While the 2014 NALSA judgement is a step in the right direction, Section 377 of the Indian Penal Code criminalizes acts of people marginalized on the basis of their sexual orientation. It has implications on any individual whose sexuality deviates from the norm. Homophobia and transphobia still exist, and continue to intimidate LGBT (Lesbian, Gay, Bisexual and Transgender) people. This is because, as a society, we have negative perceptions towards people who deviate from the norm and violate the structure of normalcy. As a country we have a long way to go in fighting homophobia and transphobia.
2. As far as policies go, the government can make concerted efforts to repeal Section 377, thereby decriminalizing homosexuality. Also, the Transgender Bill still awaits implementation. While the NALSA Judgement states, “follow the psyche of the person” to determine how people identify with their gender, the Transgender Bill does not elucidate on this aspect at all. Further, clarity needs to be brought about on the role and constitution of transgender welfare boards. It is feared that they may turn into deciding agencies on who is a transgender and who is not.

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# 17. Livelihood: Challenges of a lofty pledge

## **Insecure livelihood threatens a vast marginalised section of the country**

The 2011 socio-economic survey reveals that 51 percent Indian households survive on manual labour while 52 percent population is engaged in agriculture as its primary source of livelihood. Agriculture is believed to be the mainstay of the economy but low crop yield, inadequate irrigation and related problems have turned it into a highly unstable occupation for many.

Officially declared a drought year, 2015 has pushed vast marginalised sections into greater depths of vulnerability. Acute water scarcity has claimed thousands of lives. Agriculture and allied activities have suffered. Lack of adequate irrigation facilities means that more than 60 percent of farmers depend on monsoons. But rainfall, of late, has been extremely erratic due to drastic climate change. Drought has hit about 330 million people in 246 districts of 10 states. Livelihood of farmers and those engaged in animal husbandry has become increasingly insecure. Rural youth has been left jobless and directionless amid limited work opportunities.

Crop loss, mounting debt, acute drought situation and other socio-economic factors have driven farmers to commit suicide. In Maharashtra, 3,228 farmers ended their life in 2015. The situation was no different in Punjab, Telangana, Karnataka and Andhra Pradesh. The first quarter of 2016 reported over 100 farmer suicides.

## **NDA's Policy Initiatives**

### **Agriculture**

The NDA dispensation pushed for social sector schemes and policy reforms which are said to have improved government intervention at the ground level. Amid the alarming number of farmer suicides, crop insurance schemes—Pradhan Mantri Fasal Bima Yojana and Bhartiya Krishi Bima Yojana—promise some relief. The Centre has approved Rs 12,773.34 crore to drought-hit states that sought aid.

Union Budget 2016-17 promised a slew of measures to help agriculture and rural development. It earmarked Rs 9 lakh crore for agricultural credit, up from Rs 8.5 lakh crore last fiscal. Grant-in-aid of Rs 287,000 crore will be given to gram panchayats and municipalities. Almost 2.85 million hectares of land is to be brought under irrigation along with 100 percent electrification of villages by May 2018.

The government also promised to double the income of farmers in five years and allot Rs 35,984 crore for their welfare.

Two new schemes—Paramparagat Krishi Vikas Yojana to enhance soil fertility and Pradhanmantri Gram Sinchai Yojana for improved access to irrigation and efficient water management through the ‘per drop, more crop’ pledge—have been introduced to address soil and water issues and enhance production. The government also launched an online marketplace platform at the national level to provide better price information to farmers. The service would be a great help if it reaches the poorest farmers who do not have access to internet though the number of rural internet users increased by 77 percent in 2015 alone.

## **MGNREGA**

In the initial days of NDA administration, the flagship Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) faced threat of dilution. Though still plagued by corruption, delayed wages, non-availability of work, low quality of assets and misappropriation of funds, the scheme has provided significant livelihood to thousands of rural households and reduced seasonal migration during lean months. The number of work days was increased from 100 to 150 in drought-hit states. Amid talk of budgetary cuts for MGNREGA, the government eventually increased its allocation to Rs 385 million in 2016. It is, however, unclear if the allocations can cover unpaid wages for the last fiscal and provide full wages and job availability to all MGNREGA applicants.

## **Land**

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (better known as the Land Bill) has been a cause of concern for those totally dependent on land for sustenance. It intends to exempt five categories—defence, rural infrastructure, affordable housing, industrial corridors and infrastructure projects—from the provisions of Land Acquisition and Rehabilitation and Resettlement Act 2013 such as consent of land owners and requirement of social impact assessment. It also brings provisions for compensation, rehabilitation, and resettlement under other related legislations like the National Highways Act and the Railways Act.

Despite efforts to pass it, the Land Bill hangs in balance. A joint committee of Parliament is examining the proposed amendments after the Lok Sabha passed the Bill. The committee has rejected six of the nine proposed amendments. It has made social impact assessment mandatory for all projects, except those covered under urgency clauses, and retained the 70 percent consent requirement for public-private partnership projects. But it is still pondering over the provision on return of unutilized land and retrospective implementation.

The Bill stresses the NDA government’s emphasis on industrial development and market growth. This could make forest dwellers, small and marginalised farmers, Scheduled Castes and Scheduled Tribes more vulnerable, especially if their right to withhold consent is compromised.

## **Make in India**

Launched in September 2015, the Make in India campaign brought the focus on industry and production so as to transform the country into a global manufacturing hub. The campaign has helped increase Foreign Direct Investment by 40 percent, besides almost seven times hike in net investments by Foreign Institutional Investors (\$40.92 billion at the end of 2015-16). In March 2016, foreign companies promised to invest \$222 billion in India.

While the campaign re-affirmed the government's focus on trade and a market-driven economy, it raised concerns over the future of small landowners, farmers, rural households, and other economically backward sections, who fear loss of land and livelihood at the hands of big corporations.

Make in India is closely tied with the NDA government's other lofty schemes—Skill India, Digital India and Smart Cities Mission. It would take years to assess the success of the campaign, especially the number of jobs it would create and whether it would strengthen the livelihood of the poor.

## **Skill India**

Finance Minister Arun Jaitley listed “education, skills and job creation” as one of the economy's nine pillars. Skill India is an umbrella campaign that covers initiatives like National Skill Development Mission, National Policy for Skill Development and Entrepreneurship, Pradhan Mantri Kaushal Vikas Yojana (PMKVY) and the Skill Loan scheme. The campaign aims to train over 40 crore people by 2022. Rs17 billion has been allocated for setting up 1,500 multi-skill training institutes. It is an expansion of PMKVY, which aims to develop skilled youth by offering them incentives to complete vocational training under the skill training scheme of the Ministry of Skill Development & Entrepreneurship (MSDE). Over 50,000 youth have already been trained under the programme. Though there is strong focus on large-scale skill building, the campaign lacks clarity on how exactly the government plans to achieve its ambitious target, more so because a large chunk of young population is poorly educated and there are few linkages with the industries in this regard.

Young entrepreneurs have hailed the government's move to encourage start-ups, especially by women and persons from the Scheduled Castes, as a means to create employment. The promise of single-day registration is good, but bureaucratic and procedural hurdles need to be removed to create a start-up-friendly environment.

# 18. Minorities: Incitement to violence

## PM's words on communal attacks did not matter

In a June 2015 interview to United News of India, Prime Minister Narendra Modi described the remarks made against Muslims and Christians by some of his party leaders as “unfortunate”. The Prime Minister said religious freedom guaranteed in the Constitution was “not negotiable” and discrimination or violence against any community wouldn’t be tolerated. “Every faith in our country has equal rights; it is equal not only before the law but also before society.”

The Prime Minister’s words were no different in February last year when he criticized statements made by some of his ministers, MPs and senior Rashtriya Swayamsewak Sangh (RSS) functionaries that had apparently incited violence against religious minorities.

“My government will ensure that there is complete freedom of faith and that everyone has the undeniable right to retain or adopt the religion of his or her choice without coercion or undue influence. My government will not allow any religious group, belonging to the majority or the minority, to incite hatred against others, overtly or covertly,” he had said on 18 February 2015, as reported by the Hindu<sup>14</sup>.

“Mine will be a government that gives equal respect to all religions. We cannot accept violence against any religion on any pretext and I strongly condemn such violence. My government will act strongly in this regard. With this commitment, I appeal to all religious groups to act with restraint, mutual respect, and tolerance in the true spirit of this ancient nation which is manifest in our Constitution and is in line with the Hague Declaration”, Mr. Modi told an audience of Syro Malabar Catholics celebrating the canonization of two Kerala saints at a function in Vigyan Bhawan<sup>15</sup>.

That statement had come in the wake of strong messages from President Pranab Mukherjee in his Republic Day address to the nation, and by the visiting United States President Barack Obama who said that freedom of faith and harmony was essential for the economic development of any country.

Through 2015 and half of 2016, however, the Prime Minister’s colleagues in the government, party and the RSS seem not to have heard him. By then, the hate campaign had moved from “gharwapsi” and “love jihad” of 2014 to “flying squads” that chased trucks carrying cattle, and groups, accompanied by police and camera crews of local Hindi news channels.

The Human Resource Development ministry is taking a relook at what could be symbols of Islamic supremacy in medieval India and whether Mughal emperor Akbar deserves to be called “Great”. Teaching of Sanskrit in IITs and a focus on Indian systems of medicine keep apace.

14 <http://www.thehindu.com/news/national/my-government-will-ensure-complete-freedom-of-faith-modi/article6905042.ece>

15 <http://www.ndtv.com/india-news/prime-minister-narendra-modis-speech-at-the-national-celebration-of-the-elevation-to-sainthood-of-2-740232>

But it is the hate speech and the incitement to violence by members of government and RSS that mark Modi's second year in office. The violence seems to fade into the background. Exhortations to Hindu women to produce more children to offset the increase in Muslim population, as shown in the religious data of 2011 Census, gave way quickly to demands that Muslims and Christians face sterilisation to contain their population. Call for ban on cow slaughter, demands for national laws banning religious conversions and the spring 2016 nationalist crescendo has had tragic consequences.

