



**Citizens' Report on four years of  
the NDA Government 2014-2018**

# Promises & Reality

**Civil Society Initiative**

**Coordinated by : Wada Na Todo Abhiyan**

## **WADA NA TODO ABHIYAN**

Wada Na Todo Abhiyan (WNTA) is a national campaign focused on Governance Accountability to hold the government accountable for its promise to end Poverty, Social Exclusion & Discrimination.

WNTA emerged from the consensus among human rights activists and social action groups who were part of the World Social Forum 2004 (Mumbai). The purpose was to create an environment through focused and concerted effort and try to make a difference in India where one-fourth of the world's poor live and experience intense deprivation from opportunities to learn, live and work with dignity.

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

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

Contact :

### **Wada Na Todo Abhiyan**

C-1/E, II<sup>nd</sup> Floor, Green Park Ext., New Delhi - 110016.

Phone : 011-46082371

Email: [info.wadanatodo@gmail.com](mailto:info.wadanatodo@gmail.com)

Citizens' Review of  
Four Years of the  
NDA Government – 2014-18

Promises &  
Reality

Civil Society Initiative

Coordinated by:

Wada Na Todo Abhiyan

Editors : Sonalika Sinha and Bijoy Patro

Consulting Editors : Annie Namala, Thomas Pallithanam, A. K. Singh and Amitabh Behar.

Coordinators : Lubna Sayed Qadri and Syeda Tanbir Azmi

Printed on : May, 2018

Design and printing : JSR Graphics [www.jsrgraphics.co.in](http://www.jsrgraphics.co.in)

# PREFACE

Wada Na Todo Abhiyan (WNTA) is a national civil society platform of over 4,000 civil society organizations and individuals with its core focus on 'governance accountability to eliminate poverty and social exclusion'. WNTA provides a multi-stakeholder platform for civil society organisations and networks to jointly review government promises and performance across multiple sectors.

An important piece of this process is the Annual Citizens' review of the Union Government and its promises to the people. The first review was held in 2005 of the UPA1 government followed by annual reviews. In addition to the 9 years of review of UPA (I & II), 100 days of UPA II, and 100 days of NDA was also done. The reviews of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> years of NDA government were done in May 2015, May 2016 and May 2017.

As the NDA government is completing four years on 25<sup>th</sup> **May, 2018**, WNTA coordinated and anchored the civil society initiative to review the governments' performance (2014 – 2018) on its electoral promises within the framework of the Constitutional mandates. This becomes an important juncture as the government will soon complete its term and political parties will once again be reaching out to citizens for the next elections.

The report "Citizens' Report on the **"Four Years of the NDA Government, 2014-18: Promises & Reality"** – a civil society initiative' is a collective work by experts, development networks and civil society organisations working on diverse concerns and issues with the marginalized and vulnerable population groups – Dalits, Tribals, children, youth, women, LGBTQ, people with disabilities, bonded labour, urban poor to name a few. The report also compiles articles on critical development issues of education, health, water and sanitation, land rights, economy, budgets, fiscal policies, civil society space, media, human rights, labour and employment, environment, parliament functioning, governance to mention some. In addition to the report, various individuals and organisations have used the visual media, making short videos on their critical concerns about the government's performance. 10 videos are shared on social media over the month to draw government's attention to people's concerns.

In the months leading up to the 2014 General Elections, WNTA had anchored a process of reaching out to more than 16,00,000 citizens, from 250 parliamentary constituencies across 24 states through direct and indirect consultations. The concerns, issues and voices scripted the "People's Manifesto 2014 - a national agenda for development, rights, services, governance and accountability". The People's Manifesto was shared with all political parties as inputs for their upcoming election manifestos. When the manifestos of various parties were published, WNTA undertook a comparative review of the commitments/promises of the political parties and the NDA government in particular on '**Achhe Din**' (Good days) to the people along with '**Sab Ka Saath Sab ka Vikas**' (Development for all and with all) as 'samajiknyay and samrastha' in the new India which we all envisaged.

This Citizen's Report on the four years (2014-2018) provides a review from the citizens' perspective of how much their aspirations and demands in the "People's Manifesto" have been grounded and translated. It holds a mirror to how people's lives, particularly of the marginalized and vulnerable are impacted over the past four years. As we are at the cusp of the closing year of the current government and preparations for the next union elections, we hope this report contributes to strengthening governance accountability towards deepening our democracy and inclusive development processes.

Annie Namala, Thomas Pallithanam, A. K. Singh and Amitabh Behar.



# CONTENTS

Executive Summary

List of Contributors

1.	AADHAR Governance failure of biometric state	5
2.	ACCOUNTABILITY Reneging on the promise of a Bhrashtachar-mukt Bharat	9
3.	BONDED CHILD LABOUR Always left behind	13
4.	BONDED LABOUR The continuing reality	17
5.	BUDGET Taking stock of promises - spending in social sectors	19
6.	CHILDREN It is a raw deal for them	26
7.	DALIT COMMUNITY Broken promises and unbroken realities	30
8.	ECONOMY Economic Review 2014-15 to 2017-18	33
9.	EDUCATION Universal education not on government's priority list	41
10.	ENVIRONMENT Environmental governance over the past four years	45
11.	FISCAL POLICY Corporate Friendly Reforms: Regressing People's Rights	49
12.	FUNCTIONING OF PARLIAMENT Disruptions and ordinances setting new standards	55
13.	HEALTH A grim four years	58
14.	HOUSING AND URBAN POOR Unequal Realities: The Challenges of Urban India	62
15.	HUMAN RIGHTS A looming threat	68
16.	HUMAN RIGHTS Freedom attacked	72
17.	JUDICIARY A house not in order	76
18.	LABOUR AND EMPLOYMENT An assessment at the current juncture	80
19.	LAND RIGHTS Wrongs instead of rights	84

20. LGBTQ	88
Promises and Reality: Being LGBTQ in India	
21. MEDIA	91
NDA-II legacy in the shadow of a general election	
22. MINORITY COMMUNITIES	94
Reeling under Violence in the NDA regime	
23. MINORITY COMMUNITIES AND RELIGIOUS FREEDOM	97
Legislations need to protect not violate religious freedom of minorities	
24. PERSONS WITH DISABILITY	100
Focus on the sector a must	
25. RENEWABLE ENERGY	105
Look beyond laurels	
26. TRIBALS	109
Adivasi report card on NDA II governance	
27. VOLUNTARY ORGANISATIONS	113
Shrinking Space	
28. WATER AND SANITATION	117
Long way to go	
29. WOMEN'S EMPOWERMENT	122
Too many gaps	
30. YOUTH DEVELOPMENT	124
High on promises - low on performance	

# EXECUTIVE SUMMARY

Since the time *Wada Na Todo Abhiyan* (WNTA) came out with its first Citizens' Report on the BharatiyaJanta Party (BJP) led National Development Alliance (NDA) government in May 2015, India has witnessed an unprecedented political change whose sheer continuity has surprised many. Simply put, this is about the impressive electoral journey of the BJP which has, by now, expanded its footprint and formed governments in every region of the country, Karnataka being the most recent. Ideally, this tectonic political shift should have resulted in a much better synchronisation between the Centre and the states where NDA is in power. This exactly has also been the BJP's argument during the various state election campaigns. The ideological commonality of the Central and state political leaderships — besides the fact that Prime Minister Modi is now seen as the undisputed, universal leader of the ruling side — should have transformed the country's development contours. The moot question, therefore, is: Has this political change actually helped end poverty, social exclusion and discrimination in India? This penultimate Citizen's Report, being released as the NDA government enters its last year in office, is a humble and dispassionate attempt to evaluate its working through the watchful eyes of civil society observers.

The current Citizen's Report, takes a comprehensive look at the four years of the government, makes an objective assessment of the direction that society and economy have taken and makes its statement. For instance, it is evident that the flagship 'UjjwalaYojana' has helped reduce the distress of rural women in millions of poor households. They have moved away from the traditional smoking *chulha* (oven) as the scheme has provided them with free LPG connections. It has made life easy for women while also reducing their health hazards. But this is only half the story as a good number of beneficiary families have actually reverted to the smoking and polluting oven after their first free LPG cylinder got over. The reason for this was as basic as it could get: The families did not have the money to buy the second cylinder! The history of independent India is replete with instances of too many well-meaning development schemes going bad due to similar pitfalls which result from careless planning. It is desirable that a cautious government should anticipate possible loopholes in any particular scheme before launching it.

The report reviews various electoral promises for all-round development, employment generation, improved health and education, strong economy, enabling environment and equal opportunities for marginalised communities, social justice and social harmony, protection of human rights, land rights and environment et al. The report reviews these very issues from the lens of the vulnerable populations and constitutional mandates. While much has been promised and popularised, the report finds many gaps and much more needs to be done. There are many disturbing trends of continued exploitation and marginalisation of these communities.

Besides the sector-wise assessment, this Citizen's Report has unequivocally noted the marking of a very definite and degenerate direction that the government has taken. This new push has turned out to be a debilitating cause of concern for the country and its people. For ease of understanding, the sum total of this overpowering trend, which has the potential of assuming disastrous proportions in today's times of social media and instant technology, can perhaps be called 'Intrusive Mind Management' by a government influenced by its ideological mentor. From time immemorial, governments, ruling establishments, monarchs and even dictators across the world have relied upon and resorted to high-decibel propaganda to win popular support. But democracies are always expected to take any such self-serving attempt with a pinch of salt. The mass media is believed to be the first line of interrogation against all such misadventures resorted to by the government of the day. In the Indian case, the media has had an overall glorious record of living up to its duties. This Report, however, notes the disturbing disappearance of Doubting Thomases from some of the most visible sections of mass media. This isn't a good signal at all for preserving the plurality that has always been the hallmark of Indian society and also the reason why this civilisation has a never-ending sustainability. The co-option of the minds in the media, particularly in the electronic variant of it, doesn't augur well for a democratic India. The Report has made an attempt to discover the factors that have led to this well-calibrated tendency, which has the danger of erasing all hues of existence and converting the vibrant Indian society into a monochromatic inanity.

Another significant marker in the Report is the identification of a clear trend to undermine the citizens' inalienable rights to privacy, dignified living and free speech. While the government, for instance, has moved ahead with its

continuous shift to an Aadhaar-based identity system, the basic concerns of privacy and data leak have not been addressed with the same gusto. Quite a few instances of Aadhaar database being compromised have come to light, but it has not set the alarm bells ringing. The vulnerability of similar database being misused through the social media route is no secret now. Here too, the government is yet to take stringent corrective actions to protect the privacy concerns of the citizens. On the free speech front too, the government seems to have fallen short of the high degree of tolerance it is expected to display. Wishing away all its critics may prove to be a convenient recourse for any government to take, for then only the good words would remain. In the long run though, this would prove to be counter-productive for society at large and self-defeating for the government of the day. Unfortunately, the BJP-led government has failed to generate enough confidence on this crucial count.

