

**The People's Verdict**  
**Civil Society Review of**  
**UPA-II Government's Performance**  
June 2011



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# Foreword

## *The Middle Path – the Congress's way*

- It is a balance between the public sector and the private sector, with an important role assigned to cooperatives and self-help groups.
- It is a balance between building a modern economy and imparting a new thrust to traditional industries.
- It is a balance between promoting employment in the organized sector and protecting livelihoods in the unorganized sector.
- It is a balance between addressing the needs of urban India and improving the quality of life and standard of living in our villages and towns.
- It is a balance between taking advantage of globalization and ensuring that these benefits flow to local communities.
- It is a balance between regulation by the government and unleashing the creative spirits of our entrepreneurs and professionals.

Manifesto of the Indian National Congress Lok Sabha Elections 2009

The Indian National Congress (INC) and its allies under the rubric of the United Progressive Alliance (UPA) completed their second year in office in May 2011. The INC professes to be a party following the 'middle path'. This 'middle path' is composed of seemingly opposing and contradictory theoretical positions. In practice, for example, globalization can almost be diametrically opposed to the interests of 'local communities'. However, these ideas need to be closely read as well unpacked in order to understand these so-called contrary/contradictory terms. Once this is done, it becomes clear that the INC is in fact reiterating its age old mantra of 'inclusive growth'!

This book is a compilation of articles written by academics, social activists and civil society leaders, who comprehensively analyse and review the government's performance to examine whether this 'balance' and 'middle path' has indeed been adopted or has remained political rhetoric. Our effort is to take stock of the achievements and gaps from the perspective of the most marginalized groups in the country to examine whether this balance is in fact being achieved or if one group, class, caste or population etc is being privileged over others.

The 'Civil Society Review' is also a collective effort to evaluate the performance of the government in the context of many new challenges. Some such challenges are the ongoing economic reforms, price inflation, corruption, and unfinished tasks of universalisation of access to essential services such as food, water, education, health, housing and social exclusion and discrimination from the perspectives of the Dalits, Adivasis, women, minorities, the elderly, people with disabilities and other marginalised sections of the society. Each article assesses the performance of the UPA around specific dimensions and sectors of governance from the perspective of marginalized citizens and groups. Critical legislation such as the Right to Education Act, Forest Rights Act, Mahatma Gandhi National Rural Employment Guarantee Act/Scheme are also discussed and examined to see whether they are indeed benefiting the groups they are supposed to.

There are signs which indicate that this balance is yet to be achieved and is, for most of the poor and disenfranchised

populations of our country, a far-off dream. The continuing agrarian crisis, distress migration, farmers' suicides, declining sex ratio, corruption, alarmingly high infant and maternal mortality rate, and the current food crisis are grim reminders of the hollowness of the 'inclusive growth' slogan which forms as earlier mentioned the hidden subtext of the 'middle path' mantra.

Recent populist 'peoples' movements have clearly indicated the alarming schisms and cracks between the political actors and large sections of the populace. These need to be taken notice of and examined in order to reveal the hidden source of disenchantment. Civil society groups have been calling for a paradigm shift in both our planning as well as development models to one which is not singularly based on economic indicators and growth. Unless these calls for a theoretical shift in policy are heard, striking the balance will remain a constant teeter-totter act with one side being the heavier one!

It is in this context that it has become imperative for civil society to build and strengthen the governance accountability agenda, to ensure that some of the items on the progressive agenda of the UPA government in its earlier term and in its present form as UPA –II are not diluted in the coming years and are also taken forward by the government to their intended outcomes. Among the most important of these items, which are also the results of the earlier efforts of people's organizations and movements, are the Forest Rights Act, Mahatma Gandhi National Rural Employment Guarantee Act/ Scheme and the Right to Information.

It is also important that the realization of unfulfilled promises such as the Women's Reservation Bill, Bill on Social Security in the Unorganized Sector, Rehabilitation and Resettlement Bill and the Bill against Communal Violence continue to be on the agenda of the government.

The Civil Society Review is therefore a time for civil society groups across the country to come together to reflect and join hands with other likeminded actors in the media, government, judiciary and other sectors to further define and determine the future agenda of development of our country and to ensure that the priorities and aspirations of the poor and marginalized are adhered to and taken forward.

# **THEMATIC AREAS**



# Civil Society Review of Education

Anjela Taneja, Oxfam India and Sandeep C Mishra, NCE

## Commitments made in the manifesto of the Congress

- For quality education, one Model School in every block
- Focus on achievement levels. Major programme for teacher training, improving physical environment in schools
- Education at all stages — primary, secondary and university — to be free in all respects for boys and girls belonging to Dalit and Adivasi communities
- Universalization of ICDS till March 2012, including preschool education
- All students admitted to any recognized course in any recognized college/university to be provided, on a need basis, either scholarship or educational loan without collateral repayable over a very long period.
- Massive expansion in higher education. New: 8 new IITs, 7 IIMs, 5 Indian Institutes of Science Education and Research, 30 Central Universities, 20 Indian Institutes of Information Technology, 374 colleges in educationally-deprived districts. Expansion plans with twin focus on excellence and affirmative action.
- National Skills Development Mission: Rs 30,000 crore investment. Wider, more comprehensive spectrum of skills imparted.
- Coaching fees for all entrance exams for at least one lakh SC/ST students every year paid by Central Government. National scholarships for boys and girls belonging to SC & ST further increased.

Investment in education enables a nation's citizens to obtain access to other rights. This makes it essential to compare the status on the ground to the promises made. The present analysis follows a development approach looking at the commitments made by the ruling party in its manifesto, the overall prevalent policy commitment and the current situation on the ground.

## 1. Early Childhood Education

The commitment made under the Congress manifesto was to universalize ICDS (Integrated Child Development Services) till March 2012. With less than a year to go, this commitment is nowhere near to being fulfilled. This would have been a critical dimension from the perspective of children's education given the fact that the ICDS is the largest provider of early childhood care and education. It is accepted wisdom that investment in appropriate early development opportunities is

critical to ensure a sound foundation for future development - an understanding that is, unfortunately, not reflected in government policies. It is essential to reiterate that the Unnikrishnan Judgment (1993), making education a fundamental right for all children up to the age of 14 years, still mandates the fundamental right for children under six (with the RTE (Right to Education) Act laying down the framework for early childhood education for children 6-14 years of age). Thus, the government's failure to adhere to their commitment may be considered a violation of the fundamental rights of India's youngest citizens.

## **2. Elementary Education**

Year two of UPA II saw the notification (on 1st April) and consequent start of implementation of the Right of Children to Free and Compulsory Education Act 2009. While the concern in 2010 was about the delay in passing of the Act, the slow pace of implementation was the critical concern in 2011. The SSA Framework was revised this year to make it RTE-compliant; several states issued circulars necessary for the implementation of the law; a new National Curriculum Framework for Teacher Education was adopted and a number of states initiated the first steps towards implementation of the law. All of these were welcome steps.

However, implementation was inordinately delayed with only 11 states taking the first steps in the form of notification of their state rules. The proposed amendments for children with disability promised from the floor of the House during the passing of the law remain pending. SCPCRs (State Commission for Protection of Child Rights) are in place only in 10 states (with transitional bodies in the form of REPAs formed in 3 more). The start of implementation was delayed with the ratio of fund sharing between the Centre and the states stirring a war of words. Right to Education (RTE) provided considerable space for community participation in renewal of the education system. However, the SMCs remained unformed in most states and due efforts had, by-and-large, not been made to prepare local authorities to play the role envisaged for and expected of them.

Against the estimated requirement of 9 lakh teachers for proper RTE implementation, by MHRD (Ministry of Human Resource Development) estimates, only 83,038 teachers (till December 2010) were appointed throughout the country. The figure quoted by the government is less than 10% of the number of teachers estimated by the government itself. As in 2009-10, 1 in 5 teachers were not compliant with the old norms of teacher qualifications, and regrettably, the hiring of additional para-teachers has not stopped. The Joint Review Mission of SSA states that the number of untrained teachers exceeds the training capacity. A gross shortage of infrastructure remains in government schools. Of particular significance is the shortage of upper primary schools.

There is a lack of clarity about the number of out-of-school children in the country. The government itself quotes a figure of 8.1 million. The actual figure is liable to be higher. The anomalous situation of child labour in the country continued with the Child Labour Law not undergoing the changes necessary to make it compliant with the provisions of the RTE Act - it continues to fall short of prohibiting child labour of children under 14. This means that we continue to have the largest number of child labourers in the world. Necessary steps are yet to be taken for adequate and rights-based inclusion of children with disability given that the government's own estimates suggest that this is the largest set of children out of school. Caste-based discrimination continues in several schools. Army occupation of schools in areas of civil unrest is yet to end, despite repeated orders from the Supreme Court in the previous year. Larger issues of equity in an education system that is multi-tracked and reproduces the existing social inequalities are yet to receive due attention.

The manifesto spoke about the need for investment in enhancing learning outcomes. The present year saw India take part in the PISA (Programme for International Student Assessment) Survey- a comparative league table of learning outcomes. Given the poor level of inputs, the ASER (Assessment Survey Evaluation Research) survey and other surveys point to the extremely low learning outcomes. High learning outcomes can only be anticipated when the essential preconditions

of quality are available in schools – adequate numbers of trained teachers, adequate teacher training, adequate teacher autonomy and mechanisms of school leadership, space for community participation and other common-sense solutions necessary for quality learning.

Second, the Congress manifesto spoke about making education free for children from SC and ST communities while the RTE Act commits to making education free for all children up to the age of 14 years. Unfortunately, both commitments are yet to be fulfilled. Fees continue to be collected from children in government schools in several parts of the country.

In the final analysis, given that all the first milestones of the RTE Act have been missed across the country, a sense of urgency and creative thinking are integral to ensure that the issue is addressed. So far, though efforts have been made to enhance infrastructure in some states, the initiatives taken are still not enough to address the sheer scale of the challenge.

In the absence of this urgency, there has been a growth in the number of private schools as reflected in the latest ASER data. At the same time, Public Private Partnerships are progressively being promoted instead of strengthening the State's own capacity. Indeed, the issues of lack of regulation of the private sector in education has begun to emerge in the present year - with Tamil Nadu passing a legislation regulating fees in private schools, and similar legislation underway in Maharashtra. This has resulted in strong opposition from private providers, with a number of private schools taking the matter to the Supreme Court, challenging the Constitutionality of the RTE Act itself. While the implementation of the 25% reservation in private schools (if implemented through a well-thought out process) could have led to significant social change, the track record of implementation has been fairly poor with private schools looking for ways and means of avoiding it. The private for-profit sector has not shown any signs of improvement in terms of ensuring equity in the education of India's marginalized children in the present year. This makes the emerging signals of promoting private sector engagement for universalization of education in the coming Plan period, especially dangerous.

### **3. Secondary Education**

The previous year saw the roll-out of the implementation of the Rashtriya Madhyamik Shiksha Abhiyan. Model schools have been established in several states, though the implementation of the same has been behind schedule. It is, however, imperative to reiterate the fact that the opening of a single school in a Block that is of a higher standard (because backed by high investment) than the rest does not answer the question of access to quality learning opportunities of all the children in the Block. Furthermore, the fact that many of these partnerships have been entered into in a PPP mode with opaque mechanisms of regulation is unfortunate.