Close to Delhi in Dadri, the lynching of 60-year-old Mohammad Akhlaq, a part-time village tailor and handyman whose son was serving in the Indian Air Force, became a defining moment of the NDA government's second year. After 10 pm on September 28, 2015, there was an announcement on the loudspeakers of the local temple that Akhlaq had butchered a cow in sacrifice on Eid-ul-Zuha and stored some of the flesh in his refrigerator. A mob armed with *lathis*, stout staves and rods surrounded the house, woke up Akhlaq and his son, took out what was stored in the refrigerator, dragged the family out, beat them up and, finally, stabbed the man. By the time police came some hours later, Akhlaq was dead. His son survived critical injuries after a long hospitalization. The family had been living in the village for two or three generations. A local political leader remains among the suspects.

In Balumath near Latehar in Jharkhand, on March 18, 2016, five members of the local Gau Kranti Manch, a cow protection group enforcing a political ban on transport of cattle across the state, waylaid and killed Mazlum Ansari, 32, and Imteyaz Khan, 13, who were going to a local cattle fair with their animals. The bodies were then strung up on a wayside tree. Ironically, in May 2016, the Bombay High Court, had ruled that while cow slaughter could be banned by a state, transport and eating of beef was within the law.

Minister of State for Home Affairs Kiren Rijiju told the Rajya Sabha that the country witnessed a 17 percent increase in communal violence incidents in 2015 as compared to last year with Uttar Pradesh, Bihar and Maharashtra registering the most number of such incidents and deaths. There were a total of 751 such incidents across India, up from 644 in 2014 and 97 people died as compared to 95 during the previous year. The number of people injured in these incidents rose to 2,264 during the last year as compared 1,921 in 2014.

Uttar Pradesh topped the list with 155 incidents in which 22 people were killed and 419 injured. In Bihar, 20 people were killed and 282 injured in 71 incidents followed by 14 deaths in Maharashtra in 105 cases, Madhya Pradesh recorded nine deaths in 92 communal violence incidents, while eight died each in Gujarat with 55 cases of violence, and Karnataka with 105. Most of the deaths were in violence targeting Muslims, though the government did not release desegregated data.

The Evangelical Fellowship of India (EFI), which keeps records of violence targeting the Christian community, in data released for 2015 and first quarter of 2016, said 177 such cases were documented in 2015. Topping the list were Madhya Pradesh (36 cases), Chhattisgarh (20 cases) and Uttar Pradesh (22 cases).

The actual volume of violent persecution is not known, the EFI said. "State agencies are reluctant to speak on this matter and governments do not keep records unless local police register formal cases under the Indian Penal and Criminal Procedure codes. While the BJP has been in control of the national government for 22 months only (it earlier ruled from 1998 to 2004), the party has been in control of these states for three terms. Physical violence, including assaults by mobs, beatings and torture, were the most common with 68 cases, followed by stopping of worship in churches (18 cases) and attacks on

churches (18 cases). Arrests of pastors and their companions was a major issue with 18 cases, which does not include those who are rounded up by the police and let off after some time, and others who were in the custody of mobs for various lengths of time,” it said.

“A frightening aspect of this violence is an increasing number of rapes, particularly of Catholic nuns, and other gender violence. Recent months have seen an increasing trend to polarize the people in villages, leading to social exclusion, ostracisation and denial of employment and social services. At least three cases of rape were recorded, including on nuns, in Bengal and Chhattisgarh,” the EFI said. State governments were quick to say the rapes were not motivated by religious hatred, but were done during attempted robberies.

The first three months of 2016 registered 55 verified incidents of hate crimes targeting Christians in 16 states. Uttar Pradesh tops the list with 10 incidents, followed by Maharashtra with seven incidents. Madhya Pradesh, Tamil Nadu and Jharkhand followed this with five each, and by Chhattisgarh, Telangana, and Uttarakhand with four each. Other states on the tally are Rajasthan (3), Punjab (2), Haryana (1), West Bengal (2), Gujarat (1), Assam (1), Karnataka (1) and Odisha (1). January saw a total of 11 incidents while February and March (till 22nd March) saw 22 incidents each.

## Recommendations

1. State impunity, police inaction and complicity of local police persons aggravate targeted violence against religious minorities, particularly in villages, small towns and urban slums. This must end.
2. Speech inciting violence must be monitored, and offenders punished according to the existing law.
3. District magistrates/collectors and superintendents of police must be held personally responsible for targeted violence against religious minorities in their jurisdiction.
4. Enactment of a law to prevent communal and targeted violence. Such a Bill was evolved, but could not be enacted by earlier governments.
5. Government must set up a national helpline on the pattern of helpline for women, and helpline for people of the Northeast to ensure that victims of targeted violence have recourse to police and law.
6. Government must publish a white paper on desegregated religious and caste data on under-trials and detainees.
7. Urgent steps must be taken to expedite relief and rehabilitation of victims of communal and targeted violence.
8. The Freedom of Religion Bills and Article 341 part III have been nationally and internationally condemned for being biased against specific religions, particularly Christianity and Islam. They should be repealed.
9. India must conform to all international treaty obligations on freedom of religion and belief, human rights defenders, and torture.

# 19. Peace, security and access to justice: A mixed bag of challenges

## Coordinated effort key to accomplish the unfinished agenda

Aligning peace and security with an inclusive society and access justice for all is a major task facing the NDA government. Goal 16 of the Sustainable Development Goals (SDGs), formally announced in September 2015, sets the assessing standards in this regard. This is significant because India has already established a mechanism to achieve the SDGs by 2030 and made NITI Aayog the coordinating agency. Goal 16 urge all nations to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.

Although it may still be early, the past year track of the executive, legislature and the judiciary does indicate the direction in which India is headed as far as ensuring peace and justice is concerned. The performance has been patchy with a mix of good and bad events.

The SC and the ST (Prevention of Atrocities) Amendment Bill, 2014, for instance, has been passed. It introduces harsher punishments and more responsive mechanisms for dealing with offences against SCs and STs. It enumerates new categories of offences like preventing an SC or ST individual from voting. Besides it also provides for special courts for the trial of such offences and rehabilitation of victims.

The government however remained non-committal on preventing communal violence in the country. The NDA government, vehemently opposed the Communal Violence Bill, initiated by the previous UPA government. In a related development, the Delhi High Court acquitted 16 police officials accused of killing 42 Muslim men in Hashimpura (Uttar Pradesh) communal riots in 1987 due to “scanty, unreliable and faulty” investigation. In Gujarat, a CBI court discharged several police officials suspected of involvement in extra judicial executions in 2005.

The issue of marital rape also figured prominently. A parliamentary debate observed that if marital rape was criminalized, the family system would come under stress. Women and Child Development Minister Maneka Gandhi contended that marital rape cannot be criminalized since it did not apply to the Indian context due to illiteracy and poverty. In August, the Law Commission of India submitted a report recommending abolition of death penalty except for terrorism-related offences and waging war against the country.

Parliament passed amendments to the juvenile justice laws, allowing children aged 16 to 18 to be treated as adults in case of serious crimes. The Cabinet approved amendments to child labour laws,

which prohibits the employment of children under 14, making an exception for children working in family enterprises and entertainment industry.

The *Beti Bachao Beti Padhao* scheme for survival, protection and empowerment of the girl child entered its second year. In November 2015, the Ministry of Women and Child Development notified new guidelines for adoption of children. The need for a strong law to curb the “sale” of women and children had already come up in the Lok Sabha in July 2014. The existing law criminalizes the act of selling human beings only if it is done for prostitution, slavery or exploitation. There is a need to expand the scope of legal provisions to cover cases where a woman or a child is sold irrespective of the immediate objective.

Newspaper reports show that in 2014-15, the National Commission for the Protection of Child Rights had registered 2,270 cases of violation of child rights. Most of these violations were under the Right to Education Act and the Protection of Children from Sexual Offences Act.

The 2015 report of World Justice Project ranks India 59<sup>th</sup> in its global rule of law index. India has strong roots in constitutionalism and rule of law. But the government needs to seriously address the impunity with which fringe vigilante groups have been resorting to violence.

Free speech found itself under attack from the state as well as fringe vigilante groups. The government used the draconian law of sedition against some students of Jawaharlal Nehru University. Safety of journalists has become an issue of concern. There have been numerous attacks on journalists covering issues like corruption or human rights violations by the state. Reporters without Borders, a global advocacy group, called India “Asia’s deadliest country for media personnel, ahead of both Pakistan and Afghanistan”.

On the judicial front, massive pendency of cases is a major challenge. The Supreme Court did well to launch an online portal—‘National Judicial Data Grid’—which can track pendency at the district level throughout India. The government, however, did little to address the problem of pendency. A large number of the posts of judicial officers are lying vacant in the states, but there has been little movement in setting up All India Judicial Services.

The government’s attempt to bring more transparency in the process of appointment of senior judges hit the wall with the Supreme Court holding the NJAC Act 2014 as unconstitutional. The apex court has revived the collegium system but in a welcome move invited public consultation in drafting of the Memorandum of Procedure for appointment of judges.

There is an urgent need to ensure delivery of quality justice at the grassroots. The Gram Nyayalayas Act, 2008 needs to be extensively implemented. More funds need to be allotted to the centrally sponsored scheme for the development of essential infrastructure for judiciary and construction of court buildings.

The government has been slow in bringing about the post-RTI second generation reforms to enhance transparency. The Lokpal and Lokayuktas Act is yet to be operationalised since its notification in January 2014. The Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014 has now been referred to a standing committee. The Whistleblowers Protection Act dealt a blow to whistleblowers by introducing an amendment which removes a safeguard disallowing prosecution under the Official Secrets Act. Political parties, too, face a crisis of credibility with the government reluctant to bring them within the ambit of RTI and failing to introduce measures to promote inner party democracy.

There has been no attempt to revive the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, which was introduced in Parliament in December 2011.

The government fared poorly in promoting participatory decision-making. The government doesn't seem mindful of its own stated Pre-legislative Consultation Policy (PLCP) that was abandoned while introducing important legislative and policy decisions. Parliamentary logjams stalled several crucial legislations forcing government to promulgate as many as 12 ordinances in 2015. A controversy also, arose regarding the labeling of some crucial pieces of legislation by the Lok Sabha speaker as money bills so as to bypass the Rajya Sabha. In this regard, the decision of the Speaker which touches upon the basic parliamentary framework under the Constitution has been challenged before the Supreme Court.