Yet another trend that became evident in the fourth year of the NDA government is the fast shrinking space within which the voluntary sector is now expected to operate. Any wrongdoings, especially of the financial nature, committed by the voluntary organisations and NGOs cannot be defended. Over the decades, these groups have made remarkable contribution to India's development story, and their work has been acknowledged by the government and international organisations. The new branding of the entire sector, therefore, as unproductive and, in some cases, as unpatriotic has come as a shocker to thousands of women and men involved in such work. This could well be a part of the larger effort to silence the critics because voluntary groups — since a good number of them work at the grassroot level — have a relatively fair idea of the situation on the ground beyond the cacophony emanating from those at the helm of the government.

In a democracy, no one can take away the right of a political leadership to convert itself into an election-winning machine. After all, the textbook objective of a political party is to come to power through the majority route and it has every right to adopt all legitimate 'means' to do that. In this race, though, the sight of the 'ends' cannot be lost, more so in a country which holds the largest possible diversity globally and a growing inequality. As the government ends the current term in office and all political parties prepare for the next general elections, this report is a call to keep the people's concerns and aspirations at the heart of governance, in particular of the excluded and vulnerable sections.

# CONTRIBUTORS

## Contributing organizations :

Alliance Defending Freedom (ADF) India, Amnesty International India, Centre for Budget and Governance Accountability (CBGA), Centre for Social Equity & Inclusion (CSEI), Centre for Financial Accountability, Ekta Parishad, Environics Trust, Equals, Center for Promotion of Social Justice, Indian Social Institute, Jan Swasthya Abhiyan, National Campaign on Dalit Human Rights (NCDHR), National Youth Equity Forum (NYEF), Human Rights Defenders Alert – India (HRDA), National Campaign for People's Right to Information (NCPRI), Nazariya: A Queer Feminist Resource Group, Public Advocacy Initiatives for Rights and Values in India (PAIRVI), Right to Education Forum, Peoples' Watch, Satark Nagarik Sangathan (SNS), Smarthyam, Sightsavers India, Voluntary Action Network India (VANI), Vidya Sagar, WaterAid India and Youth for Unity and Voluntary Action (YUVA) ,

## Expert Contributors :

1. **Aakar Patel**, Amnesty International India
2. **Abhay Xaxa**, National Campaign on Dalit Human Rights (NCDHR)
3. **Ajay K. Jha**, PAIRVI
4. **Ambarish Rai**, Right to Education forum
5. **Amit Sengupta**, Jan Swasthya Abhiyan
6. **Anjali Bhardwaj & Amrita Johri**, National Campaign for People's Right to Information (NCPRI) & Satark Nagarik Sangathan (SNS)
7. **Anjee Agarwal** — Smarthyam
8. **Anu George Canjanathoppil**, Supreme Court Advocate
9. **Dr. Deepak Nikarthish**, National Campaign on Dalit Human Rights (NCDHR)
10. **Denzil Fernandes & Manaf Kottakkunnummal**, Indian Social Institute (ISI)
11. **Dr. MP Raju**, Supreme Court Advocate
12. **Happy Pant, Prianka Samy, Saumya Srivastava & Suraj Jaiswal**, Centre for Budget and Governance Accountability (CBGA).
13. **Harsh Jaitli & Nivedita Datta**, Voluntary Action Network India (VANI)
14. **Jayashree Kumar, Akbar Mefuz Alam, Amaresh Kumar Pandey, Ketan Kothari and Nalini Vaz**, Sightsavers
15. **John Dayal**, Human Right Activist
16. **Kalyani Raj**, Women's Right Activist
17. **Mathew Jacob**, Human Rights Defenders Alert – India (HRDA)
18. **Meenakshi Balasubramanian**- Equals, Centre for promotion of Social Justice
19. **Nirma Bora**, Policy Expert
20. **Pamela Philipose**, Ombudsperson, The Wire.in
21. **Praveen Jha**, Professor; Economist; Jawaharlal Nehru University (JNU)
22. **R.Sreedhar**, Environics Trust

23. **Rajavelu K and Meha Khanduri**, Peoples' Watch
24. **Ramesh Sharma**, Ekta Parishad.
25. **Reni K. Jacob**, Advocacy Expert
26. **Ritambhara Mehta, Rituparna Borah** and **Sharanya Rao**: Nazariya: A Queer Feminist Resource Group
27. **Dr. Santosh Kumar Singh** , Delhi University
28. **Satyendra Kumar and Aditi Banerjee**, National Youth Equity Forum (NYEF).
29. **Shaguna Kanwar and Brishti Banerjee**, Youth for Unity and Voluntary Action (YUVA).
30. **Smitha Sadasivan** — VidyaSagar
31. **Surajit Mazumdar**, Professor; Economist; Jawaharlal Nehru University (JNU)
32. **Tehmina Arora**, Legal Counsel, ADF India
33. **Valay Singh**, Child Right Activist

# Aadhar : Governance failure of biometric state

Too much at risk

The Unique Identity Authority of India (UIDAI) was established on 28 January 2009 to create a "multi-purpose National Identity Card" for every citizen of India; commonly known as the Aadhar card. On 23 June 2009, Mr. Nandan Nilekani was appointed Chairman of UIDAI to lead the process. As the registration of citizens for Aadhar card was being put in place, the UPA Government began to use it for various purposes. On 7 February 2012, the UIDAI launched an online verification system for Aadhar numbers, where banks, telecom companies and government departments were able to verify whether a person is a resident of India. In November 2012, the former Prime Minister, Shri Manmohan Singh, launched an Aadhar-linked direct benefit transfer scheme, which could directly transfer money to the bank account of the recipient throughout the country. On 9 October 2013, an Aadhar-based remittance system was introduced, where funds could be transferred to any Aadhar-linked bank account. All these were done, even though the National Identification Authority of India Bill 2010 was not passed by the Parliament and hence the Aadhar project had no legislative backing. Besides, on 23 September 2013, the Supreme Court issued an interim order saying that the Aadhar card was voluntary and the Government could not deny a service to anyone who did not possess an Aadhar card. By the end of the term of the UPA Government, 44 crore Aadhar cards had been issued to citizens.

## The BJP manifesto doesn't mention Aadhar card

The election manifesto of the Bharatiya Janata Party (BJP) was released on 7th April, 2014, and, interestingly, there was no mention of the Aadhar card in the election manifesto. They had opposed the Aadhar initiative of the UPA government. The BJP Prime Ministerial candidate, Shri Narendra Modi, tweeted that Aadhar posed a 'security threat' and was only a 'political gimmick'. During the campaign trail, he questioned the wisdom of spending crores of tax-payers money on the Aadhar project. During the election campaign, several BJP leaders opposed the Aadhar project. The BJP spokesperson, Meenakshi Lekhi termed the Aadhar project a 'fraud perpetrated on the people of the country and a dangerous programme that will regularize illegal migrants in the country'. She claimed that Aadhar posed a security risk to the nation as the illegal stay of three crore Bangladeshi immigrants spread across the country would get regularised as they would get Aadhar cards. After the NDA Government assumed office, on 10 June 2014, they disbanded the cabinet committee on Aadhar. It appeared that the Aadhar project would be scrapped!

## The U-Turn of NDA Government on Aadhar

On 1 July 2014, Mr. Nandan Nilekani met the Prime Minister and the Finance Minister to convince them about the benefits of Aadhaar. On 5 July the Prime Minister announced that the NDA Government would retain the project. The budgetary allocation for Aadhar was increased to over 2000 crore in the 2014-15 budget. On 10 September, the Cabinet Committee on Economic Affairs gave approval for the next phase of the UIDAI project and allocated another Rs. 1,200 crore in order to reach a target of enrolling 100 crore citizens. The Government developed a vision for governance which was called JAM - Jan Dhan-Aadhar-Mobile, where Aadhar played an indispensable role. Seeing the benefits of Aadhar in the direct benefit schemes, the Prime Minister urged officials to accelerate the delivery of benefits and expand the applications of the Aadhar platform.

## Aadhar bill as money bill

The NDA Government decided to provide the long awaited legislative support for the Aadhar project. On 3 March 2016, the Aadhar (Targeted Delivery of Financial and other Subsidies, benefits and Services) Bill 2016 was introduced in the parliament as money bill by the Finance Minister drawing widespread protests from opposition

parties. The government did not have majority in the Rajya Sabha and hence the decision to introduce the money bill. The opposition accused the government of trying to bypass debate in the Rajya Sabha and the danger of using the project for mass surveillance. There was concern about forceful linking of personal information into the sophisticated form of civil registration (Rajagopal, 02 May 2018). Others pointed out the possible use of immensely rich demographic data as raw material for research, policy making and planning (Ramanathan, 30 April 2017). It is interesting that these and various other implications of the Aadhar is being argued in the Supreme Court and the project still does not have legal mandate. Time and again the mandatory aspect of enrolment is challenged by the Supreme Court.

## **Aadhar linked hunger death and exclusion**

Despite the lack of the legal mandate, Aadhar is being linked to and demanded for accessing the rations under the Public Distribution System (PDS), employment under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), pensions under the Social Security provisions and even the Mid- Day Meal (MDM) (Gosh, 5 January 2018; Jha, 2016). This has resulted in amplifying the exclusion errors; school children are denied mid-day meals in Uttar Pradesh, sick people denied medicines and food in Jharkhand because the computers did not verify their identities (Bhatnagar, 2 January 2018; Roy, 16 October 2017; Singh, 22 October 2017; Mayberry, 16 November 2017). The state justifies its arbitrary actions in the name of curbing of identity fraud and households accessing undue benefits in the name of another (Reetika, 2017p. 62). According to Jean Dreze et al. (2017) many ration shop owners sold their surplus grains in the black market in states like Jharkhand.

## **Personal is political: data leaks**

Amidst speculations on the sale of data, newspapers reported leakages from Jharkhand State's website, after Jean Dreze, a researcher along with an NGO, 'Right to food' demanded action against the crime (27 April 2017 Telegraph). This raises ethical issues (Dreze, 24 March 2017) as gamut of information on people can be hacked, or even sold for various data research companies to manipulate society as happened in the controversy around Cambridge Analytica which manipulated voters using facebook during the USA's presidential campaign in 2016.

## **Mammoth repercussions**

"India is biometric State" (Breckenridge, 2014, p.18). Voice samples collected from mobile communication firms, and photographs and names gathered from Facebook are available to the state as written documents in the broader bureaucratic process. In the past, biometric identification system based on the measurement of finger prints was part of the broader misuse of technology to control mobility of the poor, racial minorities, and law breakers as introduced by the British in 1900 in India, and later in South Africa (Brekendridge, 2014, p.2). Its current avatar, Aadhaar card is falsely projected as an example of frugal innovation (jugaad) (Radjou et al. 2015) laid out for the benefit of the people with blessings from otherwise globally competitive private firms in the IT sector of India, for reducing the tasks hitherto performed by bureaucracy.

People's blind faith in the benevolence of authority, poor performance of welfare schemes due to corruption, and paranoia around high incidence of crime in society have facilitated the introduction of Aadhaar card, a complex assemblage that enable State surveillance par excellence, amidst economic reforms such as Goods and Services Tax (GST), and the introduction of Electronic Voting Machines (EVMs). The Aadhar card nullify more creative experiments in poverty alleviation such as smart cards given under the Rashtriya Swasthya Bima Yojana (RSBY). The question arises whether Aadhar card should be the priority for the Indian democracy given the colossal challenges in education, health care, even basic drinking water and more complex issues of infrastructure, environmental pollution, and corruption that the country is faced with.