The month of June 2011, however, saw the decision to move towards extending RTE to Class X and RMSA to Class 12th which are positive steps. However, the fundamental question is of whether there is a political will to ensure that the implementation of the law, especially considering the large number of private secondary schools that require regulation and the acute shortage of schools at progressively higher levels of education. The first signals of opposition to the move by the states have also begun.

The previous period saw a revision in the Post Metric Scholarship Schemes for SC, ST and OBC students. However, based on the government's own Report Card it covers only roughly 79 lakh SC, ST students and a further 44 lakh Muslims.

### **4. Higher Education**

Considerable initiatives have been taken in the previous year to reform higher education. However, many of the legal reforms in the sector initiated by the Ministry remain pending. The manifesto spoke about opening 30 new Central

Universities, 8 IITs, 7 IIMs, 5 Indian Institutes of Science Education and Research, 20 Indian Institutes of Information Technology, 374 colleges in educationally-deprived districts with the twin focus on excellence and affirmative action. In contrast, 16 additional Central Universities, 3 IIMs, 8 IITs have been opened and the decision was taken on the Indian Institutes of Information Technology. However, many of these new institutions lack adequate infrastructure and quality faculty. Several recent instances of corruption in higher education have once again reiterated the need for a stronger and more rational mechanism of regulation of the private-sector higher education institutions. Furthermore, privatization of higher education remains unabated, effectively excluding people from marginalized groups who are unable to afford the fees incurred in for-profit private education institutions.

The manifesto promised that all students admitted to any recognized course in any recognized college/university will be provided, on a need basis, either scholarship or educational loan without collateral repayable over a long period. However, based on the government's own Report Card, only 1336 Scholarships were given under the SC/ST Top Class Education Scheme, 5036 under the Rajiv Gandhi National Fellowship Scheme and an additional 2.5 lakh credit via assorted schemes (pg 35). As is apparent, this is not only far below the levels promised, it also falls far short of the requirement.

## **5. Overall Trends**

In conclusion, it would be essential to reiterate that the past year saw positive and potentially historic developments, a continuation of some of the old policies that require change given the evolving scenario and some new, disturbing trends. The importance of providing education in the foundational years of life has continued to be neglected. Adequate thought is still not being given to formulate policies that would ensure inclusion of marginalized sections of society. The growth in privatization of education, especially Public Private Partnership is an issue of concern.

# A Civil Society Review of Health in Two Years of UPA-II

Jashodhara Dasgupta, National Alliance of Maternal health and Human Rights

The UPA-II government recently released a ‘Report to the People 2010-2011’. A reading of the Health sub-section of the report shows that the government is focusing largely on successes within the NRHM (National Rural Health Mission, 2005-2012), in addition to which other achievements are mentioned, including AIDS control, health workforce, mainstreaming AYUSH, national programme for prevention of non-communicable diseases, and combating H1N1 flu. There is a reference to the ‘Prime Minister’s Health Protection Scheme’<sup>1</sup>, and in the end a brief mention of the Clinical Establishments (Registration and Regulation) Act, 2010. Predictably, there is no mention of any challenges or the persisting problems in the health sector.

If we closely examine the claims made under the NRHM success story, a different picture emerges from the recent data<sup>1</sup>. The UPA government claims that “the NRHM has made remarkable progress in strengthening healthcare delivery systems in the country” and to prove this, mentions local committees set up, ASHA workers deployed, fall in infant mortality rates and increase in childbirth in institutions.

Significantly, there is no mention of whether increased institutional childbirth led to any decrease in maternal mortality rates, simply because the government has been unable in five years to set up a system to track the number of maternal deaths.<sup>2</sup> There is also no mention of the major problems that continue to affect the health system in under-served areas: the poor infrastructure and the paucity of skilled staff.

Husain (2011) has analyzed the claims about improved health services provisioning with reference to the data from the NRHM portal (state fact-sheets). Despite improvements, the “high-focus states”<sup>3</sup> show very slow rates of improvement in Primary Health Centre (PHC) facilities or upgrading of Community Health Centres (CHCs). Although the government has highlighted the increase in institutional deliveries, it appears that neither do all sub-centres offer the facility, nor do all PHCs (see table below<sup>ii</sup>). The CHCs are seen as referral institutions for complications but none have the life-saving supply of blood storage.

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1 Which surprisingly consists of six “AIIMS-like” institutions

2 Even though India has the highest proportion of maternal deaths globally, almost one-fifth

3 That have the poorer health indicators

Facility	Uttar Pradesh	Madhya Pradesh	Chhattisgarh	Rajasthan
Nr of sub-centres surveyed	60	36	12	24
% of Labour room currently used	25% [36.7% have labour room available]	0 [22.4% have labour room available]	8.3%	37.5%
Nr of PHC surveyed	20	12	4	8
Labour room available	40%	91.7%	50%	100%
Labour room in use	25%	83.3%	0%	100%
Nr of CHC surveyed	10	6	2	4
Ob/Gyn doctor available	70%	16.7%	0	0
Blood storage	0	0	0	0

The NRHM encouraged states to appoint staff on contractual basis to fill in the vacant positions, but lack of infrastructure, living quarters and safety has prevented many rural posts from being filled, while others suffer from absentee staff. Poorer patients are further unable to access health services effectively owing to the absence of any kind of accountability towards them: “complete lack of monitoring by the state health hierarchy” has exacerbated the problem of staff behavior, according to Husain (Husain 2011, quoting Gill, 2009).

Although the ASHA workers are a welcome addition to the health outreach activities of the government, they remain challenged by inadequate training and mentoring, as well as lack of adequate supply of drugs. While the local committees (VHSC) for supporting ASHA workers and carrying out decentralized planning for village health have been set up, enough orientation programmes have not been organized to enable them to function effectively. Similarly, the “Patient Welfare Committees” (RKS) attached to hospitals have been preoccupied with user fees and have not functioned as an overseeing body or an avenue for grievance redress.

Civil society organizations (CSO) who work directly among poor and marginalized communities have expressed dissatisfaction regarding the slow progress, even with NRHM in place for five years, in improving health services for under-served populations. Cases documented by CSOs<sup>iii</sup> have raised concerns with the equity dimensions of health services, especially for women, for Scheduled Castes and Tribes, and neglect of the social determinants of health among poorer populations. In this regard, the complete lack of coherent policies for urban health is surprising, given that around one-third of its population now lives in urban areas. The fact that India has 20% of the global burden of TB and 20% of the global incidence of maternal mortality is a telling indicator that the poor are unable to benefit from the economic growth of the country.

Civil society organizations have long been demanding to know why promises made during elections in 2004 (UPA I) have not been fulfilled such as the increase in allocation to health from just about 1% of GDP to the target of 3%. Within this is the persisting question about why AIDS control has to remain a vertical intervention with a separate budget line. The disproportionate attention given to global health priorities (such as flu pandemics) and concurrent disregard for unsolved national health crises, have also been pointed out. The promotion of the private sector as a key player in health provisioning in many states, and the ‘privatization’ of state health services have remained areas of persistent concern.

The government through its Planning Commission has set up an expert group in 2010 to examine ways to ensure universal health coverage in India over the next one or two decades. Yet there are persistent challenges: deep-seated controversies over solutions for the health and human resources problem, widespread lack of managerial capacity, and a number of ad-hoc public private partnerships with poor regulatory frameworks. The policy climate currently favours insurance-based solutions such as the RSBY (Rastriya Swasthya Bima Yojana) for the poor, with a very inadequate coverage limit of Rs 30,000, and with the clear prospect of accredited private providers charging the entire amount under cover of providing services to the poor.

As NRHM rolls into its final year, it may be an appropriate time to reflect on how to attain universal coverage of quality health services, with an equity focus and attention to social determinants.

## End-notes and references

Husain, Z, *Health of the NRHM* in EPW Jan 22, 2011, vol XLVI No 4 pp 53-60

Data from the NRHM portal, surveys and state reports of 2009-2010

**Maternal Deaths and Denial of Maternal Care in Barwani District, Madhya Pradesh: Issues and Concerns**, Report; by Subha Sri, Saojini N and Renu Khanna; Jan Swasthya Abhiyan, CommonHealth and Sama - Resource Group for Women and Health; February, 2011 Available at: [ftp://ftp.solutionexchange.net.in/public/mch/comm\\_update/res-57-310511-02.pdf](ftp://ftp.solutionexchange.net.in/public/mch/comm_update/res-57-310511-02.pdf) (PDF, Size: 2.9 MB)

Currently Centre and states' outlay combined adds up to 0.89% (Union budget of 2010-2011)

With the medical lobby, including parliamentarians, opposing any shorter course to produce medical practitioners for under-served areas

# Water and Sanitation as Rights: Two Years of UPA II

Indira Khurana, Water Aid

The government of India has been making commitments to support access to drinking water and sanitation as legal rights on several platforms. Several papers that discuss the challenges facing the 12<sup>th</sup> Five Year Plan highlight management of water as critical. They also discuss the need for inclusive access to water and sanitation as imperative for socio-economic development. The proof will be in whether the government moves towards a legislation that is enforceable and has legal teeth.

Some of these, in chronological order, include:

- **22 International covenants** that mention water and sanitation explicitly – Most of these were signed and ratified by India at various points of time.
- **Delhi Declaration, SACOSAN III, November 2008**

*We, the Heads of Delegations from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, participating in the Third South Asian Conference on Sanitation (SACOSAN-III), in New Delhi from November 16 to 21, 2008, attended by Ministers, elected representatives, government officials, professionals, academia, civil society, non-government and community organizations, development partners and the private sector:*

- Recognise that access to sanitation and safe drinking water is a basic right, and according national priority to sanitation is imperative.
- **February 2009**

“The UPA government has gone for a paradigm shift for making the development process more inclusive. It involves creating entitlements backed by legal guarantee to provide basic amenities and opportunities for livelihood to vulnerable sections. ‘Aam Admi’ is now the focus of all our programmes and schemes.”

*Pranab Mukherji, Finance Minister, presenting the Union Budget (2009-10) to Parliament on Feb 28, 2009*

- **The National Rural Drinking Water Programme guidelines, 2009**

Mentions that water is a public good and every person has the right to demand drinking water. It is the lifeline activity of the Government to ensure that this basic need of the people is met.

## ■ **Signing of the UN Resolution, July 2010**

- The General Assembly of the UN formally recognises the right to water and sanitation by supporting the resolution initiated by Bolivia (India also signs)
- The UN Human Rights Council adopts a resolution confirming that water and sanitation are human rights

This means that for those countries like India that have signed these covenants and this resolution, there is a legal obligation to enshrine it in their legal system.

## ■ **January 2011**

- The Department of Drinking Water and Sanitation, Ministry of Rural Development, announces its 10-year strategy for rural universal access to drinking water and sanitation with time-bound objectives and deliverables. There is, however, no mention of rights.
- The Planning Commission sets up a Working Group on rural drinking water and sanitation. The Working Group is to develop a chapter on rural drinking water and sanitation for the 12th Five Year Plan. One of the themes to be covered is the right to drinking water and sanitation. Another theme to be covered is addressing water, sanitation and hygiene inclusion in the 12th Five Year Plan.
- The Planning Commission sets up a sub working group for drafting a national water framework law

## ■ **April 2011, Colombo Declaration, Sacosan IV**

*We, the Heads of Delegations from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, participating in the Fourth South Asian Conference on Sanitation (SACOSAN-IV), in Colombo between April 4-7, 2011 which was attended by Ministers, senior civil servants, grass-roots activists and community members, professionals from sector institutions, academia, civil society, NGOs and development partners, the private sector and school children:*

... In light of the recent UN resolution recognising the right to sanitation, to work progressively to realise this in programmes and projects and eventually in legislation.

