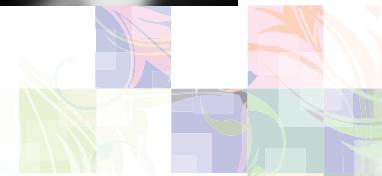


December 2013

Civil Society Review

Nine Years of UPA I & II



About Wada Na Todo Abhiyan

Wada Na Todo Abhiyan - which means "Don't Break Your Promises" - is a national campaign that is organized around the mission of "holding the government accountable to its promise to end poverty, social exclusion, and discrimination".

At the World Social Forum 2004, Mumbai, human rights activists and social action groups agreed on the need for a forceful, focused, and concerted effort to make a difference to the fact that one-fourth of the world's poor live in India, and continue to experience intense deprivation of opportunities to learn, live, and work in dignity. Wada Na Todo Abhiyan emerged from this consensus.

Wada Na Todo aims to make a difference by monitoring the commitments made in the UN Millennium Declaration (2000) the National Development Goals, with a special focus on the Right to Livelihood, Health, Education and Exclusion. The campaign strives to ensure that the concerns and aspirations of Dalits, Adivasis, nomadic tribes, women, children, youth, people with disability and people living with HIV-AIDS are mainstreamed across the programmes, policies and development goals of the government.

The campaign brings together over 4000 rights action groups across 28 states and three Union Territories of India and is governed by a Campaign Coordination Group and an elected Steering Group. Its activities are coordinated by a National Secretariat is based in New Delhi.

Wada Na Todo is also affiliated to the Global Call to Action against Poverty (GCAP).

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Executive Summary



The United Progressive Alliance (UPA) has completed its nine years rule in 2013 and the country will soon be undergoing General Elections in 2014. This will be a time for new promises from the political parties. In this light, it becomes important to conduct a comprehensive assessment of the current government's performance over the stretch of 09 years of its regime. With this in view, the process of civil society review was facilitated by Wada Na Todo Abhiyan, to take stock of the achievements and loopholes from the perspective of the marginalized.

Lack of adequate housing is amongst the most critical problems of urban poor. Although JnNURM talks about integrated urban development, its two submissions of the JnNURM are under two separate ministries, ultimately resulting in forced eviction and displacement in the name of infrastructure development and relocation and rehabilitation under Basic Service for Urban Poor (BSUP).

The UPA government promised Food for All, made commitments to combat malnutrition in children and assured people to keep food prices under control. The National Food Security Act was enacted to this effect. The Act, however, fell short of doing much to address nutrition deficiency, further failing to create bare minimum entitlements for small and marginal farmers by procuring locally grown food grains.

The Alliance's first NCMP promised raising public spending on health to at least 2-3 per cent of GDP. Later, the Congress' manifesto promised "health

security for all". But, this programme was also faced with flawed implementation of the National Rural Health Mission (NHRM), and health care became more and more privatized, with lack quality facilities in public health services.

Education was considered a key sector in the NCMP and it also promised a national cooked nutritious mid-day meal scheme, funded mainly by the central government, in primary and secondary schools. However, in recent years, allocations to the midday meal scheme have not been in consonance with the increasing enrolment.

The Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) provides a much-desired safety net to the people by making it demand driven. The Act empowers people in rural areas to demand work within the stipulated time period of 15 days, but the intended beneficiaries must have adequate information for this, which has not happened as revealed by several studies.

Legislations were enacted to ensure forest rights to the scheduled tribe and land rights to farmers. Nevertheless, the government has queered the pitch for Forest Rights Act with pieces of legislation such as the Wildlife Protection Act, which contradict FRA 2006.

In recent times, climate change is being seen as one of the biggest threats to economic development. In order to fulfill the obligation to the UN Framework Convention on Climate Change (UNFCCC), in

2008, the National Action Plan on Climate Change (NAPCC) was launched, but the plans did not graduate into well thought-out sets of policies.

In the nine years, the UPA government has engaged with civil society organizations, and at the same time, it has also put several fetters on the working of such organizations. While the tough regulatory regime dissuaded foreign agencies from funding Indian NGOs, there was increase in government funding. This has created new challenges, with the state desiring the voluntary organizations to work as mere subcontractors rather than critical partners.

The UPA made several promises to reform the country's political and administrative systems during its two-terms. The Right to Information Act (RTI), Lokpal Bill 2011 and Judicial Standards and Accountability Bill 2010 were moves in this direction. However, during its second term, the UPA Government has been beset with several scandals ensuing in four chief ministers and a few top officials suspension on corruption charges.

Many initiatives for the benefit of the marginalized during this period stayed only at the stage of initiation itself as the Grievances Redressal Bill (2011), the Whistle Blowers Protection Bill (2011), the SC and ST Development Authorities (Planning, Allocation and Utilization of Financial Resources) Bill 2013 etc. The government passed a remarkable number of landmark legislations concerning rights of the vulner-

able. However, a close analysis reveals the problems in the way they were conceptualized and in the way they have been implemented.

In the UPA's agenda, the link between poverty eradication and access to justice has also gone unrecognised. The UPA government gained power with a mandate to ensure social harmony, peace and human security, and the UPA II stuck to its 15 Point Program of its first term. Nonetheless, funds were often diverted to districts where minority does not constitute a substantial population under this 15 Point program.

Yet, many promises have remained unfulfilled pertaining to conflict in Jammu and Kashmir, demand to repeal AFSPA, absence of women and gender concerns in formal peace negotiations, enactment of a number of other security legislations quite similar to POTA at the state levels, the regressive Supreme Court order on section 377 and so on.

This Civil Society Review is a collective effort to expedite the development process and decide the future agenda keeping the welfare, priorities and aspirations of the poor and the marginalized. Thus, the report, though focused on the ruling government, has also reviewed the role of the opposition over the last nine years in fulfilling or disrupting commitments made on critical issues/policies, as mentioned above.

Housing and Urban Poverty

ANIL KUMAR, SANJAY VIJAYVARGIYA AND INDU PRAKASH SINGH,
NATIONAL FORUM FOR HOUSING RIGHTS (NFHR)

There is an acute shortage of affordable housing for the economically weaker sections (EWS) and lower income groups. They constitute 35-65 per cent population in cities, but occupy hardly a tenth of the land in cities, often described as engines of economic growth.

The housing shortage in urban areas is expected to grow from the estimated 26.53 million dwelling units to enormous proportions due to the low priorities given to it. There have been several instances of large-scale forced evictions and demolitions during the period under review. Forced evictions destroy lives and livelihoods of the poor contributing further to homelessness. They violate international and constitutional law and contravene the UPA's Common Minimum Programme (CMP), which provides that "Forced eviction and demolition of slums will be stopped and while undertaking urban renewal, care will be taken to see that urban and semi urban poor are provided housing near their place of occupation."

PROMISES

Commitment and Policy Initiatives

The UPA government made several promises and declared in the Common Minimum Program after 2004 Lok Sabha elections. 'Enhancing the welfare and well-being of farmers, farm labour and workers, particularly those in the unorganised sector and assure a secure future for their families' was one of the six basic principles for the governance in the CMP. Being very specific to infrastructure development and urban renewal, the promises made by UPA included following:

- Highest priority to the development and expansion of physical infrastructure like roads, highways, ports, power, railways, water supply, sewerage treatment and sanitation. Public investment in the infrastructure will be enhanced, and role of the private sector will be expanded.



- A comprehensive programme of urban renewal and a massive expansion of social housing in towns and cities, with *particular attention to the needs of slum dwellers*. Forced eviction and demolition of slums will be stopped and while undertaking urban renewal, care will be taken to see that the *urban and semi-urban poor are provided housing near to their place of occupation*.

SCHEMES AND POLICIES

1) Jawaharlal Nehru National Urban Renewal Mission (JnNURM)

In 2005, the UPA Government launched the fast track reform-based Jawaharlal Nehru National Urban Renewal Mission (JnNURM) in 63 cities, the Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) and Integrated Housing and Slum Development Programme (IHSDP) for other cities and towns. The program included two sub-missions – Urban Infrastructure and Governance (UIG) and Basic Service for Urban Poor (BSUP). While UIG promised urban renewal, i.e., redevelopment of inner (old) city areas, and infrastructure development, BSUP stressed integrated development of slums, i.e., housing and development of infrastructure, maintenance of basic services to the urban poor, slum improvement and rehabilitation and houses at affordable costs for slum dwellers/urban poor.

The JNNURM was expected achieve following at the end of the mission period:

- Financially sustainable cities for improved governance and service delivery
- Universal access to basic services in urban areas
- Transparency and accountability in governance
- Adoption of modern transparent budgeting, accounting and financial management systems.

2) National Urban Housing and Habitat Policy (NUHHP), 2007:

- The NUHHP seeks to promote various types of public-private partnerships in order to provide 'Affordable Housing for All'. Though the policy recognises housing as a basic human need and emphasizes housing for poor, it also limits the government's role to facilitating private enterprise. The policy promises

- Ten to 15 per cent of land in every new public/private housing projects or 20—25 per cent floor area ratio, whichever is greater, for EWS/Lower Income Group (LIG) housing through appropriate incentives.
- Action Plans for urban slum dwellers.
- States to develop 10 years perspective plan for housing EWS/LIG.
- Primacy to provision of shelter to urban poor at their present location or near their work place.
- Approach will be in-situ slum rehabilitation. Relocation will be considered only in specific cases.

3) National Urban Sanitation Policy (NUSP), 2008:

The goal of this policy is to make cities and towns

- Community-driven
- 100 per cent open defecation-free
- 100 per cent safe disposal of human excreta and liquid wastes.

4) National Policy on Urban Street Venders (2009):

The policy was started by the NDA regime in 2009 and amended by the UPA in 2009. It aims to 'promote a supportive environment for the vast mass of urban street venders to carry out their vocation while at the same time ensuring that their vending activities do not lead to overcrowding and unsanitary conditions in the public spaces and streets'.

The policy is focused on regularization of street vending or in other words on restricting vending and as per the policy, city area will be demarcated as "restriction-free vending zones, restricted vending zones and no vending zones".

5) Rajiv Awas Yojana (RAY), 2011:

The project envisages a 'Slum Free India' with inclusive cities where every resident has access to basic civic infrastructure and social amenities and decent shelter. It promises security of tenure to all slum dwellers. It talks of shelter for homeless and pavement dwellers. The scheme is also applicable to 'urbanised villages' within the planned area of the city.

6) Model Property Rights to Slum Dwellers Act, 2011

The Act provides for "inclusive growth and slum-free cities, to provide assured security of tenure, basic amenities and affordable housing to slum dwellers". The right to property of every slum-dweller is provided under the Act and the cut off date for eligibility is set as June 9, 2009. The Act also gives protection against eviction.

SITUATION ON THE GROUND

JnNURM is intended at integrated urban development, but in fact it was aimed at implementation of a set of reforms focused at creating space for corporate and private players. Its main goal is to make urban local bodies credit worthy and bankable so that they can access capital. It aims to create space for the corporate section in infrastructure development and provision of basic services. One of the mandates of the urban renewal mission is the repeal of the Urban Land Ceiling Act. This will clear the path for the foreign direct investment in housing sector by unbundling land for commercial exploitation.

Although JnNURM talks about integrated urban development, its two sub-missions are under two separate ministries. Sub-mission I (UIG) is under the Ministry of Urban Development and Sub-mission II (BSUP) is under the Ministry of Housing and Poverty Alleviation. This means that the so-called integrated approach is fragmented in design itself. Infrastructure development and BSUP will be treated as separate aspects of urban development, thereby discriminating the provision of services between urban poor and others. This discriminatory approach will ultimately result in forced eviction and displacement in the name of infrastructure development and relocation and rehabilitation under BSUP.

Moreover, the program was conceptualised on the basis of slum population reported in the 2001 Census. The slum population has undergone substantial rise ever since. A program drawn out on basis of an under-reported program is not going to have the desired result.

Of the 55 approved projects under the pilot project phase of RAY, only 9 aim to relocate existing slums. In Madhya Pradesh, projects proposed for multi-story dwelling units have been opposed by slum dwellers. In Ujjain more than 700 dwelling units built under BSUP are lying vacant. Many dwelling units are lying vacant in Jaipur. There has not been any survey conducted under RAY and there are discrepancies in government data about the number of slums in various states. Community participation is lacking both in the preparatory and implementation phases of RAY. There is considerable apprehension among the people on displacement and relocation as most slum dwellers are not declared eligible and going by previous housing initiatives of the government, rehabilitation usually means relocation to the peripheries.

Classically, slums are supposed to be categorised in tenable and non-tenable categories. About 60–70 per cent of the urban slum population is in non-tenable slums; people living here are left out of consideration for development.

The City Makers have an original claim in the building of the city by making large areas of it habitable. Their contribution in building, sustaining and supporting it on a daily basis is the foundation of their claim to the right to the city. The right to the city is the right to a more inclusive city where migrants, marginalised groups and communities, and all CityMakers in general will be able to control and influence the shaping of their lives and their cities.

EVICTIONS AND DEMOLITIONS IN DELHI, MUMBAI, BENGALURU...

In Delhi, at least 45,000 homes were demolished between 2004 and 2007, and eviction notices are served on other large settlements. Delhi witnessed intensified evictions of more than 250,000 people during the years immediately preceding the 2010 Commonwealth Games. While some of these evictions were directly linked to Games-related infrastructure and construction projects, it was also used as an excuse to evict people from other locations under the pretext of 'security' and 'city beautification'. Slum dwellers in Delhi were subjected to multiple evictions over the decades.

Over 300,000 Mumbai residents were evicted and displaced, as part of a development programme budgeted at USD 36 billion designed to transform Mumbai into the 'Next Shanghai' by 2010. The programme called for the reduction of slums to 10 per cent of those present. There is clearly no real plan to adequately accommodate the hundreds of thousands of people already evicted or the 2.2 million still facing eviction. An estimated 92000 homes in 44 locations were destroyed between November 2004 and March 2005 in Mumbai.

In January 2013, 1512 homes were bulldozed at Ejipura, Bengaluru, Karnataka. More than 5000 people living in tin sheds in the economically weaker section (EWS) quarters were evicted. It affected around 1200 women and 2000 children and made thousands homeless.

HOUSING UNDER BSUP IN PATNA

In Patna, 10 Detailed Project Reports (DPRs) were approved under the BSUP by which 19713 dwelling units were to be constructed in seven phases. For constructing these dwelling units, near about 300 acres of land is required and till now only 94.6 acres of land has been identified. More than three years have passed after approval of DPRs and till date construction started only at 3 sites in Patna.

RTIs REVEAL ALARMING NUMBER OF DEATHS OF HOMELESS IN DELHI

Information received through the various RTIs filed with authorities gave alarming information on the number of deaths of homeless women, children and men in Delhi. During the period 2007 to 2013 March, there were 13,517 reported deaths/unclaimed bodies of homeless men, 985 reported deaths/unclaimed bodies of homeless women and 330 reported deaths/unclaimed bodies of homeless children in Delhi.

RECOMMENDATIONS

- Objective of housing schemes should be creation of 'poverty free' cities and not only 'slum-free' cities.
- Housing rights programme should be located within the human rights framework of the Indian Constitution, and recognised by judgments of the Supreme Court of India and High Court of Delhi, and also mandated through India's international legal obligations, especially under the International Covenant on Economic, Social and Cultural Rights(ICESCR).
- The current model of urban development should be given up as it is based on exclusion and profiteering. Specific measures must be taken to regulate land use and check land speculation. The role of the private sector in providing housing must be clearly specified and limited.
- Urban development programmes should be in full conformity with the wider policy framework of inclusive cities and urban poverty alleviation. Promote whole city approach, which enables holistic planning of infrastructure and functionalities.
- Legislate National Housing Policy and National Rehabilitation Policy.
- Mandatory provisions in City Development Plans (CDPs) for reservation of land for housing for low income groups. 25-40 per cent of land in CDPs should be reserved for housing of urban poor, who are mainly workers and for creation of new housing stock.
- Allocation in budget for low-cost housing to meet the housing deficit (26.53 million houses) in large cities.

- Abolish outdated legislations like the Bombay Prevention of Beggary Act 1959 as they criminalise the poor.
 - Create adequate shelters (24x7x365 days) for homeless in all cities as per the order and guidelines of the Supreme Court of India, leaving no one to sleep without a shelter in our cities.
 - Recognise the clear linkage between housing rights and livelihood. Housing cannot be looked in isolation of livelihood and all other infrastructures such as a right to clean drinking water, sanitation, child care, education and health services.
 - Ensure that there is no eviction without resettlement and rehabilitation. If resettlement is inevitable, minimise the direct and indirect adverse impact of resettlement and ensure that authorities follow participatory, transparent and democratic processes, with prior informed consent of all affected persons. Focus should be more on in-situ development with tenurial rights.
 - All communities have the right to decent culturally and environmentally sensitive housing, respecting diversities and consultations and consent should be made critical elements of housing policy.
 - The idea of ‘untenable slums’ is unjustified as most of the slums will come in this category and hence will be declared ineligible for property rights. All slum dwellers should be eligible for adequate housing. Cut-off date should go.
 - For preventing new slums from emerging, the government needs to take strong proactive measures to address the significant backlog and shortage of housing in urban India, and this should be an ongoing effort.
 - Moratorium on all forced evictions and slum demolitions across the country.
 - The Model Property Rights to Slum Dwellers Act 2011 is inconsistent with the Constitution of India and India’s national and international human rights commitments. The punitive provisions in the Model Act should be removed, as they effectively criminalise the urban poor. Until this is done, the entire scheme under RAY is suspect and will become a weapon for violation of housing rights.
 - Immediate compensation to be provided to all evicted families for loss of their homes, possessions and livelihoods. Compensation to be paid to families whose members lost their lives as a result of the forced evictions. Officers who perpetrate evictions and violence should be dealt strongly under the criminal jurisprudence system.
 - As there are many instances of death of homeless people on the streets, all such deaths should be duly investigated. The Cabinet Secretary and the Chief Secretary of the state concerned should be made accountable for deaths of homeless people.
 - Adequate rehabilitation to be provided to all evicted families in accordance with international human rights standards, including the UN Basic Principles and Guidelines on Development-based Evictions and Displacement and judgments of the High Court of Delhi, in particular the Sudama Singh case.
 - Remove usage of terms like ‘illegality’ and ‘encroachment’ from housing policies and schemes as government is responsible for the housing shortage. No human settlement is illegal and cannot be deemed so.
-

Displacement and Evictions

HIMANSHU UPADHYAYA, R. SREEDHAR

The 1994 Rehabilitation policy draft of the Government of India begins by stating that, following the 199 new economic policy, Indian as well as foreign private investment would require more land than in the past and that much of it would be in resource rich tribal areas.¹ This statement has not been repeated in the rehabilitation policies of 2003² and 2007³ but has still guided practice in most states.

The National Democratic Alliance government (1998-2003) amended the Resettlement and Rehabilitation Policy at the very end of its tenure (17th February 2004). However the changes were not substantial. Around that time, the language of civil society movements was changing from one that stressed on policy to one emphasizing rights. This was especially true in matters concerning displacement and eviction⁴.

Environmental activists had criticized the 1994 policy governing relief and rehabilitation of the displaced and its 2003 version on grounds that they ignored huge section of the already displaced and not yet rehabilitated people. The 2003 policy was also referred to as enacting a regression from the 1994 draft on the issue of definition of 'affected persons,' 'public purpose' and for providing no space for people's participation.

The UPA was quick to announce revisions in the National Resettlement and Rehabilitation Policy. A 41 page draft of the proposed revised policy was put in public domain by 2006,

1 The draft of this first ever central government policy for resettlement and rehabilitation of people who get displaced and evicted was made public by the then ruling government in the year 1993, following the social movements that emerged in late seventies and early eighties against the massive displacement. By mid 1980s, these movements along with social scientists and legal scholars had started the discourse around the proposed resettlement and rehabilitation policy at Union of India level. Movements such as Narmada Bachao Andolan, National Alliance of People's Movements, Bharat Jan Andolan and mines, minerals and People have spearheaded these discussions over the last three decades.

2 Government of India (2004) National Policy on Resettlement and Rehabilitation of Project Affected Persons – 2003, Department of Land Resources, Ministry of Rural Development, published in the Gazette of India, Extraordinary Part I, Section 1, No 46, dated 17th February 2004. http://www.dolr.nic.in/hyperlink/lrc-status/nprr_2003.htm

3 Government of India (2007) National Rehabilitation and Resettlement Policy – 2007, Land Reforms Division, Department of <http://www.dolr.nic.in/NRRP2007.pdf>

4 For more on this shift within the civil society discourses around development issues during the years 2002-2004, see Upadhyaya, Videh (January 2003) 'To Right the Wrongs of Development,' *India Together*, <http://www.indiatogther.org/2003/jan/vu-rights.htm>



comparing the provisions with that of the NPPR – 2003⁵. Meanwhile, away from the academic discussion on the policy making, adivasis in Kashipur block of Raygada district in Odisha during December 1 to 16, 2004 were demonstrating against a mining company that posed threat of displacing them. Such resistance in hinterland of India by communities determined to protect their access to natural resources were being referred to an example of 'India un-shining' by political commentators⁶. Despite lip service, UPA has not shown much performance on the front of resettlement and rehabilitation, as it continued to pursue the proposals that had a massive displacement proportion such as Interlinking of Rivers, Special Economic Zones. Several state governments led by political parties that made up NDA continued the aggressive rhetoric⁷.

While UPA government had announced inflow of the massive central funds for urban infrastructure development under JNNURM, movements of urban poor in metro cities such as Delhi, Mumbai, Bangalore, Hyderabad repeatedly stressed that slum dwellers were being given a short shrift when the urban housing projects were not carried out with similar commitment. In 2011, CAG of India's performance audit of JNNURM⁸ implementation pointed out that "only 22 out of 1517 urban housing projects were completed during the seven years period (2005-2012), the status of dwelling units was only marginally better but remained low as only 26% of the target was achieved, and worse still it found that only 53 percent of these completed dwelling units were allocated and occupied by evictees". The audit also indicted six states (Andhra Pradesh, Gujarat, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal), that got 69 percent of Additional Central Assistance, but could complete only 34 to

5 Government of India (2006) Comparative Statement of National Policy for Resettlement and Rehabilitation of Project Affected Families (NPPR 2003) & National Rehabilitation Policy (2006), Department of Land Resources, Ministry of Rural Development. <http://www.dolr.nic.in/NRP2006-draft.pdf>

6 Sharma, Kalpana (December 2004) 'Un-shining India,' *India Together*, <http://www.indiatogether.org/2004/dec/ksh-kashipur.htm>

7 Examples are aplenty, Independence Day speeches by chief ministers of Sikkim and Odisha referred to oustees protesting against the development projects as 'anti-national' and made aggressive postures by telling the media that "no one shall be allowed to stand in the way of Odisha's progress". Even states ruled by Congress such as Andhra Pradesh had witnessed launch of Jalyagnam – a massive project of numerous irrigation schemes – being carried out with paying scant attention to following environmental regulations and an abject failure to address rehabilitation issues.