## **Conclusion**

The review draws attention to the lack of political honesty manifested as India is trying out an ambitious programme for creating a cloud containing all the security related and welfare programme oriented information in a biometric system. The onus of ensuring the relevance and security of the technology and its use lies with the government. All good intentions of a biometric registration programme for ending corruption, enhancing efficiency, ensuring welfare measures can lead to greater exclusion of the vulnerable and exploitation of personal

freedom and privacy. It is of concern that the government is taking the route of the biometric system for addressing these problems than taking the route of improving governance and state accountability to citizens. There are serious concerns of the biometric being used for criminal profiling, religious or ethnic witch-hunting, communal violence, anti-migrant mobilisations and ghettoization in India.

A stay order by the Supreme Court has currently extended the date for linking Aadhaar to bank accounts, Permanent Account Numbers (PAN), and mobile connections to July 2018 (Gaur, 8 May 9, 2018).

## References:

Bhatnagar, GauravVivek. (2 January 2018). Aadhaar and Hunger: Second Jharkhand woman starves to death after being refused rations. Retrieved from

<https://thewire.in/food/aadhaar-hunger-jharkhand-starvation-death-rations>

Breckenridge, Kieth. (2014). Biometric State: The global politics of identification and surveillance in South Africa, 1850 to the present. Cambridge: Cambridge University Press.

Election manifesto.(2014), BharatiyaJanata Party.

Dreze, Jean. (24 March 2017). Hello Aadhaar, goodbye privacy! Retrieved from

<https://thewire.in/featured/hello-aadhaar-goodbye-privacy>.

----- (24 October 2017). Why linking Aadhaar to PDS threatens to disrupt food security: Jean Drèze<https://www.dailyo.in/politics/pds-biometric-aadhaar-card-public-distribution-system-bpl-apl/story/1/20208.html>

Dreze, Jean, Nazar Khalid, ReetikaKhera, AnmolSomanchi. (2017). Aadhaar and food security in Jharkhand: Pain without gain? Economic and Political Weekly, LII (50), pp.50-59.

Indian Express, (9 April 2014). In Karnataka, NarendraModi targets UPA's Aadhaar, RTI; In Kerala, slams Antony,<http://indianexpress.com/article/india/politics/in-karnataka-modi-targets-upas-aadhaar-rti/>

Gaur, Vijay, (8 May 2018). SC's stay order on Aadhaar doesn't deter 'coercive' linking. Retrived from <https://www.theweek.in/news/biz-tech/2018/05/08/sc-aadhaar-stay-order-companies-coercive-linking.html>

Khera, Reetika. (2017). Impact of Aadhaar on welfare programmes.Economic and Political Weekly, LII (50), ,61—70.

Radjou, Navi, &JaideepPrabhu. (2015). Frugal innovation: How to do more with less, ondon: Profile books.

Ramanathan, Usha. (3 March 2016). The law needs to catch up with aadhaar, but not in the way Jaitley is promising. Retrieved from : Wire<https://thewire.in/rights/the-law-needs-to-catch-up-with-aadhaar-but-not-in-the-way-jaitley-is-promising>.

----- (04 April 2017). Without Supreme Court interference, the Aadhaar project is a ticking time bomb. Retrieved from : <https://thewire.in/featured/aadhaar-supreme-court-uid>

----- (25 April 2017). The function creep that is Aadhaar. Retrieved from :

<https://thewire.in/featured/aadhaar-function-creep-uid>

----- (30 April 2017). Project Aadhaar is all about compulsion, not consent: UshaRamanathan. Retrieved from : <https://www.bloombergquint.com/law-and-policy/2017/04/30/project-aadhaar-is-all-about-compulsion-not-consent-usha-ramanathan>

----- (16 May 2017). Coercion and silence are integral parts of the Aadhaar project,

<https://thewire.in/economy/coercion-aadhaar-project-ushar>

----- (6 June 2017). Who is opposing the Aadhaar project? Retrieved from :

<https://thewire.in/government/aadhaar-uid-opposition-criticism>.

The Telegraph, Drèze rakes up Aadhaar leak, Retrieved from :

[https://www.telegraphindia.com/1170427/jsp/frontpage/story\\_148512.jsp](https://www.telegraphindia.com/1170427/jsp/frontpage/story_148512.jsp)

Kumar, Anil. (March 12, 2014). Aadhaar a fraud, will review it if voted to power: BJP. Retrieved from:

<https://timesofindia.indiatimes.com/news/Aadhaar-a-fraud-will-review-it-if-voted-to-power-BJP/articleshow/31864188.cms>

Gosh, Jayati. (5 January 2018). Obscenity of hunger death. Retrieved from :

[http://www.frontline.in/columns/Jayati\\_Ghosh/obscurity-of-hunger-deaths/article9998710.ece](http://www.frontline.in/columns/Jayati_Ghosh/obscurity-of-hunger-deaths/article9998710.ece)

Mayberry, Jessica. (16 November 2017). One death, three stories about sickness and starvation in Jharkhand,

<https://thewire.in/rights/jharkhand-starvation-death-media-politics>

Rajagopal, Krishnadas. (May 02, 2018) SC questions government's justification for passing Aadhaar Act as Money Bill. Retrieved from : <http://www.thehindu.com/news/national/sc-questions-governments-justification-for-passing-aadhaar-act-as-money-bill/article23749005.ece>

Roy, Saurav. (16 October, 2017). Girl dies of 'starvation' after ration card caught in tech glitch over Aadhaar.

<https://www.hindustantimes.com/cities/for-want-of-aadhaar-girl-dies-of-starvation-after-ration-card-caught-in-technical-glitch/story-2R6clFNDcpokcergdlv3UL.html>

Singh, Tavleen. (22 October 2017). Santoshi died of starvation.

<http://indianexpress.com/article/opinion/columns/santoshi-died-of-starvation-hunger-jharkhand-village-malnutrition-4900514/>

# Accountability: Reneging on the promise of a Bhrashtachar- mukt Bharat

The government has tried to dilute the gains of the people's movement for transparency, accountability and probity in public life

The popular sentiment that buoyed the BJP in the 2014 general elections was resentment towards corruption in public life. The clarion call of a *Bhrashtachar-mukt Bharat* (an India rid of Corruption) resonated with the electorate who believed the party's PM candidate when he declared, "*Na khaunga, na khane dunga*" (Neither will I usurp, nor let anyone usurp). Little, however, seems to have been achieved four years since. Big ticket scams dominate news headlines – including the Vyapam scam, the Nirav Modi scam and allegations of corruption against the highest functionaries in the Sahara-Birla diaries.

In a democracy as vast as India's, the only effective way to fight corruption is to empower citizens with appropriate tools and institutions to hold the government and its functionaries to account. As the principal opposition party, the BJP had vigorously, both inside and outside Parliament, supported the demand for an empowered and independent Lokpal, a mechanism to protect whistleblowers and a legislation to redress grievances of citizens. The past four years of the NDA regime have, unfortunately, been marked by consistent attacks on institutions of transparency and accountability.

The Lokpal and the Whistle Blowers Protection laws, passed by Parliament over four years ago, are yet to be operationalised. In fact, the government is attempting to dilute both legislations through introduction of amendments in Parliament. Instead of putting in place an effective grievance redress mechanism to ensure proper delivery of rights and services to people, an attempt is being made to amend the existing Prevention of Corruption Act (PCA) to make all bribe-givers offenders, which would criminalize even those who are forced to pay a bribe to get their legal entitlements. The PCA amendment bill introduced in Parliament by the government includes various amendments which would fundamentally weaken the legislation. The government is also reportedly mulling amendments to dilute the RTI Act.

## Waiting for a Lokpal

The Lokpal and Lokayuktas Act (LL Act) was passed by Parliament and notified in the Gazette in January 2014. The new government had the responsibility to ensure effective implementation of the law. In the past four years, however, it has shown a lack of will to operationalise the anti-corruption legislation.

With the government's refusal to recognise anyone as the Leader of the Opposition (LoP) after the general election in 2014, the appointment of the Lokpal became an immediate casualty as the selection committee of the Lokpal was meant to include the recognised LoP. In order to operationalise the law, the government had its task cut out — introduce a Lokpal amendment Bill in Parliament substituting the recognised LoP in the selection committee with the leader of the single largest Opposition party in the Lok Sabha. A similar amendment required in the Delhi Special Police Establishment Act for the appointment of the CBI Director was introduced and passed expeditiously. In contrast, the government introduced a 10-page Bill which proposed to fundamentally dilute the original law. The Bill continues to languish in Parliament.

**In the meantime in 2016, another amendment bill was introduced and resolutely pushed through by the government, which** completely whittled down Section 44 of the Lokpal law related to disclosure of assets of public servants. The Lokpal Amendment Act, 2016, did away with the statutory requirement of public servants to declare and publicly disclose the assets of their spouses and dependent children provided for under the original law. It empowered the Central government to prescribe the form and manner of asset disclosure. This was a huge blow as the Lokpal was established to act on complaints under the Prevention of Corruption Act (PCA); one of the

grounds of criminal misconduct under the PCA relates to a public servant or any person on his/her behalf being in possession of pecuniary resources or property disproportionate to known sources of income. Since illegally amassed assets are often handed over to family members, public declaration of assets of the spouse and dependent children of the public servants was necessary to enable people to make informed complaints to the Lokpal.

The law was thus diluted even before it could be operationalised. MPs from various political parties, who expressed concern that the amendments would dilute the original law, were assured by the Minister that once the Bill was passed it would be referred to a parliamentary standing committee for deliberation. Response to a query under the RTI Act, however, revealed that the Minister had misled Parliament.

The matter of non-appointment of the Lokpal was agitated in the Supreme Court. Recognising its limitation in terms of being able to direct the legislature to pass the amendment regarding the composition of the selection committee, the Court, in 2017, held that under Section 4(2) of the Lokpal law, a truncated selection committee (without the LoP) could appoint the Lokpal. Yet, no Lokpal has been selected to date.

## **Weakening the Prevention of Corruption Act**

In 2016, the government proposed amendments to the Prevention of Corruption Act (PCA), the key legislation which defines what constitutes corruption and prescribes penalties for corruption-related offences.

The amendment bill narrows down the existing definition of corruption, increases the burden of proof necessary for punishing the corrupt, makes things more difficult for whistle-blowers, and strengthens the shield available to officials accused of corruption.

The amendments seek to insert a new section to the law that would bar investigating agencies from even beginning an inquiry or investigating offences under the PCA without prior approval. Effectively, this means that political masters will decide whether or not they wish to allow an inquiry against any government employee. The amendment bill thus brings back the infamous "Single Directive" that had been struck down by the Supreme Court (under which no officer of the rank of Joint Secretary or above could be investigated without permission from the government).