## ■ **May 2011**

The Department of Drinking Water and Sanitation, Ministry of Rural Development, called a meeting to explore the possibility of legislating drinking water quality norms as per Bureau of India Standards (BIS) standards where it was given to understand that the Water Quality Assessment Authority is moving towards this. However, currently the consultative approach is singularly lacking.

## **Eradication of manual scavengers**

In spite of a 1993 legislation that makes the employment of manual scavengers illegal, the practice continues. The latest deadline missed by the Government of India to completely abolish this practice, was December 2010. Current commitments made by the government include (a) undertaking a new survey (b) amending the existing Eradication of Manual Scavengers Act (c) formulating an Act to cover all sanitation workers.

## **Providing coverage in drinking water and sanitation**

Coverage of rural and urban drinking water and sanitation as per available data is given below:

	Year 2010-11	
	Rural	Urban
Water	83%	95%
Sanitation	67% as of Sept 2010 (source DDWS)	78% Approx (source MoUD India)

The coverage is also challenged by issues of sustainability and equitable access. Given the competing demands on water in the current development model, providing legal backing to drinking water and sanitation becomes imperative. However, there are several challenges that need to be addressed as expressed by the government and civil society

## Challenges in ensuring water and sanitation as legal rights

The concerns of the government are along the following lines:

- How to move forward on the realization of water and sanitation as legally enforceable rights
- Water and sanitation are state subjects, so how will this right be enforced?
- Budgets will be needed for universal access
- Given that the lowest rung of governance is responsible for drinking water and sanitation, there could be thousands of cases in court. The local service provider – in this case the municipalities and panchayats - will need to be enabled
- Sanitation is about behavior change. If it becomes a matter of government responsibility, then people will not use toilets, resulting in a target-driven approach and continuation of open defecation.
- Currently, drinking water and sanitation for rural and urban communities are handled by two separate ministries. The challenges and approaches are different.

## Concerns of CSOs and communities

- Though drinking water needs are small as compared to other water uses, these are not assured.
- The excluded continue to be denied access, especially of water, an analysis based on the government data, especially for the Left Wing and extremist-dense districts.
- While panchayats have been mandated to provide drinking water access, often decisions regarding access, distribution and control of the water sources are not in their hands.
- Physical access to drinking water is not commensurate with the investment the sector has made.
- The current development paradigm is wreaking havoc to the basic water requirements of the people. This is because of the diversion of drinking water for other purposes such as industry, mining and for meeting urban needs. Water quality is emerging as a serious challenge.
- Service providers are not being sufficiently held to account.
- The rights should also address attitudinal issues and focus on access by the marginalized.
- While City Sanitation Plans have been developed for various cities, the financing of these continue to be a challenge.
- A legal right will result in access only if this is backed by rules and regulations, institutional delivery mechanisms, allocations and sanctions.

*Note: The discourse on right to drinking water and sanitation is fairly recent and informed discourses on these have been few. This paper is one that attempts to capture the progress on the issue so far.*

# Promises of UPA-II and Perplexities of Panchayats

Manoj Rai, PRIA

There is a popular Bollywood song ‘*Wada Tera Wada; Wade Pe Tere Mara Gaya*’. It means trusted your promises and was betrayed. The discrepancies between the actual reality and the UPA-II manifesto and its other public proclamations for Panchayats remind one of this song.

Panchayats have been entrusted with several responsibilities without giving them the appropriate powers and authority to fulfill these responsibilities. Citizens have been advised to demand services from Panchayats while the Panchayats’ own demands for power have remained unheard. So, now Panchayats are in a position where, due to lack of capacities coupled with governments’ indifference, they can’t fulfill people’s expectations and so, face the risk of being called incompetent and unresponsive.

- UPA-I initiated capacity and devolution debate in 2004 through a series of roundtable conferences of state ministers during July–Dec 2004. But, when questioned why the roundtable resolutions have not been implemented in the states so far, the reply is that Panchayats are a state subject. So, central government can’t do much. That is, *it all depends on the political will of the ruling party in the state*. But, even in the states where the UPA coalition is ruling, genuine devolution of Functions, Funds and Functionaries have not taken place so far. Why? Does that mean that even the UPA is not serious about strengthening PRIs in the country? Have Panchayats become just offloading agencies and a political issue rather than institutions of self-governance as the Constitution of India (73rd Amendment Act) visualized?
- UPA’s creation of the new Ministry of Panchayati Raj gave new impetus to strengthening of Panchayats in India. Ministry of Panchayati Raj (MoPR) was able to re-energize thought-processes of policy-makers by rejuvenating their approach towards Panchayats in India. But, UPA in its second phase, made MoPR just an appendage of the Ministry of Rural Development (MoRD) by appointing a common Cabinet Minister for both ministries. Experiences so far suggest that the whole attention of UPA-II government has remained focused on economic development and NREGA. Thus, all focus is on MoRD with not much attention given to the institution of Panchayats or even the MoPR, the UPA’s own creation.
- Manifesto of UPA-II promised to make Panchayats financially strong so that they could use resources to implement their own plans. Accordingly, Rs. 5050 crore was allocated under BRGF (Backward Region Grant Fund) scheme so that Panchayat level participatory planning could be incentivized. This also meant that allocated funds could be utilized by Panchayats and municipalities to address developmental backwardness in the region. However, as per the

government's own admission, not even half of the districts could prepare draft district plans. Despite the Planning Commission's guidelines for integrated district planning and repeated instructions to base state planning with decentralized district plans, nothing much has been done so far. The Planning Commission itself did not seriously monitor state plans nor did it insist on decentralized district plans. Different ministries (Rural, Health, Education, etc) under the UPA government at the Centre route their projects and programmes through the Panchayats. Also, many ministries are trying to create sectoral model villages (model village schemes of Ministries of Social Justice, Tribal Affairs, Women and Child Development etc.). MNREGA (Programme under Mahatma Gandhi National Rural Employment Guarantee Act) piggybacked on Panchayats to provide employment to more than 5.3 crore households through about 50 lakh works during 2010-11. The National Rural Health Mission and Sarva Shiksha Abhiyan also have access to huge resources to achieve universal health and education through the Panchayats. But, all these resource-rich schemes promote parallel and top-down planning for their schemes and treat Panchayats as mere implementing agencies. This lack of foresight and thought at the Centre have resulted in these schemes seriously undermining Panchayat level planning which was desired by the Constitution of India.

- UPA-II's other promise has been to upgrade the technical capabilities of PRI's and to ensure that information technology is used extensively to enhance effectiveness. Let us take BRGF as a case to understand the progress. BRGF has provision for resources (Rs 1 crore per district per year) to build capacities of Panchayats. But, it is perhaps the least utilized component of resources available with BRGF. In none of the states have all elected Panchayat members been provided capacity inputs as per National Capacity Building Framework, prepared by the UPA government itself. This is also a measure of the seriousness of the UPA in capacitating Panchayats as institutions of governance. In relation to much talk about e-governance in Panchayats, PRIA-Soft, a web-based accounting software is currently available to only 50,000 Gram Panchayats. How many of these 50,000 Gram Panchayats out of a total of approximately 250,000 GPs in India use this software could be a valid research question.
- About a year ago, the UPA government introduced a Bill in the Lok Sabha to amend Article 243 D of the constitution in order to ensure 50% reservation of women in all three tiers. This Bill has not been passed so far. Many state governments, ruled by non-UPA and UPA, have introduced 50% reservation for women in elections to Panchayats. However, it is surprising to see that many UPA-ruled states did not take any initiative to enhance women reservation in their state.
- Guidelines for implementation of PESA (Panchayat Extension to Scheduled Areas) were issued by the UPA government during the year 2010-11. Model PESA rules have also been circulated to the states for adoption. UPA's Report Card 2010-2011 also claims that an amount of Rs. 232.44 crore was released to various states/Union Territories under the tribal development component. Though how much money actually reached tribal households is a matter of guesswork. Tribal democratic self-governance, as conceptualized by PESA, is still a distant dream. Constitutional desires, as expressed under PESA, are relegated to policies and programmes meant to enable industrialization to achieve double-digit GDP growth, often at the cost of tribal development and tribal inclusion. Unfortunately, almost all PESA areas are conflict zones today.
- Despite all this, it is also true that the UPA has been more pro-Panchayat than many of its predecessor governments. Today, Panchayats in all states command more weight and resources. More opportunities exist for Panchayats to be relevant to their people. But, the irony is that the hype generated about Panchayats has created more problems than solutions for these village institutions. Government and Non-Government agencies have encouraged people to ask for more and more from Panchayats. People are under the impression that Panchayats can provide them employment, health and education. But, in reality, Panchayats either have no resources and/or no capacities to respond to the expectations of their people.

# Budgets of UPA-II: Evading the Challenges of Inclusive Development

Subrat Das\*, CBGA

The United Progressive Alliance (UPA), while forming the government at the Centre in 2004, had responded to the electoral mandate it had received with the National Common Minimum Programme (NCMP). The NCMP, referred to as the charter of governance for the UPA, had several progressive policy commitments; many of those commitments required the government to take strong measures through its budgets. For instance, the NCMP promise on education required the government to strive to raise total public spending on education to 6% of Gross Domestic Product (GDP) and that on health required it to raise total public spending on health to 3% of GDP. Neither of these two crucial promises was fulfilled by the end of the financial year 2008-09 (the last year for which the Union Budget was prepared and executed by the UPA government). This was also the case with several other progressive commitments made in the NCMP.

Nonetheless, the Union Budgets over the five years of the UPA (i.e. 2004-05 to 2008-09) did reflect an inclination on the part of the ruling political alliance to step up public provisioning in the social sectors and that for rural development. During these years, the responsiveness of the Union Budget to the disadvantaged sections of population was also enhanced to some extent through the introduction of special Statements in the budget documents, like, *the Gender Budget Statement, Statement on Budgetary Provisions for the Development of Scheduled Castes and Scheduled Tribes, and Statement on Budgetary Provisions for Children*. The government at least opened up to closer scrutiny of its budgets and by extension, to more critical questions on budgets from the lens of some of the disadvantaged sections of population – this needs to be recognized. The budgetary provision for the National Rural Employment Guarantee Scheme (NREGS) was stepped up visibly during 2005-06 to 2009-10, again reflecting the progressive intent of the government. According to many observers, the Indian National Congress (the main stakeholder in the UPA) reaped significant benefits of those efforts in the General Elections of 2009 and the UPA-II took over the reins at the Centre for another five-year term.