Participatory governance suffered a setback with the Supreme Court upholding the constitutional validity of a law enacted by the Haryana government prescribing minimum educational qualification for contesting panchayat polls. This would deprive around 67 percent of the electorate which was otherwise eligible to contest elections.

The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016 was passed. Aadhaar has made steadfast progress with the enrollment figure crossing one billion. The legislation, however, doesn't provide adequate safeguards to address concerns over violation of privacy and possible misuse of biometric data.

The government has continued the work of increasing cooperation with other nations on combating terror and crime. The India-France Joint Statement on Counter Terrorism on the occasion of the State Visit of President Francois Hollande mentioned the imperative of having a comprehensive approach to address terrorism under the supervision of annual strategic dialogues and joint working group on counterterrorism meetings.

In November 2015, Prime Minister Narendra Modi made meaningful intervention at G20 Working Dinner on Global Challenges—Terrorism and Refugee Crisis, when he stressed the need for increased international cooperation in intelligence and counter-terrorism.

In November again, India and China decided to establish a ministerial mechanism that would link the two home ministries, filling a vital gap in the overall institutional architecture of bilateral ties. In September, the US-India Joint Declaration on Combating Terrorism reaffirmed the commitment to combat terror in all its forms.

## Recommendations:

1. Implement the result frame document of the department of justice in letter and spirit
2. Bring in second generation reforms in right to information align the Act more robust and stringent
3. Enact and implement Public Service Guarantee Act

# 20. Person with Disability: Disability Rights: A long way to go

## Government must understand problems of the disabled to ensure effective policies

The Constitution does not grant the same rights, respect and protection to persons with disabilities as the various other marginalised sections. Disabled persons are not protected under the anti-discrimination clause of Article 15. However, with the ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2007, India has undertaken the obligation to ensure the extension of all human rights to persons with disabilities. This involves serious changes in legislation and policy, removing all discriminatory provisions in law and enabling full participation of persons with disabilities. The convention also stipulates that countries must take maximum measures towards the progressive realization of social, cultural and economic rights of persons with disabilities.

Primarily, CRPD is proposed to be implemented through the Rights of Persons with Disabilities (RPD) Bill, drafted first in 2011 and introduced in Parliament in 2014. It is, however, pending before the Group of Ministers (GoM) after the report of the Standing Committee on it. The GoM is understood to have finished its deliberations on the Bill. The Mental Health Care Bill, relevant particularly to persons with psychosocial disabilities, is pending too. The RPD Bill was controversial since one of the GoM members commented about the inclusion of persons with psychosocial disabilities.<sup>16</sup> There has been further discomfort in the sector with the coining of the term 'Divyang' by the Prime Minister to refer to persons with disabilities. This year's rail budget included reference to "measures for Divyang" despite the disability sector opposing the terminology<sup>17</sup>.

Last year, the Department of Empowerment of Persons with Disabilities, under the Ministry of Social Justice and Empowerment, announced several high-profile steps to realize the rights and entitlements of persons with disabilities. But many of these measures have failed to take off as per schedule.

In mid-2015, the National Action Plan towards skill development of persons with disabilities (Swavlamban) was launched<sup>18</sup>. It aims at skilling five lakh persons with disabilities in the next three years (one lakh in first year, 1.5 lakh in second year and 2.5 lakh in third year) by creating a sustainable platform,

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16 <http://scroll.in/article/802698/maneka-gandhi-says-she-was-misquoted-but-activists-still-fear-for-the-disabilities-bill>

17 <http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/article8149693.ece>

18 [http://msde.gov.in/assets/images/PWD\\_National\\_Action\\_Plan\\_booklet%20A5.pdf](http://msde.gov.in/assets/images/PWD_National_Action_Plan_booklet%20A5.pdf)

including the involvement of industry, towards creating relevant skilling opportunities<sup>19</sup>. Despite the ambitious timeline, so far only four meetings have been held to implement the plan, and the process of empanelment of training partners is still on. The existing skill development for persons with disabilities is quite poor. It is segregated into specialized training for persons with disabilities and is limited to trades and skills not relevant to the market.

The plan does not speak of involving the choice and control of persons with disabilities in the skill development courses they wish to opt for, nor does the larger National Skill Development Mission speak of universally designed curriculum which any person with disabilities could opt for and learn in an inclusive environment. Moreover, the Scheme for Financial Assistance for Skill Training of persons with disabilities excludes persons with psychosocial disabilities from availing the schemes<sup>20</sup>.

The Accessible India Campaign (Sugamya Bharat Abhiyaan) was formally launched on December 3, 2015. It was meant to fulfil India's obligations under the Incheon Strategy, 3A, 3B & 3C—Increasing accessibility to physical environment, public transportation, and information and communication services. The campaign is to cover 48 of the 200 cities in the country. The campaign's strategy paper specifies several targets to be met by July 2016. The targets include access audit of 50 government buildings in 26 cities, besides making 1,084 railway stations and 50 percent of Central and state government websites accessible<sup>21</sup>. At present, the campaign is at the stage of training access auditors and this was severely hampered by a lack of qualified applicants applying for the role of access auditor. The campaign's funding appears to be through the Scheme for Implementation of Persons with Disabilities Act (SIPDA), which is otherwise available to all public authorities to ensure accessibility of transport and government buildings as per the provisions of the Persons with Disabilities Act, 1995, which may limit the scope of district authorities to avail funding from SIPDA for making non-campaign areas accessible<sup>22</sup>. Linked to psychosocial disability, the National Mental Health Policy was launched in October 2014. It proposed a system of community and preventive mental health care. However, it is still to find any specific budgetary allocation through any scheme implemented under the policy.

The National Mental Health Programme, which was substantively mentioned in the 12<sup>th</sup> Plan, has failed to find adequate allocation in the last three years for community mental health, and has proposed much of its latest allocations<sup>23</sup> towards the establishment of 'Centres of Excellence'. The continuing expenditure on institutional care runs contrary to Article 14 of CRPD.

Budget 2014-15 made specific assurances for persons with disabilities, including the establishment of a National Institute for Inclusive Universal Design, a National Centre for Disability Sports, 15 new braille press and modernization of existing ones, and issuing currency notes with braille. Budget 2015-16 did not address these assurances, and made its own set of promises like access for persons with disabilities in select heritage sites in Goa, Maharashtra, Karnataka, Rajasthan, Gujarat, Varanasi, Jammu & Kashmir, Punjab and Hyderabad/Telangana, increase in tax exemption to the tune of Rs 25,000 under sections 80DD and 80U of the Income Tax Act for families having PwDs, and assistive devices for

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19 After achieving the target for three years, we would have achieved a momentum and would have created a robust online-skill training platform enabling us to skill 5 lakh PwDs every year, thus skilling 2 Million more PwDs during 2018-2022. Thus, till the year 2022, the National Action Plan will lead to skilling of 2.5 Million PwDs (with 70% target employment). This would be a significant contribution to the achievement of targets for the National Skill Development Mission. <http://www.disabilityaffairs.gov.in/content/skilling.php>

20 <http://niepmd.tn.nic.in/documents/skill-0715.pdf>

21 For a detailed analysis including compliance with the CRPD, see <https://www.scribd.com/doc/311578662/Accessible-India-Campaign-An-Analysis>

22 <http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/SIPDA%20Scheme%281%29.pdf>

23 <http://www.mohfw.nic.in/WriteReadData/l892s/55316202611436263831.pdf>

senior citizens living below the poverty line<sup>24</sup>. Budget 2016-17 limited the measures for persons with disabilities to two: exemption of service tax on general insurance services provided under 'Niramaya' Health Insurance Scheme, launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability; and exemption on custom duty for certain assistive devices, rehabilitation aids and other goods for persons with disabilities and braille paper. Exemptions on customs duty only benefit those persons who can afford the cost of these assistive devices<sup>25</sup>.

Some promising measures introduced this year include the establishment of the Sign Language Research and Training Centre<sup>26</sup>, and introduction of the autism certification evaluation guidelines<sup>27</sup>.

Compliance with CRPD and realization of the Sustainable Development Goals would require a rethink on the role of Ministry of Social Justice and Empowerment and making other ministries and departments responsive to the needs of persons with disabilities. At present, the Department of Empowerment of Persons with Disabilities is spending on programmes that are cross-sectoral in nature, including education of children with disabilities, skill development and employment generation and access. These are part of the responsibility of the line departments of education, labour and employment, and rural and urban development. Segregating this merely leads to reemphasizing these measures as 'welfare'.

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24 For a detailed analysis see [http://www.cbgaindia.org/files/budget\\_responses/Analysis%20of%20Union%20Budget%202015-16.pdf](http://www.cbgaindia.org/files/budget_responses/Analysis%20of%20Union%20Budget%202015-16.pdf) pp. 47 to 50.

25 For a detailed analysis see [http://www.cbgaindia.org/files/budget\\_responses/Connecting%20the%20Dots%20-%20An%20Analysis%20of%20Union%20Budget%202016-17.pdf](http://www.cbgaindia.org/files/budget_responses/Connecting%20the%20Dots%20-%20An%20Analysis%20of%20Union%20Budget%202016-17.pdf), pp. 43 to 44.

26 <http://pib.nic.in/newsite/mbErel.aspx?relid=127079>

27 [http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/Autism%20Guidelines-%20Notification\\_compressed.pdf](http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/Autism%20Guidelines-%20Notification_compressed.pdf)

# 21. Senior Citizen/The Elderly : An old problem

## **Like many government schemes, programmes for the elderly, too, remain unimplemented**

There are 100 million senior citizens in the country. This vulnerable population, comprising people who are above 60 years of age, is likely to increase drastically over the next 20 years. This is because life expectancy has risen over the years in India. During Independence it was only 45 years. According to Census of India's projected value of expectation of life at birth(2011-15), life expectancy for males is 67.3 years and 69.6 years for females. However, the government has done little for the welfare of the old.

When concerns were raised that the needs of the elderly have been left unaddressed, the Working Group on Social Welfare constituted by the Planning Commission for the formulation of 12th Five-Year Plan recommended a number of new schemes. It included formulation of a Centrally sponsored scheme for the establishment of old age homes in each district. The Working Group proposed to setup help lines for senior citizens at the national and district levels, set up a National Commission for senior citizens to better protect their rights, and setup a National Trust for them. It also sought to make the elderly aware of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

The Ministry of Social Justice and Empowerment has constituted an expert committee to formulate these schemes and complete the task expeditiously. However, all the schemes have not gone beyond the drawing board. Some blame folding up of the Planning Commission and setting up of Niti Aayog for this.