Further, the proposed bill intends to usurp critical powers of the Lokpal. Experience in India has shown that the requirement for seeking prior sanction from the government for prosecuting government officials is a critical bottleneck and results not only in huge delays but also, and often, in the accused never being prosecuted. To address this problem, the Lokpal Act vests the power of granting sanction for prosecution in the independent institution of the Lokpal. Instead of reinforcing this provision the PCA amendments strengthen the requirement to seek the government's permission before prosecuting a public servant by increasing cover to even retired public officials. By requiring the Lokpal to seek permission from the government before it can prosecute officials in cases of corruption, the proposed PCA amendments make a mockery of the independent institution and render the entire exercise of demanding an empowered Lokpal futile.

Finally, the proposed amendments make all actual and potential bribe-givers offenders under the PCA, offering protection only if a person compelled to give a bribe reports it to law enforcement agencies within seven days of paying the bribe. In the Indian context, where people are coerced to pay bribes to get their basic rights and entitlements – like rations, pension, health facilities – the window of seven days is not only impracticable but also exposes the poor and marginalised to intimidation by vested interests and the bureaucracy. The amendment would, in effect, criminalise all bribe giving, without any distinction between "coercive" and "collusive" bribing.

## **Non-implementation of the Whistle Blowers Protection Act**

Scores of whistleblowers have been killed across the country in the last few years for exposing corruption and wrongdoing in the government. The Whistle Blowers Protection (WBP) Act passed in 2014, provides for the protection of identity of whistleblowers and safeguards against their victimisation. Despite several statements from senior BJP leaders in support of the WBP law before the 2014 elections, the current government has taken no steps to implement the WBP Act.

Instead of promulgating rules to operationalise the law, the government has moved an amendment bill in Parliament which seeks to severely dilute the Act.

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

### **Failure to re-introduce the grievance redress bill**

Providing a legal framework for grievance redress was a commitment made in the sense of House resolution passed unanimously in Parliament in August 2011. The 'Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011' (GR Bill), which was introduced in Parliament in 2011 with support of MP across party lines, lapsed with the dissolution of the 15th Lok Sabha.

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

In March 2016, however, in response to a question in Parliament, the government made no reference to the legislation and, instead, stated that it had prepared a scheme known as Delivery of Services and Grievances Redressal Scheme, 2015. The government has clearly reneged on its commitment to bring in a statutory framework for time-bound and effective redress of grievances. This is a matter of concern, given that the pending amendments to the Prevention of Corruption Act seek to criminalise all bribe-giving. If the amendments to the PCA are brought in without a statutory framework for grievance redress, it would lead to a double wrong, as people who are forced to pay bribes to access what is legally theirs would also be criminalized and could face up to seven years in prison!

### **Amending the Right to Information (RTI) law**

As per media reports, in complete contravention of the pre-legislative consultation policy, the government has drafted a bill to amend the RTI Act – a law which has empowered millions of people across the country to demand information and hold the government accountable. The proposed amendments, yet to be made public, reportedly dilute the law by downgrading the status of information commissioners, the watchdogs of the transparency legislation.

Sections 13 and 15 of the RTI Act state that the salaries, allowances and other terms of service of the Chief of the Central Information Commission shall be the same as that of the Chief Election Commissioner. Likewise, the emoluments of the Central Information Commissioners and State Chief Information Commissioners, will be on par with election commissioners. However, the proposed amendments seek to undo the provisions of Sections 13 and 15 of the RTI Act and seek to empower the central government and the state governments to decide salaries of information commissioners through rules.

The principle of according high stature, and protecting the terms of service by equating them to functionaries of constitutional bodies, is routinely adopted for independent statutory oversight bodies, including the Central Vigilance Commission and the Lokpal. The status conferred on commissioners under the RTI Act is to empower

them to carry out their functions autonomously and direct even the highest offices to comply with the provisions of the law.

Empowering the central and state governments to decide salaries of information commissioners is a clear attempt to undermine their independence – directions to disclose inconvenient information could invite adverse consequences by way of cuts in their salaries and allowances.

The proposed amendments come in the backdrop of the government's adamant inaction on filling vacancies in the Central Information Commission – of a total sanctioned strength of 11 commissioners, there are currently four vacancies and four more are due to arise in 2018, including that of the Chief. The failure to make timely appointments is leading to huge backlogs of appeals and complaints resulting in inordinate delays in the commission, which render the law meaningless for citizens. Instead of making appointments, the surreptitious move to subvert the law exposes the government's intentions of diluting the transparency regime in India.

This is not the first attempt by the present government to weaken the law. Amendments were proposed to the RTI Rules in 2017 include a provision for withdrawal of appeals based on a written communication by the appellant and closure of proceedings upon death of the appellant. Given the Indian reality, where RTI applicants continue to be threatened, physically beaten up, and even killed, such provisions will provide a perverse incentive to vested interests to silence the information seeker through coercion or physical harm. This controversial proposal is especially concerning given that the Central government has failed to implement the Whistle Blowers Protection Act

In order to deliver on its promises of a corruption-free India, the Modi government must begin by immediately operationalising the existing Whistle Blowers Protection Act and re-introducing the grievance redress bill in Parliament. Rather than bringing contentious amendments to dilute the Lokpal law, the government should move a single line amendment allowing for the leader of the single largest opposition party to be a member of the selection panel, so that the Lokpal law can be operationalised immediately. The regressive amendments to the PCA must be urgently dropped. Without an effective anti-corruption and grievance redress legislative framework, which is properly implemented, the tall promises of eradicating corruption made to the electorate before the 2014 elections, will remain mere *jumlas* – rhetorical slogans.

# Bonded Child Labour: Always left behind

Data collection and enforcement of laws and conviction key to ending child bonded labour

As per the Convention on the Worst Forms of Child Labour of the International Labour Organisation (ILO Convention), a “child” is a person under the age of 18, and the “worst forms of child labour” comprises all forms of slavery or practices like slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict. The ILO Convention having been ratified by India, along with the United Nations Convention on the Right of the Child (UNCRC) followed by enacting the required laws have fallen short of curtailing bonded child labour.

## The Bondage Trap

A report by Save the Children ranked India at 116<sup>th</sup> out of 172 countries on the index ranking for loss of childhood, analysed on parameters of child health, education, marriage, labour, child birth and violence. Whatever be the forms of bonded labour, they are inherently detrimental to children's all round development, and mars their self-esteem. Bonded child labour is a situation wherein the children along with their parents have pledged their labour until the debt incurrent by the parents to in times of exigencies are not repaid to the local moneylender. The undue long hours of work at abysmally low wage or nil wage under exploitative conditions, exorbitant rate of interest, violence and threats ensure their servitude to the money lenders for years on end, making it impossible for them to repay the debt.

Labour migration and bonded child labour are closely intertwined. The movement of seasonal labourers between states goes largely unregulated, leaving significant gaps in which exploitation flourishes. Unofficial estimates put the numbers at tens or even hundreds of millions. Children are naturally more vulnerable to exploitation as they too migrate with their parents. A common form of child bonded labour involves children being taken by the creditor to pay off their parents' debts by working in another state, far away from their homes. These children are sent from rural areas to work in an urban labour market, making them unable to escape. The lack of government data on child bonded labourers, sparing the estimates from civil society studies and other related state statistics, makes it impossible to estimate the real number of child bonded labourers. In a prevalence study on bonded labour in Tamil Nadu, labourers employed outside their home district were found to be bonded at more than three times the rate of those in their home district.

**The Lost Childhood:** In 2016, 9034 children (boys 4123; girls 4911) were trafficked as per the National Crime Records Bureau. Trafficking takes place for various reasons, one major motive being cheap labour. Likewise, the Tamil Nadu State Crime Records Bureau (2017) revealed that from 2015-August 2017, of the several hundred trafficked children many were employed as labourers. This information gives an insight into the larger scenario wherein children from impoverished backgrounds get trafficked for labour from different states namely, Assam, Karnataka, Bihar, West Bengal, Kerala, Rajasthan, Uttar Pradesh, Andhra Pradesh, Odisha, Maharashtra, Jharkhand, Chhattisgarh, Madhya Pradesh, Arunachal Pradesh and Manipur.

Once bonded, a series of abuses, both physical and sexual and humiliations are unleashed on them upon failing to meet rigorous demands of the creditor. Their right to education, health, growth and development, and to simply be children is violated. Subjected to both verbal and physical abuse including sexual abuse and harassment, these inflictions leave behind scars of severe lasting trauma undermining the dignity of the child.

## Contradicting Legalities

The Constitution of India has provided specific clauses focusing child welfare which further guided enactment of various laws for the protection and development of children. The key legislations to eliminate child bonded labour

include the Bonded Labour System (Abolition) Act, 1976, and the Child Labour (Prohibition and Regulation) Act, 1986 and Amendment, 2016 (CLP & R Act) prohibiting employment of children under 14 years into hazardous occupations. The 2016 amendment to CLP&R Act by the NDA Government permitted engagement of children in 'family enterprises', thereby creating ample opportunities for the factories/industries to engage children in the out-sourced homes based assignments..

Furthermore, the amendment gives opportunities to engage children in work at different levels of the supply chain like procurement, transport, manufacturing and distribution, as the process is divided into various stages. Hazardous occupations too have been reduced to a small list of mining, manufacturing of explosives and occupations mentioned in the Factory Act; work in chemical mixing units, cotton farms, and brick kilns among others are no longer considered hazardous for children.

Hence, the CLP & R Act stands diluted in its scope, and runs contrary to the fundamental right to education guaranteed in the Constitution of India (Art. 21A), and the provisions of the Right of Children to Free and Compulsory Education Act, 2009. Additional legal measures relating to child bonded labour include the Juvenile Justice (Care and Protection) of Children Act, 2000; and the Indian Penal Code (Section 370) both of which have failed to generate data on child bonded labour, a *sin-quo-non* to abolish it.

### **Global Initiatives: Sustainable Development Goals (2015-2030)**

The United Nations has set in motion a plan to build a more prosperous, equal and secure world by 2030 through the 17 Sustainable Development Goals (SDGs). **Three targets relate specifically to the subject of bonded child labour and trafficking;**

**5.2** –Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.

**8.7** – Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.

**16.2** –End abuse, exploitation, trafficking and all forms of violence against and torture of children.

### **National Initiatives viz-a-vis SDGs**

The most significant commitment made recently by the NDA towards the eradication of child bonded labour is the Union Ministry of Labour and Employment's vision for the abolition of bonded labour by 2030', and revamping of the Central Sector Scheme (CSS) for Rehabilitation of Bonded Labourer with effect from May 17, 2016. Under the revised scheme, the government has committed to identify, release and rehabilitate 18 million bonded labourers in the country, by undertaking (i) state surveys on bonded labour twice annually; (ii) *strengthening of the prosecution machinery aiming at 100 percent conviction rate through trial and judgement delivered on the same day;* (iii) *Seven-year strategy (2017-18 to 2023-24)* with the aim to bring down the number of bonded labourers by 50% of the present estimate and (iv) *three-year action plan (2017-18 to 2019-20)* to create a district level rehabilitation fund with a minimum corpus of Rs 10 lakhs at the disposal of each district magistrate for immediate cash assistance for released bonded labourers.