8 For details see CAG of India (2012) Performance Audit of JNNURM for the period 2007-2012, CAG of India, New Delhi http://saindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/union_audit/recent_reports/union_performance/2012_2013/Commercial/Report_15_Report_15.html

44 percent of urban housing projects. Ministry of Urban Housing and Poverty Alleviation in its replies to CAG of India (January 2012, April 2012 and June 2012) sought to explain this poor performance by citing "non-availability of litigation free land" as a reason for abysmally slow progress.

That UPA government has consistently failed to address the concerns of displaced persons even in projects, such as Sardar Sarovar Dam over the Narmada river, that had a well laid down rehabilitation clauses became all the more obvious in March 2005, when Supreme Court passed an order that clearly indicted *Game of Numbers* being played out by Govt of Madhya Pradesh and Narmada Control Authority⁹. Worse still, the very next year in March 2006, the union government failed yet again to address the rehabilitation concerns of Narmada oustees when it allowed the height of Narmada dam to be raised from 110 metres to 121.92 metres, despite protests and despite the report by three cabinet ministers who toured the submergence zone and found that rehabilitation as per law had not taken place and people faced the threat of submergence without rehabilitation.

Thus, even as the UPA government was claiming to have corrected the 'historical injustice' meted out to forest dwelling tribes, it was failing to plug the moral breach in the dam, that had a 'progressive land based' rehabilitation package promised to oustees losing land in the submergence zone of the dam¹⁰.

After year-long consultations, on October 11, 2007, the central government announced the National Policy for Rehabilitation and Resettlement 2007, replacing the National Policy on Resettlement and Rehabilitation for Project-Affected Families 2003¹¹. During the winter session of Parliament, two Bills, namely the Rehabilitation and Resettlement Bill and the Land Acquisition (Amendment) Bill were also introduced on December 06, 2007. Both the bills were then referred to the Parliamentary Standing Committee on Rural Development, which held consultation with representatives of people's movements and presented its report to the parliament

9 For more details on the implication of this order, see Upadhyaya, Himanshu (April 2005) 'Narmada Rehabilitation Scam Exposed,' *India Together*, <http://www.indiatogether.org/2005/apr/ht-dampafs.htm>

10 For details, see Mahesh, Ashwin and Subramaniam Vincent (April 2006) 'A Moral Breach in the Dam,' *India Together*, (14 April), <http://www.indiatogether.org/2006/apr/edt-narmada.htm>

11 <http://pib.nic.in/newsite/erelease.aspx?relid=31832>

on October 21, 2008¹². The UPA government then worked on introducing certain changes, along with inputs from National Advisory Council¹³, on the draft bills and brought them again in parliament in 2009.

However, these bills that were introduced on the last day of the session of the parliament could not pass in Rajya Sabha and thus lapsed.

Neither was this turn of events quite planned in the manifesto and electoral promises, nor was it in accordance with other legislative action that had only increased the pace of land alienation in rural India. Even as people's movements against Special Economic Zones erupted in countryside, the National Advisory Council had several rounds of dialogues with National Alliance of People's Movement throughout the year 2006, and formally accepted the demand for a comprehensive act and a draft presented by NAPM after various consultations during the period 2004 to 2006¹⁴. Still when people's organisations struggling against displacement saw that the displacement juggernaut was being allowed to bulldoze the hinterland populated by adivasi population, they came together to launch a campaign, *Sangharsh 2007* to press UPA govt for early enactment of rehabilitation law and amendments in the Land Acquisition Act¹⁵.

So what did the UPA promise to electorate when it went again to voters in the year 2009? Here is an excerpt from Congress manifesto, followed by an excerpt from the rival political party BJP's manifesto.

"The Indian National Congress is firmly committed to ensuring that farmers get, at a very minimum, market rates for the land that is acquired for industrial projects. The Indian National Congress also believes that farmers should be given an option to become stakeholders in such industrial ventures. As a matter of priority, the National Rehabilitation and Resettlement Bill, 2007, that could not be passed because of the obstructionist tactics of the BJP, will be taken up for passage in the 15th Lok Sabha. The Land Acquisition Act, 1894 will also be amended to ensure that the interests of land-owners are more than adequately protected."

- 12 For the report on Land Acquisition (Amendment) Bill, 2007 http://www.prssindia.org/uploads/media/Land%20Acquisition/scr1226484896_SC_Report_Land_Acquisition_Bill__2008.pdf , For the report on Resettlement and Rehabilitation Bill, 2007 http://www.prssindia.org/uploads/media/Rehabilitation%20and%20Resettlement/scr1226484940_SC_Report_Rehabilitation_and_Resettlement_Bill__2007.pdf
- 13 For a details discussion paper penned by the NAC member Shree Harsh Mander on both these bills, see <http://www.prssindia.org/uploads/media/Land%20Acquisition/hac%20land%20acquisition%20discussion%20paper.pdf>
- 14 For the NAPM draft of the Bill dated January 2006, see <http://naptm-india.org/sites/default/files/Draft%20National%20Rehabilitation%20Policy%20Approved%20by%20NAC%20060709.pdf>
- 15 For more details on Sangharsh 2007 and the discussions amongst the social movements on the proposed legislation and NAPM dialogues with NAC, refer to publications from Delhi Forum and several posts by *Update Collective* blog here <http://updatecollective.wordpress.com/category/sangharsh-2007/>.

An Excerpt from Bharatiya Janta Party's Manifesto

LAND ACQUISITION FOR INFRASTRUCTURE

FARMERS INTERESTS WILL BE PROTECTED

The Central and State Governments, for long, have acquired land, through an opaque process, to hand it over to private parties under the umbrella of 'public purpose'. The UPA Government has approved 572 Special Economic Zones that cover 50,000 acres, three times the size of Singapore. This is clearly absurd and spells disaster for the farm sector.

The BJP will adopt a National Land Use Policy which will protect the interests of farmers. Its implementation will be monitored by a National Land Use Authority which will work with State Land Use Authorities to regulate and facilitate land management. The powers and functions of the National Land Use Authority will be similar to those of other regulatory bodies.

The BJP will bring about amendments to existing laws to rectify anomalies pertaining to land acquisition. Farmers will be compensated at market rates for any land acquired for infrastructure purposes. The BJP will not allow the conversion of fertile farmland for industrial/commercial projects or Special Economic Zones.

The entire issue of Special Economic Zones and acquisition of land for industrial use will be addressed after a careful scrutiny of the Parliamentary Standing Committee's report and factoring in the need to protect the farm sector and enhance food production."

It took UPA II, two long years yet again to introduce the lapsed bills in parliament in the fateful year when it came under a lot of public scrutiny on the issue of public participation in legislation making by its inept handling of Lok Pal Bill. It took two further years, before the bills became act during the year before the Lok Sabha election, making the journey from National Resettlement policy 2003 to the Land Acquisition Resettlement and Rehabilitation Act a decade long.

The new law, whose rules are being framed, is thus an eye-wash as the real threat of land being grabbed in the name of NIMZ, booster doses for SEZs, PCPIRs, massive expansion of mining of coal and other minerals, rail and road corridors to effectuate export and real estate ventures is imminent. Much of these will be outside of the purview of this legislation such as irrigation projects¹⁶, coal and other mining projects while others including linear projects, mega-watt solar and wind projects enjoy several regulatory concessions. The law has no provision for the legacy issues.

The scales of new projects involving land are orders of magnitude compared to earlier industrial estates. The new mining bill seeks to give mining leases of

16 Thanks to last minute dilution exempting irrigation projects from Social Impact Assessment requirement introduced to placate BJP ruled Madhya Pradesh government

100 sq kms, the different manufacturing zones range from 200 to 900 sq kms.

VOICES FROM PEOPLE'S MOVEMENTS

We present some voices from the movement representatives on this decade long journey and their continued concerns on the dilutions brought about by UPA governments in these legislations at the eleventh hour:

"The land acquisition bill could affect the food security of the nation". The new land acquisition bill has missed a historic opportunity to address the illegalities and excesses committed by the colonial law it replaces. It fails to replace the state's eminent domain with the people's domain, fails to make development planning in the country democratic, fails to offer relief to the 10 crore people whose way of life has been sacrificed at the altar of development and nation-building. It fails to protect the land rights of farmers and promote agriculture. A comprehensive bill incorporating resettlement and rehabilitation along with provisions for conducting social impact assessments is welcome, but its selective application — its leaving irrigation projects out of its purview — means it will leave out a wide section of the population' - says Madhuresh Kumar from the National Alliance for People's Movement (NAPM) in Hindustan Times.

"Narmada Bachao Andolan and NAPM condemns this anti-people move and vow to challenge this at every level. According to South Asia Network on Dams, Rivers and People (SANDRP) and other sources 5,500 big dams have together displaced nearly 5.5 crore people and submerged 44,00,000 Hectares of land in 4,528 dams. Nearly 47 percent of those displaced by these dams are adivasis / indigenous people. In such a scenario a move to leave out the irrigation projects from the realm of SIA and land for land provisions will be extremely unfortunate and a move which will hurt the farmers, workers, dalits and tribals most" (source: <http://napm-india.org/blogs/land-acquisition-rehabilitation-and-resettlement-bill-historic-opportunity-missed-protect-land>)

"Prafulla Samantray, president of the Odisha unit of Lok Shakti Abhiyan, who is also a petitioner against the Vedanta mining project, said he would have been much happier had the court denied permission for mining in Niyamgiri hills of Kalahandi district. Samantray, however, said he welcomed the decision of the court, as it recognised the gram sabha. "The court recognised the gram sabha as the authority to decide on mining in the scheduled area" (Source:<http://www.prokerala.com/news/articles/a373250.html>)

RECOMMENDATIONS

- The majority of displaced persons from big dams have been tribal people, with their concomitant multiple vulnerabilities. Groups disadvantaged by social origin, class, caste, gender or age, are especially vulnerable to the rigours of forced resettlement, and any plan for developmental rehabilitation must contain strong social security measures for their protection.¹⁷
- In cases of forced displacements where the resettlement site is far from the original habitation the endeavour must be to provide them with the same quantity and quality of cultivable land closer to their original habitat and access to irrigation.
- Apart from land, tribal people are particularly dependent on forests for their livelihood and their resettlement must as far as possible be in a similar habitat. Their traditional rights on minor forest produce and common property resources at the new place of settlement must be secured, as also, if access is possible, to their original habitat.
- Displacement and eviction has very serious consequences for women. Their rights must be upheld and it should be prescribed that the land allotted for rehabilitation would always have to be in the joint name of the female and male heads of the family.
- Principles of free, prior and informed consent, provisions of PESA, 1996 and FRA, 2006 must be followed before any land acquisition and subsequent rehabilitation and resettlement can be done.
- Special laws that regulate a broad range of acquisition should effectively be aligned with the proposed bill.

17 http://planningcommission.nic.in/reports/articles/nchsna/art_dam.pdf

Food Security

M KUMARAN, FOOD JUSTICE, OXFAM INDIA¹

The United Progressive Alliance government made several promises to address food security. It promised food for all, made commitments to combat malnutrition in children and assured people that it will keep food prices under control.

The UPA regime has been dogged by rise in food prices. These have hit the poor and marginalized the most. It responded by a slew of measures to ensure food security.

HOW EFFECTIVE HAVE THESE MEASURES BEEN?

Ensure Food for All

The UPA promised that every family living below the poverty line, in rural or urban areas, will be entitled by law, to 25 kg of rice or wheat every month at Rs 3 per kg. The National Food Security Act passed this year is amongst the measures to fulfill this promise. Mid-day Meal (MDM), Integrated Child Development Scheme (ICDS) and Maternity Benefit have also been included under the Act.

Situation on Ground

The Act passed in the last year of the UPA did not deliver the promised universal coverage. Critics point that the UPA government has failed to strengthen PDS—the main instrument for delivering the security Act. Although studies suggest some improvement in the system mainly due to efforts by state governments, shortfall remains high². In 2009-10, when state governments' reported off take was 95 per cent of the food grain allocation to BPL/AAY families (35 kg per month per household), the NSSO round (2009-10), showed that the poorest 30 per cent households in India on an average con-

1 Thanks to Harsh Mander and Dipa Sinha for useful comments.

2 Khera, Ritika, Revival of the Public Distribution System, Evidence and Explanations, Economic and Political Weekly, November 5, 2011; also see NSSO (2013), Public Distribution System and other Sources of Household Consumption, January, 2013



sumed merely 7.6 kg of PDS rice and 3.9 kg of PDS wheat in a 30-day period—this in a drought year³.

The Act does not do much to address nutrition deficiency and does not talk of raising resources to include pulses and edible oil in PDS.

The Act has no provision to include out-of-school children, poor children enrolled in private schools, migrant workers, homeless population and destitute people. Despite well-acknowledged role of subsidized food grains as protection against food price inflation and intra-household discrimination, the Act encourages cash transfers.

The Act fails to create bare minimum entitlements for small and marginal farmers by procuring locally grown food grains for PDS, ICDS and mid-day-meal from nearby small and marginal farms.

A far more serious limitation of the UPA Government was the failure to deliver the promise of community kitchen. There was no comprehensive program of the central government during the UPA tenure to ensure food rights of the vulnerable groups including homeless population, destitute people, migrant workers and out-of-school children. Old age pension scheme remains inadequate. Despite plans to have community kitchens and to cover migrant workers, in the initial drafts of the food security Acts, these provisions were dropped in the end. Again UPA government has failed to learn from successful state-led models, e.g., Amma Kitchens in Tamil Nadu.

NUTRITION FOR CHILDREN

UPA promised to ensure universal coverage of ICDS and to ensure provision of cooked meal to schoolchildren. Commitments were also made to cover excluded groups like children of urban migrant workers.

Situation on Ground

There has been very slow progress in effectively increasing ICDS coverage and bringing more children under the mid-day meal scheme. As per 2012-13 figures, 27 per cent of the eligible enrolled children are still not covered by mid-day meal scheme. In

Tripura, Jharkhand and Uttar Pradesh more than 40 per cent of the eligible children do not benefit from the scheme. In places where the scheme is being implemented, it is plagued by infrastructure problems such as quality of kitchen sheds and storage rooms, shortage of cooks and helpers and unavailability of clean water. These shortfalls have led to serious public health concerns. The move to introduce centralized kitchen has resulted in problems related to quality and equity.

There is shortfall in the implementation of ICDS. Though ICDS restructuring has finally been approved, the focus of 0-3 children was not achieved. Analysis of performance reports of nodal ministry shows the scheme is way short of reaching its 1.17 crore intended beneficiaries. Increase in budgetary allocations for ICDS and MDMS, barely covered for inflation. The latest available data on child malnutrition (2011) shows that not much dent has been made in addressing child malnutrition in India during this period. The Hunger and Malnutrition (HUN-GaMA) Report 2011 shows that 42 per cent children in India are underweight and nearly 59 per cent were stunted, leading the Prime Minister to describe the scenario as a ‘national shame’.

The government has also failed to deliver on its promise of ensuring nutrition for children of urban migrant workers. In fact, little progress has been made under the Rajiv Gandhi National Crèche Scheme initiated in 2006. Since 2009-10, no new crèches were sanctioned under this scheme.

A major limitation of the mid-day meal and ICDS programs is that they are structured in a way that perpetuates caste discrimination. The government has not taken any steps to prevent elite capture of the delivery system.

When UPA-I started its term in 2004, India had one-fourth of the undernourished population in the world. After nine years in 2013, India still has the same share of the world’s undernourished population.

ENSURE LOW FOOD PRICE INFLATION

After facing severe criticism over high food price inflation during its first term, the UPA promised to take effective and strong measures to control the price hike of essential commodities in its second term.

³ Some state governments spread this allocation to cover more allocation and reduced household allocation to 25 kg

Situation on Ground

Food inflation dogged UPA-II, as well. The annual average food price inflation was nearly two digits between 2004–05 and 2012–13. In 23 out of 96 months of its tenure so far, food inflation has been in double digits; it peaked in February 2010 at 20.2 per cent⁴. The inflation figures have to be seen in light of the steady informalization of labour and low economic status of vast majority of people. The wide divergence between wholesale price index and consumer price index and the widening gap between farm gate prices and retail prices is testimony to unfair trading practices, hoarding, and other speculative exercises⁵. Unchecked speculative trade also affected the PDS, in form of increased diversion during periods of peak inflation and vice-versa.

In some respects, UPA-II's performance was worse than UPA-I's. During the alliance's second term food inflation, measured in terms of wholesale price, significantly outstripped the increases in the general price level.

However UPA II did better than UPA-I in respect to food grain inflation. In UPA's first term, food grain inflation spiked to 53.3 per cent between May 2005 and April 2009—significantly higher than increase in price of food item (39.7 per cent) and all commodities (22 per cent). In comparison during UPA-II, the price of food grains increased by 38.9 per cent between May 2009 and May 2013—marginally higher than increase in price of all commodities (36.3 per cent) and significantly lower than increase in price of food item (57.3 per cent).⁶

The level of inflation in food grains, however, is still very detrimental to poor and there is no reason it cannot be curbed effectively. For instance, the high annual inflation in rice and wheat prices (17.9 and 19.9 per cent, respectively) during 2012-2013, coincided with the record production of food grains and huge buffer stocks. Similarly, net exports of food grains were 'larger and even growing during periods of rapid food grain price rise'. Despite having a favorable policy environment, unlike many state governments, UPA-II failed to divert the excess food grains to expand coverage of PDS.

BOX 1: WHERE THE FOOD SECURITY ACT FAILS

The Act fails to take a comprehensive 'food for all' approach. An 'up to 50 per cent coverage' criterion in urban area is bound to exclude many poor unorganized sector workers.

- The act does not take care of nutritional requirements and has not managed to augment resources to include pulses and edible oil in PDS. Little is done to boost up the failing battle against high malnutrition among children and women in India.
- It has failed to take the grievance redressal system beyond district level, down to lowest governance units at block or gram panchayat level. The system is largely toothless without punitive actions against erring officials, beyond a meager fine of Rs 5000.
- It ends up fencing-off the most vulnerable by leaving out provisions to include out-of-school children, poor children enrolled in private schools, migrant workers, homeless population and destitute people.
- Despite well-acknowledged role of subsidized food grains as protection against food price inflation and intra-household discrimination, the Act advocates use of measures such as cash transfers.
- The Act fails to create bare minimum entitlements for small and marginal farmers by mandating food grains for PDS, ICDS and mid-day-meal be procured from such farmers in nearby areas (10–20 kms).

4 Chandrashekhar, C P and Ghosh, Jayati, The Changing Pattern of Food Inflation in India, Microscan, 2013

5 Chandrashekhar, C P, Food Prices and Volatility: Sources, Impacts and Implications; IDS Bulletin, Vol 43, Special Issue, July 2012

6 Chandrashekhar C P and Ghosh, Jayati, op cit

RECOMMENDATIONS

The policy emphasis should immediately shift to strengthen people's institutions that could ensure effective implementation of the National Food Security Act.

- Universalize coverage of National Food Security Act and provide monthly entitlements food grain, (including millets), pulses and edible oil to all households. Clear provisions to cover migrant workers, homeless population, destitute people and out of school children. Set-up community kitchens in urban areas. Strengthen the focus on 0–3 year old children in ICDS and ensure healthy and quality hot-cooked meal in the mid-day meal scheme.
 - Prioritize SC/ST cooks in Mid-day meal and SC/ST hamlets for ICDS centres.
 - Encourage decentralized procurement, especially from small and marginal farmers.
 - Ensure that budgetary entitlement under Maternity Benefit program, ICDS and MDM are periodically revised in tune with Inflation.
 - Take effective steps to prevent profiteering in food articles.
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Health Services in India:

Setting the Record Straight

JAN SWASTHYA ABHIYAN (JSA)

Public policy in health care has undergone significant changes in the nine years of UPA rule. The alliance's first Common Minimum Programme promised raising, "public spending on health to at least 2-3% of GDP over the next five years with focus on primary health care". It also pledged, "A national scheme for health insurance for poor families".

The document stressed that "the UPA government will take all steps to ensure availability of life-savings drugs at reasonable prices. The feasibility of reviving public sector units set up for the manufacture of critical bulk drugs will be re-examined so as to bring down and keep a check on prices of drugs".

In the UPA's second term, the Congress was the dominant partners which meant that there was no common minimum programme. The Congress's manifesto promised: "We will guarantee health security for all. The National Rural Health Mission (NHRM) will be implemented with an even greater sense of urgency. The Rashtriya Swasthya Bima Yojana (RSBY) introduced by the Congress-led UPA Government offers health insurance for poor families. Every family living below the poverty line will be covered by the RSBY over the next three years. Every district headquarters hospital will be upgraded to provide quality health facilities to all".

SITUATION ON GROUND

The public health sector in India is in a state of neglect and large sections of the population depend on a poorly regulated private sector increasingly dominated by big hospitals. In fact, with private health care accounting for 80 per cent of outpatient and 60 per cent of in-patient care, India has one of the most privatized health care systems in the world. The National Rural Health Mission has led to some improvements but rampant corruption plagues parts of the public health system, jeopardizing significantly the possibility of bringing about positive changes.



Spending on health care continues to contribute to widespread poverty in India. In an attempt to protect patients from 'catastrophic' health expenses, publicly funded health insurance schemes have been rolled out. But these only cover in-patient care at the secondary and tertiary levels.

FINANCES

The Jan Swasthya Abhiyan and several other advocates of public health have long advocated a major increase in financial allocation by central and state governments to the health sector – at least to 5 per cent of GDP as recommended by the WHO. India has for too long had among the lowest levels of public expenditure on healthcare in the world (see Table 1).

Both the CMP of UPA I and the 11th Five Year Plan promised to increase public health expenditure to 2 to 3 per cent of the GDP. However, current expenditure on public health stands at a fraction above 1.06% of the GDP. Over the years states have been starved of funds through a variety of fiscal mechanisms, but during the 11th Plan period the states actually performed better than the centre in allocation of funds for health care. The 11th plan had projected an allocation of 0.87% of GDP by the Centre and 1.13% by States by 2011–12. At the end of the plan period the allocation stood at 0.32% of GDP by the centre and 0.68% of GDP by states. The major shortfall was a consequence of the meagre Central allocation. The 12th Five Year Plan has further lowered its sights and proposes an allocation of 1.87% of GDP.

Table 1: Percent Public Health Expenditure by Region in the World

Country/Region	Public Expenditure on Health as percent of total health expenditure
India	29.20
Average of High income countries	65.10
Average of Low income countries	38.78
Average of Middle income countries	52.04
World	62.76

Source: World Bank Database (<http://data.worldbank.org/>)

The most immediate indication of the huge gap between promise and delivery comes from the 2013-14

budget. Table 2 provides the overall figures for budgetary allocation on health in the past three years.