The UPA-II, however, has been affected visibly by the contradictions within the ruling political alliance in a number

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of areas in general, and in the domain of public spending in particular. These contradictions pertain mainly to the government's perspective on the need for and the feasibility of a significant step-up of public spending in the country on crucial sectors like education, health and food security. As a result, while a number of progressive legislations pertaining to basic education, food security and health have either been enacted or drafted, the acute need for a significant increase of budgetary provisions for these essential sectors has been completely ignored in the three Union Budgets of UPA-II (i.e. the Union Budgets for 2009-10, 2010-11 and 2011-12). In fact, the direction of these three Union Budgets has been very clearly towards a conservative fiscal policy, which strongly advocates compression of public expenditure for containing the size of government's debt, instead of a progressive and liberal fiscal policy that would push for higher public spending on social sectors, rural development and agriculture, among others. As we shall discuss in the subsequent sections of this paper, this strong inclination of UPA-II for a conservative fiscal policy seems to be rooted in its philosophy pertaining to taxation of the rich and well off sections of the population (and the role of the financial services sector in our economy), which is the same as what the Indian National Congress had introduced in the country in the early 1990s and has been adhered to by almost every ruling political alliance at the Centre since then.

## Stagnation in Social Sector Spending from the Union Budget

The UPA-II government seems eager to reduce the scope of the Union Budget (as measured by Total Expenditure from the budget) as compared to the size of the country's economy (as measured by the GDP) – Total Expenditure from Union Budget would shrink from 15.4% of GDP in 2010-11 (Revised Estimates / RE) to 14% of GDP in 2011-12 (Budget Estimates / BE), and the brunt of this conservative fiscal policy is likely to be borne mainly by the poor.

Despite a growing recognition of the need to significantly expand the coverage of Public Distribution System for food grains and the persistence of price rise in food articles, the Union Budget outlay for Food Subsidy has been curtailed from Rs. 60600 crore in 2010-11 (RE) to Rs. 60573 crore in 2011-12 (BE). Further, the Union Budget outlay for Petroleum Subsidy has been reduced significantly from Rs. 38386 crore in 2010-11 (RE) to Rs. 23640 crore in 2011-12 (BE). Given predictions that international crude oil prices are going to rise further in the coming months, reduced subsidy in 2011-12 could result in further rise in prices of petroleum products and hence a persistence of the problem of price rise.

**Table 1: Priority for Social Services in the Union Budget**

Year	Expenditure from the Union Budget on Social Services* (in Rs. Crore)	Expenditure from the Union Budget on Social Services*	
		as % of Total Expenditure from the Union Budget	as % of GDP
2004-05	39123	7.9	1.2
2005-06	49535	9.8	1.3
2006-07	55246	9.5	1.3
2007-08	78818	11.1	1.6
2008-09	110542	12.5	2.0
2009-10	122345	11.9	1.9
2010-11 (RE)	162501	13.4	2.1
2011-12 (BE)	165975	13.2	1.8

**Notes:**

\* (1) This includes the Plan Expenditure and Non-Plan Revenue Expenditure from the Union Budget on the following services: Education, Youth Affairs and Sports, Art & Culture; Health & Family Welfare: Water Supply & Sanitation; Housing & Urban Development; Information & Broadcasting; Welfare of SCs, STs and OBCs; Labour & Labour Welfare: Social Welfare & Nutrition; and Other Social Services.

(2) This does not include Non-Plan Capital Expenditure from Union Budget on Social Services, if any. Non-Plan Capital Expenditure on Social Services is sporadic and usually of a very small magnitude. Hence, this figure captures almost the entire magnitude of expenditure on Social Services from the Union Budget.

Source: Compiled by CBGA from *Expenditure Budget Vol. I, Union Budget 2011-12*, Govt. of India

The total Union Budget outlay for social sectors (excluding only Non-Plan Capital Expenditure on such sectors, which is usually very small and sporadic), had gone up from 1.2% of GDP in 2004-05 to 2% of GDP in 2008-09. However, this figure has been stagnant at around 2% of GDP in the last three Union Budgets (please refer to Table 1). In fact, total Union Budget outlay for social sectors registers a decline to 1.8% of GDP in 2011-12 (BE).

Moreover, for social sectors (i.e. education, health, water and sanitation etc.), with the Union Budget contributing funds worth only 2% of GDP, the country's total budgetary spending on these sectors would continue to be less than 7% of GDP even in 2011-12, whereas the average figure for social sector spending by the government in the OECD countries is as high as 14% of GDP.

While the Union Budget outlay for Sarva Shiksha Abhiyan has been increased from Rs. 15000 crore in 2010-11 (BE) to Rs. 21000 crore in 2011-12 (BE), the scheme can hardly succeed in operationalising Right to Education Act with this corpus of funds. The Centre's own estimation, a modest one from the point of view of quality, had indicated that additional budget outlays for elementary education required for operationalising Right to Education Act would be Rs. 1.82 lakh crore over a period of five years. Hence, if just one-fifth of this had to be allocated in 2011-12 with the Union Budget contributing only half of it, the outlay for SSA should have been increased at least to a level of Rs. 33000 crore.

In health, while the Finance Minister has announced that the coverage of Rashtriya Swasthya Bima Yojana would be extended to include unorganized sector workers in hazardous occupations, the Union Budget outlay for the scheme has been brought down from Rs. 446 crore in 2010-11 (RE) to Rs. 280 crore in 2011-12 (BE).

In ICDS (Integrated Child Development Services), the long overdue demand of increasing the remuneration of Anganwadi Workers and Anganwadi Helpers has been recognized in the latest budget, with the remuneration per month being doubled from Rs. 1500 to Rs. 3000 for Workers and from Rs. 750 to Rs. 1500 for Helpers. However, what is of concern here is that Union Budget outlay for ICDS shows a comparatively much smaller increase from Rs. 9280 crore in 2010-11 (RE) to Rs. 10000 crore in 2011-12 (BE).

Thus, in terms of the priority given to social sectors and food security, Union Budget 2011-12 reveals clearly the flawed perspective of UPA-II on the need for and the feasibility of a significant step-up of public spending in the country on crucial sectors like education, health and food security. This gap in perspective, however, seems to be rooted in a more fundamental limitation in UPA-II's philosophy on the role of government vis-à-vis that of the market in the sphere of economic growth and human development.

## **Shrinking Fiscal Policy Space for the Government**

As indicated earlier, the UPA-II is clearly moving in the direction of shrinking the already limited fiscal space available to the government in our country for incurring public expenditure. When the country's GDP is projected to increase noticeably from Rs. 78.8 lakh crore in 2010-11 to Rs. 89.8 lakh crore in 2011-12, the Total Expenditure from Union Budget is going to register a much smaller increase from Rs. 12.17 lakh crore to Rs. 12.58 lakh crore. Thus, the Total Expenditure from the Union Budget would shrink from 15.4% of GDP in 2010-11 (RE) to 14% of GDP in 2011-12 (BE).

The government seems to have been more than willing to follow the Fiscal Responsibility and Budget Management (FRBM) Act dictated path of fiscal consolidation, which was also mandated by the 13th Finance Commission last year. The FRBM Act requires the government to reduce its Fiscal Deficit (i.e. the amount of new borrowing to be made by the government in a fiscal year) to below 3% of GDP and eliminate its Revenue Deficit (i.e. the gap between government's expenditure and receipts in the Revenue Account) at any cost. This implies that if the government is unable to step up its

receipts, it has to reduce its expenditure. And, the Union Government has reduced its Fiscal Deficit from 5.1% of GDP in 2010-11 (RE) to 4.6% of GDP in 2011-12 (BE).

Year	GDP at market prices (in Rs. Crore)	Total Expenditure from the Union Budget (in Rs. Crore)	Total Expenditure from the Union Budget as % of GDP
2004-05	3242209	498252	15.4
2005-06	3692485	505738	13.7
2006-07	4293672	583387	13.6
2007-08	4986426	712679	14.3
2008-09	5582623	883956	15.8
2009-10	6550271	1024487	15.6
2010-11 (RE)	7877947	1216576	15.4
2011-12 (BE)	8980860*	1257729	14.0

**Note:** \* Projected by Min. of Finance, Gol, assuming GDP (at current prices) growth at 14% over previous year.

**Source:** Compiled by CBGA from *Economic Survey 2010-11*, Gol, and Union Budget, Gol, various years.

The Finance Minister also announced how the government has reduced its outstanding debt to a level far below what is required as per the 13th Finance Commission recommendations – the Central Government debt as a proportion of GDP is estimated at 44.2% for 2011-12 as against 52.5% of GDP recommended by the 13th Finance Commission.

Thus, the Union Budgets under the government of UPA-II adhere to a conservative fiscal policy, i.e. a fiscal policy that strongly discourages expansion of the scope of government interventions within the country and particularly, borrowing by the government. However, we should note here that there is no consensus among economists on what could be a level of public debt that would be sustainable for the country in the long term and what could be the implications of increased borrowing by the government even in the short term.

The targets for deficit reduction prescribed by the FRBM Act have been criticized by many progressive economists as arbitrary, i.e. as not being based on any sound economic logic. Moreover, now the Central Government itself has accepted in the latest Budget that the concept of Revenue Deficit needs to be revised fundamentally since a large part of the expenditure by the Centre reported in the Revenue Account (i.e. a large part of Centre’s Grants-in-Aid to states & UTs) is actually used in the states for creation of capital assets that are not owned by the Centre (and hence cannot be reported in its Capital Account of expenditure).

However, despite such fundamental problems with the deficit reduction targets prescribed by the FRBM Act, the Centre has resumed pursuing these targets zealously since the last Union Budget. And, in the absence of any substantial growth in the collection of government revenue, the reductions in deficits are being achieved mainly by checking the growth of budgetary expenditure.

## **Limited Tax Revenues Mobilised by the Central Government**

The fiscal policy space for the government in a country like India depends significantly on the overall magnitude of its tax revenue. The tax-GDP ratio for a country measures the total tax revenue collected as a proportion of the size of the country’s economy. India’s low level of tax-GDP ratio has been a cause for concern for long.

The Union Budget for 2011-12 has revealed the inability of the Central Government to revive the magnitude of its Gross

Tax Revenue (i.e. the overall collection in the Central Government tax system, including the share of states) even after the economy has recovered from the impact of the global economic recession of 2008-09 and 2009-10. Prior to the economic recession, the Gross Tax Revenue of the Centre had reached up to 12% of GDP in 2007-08; it fell to 10.9% of GDP in 2008-09 and further to 9.5% of GDP in 2009-10 under the impact of the economic recession (as a result of both slowdown in economic growth and higher tax concessions by the government to promote economic recovery). However, even after the economy has recovered from the impact of recession, the Centre's Gross Tax Revenue has shown a very slow revival to 10% of GDP in 2010-11 (RE) and up to 10.4% of GDP in 2011-12 (BE).

Year	Gross Tax Revenue of the Centre (in Rs. Crore)	GDP at market prices (in Rs. Crore)	Tax-GDP Ratio (in %)
2004-05	304957	3242209	9.4
2005-06	366151	3692485	9.9
2006-07	473513	4293672	11.0
2007-08	593147	4986426	11.9
2008-09	605298	5582623	10.8
2009-10	624527	6550271	9.5
2010-11(RE)	786888	7877947	10.0
2011-12(BE)	932440	8980860*	10.4

Source: Compiled by CBGA from *Economic Survey 2010-11*, Gol, and *Union Budget*, Gol, various years.

The magnitude of total tax revenue in India (as compared to the size of the country's economy) continues to be far below the levels of tax revenue collected in several other countries, and it is inadequate from the point of view of the magnitude of public spending needed in the country. Table 4 presents a comparison of India's overall tax-GDP ratio (i.e. the combined tax revenue mobilized by the Centre and all states as percentage of the country's GDP) with that of a number of other countries.