The revamped scheme provides for substantially increased rehabilitation assistance to released bonded labourers. On January 17, 2017, immediate cash assistance was enhanced from Rs 5,000 to Rs 20,000 under the District Bonded Labour Rehabilitation Fund. Additionally, the total financial assistance has been increased from Rs 20,000 to Rs 2 lakhs for special category beneficiaries including children, orphans, those rescued from organized begging rings or other forms of child labour, and women. The total financial assistance has been increased to Rs. 3 lakhs in cases of bonded labour involving extreme cases of deprivation or marginalization such as transgenders, or women or children rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies etc, or trafficking, or in cases of differently-abled persons, or in situations where the District Magistrate may deem fit.

However, in response to the question of naught cases of full compensation under the CSS raised by a Member of Parliament in Tamil Nadu the Minister of State (IC) for Labour and Employment confirmed the same to be true.

Except the immediate assistance of up to Rs. 20000, the CSS didn't allow disbursement of entire rehabilitation assistance to child bonded labourer until the conviction of the accused. The Central government denied receiving any such proposal from the states for the release of full amount of rehabilitation assistance, which itself speaks volumes for low conviction rate in cases of child bonded labour.

## The Way Forward: Strategies for Progress

### 1. Data collection

The Government must undertake data collection through surveys prescribed by the Bonded Labour System (Abolition) Act, 1976, as a means of monitoring bonded labour and holding to account those responsible for implementing this law.

- The government should conduct inspections of work sites in areas or industries prone to bonded labour as provisioned in Sections 13 and 14 of the Act through the Vigilance Committees at the District and Sub-divisional levels. Secondly, the Labour Department is mandated to conduct a survey to ascertain the prevalence of bonded labour once every three years. The CSS provides funds to State governments for the completion of these surveys.
- The government should ensure registration of adolescent child labourers as per Sections 9 and 11 of CLP & R Act (amended 2016) and the registration of interstate migrant labourers as per Sections 7 and 8 of the Inter-State Migrant Workmen (Central) Rules Act, 1980.

### 2. Conviction and Deterrence

- The government should set deterrence mechanisms through timely trial and conviction in cases of child bonded labour to end impunity. Conviction and stringent punishment by itself would deter the offender from exploiting the children.
- Swift and effective prosecutions should be publicized widely to spread the awareness, citizen's vigilance, and message of intolerance for bonded child labour.

### 3. Implementation of Supreme and High Court orders

- The Government must strictly implement the orders of the judiciary spelled out in the BBA vs. Union of India, wherein the Supreme Court ordered the children missing for more than 4 months to be considered as trafficked, and subsequent action taken.
- Enforce the order of the Madras High Court (HCP No.881/2016) to set up exclusive sub-units of the Anti-Human Trafficking Units in the cities and districts with adequate manpower for timely investigations and tracing of the missing children.

### 4. Rehabilitation

The system should adopt a proactive preventive approach to pre-empt children from being risked into labour bondage. The law enforcers-(labour inspectors) must conduct thorough examinations to detect bonded labour -police officers must investigate, rescue and register complaints in a timely manner; and the judiciary must bring about justice by awarding sentences according to appropriate sections of the laws against child bonded labour (Section 370 IPC ranges from 7 years to life) to enable timely realisation of complete rehabilitation assistance to the victims.

### 5. Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018

Urgently enact the new comprehensive Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018, which has received Cabinet's approval, and introduces punitive measures for all kinds of trafficking, from using victims as bonded labour or as child soldiers to forced begging.

### 6. Integrated Progress on SDGs

To accomplish the global commitments in this regard, the Government must,

- Determine and implement national action plan corresponding to the legal frameworks, policies and schemes for each goal; improve indicators and systematic monitoring of these targets backed with comprehensive disaggregated data on child bonded labour and inter-related issues. Adopt relevant indicators to estimate the prevalence of child bonded labour as the current indicators proposed for Target 8.7 (annual total crimes relating to human trafficking and annual number of children missing) is inadequate to do so.

Continue the good practice of reporting on the progress on SDGs vis-à-vis child bonded labour on international fora, like the Voluntary National Review Report on India's progress on the SDGs presented to the High Level Political Forum at the United Nations in July 2017 by the NITI Aayog.

## References :

Economic Times. (2017) *India's bonded labour assistance to include transgender people, boost payouts*. Retrieved February 9, 2018, from: <http://economictimes.indiatimes.com/news/economy/policy/indias-bonded-labour-assistance-to-include-transgender-people-boost-payouts/articleshow/52327901.cms>

First Post. (2016, July 20) *Government to release and rehabilitate bonded labour by 2030*. Retrieved February 7, 2018, from: <https://www.firstpost.com/business/govt-to-release-and-rehabilitate-1-84-cr-bonded-labourers-by-2030-2906748.html>

Government of Tamil Nadu, (2017) State Crime Records Bureau: Chennai.

Government of India, NITI Aayog. (August 2017) *Sustainable Development Goals (SDGs) – Draft Mapping*. Development Monitoring and Evaluation Office: New Delhi.

Government of India, NITI Aayog. (2017) *Sustainable Development Goals, Targets and Proposed National Indicators*

Government of India, Ministry of Labour and Employment. Rajya Sabha. Unstarred question No.4238 answered on 04.04.2018.

Government of India, (1950) Constitution of India. New Delhi.

Government of India. Ministry of Labour and Employment. (2016, May 18) *Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016*. Retrieved February 7, 2018, from: [https://labour.gov.in/sites/default/files/OM\\_CSS\\_Rehab\\_BL\\_2016\\_1.pdf](https://labour.gov.in/sites/default/files/OM_CSS_Rehab_BL_2016_1.pdf)

Gupta Ruchira, (10 Aug 2016) A Law that allows Child Labor, The Hindu.

ILO, C,182. (1999, June 17). *Worst Forms of Child Labour Convention, 1999*. Retrieved April 7, 2018, from Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Entry into force: 19 Nov 2000):

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182)

India Today. (2016, July 16). *Govt looks to rehabilitate 1.84 cr bonded labourers till 2030*. Retrieved February 7, 2018, from: <https://www.indiatoday.in/pti-feed/story/govt-looks-to-rehabilitate-1.84-cr-bonded-labourers-till-2030-643916-2016-07-20>

Indian Express. (2017, February 14). *Centre hikes immediate assistance for bonded labour to Rs 20,000*. Retrieved February 8, 2018, from: <http://indianexpress.com/article/india/centre-hikes-immediate-assistance-for-bonded-labour-to-rs-20000-4524935/>

International Justice Mission (IJM) & National Adivasi Solidarity Council (NASC), (2015) *The Prevalence of Bonded Labour in the State of Tamil Nadu*. IJM.

National Crime Records Bureau, (2016) *Crime in India*. New Delhi: Ministry of Home Affairs

Save the Children, (2017) *Stolen Childhoods: End of Childhood Report*.

United Nations General Assembly, (25 September 2015) *Transforming our world: The 2030 Agenda for Sustainable Development*, UNGA Doc A/Res 70/1.

Wada Na Todo Abhiyan, (2017) *A Civil Society Report – Sustainable Development Goals: Agenda 2030*

# Bonded Labour: The continuing reality

The scourge  
that  
afflicts millions

The specter of human trafficking is snowballing in India, with the National Crime Records Bureau (NCRB) reporting yearly increases in the rate of cases in the country. Worldwide, almost 20 per cent of all trafficking victims are children. The wide spread perception is that trafficking is mainly cross-border and for sex trafficking alone. However, forced labour, globally, the second most common form of trafficking, is mostly underreported and less frequently detected than trafficking for sexual exploitation. In fact, United Nations reports indicate that a large majority of the trafficking in India is of labour as compared to sex trafficking. Some reports also suggest that 90% of India's trafficking problem is internal and involves the exploitation of the most disadvantaged social strata—lower caste Dalits, members of tribal communities, women, children and migrant workers. In India, a large percentage of bonded labourers are from ST/SC communities and are exploited due a lack of protection by law. Harvard scholar Siddharth Kara estimates there are approximately 2.05 crore bonded labourers in the world, with South Asia home to about 85 per cent of them. According to his research, India has about 60 per cent (1.07 - 1.27 crore) of the world's bonded labourers.

## A Commitment to Eradicate Bonded Labour

Even though the bonded labour is an old entrenched phenomenon, the current government has acknowledged its widespread prevalence only in 2016. The change in the Central Government's perception of bonded labour has been an interesting journey from the media article in 2013 that stated "Thanks to MGNREGA, No Bonded Labour anymore", the Indian Government made a strong commitment in July 20<sup>th</sup>, 2016, stating that "Government looks to rehabilitate 1.84 cr bonded laborers till 2030. A perspective vision document has been prepared for total eradication of bonded labour," said the former Labour Minister, Bandaru Dattatreya.

The 15-year vision document (till 2030) aims to identify, rescue and rehabilitate an estimated 1.84 crore bonded labourers and strengthen the prosecution machinery for 100% conviction rate for preventing re-bondage. Additionally, there are plans to provide a sustainable monthly earning system for preventing return to bondage.

The Minister further stated that a seven-year strategy (2017-18 to 2023-24) would be adopted with a plan to reduce the number of bonded labourers to 50% of the present estimate and augment the annual budget to cater to the needs of at least 1.2 crore bonded labourers. The strategy would also focus on amending the labour laws relating to the organized sector to widen the ambit of coverage of vulnerable workers, including released bonded workers. Moreover, a three-year action plan (2017-18 to 2019-20) would be devised under which the government would create a "district-level rehabilitation fund" with a minimum corpus of Rs 10 lakh at the disposal of District Magistrates (DMs) for immediate cash assistance. The plan also includes surveys on bonded labour in the 18 states and payments through direct benefit transfer into beneficiaries' bank accounts.

## Central sector scheme for rehabilitation of bonded labourer 2016 (CSS)

The Government revised the Centrally Sponsored Planned Scheme for rehabilitation of Bonded Labour, 2000, and notified the "Central Sector Scheme for Rehabilitation of Bonded Labourer 2016 (CSS)" with the intention to eradicate Bonded Labour from the country. The new CSS Rehabilitation Scheme enhanced rehabilitation assistance for released bonded labourers from Rs. 20,000/- to Rs. 1 lakh for men, Rs. 2 lakh for women and children and Rs. 3 lakh for special categories of victims of extreme deprivation or marginalization including victims of sex trafficking and those rescued from exploitation by placement agencies. The initial rehabilitation assistance was increased from Rs. 1000/- to Rs. 5000/-, and then further increased from Rs. 5000/- to Rs. 20,000/- through a notification. The Ministry also instructed through a letter to all States that district corpus funds should be created by the states, to be reimbursed by the Centre.

## Standard operating procedure on bonded labour

The Ministry of Labour and Employment, in 2017 created a “Standard Operating Procedure” (SOP), for rescue, release, rehabilitation, repatriation, prosecution of offenders and sent the SOP to the Chief Secretary, States and to key departments - Ministry of Home Affairs, Law and Justice, Women and Child Development, Finance, External Affairs and NHRC. The SOP gives clear direction on the processes to be followed in handling bonded labour cases. It also highlights the importance of prosecution, with details on how summary trial and trial proceedings should be done. The Government has laid emphasis for bonded labour cases to be tried and the judgments to be delivered within three months.