Table 2: Allocation for Health in 2013-14 Budget

	Budget Allocated 2013-14 (in Cr)	Budget Allocated 2012-13 (in Cr)	Budget Allocated 2011-12 (in Cr)
Total to MoHFW	37330.00 (8.2% increase of over previous year)	34488.00 (12.8% increase of over previous year)	30456
Allocation for National Rural Health Mission	18880.35 (50.5% of total allocation) – 2% increase from previous year allocation)	18515.35 (53.68% of total allocation – 14.7% increase from 11-12)	16140.76 (52.48% of total allocation)

There has been a mere 8.2 per cent increase in budget allocation for health and family welfare in the 2013-2014 budget over the previous year. This needs to be contrasted with the promise in the 12th Five Year Plan that allocation for health would be increased by 300 per cent over the allocation of the 11th Plan. In other words the 12th Plan projects an increase of around 60 per cent every year, over the previous year's allocation. The present increase, however, is barely enough to cover inflation.

If we adjust for inflation, the 2 per cent increase for the National Rural Health Mission actually translates into a decrease in real allocation. This is despite the announcement that the NRHM shall now include two new components – a flexi-pool for communicable disease control and for urban health (previously not covered by the NRHM).

NATIONAL RURAL HEALTH MISSION AND PUBLIC HEALTH SERVICES

Funds released for the mission have been only a third of that envisaged: about Rs 66,000 crore was released against Rs 175,000 crores envisaged.

Table 3: Status of Health Infrastructure in India

Infrastructure	Mar-07	Mar-11	Percent Increase	Required	Gap
Sub-Centre	145272	148124	2	178267	17
PHC	22370	23887	6	29213	18
CHC	4045	4809	16	7294	34
Dt. Hospital	340	613	45	640	4

Source: RHS Bulletin 2007 and 2011, MOHFW

The experience accrued from the running NRHM led the Jan Swasthya Abhiyan to identify bottlenecks. These are:

- The notion that 'free services are not valued' has become common. There is clear resistance to changing over to free services, most pronounced in tertiary level services.
- Drug supplies do not cover requirements and there are frequent interruptions in supplies, which means patients and their families have to pay for drugs.
- Diagnostics are the main source of user fee collections across the nation, and hospitals are loathe to let this avenue go.
- The practice of free diet was given up in the 1990s and is being revived with some difficulty.
- Informal charges (read demands by corrupt means) remain and are highest in states where salaries are very low or not paid on time.
- Travel to the facility means huge expenditure, though a number of assured patient transport services have reduced these costs somewhat.
- Where referrals to private sector become necessary, because of a lack of services in the public sector, the government does not reimburse the costs of such care.

PLANNING COMMISSION'S ATTEMPT TO DELEGITIMISE PUBLIC SERVICES

In 2011, the government set up a High Level Expert Group (HLEG), to recommend ways in which the country could achieve Universal Health Care (UHC), by then a buzzword in international circles. Unfortunately, UHC has come to mean different things for different people. To some UHC was quickly converted to Universal Health Coverage (rather than care)

Table 4: Human Resources in Public Facilities

Cadre	Mar-07	Mar-11	Percent Increase	Required	Gap (%)
ANM	147439	187675	21	393041	52
HW (Male)	62881	52215	-20	207480	75
Nurses	29776	65344	54	138623	53
Doctors	22608	26329	14	109484	76
Specialists	5117	6935	26	58352	88
Pharmacists	17919	24671	27	58389	58
Lab. Tech.	12101	16208	25	80308	80

Source: RHS Bulletin 2007 and 2011, MOHFW

and then further coverage was taken to mean coverage by a limited insurance based package, and not access to comprehensive health services.

The HLEG report made several useful recommendations, including abolishing user fees; to move from selective health care to comprehensive health care; and to replace a system where only BPL was eligible for free care to one where almost everyone was entitled to free care. But the expert group did not unambiguously recommend that universal care, to be accessible to all, and ultimately provided by public health facilities. Instead its report noted, "State governments should consider experimenting with arrangements where the state and district purchase care from an integrated network of combined primary, secondary and tertiary care providers".

The Planning Commission understood the phrase 'integrated network' to mean a network that was run by a private entity! Thus the initial draft of the health chapter of the 12th Plan document went on to elaborate its plan of handing health care over to the corporate sector, very akin to the disastrous 'managed care' model in the United States. Fortunately the Planning Commission's wishes did not entirely fructify. Several organisations, including the Jan Swasthya Abhiyan, and even the government's own ministry of health, objected. Eventually the notion was watered down in the final 12th Plan document to a recommendation that pilot programmes on UHC would be run during the Plan period in some districts.

HUMAN RESOURCES FOR HEALTH

One of the most important deficiencies in the public health system – indeed often the main limiting factor – is the lack of skilled human resources, especially in rural and remote areas (Table 3).

There are several important reasons for this crisis. Firstly the deliberate choice to stop government investment in public sector medical colleges and encourage private medical and nursing institutions. The situation is compounded by medical and nursing graduates avoiding service in rural and remote areas.

Another important reason for the huge deficit in Public Health services is the complete lack of regulation of the private sector and promotion of the corporate sector. Doctors graduating from the burgeoning, hugely costly private medical colleges need to amass money by any means; something which has been made possible by complete lack of regulation of the growing private sector.

The large effort by the government to deploy over 700,000 Accredited Social Health Activists (ASHA), as part of the NRHM, has had some positive impact in rural areas, but the program is under-resourced and these health assistants are paid a pittance.

NATIONAL HEALTH INSURANCE

The UPA Government projects the rapid national coverage by its Rashtriya Swasthya Bima Yojana (RSBY) as one of its achievements. Launched in 2009 the RSBY is designed to protect patients from the 'catastrophic' impact of out-of-pocket expenses incurred on hospital care – as modelled on the state of Andhra Pradesh's Rajiv Arogyasri scheme. In the Twelfth Five-Year Plan, similar insurance schemes have received even greater attention and support. There are also state-level health insurance schemes that have been launched or are in the pipeline in Kerala (Comprehensive Health Insurance Scheme), Tamil Nadu (originally called the Kalaignar scheme), Delhi (Apka Swasthya Bima Yojana), Karnataka (Yeshasvini Health Insurance Scheme) and Maharashtra (Rajiv Gandhi Jeevandayee Arogya Yojana).

These schemes are meant for hospital care only and cover a specific list of procedures. Patients are provided a choice of accredited institutions where they can receive treatment and be reimbursed for costs not surpassing a set ceiling. This type of health insurance is publicly funded; in the case of the RSBY the cost of the premiums is shared by central government (75%) and state governments (25%).

Two fundamental pillars support these kinds of health insurance schemes. They operate on the logic of what is called a 'split between financing and provisioning'. While financing comes from public resources (central or state government funds), treatment can be provided by any accredited facility, public or private. When it comes to provisioning a large majority of accredited institutions are in the private sector. For example, in the case of the Arogyasri scheme in Andhra Pradesh, the total payments to facilities accredited under the scheme from 2007 to 2013 amounted to Rs 47.23 billion, of which Rs 10.71 billion was paid to public facilities and Rs 36.52 billion went to private facilities.

The second pillar of these schemes is that beneficiaries are insured against a set of ailments that require hospitalization at secondary and tertiary levels of care. They do not provide comprehensive health care, and are limited only to a pre-defined package of procedures. Excluded are almost all infectious diseases that are treated in out-patient settings, such as tuberculosis that requires prolonged treatment, most chronic diseases such as diabetes, hypertension and heart diseases, or cancer treatment that does not call for hospitalization. To take the Arogyasri example again, the scheme draws 25% of the state's health budget while covering only 2% of the burden of disease.

The health insurance system starves primary care facilities. In 2009-2010, direct government expenditure on tertiary care was slightly over 20% of total health expenditure but if one adds spending on the insurance schemes that focus entirely on hospital-based care, total public expenditure on tertiary care would be closer to 37%. In Andhra Pradesh, following the implementation of the Arogyasri scheme the proportion of funds allocated for primary care fell by 14%.

CORPORATE TAKEOVER OF HEALTH CARE IN INDIA

The declining state of India's public system is undeniably linked to the ascent of a private sector that now has a majority share in various components of health care, as illustrated in Table 5.

Table 5: Share of the private sector in India's health system

Medical graduates and post-graduates	90-95%
Outpatient care	80%
Indoor patients	60%
Undergraduate seats in medical colleges	45%
Manufacture of medicines	99.50%
Manufacture of medical devices	100%

One very visible manifestation of the private takeover of health services is the mushrooming of corporate hospitals. Hospital chains' revenues have grown exponentially in recent years. For example, the total nationwide revenue of Apollo Hospital, the largest corporate chain in India, rose from Rs 16.1 billion in 2009 to Rs 31.5 billion in 2012. . There is also a large body of evidence – both anecdotal and recorded – that shows how private providers entice patients with false claims and promises, fleece poor patients, and provide inadequate care. Regulatory agencies such as the Central Drugs Standards Control Organisation (CDSCO) and the Medical Council of India (MCI) have been largely ineffective in controlling this.

MEDICINES FOR ALL?

It has been estimated by different sources that 50 per cent to 80 per cent of the Indian population are not able to access the medicines that they need. The World Medicine Report of the World Health Organization finds that India is the country with largest number of people (649 million) without having access to essential medicines. This in a country that is the 3rd largest producer of drugs (by volume) in the world and exports medicines to over 200 countries.

It is only recently that India has tried to implement a national essential drugs policy that would aim to achieve better access. However progress has been

slow in ensuring access and in many states medicines cannot be obtained through the public health system when required. There are several reasons for this, including a lack of adequate supplies due to funding constraints and procurement policies, and the poor functioning and outreach of public facilities.

In 2012, Prime Minister Manmohan Singh (in his Independence day speech) announced a "free medicines" scheme, under which all essential medicines would be available at no cost in all public facilities. While initially proposed as a scheme that would be financed by the central government, the responsibility has now been passed on to state governments. Insignificant progress has taken place in most parts of the country with the significant exception of Rajasthan. 'Free medicines for all' programs in public facilities have been operational in some states for a long time, most notably through the Tamilnadu Medical Services Corporation (TNMSC) in the state of Tamilnadu and more recently in Rajasthan. These experiences need to be replicated in other states; in addition to improving access to medicines, they have helped develop transparent norms for drug procurement and distribution for public sector facilities.

Since 1970, the government has endeavoured to regulate the prices of some drugs through successive Drug Price Control Orders (DPCOs) but the number of drugs covered has come down from 342 in 1979 to 74 in the latest DPCO of 1995. In response to a Supreme Court directive, the government has now introduced price control on 348 drugs listed as essential. However, marginal benefits (if any) are likely to accrue because the new DPCO fixes ceiling prices based on an average of existing prices in the market (a departure from the earlier practice of fixing based on manufacturing cost).

RECOMMENDATIONS

- A transition to a system that is based almost entirely on public delivery of health services is necessary, in the interim the private sector cannot be wished away. Comprehensive regulation of the private medical sector in India is absolutely essential. Key areas requiring regulation should include the following:
 - a. Standardization of structures and human-power of facilities to ensure quality of care
 - b. Protecting patients rights
 - c. Equalizing accessibility / distribution of establishments
 - d. Standardization and rationalisation of process of care based on standard protocols
 - e. Rationalizing and containing costs of care
 - The current Clinical Establishments Registration and Regulation Act lays down certain very broad guidelines for regulation, and it has currently been adopted by only a few states.
 1. The Act needs to be broadened since it does not mention the principles of patients rights or ensuring public health obligations of private providers.
 2. Such reformulation should be based on a consultative process, to take into account the concerns of various stakeholders including health rights organisations and patients groups
 3. The Act needs to be made universally applicable in all states.
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Education



AMBARISH RAI, RIGHT TO EDUCATION (RTE) FORUM

In 2004, while assuming power at the centre the UPA announced its priorities through the National Common Minimum Programme (CMP). Education was considered a key sector in the CMP. One promise that was reiterated several times was that of spending at least six per cent of GDP on education.

PROMISES AND DELIVERY

The genesis of the 6 per cent target lies in the recommendation of an Education Commission way back in 1966-68. Going by this recommendation, the centre fixed a target of investing six per cent of national income in education by 1986. The goal remains elusive 27 years after the target date despite being reiterated in different policy documents and programs. It is important to note here that this state of affairs may not change, unless there is a detailed financial plan for the purpose.

The CMP also promised "a national cooked nutritious mid-day meal scheme, funded mainly by the central government, will be introduced in primary and secondary schools". The midday meal scheme, funded by the union government, was already implemented in several states. But it needed strengthening. The UPA broadened coverage bringing in students in upper primary classes in Government, Local Body and Government-aided primary and upper primary schools and the EGS/AIE centres. However, in recent years allocations to the midday meal scheme have not been in consonance with the increasing enrolment and there are several anomalies making the situation worse at both the micro- and macro levels.

The CMP also proposed a cess on all central taxes "to finance the commitment to universalise access to quality basic education". This was also one of the few proposals that the government acted upon immediately. UPA's first union budget levied an education cess of two per cent on all central taxes. It was expected that revenues from the

levy would provide substantial revenues to the elementary education sector.

The cess was also in keeping with CMP's promise that "no body is denied professional education because he or she is poor". But mechanisms for providing/improving access to the poor were not spelt out. The government encouraged student loan programs by commercial banks—this, when the centre or state education departments should be providing loans to students, as in many other countries. The CMP was silent on the controversial issues of privatisation of education. In fact, most political parties have been silent on issue.

The CMP was silent about the policy of previous government on para teachers and education guarantee scheme. Before the UPA assumed office, there was a significant growth of under-qualified and under-trained teachers who went by different monikers: 'para teachers', 'shiksha karmis', 'gurujis', 'sahayaks', 'vidya volunteers'. There was also a wide acceptance by union and state governments of the education guarantee scheme (EGS)—low quality non-formal schools. The Sarva Shiksha Abhiyan and even the free and compulsory education bill accorded the status of teachers equivalent to fully qualified and trained teachers to those who teach in such school. Most state governments and political parties, including those in the opposition, favoured the scheme of para teachers and the EGS schools. The arrangement saved governments huge resources and it could also avoid managerial problems of dealing with fully qualified teachers. At the same time, governments could claim to have marched a long way towards fulfilling the constitutional directive on universal elementary education. But the likely effects of such an arrangement on the quality of education can be too serious to bear in the long run, or even in the short run.

The important issue, however, was the commitment to introduce the Right of Children to Free and Compulsory Education Act (RTE Act).

The act laid down a time bound agenda to address some of the long pending gaps in the educational system. It fixed March 31, 2013 as the deadline for achieving all the norms and standards, except those dealing the training 8 lakh untrained, low paid and unqualified teachers.

Before taking stock of the act, it is pertinent to mention that the Act is deficient in several fundamental ways: it does not engage with the hierarchical system of school education that creates ground for more discrimination; there is also no financial memorandum attached with the act. It is also pertinent to mention that act leaves out children up to the age of 6—about 17 crore at the time the act was enacted.

In spite of these limitations, the Act has several positive features like legal entitlement of education to the children and upgrading of school infrastructure. The act defines norms and standards for schools, it mandates recruitment of additional teachers to realize the prescribed pupil-teacher ratio of 30:1 at the primary level and 35:1 at upper primary level, it talks about teacher-training, it stipulates 25 per cent reservation for economic weaker sections in private schools, it talks about making education free, about enrolment of all out-of-school children, age appropriate admission, prohibits screening procedure in school admission and takes a strong stand against corporal punishment and capitation fees.

But the fact remains that there are still around 8 million children out of school. These dropouts and never enrolled children are almost always from the most marginalised and most disadvantaged sections: child labourers, children of migrant workers, children in conflict-affected areas and disabled.

The fact that less than 10 per cent schools in the country are RTE compliant in terms of infrastructure and teacher availability is reflective of the reality of poor performance. In fact, the 12th Five Year Plan document points out that only 4.8 per cent of the school in the country have achieved compliance in all yardsticks set by the RTE act¹.

The 12th plan tries to address this. It aims to (1) reduce the number of out of school children and reduce the dropout rate, (2) improve the school infrastructure status, and (3) improve the learning outcomes for all children.

The plan however introduces terms such as 'residual access', 'equity gaps' to give the impression that access to education has been achieved barring

¹ Planning Commission of India, 12th Five Year Plan, 2012-17, Vol. III, Social Sectors

some residues and certain gaps in equity. This is far from the reality. Though enrolment rates have improved at the entry level in the lower primary section, dropout rates remain very high—even higher with regard to the SCs, STs and minorities. In addition various dimensions of exclusion still exist within the school system; therefore the issue of equity and inclusion is not just that of a gap. Social exclusion is integral to India's social system which is rooted in caste and patriarchy.

A major thrust of the 12th Plan is on improving learning outcomes, which is appreciable, but this should accompany an acceptance of the continuing issues of access to education by broad basing its availability, ensuring the functionality of schools in rural areas and urban poor habitats and addressing the issues of inclusion which is socially implicit in the very social organization of India.

There is also an alarming tendency of privatization of school education through the public private partnership and voucher systems. Another alarming tendency is that of handing over government schools to the corporate foundations instead of implementing RTE Act within the stipulated time and having in place institutional mechanisms for making govt schools.

BUDGETS

Though the Economic Survey 2012-13, gave an impression that there would be sufficient budget allocations to achieve the 12th Plan targets on education, there is no significant improvement in the allocation for education in the 2013-14 Union Budget. The budget allocated only Rs 2,7258 crores for the Sarv Shiksha Abhiyan (SSA), which is just a 6.6 per cent hike from last year and would barely cover inflation

The allocation for school education and literacy however indicate some improvement as it has gone up from Rs. 4,5542 cores in the 2012-13 budget to Rs. 5, 2401 crores in the 2013-14 budget, a 15 per cent growth. But total allocation for education to Gross Domestic Product (GDP) is still around the 3.3 per cent.

In fact, the Ministry of Human Resource Development had requested Rs.1.84 lakh crore for SSA during the Twelfth Five Year Plan period. The present allocation indicates that though the plan strategy document has set up certain targets in view of various commitments, the inadequate fund allocation itself will weaken the entire process of implementing the RTE Act.

HIGHER EDUCATION

The number of deemed universities shot up from 29 in 1990-91 and 95 in April 2005 to 125 in February 2009. Of this number, about 40 are aided and the rest are unaided. The UPA government thus continued the practice of allowing many sub-standard institutions to become deemed to be universities. They have been allowed to violate the UGC guidelines. The UPA government continued commercialisation of education, ignoring the recommendation of the Yashpal Committee. The committee noted, "Practice of according status of deemed university be stopped forthwith."

While women students constitute 40 percent of all students, enrolment of Scheduled Caste students is only 11.3 percent and that of Scheduled Tribe students is 3.6 percent. These ratios are far less than their corresponding ratios in total population. There is no recognition of the fact that women belonging to Scheduled Castes and Tribes living in rural areas are the most disadvantaged.

What is happening to the higher education institutions is something that has already happened to the school institutions. They were ruthlessly destroyed through an unsaid blanket ban on appointment of regular teachers. Their curriculum development and, in many cases, teaching itself is outsourced to private companies. Teachers are not consulted and socio-cultural or political contexts of the sites of teaching-learning are neglected in pedagogical and curricular aspects.

RECOMMENDATIONS

- Initiate age appropriate admission for the acknowledged millions of out-of-school children
 - The Act should cover students from pre-primary level to higher-secondary level
 - Undertake the administrative restructuring streamlining education department structures as laid down in the RTE framework and fill all vacant administrative positions within the departments,
 - Fill vacancies of 12 lakh teachers. In doing so, prioritize recruitment of female teachers and teachers from the marginalized communities.
 - Increase teacher-training capacities in the states where such training is most required: Bihar, West Bengal, Jharkhand and Uttar Pradesh. Efforts to train teachers at the block and district level need to be prioritized to ensure that teachers hired come from the same cultural milieu as their students.
 - Implementation of the 25 per cent reservation in admission for people from economically weaker sections in private schools.
 - Put in place a rational regulatory framework for private schools to ensure their compliance with the RTE norms and standards.
 - Constitute School Management Committees through the elections, giving legally specified representation to women and socially excluded groups.
 - Recognize the rich diversity of religion, culture, leadership and contribution of Adivasi, Muslim and Dalit communities in school curriculum and create sensitivity and respect for them among all children and teachers. Recognise, monitor and address various forms of discrimination faced by Dalit, Muslim and Adivasi children in schools.
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National Rural Employment Guarantee Act and Livelihood



POOREST AREAS CIVIL SOCIETY (PACS) AND PARTNERS

In an overwhelming neo-liberal economy, the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) provides a much-desired safety net to the people. The Act vests power in the hands of people to demand work from the state.

The Act was passed in 2005 by UPA-I and during the alliance's second term, its scope was expanded. Its implementation started in February 2006 in selected 200 districts, in April 2007 another 120 districts were added, and in April 2008 all rural districts in the country were brought under the Act.

The Act's objectives are:

- Hundred days of guaranteed wage employment in unskilled manual work in a financial year to every rural household whose adult members ask for work
- Availability of such work within 15 days of application
- Unemployment allowance if work is not provided within 15 days of application
- Payment of wages within 15 days of completion of work
- Non-discriminatory wages for women and men
- Livelihood security for the poor through creation of durable assets, improved water security, soil conservation and higher land productivity
- Strengthen drought-proofing and flood management in rural India
- Empowerment of the marginalized communities, especially women, Scheduled Castes (SCs) and Scheduled Tribes (STs)

The key promises of the Act are:

1. Rights-based demand-driven approach that promises to generate work and other sustainable productive assets, reduce poverty, and empower socio-economically excluded communities who constitute the bulk of poor populace.

2. Planning and implementation at local level through Gram Panchayats thus promising participatory planning and decision-making.
3. Accountability and transparency in governance by instituting various legal provisions and monitoring mechanisms, both with higher levels of government administration as well as with people.

GOVERNMENT'S CLAIMS:

The Ministry of Rural Development (MoRD), the nodal agency for MNREGA, claims, "While implementation remains uneven and patchy across States and districts, there is evidence to suggest that MGNREGA has contributed to (a) increased rural wages everywhere; (b) reduced distress migration from traditionally migration-intensive areas; (c) usage of barren areas for cultivation; and (d) empowerment of the weaker sections and giving them a new sense of identity and bargaining power"¹.

Situation on Ground

The Comptroller and Auditor General's (CAG) report, however, questions some of these claims. While MoRD statistics say that SCs and STs have accounted for 51 per cent of the total person days generated and women for 47 per cent, well above the mandatory 33 per cent as required by the Act, CAG Report notes that the share of SC and ST have declined – ST share in employment declined from 29 per cent in 2007–08 to 19 per cent in 2011–12².

Government sources also reveal that employment generation in migration-prone areas of some of the poor states – for example, Odisha, Uttar Pradesh, Jharkhand and Chhattisgarh – are far below the Act's expectations³.