Country	1990	2000	2007
Malaysia	17.8	13.2	14.9
Mexico	13.7	14.1	15.2
<i>India</i>	<i>15.4</i>	<i>14.5</i>	<i>17.6</i>
Japan	21.4	17.5	18.0
Korea	17.2	18.8	21.0
US	20.5	23.0	21.7
Canada	31.5	30.8	28.5
UK	29.5	30.2	29.5

Source: Compiled by CBGA from – Indian Public Finance Statistics (2008-09) and (2009-10), Gol; OECD Revenue Statistics (1965-2008), and the website of the Ministry of Finance, Government of Malaysia.

Thus, the tax-GDP ratio in India is much lower than most developed countries as well as that of a few developing countries. Hence, the UPA-II government needs to take strong measures in the Union Budget towards improving the country's tax-GDP ratio. However, that has not happened in the three Union Budgets prepared by this government and it is unlikely to happen in its remaining two budgets. The reason for the inability of the government to step up visibly the magnitude of its tax revenues is rooted in its policy perspectives pertaining to taxation of the rich and well-off sections of the population as also those pertaining to the financial services sector, especially the stock markets.

The UPA-II government has been pushing strongly for two kinds of reforms in the country's tax system – one, the Direct Taxes Code Bill (which pertains to direct taxes), and, second, the Goods and Services Tax (which pertains to indirect taxes). It is a matter of concern that neither of these two proposed reforms in the tax system can be expected to result in any significant increase in the tax-GDP ratio for the country in the near future.

Thus, notwithstanding the attempts of the UPA-II government to demonstrate a sense of urgency for addressing the challenges of inclusive development in the country through progressive legislations pertaining to essential services, the last three Union Budgets (and particularly the Union Budget for 2011-12) reveal the fundamental gaps in its perspective on inclusive development. These gaps, in turn, are rooted in the UPA-II's philosophy on the role of government vis-à-vis that of the market in the sphere of economic growth and human development in the country.

# The Right to Work – Rankling Realities

Anindo Banerjee<sup>1</sup>, Praxis

A lot of water has flown down the Ganges since the historic National Rural Employment Guarantee Act came into effect in February 2006. Since then, notwithstanding a facile change of name and the three-phase scaling up of the programme, the scheme has not only struggled to deliver the critical element of employment guarantee of 100 days in a year for rural households, but has been undermined time and again by desperate attempts at dilution of its unique properties that accord Gram Sabhas the prerogative of planning employment activities, prevent involvement of contractors and machines and offer the legal entitlement of unemployment allowance if opportunities of work are not delivered on time in response to demand for the same.

Five years should ideally be a reasonable period of time for a National Flagship Programme of the stature of Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS, henceforth) to settle into a smooth conduit for the much-spoken vision of inclusive growth. The reality, however, is not very rosy. As per data released by Ministry of Rural Development, less than 4.7% of the 11.96 crore households that were issued job cards till March 2011 were able to avail of 100 days of employment during 2010-2011. On an average, less than 22 person-days of employment were generated during the year per job card, with significant variations across states. The share of Scheduled Castes in the cumulative number of person-days generated during the year was less than their demographic composition in as many as six states (Bihar, Karnataka, Jammu & Kashmir, Arunachal Pradesh, Manipur and Meghalaya), while the share of women was less than one-third of all employment days in the states of Assam, Haryana, Uttar Pradesh and J&K. Barring a few states (e.g. Andhra Pradesh, West Bengal and Uttar Pradesh), the share of work opportunities availed by differently-abled people during the year remained abysmally low. Incidentally, a number of field-studies have pointed at gross exaggeration of the performance of MNREGS in the reports released by the Ministry, which necessitates a single-platform transparent system of disaggregation and traceability of official data-aggregates to job cards issued at various levels.

The persistent under-performance of a critical programme like MNREGS, continuing neglect of the agrarian sector, an escalating spree of land acquisitions, unabated alienation of indigenous communities from natural resources and the absolute disdain for workers' rights in the urban unorganized sector are some of the glaring elements of what appears to be a grand design of annihilating the very essence of the Right to Work, enshrined in Article 41 of the Constitution of India, which directs the state to make effective provisions for securing the right to work for its citizens. Despite a number of progressive rights-based policies formulated in recent years, the work situations surrounding the poorest have only become harsher, thanks to a number of antithetical factors that have gained ground as byproducts of an obsessive pursuit of GDP-centred growth.

The 'Report to the People' issued by the second United Progressive Alliance government in May 2011 on completion

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of two years in office mentions a number of accomplishments in various sectors of governance. Notable initiatives that could potentially contribute to advancement of the citizens' right to work include increased allocation under *Rashtriya Krishi Vikas Yojana*, formulation of the Integrated Watershed Management Programme, launch of a Dairy Venture Capital Fund, and increased number of bank/post office accounts for MNREGS workers. However, success of such measures would depend substantially upon political will to undertake reformist interventions to alter the skewed patterns of land distribution and livestock ownership in the country, besides efficiency in release of wages and allowances under MGNREGS, among other essential steps.

The years to come are expected to witness the emergence of the National Rural Livelihoods Mission as the premier flagship programme focusing on creation of livelihood opportunities for the country's poor. While the framework of the pilot phase of the Mission waxes eloquent on the need of inclusion of the socially excluded, its design needs to reflect a better appreciation of the critical challenges facing the socially marginalized sections today – be it issues of identity and stability of shelter, or regarding the critical needs of equitable reforms in the agrarian sector, including land reforms. It needs to draw lessons from the failures of the *Swarnajayanti Grameen Swarozgar Yojana* – another flagship scheme of recent times meant to be subsumed under its folds – and aim beyond promotion of micro-enterprises through self-help institutions that often tend to get blinkered by promises of short-lived and status *quo*-ist gains.

An important dimension of the right to work relates to the universality of the right across the country. Of late, outbursts against migrant labourers in several parts of India have emerged as a worrisome phenomenon, which calls for urgent measures for assured delivery of the right to a vast segment of people for whom an escape to urban centres bears the last hopes of survival for themselves and their families, after being driven out of their native land, homes and hearths. With increasing degeneration of the socialist welfare state and evident decline of the State's interest in caring for the wellbeing of the poorest sections, as reflected, for instance, in the callous revision of the poverty line; the sanctity of the right to work is facing an unprecedented threat of redundancy.

# Agrarian & Land Reforms - The Finished Priorities of An Unfinished Agenda

Ramesh Sharma, Ekta Parishad

## Commitment of INC taken from manifesto 2009

Promises	Status
<b>LAND REFORMS</b>	
Committed to ensuring that farmers receive market rates for the land that is acquired for industrial projects. Farmers should be given an option to become stakeholders in such industrial ventures	<p>In most cases of land acquisition, violent fights ensue between community and State/ Company. There is serious ambiguity in 'Market Rate Compensation', while land-owners are facing pressure for unwanted and forceful dealing where land prices are decided by middle-men and unauthorized people and agencies.</p> <p>No regulation exists to enforce that the Industrial Venture adopts and recognizes the farmers as stakeholders.</p>
The Land Acquisition Act, 1894 will also be amended to ensure that the interests of land-owners are more than adequately protected.	<p>The Land Acquisition (Amendment) Bill, 2007 is still pending under parliamentary process. The proposed provisions are not adequate to protect the rights and ownership of land-owners and other dependent people (tenants, agricultural labourers, and share-croppers etc). Monetary compensation alone is not a dignified way to acquire the land without any provisions for future security of the affected people.</p> <p>Land acquisition and involuntary displacement continue to result in great distress and resistance - and often violence - in many parts of the country.</p> <p>Absence of a regulation to 'ban' acquisition of agricultural land for non-agricultural purposes, has caused a serious agrarian crisis in the country.</p>

Promises	Status
Implementation of National Rehabilitation and Resettlement Bill, 2007	The Bill is still pending under parliamentary process. The proposed Bill has no sustained compensatory mechanism on adverse social impact of the proposed project. At the same time, there is a lacuna in the monitoring system of Environment Impact Assessment and Social Impact Assessment as it does not honour the voice of the community.
<b>AGRICULTURE &amp; FARMERS</b>	
Every small and marginal farmer in the country will have access to bank credit at lower rates of interest	More than 65% farmers are still dependent on non-institutional credit system. The recent cases of farmer suicides are a result of credit-burden and declining profitability of farm produces. The compensation packages are not adequate to address the basic issues of credit management.
Programmes for agricultural diversification, agri-processing and rural industrialization will be pursued systematically. Dairying, aquaculture, fisheries, horticulture and sericulture will receive an additional boost. The special needs of crops like tea, coffee, rubber, spices, cashew and coconut will be met.	There is constant decrease in allocation of funds towards agro-processing and rural-industrial sector. There is lack of special assistance for revival of agricultural boards at the regional level
A renewed emphasis will be placed on wasteland development and afforestation	There is shortage of funds for afforestation and wasteland development, at the same time there is lack of effort for reducing the rate of desertification, especially in western India
Implement comprehensive crop insurance schemes and will also examine the feasibility of direct income support to farmers in the ecologically vulnerable regions of the country	The current crop insurance schemes are not comprehensive enough to cover the main crop grown by small and marginal farmers
Social security schemes for occupations like weavers, fishermen and fisherwomen, toddy tappers, leather workers, plantation labour, construction labour, mine workers and beedi workers will be expanded.	The current social security schemes are not comprehensive enough to cover the large number of unorganized workers engaged in agriculture sector
Determined to ensure that farming becomes a profitable occupation	The massive land acquisition and un-regulated 'econometrics of compensation' discourage the farming community for their engagement with farming. No serious efforts have been made to address these issues.
Minimum Support Price (MSP) and procurement will be ensured at the doorstep of farmers.	Revised MSP is not enough to fill the gap between 'Cost of Cultivation and Net Profit of Farming' – this caused farmers to fall into debt traps. A serious effort is needed to establish a scientific mechanism based on regional rate of crop production and selling. The state is still focusing on revision of MSP mostly for cash crops, whereas food-grains production is still largely ignored.
All controls on the free movement of farm commodities and processing of agricultural products and all regulations that depress incomes of farmers will be systematically eliminated.	There is no serious effected have been done so far, resulted in damaging debt trap and ultimately farmer suicides in the country.
<b>FOREST</b>	
Implementation of Forest Rights Act (2006)	The guidelines and time-frame of implementation of FRA & CFR (2006) is not clear enough, which affects the rate of claims settlement in the country. There is no 'Monitoring Mechanism' either at state or at central level. As a result, the whole process is totally dependent on the mercy and political will of the state governments. The recent report of MoTA and MoEF (2010) shows that the efficacy of the implementation of the FRA by various state governments is in the range of only 10 - 30%. Also, the implementation of CFR has not yet been started seriously by most state governments.

# The Missing Right - The Right to Social Security

J John, Centre for Education & Communication

A 'rights-based' twist is what Sonia Gandhi, the Chairperson of the United Progressive Alliance, gives to the achievements of the UPA I & II governments<sup>1</sup>, while announcing the second year Report Card of the UPA-II government to the people of India on May 22, 2011. She claims that the UPA-II government is building upon the approach of 'providing legal entitlements to the people'. She goes on to list the entitlements granted by the government to the citizens. However, apparently in a deliberate omission; the right to social security for unorganised workers does not appear in the list, notwithstanding the fact that the UPA-I, at the fag end of their tenure, enacted 'Unorganised Workers Social Security Act, (UWSSA) 2008'<sup>2</sup>, granting in principle, the universal right to social security for all unorganised workers in India.