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 recommends setting up of one old age home in every district. But not a single home was built between 2007 and 2015. No budgetary provision was made for the purpose either.

The National Policy on Older Persons (NPOP) was announced in January 1999 to reaffirm the commitment of the government to ensure the well-being of older persons. It recognizes that 'productive ageing' is the key to ensure their well-being. It promotes post-retirement opportunities and measures to create avenues for continuity in employment.

The policy envisages the government's support to ensure financial and food security, healthcare, shelter and other needs of older persons to improve the quality of their lives. Some of the principal areas of intervention pertain to pension, taxation policies, long-term savings, strengthening healthcare system, health insurance, training of healthcare personnel, promotion of voluntary organizations through grants,

providing shelter, awareness generation regarding inter-generational bonding, and protection of life and property.

However, 17 years after NPOP was implemented, no step was taken in the direction.

Keeping in view the changes in the demographic pattern, social-economic, technological and other relevant fields, a committee was set up on January 28, 2010 under the chairpersonship of V Mohini Giri to draft a new national policy on senior citizens. The committee submitted its report on March 30, 2011. The new draft policy is currently on the ministry's website for comments from general public and circulated to the state governments for response.

It sets out upfront the areas that need special attention—a) the oldest old, which means those who are 80 years and above, b) elderly women, c) rural poor, d) the unorganised sector.

These were either not covered or are not adequately covered in NPOP. The proposed policy emphasizes the use of science and technology for the well-being and safety of senior citizens. It enhances the capacity of the family to take care of senior citizens, thus making institutional care the last resort. It stresses on inter-generational bonding, productive ageing, financial security in old age, healthcare and nutrition, effective implementation of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, review of laws to make them more stringent and effective in case of elder abuse, setting up a National Commission for Senior Citizens at the Centre and similar commissions at the state level to look into their grievances, earmarking Corporate Social Responsibility fund, and encouraging panchayati raj institutions to implement the policy at grassroots level.

However, even the new policy has not yet been finalized and implemented.

Integrated Programme for Older Persons (IPOP) gets a total budgetary allocation of Rs 40 crore per year. Under the programme, financial assistance is provided to panchayati raj institutions, local bodies, non-governmental organizations, autonomous and subordinate bodies set up by the government for running old age homes, day-care centres and mobile Medicare units.

Over the past few years, the number of old age homes supported by IPOP has declined drastically. There were 362 Centre-supported homes in 2011-2012. In 2012-2013 the number declined to 269. It reduced to 207 in 2013-2014 and then 187 the next year. The 2015-16 figure is 137.

In a recent development, the Planning Commission made a surprise declaration. It stated that running an old age home is largely a non-recurring expenditure, and it would, therefore, be appropriate for the state governments to run them.

In summary, despite various provisions, most of the schemes for the elderly have not been implemented. This is a sad story of government apathy.

# 22. Tribals: Living at periphery

## **Tribals are disillusioned, disempowered and disappointed by NDA**

The National Democratic Alliance (NDA)-II government completed its second year in office on 25<sup>th</sup> May 2016. Stocktaking, therefore, is warranted. In its 2014 general elections manifesto, the Bharatiya Janata Party had committed to the guiding principles of “samajik nyay” (social justice) and “samajik samrasta” (social harmony) while dealing with tribal affairs of the country. The party had promised to bridge the development deficit between Adivasis and the rest of the population. It had assured them equal opportunity by furthering economic justice and political empowerment as per the Constitution.

But the Adivasis feel disappointed, disempowered and disillusioned by government’s efforts. Much like the previous governments’ tall claims, the new promises of social justice and harmony proved to be only rhetoric and tokenistic.

In the past one year, the number of Adivasi undertrials in the Left Wing Extremist (LWE) areas has increased. Adivasi women have been sexually assaulted and tortured with impunity. Constitutional safeguards have been undermined, the law compromised, and the Supreme Court orders openly disregarded.

The much-vaunted Forest Rights Act 2006 attempted to undo the historical injustices to Adivasis by recognising the individual and community rights. But it failed because of relentless land-grabbing by the mining companies.

The provisions of the Panchayat Extension in Scheduled Areas (PESA) Act have been systematically diluted, pushing the Adivasi communities to the margins. The saga of denying development rights to the Adivasis year after year continues in the form of under-allocation, notional allocations, under-spending and non-transparency in the Tribal Sub Plan.

The Mines and Minerals (Development and Regulation) Amendment Act (MMDR), which was passed in 2015, is another attempt to displace Adivasis from their traditional land by undermining consent of the communities and environmental regulations. NDA-II has displayed serious disregard towards various Constitutional authorities like the Supreme Court, Scheduled Tribe Commission, the Ministry of Tribal Affairs and the Tribal Advisory Councils apart from various legal provisions related to the protection and development of Adivasis.

In 2015, a National Tribal Advisory Council was constituted as a nodal body to plan and monitor tribal development schemes. It was headed by the Prime Minister. This undermined the status of Tribal Advisory Councils in the states and that of the Governor. Also, its mandate overlapped that of the National Commission for Scheduled Tribes.

The scheme Stand-up India announced this year to promote Adivasi entrepreneurs in business ventures is a stark reminder of the Prime Minister's pet project Vanbandhu Scheme. It was announced in 2014 with Rs 200 crores of allocation, but was traceless the next year. The three tribal universities setup in Madhya Pradesh, Andhra Pradesh and Telangana are starved of human and financial resources. Similarly, there are public announcements about the National Tribal Development policy but no consultation or initiation has been made yet. The promise of granting Schedule Tribe status to the Adivasis of Assam working in tea gardens has been limited to election rhetoric.

## **Forest Rights Act remains unimplemented**

Last year, the Prime Minister made an ambitious announcement—all individual and collective claims under FRA will be settled within two months. But till now, only 20-25 percent of the claims have been actually settled. Legal loopholes are freely used to deny Adivasis their traditional rights.

In Odisha, Chhattisgarh and Jharkhand, the government has watering down the provisions to divert forestland towards mining. In Latehar district of Jharkhand, fake Gram Sabha consent was submitted to attain permission for coal mining. In Chhattisgarh, officials refused to recognise FRA claims for 12 villages because an iron ore mine is proposed in that area. In Sarguja district in Chhattisgarh, the government cancelled Adivasis' Community Forest Rights (CFR) because Adani group had plans to set up a mining project there. Thousands similar CFRs have been denied to promote mining activity in the forested region.

## **Tribal Sub Plan not implemented**

Implementation of the Tribal Sub Plan has been a farcical exercise since its inception in 1974. Under this, the Union and State government have separate fund allocations which are in proportion to the Adivasi population. This is done so that the community gets direct benefit from the scheme. But the Centre has not followed this policy in letter and spirit even a single year.

For the financial year 2016-17, the total amount due at the Union level under Tribal Sub Plan was Rs 47,300 crores. But only Rs 24,005.39 crores have been allocated. There are significant budget cuts in the programmes meant for development of Primitive Tribal Groups (PTGs), merit-cum-means scholarship, appointment of language teachers and panchayat training programmes. The two tribal universities of Andhra Pradesh and Telangana have been allocated only Rs 15 lakhs for its operations.

As per the guidelines, Tribal Sub Plan cannot be applied in Arunachal Pradesh, Meghalaya, Mizoram and Nagaland and in the Union Territories of Lakshadweep and Dadar & Nagar Haveli. Ironically, majority of the population—more than 60 percent—in these states are tribals. Therefore, the Annual Plan of these states are actually Tribal Plans.

In 2014-15, the Comptroller and Auditor General of India (CAG) initiated a country-wide audit of the Tribal Sub Plan. It found that the government had made several notional allocations on a large scale. This was specially done in the health and education sectors. There are evidences that the Central ministry has allocated funds under the Tribal Sub Plan, but the funds have not reached the states. The recommendations of the supreme audit institution of the country have been conveniently shoved under the carpet.

## **MMDR Amendment undoes past efforts**

There are clear evidences that mining has an adverse impact on Adivasi communities. They have to suffer massive displacement, land alienation, and destruction of their natural habitat. But NDA-II passed the Mines and Minerals (Development and Regulation) Amendment Act without sincerely engaging with the stakeholders.

The amendment Act is crucial because it has undone the efforts of civil society engagement in formulating the original Act which in principal had made way for benefit-sharing and participation of communities in the mining process. As per the 2011 Bill, notification of public land for all types of mining concessions had to be done in consultation with the gram sabha or district council in the fifth and sixth schedule areas. In non-schedule areas, district panchayats were required to be consulted. This clause has been removed in the 2015 amendments. This apart, the MMDR 2015 Act has removed from the 2011 Bill the provision of compensation, rehabilitation and resettlement of persons having usufruct and traditional rights over land and resources. Now, all compensation, rehabilitation and resettlement is limited to occupational rights. MMDR 2015 Act does not safeguard the rights of communities, discourages consultation, and excludes the affected people from decision-making.

## **Xaxa Committee report suppressed**

In 2013, the UPA government formed a high-level committee chaired by Virginius Xaxa to understand the socio-economic issues of Adivasis, and suggest an action plan. In its report, presented to the tribal ministry last year, the committee gave an in-depth analysis of how development activities have increased the socio-economic gulf between tribals and rest of the people, leaving the former in a pathetic state on several counts.

Of the total population displaced due to development activities till now, 40 percent are Adivasis, the report states. Adivasi communities face disregard for their values and culture, breach of protective legislations, serious material and social deprivation, and aggressive resource alienation.

The committee recommended radical changes in the law to protect Adivasi communities from land alienation and to ensure that their rights over resources are returned. It also layed out an overhauled, expansive and detailed framework for providing better education, health and opportunities to tribal communities across the country. But there has been no follow-up on the recommendations.