For an ambitious demand-driven program such as the MNREGA to be successful, the intended beneficiaries must have adequate information. This has not happened. Many studies, including those by the Poorest Areas Civil Society, have pointed out that people often do not register for work because they are not aware about the Act's provisions⁴. Such **information gap** is a matter of much concern particu-

larly with regard to the implementation of the Act in poor states such as Bihar, Rajasthan, Jharkhand and Uttar Pradesh. While lack of information can deprive the poor of employment opportunities, the stranglehold of the powerful over information can lead them to appropriate the Act's benefits, thus making the poor doubly deprived.

DISCRIMINATION

By locating decision making for planning and implementation of MNREGA with Gram Panchayat, the Act intends to promote decentralized democracy. However, civil society organizations have repeatedly highlighted instances where Panchayats have discriminated against the marginalized while providing work: they have not been provided information and have not been included in the planning process.

Other forms of exclusion have also bedeviled the Act. These include delay in providing job cards to the marginalized, lower wage rates for them and delays in paying them wages. Women's participation has been hobbled by inadequate work place facilities.

A large number of studies have shown how Panchayats become the locus of powerful and dominant groups. These studies show how dalits, tribals and women are actively discriminated, how their participation in Panchayats have been rendered meaningless and how developmental goods and services have been appropriated by those at the helm of decision making.

Both CAG and MoRD point out the following shortcomings in the implementation of the Act.

- Gram Sabhas are held infrequently
- There is low participation at Gram Sabha for selection and prioritization of works
- Sometimes work selection is not done according to the priorities or demand of the Gram Sabhas
- Thirty one per cent in Gram Sabha plans in 11 States and in 01 UT were either not prepared or were incomplete
- Mandatory 2nd October Gram Sabha meetings were not held in certain districts in Karnataka, Punjab and West Bengal. This has implication

1 Ministry of Rural Development, GOI, Sameeksha, 2006-2012

2 Comptroller and Auditor General, Performance Audit of MNREGA, 2007-2012

3 www.nrega.nic.in

4 PACS Draft Report 2013

for identification of work that becomes part of the annual plan.

The decision making space of the Panchayats thus need constant supervision. Collaboration with civil society organizations working at grassroots level can help resolve some of these issues.

There is another aspect that requires attention. Given the unprecedented nature of skills that implementation of MNREGA requires, it will not be wrong to assume that many Panchayats still lack technical abilities. Hence, there should be periodic assessment of technical needs of Panchayats and they should be supported with trained human resources.

ISSUES OF ACCOUNTABILITY

Both media and civil society have reported financial corruption in the implementation of the Act. PACS has found incidents of tampering of job cards, muster rolls and irregularities in wage payment during its social audit campaigns. In many cases, there has been resistance to social audit processes. Sometimes those conducting such audits have been threatened with physical violence.

In the absence of a rigorous monitoring system,

issues of accountability are not addressed. A CAG report reveals that—

- Excess administrative expenses other than what the Act prescribes, for example, in office renovation, purchase of jeep, payment of telephone bills, etc.
- Rs 128.23 crore is suspected to have been misappropriated as no supporting vouchers are available.
- A total of Rs 21.78 crore is suspected to have misappropriated in 794 cases because there are no records or the work features twice or materials have been purchased after the completion of the work, or, as in some cases, there is no physical evidence of work done.

The report further points out the weakness of the monitoring system. Despite statutory provision of central evaluation and monitoring, council members have made only 12 field visits to 6 states since the inception of NREGS in 2006. Social audit by citizens is a necessary step towards ensuring accountability and needs strengthening. But ensuring accountability in governance also requires sound monitoring at higher levels.

RECOMMENDATIONS

- Since lack of information and awareness at the village level frustrate the rights-based approach of the Act, it becomes imperative to equip people—especially the marginalized—with such information.
 - Gram Panchayats should be provided the technical and human resource support they need so that they can play their role in planning and implementing the Act.
 - Inclusive practices must be evolved at the Panchayat level so that excluded communities can participate in Gram Sabha meetings
 - Special attention needs to be provided to vulnerable pockets where MNREGA work appears to be the only possible source of employment and income—such as those with high migration or acute landlessness.
 - There should be vigilance and monitoring at each level of governance to check myriad forms of corruption.
 - The challenge of resistance to social audits, including threats of physical violence from the powerful, must be confronted.
 - The new guidelines allowing development of assets such as irrigation facilities, horticulture plantation and land development on private land of small and marginal farmers (earlier asset development was confined to private land of SCs and STs) have been criticized by civil society leaders. They are apprehensive of manipulation and hijacking of such provisions by powerful farmers. This aspect needs careful scrutiny.
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UPA I & II on Land and Forest Rights



CHURCH'S AUXILIARY FOR SOCIAL ACTION (CASA)

The UPA came to power with a mandate of providing corruption-free, transparent and accountable government. Operating within the ambit of the liberalized economy, the alliance's Common Minimum Program (CMP) stressed on social justice, inclusive growth and development.

FOREST RIGHTS ACT 2006

Popularly called FRA, the Act recognized the need to rectify the 'historical injustice' to tribal communities. The Act was a response to a long drawn struggle by tribal communities who had the solidarity of civil society groups both in and out of policy corridors. This Act provides Tribal and non-Tribal communities rights to lands within forests provided they can 'establish claims' of having resided for 75 years or three generations.

Situation on Ground

The implementation of the Act has started in some states and union territories. Several states, including Goa, Tamilnadu, Jharkhand, Himachal Pradesh, Uttarakhand and Karnataka have begun the process on paper but are proceeding slowly. In Himachal Pradesh and Gujarat, implementation has started only in Scheduled and Tribal Areas. Imposition of coercive penalties has come down to an extent. Joint pattas have been given to women. But forest departments are not allowing development on land where pattas have been issued. This militates against the purpose of the act.

The North-Eastern States, other than Assam and Tripura, are not implementing the Act. As per the information available till 30th September, 2013, 35, 39,793 claims have been filed and 14, 06,971 titles have been distributed. Further, 18, 299 titles were ready for distribution. 30, 78,483 claims have been disposed of (86.96 per cent) and 16, 71,512 claims have been rejected.¹ A civil society review noted that, " When people raise question on FRA,

¹ <http://www.fra.org.in/new/document/Statewise%20FRA%20Implementation%20Status%20up%20to%2030th%20Sept%202013.pdf>

the bureaucrats say, 'what has to be done is done.''' Civil society reviews have also noted that forest communities find it difficult to prove evidence of residence for 75 years. The reviews also highlight several instances where claims of people from forest dwelling communities have not been recognized in spite of having provided the required evidence. Other reviews have shown that forest department officials in Madhya Pradesh have little knowledge of the rights of the Kol, Sahariya, Musahar and Gond communities.

The government has also queered the pitch for FRA with pieces of legislation such as the Wildlife Protection Act, which contradict FRA 2006.

In Rajasthan, the Rajasthan Forest (Amendment) Act 2012 does not allow FRA to function properly. Forest evictions and repression have by no means stopped after FRA came into effect. Instead more and more forest areas are being cordoned off as sanctuaries and eco-sensitive zones.

Besides the implementers are not able to understand the basic difference between community rights, such as those over forests, and trying to satisfy people with social security provisions like creating aangawadi centres. They assume that social security provisions are good substitutes for community rights.

Forest committees have either been formed only on paper or are not functioning. Disputes between revenue and forest departments have not been addressed in turn, depriving communities from claiming their legitimate rights

Tiger habitat proposal of building corridors are in process in areas in and around in states like Rajasthan.

Major issues of concern include:

1. At place, forest department officials have little understanding of the intricacies of the Act.
2. Problems in establishing claim due to technicalities pertaining to nature of claims .
3. Forest Rights Committees, one of the requirements of the Act, are either not functioning or have been formed only on paper.
4. Disputes between the Revenue and Forest departments have not been addressed or re-

solved, which, in turn, deprive communities for claiming their legitimate rights.

5. Conflict between administrative rules and procedures of Central and State governments.
6. No clarity on rights over Minor Forest Produce.
7. Community claims on land, one of the lynchpins, of tribal society are not recognized

LAND RIGHTS

In recent years the government has come up with various laws and acts pertaining to land rights. The Land Acquisition Act 2013 will come into effect on January 1, 2014. The government has proposed a Land Reform Policy, which, on paper, has all requisites of a good program. Yet, the near total failure of previous efforts at land reforms in India leave enough scope for skepticism.²

Situation on Ground

The new Land Acquisition Act demands that private developers take consent of 80 per cent of people in the area they are acquiring. But no such consent is required for PSUs. According to official estimates, 90 per cent of India's coal reserves are located in adivasi areas, as are 50 per cent of other key minerals and prospective dam sites. So the fear of governments and elites deploying the "national interest" argument to jettison adivasi interests for such projects is not unfounded.

It is also feared that rich and powerful landlords will buy either land for land or get cash compensation for their tracts. It is feared that they will crowd out the poor and.³

It is also feared that rich and powerful landlords will buy either land for land or get cash compensation for their tracts. It is feared that they will crowd out the poor and marginalized. The Act does states that as far as possible land will not be acquired in the scheduled areas. But it does not make any reference to adivasis living in areas still not covered by the Fifth Schedule—an estimated 50-70 per cent of the adivasi population, according to the National Advisory Council.

2 http://www.epw.in/system/files/pdf/2013_48/35/Reviving_Land_Reforms.pdf

3 <http://www.epw.in/web-exclusives/adivasis-and-new-land-acquisition-act.html>

RECOMMENDATIONS

- Government should be educated about the intricacies of the Forest Rights Act.
 - Community rights over forests and forest produce should be recognized.
 - There should be a proper database of the patta (land titles).
 - Gram Sabhas should be empowered.
 - Government must circulate information amongst forest dwellers about their right to collect Non-Timber Forest Produce.
 - Landless women farmers are not capable to purchase land for agriculture purpose or any other activity. They should be facilitated economically and socially.
 - There should be a system in place for approval of claims related to forest rights.
 - Compensation under the Land Acquisition Act should take into account the fertility of land.
 - There must be strong legal action against displacement in Fifth Schedule Areas.
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Climate change

CLIMATE ACTION NETWORK SOUTH ASIA (Cansa) & HARSHITA BISHT

In recent times, climate change is being seen as amongst the biggest threats to economic development. With the rise in pitch of climate change debate worldwide, the intensity of India's engagement on the issue has increased both nationally and internationally. The past ten years have seen some very important developments in shaping the country's climate change agenda.

POLICIES AND PROGRAMMES

India has initiated several adaptation and mitigation measures, steering economic development on a climate-friendly path, realigning current investments and committing additional resources to climate imperatives. In order to fulfill the country's obligation to the UN Framework Convention on Climate Change (UNFCCC), the government submitted its first National Communication (NATCOM) to the Convention on June, 2004. NATCOM is an important knowledge repository that addresses critical climate change issues at a national level, and has potential to attract financial resources to support the implementation of the Convention.

The country submitted its second National Communication to UNFCCC in 2012.

It aimed to understand issues related to climate change, assess its impacts and create general awareness about the government's efforts in addressing the challenge.

In 2008, the launch of India's National Action Plan on Climate Change (NAPCC) set the stage for eight national missions that focus on promoting understanding of climate change adaptation and mitigation, energy efficiency and natural resource conservation. These missions also emphasize a sync between climate change imperatives and the country's development agenda. They have been followed up with state level action plans.

The State Action Plans on Climate Change (SAPCC) have opened new gateways for studying climate change at regional levels in the country. However, many of these are in a state of flux and are not backed by adequate climate science research and investments.



Some of their shortcomings are:

- The plans have been developed through a very non-participatory mode. Civil societies and other non-state actors have been involved only at the last stage of the plans.
- The financial allocations are yet to be defined by the central ministries
- It is not clear how the role of state-level plans will fit in the current institutional structure of the central-state relations and actions.

Since the energy sector emits most CO₂ emissions, special emphasis has been given to a regime change in this sector with increasing focus on renewable energy. Some of the programs in this respect are the National Solar Mission, National Mission on Enhanced Energy Efficiency, National Mission for a Green India, Integrated Energy Policy and Urban Transportation Policy. The Bureau of Energy Efficiency (BEE), Ministry of Power has launched Perform Achieve Trade (PAT), a market-mechanism that aims to reduce energy consumption in industries through trade in Energy Saving Certificates.

About 700 most energy intensive units in the country accounting for more than 50 per cent of fossil fuels used in the country have been targeted to reduce CO₂ emissions by 25 million tons per year by 2014-15. Units that achieve savings in excess of their target are provided with Energy Savings Certificates. Units that underperform can buy these certificates. The National Mission on Enhanced Energy Efficiency aims to save almost 17,000 MW of energy by 2017 through this mechanism.

India's Central regulatory Electricity Commission (CERC) has introduced Renewable Purchase Obligations (RPO), which enjoins distribution companies to procure a certain percentage of electricity from renewable energy sources. RPO policy, devised under the National Action Plan on Climate Change (NAPCC), targeted to produce 5 per cent green electricity in 2009, 7 per cent in 2012 and 15 per cent by 2020.

However, according to the Greenpeace and Infraline report "Powering Ahead on Renewables: Leaders and Laggards", 22 of 29 states failed to meet their Renewable Purchase Obligation (RPO) targets in 2012. This meant a loss of more than 25 per cent

electricity that was expected to be generated from renewable energy sources in 2012. The lack of complimentary policies for creating an enabling environment for the renewable energy sector has hobbled the growth of component manufactures in this sector. For example, the government's tariff policies in solar PV manufacturing have rendered the sector non-competitive vis-a-vis its Chinese imports.

INSTITUTIONAL & REGULATORY FRAMEWORK

The Prime Minister's Council on Climate Change was constituted in 2007. The council that has representatives from both government and non-government institutions has been mandated to guide the country's negotiators in international climate change conventions. It has also been entrusted to review the implementation of eight national missions of NAPCC.

In 2009 Ministry of Environment & Forests (MoEF) launched the Indian Network of Climate Change Assessment (INCCA) to bridge gaps in climate change research in the country. A National Institute of Himalayan Glaciology is being set up in Dehradun to undertake cutting-edge research on the Himalayan glaciers.

In order to reduce its emissions as per the country's global commitments, the government has established an 'Expert Group on Low Carbon Strategies for Inclusive Growth' under the Planning Commission. The interim report released by the group in 2011 has questioned the absence of an overreaching framework for low carbon "inclusive" growth.

The government's initiatives have also suffered because different players such as civil society actors, communicators, media personnel and bottom level planners and government officials have not been thoroughly engaged in the planning process.

GLOBAL NEGOTIATIONS & AGREEMENTS

Under the UNFCCC, developing countries, such as India do not have binding Green House Gas (GHG) mitigation commitments. However, fast paced development and economic growth has meant that India's emissions increased 65 per cent between

1990 and 2005 and are projected to grow another 70 per cent by 2020.

India's stand in international climate change has traditionally been in accordance with the principles of equity and common, but differentiated responsibilities and respective capabilities as enshrined in the UNFCCC. At the 2009 UNFCC convention in Copenhagen, the country signed an agreement to form the BASIC group (a cabal comprising Brazil, India, South Africa and China). Since then position of India in global climate change debates has changed considerably. At Copenhagen, the Prime Minister signed a Major Economies Forum (MEF) political commitment to keep warming below 2° C.

The government also pledged to reduce the emission intensity of its economy by 20-25 per cent from 2005 levels by 2020. At the UN climate negotiations, however, India has maintains:

- No legally binding emission cuts (therefore still in keeping with Kyoto and UNFCCC requirements)

- No 'peaking' year for emission levels
- No international monitoring and review of voluntary domestic actions

BUDGET & FINANCE

The 12th Five Year Plan stresses on higher growth as well as inclusive and sustainable development. However, the Union of Ministry of Environment and Forests's budget for 2013-2014 remains Rs 2,430 crore, the same as the budget of the previous financial year. The outlay is barely 0.35 per cent of the total Central plan outlay.

The government set up the Clean Energy Fund in the Financial Bill 2010-2011. It will impose a cess of Rs 50 on every tonne of coal to invest in entrepreneurial ventures and research in clean energy technologies. The government expects to collect Rs 10,000 crore under the NCEF by 2015.

RECOMMENDATIONS

- Demystifying concepts of climate change.
 - Climate resilient development needs to be co-terminus with the planning cycle.
 - The vulnerabilities of climate change differ with different ecological regions, agro climatic zones, human development indices, livelihood source and other such factors. So strategies decided at national and sectoral level have to be shaped at the sub national level. Hence, bottom up planning approach is of utmost important.
 - Lack of coordination between different agencies has India failed take a proactive role at the negotiations. The country's negotiators need to take well thought out stand. So a think tank of climate change research should be in place.
 - International financial and technology should be channeled to state and the local governments.
 - Involve the civil society in framing policies on climate change.
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Access to Justice

NUPUR, CENTRE FOR SOCIAL JUSTICE &
ADITI GUPTA, GUJARAT NATIONAL LAW UNIVERSITY

It is well known that an efficient legal and judicial system not just reinforces the confidence of people in rule of law but also promotes basic human rights and enhances accountability and democratic governance. Legal Empowerment, thus, promotes participatory approach to development and has the potential to strengthen democratic governance and accountability.

In the UPA's agenda, however, the link between poverty eradication and access to justice has never been recognized. The Prime Minister, while reviewing the performance of the government, has recognized the importance of achieving targets in agriculture, rural development and economic security, but he has never mentioned access to justice. Access to justice is not one of the six pillars of governance mentioned in the UPA's Common Minimum Program of 2004. The program does mention judicial reforms but is one of the components of larger that is clubbed under administrative reforms initiatives.

POLICIES AND PIECES OF LEGISLATION

The UPA report for the period between 2004 and 2006, lists the initiation of a series of steps to revamp the criminal justice system, strengthen the prosecution machinery and to streamline and improve trial procedures as one of the government's achievements. Prohibiting the arrest of women after sun set and requiring police to give information about the arrest of a person to family, releasing a person on personal bond seem noteworthy reforms. But a closer scrutiny yields that law and procedure mandated these practices well before the UPA assumed office. Therefore, it is not clear if these reforms should be counted as an achievement.

GROUND REALITIES

The government passed a remarkable number of landmark legislations concerning rights of the vulnerable. However, a close analysis reveals the problems in the way they were conceptualized and in the way they have been implemented.



This is one reason why they have not achieved the desired results.

During its first term, the UPA government spoke of Gram Nayalayas (village courts) as an agency to reduce pending cases and for strengthening accountability mechanisms. However, not much was done on this. It was only in 2009 that **The National Mission for Justice Delivery and Legal Reforms** was approved. The mission was operationalized in 2011.

Both the 2009 vision document of NMJDLR and subsequent reports of UPA neglected the issue of access to justice. The report of the **Working Group Of Department of Justice for the 12th Five Year Plan** did recognize access to justice as major challenge. It constituted a special task force to study the challenges for ensuring access to justice to vulnerable communities. But the document shows a lack of understanding of the systemic bias against the vulnerable. There is an overemphasis in the report on increasing infrastructural facilities.

Rs 701.08 crore were allocated under the Development of infrastructure facilities for judiciary under CSS scheme. Rs 740 crore was allocated Under the Computerization of District and Subordinate Courts in the 11th plan; the 12th plan allocates Rs 390 crore for the same purpose. In contrast only Rs 1.64 crore was allocated under the head, **Access to Justice for the Marginalized**.

The limited vision that the state has on the issue of free legal aid is not just demonstrated by the minuscule allocation, but also how narrowly the scope of the State Legal Service Authority is viewed. In a memo 'F.No 32 (30) FCD/2010' issued by ministry of finance, the next tranche of money allocated for legal aid is to be released only if the state shows a decline in the number of under-trials. This is despite the fact that the intended list of beneficiaries under Legal Services is much larger.

In an effort to dispose off cases, there is a huge thrust on alternate dispute resolution mechanisms . Lok Adalats are one such form. Unfortunately, these well intended bodies have been reduced to forum for administrative disposal of cases . If and when, an effort to actually conciliate between two parties is attempted, it is often against the interest of justice. In a recent much acclaimed by a judge in Madhya

Pradesh, popularly known as Samjhauta express, a strange negotiation between the errant husband and his two wifes was arrived at. As per the Lok adalat arrangement, the two wives would stay in two separate room in the same house with the husband occupying the middle room and spending 15 days on rotation with each wife. The complete noncompliance with all legal principles that happened in a proceeding presided over by a judge just shows the limitation of these kind of forum

SOME POSITIVE DEVELOPMENTS

There are some positive aspects of the UPA's National Vision for Justice and Delivery and Legal Reforms. It has suggested that the role of court managers include ensuring that all courts meets standards established by High Court on access to justice and legal aid. Another heartening development is the National Judicial Academy draft model, which suggests a nationwide excellence criteria for courts which includes performance on social legislation.

The framework document for Department of Justice for the year 2013-14 is a major breakthrough. One of its objectives deals with facilitating access to justice for the marginalized in project states and developing replicable models for implementation by National Legal Services Authority and State Legal Services Authority. Creating a national grid to ascertain and analyze the exact number of arrears in every court in the country is another positive recommendation. One of the deliverables of the grids is to identify issues pertaining vulnerable peoples' access to justice. The grid was supposed to have submitted a report to the Prime Minister on the aforesaid matter in January 2010. However, there is no information on its progress on this count.

MONITORING BODIES

The setting up of project support units, creating a High level Monitoring Committee and establishing a review commission to ensure proper utilization of funds for the mission are welcome steps. However, in absence of the response to Right to Information (RTI) application about their functioning, one is not clear about their efficacy.

The introduction of paralegal volunteer scheme and Retainer lawyer scheme under the National Legal Services Authority Act are welcome steps because they provide for a structure to translate the Act's vision into practice.

A special purpose vehicle has been created to operationalize the National Mission for Justice. It is a society fully funded by central Government. The agency is expected to bring about attitudinal changes amongst people towards the judicial system. It is also mandated to create awareness on judicial reforms. The special purpose vehicle is also expected to form partnership and alliances with private sector where ever required.

RECOMMENDATIONS

- There should be a more comprehensive allocation of funds for the purpose.
 - The government must focus more on vulnerability as a challenge in access to justice.
 - The information system must be monitored well.
 - Obsession with pendency of cases and infrastructure development has to give way to understanding systemic factors that lead to denial of access to justice to the poor
 - Understanding of vulnerability human rights and judges role at all levels in ensuring the same has to be part of capacity building efforts of the judiciary
 - Efforts to implement the Gram Nyayalaya Act and bring in the Nyaya Panchayat Act must be initiated as a way to ensure easy access to justice. These bodies should in turn be linked with the other schemes of NALSA
 - Statutory mechanisms must be monitored and there should be periodic review of the needs of all stakeholders.
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JUDICIARY AND RTI

The judicial sector is used to an air of authority. So it's not surprising that the judiciary has not taken well to being subject to RTI. RTI applications filed before the state judicial academies, state legal service authorities, high courts and departments of justice, mostly demanding information under proactive disclosure have been met with cold shoulder. The officials concerned have refused to accept registered post, not responded to first appeals, asked for unreasonably exorbitant charges for photocopies and supplied sketchy information.