The 2008 Act has been criticised widely for serious deficiencies - that it does not guarantee any justiceable right to social security for workers, contains no provision for the creation of a social security fund, excludes more than 90% of workers by delimiting eligible unorganised workers as only those living below the poverty line (BPL), the inadequacy of the monetary provisions and that it precludes 'unemployment and disruption of livelihood' within the possible social security benefits to workers etc. Already existing 10 disparate schemes, managed by different ministries or agencies and serving limited groups of workers, were put together as a Schedule to the Act, essentially undermining the universality of the Act, and bringing in built-in arbitrariness to the provisions of social security. The listed schemes were 1. Indira Gandhi National Old Age Pension Scheme; 2. National Family Benefit Scheme; 3. Janani Suraksha Yojana; 4. Handloom Weaver's Comprehensive Welfare Scheme; 5. Handicraft Artisan's Comprehensive Welfare Scheme; 6. Pension to Master Craft Persons; 7. National Scheme for Welfare of Fishermen and Training and Extension; 8. Janshree Bima Yojana; 9. Aam Admi Bima Yojana and 10. Rashtriya Swasthya Bima Yojana.

Nevertheless, the government claimed this as a major achievement. 'Welfare of workers in the unorganised sector' constituted a major claim of the 2004-08 Report Card of the UPA-I government to the people.<sup>3</sup> The Report Card

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1 Sonia Gandhi asserted, "UPA-I transformed the very nature of administration and governance by its "rights-based" approach for empowering our citizens – the Right to Information Act, the Mahatma Gandhi National Rural Employment Guarantee Act, the Forest Rights Act. The Mahatma Gandhi NREGA is today the world's largest and most effective social safety net programme. Through the Right to Information, a whole new cadre of RTI activists have emerged across the country. The Forest Rights Act is not only empowering our tribals and other communities, but it is also a means to meet the challenge of left-wing extremism.

UPA-II is consciously building upon this approach of providing legal entitlements to the people. The Right to Education Act, one of the first major legislations of UPA-II, has become a reality and has already resulted in huge increases in enrollment rates.

The National Food Security Act is being finalized. This will be a great step forward in fulfilling our pledge to end hunger and malnutrition once-and-for all.

2 The Unorganised Worker Social Security Bill, 2007 was debated and passed by the Rajya Sabha in October, 2008 and by the Lok Sabha in December, 2008.

3 Ministry of Information and Broadcasting. *Report to the People UPA Government 2004 – 2008*. New Delhi: Government of India, 2008.

says that in anticipation of the Unorganised Sector Social Security Bill, 2007 being made into law, the government has launched three major schemes - Aam Admi Bima Yojana for life and disability insurance cover to one member of estimated 1 crore landless households; Rashtriya Swasthya Bima Yojana (RSBY) for family health cover to estimated 6 crore unorganised sector workers living below the poverty line; and Indira Gandhi National Old Age Pension Scheme, covering all 1 crore persons over 65 years living below the poverty line. It also mentioned the Rajiv Gandhi Shilpi Swasthya Bima Yojana launched to provide health insurance coverage to artisans and their families and the Handloom Weavers' Comprehensive Welfare Scheme launched for insurance cover to weavers. However, it is to be noted that out of these, only the National Old Age Pension has been listed in the schedule of the Act, clearly showing the arbitrariness in the government's approach to social security.

The year I Report Card of the UPA-II government (2009-10), claimed that 163 lakh old people targeted under the BPL household have been covered under the IGNOAPS with a paltry central assistance of Rs. 200 per month in the age group of 65 years or above. It also announced the government's intention to set up a National Security Fund with an initial allocation of Rs. 1000 crore. A provision for the same amount, grossly inadequate and unreasonable for social security of more than 400 million workers, was later announced in the 2010 budget. Though not under the schedule of the USSWA, the emphasis now moves on to RSBY, and declares that 99.03 lakh cards were issued during 2009-10 to provide health insurance cover under the scheme.

A key issue to be noted here is that social security has surreptitiously been reduced to (a) old-age pension under IGNOAPS and (b) health under RSBY; both not discussed as being implemented under the provisions of the UWSSA. Both had an extremely narrow focus, being applicable only to BPL workers.

The year II Report Card of the UPA-II government (2010-11), does not mention UWSSA or social security for unorganised workers, showing a gradual but definite burial of the UWSSA along with that of the concept of social security as a right for all workers. The 2011 budget did not have any financial allocation for UWSSA, even the fund of Rs. 1000 crore announced in the previous year's budget mysteriously vanishes! The focus again has been - outside the framework of UWSSA - on Indira Gandhi National Old Age Pension Scheme and on Rashtriya Swasthya Bima Yojana. To this has been added 'Swavalamban Scheme', a pet insurance project of the Finance Ministry, which provides retirement benefit to subscribers.

The gradual, but definite shift away from UWSSA cannot be accidental; rather it is part and parcel of the changes happening in the government's approach to social security, which is in synchrony with its overall economic policy. Social policy scholars make a distinction between institutional social policy and residual social policy.<sup>4</sup> The institutional social policy perspective believes in extensive government intervention in economy and social affairs and argues that government social policies should cover everybody and provide universal benefits and social services for all on a long-term basis. Residual social policy perspective, on the other hand, argues for limited State intervention, a high degree of personal responsibility, the involvement of nonprofit organizations in welfare and the maximum use of market mechanisms to meet social needs. They believe that government's role should be limited to providing a safety net for those who cannot help themselves and helping the proportion of the population that is not able to function 'effectively' in the market.

The residual approach entails a poverty approach to social welfare and uses targeting as a method to achieve it. It argues that government intervention towards providing social welfare should be restricted to those below an identified poverty line. A universal approach is seen as a waste of national income. India's economic growth in recent years has been attributed to the policies of economic liberalisation pursued by the successive governments since early '90s, which in fact, has further entrenched this approach as evident from the stated objective of the UID (AADHAAR) programme<sup>5</sup> and implementation of World Bank supported targeted cash transfer programmes.

<sup>4</sup> Midgley, James. "Developmental Social Policy: Theory and Practice." *Asian Journal of Social Policy* Vol.2/1 (2006): 1-22.

<sup>5</sup> Prime Minister, in his introduction to the UPA-II Report Card has stated that "the AADHAAR project, though a universal one, is expected to go a long way in helping the targeted delivery of benefits to our people"

Government considers 'efficiency' more crucial for sustained economic development than 'equity', in a trade-off between the two, in spite of the fact that it talks a lot about inclusiveness. Targeted benefits are never a right but the extension of the magnanimity of the State. Even the limited targeted benefits, government would now like to be tested for market efficiency. One of the strategy challenges for the 12<sup>th</sup> Plan as articulated by the Planning Commission has been how to improve markets for efficiency and inclusion. It says, 'Open, integrated, and well-regulated markets for land, labour, and capital and for goods and services are essential for growth, inclusion, and sustainability. We have many sectors where markets are non-existent or incomplete, especially those that are dominated by public provisioning. Here, markets of 'labour' and 'public provisioning' have been considered inefficient and need transformation.

The push for privatization of social security, with the replacement of defined-benefit programmes by defined-contribution programmes in RSBY and Swavalambhan are in synchrony with the "capital market friendly policies" of the government. The emphasis is on health and pension expenses of the government, where the responsibility is passed on to the individuals and the market. This push is not independent of or different from the push for 'labour market flexibility' very strongly advocated by the Planning Commission - a threat to universal rights of workers including the right to organise and collective bargaining; humane terms of employment; safe working conditions; living wage and social security. As Stiglitz has said, "Labour market flexibility" and "capital market liberalization" may appear as symmetric policies, freeing up the labour and capital markets, respectively; but they have very asymmetric consequences – and both serve to enhance the welfare of capital at the expense of workers.<sup>6</sup> There is a design behind the missing achievement of UWSSA in the Report Card of the UPA-II government.

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6 Joseph E. Stiglitz. "Employment, Social Justice and Societal Well-Being." *International Labour Review* Vol.141, No.1-2 (2002): 9-30.

# Peace & Security: A Review from Civil Society Perspective

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2010-11 has indeed been a challenging year from the point of peace and security. The note below is an assessment of the UPA government's performance on matters of peace and security<sup>2</sup> from a civil society perspective - taking as its yardstick, the 'promises' made by the UPA II government<sup>3</sup>.

## 1. Peace

**Government's approach to peace:** The government has been engaging in "peace talks" in Nagaland, Assam and other parts of the North East. The Home Minister has, on various occasions, stated that Kashmir is essentially a political issue<sup>4</sup>. There has been a raging debate within government over the Armed Forces Special Powers Act (AFSPA). Yet in the 'Report to the People', 'peace' is narrowly addressed under the section "Addressing Special Development Needs"<sup>5</sup>. While development is important in a conflict-affected region, to see 'peace as development' is to reduce it to a purely economic concern, devoid of justice or any concern for the real grievances of the people that lie at the heart of conflict. In Jammu and Kashmir, and the North East where alienation and causes of conflict run deep, how sustainable is such a peace, and how serious is the government in building a long-lasting peace becomes an important question?

ON THE NIGHT OF 4 FEBRUARY 2011,

FManzoor Ahmed Magray, a 21-year-old from North Kashmir's Handwara district, walked out of his house to meet his girlfriend. He was killed by the Indian Army by grenades and bullets. This was just a day after the Indian Army reached an agreement with the J&K state government to modify the army's standard operating procedure to avoid further killing of innocent civilians. Even as the Army chief of staff, VK Singh, expressed regret, he defended his men saying "The boy was fired at because he didn't stop when he was told to"<sup>6</sup>.

1 I am grateful to Rita Manchanda for her valuable inputs, which I have incorporated in writing this review note.

2 As stated in the "Government of the United Progressive Alliance Report to the People", 2010-11.

3 Congress Manifesto, MHA documents, Government states, 11th, Five year Plan

4 "Kashmir a political issue, solution is in sight, says home minister" Friday, Dec 10, 2010, The Financial Express, See <http://www.financialexpress.com/news/kashmir-a-political-issue-solution-is-in-sight-says-home-minister/722617/>.

5 The chapter covers Jammu and Kashmir and North East.

6 See Mehboob Jeelani, 'Stuck between Summers', The caravan, 1.3.2011. <http://www.caravanmagazine.in/Story/766/Stuck-between-Summers.html>

## 1.1 Jammu and Kashmir (J&K)

The UPA government's 'Report to the People' recognises that though "terrorist violence" declined in J&K, the summer of 2010 was marked by unprecedented violence. To "secure peace", it spells out the 'development' packages announced by the government, and appointment of interlocutors for sustained dialogue.