## **Violence in Left Wing Extremist areas**

State-sponsored extremist violence on Adivasi communities continues unabated especially in central India. The perpetrators of violence enjoy total immunity while thousands of Adivasis are tortured, jailed, sexually assaulted, raped, killed or forced to migrate to safer areas. The government has pitted Adivasis against the Adivasis. It has given them arms so that they can assist the Armed Forces in raiding and destroying Adivasi villages. The government has clear support of mining companies in this, as it will help clear the mineral-rich region for mining activities.

## **Broken promises of tribals in tea gardens**

Before Independence, more than 70 lakh Adivasis migrated from Chhotanagpur region to work in the tea gardens of Assam. But many tea gardens are now closed, and cases of starvation deaths are rampant here. The migrant Adivasis are not recognized as Scheduled tribes and cannot access entitlements or basic amenities.

Several political parties promised to resolve their problem. But the vows were mostly electoral rhetoric. In the 2014 general elections, the Adivasis in tea gardens supported the BJP as they were promised Scheduled Tribe status. But two years down the line, the government has not done anything to formalize it.

## **Rise in communal violence**

For decades, organisations such as Akhil Bharatiya Vanvasi Kalyan Ashram and Saraswati Shishu Mandir have been preparing a strong Hindu cadre base in Adivasi areas. With the BJP in power at the Centre, such organisations have found strong administrative support. Attacks have increased on minority organisations, civil society groups, scholars and journalists who work among the Adivasis.

Last year, Akhil Bharatiya Vanvasi Kalyan Ashram released a national vision document suggesting a comprehensive action plan for working in Adivasi areas. Apart from development issues, the document demanded a stringent anti-conversion law, which is used as a tool to divide the Adivasi communities on the lines of religion. The communal agenda of these organisations has created fear among those who do not subscribe to the dominant discourse of assimilating Adivasis in the Hindu fold. The result is that the harmonious relationship between various Adivasi and forest dependent communities has been broken. Communal violence is now frequently experienced in Adivasi areas.

To make empowerment of Adivasi communities real, the need is that all individuals and organisations who are committed to peace, reconciliation and justice of tribals come on common platform to ensure cultural, economic and political rights of the most marginalized communities.

## Recommendations:

1. With immediate effect, a special policy for the Adivasi areas and LWE violence affected communities' needs to be formulated and implemented for ensuring justice, peace, reconciliation, rehabilitation and development.
2. The forest rights Act need to be implemented more strictly and effectively in the Adivasi areas with special focus given to community and collective rights of the Adivasi communities.
3. In order to ensure effective implementation of tribal sub plan, a strong legislation at the Union and State level needs to be introduced and implemented in Adivasi areas focusing on the development rights of Adivasis. The CAG report of 2015 must be tabled in the parliament followed by a wider discussion so that the problems in implementing TSP must be addressed with immediate effect.
4. In order to minimize the negative effects of MMDR Act, there is a need to bring amendments for safeguarding the basic rights of Adivasis and ensuring that they directly benefit from the mining activities carried out in fifth schedule areas.
5. The problems faced by the tea tribes in Assam are very serious one and a special commission / committee needs to be formed to immediately address the issues faced by the tea tribes.
6. The import of PESA has not been internalized into administrative practice, and government officials including Forest Departments continue to deny access to tribals to that which is their right. Bureaucracies and judicial institutions need to be introduced to the changes that PESA has brought into administration and control in Fifth Schedule areas.
7. In pursuance of the PESA, 1996, Land Transfer Regulations/Tenancy laws of all Schedule V Areas should be suitably amended to ensure Gram Sabha participation in the identification, investigation and restoration of lands to tribal people. Gram Sabhas require to be strengthened by State Governments to undertake these responsibilities.
8. Adivasis who have been displaced by conflict in Chhattisgarh should be rehabilitated by the State Government in their villages and provided facilities of housing, safe drinking water, health and education, skill development, electricity supply, irrigation facilities, and agricultural inputs.
9. Serious effort is required by the State to minimize displacement. There should be a rights-based approach to comprehensive rehabilitation for socio-economic reconstitution of victims of development, including for the backlog of displaced.
10. The Particularly Vulnerable Tribal Groups (PVTGs) among the tribes need special attention due to their vulnerability in the present situation. Their customary right to land, forest and sources of livelihood must be respected and protected.

In order to work towards the real empowerment process of Adivasi communities, there is need that all concerned individuals and organisations who are committed to peace, reconciliation and justice must come on common platform to ensure cultural, economic and political rights of the most marginalized communities.

# 23. Water and Sanitation: Promises and Reality – the great divide

## Crisis in water and sanitation must end now

In September 2015, the United Nations adopted new Global Goals on sustainable development with a commitment to end poverty by 2030. Governments of 193 nations came together to work towards a sustainable world where everyone has equitable access to clean drinking water and safe and hygienic sanitation services. Earlier this year in January, the South Asian governments came together to review and deliberate on the progresses made on Sanitation in the South Asian Conference on Sanitation. Government of India (GoI) has remained an active player in both these spaces and signatory to the commitments made in these spaces. Commitments made in these spaces and agreements by the GoI hold particular significance to India in the light of high political commitments exhibited on Sanitation to make India Open Defecation Free by 2019 with the Swachh Bharat Mission (Clean India Campaign) launched on 2 October 2014– a deadline that is much earlier than the deadline of the Global Goals of 2030. The review of Millennium Development Goals in India indicated that India had met the target as far as access to water is concerned. With these promises, commitments and indicators of achievements of MDGs in India, India is poised to make great strides in water and sanitation spheres.

The National Rural Drinking Water Program (NRDWP) and Swachh Bharat Mission (SBM) are the two flagship programmes of the Government of India for rural drinking water and sanitation. In the urban context, the Atal Mission for Rejuvenation and Urban Transformation (AMRUT), the erstwhile JNNURM is the national flagship programme driving capital investments in water supply and Swachh Bharat Mission (Urban) in sanitation sector across India while pushing for governance reforms by urban local bodies and state governments. Water and Sanitation in Schools and in Healthcare facilities are guided by the Sarva Shiksha Abhiyan of the Ministry of Human Resources Development and Kayakalp introduced by the Ministry of Health and Family Welfare respectively.

SBM aims to make India free from open defecation by 2019 by constructing 11.11 crore Individual Household Latrines (IHHL) in the rural India. Under the urban SBM the government in 2015-16 proposed to construct 1.04 crore household toilets, provide 2.5 lakh community toilets, 2.6 lakh public toilets, and a solid waste management facilities in 4,041 towns. The government set a target of providing separate toilets for girls and boys in every school by August 15, 2015. It aims to ensure that by end of 2017, at least 50 per cent of rural households are provided with piped water supply; at least 35 per cent of rural households have piped water supply with a household connection; less than 20 per cent use public taps and less than 45 per cent use hand pumps or other safe and adequate private water sources; and, all services meet set standards in terms of quality and number of hours of supply every day. The

government also hopes to ensure that by the end of 2022 at least 90 per cent of rural households are provided with piped water supply; at least 80 per cent of rural households have piped water supply with a household connection; less than 10 per cent use public taps, and less than 10 per cent use hand pumps or other safe and adequate private water sources. (Accountability, 2015)

## **The continuing Crisis**

Despite the claim of India meeting the MDG target on water, the issues of quality and quantity remain a challenge in most part of the country. The current drought in more than 13 states and 311 districts affecting more than 300 million of people in the country is a strong reminder to the gravity of the situation as far as access and management of water in India is concerned. It is a well-established fact that the drought is not an outcome of immediate scarcity of water but rather is a continued depletion and exploitation of water bodies clubbed with scanty rainfall in many parts (though it is also a fact that that one of the severest affected area (Bundelkhand) with drought this year had a more than average rainfall last year).

Manifestation of strong political will at the highest level on addressing sanitation crisis in India is translated into building about 124.33 lakh toilets in last year (50 lakh toilets were constructed in 2014-15) with an exponential increase in the rate in which toilets were constructed in the previous years. Massive drive of construction of toilets in rural India has also opened up the whole issue of their adequate usability and sustainability. In urban landscape, the pace of construction of toilets is picking up (there was a late start in implementation of SBM Urban).

The crisis is immense: two-thirds of urban residents do not have toilets and access to the sewer grid and over 600 million people in rural and urban areas defecate in the open. Where the grid does not serve toilets, feces is periodically collected from unsustainable septic tanks and pit latrines to be discarded in open areas, landfill sites, lakes and freshwater sources. The tragedy of our commons, therefore, multiplies manifold, as do health consequences (Raghavendra, MY VIEW: Two Brilliant Solutions For Addressing India's Huge Sanitation Crisis, 2016).

The loss of human capital is deafening and these deaths are preventable. There are approximately 3.42 lakh manual scavengers yet to be rehabilitated as per a government report. It is a well-known fact that the rehabilitation process is patchy and not getting properly implemented. This could be possible with technological intervention and mechanization of cleaning of Individual Household Latrines (IHHL) and septic tanks.

One year to the commitment of providing separate toilets for girls and boys in schools, the government on 15 August, 2015 announced that it has met this target with 100% schools attaining this status. However, the reality shows otherwise. Despite having standard norms, commitments and claims there are serious gaps in infrastructure in terms of student toilet ratio, student -water points ratio, provision of separate toilets for girls, provision of separate facilities for children with disability are rarely followed. PAISA survey in 2015-16 showed the gaps in the usability of toilets in schools, while 9 % of schools required girls' toilets, approximately 1 % received a grant for building a girls' toilet in FY 2015-16.