Promoting Development Equity and Inclusion for Schedule Caste, Schedule Tribe and Muslim Communities:



ANNIE NAMALA

"What are we having this liberty for? We are having this liberty in order to reform our social system, which is full of inequality, discrimination and other things, which conflict with our fundamental rights."

– Dr B R Ambedkar

The Congress surprised everyone when it defeated the BJP-led National Democratic Alliance (NDA) and returned to power in the 2004 parliamentary elections at the head of a coalition, the United Progressive Alliance (UPA), and by getting re-elected in 2009, something it had not done since 1984. The UPA I&II period from 2004 to 2013 is also the period of the 11th and 12th five year plans (FYP) from 2007-2012 and 2012-2017 respectively. The 11th Plan titled Inclusive Growth and the 12th Plan titled 'Faster, More Inclusive and Sustainable Growth' reflect the government recognising a fundamental problem of the economic growth not translating into better life and well-being for large sections of the population. The 11th FYP stated in a similar vein, '... a major weakness in the economy is that growth is not perceived as being sufficiently inclusive for many groups, specially the scheduled castes, the scheduled tribes and the minorities.... the lack of inclusiveness is borne out by data on several dimensions of performance'.

Dalits, Tribals and Muslim communities, forming about 40% of the population are excluded from 'mainstream' society on the basis of their social or religious identity. Social exclusion defined as 'multidimensional process of progressive social rupture, detaching groups and individuals from social relations and institutions and preventing them from full participation in the normal, normatively prescribed activities of the society in which they live' are applicable in understanding the continued poor status and underdevelopment of these communities.

Such exclusion is also reflected in the low social status accorded to them, stereotypes and prejudices against them, economic exploitation, poor social services and violence against them. The caste hierarchy and untouchability practices lead to exclusion of Dalit communities. The cultural differences, geographical isolation and the exploitation of natural resources for the

'larger common good' underlie the social exclusion and exploitation of tribal communities.

Religious identity, partition narratives and narratives of global terrorism are linked to the social exclusion of Muslim communities. In all cases women from these communities are doubly affected through the complex interplay of their gender and social identity. While Constitutional mandates, legislations, administrative mechanisms, policies and provisions have been promulgated to bring these communities on par with others, exclusion and discrimination are once again reflected in the poor and negligent implementation of these provisions, continuing a vicious cycle of deprivation and inequalities.

UPA I&II: POLICIES AND PROVISIONS FOR EQUITY-INCLUSION OF DALITS, TRIBALS AND MUSLIM COMMUNITIES

UPA I promulgated important legislations and provisions for the benefit of the marginalized and had goals as promoting social harmony, welfare and well being of farmers and all unorganised sector workers, political, educational, economic and legal empowerment of women, full equality of opportunity in education and employment for SC, ST, OBCs and religious minorities. By comparison, UPA-II appears to be unimaginative and moving from one crisis to the other undermining the confidence of the marginalized communities in them. There is a rapid decline in economic growth, a resurgence of inflation hurting the ordinary people, stagnation in industry and infrastructural bottlenecks. Many initiatives during this period have stayed at the stage of initiation itself as the Grievances Redressal Bill (2011), the Whistle Blowers Protection Bill (2011), the SC and ST Development Authorities (Planning, Allocation and Utilization of Financial Resources) Bill 2013 etc.

'Equity-Inclusion' lens provides a relevant frame to review legislations and provisions in terms of how they have promoted the development rights of SC, ST and Muslim communities against social exclusion. One can identify them along three lines;

- Legislations and provisions focused on socially excluded communities alone. They address traditional areas of exclusion and resultant socio-economic disabilities. During the UPA I&II these include setting up the Ministry of Minority Affairs (MMA), Multi-sectoral Development Plans

(MsDP), Prime Minister's 15 point programme and Nai Roshini scheme for Muslim communities. The Forest Rights Act, 2006 and the Panchayati Raj Extension to Scheduled Areas (PESA) are important developments for Tribal communities. Scholarships for children, rehabilitation schemes and The Prohibition of Manual Scavenging Act, 2013 are important ones for Dalit communities. The Rajiv Gandhi fellowship for SC, ST students in higher education is also of significance.

- Legislations and provisions which are universal and applicable to all communities and which have special provisions for SC, ST or Muslims. They recognise the special disabilities of social exclusion and discrimination towards these communities and try to mitigate them and promote some level playing fields. The MGNREGA (2005), the Right to Education Act (2009), Kasturba Gandhi Balika Vidyalaya scheme (2004), National Skill Development Policy (2009), National Rural Livelihood Mission (2011), Public Procurement Policy of MSME (2012) are important.
- Legislations and provisions that are universal in nature and do not have any specific provision to address the exclusion or deprivations of these communities. The underlying rationale being that they will ensure people across all categories are covered. These programmes include the MSME Development Act (2006), NRHM (2005), RSBY (2008), Rashtriya Krishi Vikas Yojana, the Companies Act (2013) to name a few.

An important dimension in all these legislations and provisions is how they are implemented and how much their implementation contributed reducing the exclusion of these communities and to their development.

SITUATION ON THE GROUND

Persisting Development Inequalities and Violence

The development inequalities of these communities when compared to national averages and/or dominant communities are evident in national data sets. The poverty headcount ratio among the rural SC and ST population in India is found to be 42 and 43 percent, respectively, while the national average is 33.8 percent. The unemployment rate by

current daily status among SC and ST is 11.9 and 7.5, for other groups it is 8.4 in 2007-8. The literacy rate among rural SCs and STs is found to be 60.05 percent and 58.88 percent, for other group it was 76.9 percent. As much as 58.3 percent of SC women had anemia, while the number for ST women was 68.5 percent when compared with the national average 51 percent. Infant mortality among SCs and STs are 66 and 62 out 1,000, while the national average is 48.9. The coverage of Households with Pucca houses in SCs and STs were found to be 38 and 39 percent, whereas the national average was 66 percent in 2008- 09.

Muslims constitute 13.4% of India's population (Census 2001). Poverty indicators (2004-05) show that about 12.4 percent of the Muslims in rural areas and 27.9 percent in urban areas fall below the poverty line. The infant mortality rate (IMR) found to be around 52.4 percent and under-five mortality rate as high as 82.7 percent in 2005-06. Besides, around 29 percent of children (aged 6 to 17 years) reported to be out-of-school were from the Muslim community, which is much higher than the figures for other religious groups in the country. In the year 2008-09, only 67.5 percent of Muslim households had access to electricity for domestic use compared with much higher rates for other groups.

Violence and security concerns present another dimension of the continued social exclusion against these communities. The National Human Right Commission reported that 18 Dalit students committed suicide during the last four years in premier educational institutions of the country. According to the National Crime Records Bureau (NCRB) data, the total number of registered crimes committed against SCs is increasing being an average 33,594 every year. The Times of India reported that in the past eight years there have been nearly a thousand communal incidents across the country, with over 960 dead and over 18,000 injured. Left wing extremism and violence in the north east and central parts of the country is particularly of concern to the Tribal communities.

Shortfalls and Civil Society Interventions

Poor implementation and neglect is evident in all programmes focused on the excluded communities – be they directly addressing their exclusion or additional provisions for them within universal provi-

sions. The following examples touch upon a few areas where civil society organizations are putting in considerable efforts.

Gaps in Addressing Discrimination

A critical gap in most legislations and provisions is their failure to address discrimination against these communities in its statement of intent as well as in implementation. Even when discrimination is recognized, for the first time, as in the Right to Education Act, 2009 there is little understanding about it and mechanisms to address them are not put in place. Knowledge among policy makers and administrators about issues of discrimination and resultant negative impact on rights and development is limited to say the least. Hence, many policies and provisions fail to be implemented or fail to have the potential impact. Civil society organisations have been highlighting these through studies, field interventions and in their advocacy at national and international levels.

Shortfalls in Budget Allocation and Implementation

Civil society organisations have begun to track budget as important component in tracking development/non-development for these communities. A review of the Ministry of Minority Affairs (MMA) shows that while budgetary allocation has steadily increased from Rs. Cr. 143 cr. to Rs. Cr. 3,531 during 2006-07 to 2013-14, there has been a reduction in the physical and financial achievements of all programmes under the PM's 15 point programme, the exception being education scholarships which increased from 74,370 in 2007 to over 7 million in 2013. In a further case, in 2012-13, the Finance Minister allocated Rs. Cr. 100 under Grants-in-Aid to Maulana Azad Education Foundation, but only Rs. 1 lakh was released during the financial year.

The Scheduled Caste Sub Plan (SCSP) and Tribal Sub Plans (TSP) are important provisions envisaged for reducing the development inequalities between SC, ST and general communities. The Ministry of HRD allocates 30% of the total central government allocations under SCSP and TSP. A review of the SCSP and TSP in the MHRD for the year 2012-13 showed that direct benefit to the two communities from these is negligible, the bulk of money being spent under capital assets or grants in aid. Out of

Rs. Cr. 9194 allocated under the school education, only 1% went direct to the communities in terms of scholarships. In the dept. of higher education, of the Rs. Cr. 2319 allocated 2% went to scholarships. The National Scheduled Tribes Finance and Development Corporation allocated Rs. Cr. 260 for generating self employment and up gradation of skill for tribal youth in the 11th FYP. No expenditure was made during annual plans of 2007-08 and 2009-10 and outlay of Rs. Cr. 70.00 was allocated for 2011-12. Although a target of about 7.56 lakh STs were envisaged to be benefitted through NSTFDC during eleventh plan, only 3.88 lakh could be covered.

Shortfall in other important provisions

Various other important provisions for development and social inclusion of SC and ST communities are likewise languishing in its implementation. Civil society organizations' reports through various public hearings and social audits report high levels of mismanagement, non-payment to workers, payment to non-workers, delayed payments and lack of basic facilities for women workers in work sites. Rapid migration to urban areas also points to the failure of the government to provide enough employment opportunities for the poor.

Despite the importance of the Forest Rights Act (FRA), many states are yet to prepare the rules for implementation. Claims are not settled for long, joint verifications are not done and standardized pieces of land from 0.5 to 3 acres are given even when the claims are as much as 7-8 acres. Importantly common lands are not being sanctioned.

Claims of other forest dwellers are not being processed in many places.

Thus, despite legislations and provisions neglect and non-implementation acts against the development of these communities. Conscious and default barriers are laid out before them making it even more difficult for them to access development and rights. Adequate thought and support is not put in place, mechanisms and personnel are not in place, rules and budgets are not in place and there is no mechanism to facilitate people's participation and decision making, compromising their development rights.

Social exclusion and discrimination against Dalits, Tribals and Muslim communities are today acknowledged reasons for the continuing deprivation and development inequalities between them and other communities. The UPA I had taken important steps to address them which was articulated in their manifesto and further translated through legislations, policies and provisions. The UPA II in comparison has not been effective in carrying forward the earlier gains or bringing new visions and hopes. It is important to use an equity-inclusion lens in analysing policies-provisions to assess how relevant they are in addressing the barriers faced by these communities and promoting their inclusion and development. Provisions addressing them directly have greater clarity and benefit, while requiring better dissemination to the community itself and public education to bring consensus among the larger society. However, a central gap in these policies-provisions is implementation bottlenecks over a range of factors.

RECOMMENDATIONS

Accountable governance mechanism with transparency with adequate monitoring and grievance redress mechanisms are important to address the social exclusion of these communities and promote equity and inclusion.

Some important measures in this direction include:

- A National Action Plan (NAP) to be developed and implemented without further delays, giving immediate priority to design, develop and implement a NAP to eliminate all forms of discrimination, including caste, ethnicity, religion and gender and disability based discrimination to name a few.
- SCSP and TSP should be legislated for better implementation and SC and ST community members should be engaged in its planning, implementation and monitoring.

- Budget to Ministry of Minority Affairs and other such focused efforts to address exclusion of Muslim communities should be allocated on priority basis and utilized in keeping with community needs and aspirations, with mechanisms to ensure their engagement.
 - A nodal officer at the level of Joint Secretary should be responsible in all departments of the central and state governments to ensure budgets and programme allocation and implementation.
 - The GOI should extend disaggregated data to caste and gender, religion, status and region at all levels to track development progress of socially excluded groups and ensure effective policy formulation and programme implementation.
 - Particular focus for more vulnerable subgroups, women, children and persons with disability should be ensured in all policy, planning, budget allocation and programme implementation.
 - Social Audits with a lens on non-discrimination, equity and inclusion should be institutionalized in all programme implementation.
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Minority Rights: UPA I & II from the lens of Secularism



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Two years before the UPA-I assumed power, the country witnessed one of the worst communal-pogroms: the Gujarat Carnage of 2002. The general feeling amongst the minorities was of fear, disillusionment and lack of trust in the government. In such a situation, the alliance's election campaign was centred on its commitment to secularism.

The National Common Minimum Program (CMP) spelt out the alliance's principles. It committed to "to preserve, protect and promote social harmony and to enforce the law without fear or favour to deal with all obscurantist and fundamentalist elements who seek to disturb social amity and peace" (CMP 2004). The major promises were outlined on four major axes 1) educational and economic empowerment, 2) access to public services, 3) strengthening of minority institutions and area development."

The paper will critically examine the ruling party's work in its two terms with respect to minority rights. The analysis is based on what was promised in the CMP 2004, and various initiatives taken during the two terms of UPA . The analysis is supplemented by work done by civil society organizations at the grass-root level examining the implementation of the promises. It ends with proposing recommendations based on the shortfalls and work done by civil society to ensure better implementation of existing schemes and to uphold basic rights of the minority community.

PROMISES

1. Expand credit facilities for small-scale industry and self-employment.
2. Reverse trends of communalism in education that had set in the past five years.
3. Implementation of the Places of Worship (Special Provision) Act 1992.
4. While awaiting the verdict on the destruction of the Babri Masjid, the government would encourage the disputing parties to reach an amicable settlement.

¹ Contributions from Gauhar Raza, Jawed A. Khan & Jigna Sangadi

5. Comprehensive law to deal with communal violence.
6. Establish Commission for Minority Education that will provide direct affiliation of minority professional institutions to central universities.
7. Promote modern and technical education among all minority communities with systemic attention to education and employment.
8. Establish a commission to develop an agenda for welfare of the socially and economically backward sections among religious minorities.
9. Adequate funds provided to National Minorities Development Comission
10. Constitutional status to Minorities Commission.

Many of these promises were realized in the first two years of UPA-I, while many others were implemented when UPA-II came to power. But no common minimum plan was put forth during the UPA's second term and there were no new programs for the benefit of minorities during this term.

FRAME OF ANALYSIS OF LAW, POLICY AND PROVISIONS

For the purpose of our analysis, it is important to define the lens with which minority rights are being understood. By secularism, we mean a tenet enshrined in the preamble of the Constitution, i.e., the state does not have an official religion. It does not translates as a) either the state not recognising the importance of religion in he lives of people or b) the State not patronising or upholding a particular religion/ religious practice over the other. In a democratic-secular state, minority rights—the de-jure and de-facto access of rights and services by a group marginalized and discriminated against because of the religion they follow—are a critical democratic principle. The state ensures that its various endeavours brings the minority at par with the majority. Such an understanding of secularism recognizes that minority communities have suffered socio-economically by virtue of being a minority

In 2005, the PM commissioned a committee under former Chief Justice of the Delhi High Court, Rajinder Sachar, to prepare a report on the socio-economic-educational conditions of Muslims of India. The report highlighted the marginal status of Muslims in the country and stressed their inclu-

sion in implementation of policy and schemes. The government accepted the 76 recommendations proposed by the commission. The responsibility of implementing and anchoring work related to minority communities was entrusted to the Ministry of Minority Affairs set up in 2006. The report also formed the basis for flagship programs, especially the Prime Minister's 15 Point Program and Multi-Sectoral Development Plan (MSDP) started for the minority communities.

In the following sections we seek to analyse the work done by the UPA government on the promises as listed above. We analyse:

- Legislations & policies
- Budgets
- Outcomes
- Institutional Mechanisms

PROMISES ADDRESSED & SITUATION ON GROUND-15 POINT PROGRAM

The program aimed to ensure that the benefits of various Government Schemes for the underprivileged reach the disadvantaged sections of the minority communities. The program was targeted at districts where at least 25% of the total population belongs to minority communities. The program had four vital concerns- 1) education, 2) employment & skill development, 3) improving living conditions and d) security among Muslims by bringing them within the ambit of select flagship schemes and interventions.²

BUDGET

The budgetary allocation for the projects at the end of the 11th plan highlight gaps in fund allocation, utilisation of funds and program implementation specific to the minorities. Analysis of the 11th five-year plan highlights that concern for minority persists despite the plan making specific provision for minorities. The assessment at end of the plan period points at minuscule proportion of benefits reaching the Muslims community. However, the guidelines of the New 15-Point Programme show that it is not 15 per cent but only a certain percentage of the

² Alam, Javed *Union Budget 2013-14: Unfulfilled Promised for Muslims*. Radiance Views Weekly, March 2013

physical and financial targets will be earmarked for poor beneficiaries from minority communities, which is quite ambiguous in terms of operationalisation of the scheme.³

The guidelines of the New 15-Point Programme show that it is not 15% but only a certain percentage of the physical and financial targets will be earmarked for poor beneficiaries from minority communities, which is quite ambiguous in terms of operationalisation of the scheme.

The status of fund utilisation cannot be captured due non- availability of expenditure data for many schemes. In some cases the states have either not contributed their share towards the scheme or funds are not utilised for the minorities especially in BJP led states. In the programme, no scheme other than Indira Awas Yojana (IAY) reports expenditure data disaggregated on the basis of minorities. With regard to fund utilisation, the average utilisation of funds accounted for 78% of the total outlay for Ministry of Minority Affairs (MoMA) in the 11th Plan period (total tentative plan outlay for MoMA was Rs.8, 690 crore). MoMA shared that poor utilisation is also owing to late start (in 2008-09) in implementation of major schemes such as pre-metric scholarship and Multi Sectoral Development Programme (MSDP) for select Minority Concentration Districts (MCDs).^{4,5}

OUTCOMES

The program targets 12-15 schemes and earmarks 15% outlay for the minorities. On the one hand the program includes schemes such as IAY, SJSRY, and SGSY that are beneficiary driven while others are area approach for infrastructure development. Since the unit of implementation of these programs is a district, rather than minority dominated hamlet or ward, funds are often diverted to districts where minority does not constitute a substantial population. It is here that the program fails to address the needs of the minority community. In the case of IAY, SGSY and SJSRY, Muslims do not benefit because of the non-inclusion of their name in the BPL list. Further Muslims are blocked from opening bank accounts, this hampers their availing of some schemes and denies them access to loans

National Commission for Minority Education Initiative giving minority educational institutions right to seek affiliation with any university of their choice. Maulana Azad Education Foundation's corpus has been increased in 2008 Rs 600 crore. Several thousand Urdu teachers have been appointed. 2180 schools have been constructed under Kasturba Gandhi Balika Vidyalaya Scheme, off which 270 have been constructed in MCDs. One of the most obvious problem is lack of effective targeting. For example, Muslim girls appear to benefit less from targeted intervention such as KGBV, that other marginalized communities. Scholarship money does not reach in time seriously hampering Muslim children's access to education. Further, Muslim youth is discriminated against in jobs.

15% physical and financial outlays have been earmarked for the minorities in the identified schemes. Equity basis of National Minority Development and Finance Corporation augmented from Rs 500 crore to Rs 600 crore. It is further enhanced it by Rs 75 crore in 2008. The 2008 review report claimed that 11.6% of posts in the paramilitary forces were filled by members of minority community.

IMPLEMENTING AUTHORITY:

1. Central Ministries/Departments concerned through State Governments/Union Territories.
2. Each Ministry/Department is to appoint a Nodal Officer, not below the rank of a Joint Secretary to Government of India, for this program.
3. The Ministry of Minority Affairs is the Nodal Ministry for the program.

MULTI SECTORAL DEVELOPMENT PLAN MsDP aims at reaching the government's welfare schemes to the relatively disadvantaged members of minority communities. Using data from the 2001 Census, the scheme identified 90 Minority Concentrated Districts (MCDs). MSDP was allocated 42 per cent of budget of the Ministry of Minority Affairs in the 11th Five Year Plan. But the program's performance has been far from satisfactory. Major activities under this program like construction work under the IAY and creation of health sub-centres have only reached the half-way mark.

However, the very character of the program militated against its efficacy. MsDP was envisaged as an umbrella project to prioritize the developmental

3 Centre for Budget and Governance Accountability, (2012). *Policy Priorities for Development of Muslims in the 11th Plan: An Assessment*. New Delhi.

4 Ibid

5 Centre for Budget and Governance Accountability. *Policy Priorities for Development of Muslims in the 11th Plan: An Assessment*. New Delhi, 2012

needs of the minorities, specifically Muslims, in critical sectors. But by adopting an area development approach, MSDP ended up benefiting the general population in the Minority Concentrated Districts.

BUDGET

MsDP was allocated 42% of the MoMA budget in the 11th Five Year Plan. The performance has been far from satisfactory. Besides inadequate financial outlays from MoMA and under-utilisation of the funds, the physical performance has been very sluggish. Construction of major activities under this program like IAY, health sub-centres have only reached a half-way mark. Biggest constraint in this regard has been delayed submission of detailed projects. Scholarship schemes (Pre and Post Metric and Merit-cum- Means) have fared better in terms of physical targets but not well enough to achieve financial targets as proposed under 11th Five Year Plan.

The focus under MSDP and 15- point programme is primarily on infrastructure development as opposed to livelihood security, skill improvement, creation of employment opportunities, and provision of water supply and quality education. In states like Haryana and Bihar, there is no proper implementation/ institutional mechanisms. The guidelines do not reflect specific provisions to ensure the participation of the community in the planning and implementation process of the provision of services. The community and panchayats have not been given any clear role in the annual district planning and implementation of the PM's 15- Point Programme.⁶

OUTCOME

Although MSDP is implemented in 90 Minority Concentration Districts (MCDs) with substantial minority population, the criteria for identification leaves out a significant proportion of the minorities out of the programme. Only 30 percent of the Muslim population in 90 MCDs are covered through the programme. MSDP was designed as an umbrella programme in order to prioritise the developmental needs of the minorities, specifically Muslims, in critical sectors; however, by adopting an area development approach, the programme ended up benefiting the general populace in MCDs with scant focus on Muslims.

6 Ibid

IMPLEMENTING AUTHORITY:

- District Planning Committee
- State/ UT Level Committee
- Empowerment Committee in the Ministry of Minority Affairs
- Oversight Committee (Centre & State/ UT)

PREVENTION OF COMMUNAL & TARGETED VIOLENCE (ACCESS TO JUSTICE & REPARATIONS) BILL 2011

UPA-I's Common Minimum Program had promised a 'comprehensive law to check communal violence. In 2005, the government tabled a Bill in the parliament, which recommended procedures for 'declaration' of a communally 'disturbed area' and gave extra ordinary powers to the Executive in such an area. The Bill had many loopholes and was rejected. In 2009, the Bill was reintroduced with 59 amendments. These did not, however, change the Bill's architecture.