## National web portal on bonded labour

In a recent regional conference of the NHRC on 2<sup>nd</sup> May, 2018 in Chandigarh, the Ministry of Labour and Employment shared that they will soon be coming out with a web portal for elimination of bonded labour. In line with Government prioritizing digital India, the hope is that there will be more transparency, where cases can be tracked from the District to National level.

## A beacon of hope

The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 seeks to make India a leader among South Asian countries in combating the menace. However, in addition to appeals for allocation of adequate resources for its enforcement, civil society organisations have been pushing for time-bound procedures for the rescues and safeguards for the non-liability of trafficking victims under the new law. There is need also for trained and designated officials with the authority to take up labour trafficking cases. Civil society is also pressing for protocols and funds for the coordination of inter-state cases to strengthen the network of officials, survivors and NGOs. The critical role of NGOs in combating trafficking and bonded labour also needs to be acknowledged under the new law.

## Budgetary allotment

Under the Ministry of Labour and Employment, detailed demands for grants 2018-2019 'The rehabilitation of bonded labourers (BL)' only has a budget of Rs 10 crore. A realistic and sufficient budget must be made available to realistically combat the crime of bonded labour, if the 2030 vision to identify, release and rehabilitate 1.84 crore bonded labourers in the country, strengthen the prosecution and conviction, and prevent re-bondage is to be realized.

## Skill development for bonded labour

The Ministry of Labour and Employment has made efforts to ensure that released bonded labourers are trained in employable skills through the Ministry of Skill Development and Entrepreneurship and the National Skill Development Corporation. Skill Missions have sent notifications to all States to empower the bonded labourers economically, financially and socially.

In addition to policy changes and robust implementation, the fight against human trafficking requires strategic coordination between the Centre and the states to mortally wound the giant of bonded labour and bring about a lasting change in the lives of millions of the afflicted.

# Budget: Taking stock of promises spending in social sectors

Policy actions; well planned, adequately resourced and monitored social sector spending key to inclusive development

**Four years ago, the NDA government came to power with an absolute majority.** The period thereafter has been marked by some significant developments like the acceptance of the recommendations of the 14<sup>th</sup> Finance Commission, scrapping of Planning Commission, constitution of the NITI Aayog, restructuring of the Centrally Sponsored Schemes (CSS), merger of plan and non-plan heads of expenditure and more. These have considerably altered the planning and budgeting processes and the federal fiscal architecture in the country. While on the one hand the states' autonomy to decide their spending priorities enhanced, the cutback in the Union Government spending has also ensued in inflated fiscal burden, giving rise to debates on states' capacity to make up for the reduction, compounded with regional inequities.

Several crucial policies and programmes are being implemented for the rural and social sector, and for overall equitable development. However, these policies and programmes have not been very effective in addressing the critical problems and improving progress towards development outcomes. Many of these shortcomings can be directly traced to the challenges associated with the design and funding of these policies and programmes. Amidst these concerns, and as the government enters the fifth year of office, it becomes important to look at government's decisions about funding of social policies and services. The sectors covered in the analysis of the NDA's performance since 2014 include education, health, agriculture, rural development and drinking water and sanitation), together with the policy impact on some disadvantaged groups.

**Education:** The government promised to raise public spending on education to 6% of the GDP, and strengthening of SarvaShikshaAbhiyanon being voted to power. A look at allocations for education in Union budgets depicts a picture contrary to the promises. In terms of the percentage of GDP, allocation for education plummeted from 0.55% in 2014-15 to 0.45% in 2018-19, and in terms of the percentage of Union budget, it fell from 4.1% in 2014-15 to 3.6% in 2018-19.

The policy making for education in India has many challenges to confront— such as education for all by reducing the number of out-of-school children, especially those from marginalised sections; quality of education; and adequate number of teachers and good quality school infrastructure. To address these challenges a number of public programmes are run. A look at allocations for some of the most essential programmes shows similar trend of budgetary decline. For example, in the case of centrally sponsored SarvaShikshaAbhiyan (SSA) and Mid-Day Meal (MDM) schemes, the allocations over five years have remained static, which means adjusting for inflation they have declined in real terms. While the RashtrityaMadhyamikShikshaAbhiyan (RMSA) saw a marginal increase, the Teachers Training and Adult Education (TTAE) programmes suffered a cut by 25%.

The current state of education in India is worrisome with around 6.5 crore students in the age group 6-17 years out of school. According to a study by Pratham, 25% students in age group 14-18 cannot read basic text in their own language. In such a dire scenario, the decreasing allocations run the risk of further deteriorating it.

**Drinking Water and Sanitation:** One of the biggest election promises of the current dispensation was to provide safe and adequate drinking water and access to improved sanitation for all. Consequently, the Swachh Bharat Abhiyan (SBA) was launched as a national mission in October 2014 to realise the dream of a 'Clean India' by 2019. Another flagship scheme of the Government, National Rural Drinking Water Programme (NRDWP) focused on ensuring availability of safe and adequate drinking water in all rural areas.

Given the strong push by the Union Government, the states also prioritised SBA and started competing with one another to achieve the SBA targets by 2019. However, analysis shows that SBA, particularly the Open Defecation Free (ODF) component, has received maximum attention by Union and State governments, often at the cost of

NRDWP. Thus, the budgets for NRDWP decreased from Rs. 10892 crore in 2014-15 (BE) to Rs. 7000 crore in 2018-19 (BE), a decline by 36 percent. On the other hand, allocations for SBM (Rural + Urban) have increased exponentially from Rs. 4137 crore in 2014-15 (BE) to Rs. 17843 crore in 2018-19 (BE). Reduced focus on NRDWP is a concern given the issues regarding quality of water and persistent inequities in access to drinking water across social groups and states.

SBA includes both urban and rural components. While the rural component is being implemented by the Ministry of Drinking Water and Sanitation, the urban component is being implemented by Ministry of Urban Development.

The NSSO survey in 2015-16 highlighted that six out of every ten toilets built under the SBA had no water supply. Subsequently, the Standing Committee strongly recommended the Ministry to prioritise the provision of water availability along with the construction of toilets under SBM. The Government's unprecedented drive towards achieving physical targets of toilet construction neglects social aspects such as behavioural change in people, (one of the major reasons for the scheme's limited success so far), addressing concerns of manual scavengers and access to drinking water, particularly by the marginalised communities. If SBA is to be implemented in letter and spirit, it must pay immediate attention to these issues, in addition to according equal importance to both drinking water and sanitation.

## Health

Election manifesto of the NDA in the area of health talked about radical reforms with regards to national healthcare programs and delivery, financing of healthcare, national health assurance mission, modernization and upgrading of government hospitals, setting up of AIIMS like institute in every state and use of Yoga and Ayurveda medicines.

The annual outlays for the Ministry of Health and Family Welfare (including AYUSH) went up by 9%, 14%, 36% and 3% respectively, going by the actuals of first three years, Revised Estimates (RE) of last year and Budget Estimate (BE) in 2018-19. **The National Health Mission (NHM) has a huge potential of transforming healthcare delivery in the country. It registered a 35 percent increase in five years (2014-15 BE to 2018-19 BE).** Both the department and NHM allocations point to the huge gap between the approved outlays and sanctioned Budgets.. All **Parliamentary Standing Committees on Health during this span have** noted that priority for health sector has been a soft target when the Government faces a resource crunch. **Committee reports have recommended** a much higher magnitude of the Union Budget allocation for NHM than prevailing levels to boost Indian public health standards.

The Parliamentary Standing Committees on Health for 2016-17 notes that the total allocation by the Union Government in the Twelfth Plan period for NHM as well as for the Department works out to 46.50% of the funding originally envisaged under the Twelfth Plan. Had the Government earmarked the entire Twelfth Plan approved outlays to NHM, there would have been much improved primary healthcare services, fulfilment of the free medicines and diagnostic policy, and reduced out-of-pocket (OoP) expenditure by now.

Launching a health assurance mission was the another tall promise of the NDA. In its first year (2014-15), the government budgeted 551 crore for the Rashtriya Swasthya Bima Yojana (RSBY's), a scheme started in 2008 under the Labour Ministry, renamed Rastriya Swasthya Suraksha Yojana (RSSY) in 2016-17. Maintaining that RSBY was self-limiting, National Health Protection Scheme (NHPS) was introduced as a mega insurance scheme in the same year. Anticipating an early roll out, it was allotted Rs. 466 crore and Rs. 471 crore in 2016-17 and 2017-18 respectively. This year's budget (2018-19) has announced launch of the scheme with an allocation of Rs 2,000 crore. Though a modified form of the earlier RSBY, with a raised insurance cover of Rs. 5 lakh (from Rs 30,000), it doesn't cover out-patient treatment, which is a major reason behind RSBY's ineffectiveness. A 2017 study notes that benefits of public health insurance schemes cannot be reaped without a robust basic health care infrastructure for delivery of primary health services. Most developed countries implementing health insurance for their citizens provide it as a means to further the end of a more economically equitable society by providing universal health care schemes. However, the trajectory and current allocation strategies by the NDA government have made universal access to healthcare services a distant dream.

**Agriculture:** Several schemes related to agriculture, such as – increasing rural credit, welfare measures, soil assessment, agri university and research institutes, were announced. Among all, two big promises stood out in terms of their scope and potential impact, i.e., – ensuring a 50% profit over cost, and doubling farmers' income in next 5 years.

Union budget 2018-19 announced that Minimum Support Price (MSP), the price at which government buy crops from farmers, would be at least 50% more than the cost of production for *mostrabi* and *kharif* crops. The final outcome would depend on the details of the scheme which are not known yet. For example, there are three different costs in agriculture, namely A2 which is the amount paid by the farmer, A2 + FL which include value of family labour, and C2 which include rent and interest along with A2 and FL. If only A2 is considered for cost calculation as being speculated by many, it would be doubtful that even the new MSP will make farming profitable. Also, as large number of farmers do not have surplus crop for selling, benefit from the scheme would be meaningless to them.

The 45<sup>th</sup> Report of the Parliamentary Standing Committee on Rural Development, March 2018, Lok Sabha, Gol

82<sup>nd</sup>, 93<sup>rd</sup>, 99<sup>th</sup>, 106<sup>th</sup> Report of Departmentally Related Parliamentary Committee on Health and Family Welfare

93<sup>rd</sup> Report of Departmentally Related Parliamentary Committee on Health and Family Welfare

The promise of doubling farmers' income has many components, such as crop insurance, MSP which is 1.5 times the cost, increase in rural credit, and improvement in irrigation etc. In terms of budgetary allocation between 2014-15 and 2018-19, programmes for important schemes have seen substantial increase. The crop insurance scheme's (*Pradhan Mantri Fasal Bima Yojana* or PMFBY) allocation shot up up by 400percent; irrigation scheme's (*Pradhan Mantri Krishi Sinchai Yojana* or PMKSY) allocation increased by 75percent, while the provisions for interest subvention for credits to farmers grew by 150percent. However, the issues related to timely and proper implementation remain unresolved, as a majority of small farmers lacking access to credit and insurance schemes suffer from delay in amount paid.