Rapid assessments carried out by civil society agencies (RTE Forum and WaterAid India) reported that 36% of schools surveyed in Odisha<sup>28</sup> in October 2015 did not have even one functional toilet, 59% of co-ed schools did not have separate toilets for girls and boys much to the contrary of the claims made in August 2015 and in Uttar Pradesh, it was found that 47% of the boys toilets and 48% of the girls toilets were dysfunctional. The situation in Madhya Pradesh was found equally dismal with 51% schools having only one toilet. Out of 264 schools surveyed in September 2015, toilets in only 77 schools were functional while the remaining 173 schools have dysfunctional toilets<sup>29</sup>. The 21st Joint Review Mission (2015) report of Telangana views the functionality of school toilets as a major challenge which has to be addressed upfront. The mission found that toilets that were in use were dirty and unhygienic with a few exceptions. This was attributed mainly to a lack of regular water supply, paucity of funds for maintenance and repair and the absence of cleaners/sweepers<sup>30</sup>. The West Bengal report of Joint Review Mission, states that of the current year (2014-15) a cumulative total of 73,862 boy's toilets were available out of a total of 80,414 boys and co-ed schools: a total coverage of 92%. Similarly, out of 81,855 girls and co-ed schools, toilets for girls were available in 76,914 schools: a coverage of 94%<sup>31</sup>. DISE 2014-15 gives a figure of 87.3% schools having functional toilet for girls. (Ref: Status of Implementation of the Right of Children to Free & Compulsory Education Act, 2009 (2015-16) – Report of the RTE Forum)

## Budgeting for Water and Sanitation

The commitments and promises required adequate provisioning and utilization of budget on water and sanitation. With a fall of budget in the social sector, the same for water and sanitation stands to dwindle despite the much highlighted Swachh Bharat Mission. The provisioning of budget in Water has particularly got less focus – the allocation for National Rural Drinking Water Programme, both at the Union and States level (Rs. 2,611 crore was allocated in 2015-16 with a sharp decline from the allocation of Rs. 11000 crore in 2014-15). Donations of more than Rs. 349 crores were made by different organizations and people in the year 2015-2016 to the Swachh Bharat Kosh. In addition a 0.5% Swachh Bharat Cess is imposed w.e.f 15 November 2015 on all services liable for service tax. The World Bank committed \$1.5 billion to support the Government of India in implementing the rural component of the Swachh Bharat Mission with a focus on performance based incentives.

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28

29 M.P. Social Audit Survey, WASH in School 2015, pp 2

30 [http://ssa.nic.in/monitoring-documents\\_old/jrm/21st%20JRM/Telangana%20update%202%208.pdf](http://ssa.nic.in/monitoring-documents_old/jrm/21st%20JRM/Telangana%20update%202%208.pdf)

31 [http://ssa.nic.in/monitoring-documents\\_old/jrm/21st%20JRM/WEST%20BENGAL.pdf](http://ssa.nic.in/monitoring-documents_old/jrm/21st%20JRM/WEST%20BENGAL.pdf)

Budget for 2016-17 shows slight increase in the provisioning of budget in both water and sanitation under the following major proposals<sup>32</sup>

- The total allocation for the Swachh Bharat Abhiyan - Grameen and Urban (G+U) is Rs. 11,300 crore with SBM (G) at Rs. 9,000 crore and SBM (U) at Rs. 2,300 crore in 2016-2017 (BE). This is a significant jump from 2015-16 (RE) wherein the overall allocation for sanitation was Rs. 7,525 crore (Table 7.2).
- For National Rural Drinking Water Programme (NRDWP), the allocation has shown a slight increase from Rs. 4,373 crore in 2015-16 (RE) to Rs. 5000 crore in 2016-17 (BE).
- In Atal Mission for Rejuvenation and Urban Transformation (AMRUT), the allocation for 2016-17 (BE) is Rs 7,296 crore which is significantly higher than 2015-16 (RE) where it was Rs. 3463.69 crore.
- The Finance Minister in his Budget Speech announced that the priority allocation from Centrally Sponsored Schemes will be made to reward villages that have become free from open defecation.
- In urban sanitation, the government has introduced ranking of urban areas in sanitation which is expected to result in constructive competition among towns and cities.
- A Swachh Bharat Cess of 0.5 percent on all taxable services has been levied from 15th November, 2015 onwards.

## Recommendations

1. Along with high degree of political commitments, sanitation needs to be looked beyond toilet construction and emphasize on closing the loop from disposal to management of human excreta and with behavior change communications and actions.
2. There is an urgent need to ensure that sanitation is sensitive to life cycle needs of all sections of society, especially those living with disabilities, senior citizens and sexual minorities.
3. With the promise of more financial resources poured into SBM, a targeted approach to its appropriate utilization is required to ensure that the money is spent for the most vulnerable and the excluded in rural areas (reaching the last person).
4. SBM proposes resource mobilization based on contributions in the form of Public-Private-Partnership (PPP), loan from NABARD and SIDBI to those households which are not part of beneficiary and from donations, MPLADS/MLALADS funds etc. However, this has the risk associated with the entry of private participation in rural water supply which may raise the input cost of water supply in rural areas.
5. There is a need to revise and increase the allocation provisioned in the unit cost of IHHL in Swachh Bharat Mission (urban). Match the subsidy for individual household toilet construction under SBM – Urban to that as provided for in SBM-Rural i.e. raise it to Rs. 12,000/- each from current Rs. 4,000/- as of now.
6. It is suggested to plan the provisioning of budget of Water, Sanitation and Hygiene in Schools based on a reality check by a third party assessment.

32 [http://www.cbgaindia.org/files/budget\\_responses/Connecting%20the%20Dots%20-%20An%20Analysis%20of%20Union%20Budget%202016-17.pdf](http://www.cbgaindia.org/files/budget_responses/Connecting%20the%20Dots%20-%20An%20Analysis%20of%20Union%20Budget%202016-17.pdf)

7. There is a lot of emphasis of promoting voluntarism in the frontline workers category. It is generally observed that most of the frontline workers are coming to work to make ends meet. It will enhance their interest and sustainability of the work if budgetary provisions are made for the frontline workers on a monthly basis and not on case to case basis.
8. There is an urgent need to ensure effective and decentralized system of governance – strengthening of statutory committees and agencies at all levels, vesting appropriate power and decision making are critically needed to ensure equitable access to water and sanitation by communities.
9. With the continuing crisis of water across India, it is crucial to ensure decentralized planning and management of water resources. The financial allocations in the form of subsidy or otherwise need to be judiciously utilized so as to reach those who need it the most.
10. The government announcement of 100% coverage of schools in terms of separate toilets for girls and boys has been contested on the basis of gaps seen on the ground. It will cause a budget deficit if provisioning is made on the current claims that seem to have serious gaps. It is suggested to plan the provisioning of budget of Water, Sanitation and Hygiene in Schools based on a reality check by a third party assessment.
11. The untied money in Panchayats needs to be planned for more effectively and channelized for use in water and sanitation sectors.

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# 24. Women:

## Focus on women

### Government has taken several steps in favour of women, but many more are still needed

India ranks 108<sup>th</sup> among the 145 countries in the global gender index this year. The index, compiled annually by the World Economic Forum, examines the gender gap between women and men under four categories—economic participation and opportunity, educational attainment, political empowerment, and health and survival. The country's performance has improved from last year, when it ranked 114<sup>th</sup> out of 142 countries.

With the percentage of women ministers in the Cabinet rising from 9 percent to 22 percent, India is now among the most improved countries in the region in terms of political representation. The 16th Lok Sabha also saw a rise in the number of women parliamentarians, and the percentage rose from 11.4 percent to 12.15 percent.

However, the country fell five places in economic participation and opportunity, ranking 139<sup>th</sup> out of 145 countries. Indian women have also regressed in terms of health and survival, one of the important pillars, being placed 143 among 145. In educational attainment, India has improved marginally, going up one place from 126 in 2014 to 125 this year<sup>33</sup>. It is in this context that we place our review of government's performance vis-à-vis its promises during the year 2015-16.

### Women's empowerment and participation

The Women's Reservation Bill which was passed in the Rajya Sabha in March 2010, lapsed with the dissolution of the 15th Lok Sabha. While the President and the Vice-President voiced their support for the re-introduction of the Bill, no commitment has been made so far<sup>34</sup>.

The Mahila Samakhya programme, that empowered Dalit and Adivasi women for 27 years through education, and increased their public participation, is proposed to be merged with the National Rural Livelihood Mission<sup>35</sup>.

The NDA government initiated a process to frame a comprehensive charter on women's entitlement, reinforcing their rights as specified in the Constitution and existing statutes. This is in line with the

33 <http://www.livemint.com/Politics/5zEUJqDirXd16V1ItFBL5YI/India-climbs-six-places-on-WEFs-gender-index.html>

34 <http://www.hindustantimes.com/india/president-vp-call-for-revival-of-women-s-reservation-bill/story-6nACarTNfBkeE-iIVi5WyM.html>

35 <http://timesofindia.indiatimes.com/india/Will-Mahila-Samakhya-plan-lose-its-edge-after-merger/article-show/50894517.cms>

recommendation of the Justice J S Verma Commission set up in 2012 to implement a “bill of rights” that will specify the rights guaranteed to women under the Constitution<sup>36</sup>.

## Response to violence against women

In the Budget allocation for 2016-17, Rs 3.4 crore was set aside under the Nirbhaya fund exclusively to finance women safety projects. The amount is the same as that of last year. However, the money sanctioned in the February 2015 budget reached the Delhi Police only in February 2016<sup>37</sup>.

As per the Usha Mehra commission recommendation, one stop crisis centres (OSCCs) were expected to be set up by July 2015<sup>38</sup> in every state. These centres are to provide legal, medical and psychological assistance to women in distress. According to a Parliamentary Standing Committee report presented by the Ministry of Women and Child Development in April 2016, eight centres are operational now and proposals for 33 states have been cleared. A total of Rs 18.58 crore was approved as fund, while Rs 10.17 crore has been allotted to date. Under the helpline, Rs 69.49 crore was approved, and an amount of Rs 15.46 crore was released<sup>39</sup>. The report noted that the fund, constituted in 2013-14, has remained largely unutilised, despite increasing incidence of violence across the country. The Ministry of Women and Child Development has been appointed the nodal authority, and the department of economic affairs under the finance ministry will look at financial appraisals of the funds released for the schemes.

The Union home ministry has also approved the setting up of dedicated investigative units on crimes against women in 564 districts by state governments across the country. The Rs 324-crore plan, to be financed from the Nirbhaya Fund corpus, will see the Centre bearing 50 percent of the financial burden<sup>40</sup> towards this. With 33 percent representation of women in its staff it shall help investigation of heinous crimes against women, and also encourage women to lodge complaints of offences.

There is now free treatment for acid attack victims in government run and private hospitals across all states<sup>41</sup>.

The health ministry has suggested to the states to follow the Vishakha guidelines and set up a complaint committee or cell in every healthcare facility, which would be headed by a woman<sup>42</sup>.