In 2011, the Sonia Gandhi led National Advisory Council introduced the Prevention of Communal and Targeted Violence (Access to Justice & Reparations) Bill. This Bill incorporated aspects of accountability, justice and reparation. It goes beyond the existing legislation in four significant ways: it recognises identity-based or targeted crimes and organized mass violence as special offences, it holds public officials accountable with varying penalties for dereliction of duty. The Bill is, however, gathering dust. Following the Muzaffarnagar riots a group of civil society activists and members of the National Minorities commission submitted a memorandum to the PM demanding that the Bill be introduced and passed in the winter session.

There have been 40 communal riots in the nine year stints of UPA I and II—the most recent being the one in Muzaffarnagar. Majority of these were rest a result of targeted violence. In the absence of a comprehensive policy document, the state's role in the post-conflict situation has left much to be desired. Families continue to live in relief camps and many of them have not received compensation. There has been a veritable ghettoization of the Muslim community. Muslim youths are harassed by the police and targeted during investigation of episodes of violence or of terrorist activity.

MINISTRY OF MINORITY AFFAIRS

Ministry of Minority Affairs is the Central agency charged with providing leadership to minority programs. But it seems to lack the institutional and political authority, as well as the traction with other ministries and governments to serve its mandate. Its own, less than robust capacity, means that rather than devising schemes and guidelines for need-based interventions for Muslims/minorities, it has taken the easy route of falling back on existing flagship schemes.

In the 2013-14 annual budget the budgetary allocation to MoMA increased to Rs 3, 530 crore, which is a 12% increase in the budgetary allocation.

SHORTFALL

Analysis of programs specifically for minorities reveal constraints on multiple grounds. Some of these have been discussed below:-

POOR PLANNING- One of the major grounds of drawback of government programs was on the grounds of poor planning. The planned program such as 15 point program and MsDP have ridiculously low budgets when seen in comparison with the population size of the minority is highly inadequate. For example, in the 11th five-year plan, fund allocated for the Muslim community was 6% when they comprise of 14% of the total population. The policy-design, norms and guidelines do not adequately address the needs of the minority community. 15 Point-Program and MsDP have been designed as umbrella interventions in line with the existing CSSs without making amendments to the existing guidelines.⁷

INSTITUTIONAL ANCHORING- A key factor in the poor implementation of policies for minorities is the weak ownership of the instruments in Government, making them very vulnerable to failure. Both 15 Point Program and MsDP Programme rely so much on inter-ministerial and centre-state coordination for effective delivery. Minority welfare departments and district offices have only recently been set up, if at all. They have very poor capacity, and very limited mandate and traction with other departments. Systemic weakness at district and block level have led to delay in implementation of programs. Ad-

ditionally there is a lack of programme and scheme information in the public domain.⁸

AWARENESS- Awareness and community engagement at the local level is a serious weakness of minority programmes. There is complete disconnect between minority welfare infrastructure and Muslim civil society, and poor efforts by government to create awareness of schemes and reach out to beneficiary groups/Muslim civil society. Absence of development oriented leadership and poor Muslim representation in decisions making bodies – at state, district and local levels - makes the situation worse. As a result, there is little focused demand making by Muslim groups for better working of schemes and programmes.⁹

EXCLUSION- of minority community (Muslims) and Panchayats from implementation of these existing schemes has been a major block in the implementation of the schemes and policy.

DISCRIMINATION- Muslim youth have been discriminated where employment opportunities are concerned. Further police routinely rounds up Muslim youth in connection with terrorist attacks leading discrimination and further marginalisation.

INITIATIVE BY CSOS TO DEMAND GREATER ACCOUNTABILITY AND RIGHTS

National Foundation for India and Centre for Social Justice, anchor a multi-partner program called Rehnuma, where 10 organisations from across the country have joined hands under the project to ensure minority communities access to entitlement. The Rehnuma program undertook a action-research project in 9 MCDs across the country in 2012. The project was envisioned towards an effective implementation of ESRs for religious minorities using a rights framework. These 9 centres were started in UP, Bihar, West Bengal, Assam, Odisha, Jharkhand, MP, AP and Karnataka. Each of these Centres has been set up following a similar implementation mechanism, consisting of a lawyer and two paralegals. .These centres called the Rehnuma Centres are located both in urban and rural areas. The main purpose of setting up Rehnuma Centers :

⁷ Centre for Budget and Governance Accountability, (2012). *Policy Priorities for Development of Muslims in the 11th Plan: An Assessment*. New Delhi.

⁸ Ibid

⁹ Ibid

- Study the extent, reach and implementation of the Prime Minister's 15 Point Program.
- Provide necessary services to ensure that socio-economic-legal entitlement of the Religious communities are met.
- Bring forth the systemic issues in the access of the services by the minority communities.
- Advocate for effective implementation based on the learnings from the Program.

The project started with conducting a baseline study in each of these districts, which tried to assess the government's response in ensuring the extent to which rights and entitlement of the minority community is being achieved over the last five years. It focused on understanding the work done with respect to 15 Point Program of the PM and MSDP. The study examined the status of implementation of these programs on two axes- awareness and access.

75.62% of the respondents across these 9 MCDs belonged to the BPL category. While only 3.77% and 9.69% belonged to APL and Antodaya respectively. Of which 49.60% of HH lived in katcha houses. 21.45% lived in rented accommodation and 11.58% lived in houses provided under IAY scheme.

The study reveals differential awareness-levels for different schemes. ICDS and SSA were the only two schemes about which there was substantial level of awareness. The awareness levels were lowest with respect to Urban Self Employment Program. 64.37% of the respondents were aware of the ICDS scheme, of which 44.70% were partially aware while a small percentage of 12.61% were fully aware. Only 35.64% of the respondents were not aware of the scheme and its benefits.

Even though awareness levels are high with respect to SSA in comparison to other schemes, the awareness levels are still low on the whole considering a substantial amount of resources are spent and stress is laid on education both by the government and civil society. 50.22% of the respondents were aware of SSA, 22.27% were aware of scholarship and 5.12% were aware of the KGBV scheme. From the study it emerged that there exists high level of unawareness with respect to KGBV scheme, where 94.88% of the respondents did not know about the scheme. Awareness levels were abysmally low when it came

to employment related schemes. The awareness levels were lowest with respect to Urban Self-Employment Scheme (97.99%) and highest with respect to NREGA (55.83%). Only 40.08% of the respondents (HH) were aware of 15% reservation for minorities under IAY. 69.84% of the respondents were not aware of the availability of ITI in MCDs and 98.42% were not aware that the government must set-up an ITI in an MCD district.

In Madhya Pradesh the officer responsible for disbursement of scholarships has utilised the quota earmarked for a year and asked for money allotted to other states be diverted towards MP. While discussing the same, the officer vociferously said that he was against minority specific schemes and applauded the Gujarat government on the same. While he showed conviction in the schemes his biases were evident in his support of scholarship schemes not being available for Muslims.

Access to services under ICDS program shows a high percentage across the various services offered. While 94.45% of HH have got free vaccination for their last born, 43.95% respondents confirmed that ASHA visited their house for post-natal check-up. Access to pre-natal check-up is still very limited. 74.77% respondents said that schools were located within a 1 km distance from their home while only 5.02% respondents said that the school was more than 3 km away. 55.25% of HH had jobs available for 30 to 100 days under NREGA. 79.67% of HH had benefitted IAY.

The study highlighted some major problems in the implementation of the 15 Point Program. Officials across the country were not unclear about the implementation of the schemes and were waiting for official notice to be given to them with respect to the same. The hurdle were procedural formalities and budget allocation. As far as SSA and ICDS were concerned officials did not know there was 15% targeting concerned as far as minorities were concerned. From the study it emerged that monitoring committee was not set-up under 15 Point-Program to look into the implementation at the level of the states. In Bhopal the collector himself, was not aware of existence of such a committee.

The study further highlighted many design defaults. During the study it came out from different parts of the country that Muslim families did not send

their girls to live in hostels to get educated. This was because in many parts Muslim women were not allowed to step-out unaccompanied. As a result claims filed under KGBV are very few. This highlights the fact that schemes were conceptualised wrongly and did not take into account the lived realities of Muslim community. Further, it is against religious sentiments of the Muslim community to take loan consequently the loan applications filed are negligible. Majority of Muslim community are self-employed and NREGA does not take into its fold the specific work done by the community under its mandate leaving them out of the claim. Even though the intention of the program was to encourage and enable access of government schemes to minority community especially the Muslims the faulty design that has not taken into consideration the lived realities of the Muslim community makes it difficult for them to file claims and avail of the services.

The baseline study fed into the work in the 9 MCDs to ensure that minority communities have access to schemes and services available. Further, the centres work towards creating awareness and generating demand for government schemes.

Centre for Equity Studies, Centre for Budgetary Allocation and Governance and Accountability Initiative undertook a study titled '*Promises to Keep*', in the year 2010-2011 to evaluate the 'flagship programs' for the minority development launched

as a response to the *Sachar Committee Report*. The study looked at the following two 'flagship program' of the government:- a) 15 Point Program of the PM and b) Multi-Sectoral Development Plan (MsDP).

These programs were looked in the spheres of 1. Education, 2. Employment Creation and 3. Provisions of Basic Amenities. To examine these on the following three parameters:-

- Adequacy of budgetary allocations
- Design of the scheme **appropriate** to the need of the people
- Its **implementation**
- Lastly, the study put forth recommendations.

The study was conducted in the three MCDs, in Darbhanga in Bihar, South 24 Pargana in West Bengal and Mewat in Haryana.

Centre for Social Justice along with other civil society organisations worked in Assam following the riots to ensure relief and rehabilitation for the effected families. Civil society organisations like oxfam, Ant, NERSWN worked towards providing sanitation and education related assistant to effected families. Muslim Organisations donated clothes. CSJ and *Jamat-e-ulema Hind* worked on getting F.I.R.s filed and worked with the effected families in filing compensation claims.

RECOMMENDATIONS

1. Changes in the PM's New 15 Point Programme

- Expansion of coverage of the 15 Point programme on the lines of SCSP and TSP to include ministries/departments of Micro, Small and Medium Enterprises (MSME), Youth Affairs, Agriculture, Information and Technology, Commerce and Industry, Higher Education, appointment of Urdu Teachers as per RTE Act, 2009, National Child Labor Project, National Social Assistance Programme.
- Over and above the 15 percent earmarking of funds for minorities, this should be done in proportion to the minority population by ministries and departments.
- In 2011-12, the government notified a policy making it mandatory for departments and state-owned firms to source 20 percent of their purchases from small enterprises and a fifth of that to be procured from SC/ST owned firms. A similar policy may be devised for Muslims as well.
- Funds should be kept in a separate budget (minor) head of account. Further, similar to the Statements for Children, Women, SCs and STs, a separate budget statement to be brought out in the Union Budget on schemes related to minorities.

- To assess the impact, data on achievements of the programme on minorities should be reported in a disaggregated manner, i.e. religious group-wise.
- Social audit committees with representation of minority community, NGOs, Panchayats and activists.

2. Changes in Multi Sectoral Development Plan (MSDP)

- Selection of Minority Concentrated Blocks (MCBs) be based on 15 percent of minority population for planning purposes and the unit of implementation be the ward of minority concentrated Gram Panchayats.
- Revision in the guidelines and doing away programmes that top-up existing CSSs in
- 15 Point programme.
- The district plan to include MSDP and PM's New 15 Point programme to ensure
- that need-based interventions are planned.
- Provision of social audit.

3. Universal Access to Scholarships and Other Educational Facilities

- Increasing outlays and simplification of procedures are critical changes.
- Revision in prevalent unit cost of scholarships, norms and eligibility criteria, making them uniform to schemes catering to SC / ST students.
- Appointment of Urdu teachers in schools in Urdu speaking areas as per RTE Act 2009.
- Schools along the lines of Jawahar Navodaya Vidyalaya in every MCB with 50 percent reservation for children from minority community.¹⁰

4. Prevention of Communal Violence & Targeted Violence (Access to Justice and Reparation) 2011

- Passing the Bill in the coming session of the Parliament to ensure that instances of communal and targeted violence don't repeat in future. In the instance that they do, state takes responsibility of ensuring that who suffered during these incidents receives compensation and other necessary attention.
- In the cases of previous instances of violence, to ensure all the F.I.R. Is filled, the victims given the necessary care. Compensation claims are filed so that those who have suffered receive their due from the state.

5. Education

- Those in power, especially the police force, education and sensitisation when dealing with minority communities (especially Muslims).
- Work towards ensuring that Muslim youth are not unlawfully detained.

¹⁰ Ibid

Peace & Human Rights

LEE MACQUEEN PAUL, WITH INPUTS FROM RICHA SINGH
AND RITA MANCHANDA

The UPA government came power with a mandate to ensure social harmony, peace and human security. The alliance's National Common Minimum Program (CMP), in spite of all its shortcomings, provided a reasonably good governance framework to secure human rights.

However, many promises have remained unfulfilled, there have been half hearted attempts at fulfilling others and some promises have even been completely overturned.

Some of **Key Promises** were:

- **On internal security:** The CMP took serious note of the misuse of the Prevention of Terrorism Act (POTA) and declared that the draconian legislation would be repealed. It promised strictest possible action against all individuals and organizations spreading social discord, disturbing social amity and propagating religious bigotry and communal hatred. The government promised to make the National Security Council a professional and effective institution.
- **On defence:** It promised elimination of all delays in the modernization of the armed forces, and effective and early utilization of all funds earmarked for modernization.
- **For Jammu and Kashmir:** The government promised sustained dialogue with all groups, it stressed on a policy that would give a healing touch policy and assured complete assistance in rebuilding social and physical infrastructure. The CMP emphasized its commitment to the letter and spirit of Article 370 of the Constitution, which accords special status to Jammu and Kashmir.
- **For the North Eastern states:** The UPA government stated its determination to tackle terrorism, militancy and insurgency in the northeast, promised special assistance to upgrade and expand infrastructure, and pledged to maintain the territorial integrity of existing states. The North Eastern Council was to be strengthened and given adequate professional support.



The government has been engaging in “peace talks” Nagaland, Assam and other parts of the North East. The Home Minister has, on various occasions, stated that Kashmir is essentially a political issue. There has been a debate within government over the Armed Forces Special Powers Act (AFSPA). The Jeevan Reddy Committee set up by the government called for its repeal, as “it is a symbol of oppression an object of hate and an instrument of high handedness”.

SITUATION ON GROUND

An analysis of ground realities shows that the government has fallen short of fulfilling its promises. A government torn apart by corruption scandals and under pressure from allies has struggled to summon the political will to fulfill its promises.

Jammu and Kashmir

The conflict in Jammu and Kashmir remains a complex one. There has seen growing discontent, pro-independence protests and mass demonstrations on streets. People’s anger has been stirred by killings, atrocities and denial of justice—as in the Ghanderbal and Shopian cases. According to the Association of Parents of the Disappeared (APDP), over 8,000 persons have disappeared since 1990. The State government in 2003 admitted to over 3931 disappearances and in January 2007 to 1017 disappearances, on the floor of the State Assembly.

People’s anger has often burst out on streets such as in June 2010, when there was a series of protests demanding demilitarization and end to human rights abuse by Indian troops. Protestors pelted stones on the police and security forces. The state came down with a heavy hand leaving 112 dead and nearly 3,000 injured. Three thousand protestors were detained.

After the protests, the state announced a number of development schemes – employment task force, electrification schemes and infrastructure. This is consistent with its belief that it can address people’s alienation with development measures, and ignore the heavy militarization and the impunity to the armed forces that lie at the heart of such alienation. In the ‘Report to the People’, for example, ‘peace’ is placed under the section “Addressing Special Development Needs”.

Development is certainly important in a conflict-affected region. But to see ‘peace as development’, means overriding the alienation that lies at the root of the conflict. There cannot be enduring peace when security forces continue to, under the AFSPA, have unrestricted and unaccounted power to shoot, kill, arrest and search, based on mere suspicion, evoking the necessity to “maintain the public order”. (also see box: AFSPA).

The home ministry maintains there has been a steady decline in armed militancy. But has this meant an end in militarization? In fact there has been a massive expansion of the country’s military in the name of internal security, and providing employment to people who had ‘strayed into terrorist activities due to lack of jobs’. Under this plan, 209 battalions of India Reserve Battalions are to be raised to employ 167,000-250,000 persons, with 2-10 battalions to be raised by ‘terrorist’ affected states.

This is over and above the 261 battalion that have been raised, between 1999-2000 to 2004-05, by the central para-military forces. According to the Home Ministry Annual report (2006-2007), the cost of raising one battalion is 25 crores, therefore for 209 battalion Rs 5225 crores.

Village Defence Committees have played a great role in militarization and communalization in Kashmir.

The government’s appointment of three interlocutors to mediate the peace process in Jammu and Kashmir is a welcome measure. However, the process is weakened by the fact that the interlocutors have 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 met a cross-section of people - students, professors and village heads. However, these achievements have been overshadowed by heavy State repression and extra-judicial killings.

North East

The UPA government’s reports note that the situation in the North East has improved. There have been fewer incidents of violence and fewer civilian causalities. There have been “talks” with some of the militant groups from Assam and Meghalaya and

Nagaland. Government reports talk of a number of schemes and development packages for "securing peace" in the North East.

Silence, however, does not mean peace. Nagaland has seen 14 years of cease-fire, but little progress in the peace process. This has led to a growing frustration that can spiral into violence. The 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 have been a positive step. However, the talks in Assam that began in great haste prior to elections in the state needs to be translated into concrete steps for a democratic and just peace process. They need to address some of the genuine grievances of the people that were thrown up during the three-decade long conflict.

The hunger-strike of Irom Sharmila Chanu demanding the repeal of AFSPA has crossed 13 years. Sharmila has been arrested on charges of attempt to commit suicide, is criminalised as a high-security prisoner, and denied access to family, friends, supporters and the media.

In July 2012 violence broke out in the Bodoland Territorial Autonomous Districts (BTAD) area. The immediate trigger was the killing of two Muslim youths, who were shot dead by unidentified gunmen on 6 July. The needle of suspicion pointed to the former cadres of the disbanded Bodo Liberation Tigers (BLT). In retaliation, four former cadres of Bodo Liberation Tigers were hacked to death by a mob in the Muslim dominated village of Joypur near Kokrajhar town. What unfolded after that was the worst humanitarian crisis to have hit Assam in decades.

During the crisis that unfolded in Kokrajhar and Chirang districts of the Bodoland Territorial Autonomous Districts (BTAD) and the adjoining Dhubri and Bongaigaon districts, Assam witnessed the tragedy of nearly 500,000 people belonging to the Bodo and Muslim communities being forced to take shelter in 273 temporary refugee camps. An estimated 300 people have lost their lives and around 500 villages were burnt down. The magnitude of this human tragedy is overwhelming considering the short span

of one month in which it occurred.

To make matters worse, leaders of the Bodo community, large sections of mainstream Assamese society, and a section of the media and the political class took it upon themselves to allege and prove that the responsibility for this human tragedy lies squarely on 'illegal Bangladeshi migrants' (often used as a shorthand for Muslims of Bengali origin in Assam) and that the undifferentiated Muslim masses inhabiting western Assam are 'Bangladeshis'.

Polarization was escalated by irresponsible statements by constitutional authorities and leaders of community organizations. The Election Commissioner of India, Harishankar Brahma, himself a Bodo, made an overzealous attempt to prove that illegal Bangladeshis were behind the violence.

Critics though have noted that rather than raise the bogey of 'illegal Bangladeshis' and putting forth formulaic xenophobic explanations, the violence in BTAD needs to be understood in the context of the politics and the quest for an exclusive and geographically well demarcated ethnic homeland. It is this quest for a territorially contiguous homeland in a complex and demographical diverse reality which lies at the heart of repeated communal violence in the Bodoland area.

From December 4, the 'disturbed' area status will now apply to the entire state of Assam and the 20-km area in the bordering states of Arunachal Pradesh and Meghalaya for one more year, effective December 4, 2013. The Ministry of Home Affairs has cited Maoists as one of the reasons for the appellation, 'disturbed' tag. A notification issued by Joint Secretary (northeast) Shambhu Singh states that a review of law and order in the state indicates that "Maoist presence in Assam and border areas of Arunachal Pradesh has been noticed and hence their activities were noticed in Golaghat, Dhemaji, Lakhimpur and Tinsukia districts of Assam and Nam-sai area of Lohit district in Arunachal Pradesh."

The notification aims at continuing the application of the draconian piece of legislation AFSPA.

North East India is witnessing growing conflict over resources, especially over access to water and hydropower. The potential for hydro-electric power (HEP) generation has made the region

the 'future power house' of India and, as a result, hundreds of small-scale hydro projects have been established over the years. A combination of under-development in the region and a growing demand for electricity throughout the country has led the Government of India to pursue an ad hoc strategy of 'mega-dam' construction. About 168 mega-dams have been planned in Arunachal Pradesh alone; several others in Assam.

However, such a plan has been resisted by the people of the region on the grounds of social and environmental security. Under such a situation, the bogey of Maoism can only obfuscate focus on real problems.

Women

The Government is obligated to include women and gender perspective under the UN Resolution 1325; the 11th Plan document recognizes the special needs and concerns of women in conflict situations, and it holds out the promise of gender mainstreaming. Women and gender concerns are, however, conspicuous by their absence in formal peace negotiations and the government report. 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.

Women are subject to terrible abuses in conflict torn areas. In October 2011, tribal school teacher Soni Sori by Chhattisgarh police for alleged links with Maoists.

After her arrest, Sori was brought to Dantewada jail, where she sustained injuries in custody. This led to frenzied campaigns in the media, among human rights activists and lawyers who called for her immediate release and petitioned the Supreme Court. Activists allege that letters written by Sori describe the torture inflicted upon her by the decorated police officer Ankit Garg. The letters triggered global

outrage. Sori was released on bail after a Supreme Court order of November 15, 2013.

Human rights group Amnesty International and other activists have repeatedly asked the government to investigate a series of mass rapes allegedly committed by Indian soldiers against Kashmiri women more than two decades ago. In late February 1991, as accounts assert, Indian troops raped at least two dozen (or as many as one-hundred) girls and women in the neighboring towns of Kunan and Poshpora in the Kupwara region of Jammu & Kashmir. A Press Council of India investigation lead by B G Verghese exonerated the army. But now there is evidence that allegations against the army are not false. A former chief of the Indian Border Security Force, E.N. Rammohan, who served in Kashmir, told The Hindu: "I am convinced there have been rapes, even if I can't say how many. There has been a massive dereliction of duty by the district police and authorities." In June 2013, a judicial magistrate in Kupwara ordered a new probe "to unravel the identity of those who happened to be the perpetrators of the alleged crime."