**Ground Reality: There is no peace without justice.** The conflict in J&K remains a complex one, and the past three years have seen growing discontent, pro-independence protests, mass demonstrations on the streets - often stirred up by killings, atrocities and denial of justice (as in Ghanderbhal and Shopian case). In June 2010, there was a series of protests demanding demilitarization, end to human rights abuse by Indian troops, clashes between stone-pelting youth and armed forces. On one hand, the State came down heavily on the protesters - leaving 112 dead, nearly 3,000 injured, and more than 3,000 others in detention. On the other, it announced a number of development schemes - employment task force, electrification schemes, infrastructure, amongst others. However, what seems to be missing is a concerted attempt to ameliorate the real cause for alienation/ frustration of people in J&K - the lack of justice, the culture of impunity allowed under the Armed Forces Special Powers Act (AFSPA). That these issues are critical to peace is not news, nor is it being 'made up' by civil society groups. They have been flagged in the Round Table Dialogues convened by Prime Minister Manmohan Singh in 2007; by Government of India's committee to review AFSPA; by the Administrative Reforms Commission headed by law minister V. Moily, the Working Group on Confidence-Building Measures in Jammu and Kashmir led by Vice President, Hamid Ansari. Yet the government continues to turn a blind eye.

The appointment of three interlocutors is welcomed. However, the process is weakened by the fact that all the interlocutors are non-political persons who carry little political weight. Besides the separatists — both moderates and radicals — without whose consent negotiations will remain impossible, have refused to meet the interlocutors. The interlocutors have been meeting a cross-section of people - students, professors and village heads. However, the small achievements of such dialogues have been overshadowed by heavy State repression and extra-judicial killings.

## 1.2 North East

The UPA governments reports to the people that the situation in the North East has improved in 2010, in terms of number of incidents of violence and casualties of civilians and security forces; "talks" with some of the militant groups from Assam and Meghalaya; continued Naga peace talks. The report further announces a number of schemes and development packages for "securing peace" in the North East.

**Ground Reality: Silence does not mean peace.** Nagaland has seen 14 years of cease-fire, but little movement in terms of peace process. This has led to a growing frustration that can spiral into violence. Concern has also been voiced by Naga Ho Ho that rather than build a peace process, the government is trying to corrupt and co-opt the Nagas through its development projects. Besides, long years of 'no war, no peace' has created a fertile ground for extortions, corruption, and infighting among the Naga factions – factors that in the long run undermine chances for sustainable and democratic peace.

**Peace talks in Meghalaya and Assam has been a positive step.** However, in Assam what began in great haste prior to the election in the state, now needs to be translated into concrete steps for a democratic and just peace process – involving various factions<sup>7</sup>, addressing some of the genuine grievances of the people that were thrown up during the three-decade long conflict. It is also important that peace is not confined to ending hostilities between the armed parties, but includes the security and concerns of civilians and marginal groups, including women.

<sup>7</sup> Paresh Baruah has stayed out of the talks. Given that he heads ULFA's military wing, commands a large following, especially of armed cadre, it is important he joins talks without which a negotiated settlement would not count for much.

**The hunger-strike of Irom Sharmila Chanu has crossed 10 years**, demanding the repeal of the Armed Forces Special Powers Act. Rather than repeal the draconian act, Irom Sharmila has been arrested on charges of attempt to commit suicide, is criminalised as a high-security prisoner, and been denied access to family, friends, supporters and the media.

**“Development” through Army & Paramilitary Forces:** An alarming trend in the North East and J&K has been the increasing involvement of Army and Paramilitary in development initiatives - such as Operation Sadhbhavana, Operation Goodwill in J&K or Operation Good Samaritan in Nagaland/Manipur. Under these initiatives, the Armed forces undertake civic action - in healthcare, women’s empowerment, child-care and education, electrification, water supply schemes - in effect degrading civilian institutions and amounting to interference in areas which are not the domain of the army or the para-military. Besides, in a context where repression and draconian laws loom large, such civic actions achieve little in ‘humanising’ the armed forces.

**Women missing from formal peace processes:** Women and gender concerns are conspicuous by their absence in formal peace negotiations and the government report. The Government is obligated to include women and gender perspective under the UN Resolution 1325; the 11th Plan document recognises the special needs and concerns of women in conflict situations, and it holds out the promise of gender mainstreaming. On the ground, women have been at the fore of informal peace building initiatives in Nagaland and Manipur. In Assam, the feminist writer Indira Goswami made concerted efforts to initiate peace talks. Though the Government has included Radha Kumar among the interlocutors for dialogues In Kashmir, there is a need to institutionalize women’s participation in every stage of all formal peace processes, to put in place a National Action Plan for implementing UNSCR 1325, and the accompanying resolutions 1820, 1888, 1889 - a step already underway in Nepal.

## 2. Security

**Government’s approach to peace:** The Congress manifesto promises “to ensure a life of SECURITY, DIGNITY AND PROSPERITY for every citizen”. However, the UPA government’s ‘Report to the People’ adopts a narrow vision - of militarised security, of “security” that is more for the elite and less for the marginalised/vulnerable communities.

**The UPA government reports to the people** a relatively safer 2010-11 without major terrorist incidents; operationalising of National Investigation Agency; setting up of National Intelligence Grid (NATGRID) to counter terrorism and internal security threats. The government also reports a number of “integrated” steps taken to counter left-wing extremism by supplementing efforts of state government through varied schemes. These include setting up of a unified command in the left wing extremist affected states; new scheme to assist state governments to fortify police stations; Integrated Action Plan for Selected Tribal and Backward Districts, modernisation of state police forces; Modernisation of Central paramilitary forces, Establishing National Security Guard (NSG) Hubs. The government reports a number of initiatives for coastal security; increase in fencing and border managing initiatives; modernization of the armed forces and indigenous production of advanced weapons systems.

### **Ground Reality: Security for the elite and militarization for marginal/vulnerable communities:**

*a. ‘Insecurity’ in everyday life:* Though the Congress manifesto promises safety, dignity to every citizen, “insecurity” was the experience of the working poor of Delhi in the preparation and during the Common Wealth Games as they faced ‘demolition’ of their slum homes, arrests, displacement, loss of livelihood. Insecurity has become almost a way of life for minority communities - particularly Christian, and Muslims, among Dalits and other vulnerable groups. For instance,

there is growing insecurity among people from the North East living in cities, among women across India - as the violence they face in their day-to-day life and in public spaces escalates. A look at the data of the National Crime Records Bureau Report points to 21,467 rape cases reported in 2008, which increased substantially to 3.5% in 2007. Provisional data for 2009 shows that 21,397 rape cases were reported during the year. Madhya Pradesh reported as many as 2,937 cases, followed by West Bengal and Uttar Pradesh at 2,263 and 1,871 cases respectively. These states were followed by Maharashtra (1,558), Assam (1,438), Rajasthan (1,355) and Bihar (1,302). These are, of course, only reported cases of extreme violence, which does not reveal the invisible and other forms of threat and violence which adds to the feeling of “fear” and insecurity.

*b. Militarisation and Forest Communities:* The unarmed communities in the forest belt of central India are caught in the cross-fire between the Paramilitary forces and the Maoists - in a ‘war’ over which they have no control. Displacement, loss of livelihood and atrocities stalk the lives of Adivasis in the region. Rather than address their plight, the State is complicit in their devastation, aiding and abetting “local resistance groups” and creating a civil war-like situation. Adivasis are being isolated with information being blocked, access to journalists and human rights activists denied, who also face intimidation and attack for reporting these issues.

*c. Militarisation and border communities:* The safety of the State and its interests is an important concern, but it needs to be integrated with the wellbeing of disempowered communities. As the government continues, border communities face huge difficulties. Take the case of fencing along the Indo-Bangladesh border. Here, neglect and lack of effective monitoring by NBCC (Central Government agency in charge of fencing at the Indo-Bangladesh border) fence construction has had a huge fall-out on ordinary people. When fencing started, it was to be done 150 yards away from the international zero line. However, when fences were actually constructed, this was totally disregarded. As a result, large number of families have fallen outside the fence i.e. have been fenced out of mainland India, and large tract of Indian land has become “No Man’s land”- though it is actually privately-owned land of Indian citizens. Fenced villages have become prisons, where barbed wires divide people’s homes, social lives, natural resources and means of livelihood, excluding them and forcing them into miserable subsistence.<sup>9</sup>The Ministry of Home Affairs has no data on this border population nor is there any scheme for rehabilitating these “fenced” Indians.

*d. Sedition and attack on Human rights Defenders.* The arrest, detention and harassment of Dr. Binayak Sen under the colonial-era sedition law are not an exception, but rather symptomatic of systematic harassment of human rights defenders/activists who raise the question of “security” of vulnerable communities. In 2010, NHRC alone listed 25 cases related to human rights defenders. In Gujarat, human rights activists/defenders have been facing constant persecution, and 19 have been jailed by the Narendra Modi government in the name of fighting Naxalism. In Uttar Pradesh, harassment and atrocities on human rights defenders by the state has been growing. Human Rights Defenders/Activists face an uphill task -caught between vested interests, armed insurgents on one end, and the State on another. The State, rather than seeing human rights defenders as partners in a democratic polity, and ensuring their protection and right to do their

In the name of fighting left extremism, 350 members of the police forces of the State and Central governments<sup>8</sup> during a five-day operation in the villages of Tarmetla and Timapuram from March 11, torched about 300 homes, granaries and wood-sheds, killed three men, sexually assaulted women. Journalists who tried to visit the affected villagers were intimidated and human rights defenders attacked.

15th August, 2010. Hari Lal, a leader of the Voice of People (VOP) was killed in his village in Kaushambi district on He was active in protecting rights of workers engaged in the projects of Mahatma Gandhi National Rural Employment Act (MGNREGA).<sup>10</sup>

On March 26, 2011, social activist Swami Agnivesh, was attacked twice by members of the Salwa Judum and Special Police Officers (SPOs) of Chhattisgarh when he and some others tried to take relief materials to the people of Chintalnar and other villages.<sup>11</sup>

8 Koya commandos of the Chhattisgarh police and CoBRA battalion of the Central Reserve Police Force

9 Anoop Prakash, Shailaja Menon ‘Fenced Indians Pay for ‘Security’, Economic & Political Weekly, March 19, 2011.no 12.

10 Voice of Human Rights Defenders in U.P, India, <http://www.nl-aid.org/domain/human-rights/voice-of-human-rights-defenders-in-up-india/>

11 Swami Agnivesh, *journalists attacked in Dantewada*, The Hindu, March 26, 2011

work - remains hostile at best, and brands them as “anti national” at worst. Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders has expressed grave concern at the growing plight of human rights defenders working for the rights of marginalized people in India.<sup>12</sup>

*e. Surveillance and Investigation:* The government has operationalised the National Investigation Agency with pan-India powers - a fall out of the 26/11 terror attack. However, the NIA remains extremely understaffed, and its line of authority remains blurred. The setting up of National Intelligence Grid (NATGRID) in absence of adequate privacy laws has also raised serious issues about surveillance intruding into personal lives of citizens - of database created to counter terrorism becoming the “big brother’s” eye watching every citizen, and an easy weapon in the hand of the home ministry. The fact that both these institutions - NAI and NATGRID - have been kept outside transparency obligations under the RTI Act also leaves little space for ensuring accountability.

### **3. Key Demands**

- Repeal Armed Forces Special Powers Act and undemocratic draconian laws.
- Peace talks in the North East and J& K must be inclusive - of women, different political factions, ethnic groups and political parties as well as insurgent groups to ensure sustainable peace.
- Implement UN Resolution 1325 and set up a National Action Plan for it.
- Abolish colonial-era sedition laws.
- Stop harassment of human rights defenders/activist and protect their rights
- Stop aiding and abetting Salwa Judum and its renamed avatars in the name of promoting “local resistance groups’
- Create an atmosphere for dialogue for political resolution of political issues.
- Address human security needs of vulnerable communities.