## Allocations in Budget 2016-2017<sup>43</sup>

The total funds reported in the Gender Budget Statement in 2016-17 (BE) is Rs 90,625 crore, while the allocation for the Ministry of Women and Child Development is Rs. 17,408 crore. An amount of Rs 2,000 crore has been earmarked for ensuring cooking gas connections to BPL families, supported by a

36 <http://www.hindustantimes.com/india/nda-govt-to-frame-a-charter-of-rights-for-women/story-kE0sd3IO5ydyoON6qCZdUK.html>

37 <http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/nirbhaya-fund-released-after-a-year-unused/article8299619.ece>

38 <http://timesofindia.indiatimes.com/india/All-states-to-have-Nirbhaya-crisis-centres/articleshow/46403492.cms>

39 <http://www.dnaindia.com/india/report-nirbhaya-funds-lying-idle-while-crimes-against-women-rise-parliament-committee-2206928>

40 <http://timesofindia.indiatimes.com/india/Centre-okays-creation-of-dedicated-units-to-probe-crimes-against-women/articleshow/50289856.cms>

41 <http://timesofindia.indiatimes.com/india/States-told-to-give-free-treatment-to-acid-attack-victims/articleshow/48302537.cms>

42 <http://timesofindia.indiatimes.com/india/Centre-writes-to-states-for-security-of-women-healthcare-workers/articleshow/50814226.cms>

43 \*\*Connecting the Dots: An Analysis of Union Budget 2016-17 - Centre for Budget and Governance Accountability [http://www.cbgaindia.org/files/budget\\_responses/Connecting%20the%20Dots%20-%20An%20Analysis%20of%20Union%20Budget%202016-17.pdf](http://www.cbgaindia.org/files/budget_responses/Connecting%20the%20Dots%20-%20An%20Analysis%20of%20Union%20Budget%202016-17.pdf)

government subsidy. The connection will be provided in the name of women members of the households. It is expected to benefit 1.5 crore households in 2016-17. Stand Up India Scheme, with an allocation of Rs 500 crore, has been introduced to promote entrepreneurship among Scheduled Castes, Scheduled Tribes and women. Allocations for Integrated Child Development Services (ICDS) are lower this year than the allocation in previous years. With the 75:40 ratio of fund sharing between Centre and states compared to the 60:40 earlier, it remains to be seen whether the overall requirements on ICDS would be met, especially as it depends on allocations by states as well.

Allocation has increased for the scheme for the protection and empowerment of women, an umbrella scheme covering eight schemes. However, in view of the number and nature of these schemes, this does not seem adequate to ensure quality and covers. Allocations to Indira Gandhi Matritva Yojna indicate that it will continue to be implemented in a pilot phase and not reach all pregnant and lactating women as mandated by the National Food Security Act, 2013. Allocation to the centrally sponsored Rajeev Gandhi Scheme for Empowerment of Adolescent Girls-Sabla initiated in 2011, also indicates that the scheme will continue to be implemented in pilot phase.

Allocation to schemes such as the National Mission for Empowerment of Women, aimed at social and economic empowerment of women has been doubled, while the Nirbhaya schemes, which include women's helplines and one-stop crisis centres, have also seen an additional allocation of Rs 470 crore<sup>44</sup>.

## Steps towards safety

The Centre has initiated several steps towards women's safety in public transport. These include:

- a) Announcement of guidelines for taxis across the country, including those run through app-based service providers such as Uber, Ola Cabs and Taxi For Sure. The guidelines include installation of GPS, meters and panic buttons for the safety of passengers<sup>45</sup>.
- b) Proposal to begin implementation of a tracking system for all modes of public transport across 32 million-plus cities by the end of 2016<sup>46</sup>; installation of CCTV cameras on trains<sup>47</sup>; handsets with panic button in mobile phones<sup>48</sup>.
- c) Deployment of policewomen in police stations across the country rather than having all-women police stations<sup>49</sup>; inducting more women in security forces, paramilitary forces and in police.
- d) Promotion of women drivers in government vehicles<sup>50</sup>.
- e) Smart Cities is an initiative to select and build 100 cities across different states to drive economic growth and improve the quality of life of people by enabling local area development and harnessing technology. One of the core elements of the Smart Cities is safety and security of citizens, particularly women, children and the elderly<sup>51</sup>.

44 <http://www.livemint.com/Home-Page/h0s3Phn00d6v2VK2DHio0L/Budget-2016-Mixed-bag-for-women.html>

45 <http://timesofindia.indiatimes.com/india/GPS-panic-buttons-must-for-taxis-Government/articleshow/46363591.cms>

46 <http://timesofindia.indiatimes.com/india/Govt-to-track-public-transport-for-safety/articleshow/46578181.cms>

47 <http://www.thehindu.com/todays-paper/tp-national/india-gets-first-train-with-cctv-cameras/article8453225.ece>

48 <http://timesofindia.indiatimes.com/india/Mobiles-to-come-with-panic-button-from-2017/articleshow/51786498.cms>

49 <http://www.dnaindia.com/delhi/report-government-for-deployment-of-women-in-all-police-stations-2077161>

50 <http://www.deccanherald.com/content/486623/women-wheel-govt-vehicles-soon.html>

51 <http://smartcities.gov.in/writereaddata/What%20is%20Smart%20City.pdf>

## Stress on inclusivity

A high-level committee, constituted by the government to study the status of women to evolve policy interventions recommends that the Armed Forces Special Powers Act (AFSPA) be repealed, gay sex be decriminalised and at least 50 percent reservation be ensured for women at all levels of legislature, right up to Parliament<sup>52</sup>. The report has been submitted to the Ministry of Women and Child Development.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 came into force on January 26, 2016 and the rules were notified on April 14. The object of the amended provisions is to speed up the process of dispensation of justice, liberalise and expedite access to relief for victims of atrocities, and ensure special sensitivity in cases of offences against women<sup>53</sup>.

The draft of the rights of Transgender Person's Bill has been redrafted and referred for inter-ministerial consultation by the social justice ministry<sup>54</sup>.

## Health improvement

A proposal drafted for extending the maternity benefit leave for expecting mothers from the existing three months to eight months has been approved by a committee of secretaries<sup>55</sup>. The government is also debating in the work-from-home option for up to two years under the Maternity Benefit Act, which would be applicable to private sectors also<sup>56</sup>.

The government has announced a method mix of contraceptives such as injectibles, Centchroman and POPs (progestin-only pill). It has been introduced under the national family planning programme<sup>57</sup>.

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52 <http://indianexpress.com/article/india/india-others/committee-on-women-wants-afspa-repealed/>

53 <http://www.thehindu.com/news/national/centre-notifies-rules-for-amended-scst-act/article8514049.ece>

54 <http://indiatoday.intoday.in/story/social-justice-ministry-redrafts-rights-of-transgenders/1/637151.html>

55 <http://www.abplive.in/india-news/panel-gives-nod-to-maneka-gandhis-proposal-for-longer-maternity-leave-119636>

56 <http://www.dnaindia.com/india/report-govt-to-introduce-two-years-work-from-home-option-for-women-under-maternity-benefits-act-2160712>

57 <http://timesofindia.indiatimes.com/india/Government-to-go-ahead-with-birth-control-injections/article-show/49121432.cms>

## Recommendations<sup>58</sup>

1. Ensure passage of the Women's Reservation Bill as per the election promise—"50 percent, not 33 percent"—in Parliament, legislatures and within party structures. Ensure right to contest panchayat elections, irrespective of level of literacy.
2. Education is critical for the empowerment of marginalised women and girls. Strengthen and expand existing Mahila Samakhya programme under the Department of Education, Ministry of HRD.
3. Develop an action plan to end violence of all forms against women, clearly articulating a zero tolerance policy towards violence against women and girls.
4. Ensure easy access of women to justice, and greater accountability of police, judiciary and law enforcement agencies. More convictions. No impunity for offenders. Expand scope and coverage of one stop crisis centres. Implementation, infrastructure and resources, relevant and adequate training and monitoring mechanisms to ensure the quality of service provision.
5. Implement measures for safety of women that ensure their autonomy, freedom and mobility in urban planning and design of public spaces; provision and management of public infrastructure and services; public transport; policing; legislation, justice and support to victims and so on.
6. Ensure responsive, demand-based MGNREGA implementation with sufficient allocation of funds and timely flow of funds to states.
7. Recognise that joint titles do not necessarily empower women, promote independent land rights for women; through identification, enumeration and registration of different categories of women farmers, ensure their access to all government supports including low-interest bank loans, disaster relief, crop insurance, marketing systems, and subsidies.
8. Implement unconditional, universal access to maternity entitlements under the National Food Security Act, 2013.
9. Ensure universal and comprehensive access to health services, without stigma or discrimination, irrespective of the ability to pay.
10. Initiate adequate social security measures for vulnerable women, especially all categories of single women.
11. Ensure early passage of laws to empower all categories of marginalized persons including sex workers, transgender persons and sexual minorities.
12. Repeal AFSPA.

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<sup>58</sup> Incorporates recommendations from women's organisations; organizations working with women; and collectives

# 25. Youth: Schemes sans vision

## There are big loopholes in the series of schemes NDA initiated for the youth

How will the youth face the challenges that come their way if they are not skilled? They do not want to live a life of pity, but demand self-respect and dignity. Launching Skill India Campaign on July 15, 2015, Prime Minister Narendra Modi said India's priority is to generate employment opportunities.

National Youth Policy 2014 states the youth should have appropriate education, skills, health awareness and other enablers so that it can productively contribute to the economy.

Over the past few years, the definition of youth has undergone considerable changes. National Youth Policy 2003 states these are people between 13 and 35 years. The Working Group on Youth Affairs and Adolescents' Development for the 12<sup>th</sup> Five-Year Plan defines any person between 18 and 30 years is a youth. The age group given by National Youth Policy 2014, which is 15 to 29 years, is also the globally accepted age group.

Youth contribute 34 percent of India's Gross National Income. But the government's focus on them is negligible. Even as the government gives a lot of attention to child and gender budgeting, funds for the youth remain meagre. National Youth Policy 2014 states that in 2011-12, the government's total investment was estimated at Rs 90,000 crore, while the total anticipated expenditure was Rs 12.58 trillion<sup>59</sup>. This is paltry considering their population and contribution to the economy.