Defence: In the name of modernization, the defence budget has steadily grown. In 2004-2005, the biggest allocation went to defence—Rs 77,000 crore, an increase of 27 per cent or Rs 11,700 crore over the Rs 65,300 crore that the previous Vajpayee government had allocated for defence. In 2008-2009, the defence budget was jacked up further, the steepest hike since independence. The government's defence modernization plan has meant that India has placed massive orders for fighter jets, helicopters, cargo planes, more missiles, missile launchers and radars, naval patrol aircraft and artillery, etc, making the country the world's biggest arms buyer. However, according to Rahul Bedi, the New Delhi-based expert of Jane's Defense Weekly, much of this remains 'ad hoc arming' without any long term or strategic planning.

"Whatever comes into the market, India wants to buy," he says. Moreover, delays and irregularities that have often marked defence deals. For instance, 2007 closed with the news that army's proposal to purchase 197 Euro copter Fennec choppers has been shot down due to irregularities in the selection process. But we know little about these irregularities given the lack of transparency, and the secrecy blanket that often accompanies defence deals.

Internal Security: The abolition of POTA was one of the first decisions of the UPA government. As is well known, POTA was grossly misused to target minorities, settle political vendettas, arrest and torture marginalised groups, human rights defenders and activists engaged in movements against land reforms, bonded labour, displacement. It was therefore not surprising that most arrests were made in Jharkhand where poor scheduled castes and tribals were branded as 'Naxals'/'terrorists'. The POTA detainees also include people randomly picked up from Rehmat Nagar in Godhara after the horrific Sabarmati Express tragedy.

However, though POTA was abolished, as many as 400 people continue to languish in jail under the repealed act and several continue to face special trials whose proceedings fail to meet fair trial standards.

In addition, a number of other security legislations quite similar to POTA continue or have been recently enacted at the state level.

If the government's conscience behind abolition of POTA was to correct the violation of people's human and democratic rights, then a reality check shows that it hasn't been true to its conscience. The

last few years have seen widespread use of security legislations by states to facilitate arbitrary detention and torture. For instance, the Chhattisgarh Special Public Security Act 2005, and Unlawful Activities (Prevention) Act (CSPSA) is being 'misused' by the Chhattisgarh government to stifle free speech, legitimate dissent, and to suppress fundamental rights. The state has been using draconian laws, CRPF battalions and IRP battalions to repress questioning voices. Included in the long list of people arbitrarily arrested is that of PUCL (People's Union of Civil Liberties), Vice President Dr. Binayak Sen.

People who fall in the wrong books of the state are often being branded "Maoist sympathizers" and "Naxalites"—quite like the way POTA was 'misused' in many states to hound activists and the poor in the name of combating internal security threat.

The passage of the CSPSA in Chhattisgarh has been accompanied by a governmental sponsored campaign known as Salwa Judum. At least 644 villages have been evacuated by the government and its residents forced to live in subhuman camps. Villagers have been armed, pitting people against each other and triggering a bloody civil war.

AFSPA

The AFSPA facilitates human rights abuses by creating an environment in which they are committed with virtual impunity. In addition to a high level of extrajudicial executions, "disappearances", rapes and torture, for many years there have been consistent reports of civilians being killed in the crossfire of "encounters" between security forces and armed groups; subjected to the use of excessive force during cordon and search operations or shot when mistaken for militants.

In 2005, Manipur saw the naked protest of the women - "Indian Army Come and Rape Us" – sparked off by the rape of Manorma Devi by the Assam Rifles, and culminating in the demand for the withdrawal of the act. Because of this incident, the state government removed the special powers of the armed forces from Imphal but it continues to be in existence in other areas.

After months of protests and bandhs (strikes) in the state of Manipur calling for repeal of the AFSPA, the government appointed a five-member committee headed by former Chief Justice of Allahabad High Court Jeevan Reddy, which recommended the repeal of the act. The Prime Minister promised that the government would consider replacing the Act with more 'humane' laws. The Reddy Committee gave its recommendations to the Minister for Home Affairs on June 6 2005 but they were not to be made public until they had been seen and discussed by the Indian Cabinet. In October 2006, the report was leaked after intense pressure from the Congress' allies in the UPA.

In January 2012, the Supreme Court said that the Armed Forces Special Powers Act –which makes central government's sanction mandatory for prosecution – does not apply to rape and murder. From 2008 to 2011, in the 42 requests for which sanction has been denied 31 cases relate to rape and murder.

RECOMMENDATIONS

- The need for a witness protection programme; special cells to deal with insurgency.
 - The Press Council needs to be given teeth to take action against communalisation of the media.
 - Abolish POTA retroactively. Abolish all anti-people, anti-democratic laws working in the states, like AFSPA.
 - Make the National Integration Council operational and effective.
 - Create a "Foreigner's Tribunal" instead of arbitrary deportation of migrant workers.
 - The Government of India should ratify the UN Convention on Small Arms, the UN Convention against Genocide, and the UN Convention on Refugees.
 - Publish a white paper which evaluates the current communal situation in the country
 - Repeal of all unjust state security legislations and black laws, and instead strengthening the existing law of the land.
 - Serious engagement with peace process in all conflict affected regions, involving various factions, people's and women's groups, and privileging political solutions over military ones.
 - There is an urgency to privilege the political process over military.
-

The Declining Space of Voluntary Sector

VOLUNTARY ACTION NETWORK OF INDIA

In the nine years beginning 2004, the UPA government has engaged with civil society organizations. At the same time, it has also put several fetters on the working of such organizations.

The period has been a challenging one for the civil society with expectations of the community rising and the government pressuring it. The government's norms to regulate the sector have worked to the detriment of a large number of civil voluntary organizations. And at places, the norms have led to voluntary organizations being victimized by local administration.

The government did not make any promises to the Voluntary Sector. The sector had never advocated for itself, but rather raised the issues and concerns pertaining to the community, especially the poor and marginalized. The issues raised by the sector pertaining to health, education, tribal rights, forest, etc. have been taken up by the government in its election manifesto and hence programs were designed to address these issues.

SITUATION ON GROUND

Positive Trends

In May 2007, when the union cabinet formulated the **National Policy on Voluntary Sector**, it was seen as an evidence of the government's seriousness to strengthen its relation with the sector. But such hopes were belied. In its various attempts to disseminate information about the policy, the Voluntary Action Network of India realized that many senior officials of the government refused to accept that the policy document was a deed that had to be implemented. The voluntary sector is now looking for the approval of the policy by the Indian Parliament.



One of the objectives of the policy was to motivate the state government to have similar state-level policies. However, only a few states, namely Bihar, Uttar Pradesh, Tamil Nadu, Andhra Pradesh and Haryana, have come up with state policies.

Voluntary Action Cell of the Planning Commission: An interactive window opened for the civil society voices at the Planning Commission, which undertook significant steps primarily to create an enabling environment for the voluntary sector. The national online registration and data bank was initiated along with the three task forces, Accreditation System, national registration, regulation and decentralized funding mechanism.

Multi-State Societies Registration Bill: Proposed by the Ministry of Corporate Affairs proposed the bill replaces The Society Registration Act 1860. The ministry constituted a group of experts that kept watch on the regulatory and legislative design of the Societies Registration Act, 1860. The group's report described the regulatory gaps in the previous laws and suggested a modern law that would provide an enabling regulatory environment to multi-state societies along with ensuring transparency and accountability. The voluntary sector has also made a few suggestions. It wants the legislation to promote self-regulation in voluntary sector organizations, it asked for modernizing the regulatory framework and called for proper reporting of finances of voluntary sector organizations.

Representatives from the voluntary sector consulted before the budget: The National Policy on Voluntary Sector recommended the involvement of organizations from the sector in the pre meetings to have regular consultations. The Finance Minister has, since 2009, been consulting a delegation from the voluntary sector before drawing the annual budget.

Development Partnership Administration: Forged in 2012, this partnership with the Ministry of External Affairs in 2012, gives voluntary organizations the opportunity of engaging with the government's foreign policy. The partnership manages India's overseas development projects. The projects provide material and technical support to many developing and under developed countries.

Companies Bill (CSR): The Parliament's nod to the Companies Bill—it replaces the Companies Act of 1956—has opened new avenues for collaboration between voluntary organizations and corporate firms. A company with a net worth of Rs 500 crore or more, or one with a turnover of 1,000 crore or more, or an enterprise with a net profit of Rs 5 crore or more has to spend 2 per cent of its average net profits on its corporate social responsibility (CSR) policy. For voluntary organizations, this means a new avenue for partnering corporate bodies.

Negative Trends

The working of voluntary sector has been hamstrung by several taxation measures. The Direct Tax Code proposed by the Finance Ministry on 15 August 2009, requires all NGOs and charitable trusts registered under the income tax department to pay 15 per cent of their surplus, computed on a cash basis. This led to much outcry from the voluntary sector. It made several representations to the Parliamentary Standing Committee, which accepted all the appeals except changing the definition of charitable institutions under section 2(15) of Income Tax Act. The tax code, if passed in the present form, will have a disastrous impact on many grassroots organizations. Maintaining non-profit status is the most crucial challenge the sector is facing and is hence advocating for a new legal framework.

When the Foreign Contributions Regulating Act (FCRA) was enacted in 2006, it was seen as an attempt to curb the growth of the voluntary sector. There were several petitions against the act. In 2010, a new FCRA was enacted. But it betrayed all expectations of the voluntary sector. A series of representations, appeals, delegations and consultations with the have not worked out in favour of the voluntary sector, which had hoped for some liberal provisions under the FCRA, 2010.

At the same time, the authorities have been aggressive towards the voluntary sector. Prime Minister Manmohan's statement that NGOs funded by the US and Scandinavian countries spearheaded the Koodankulam protests made things difficult for these organizations. At the same time, the media has made unsubstantiated allegations about the misuse of foreign funds by the voluntary sector.

Things have also got tough for the voluntary organizations after Anna Hazare's anti-corruption movement. The government believed that the movement derived much support from voluntary associations and retaliated by issuing income tax notices to a large number of such organizations. Many received notices for cancellation of the registration as non-profit bodies under the Income Tax Act.

In August 2012, the ministry of home affairs cancelled the FCRA registration of 4,138 voluntary development organizations on the ground that they are dormant organizations. The ministry claimed that organizations were being served with notices before seizing their FCRA account. But the initial findings of VANI reveal that notices were sent to the old addresses despite the organizations concerned have updated the ministry about their new addresses. On receiving the notices, around 225 organizations contacted the ministry with all their papers. Subsequently, 170 organizations were acknowledged clean. The enquiry of some of suspended FCRA accounts is still pending and as per the FCRA, a registration can be suspended to a maximum period of 180 days.

While the tough regulatory regime dissuaded foreign agencies from funding Indian NGOs, there was

increase in government funding. But that has created new challenges. The state desires the voluntary organizations to work as mere subcontractors rather than critical partners. The NGOs work in government-aided programs as service delivery agents and are not encouraged to take up the rights-based issues. Government funding has come at the cost of independent decision-making authority of the voluntary organizations and they are forced to fit their agenda in a pre-decided framework.

In May 2009, the Planning Commission set up a task force to encourage voluntary organizations to adopt a transparent and accountable system of governance and management. The main objective of setting up of the task force was to examine issues of accreditation. However, the report of the National Accreditation Council was rejected and there has been no progress in this matter.

THE OPPOSITION'S ROLE

When the anti-corruption movement began, the opposition supported civil society groups. However, as the movement started gaining momentum, the Opposition was not clear about its agenda.

RECOMMENDATIONS

The voluntary sector is one of the pillars of democracy. The country requires a more professional approach towards the sector. Some recommendations:

- To speed up the formation of a separate and exclusive "Ministry of Voluntary Affairs" which will synchronize the initiatives and programs of government and voluntary organisations and systemize the reporting, registration and promotion of voluntary sector in India.
- The definition of 'Charitable' purpose under section 2 (15) of the Income Tax Act, 1961 be made more specific and in tune with the current nature of activities undertaken by the voluntary sector.
- Creating an enabling environment for voluntary organizations that stimulates their enterprise and effectiveness and safeguards their autonomy.
- The National Policy on Voluntary Sector must be made into a law.
- The role of voluntary organizations while engaging with government to be made clear and the relationship should be based more on partnership in development rather than treating as sub-contractor.
- Constitution of a National Charities and Voluntary Commission which will take care of the registration and monitoring process.
- Formulation of a National Law exclusively for not-for-profit organization as distinct from all other types of profit-making bodies.

Review of Budgetary Policies under UPA I & II



CENTRE FOR BUDGET AND GOVERNANCE ACCOUNTABILITY (CBGA)

The United Progressive Alliance (UPA) Government started its tenure at the Centre in 2004 by making several promises to the disadvantaged sections of the population as presented in its National Common Minimum Programme (NCMP). Before the 2009 Elections, the Congress, which has been leading the UPA alliance since 2009 in its second tenure, again stressed its commitment to 'faster and more inclusive growth'.

This included strengthening the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), enactment of the Food Security Act and an even greater impetus to the empowerment of weaker sections of society. Most of these promises implied significant commitments in terms of public resources that had to be allocated through Union Budget and State Budgets.

A number of progressive policy measures were implemented during UPA rule. The notification of the Right to Information Act, enactment of the National Rural Employment Guarantee Act (NREGA), Right of the Children to Free and Compulsory Education Act, the National Food Security Act and the introduction of the National Rural Health Mission (NRHM) are some of them.

As the country gears up for the next General Elections, it would be useful to analyse how the budgetary policies and priorities of the UPA government in both the terms have impacted critical sectors—health, education, food security, rural development—and what it has meant to the disadvantaged sections of the population.

I. PRIORITY FOR SOCIAL SERVICES IN THE UNION BUDGETS (2004-05 TO 2013-14)

While a number of progressive legislations pertaining to rural employment guarantee, basic education and food security have been enacted by the Union Government, the Union budgets have ignored the acute need for a significant increase in public spending on these essential sectors.

Priority for Social Services in the Union Budgets (2004-05 to 2013-14)

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	39,123	7.9	1.2
2005-06	49,535	9.8	1.3
2006-07	55,246	9.5	1.3
2007-08	78,818	11.1	1.6
2008-09	1,10,542	12.5	2.0
2009-10	1,22,345	11.9	1.9
2010-11	1,51,013	12.6	2.0
2011-12	1,49,053	11.4	1.7
2012-13 (RE)	1,70,682	11.9	1.7
2013-14 (BE)	2,13,689	12.8	1.9

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 2013-14*, Govt. of India

Among different kinds of government interventions, those in the social sector influence human development most directly. However, no significant increase in public investments on social sectors was witnessed during both terms of the UPA.

As shown in the table above, the contribution of the Union Budget on social sectors registered an increase during 2004-05 to 2013-14, but the contribution has not exceeded even 2 percent of the Gross Domestic Product (GDP). While the NCMP committed to much higher social sector spending (6 percent of the GDP to be allocated for education and 3 percent for health as combined budgetary spending by Centre and States), the country's total budgetary spending (by both the Centre as well as the states combined on sectors like, education, health, water and sanitation, nutrition, etc.) has been around 7 percent of GDP, which is much lower than the average level of social sector spending not only in developed countries, but also in some of the developing countries.

II. IMPLICATIONS OF BUDGETARY POLICIES AND PRIORITIES FOLLOWED BY THE UPA ON CRITICAL SECTORS

Health

The NCMP committed to increasing public expenditure on health to 2-3 percent of GDP. But between 2004-05 and 2008-09, this commitment was not met. Overall budgetary spending on health has stagnated at around 1 percent of GDP over the past decade. Though in absolute terms, there was an increase in expenditure by the Union Government, when compared with the GDP, the increase is marginal. The average central expenditure on health and family welfare under UPA-II regime was 0.3 percent of GDP, almost similar to the average expenditure under UPA-I regime.

National Rural Health Mission (NRHM), a flagship programme of UPA was launched in 2005 to improve the availability of and access to quality health care especially for those residing in rural areas, the poor, women and children. The financing of NRHM focused more on selective interventions at the cost of universalization. According to the mission document, the initial allocation for NRHM for 2005-06 was Rs. 6,700 crore, to be increased by 30 per cent

in the subsequent years. However, inability of states to provide the required matching grant to the Mission fund, due to lack of resources, the increase has been approximately 20 per cent. If we factoring in the high rate of inflation, the real increase has been much lesser.

Further, most of the increase has been skewed in allocations within certain components such as Reproductive & Child Health (RCH), Intensified Pulse Polio Immunization (IPPI) and AYUSH (Ayurveda Unani Siddha Homoeopathy); while strengthening of the infrastructure remained neglected. The trend with regard to budgetary allocations continues to remain the same; however, commitments towards improving human resource and physical resource requirements have been made in the 12th Plan document. Also Universalisation of healthcare has occupied central place in the discourse on health financing.

Because of lack of adequate planning and resource allocation, the gaps in the provision of basic infrastructure facilities and human resource in the healthcare centres have persisted. As of 2013-14, there exists a shortage of 64 lakh allied health professionals, according to government's own reports.

While the NRHM has been renamed as NHM in order to include urban areas under the Mission, inadequate resources allocated under Union Budget 2013-14 and lack of proper planning might surface as barriers to implementation and hence affect outcomes.

A commitment towards providing health insurance cover across all BPL families was made in the Congress manifesto in 2009. In 2009-10, the allocation towards *Rashtriya Swasthya Bima Yojana* (RSBY) was increased by over 40 percent over the previous year's allocation. The benefits of the scheme have been extended to unorganised sector workers such as the construction workers, MGNREGA beneficiaries, street vendors, beedi workers, domestic workers, rickshaw pullers, auto rickshaw drivers, sanitation workers, rag pickers and workers in hazardous occupations. However, the model of insurance-based universal healthcare that has been highlighted in the 12th FYP document, is that of a public-private partnership model that raises serious doubts about effectiveness of RSBY.

Education

Against the commitment of bringing the level of public spending on education to 6% of GNP made by the Kothari commission (1966), public spending on education as a proportion of GDP has been stagnant between 3 percent (in 2004-05) to 3.2 percent (in 2006-07) since the beginning of the UPA regime. In 2011-12 (BE), India's total spending on education was around 3.9 percent of GDP (MHRD, 2013).

With the enactment of the Right of the Children to Free and Compulsory Education Act, 2009 that came into effect from April 1, 2010, the Indian Government committed to all the children, between the age group 6-14 years, free and compulsory education. However, by its own admission, the government acknowledges that adequate resources have not been provided to implement this critical legislation in the last three years of the 11th Plan period. Infrastructure shortfalls and reviewing the norms of Sarva Shiksha Abhiyan (SSA) in alignment to the RTE Act continue to remain areas of concern.

It must be noted that while SSA is being recognized by some sections as a scheme that has improved school infrastructure in the country to some extent, it has also been strongly criticized for institutionalizing the practice of relying solely /largely upon Para Teachers.

Launching of Centrally Sponsored Schemes at the secondary stage such as *Rashtriya Madhyamik Shiksha Abhiyan* (RMSA), Inclusive Education of the Disabled at the Secondary Stage (IEDSS), Girls' Hostel Scheme, Information and Communication Technology in Schools Scheme, Access and Equity (Strengthening of Boarding and Hostel Facilities for Girl Students) Scheme was a significant development in the UPA-I tenure.

Two key initiatives of the UPA-II regime in the field of education have been the introduction of the Model School Scheme and the '*Rashtriya Uchchatar Shiksha Abhiyan* (RUSA)', a new flagship programme. The model schools were part of Congress's manifesto in 2009. By 2015, MHRD will set up 2500 model schools in non-educationally backward blocks under Public Private Partnership (PPP). At the rate of one school per block, the model schools are to be set up based on Kendriya Vidyalaya template. However, the approach of encouraging a greater role for the private

sector in school education has been strongly criticised in the context of the Model Schools Scheme. RUSA is designed to improve access, equity and quality in higher education at the state level.

Food Security

Ensuring food and nutrition security was one of the major commitments of the UPA-I regime in the NCMP. However, there were no visible increases in the allocations for food subsidy in the Union Budgets during the period between 2004-05 and 2008-09. For instance, the food subsidy as compared to the GDP was 0.8 percent in 2004-05 which declined to 0.78 percent in 2008-09.

The National Food Security Act was enacted in 2013. However, there are a number of issues relating to implementation of the Act as there is no clarity about how much resources would be required and who (Union or states) is going to shoulder the extra resources requirement in rolling out the National Food Security Act.

Similarly, there is no such indication in the Union Budget 2013-14, as resource allocation towards food subsidy has been pegged at Rs. 90,000 crore in 2013-14 (BE) with a slight increase from Rs. 85,000 crore in 2012-13 (RE), which is way below what was expected to implement the food security legislation introduced by UPA-II. However, there is a commitment from the Union Government that food subsidy budget would go up to around Rs. 125,000 crore in its subsequent budgets. Hence, there are concerns that the present Food Security Act is not going to ensure nutritional security with its limited scope and not universalising the Public Distribution System (PDS) in the country.

As per CBGA's estimation on having a near universal distribution of cereals under the Public Distribution System, additional funds to the tune of Rs. 148,471 crore (based on a set of assumptions) would be required, to provide food security in the country, over and above the present provision of Rs. 90,000 crore towards food subsidy in the Union Budget.

Rural Development

In the tenure of UPA-I, the expenditure of Ministry of Rural Development (MORD) has increased from 0.6percent of GDP in 2004-05 to 1.2percent of GDP

in 2008-09. This increase is mainly because of the launch of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). At the end of UPA-I tenure, specifically in 2007-08 and 2008-09, higher allocation was observed also towards rural roads (Pradhan Mantri Gram Sadak Yojana) and rural housing (Indira Awas Yojana) schemes. But there is a steep decline in rural development expenditure by the Union Government (as compared to GDP), which has been observed in the f UPA's second term as expenditure of MORD has decreased from 1.1 percent of GDP in 2009-10 to 0.7percent of GDP in 2012-13 (RE).

The initiation of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) has been one of the most significant interventions made by the United Progressive Alliance (UPA) government in 2005-06. However, over time, UPA Government has decreased its allocation to NREGS. As in 2006-07, 0.2percent of GDP was spent on NREGA, which had been increased to 0.5percent in 2008-09. However, in UPA-II tenure, expenditure on NREGS has decreased from 0.6percent of GDP in 2009-10 to 0.4percent of GDP in 2012-13.

Swarnajayanti Gram Swarojgar Yojana (SGSY) was restructured as the "National Rural Livelihood Mission / Ajeevika" in 2010-11, with a time-bound aim to reach out to 7 crore rural poor households and stay engaged with them till they come out of poverty. An analysis of SGSY shows that the financial achievement and credit disbursal targets were unmet during the first ten years (1999-2010) of its implementation. Only 74 percent of the available funds were utilized.