## Rural Development

The BJP manifesto stated that agriculture, rural development and poverty alleviation would go hand in hand. Major thrust area for rural development included bringing urban amenities to rural areas, while retaining the soul of village; improving village level infrastructure in terms of roads, potable water, education, health, and linkage to markets.

The NDA government did not articulate a clear policy on MGNREGA and merely indicated its convergence with programmes of agriculture department in the manifesto. However, MGNREGS remains an important scheme of the Rural Development Ministry accounting for half of the budget for the Department. In 2014, the government tried to limit the coverage of the programme to 200 poorest districts, but later dropped the plan when a group of leading economists wrote against it. In 2015-16, the government appointed panel classified the scheme as 'core of the core', implying its unaltered implementation. Being a demand-driven scheme, adequate resources for MNREGA are required to meet the demand for it. However, allocations to the scheme remained inadequate despite huge job losses in the informal sector and many people turning to NREGA to tide over the bad times.

A budget of Rs. 34699 crore in 2015-16 was increased to Rs. 47500 in 2016-17 after two supplementary budgets in the wake of Supreme Court orders (in the drought case) to revise funding to settle pending liabilities. Similar revision was carried out in 2017-18, when allocation of Rs. 48000 crore increased to Rs. 55000 crore under the pressure from several states and union territories with negative balances in their MNREGA accounts. The allocation remains stagnant at Rs. 55000 crore in 2018-19 BE. Due to low level of funding, challenges of adequate availability of work and timely payment of wages continue to exist.

Another flagship scheme of the Government launched in 2016 is the *Pradhan Mantri Awas Yojana-G*, aiming to build one crore houses for the homeless and those living in kutcha houses by March 2019. A total of 25 percent construction was completed in 2017-18. As per the guidelines, the estimated cost for construction of one crore houses was Rs. 1,30,075 crore, with a Central share requirement of Rs. 81,975 crore. Between 2016-17 (RE) and 2018-19 (BE) an allocation of 73% of the required amount has been made. After a 43 percent jump in 2017, a dip of 9 percent in 2018-19 (BE) carries probability of having a tardy effect in meeting the target of 1 crore houses by 2019.

## Vulnerable Sections

The Government's performance cannot be fully assessed unless the effect of its policies and fiscal measures on most marginalised sections of population are analysed.

**Scheduled Castes (SCs) and Scheduled Tribes (STs):** The NDA government committed to ensuring overall development of SCs and STs, with focus on their education, health, livelihood, protection, abolishing manual scavenging among others. In line with the commitments made, the Government set up Venture Capital Fund and MUDRA bank in 2014-15 and 2015-16, respectively. For overall development of STs, *Van BandhuKalyanYojana* was restructured as an umbrella programme under which all the major schemes for STs' development were included. In FY 2018-19, it was proposed to have *Ekalavya* Model Residential School (EMRS) in every ST dominated block by 2022.

Reports(2015-16, 2016-17, 2017-18, 2018-19) of Departmentally Related Parliamentary Committee of Department of Rural Development

Blocks with more than 50 percent ST population and at least 20,000 tribal persons

While restructuring of CSS, schemes for SC/ST were categorised as 'core of the core'. There was a marginal increase in budgets for the Department of Social Justice and Empowerment (DSJE) and Ministry of Tribal Affairs (MoTA) during the period followed the merger. The budget for DSJE increased from Rs. 5,753 crore in 2015-16 (AE) to Rs. 6,516 crore in 2016-17 (AE), Rs. 6,908 crore in 2017-18 (RE) and Rs. 7,750 crore in 2018-19 (BE). Similarly, budgets for MoTA increased from Rs. 4,480 crore in 2015-16 (AE) to Rs. 4,817 crore in 2016-17 (AE), Rs. 5,329 crore in 2017-18 (RE) and Rs. 6,000 crore in 2018-19 (BE) However, a major policy initiative which adversely impacted the funds for SC/ST development was the merger of plan and non-plan heads of expenditure. After the merger in 2017-18, a revised formula for earmarking funds for Scheduled Caste Sub Plan (SCSP) and Tribal Sub Plan (TSP), which are applicable on only plan budget of the government, was not developed. Instead, the Union Government directed the ministries to report funds under SCSP / TSP from total scheme outlays, rather than encouraging the ministries to plan and then budget for addressing specific challenges confronting SCs and STs in their respective sectors. Thus, what gets reported in SCSP and TSP are 'incidental benefits' accruing to them from general schemes and programmes. This was a major dilution of the strategies that were introduced to ensure targeted policy driven benefits across sectors for their overall development..

Budgetary gaps can be seen in the departments' schematic allocations as well. For example, allocations for Post Matric scholarship for SCs have reduced from Rs. 3,348 crore in 2017-18 (RE) to Rs. 3,000 crore in 2018-19 (BE) at a time when the department had been asking for a one-time package to clear the accumulated arrears amounting to Rs. 8,000 crore at the end of 2016-17. This adversely affected the implementation of the scheme, depriving thousands of SC students of the critical assistance in accessing higher education. It was only in April 2018, that the arrears of Rs. 6000 crore were cleared after pressure from civil society and Members of Parliament. Similarly, the funds under the Self-Employment Scheme for Rehabilitation of Manual Scavengers remained unutilised during the period 2014-15 to 2016-17. Also, the Government's schemes sometimes have been characterised more as rhetoric than as realistic. For instance, construction of 130 EMRS in 2018-19 is an unrealistic target as compared to last year's sanctioned target of 14 EMRS

**Women and Children: The manifesto promised** protection and education of the girl child; addressing undernutrition; women's health and nutrition; addressing violence against women; and economic empowerment of women. These resulted in introduction of *Beti Bachao Beti Padhao* scheme, with a budget of Rs. 100 crore in 2014-15. This was followed by pan-India expansion of the erstwhile *Indira Gandhi Matritva Sahyog Yojana* (which was renamed as *Pradhan Mantri Matru Vandana Yojana* (PMMVY) in 2017) and increase in the unit costs under Supplementary Nutrition Programme of the Integrated Child Development Services and SABLA, and making them inflation-indexed. The Government also introduced the National Nutrition Mission in 2017. At the same time, CSS for women and children were categorised as 'core' schemes, thereby reducing the funding responsibility by the Union Government. Resultantly, there were visible budget cuts for Ministry of Women and Child Development (MWCD) in 2015-16, where the budget was halved from Rs. 21,194 crore in 2014-15 (BE) to Rs. 10,382 crore in 2015-16 (BE). While this was reversed to some extent through supplementary grants during the year, the uncertainty in funding adversely impacted the implementation of schemes. Moreover, the funds for

MWCD remained inconsistent and inadequate during the period and the fund utilisation poor.

For example, with respect to *Beti Bachao Beti Padhao*, the utilisation of funds under this scheme has been substantially low in comparison to the initial outlays till 2017-18. The allocations for ICDS and SABLA in 2018-19 are far from adequate to cover the cost of the programmes as per the revised unit costs (CBGA 2018). The Standing Committee also noted that allocations for ICDS were 23 percent less than what was proposed by MWCD in 2018-19. This too, when a large number of posts for supervisors, anganwadi workers and helpers are vacant, and there is need for strengthening infrastructure for implementation of the scheme.

The Ministry has also diluted the provisions under the National Food Security Act (NFSA), 2013, whereby the conditional cash transfer amount under the PMMVY has been reduced from Rs. 6000 (earlier) to Rs. 5000, and the scheme benefit restricted to the first live birth only. This not only goes against the provisions of NFSA 2013, but is also estimated to exclude more than half women from its benefits. Moreover, Dreze (2018) notes that as per recent records, only 10,000 women received maternity benefits under PMMVY so far, which is barely 1% of IGMSY coverage, before it was discontinued.

Departmentally Related Standing Committee Report on Detailed Demand for Grants 2018-19 of Ministry of Tribal Affairs, Lok Sabha, Gol.

Departmentally Related Standing Committee Report on Detailed Demand for Grants 2018-19 for Ministry of Women and Child Development, Lok Sabha, Gol.

Departmentally Related Standing Committee Report on Detailed Demand for Grants 2018-19 for Ministry of Women and Child Development, Lok Sabha, Gol.

The remaining one thousand rupees is to be provided under Janani Suraksha Yojana of the ministry of health

The earlier scheme IGMSY provided benefits to women up to two live births.

To sum up, when it comes to women, children, SCs and STs, the Government has largely repackaged old initiatives and diluted the existing provisions. Introduction of new schemes lacked support of enough resources. In addition, there remain concerns regarding limited emphasis on women related schemes; entire focus for SCSP and TSP on monitoring in the absence of planning; poor implementation of PESA and Forest Rights Act, and recent developments like the ruling on SC/ST Prevention of Atrocities Act in March 2018 etc., which warrant attention and course correction.

## Conclusion

The analysis of key schemes and announcements in eight Ministries reveals that while there was some progress in a few areas, the government largely fell short of living up to its tall promises in many other sectors. Going by media reports, in the pre-budget exercise this year, the Ministries were asked to review and report on what had been delivered vis-à-vis the pre-poll promises. It is only wished that the government awakens to the reality, and can still

## Supporting Tables

### Budget Outlays for select ministries

Ministries / Departments (in Rs. Crore)	2014-15 (A)	2015-16 (A)	2016-17 (A)	2017-18 (RE)	2018-19 (BE)
Drinking Water and Sanitation	12091	11081	16476	24011	22357
Health and Family Welfare (Including AYUSH)	32154	35190	40241	54852	56226
Human Resource Development	68875	67239	72016	81869	85010
Social Justice and Empowerment	5784	6308	7289	7863	8820
Tribal Affairs	3852	4480	4817	5329	6000
Women and Child Development	18539	18539	16874	21237	24700
Agriculture and Farmers Welfare	31917	22092	44500	50264	57600
Rural Development	69817	78945	96728	110874	114915
Total Union Budget Expenditure	1663673	1790783	1975194	2156419	2352213

## Budget Outlays for Select Schemes (in Rs. Crore)

Scheme	2014-15 (A)	2015-16 (A)	2016-17 (A)	2017-18 (RE)	2018-19 (BE)
<b>RURAL DEVELOPMENT</b>	12091	11081	16476	24011	22357
MGNREGA	32154	35190	40241	54852	56226
NLM (NRLM + NULM)	68875	67239	72016	81869	85010
PradhanMantriAwaasYojana /IAY	5784	6308	7289	7863	8820
PradhanMantri Gram SadakYojana	3852	4480	4817	5329	6000

Maternity entitlements on hold: How the government has undermined women's and children's rights January 11, 2018, 2:00 AM IST Jean Dreze in TOI

Ruling stated that coercive action against public servants accused of hostility towards lower castes can only be taken with written permission of their appointing authority. It also said that there is no complete bar against granting anticipatory bail if there is no prima-facie case or if upon investigation the case registered is found to be mala-fide.