In the past one year, NDA initiated several schemes for the youth. The first quarter of 2015-16 was affectively leveraged for yoga awareness and training. June 21 was announced International Yoga Day in which 22.42 lakh youth participated.

### Youth in governance

The government launched MyGov.in, a platform which enables the government to consult the youth on governance issues. Another programme, Neighbourhood Youth Parliament, allows the youth to engage in discussions and debates on issues significant to the community and youth. The drawback is that while MyGov.in can be used only by those who have access to the computer and the internet, people only from urban and elite colleges can take part in Neighbourhood Youth Parliament programme. Awareness about these programmes among the youth is only in specific urban areas. Those studying in colleges in states and in rural areas have no knowledge of such programmes.

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59 <http://timesofindia.indiatimes.com/union-budget-2011/Highlights-of-Union-Budget-2011-2012/articleshow/7592642.cms>, downloaded 12<sup>th</sup> March 2016

## **Skill development**

To promote private training providers set up skill development centres, the government launched National Skill Development Corporation. There are, now, 4,648 such training centres across the country. On July 15, 2015, Prime Minister Narendra Modi launched Skill Loan Scheme to give monetary support to youth to undertake skill training programmes. The scheme replaces the earlier Indian Banks Association Model Loan Scheme for Vocational Education and Training.

The initiative forces the youth to limit their aspirations within the given set of skills. There is no career guidance or information provided on skill development opportunities. In absence of awareness and complete education, the youth are pushed to the unorganised labour sector.

Skill development programmes do not contain provisions for the disabled. The entire focus is on targeting numbers, rather than providing quality training for long-term benefits. This apart, implementation of the programme in remote areas is marred by irregularities. Cases of corruption are reported from rural areas while accessing loan for entrepreneurial ventures.

## **Digital India**

With the vision to transform India into a digitally empowered society, Digital India was launched on July 1, 2015. This is an umbrella programme that covers multiple government ministries and departments. It aims to train 1 crore students from small towns and villages in the IT sector over five years. Telecom service providers will train 5 lakh rural workforces. BPOs will be set up in each north-eastern state. These will train 3 lakh service delivery agents to run viable businesses delivering IT services.

However, a large number of the youth lack awareness about the programme. Digital India seems disillusioned in rural areas where electricity and access to computer is a huge challenge. Besides, IT training is provided for only 10 to 15 days, which cannot enable the youth to get IT-related jobs.

## **Health clinics**

To address the stigma behind accessing adolescent services, the government proposed adolescent-friendly health clinics in medical colleges, district hospitals, sub-district hospitals, community health centres and primary health centres. These will have trained ANMs who can provide training and curative services to adolescents. However, these are not functioning well everywhere due to lack of awareness. In absence of a monitoring mechanism, cases of lapses are frequent. In Bihar, for instance, it was found that expired iron tablets were distributed among people.

## **Swachh Vidyalaya Abhiyan**

Under the rubric of Swachh Bharat Mission, Swachh Vidyalaya Abhiyan was launched. Its objective was to provide separate toilets for boys and girls in all government schools within a year. A survey done by National Right to Education Forum in 2015 revealed that 38 percent schools in the country still do not have girls' toilets and 40 percent do not have boys' toilets. It results in increased dropout rate, especially among girls. At some places, Dalit students are forced to clean toilets every day. According to the survey, only 10 percent schools in the country meet the RTE Act norms, and over one lakh schools are on the verge of closure. About 8.32 percent schools are run by a single teacher.

## Motivation to study

This year, states received Rs 456 crore under Padhe Bharat Badhe Bharat programme in 2014-15 and Rs 525 crore in 2015-16. The Central government also launched Rashtriya Avishkar Abhiyan as a sub-component of Sarva Shiksha Abhiyan and Rashtriya Madhyamik Shiksha Abhiyan to motivate children between 6 and 18 years in Science, Mathematics and Technology subjects through observation, experimentation, inference drawing, model building and so on.

## Recommendations

1. The youth have expressed their concern over the growing threat to their individual identity and views. Many Dalit, Adivasi, Muslim minority and LGBT groups feel insecure to put forth their views in public fearing action from the moral police, grown rapidly in the current government. The Rohit Vemula case, incidents at the Jawaharlal Nehru and the Jadhavpur University only reflect that the youth's concern is not a priority for this government.
2. The government's Skill India campaign has the potential to change the lives of the poor and the marginalised. But it has not been implemented properly. The government must take suggestions from the youth to improve the programme.
3. It is important that each ministry collaborates with the Ministry of Youth Affairs and Sports while implementing schemes and programmes to ensure that they reach the youth, especially those who are socially excluded.
4. The government should set up National Youth Commission to enhance participation of the youth in various schemes launched by various ministries.
5. Multiple thematic working groups should be initiated under the Ministry of Youth Affairs and Sports to build strategies so as to enhance benefits of various programmes.
6. There should be a separate budget for the youth. The government provides an average of Rs 2,710 to each youth annually, and Rs 90,000 crore as a whole, reveals National Youth Policy 2014. Given that youth (15-29 years) constitute 27.5 percent of the population, efforts should be made to enhance the budget and make it proportionate to the population. The government should introduce budget for the youth which could be facilitated by evolving a framework which could include a) consultation with the youth b) dissemination of information across diverse categories of youth c) equity measures to overcome inequalities and d) monitoring and tracking impact.

# List of Partners

1. Aaina
2. Adarsh Samaj Nirman Samiti
3. Akhil Bhartiya Sarvangin Vikas Sanstha
4. Akhil Bhartiya Sravasti Gramodhyog Sewa Sansthan
5. Alliance for Right to Early Childhood Development
6. Ambedkar Samajik Trust (Jharkhand)
7. Ambedker Samajik Trust
8. Amnesty International India
9. ANHAD
10. Antodaya Chetna Mandal
11. Apna Theater
12. ASHA NGO
13. Aulia Adhyatmik Anusadhan Kendra
14. Azad Sewa Ashram
15. Azad Siksha Kendra
16. Besic Foundation
17. Bihar Voluntary Health Association (BVHA)
18. Borok People's Human Rights Organisation
19. CECOEDECON
20. Center for social dignity
21. Centre for Budget and Governance Accountability (CBGA),
22. Centre for Dalit Rights
23. Centre for Promotion of Social Justice,
24. Centre for Social Equity and Inclusion (CSEI),
25. Centre for Social Justice (CSJ),
26. Chandrika samajik uthan Evan gramin Vikas sansthan
27. Change Human Mind Foundation
28. Chhatra Chhaya
29. CityMakers Mission International, National Forum for Housing Rights (NFHR)
30. Cohesion Foundation Trust
31. Community Unit
32. ComMutiny- The Youth Collective
33. Dalit Christian Society
34. Dalit Mahila Vikas Samiti
35. Dalit Vikas Sansthan
36. Disha Foundation
37. Disha Social Organization
38. Ekta Parishad, Equals,
39. Environics Trust,
40. Friends of Himalaya
41. GYBVP
42. HDF-cDAR
43. Helpage India,
44. Hunger Free Bihar Campaign
45. Ideal Youth Club
46. Indian Social Institute
47. Indo-Global Social Service Society (IGSSS)
48. Initiative of social upliftment
49. Institute of Social Work and Research
50. International Budget Partnership.
51. Jagori,
52. Jai Sri Laxmi Mahila Vikas Kendra
53. Jan Awaj, Bihar
54. Jan sahiyog sansthan
55. Jharkhan Mahila Utthan
56. Kalinde foundation
57. Kashiram Foundation
58. Labour Education development Society
59. Laksya
60. Life Education And Development Support (LEADS),

61. Lok Prerana Kendra
62. LOK SWAR
63. MAA
64. Mahila Jagrati Samiti
65. Mahila Vikas Manch
66. Mithila Mahila Samaj Vikas Sansthan
67. Mitrashray
68. Mobile Creches,
69. Movement for Empowerment of Muslim Indians (MOEMIN)
70. Nai Umang Nai Sonch Society
71. Nari Jirnodhar Gram Chetna Sansthan
72. National Campaign for People's Right to Information (NCPRI),
73. National Campaign on Dalit Human Rights (NCDHR),
74. National Coalition for Education (NCE)
75. National Confederation of Dalit Adivasi Organisations (NACDAOR),
76. National Forum for the Young at Risk (YaR)
77. National People's Forum,
78. National Social Watch
79. National Youth Equity Forum (NYEF),
80. Nav Bhart Samak Kalyan Sansthan
81. Nazariya : A Queer Feminist Resource Group,
82. Nigah Seva Samiti
83. Nirbal Sewa Samiti
84. Nisha Bunai Silai School
85. Nishan Welfare Society
86. Odisha Alliance for Child Rights
87. Odisha Election Watch
88. One World Foundation India
89. People's Action for National Integration – PANI
90. Peoples Action for Rural Awakening (PARA),
91. Pragati Jubak Sangha
92. PRASAR
93. Purwanchal
94. Rapid Action for Human Advancement Tradition (RAHAT)
95. Rashtriya Jan Vikas Sansthan
96. Right to Education Forum,
97. Right to Food Campaign,
98. Right to Sanitation Campaign,
99. RTE Forum Jharkhand
100. Sakti Sikha Development Society (SDS)
101. Samagra Seva Kendra
102. SAMPARK
103. Samudaik kalyan evam vikas sansthan
104. Samvedana Organisation
105. Sarvo Prayas Sansthan
106. Sathee Forum
107. SEVAYATAN
108. Sewa Bharti
109. Shiyogi grameen vikash evam Shodh Sansthan
110. Shramik sudhar samiti sangathan
111. Shree Bhaskar Samaj Kalyan Kendra
112. Sitara Swayam Sevi Sanstha
113. SKVS
114. Social Uplift through Rural Action (SUTRA)
115. Society for Development Action
116. Swargia Ram Nandan Singh Smriti Sansthan
117. TARUN CHETNA TRUST
118. Umang Vikas Kendra
119. United Artists' Association
120. United Reformer Organisation, Centre for Reformation and Development
121. Uttar Pradesh Voluntary Action Network (UPVAN )
122. Vaishali Samaj Kalyan Sansthan
123. Vikas Path
124. Voluntary Action Network India (VANI),
125. Waste Picker Welfare Foundation
126. Youth for Unity and Voluntary Action (YUVA)
127. 4 B Foundation



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