Bharat Nirman, a programme for augmenting key infrastructure sectors across the rural India, has also been a significant policy measure taken by this Government. Despite the significant rise in allocation, progress on targets set out to be reached is tardy as none of the targets have been fulfilled.

III. IMPLICATIONS OF BUDGETARY POLICIES AND PRIORITIES FOLLOWED BY THE UPA ON DISADVANTAGED SECTIONS OF POPULATION

The following section analyses the implications that the budgetary policies pursued by UPA government had on select disadvantaged sections of the population.

Women

The introduction of the Gender Budget Statement (GBS) by the UPA government since 2005-06 has been a welcome step. At the time that the GBS was initiated, merely 10 ministries/departments reported under the GBS. This number has gone up substantially to 35 demands in Union Budget 2013-14. However, the increase in the number of demands being reported under GBS has remained almost static in the last few years. Since its inception, the total magnitude of the GBS as a proportion of the total Union Budget expenditure has varied from 4.77 percent in 2005-06 to 5.83 percent in 2013-14.

While the strategy of Gender Responsive Budgeting (GRB) has been adopted by the Union Government and also by several States, the approach in practice is still that of the Women's Component Plan (WCP) which required earmarking of a certain proportion of funds in schemes and programmes perceived to be directly linked to women. Rather than identifying gender based disadvantages across sectors and accordingly planning and budgeting for such interventions, most ministries /departments (except Ministry of Science and Technology and Ministry of Agriculture and Cooperation) and States (other than Kerala) continue to follow the WCP approach of earmarking a certain proportion of funds in select schemes.

Reporting under the GBS largely continues to remain an ex-post exercise with most of the ministries/departments reporting the allocations under the GBS after their respective budgets have been finalised. A number of concerns continue to persist with regard to the format of the GBSA number of important schemes for women were introduced during UPA-I regime. These include the *Anganwadi Karyakarti Bima Yojana, Dhan Laxmi, Ujjwala* and Incentive to Girls for Secondary Education. However, some of these schemes have been discontinued while some continue to be implemented in a pilot phase. A number of important interventions recommended by the Steering Committee on Women's Agency and Empowerment for the 12th Plan such as, Women's Helpline, Development of Distance Learning Programme on the Rights of Women, Implementation of Protection of Women from Domestic Violence Act were introduced, albeit with paltry allocations for most of them.

Major focus of the budgetary allocations under the Ministry of Women and Child development con-

tinues to be on the Integrated Child Development Scheme (ICDS), while key interventions for the development and empowerment of women continue to remain grossly under-funded. The allocation to Ministry for 2013-14 is Rs 20,440 crore of which the allocation to ICDS alone is Rs.17,664.02 crore.

The Nirbhaya fund with an allocation of Rs. 1,000 crore in Union Budget 2013-14 meant for strengthening the security for women is a notable initiative of UPA-II. While this is certainly a step in the right direction, higher allocations would be needed for significant changes to take place with regard to gender based violence.

Setting up of India's first Women's Bank as a public sector bank with an initial capital of Rs. 1,000 crore has been a key initiative introduced in Union Budget 2013-14 during the tenure of UPA-II. This initiative, however, has triggered a debate on the possible implications of such a measure which is in contravention to the idea of mainstreaming and might result in restricting women's access to conventional sources of credit.

Dalits and Adivasis

A separate budget statement denoting the allocations earmarked for Scheduled Castes (SC)and for Scheduled Tribes (ST) was introduced in the Union Budget during the tenure of UPA-I. In the second term of UPA, since 2011-12, the government has introduced two separate Statements to report allocations earmarked for SCs/STs separately.

Reporting of actual expenditure under Scheduled Caste Sub Plan (SCSP) and Tribal Sub Plan (TSP) was introduced in Union Budget 2013-14.

The number of ministries/departments reporting allocations under SCSP and TSP has increased from about 15-20 in 2004-05 to over 30 in 2013-14. Although this is a significant achievement, many ministries/departments continue to not earmark allocations under SCSP/TSP. Also some ministries (Ministry of Civil Aviation, Department of Biotechnology etc.) which were reporting under these statements earlier, have discontinued reporting.

It remains a matter of concern that the total magnitude of Plan allocations earmarked both for SCs and STs have consistently remained below the norms

stipulated as per their respective population shares (16.2 percent for SCs and 8.2 percent for STs according to 2001 census). Also, the recommendations by the Narendra Jadhav Task Force (specifying the quantum of allocations required to be earmarked by various ministries) haven't been adhered to by many ministries/departments.

A draft bill for legislation on SCSP has been prepared by the Ministry of Social Justice and Empowerment; the draft is currently revision. However, a similar initiative has not been undertaken by the Ministry of Tribal Affairs for the TSP.

The concerns of dalit and tribal women have not found place in the respective policies and priorities of the nodal ministries or in the draft legislation.

A significant development has been the passing of the The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. It would be important to ensure that funds are allocated for the implementation of the Act.

Children

A welcome step undertaken by the UPA-I in its first term was the introduction of a Statement on child specific schemes in Union Budget 2008-09.

The expenditure towards children was stepped up from about 2.54 percent of the Union Budget in 2004-05 to 4.13 percent in 2008-09 and varied from 3.7 percent of the Union Budget in 2009-10 to 4.6 percent in 2013-14.

However, in view of the glaring development deficits faced by children and the fact that children (i.e. all persons up to the age of 18 years) constitute over 40 percent of the population, the expenditure on children in both terms of the UPA cannot be regarded as adequate

While the magnitude of 'Child Budget' is still inadequate, the prioritisation of this total amount earmarked for children in the Union Budget continues to consistently show a skewed pattern; within the total resources earmarked for children in Union Budget 2013-14 (BE), 72 percent was meant for Child Education, 24 percent for Child Development, 3 percent for Child Health and only 1 percent is meant for Child Protection.

An area of concern that exists is the focus on the Public Private Partnership (PPP) model for education being prioritized by the government. The entry of private players to provide Supplementary Nutrition Programme for children in some states also needs to be reviewed.

The universalisation of the ICDS has been a significant development . The allocations towards ICDS have also been stepped up significantly in the past few years. However, the effective functioning of ICDS continues to be hampered because of low unit costs in the program.

Several new schemes for children such as Kasturba Gandhi Balika Vidyalaya (KGBV) and Rashtriya Madhyamik Shiksha Abhiyan (RMSA) were introduced. However, the funds provided for these schemes are not sufficient. Some schemes introduced in the second tenure of UPA such as the Indira Gandhi Matripta Sahyog Yojana (IGMSY) and Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG) continue to be implemented on a pilot phase.

IV. KEY CONCERNs WITH THE BUDGETARY POLICIES FOLLOWED BY THE UPA

Low tax-GDP ratio for the country

The overall magnitude of public resources available to the government in India for making investments towards socio-economic development remains inadequate in comparison to several other countries, mainly owing to the low magnitude of tax revenues collected in our country. The total tax revenue collected by Centre and States (combined) had fallen from (the already low level of) 17.4 percent of GDP in 2007-08 to 14.7 percent of GDP in 2010-11; it had registered a rise to 17.2 percent of GDP in 2012-13 (BE). Hence, it is critical to emphasize that the UPA government did not address the need for increasing the country's tax-GDP ratio; which would have enabled it to provide more resources for development spending in crucial sectors. In this context, we may add that the Union Budgets under UPA did not pay much attention to the need for reducing significantly the amount of tax revenue forgone due to a plethora of exemptions in the Central Government tax system, and plugging the loopholes in India's Double Taxation Avoidance Agreements and

Tax Information Exchange Agreements with other countries (particularly, the tax havens like Mauritius, Singapore, Cayman Islands etc.) so as to collect higher amounts of taxes from the private corporate sector (especially the multinational corporations that exploit such loopholes to minimize their tax liability in India).

SYSTEMIC WEAKNESSES IN SOCIAL SECTORS

The UPA did not pay adequate attention to the issue of systemic weaknesses in the government apparatus at the State, district and sub-district levels that have constrained the quality of implementation of most of the development schemes over the last decade. Non-plan expenditure (almost two-third of total public expenditure in the country, which is outside the purview of the Planning Commission) shapes up to a significant extent the strength of the State Government apparatus, in terms of availability of regular cadres of qualified staff and adequacy of the government infrastructure, for implementing Plan schemes. However, over the last decade, Non-

plan expenditure in social sectors has been checked by many States due to the emphasis of the prevailing fiscal policy on reduction of deficits through curtailment of public expenditure.

LIMITED FISCAL POLICY SPACE FOR STATE GOVERNMENTS

The UPA Government did not take any concrete measure towards providing greater fiscal policy space to the State Governments. Despite strong demands from the States, the Eleventh Five Year Plan did not transfer any significant number of Central Schemes to the States. On the other hand, the imposition of Fiscal Responsibility and Budget Management (FRBM) legislation on the States through recommendations of the Twelfth Finance Commission (relating to the Debt Relief Scheme for States) has constrained significantly the fiscal policy space available to the State Governments for public investments. Thus, the UPA Government continued the trend of growing centralisation of the federal fiscal architecture in the country which has been witnessed over the last two decades.

Corruption and Governance

BHASKARA RAO GORANTLA, NATIONAL SOCIAL WATCH

Corruption is a manifestation of deep-rooted structural challenges to polity and governance. The UPA made several promises to reform the country's political, administrative and systems during its two-term stint that began in 2004. This was also a period when it was pressured by civil society movements to bring out anti-corruption measures.

The alliance promised:

- Administrative Reforms Commission (ARC) to prepare a detailed blueprint for revamping the public administration system
- Promoting E-governance
- The Right to Information (RTI) Act will be made more progressive, participatory and meaningful
- The Lok Pal Bill will be enacted into law
- Drastically cut backlogs in High Courts and lower levels of the judiciary
- Legal aid services will be expanded
- Judicial reforms will be given a fresh momentum
- Steps to introduce state funding of elections at the earliest.

SITUATION ON GROUND

Second Administrative Reforms Commission

In August 2005, the government appointed the Second Administrative Reforms Headed by Veerappa Moily as its Chairperson, the commission submitted 15 reports covering 15 different subjects. They are a) Right to Information (RTI); b) Unlocking Human Capital; c) Crises Management; d) Ethics in Governance; e) Public Order: Justice for Each – Peace for all; f) Local Governance; g) Capacity Building for Conflict Resolution; h) Combating Terrorism; i) Social Capital – A Shared Destiny; j) Refurbishing of Personal Administration; k) Promoting e –Governance; l) Citizen Centric Administration; m) Organizational Structure of



Government of India; n) Strengthening Financial Management System; and o) State and District Administration.

The government took decisions on 12 of these 15 reports, which together have 1,228 recommendations. It accepted 994 recommendations, rejected 199 and did not take any decision on 35 recommendations.

It is important to note here that of 12 decisions-taken reports, the fourth – Ethics in Governance-- deals with corruption and corrupt practices. The most rejected recommendations—51—are from this report.

Table: Moily Committee: Recommendations and actions taken by the government

SARC Report	Accepted	Rejected	No Decision	Total
4th Report- Ethics in Governance	79	51	4	134
Total of 11 other reports	915	148	31	1094
Total of all 12 reports	994	199	35	1228

Source: Government of India (undated)

The rejected recommendations of fourth report include: oversight role of Prime Minister/ the Chief Ministers over the observance of the code of conduct by ministers; measures to deals with ‘collusive bribery’; fixing a time limit for various stages of trial; mechanisms to prevent and deal with ‘serious economic offences’; etc.

E-GOVERNANCE

The government approved the National e-Governance Plan (NeGP), comprising 27 Mission Mode Projects (MMPs) and 8 components, on 18 May 2006. In the year 2011, 4 projects - Health, Education, PDS and Posts were introduced to make the list to 31 MMPs. *However, the approval of NeGP does not constitute financial approval(s) for all the MMPs and components under it.* We can see the lack of coordination and duplications in NeGP also. For example, the unique identification cards (Aadhaar Cards) and national population register (NPR)

The Right To Information Act: Commonly called the RTI, the act is often described as an indicator of the UPA government’s commitment to root out corruption. It granted every citizen the right to seek

information from every public authority about the various tasks and activities they perform. The act was a result of a sustained civil society movement.

To begin with, however, the government was reluctant to bring file noting (written correspondence between various authorities and officials) within the purview of the act. Subsequently, it wants to dilute the RTI on the pretext of protecting individual privacy. It has prepared an amendment to RTI to take out political parties from the purview of the Act. All this while, civil society organizations kept their pressure leading the government to bring in file noting within the ambit of the RTI act, shelve the issue of individual privacy and refer the RTI (amendment) Bill 2013 to the Select Committee.

THE LOKPAL BILL

Unprecedented nationwide protests and campaigns led by Anna Hazare and his team, compelled the government to prepare the Lok Pal Bill 2011. The bill was passed in the Lok Sabha. The legislation has a wide jurisdiction covering: a) the Prime Minister (with safeguards); b) current and former ministers; c) current and former MPs; d) Group A, B, C and D employees of Government of India (GoI), employees of Public Sector Undertaking (PSUs); and e) employees of association of persons that (i) have received funding from the government and have an annual income above a specified amount; or (ii) have received public donation and have an annual income above a specified amount or received foreign funding above Rs 10 lakh a year.

However, the bill fell short of the Jan Lok Pal Bill prepared by the Team Anna. The Judiciary remains out of its purview. Meanwhile Anna Hazare’s movement has weakened and opposition parties have not kept up the pressure on the government

JUDICIAL STANDARDS AND ACCOUNTABILITY BILL

In 2001, the government brought in the *Judicial Standards and Accountability Bill, 2010*. It seeks to: a) create enforceable standards of conduct for judges of High Courts and the Supreme Court; b) change the existing mechanism for investigation into allegations of misbehavior or incapacity of judges of High Courts and the Supreme Court; c)

change the process of removal of judges; d) enable minor disciplinary measures to be taken against judges; and e) require the declaration of assets of judges. But fears of confrontation with the judiciary prevented the enactment of the bill.

A caveat here, however: empowering non-representative institutions and individuals and disempowering the people's representatives may weaken the democracy and may prove counterproductive in the long run

ELECTION REFORMS

The UPA Government has been working on *Election Reforms* in the past 6-7 years—albeit very slowly. It has done virtually nothing to address criminalization of politics, and regulate political parties and financing of elections. In fact, it has diluted legislation that had potential to bring transparency in the political system and nullified judicial strictures against criminalization of politics. Within two months of the Central Information Commission's (CIC's) ruling declaring six political parties as public authority under the RTI Act and hence subject to the transparency and information requirements under the Act, the government brought in the RTI (Amendment) Bill 2013 to nullify the ruling. Within two months of the Supreme Court's ruling that a person, who is in jail or in police custody, cannot contest elections to legislative bodies and a person convicted for two years or more will lose his/her legislative membership immediately, the government brought in the Representation of the People (Amendment and Validation) Bill, 2013 to nullify the judgment.

RECOMMENDATIONS

- Internal democracy in political parties should be promoted by capping the number of terms a person can hold a particular level of position in the party.
 - There should be a cap on number of terms a person can contest a particular position.
 - In bureaucracy, permanent recruitments should be limited to the regulatory bodies only.
 - Contract appointment system should be introduced in all service providing departments and agencies, especially at the senior levels.
 - Explore the alternative/supplementary models for judiciary. The jury system may be more suitable for present Indian context.
 - Centralized development paradigms do not work in a diverse country like India. It needs thorough decentralization.
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CORRUPTION

During its second term, the UPA Government has been beset with several scandals, which resulted in revenue loss of several lakhs of crores of rupees. Most of these were unearthed by the Parliament's own body, the Comptroller and Auditor General (CAG). In the past three to four years, a couple of chief ministers (CMs), four ministers and a few top officials had to quit due to corruption charges.

Several ministers, including a CM and the President of Indian Olympic Association; MPs, top officials and top corporate leaders were imprisoned. The judiciary has nullified a few important decisions of the government, citing the corrupt processes in decision-making. The government itself reversed certain decisions following the CAG reports.

The CAG reports should form a basis for informed decisions in the Parliament. But in the period under review, the parliament has been hostage to lung power and partisanship. Some of the ruling party/alliance members questioned the competence and mandate of the CAG and integrity of the persons involved in preparing those reports. The executive was put to unease by the protests and unruly behavior of the opposition members. In many issues, the opposition is cooperating, if not colluding, with the ruling party. The unanimity shown by all the political parties, in dealing with the situations arising due to the Supreme Court's and CIC's rulings (mentioned above) with respect to the convicted politicians and transparency in political parties, respectively, is a telling example.

Public Accounts Committee and Corruption



SANTOSH KUMAR SINGH, NATIONAL SOCIAL WATCH

In a democratic system there are always checks and balances over government agencies and institutions. In India, the Public Accounts Committee (PAC) plays a critical role in holding the executive accountable for all its acts. With the leader of the Opposition heading the agency, the PAC is mandated to ensure that the executive remains accountable to the legislature.

The committee does not simply focus on financial probity, but also scrutinizes the efficiency and effectiveness of programs in achieving their objectives. Most times, the PAC takes the help of the Comptroller and Auditor General's (CAG) report to investigate the executive's activities.

The PAC has had its hands full during the UPA government's second term probing the Taj Corridor Scam, 2010 Commonwealth Games scam, irregularities in 2G Spectrum allocations, Coalgate-2012 and the Delhi Airport deal.

PAC INACTION

ALLOCATION OF COAL BLOCKS

In March 2012, the CAG submitted to the parliament, a report 'Performance Audit of Allocation of Coal Blocks and Augmentation of Coal Production'. The report highlighted how private companies siphoned off Rs 1.86 lakh crore due to 'lack of competitive bidding' in allotment of coal blocks. It also noted the lack of transparency in the allotment of coal blocks. The PAC has had only 4 sittings to discuss the issue. It has also not produced an Action Taken Report.

2G SPECTRUM ALLOCATION

On 31 March 2010, CAG tabled a report on 'Issue of Licenses and Allocation of 2G Spectrum.' The agency raised major issues in the allocation of the 2G spectrum and described how the government lost Rs 176,000 crores due to faulty allocation of licenses. It described the allocation process as arbitrary, unfair and inequitable. It noted that 85 out of 122 licenses were given to ineligible applicants. The agency pointed out that these companies, created

barely months before the allocation, ‘deliberately suppressed facts, disclosed incomplete information, submitted fictitious documents and used fraudulent means for getting licenses.’ The PAC has had 21 sittings on the issue and spent hours discussing it. But the committee has not yet come out with an Action Taken Report—this when the Supreme Court has delivered its verdict on the issue and cancelled the 122 licenses in question.

XIX COMMONWEALTH GAMES 2010

The XIX Commonwealth Games were held in Delhi, India, from October 3 to October 14 2010. In its report ‘XIX Commonwealth Games 2010’, the CAG notes the misuse of money in organizing the Games. It has found numerous instances of delays in grant of budgetary and financial approvals by the Centre. These delays contributed to the increase in time for executing projects. CAG also alleged that Rs 7,000 crore was misappropriated during the Commonwealth Games. The PAC has had 9 sittings on the issue without producing an Action Taken Report.

PUBLIC PRIVATE PARTNERSHIP PROJECT OF DELHI AIRPORTS

The CAG’s report, ‘Implementation of Public–Private Partnership at Indira Gandhi International Airport, Delhi’, notes ‘Undue favors to GMR-led DIAL (Delhi International Airport Limited)’ during the capital’s airport modernization project. It alleges that the government had given out prime land valued at Rs. 1.63 lakh crore to its private sector partner. It noted that the private company was given 4799.09 acres on a lease of Rs. 100 for 60 years for an equity contribution of only Rs. 1,813 crore. The PAC has met only twice to discuss the issue and has no Action Taken Report to show for its labours.

ANTRIX DEVAS DEAL

CAG’s report, ‘Union Government (Department of Space) Hybrid Satellite Digital Multimedia Broadcasting Service Agreement with Devas’, which was tabled in the parliament in March 2012, raised questions over the Indian Space Research Organization’s role in leasing the S-band transponders on two satellites (GSAT6 and GSAT6A) to the Bengaluru-based multimedia company Devas for broadcasting purposes. This, the CAG alleged, meant Devas had

unrestricted use of 70 Mhz of the scarce S-Band spectrum over a 20 year for a scandalously low price of just over Rs 1000 crore. The agency estimates that the exchequer lost Rs 200,000 crore as a result of the deal. The PAC never had any sittings on the issue, let alone issue an Action Taken Report.

A TOOTHLESS AGENCY

During UPA’s first tenure, the CAG tabled 89 reports in the parliament, in response to which the PAC produced 84 Action Taken Reports. However, during the alliance’s second tenure the CAG tabled 143 reports but the PAC responded with only 88 Action Taken Reports (also see tables 1 and 2)

The exchequer has lost nearly Rs 8 lakh crores on the five misappropriation cases mentioned above. But the PAC has not produced an Action Taken Report in any of these cases . Dr Murli Manohar Joshi, the committee’s chairperson, attended 99 sittings out of 141 sittings—around 70 per cent. But the agency has lost teeth due to the ruling party’s overwhelming presence.

Table 1: CAG reports versus PAC Reports under UPA-I

Year	CAG Reports	PAC ATR	PAC statement per year
2004–05	17	09	Not Available
2005–06	20	18	Not Available
2006–07	22	13	Not Available
2007–08	18	26	Not Available
2008–09	12	18	Not Available
Total	89	84	

Source: Compiled and calculated by the Author from CAG reports and Public Accounts Committee website

Table 2: CAG Reports versus PAC Reports under UPA-II

Year	CAG Report	PAC Sittings	PAC ATR per year	PAC statement per year
2009–10	27	21	10	0
2010–11	38	42	24	3
2011–12	33	34	21	3
2012–13	23	35	24	8
2013–14	22	30	9	0
Total	143	162	88	14

RECOMMENDATIONS

- The PAC's work depends largely on CAG reports. So members appointed to the PAC should have basic understanding of audit and accounts. The committee should produce an Action Taken Report within a year.
 - Conflict of interest between the ruling party and the opposition party must be sorted out.
 - Parliament should hold an annual debate on the work of the PAC and review its work annually.
 - Procedures for follow-up action on recommendations in PAC reports are critical.
 - The Internet should be used to disseminate information about the PAC, its work and reports.
 - There is need to undertake research on the functioning of similar institutions in other democracies.
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Wada Na Todo Abhiyan (WNTA), together with a number of civil society organizations has done a comprehensive review of the United Progressive Alliance (UPA) Government's performance of last 9 years, and the Opposition, on commitments made to critical issues. These include the issues pertaining to National Rural Employment Guarantee Act, Education, Health, Urban poverty/Housing, Displacement, Evictions, Forest and Land Rights, Food security, Climate change, Corruption, Secularism, Access to Justice, and Peace and Human Rights. Being the election year, it was deemed imperative by the collective to examine the promises kept and broken by the ruling government at the completion of its second term. This documentation is the result of months of consultative processes with and by civil society organisations.