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12 <http://www.unhcr.org/refworld/country,,UNPRESS,,IND,,4d4115871a,0.html>

# Governance issues in North East Relating to the Performance Review of UPA-II During the Last One Year

Walter Fernandes, North Eastern Social Research Centre

What have been the achievements of the UPA-led governments in the Northeast? Five out of seven states in the Northeast have Congress-led governments but the Left Alliance-ruled Tripura has the reputation of being the best-administered state in the region. The Congress-led Mizoram government is considered the most corrupt. And, in the remaining states, just the first steps have been taken towards fulfilling promises made in the areas of education and health.

During 2010-11, Assam became the first state in India to pass a Right to Health Act. Its implementation has not started yet but one hopes that this is a good beginning. In May 2011, the Congress in Assam came back to power with a thumping majority of 78 out of 126 seats - a victory won mainly on the promise of peace. After two decades of struggle, a section of ULFA showed interest in peace talks with the Centre. Both the state and the central governments reciprocated – this is considered to be the main reason for the landslide victory.

But, an outcome of peace is not certain as the negotiations which led to the promise of peace talks were with the ULFA leaders who were in jail. Those who were not imprisoned have rejected the talks offer. Moreover, negotiations are being planned with only one group. Every ethnic community has a militant group of its own. If all the communities are not brought on-board, sustainable peace is not possible. Thus, it is only a tentative step towards peace. At the same time, this is a good beginning that holds out hope for the future.

Manipur, with at least a dozen militant outfits belonging to various ethnic groups, seems to be stuck in a stalemate. In April 2010, the Nagas declared a highway blockade to protest against elections to the autonomous councils without the Sixth Schedule. They want their territory to come under the Sixth Schedule in order to protect their land from

encroachment. It is also an identity issue but the Congress-led government went ahead with the elections to the ADC without the Sixth Schedule. No progress has been made in the negotiations till now. There is a similar stalemate in Congress-governed Meghalaya also. Its government is unstable. There have been two changes of chief ministers and not much is happening in the form of governance.

The child rights issue does not receive much attention in the region. After its massive victory, the Assam government is speaking of making RTE effective but it has taken no steps till now. More than 71% of the students passed in the Assam Board high school exams. But, more than 40 state-run schools showed 100% failure. The situation is similar in Manipur. More and more privately-run schools in Assam are switching over to CBSE - thus leaving the poor entirely in the hands of the state-run schools that do not have much hope of improvement. The level of education is low in the tea gardens and tribal areas in particular. No initiative is being taken for their improvement. Child labour continues to be high in the region and the Northeast is becoming the centre of human trafficking in general and of child trafficking in particular both for domestic work and for commercial sex. Not much is being done to control it.

A major threat to the environment is the proposed major hydro-power dams. The new Chief Minister of Arunachal Pradesh has said that his decision would depend on the reports. But, their Environmental Impact Reports (EIA) were written when he was Minister for Power. They do not deal effectively with the environmental and social impact so there is very little hope of stopping the 48 dams whose impact on this biodiversity-rich state and in the rest of the Northeast is going to be enormous. Assam appointed a committee of the state legislative assembly to study the issue but it was non-committal on the issue. The situation is similar in Manipur where the struggle against the Tipaimukh dam is continuing. Mizoram is going ahead with the decision to build these dams without conducting a serious study of their environmental impact.

Not much has happened on the issue of women's rights. Though all three major tribes of Meghalaya are matrilineal, it has only one woman legislator. The number in the new Assam Assembly has crossed the 10% mark. The NREGA has been partially successful in Assam but not in the remaining states. Trafficking in women is high in the region but awareness about it is low.

So, the newly-elected government of Assam is facing a real challenge during its first year. Two other governments are in their last year and they have to show results on many of these fronts.

# Governance Issues in Jammu and Kashmir

Jamal Kidwai with inputs from AMAN colleagues Sajad Hussain, Ali Mohommad and Madhura Chakraborty

The state of Jammu and Kashmir, as compared to other states of India, is one of the relatively better governed regions if we go by the number of people living below poverty line. According to the planning commission date of 2004-05, only 4.5% people lived below poverty line in J&K compared to 28.3% in India as a whole. However, such figures can be highly misleading because they are a result of the legacy of the major land-redistribution programmes carried out by the state government soon after independence in a predominantly agrarian economy where nearly 80% people are dependent on agriculture. Ninety-seven per cent of the cultivators are small or marginal farmers, with average land holdings as small as 0.7 hectares. In the past few decades, agriculture production has seen a major decline. The Valley suffers from a 44% deficit in food grain production, 33% in vegetables and 69% in oilseeds, all of which are imported into the state from the rest of India. The per capita income of the state is only two-thirds of the national average, at Rs. 17,174 compared to Rs. 25,907 in India taken as a whole. There are almost no employment opportunities for the educated youth in the state.

This paper focuses on schemes related to “development” and “governance”. The two concepts are placed within quotes because we recognise that they are closely linked to providing a sense of justice in Kashmir. In the recent past, there has been a healthy critique of the government’s security-led approach in conflict zones affected by insurgency like Jammu and Kashmir. Sections of the establishment and civil society groups have been arguing that the most effective interventions to counter violence by radical groups is to transparently and democratically implement the Indian constitution in its letter and spirit. They argue that there are many Acts, schemes and provisions which have been incorporated in the constitution as a result of sustained struggle by marginalised groups like minorities, tribals, Dalits, landless and women. MNREGA, NRHM, Right to Education, Domestic Violence Act, RTI are few important constitutional provisions that have come about as a result of these struggles. All these Acts/schemes are also applicable to the state of Jammu and Kashmir. Unlike the security-centric Acts like AFSPA, these Acts are people-centric and are based on principles of democracy, justice and egalitarianism.

Unfortunately, there is very little research either by the civil society groups or the government on the status of implementation of these schemes. Only two studies have been carried out on such schemes over the last two years. First, by the Department of Social Work in the University of Kashmir in Srinagar and NAC member Harsh Mander in 50 villages of Kashmir and another by AMAN Trust in villages of Baramulla district. According to the survey conducted

by the University of Kashmir on MNREGA, “researchers found it difficult to even find five job card holders in each of the surveyed villages under the employment guarantee programme JKREGS (the local version of the Mahatma Gandhi NREGA). The programme anyway was designed for failure, with wage rates until recently pegged at Rs. 70 rupees a day, whereas the prevailing wage rate is almost double this figure; and no work is provided in winters when hunger and the demand for work is highest. Many officials claim that there is no demand for public wage employment in the Valley. But when wages were raised to a more realistic Rs. 110 a day, there was a massive expansion of demand. An unfamiliar state administration is still to gear up now to meet their statutory duty to provide work to all who seek it.”

Similarly, in a survey carried out by AMAN Trust in Baramulla district, it was found that in 2010, no job card holder ever got close to 100 days of work. The officials insisted that MNREGA payment was made every 15 days directly to bank accounts. However, people in villages of Aramopra and Bonichakal who had worked on the said sites had not received payment. They were also not aware of how much they are supposed to receive for a day’s work. A resident of Bonichakal said that boys aged 13-14 years are made to work as proxies for their fathers. None of the block officials ever come to supervise the ongoing work. The AMAN survey found that the status of other welfare schemes in Kashmir is equally dismal and in many ways very similar to stories in most other states of India where the implementation of these schemes on the ground is riddled with corruption, lack of awareness amongst people and bad governance.

A far more significant issue besides the implementation of these schemes relates to the larger political approach towards governance in conflict zones like Kashmir - a state where people carry a deep sense of resentment and alienation towards the Indian State. It is the political vision that dictates the design and implementation of the schemes. Some of the issues that need to be addressed in this context are as follows:

1. It has been found that in Kashmir, like in the NE states, the Indian army is increasingly involving itself in the day-to-day matters of civil governance. They are organising health camps, children’s festivals and sports events like marathon races and building peace committees. The army and the Indian State believe that such activities as confidence-building gestures that will bring the defense forces and people closer. This approach should be challenged because it not only subverts principals of democracy but also undermines the spirit of governance as enshrined in the Constitution of India. They should recognise civil administration is not the mandate of the defense forces. A better way to regain confidence of the people would be to withdraw draconian laws like the AFSPA, stop rampant human rights violations and punish the guilty.
2. The government should recognise that Kashmir is region ridden with sustained violence, insurgency, insecurity and displacement. The design and strategies of governance and development should acknowledge this fact and they should be in tune with the prevailing reality. It goes to the government’s credit that it has launched some such schemes. However, they are hostage to bureaucratic and administrative loopholes which make them meaningless. Take for example two schemes implemented through the Social Welfare Department. The Rehabilitation of Militancy Victims (varying sums of money paid to the next of-kin of a victim killed in a militant attack or to a person injured by a blast provided they have copies of FIR and non-involvement certificates from the police) and the Without Discrimination (a Central scheme to rehabilitate the children of militants in the form of monthly scholarships to those who are enrolled in schools). The AMAN study found that only 10 children in the whole *tehsil* are beneficiaries of the Without Discrimination Scheme. Even though Baramulla is considered to be the most militant-prone district of the state. The social welfare officer said that the reason for such few beneficiaries under schemes like Without Discrimination and Rehabilitation of Militancy Victims is that people do not have necessary documents like FIRs, etc because people feel insecure to go to police stations to register complaints and incidence of violence. To expect common people to approach a police station in Kashmir is unimaginable when people avoid going to police in “normal” states in the rest of India.
3. The government recognises the fact that there are hundreds of surrendered militants and others who have served their term in jail. Even though the state underplays the impact of conflict, it has admitted the fact that there are hundreds of half-orphans, half-widows and disappeared people. It will not be an exaggeration to claim that almost

all the villages in the Valley will have the presence of such people. The government must first show the will to acknowledge their presence, second; conduct a survey in a transparent manner to estimate the number of such survivors and finally design policies and strategies that would not only give them a sense of redressal but also empower them to lead a dignified life.

4. The AMAN survey found that besides being ridden in corruption, mismanagement and lack of awareness amongst people, Acts and schemes like MNREGA and NRHM need to be revisited when it comes to Kashmir. The conflict has displaced large number of poor artisans, weavers, and the *shikarawallas*. They are the largest section affected by conflict. As stated earlier, unlike other states, Kashmir is relatively well-off in terms of agriculture and we do not find landlessness amongst agricultural workers like other states of India. Therefore, schemes like NREGA should be redesigned to benefit those people livelihood depended on the activities mentioned above. Similarly, it is a well-established fact that thousands of people in Kashmir are victims of trauma they have faced due to violence. However, none of the district hospitals have any resources in terms of doctors or expertise to conduct trauma counseling. At the moment, this crucial issue is being addressed only by the civil society groups.

Governance and development are ideologically loaded concepts. When they are addressed through the prism of law and order and security, they not only alienate people but also subvert democracy. Unfortunately, the Indian government has adopted this paradigm of governance in Kashmir. What is needed, instead, is a more democratic and inclusive approach of development and governance. An approach that prioritises justice and compassion over security and policing. Unless that is done, schemes like MNREGA, NRHM, RTI and others are bound to fail.