Scheme	2014-15 (A)	2015-16 (A)	2016-17 (A)	2017-18 (RE)	2018-19 (BE)
NSAP	7084	8616	8854	8745	9975
<b>AGRICULTURE</b>					
Pradhan Mantri Fasal Bima Yojana (PMFBY)	2538	2983	11052	10698	13000
Pradhan Mantri Krishi Sinchai Yojana (PMKSY)	5580	7830	5282	7501	9689
Interest Subvention for Credit to Farmers	6000	13000	13397	14750	15000
<b>EDUCATION</b>					
Mid-Day Meal	10524	9145	9475	10000	10500
SSA	24097	21661	21685	23500	26129
RMSA	3398	3563	3698	3915	4213
Teachers Training and Adult Education	1158	916	817	841	871
<b>HEALTH</b>					
NHM	19752	20312	22870	31292	30634
Rashtriya Swasthya Bima Yojana	551	NA	466	471	2050
<b>WOMEN AND CHILD DEVELOPMENT</b>					
Core ICDS/ Anganwadi services	16,684	15,489	14,632	16,195	19,335
National Crèche Scheme	98	133	125	65	128
IGMSY/MBP/PMMVY	343	233	76	2,595	2,400
SABLA	622	475	482	460	500
One Stop Centre	0	10.4	40	90	105
Swadhar Greh	29	48.1	84	75	95
<b>SCHEDULED CASTES</b>					
Schemes for Educational Development of SCs	2,670	3,046	3,585	3,863	3,670
Self-Employment Scheme for Rehabilitation of Manual Scavengers	0	0	0	5	20

Scheme	2014-15 (A)	2015-16 (A)	2016-17 (A)	2017-18 (RE)	2018-19 (BE)
Special Central Assistance to Scheduled Caste Sub plan	700	800	798	800	1000
Interventions for Entrepreneurial Development of SCs	662	170	248	233	327
Strengthening of Machinery for Enforcement of Protection of Civil Rights Act 1995 and Prevention of Atrocities Act 1989	147	119	223	305	404
Special Central Assistance to Tribal Sub Plan	1040	1132	1195	1350	1350
Scheme under proviso to Article 275(1) of the Constitution	1133	1392	1266	1500	1800
Umbrella Scheme for Development of STs: Vanbandhu Kalyan Yojana	100	629	469	394	420
Umbrella Scheme for Education of ST children*	1059	1221	1740	1869	2038
<b>WASH</b>					
NRDWP	9243	4370	5980	7050	7000
SBM (Rural + Urban)	3701	7469	12619	19248	17843

# Children: It is a raw deal for them

Government's performance in the past four years has been unsatisfactory

When the NDA government assumed office on 26 May 2014, India was poised to build on the progress made in the preceding decade. The country faced regressions like amending the Juvenile Justice Act to try juveniles as adults in cases of heinous crimes, increasing privatisation of education and healthcare, and stagnant budgetary allocation for children.

Four years later, the story of the Indian child is a mixed bag. The pluses include positive policy changes, legislative interventions, budgetary provisions, and structural convergence when it comes to ensuring the realisation of children's rights to survival, nourishment, education, and protection. However, the gaps and potential areas of improvement also need to be identified.

## Health and nutrition

After a gap of 15 years, the Ministry of Health and Family Welfare came out with a National Health Policy in 2017, replacing the NHP of 2002. The new policy, which stresses on "preventive and promotive" healthcare, uses a target-oriented approach for better tracking and monitoring of health programmes for disease control. It proposes to raise public health expenditure to 2.5 per cent of the GDP in a time-bound manner.

The policy also stresses on public-private partnerships to fill critical gaps, strategic purchasing, capacity building, skill development, awareness generation, developing sustainable community networks to strengthen mental health services, and disaster management.

It is, however, silent on issues like use of ready-to-eat therapeutic foods, universal health coverage, and the enactment of Right to Health. It says little about tackling long-time concerns like pneumonia and diarrhoea. As for the key child health indicators, while the infant mortality rate has shown a drop from 39 (per 1000 live births) in 2014 to 34 (per 1000 live births) in 2016, much needs to be done in rural as well as urban areas.

## Education

India faces the critical challenge of ensuring equitable and quality education to all its children. The disparity in education is too wide and directly affects the government's vision of demographic dividend.

Only 9.4 per cent of Indian schools are RTE-compliant and even in these schools, the children's learning levels are abysmal. Only those families which cannot afford private education send their children to government schools. This has created a parallel, unregulated private education industry based on market concerns, rather than equipping children with life-skills and knowledge. The last four years have seen a sustained attack on RTE, including its provisions like 'no detention policy'. The government is still to bring out the new National Education Policy (NEP) which was promised in the BJP's 2014 election manifesto. The last NEP, issued in 1986, was revised only once, in 1992.

Having achieved almost universal enrolment in primary education (SDG 4), India now needs to focus on the learning levels of its children. The RTE Act of 2009 seeks to make all schools centres of academic knowledge as well as important life-skills like good health and hygiene (SDG 3 and SDG 6). In the first few years of RTE, the emphasis was understandably on ensuring adequate infrastructure, enough number of schools and optimum pupil-teacher ratio. On these targets, the government and the civil society have performed satisfactorily although some gaps remain. While the Mid-day Meal scheme has boosted school enrolment, there is a definite need to ensure that schools have functional toilets for boys, girls and teachers in both rural and urban areas.

In the Indian context, conclusive evidence linking hygiene with cognitive abilities is yet to be generated. But there is enough anecdotal and qualitative proof to show that only a healthy child can perform well, academically or

otherwise. Under RTE, all children are expected to spend at least six hours in school.

In the last four years, the government's Swachh Bharat Mission has made impressive strides. ASER 2017 states that while the number of schools with toilets has increased, nearly 2,00,000 schools still do not have lavatories. Children in these schools face the risk of contracting diseases like diarrhoea.

## Child protection

Criminalisation of juveniles has been rising ever since the involvement of a juvenile in the gangrape and murder of Nirbhaya in Delhi in 2012. The UPA-II government gave in to emotional populism and amended the JJ Act so that juveniles could also be tried as adults for certain offences. The new JJ Act was passed in 2015. However, there has been almost no decline in the juvenile crime rate or in the rate of sexual violence against women. The demonisation of juveniles continues, leading to a poor understanding of the complexities of this sensitive subject.

SRS 2014 and 2016 data

DISE- 2017

## Child labour

India has the world's highest child labour population. As per Census 2011, the number of child workers in the 5 to 14-year age group is 82,28,481. Over the years, massive nationwide public campaigns to stop all forms of child labour have yielded positive results.

Increased social awareness has helped take children out of the labour force and put them into schools. It has also helped the rescue of children through the intervention of NGOs. The campaign led to a proposed amendment in the Child Labour (Prohibition and Rehabilitation) Act (CLPRA) in 2013 to ban all forms of child labour up to 18 years. But with the coming of the new government in 2014, the amendment lapsed. In fact, a significant regression took place in the CLPRA in 2016 through an amendment. The Child Labour (Prohibition and Regulation) Amendment Act, 2016, prohibits "the engagement of children in all occupations and of adolescents in hazardous occupations and processes" wherein "adolescents" refer to those under 18 years and "children" to those under 14.

A careful reading of the new Act reveals its infirmities. First, it reduced the list of hazardous occupations for children from 83 to include just mining, explosives, and occupations mentioned in the Factory Act. This essentially legalises work in chemical mixing units, cotton farms, battery recycling units and brick kilns, among others. Second, according to Section 3, instead of Parliament, government officers have been allowed to reclassify hazardous works as non-hazardous.

The third serious blow to making India child labour-free is the provision in Clause 5, Section 3 which allows child labour in "family or family enterprises" or allows the child to be "an artist in an audio-visual entertainment industry". Most of India's child workers are involved in caste-based work, they belong to poor families often trapped in intergenerational debt, and are unable to break out of the vicious deadlock of caste-based discrimination and poverty. This clause sets back the crucial progress made in the past, and is also in violation of the UNCRC of which India is a signatory.

## SOP on street children

The government has taken a progressive step by developing the first ever set of Standard Operating Procedures (SOP) for street children. Led by the National Commission for Protection of Child Rights (NCPCR), the SOP was developed as a participatory, transparent and robust process involving a wide range of stakeholders. The SOP is now in the implementation stage across the country.

## Government's performance

The BJP's 2014 election manifesto had made several promises for children, including higher investment for child protection, education, health and nutrition. It had said that the outlay for children should be increased up to 10 per cent of the total Union Budget. The manifesto had committed to incorporate children's voice and participation in the democratic process through neighbourhood children's parliament and children gram sabhas. It had promised children's participation in developing policies, programmes and legislations relevant to them by setting up

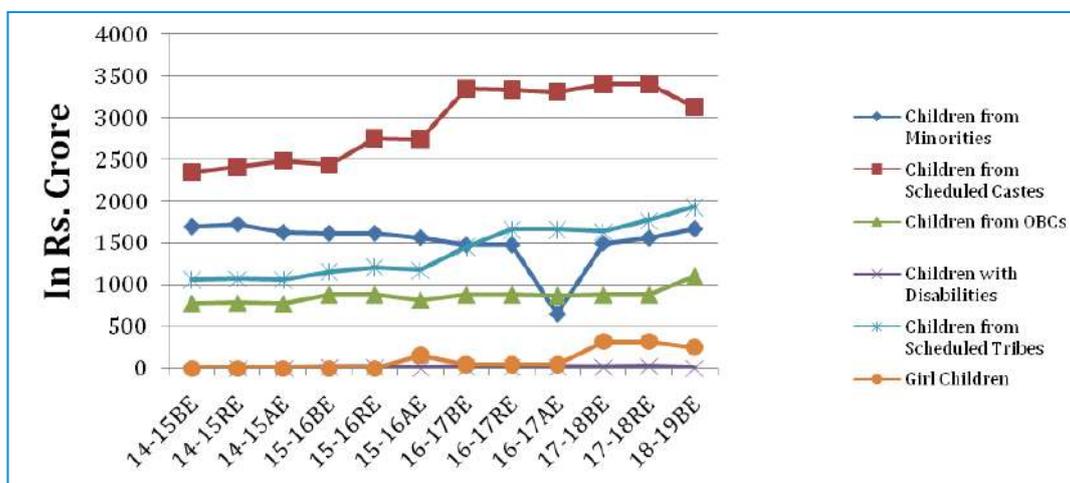
children's and youth parliaments across India.

Budgetary promise on education: The BJP government had promised to increase the funding for education to at least 6 per cent of GDP. However, budgetary allocation for education remains short of 6 per cent. Besides budgetary allocation, the BJP had also committed to:

- fill existing gap of 1.18 million teachers through a recruitment drive; 50 per cent of teachers should be women;
- enforce measures related to quality of teaching such as teachers per subject, teaching equipment, learning materials, minimum working hours, qualification of teachers, IT-based learning environment;
- ensure quality education in government schools;
- address acute shortage of teachers and researchers, quality of education and research, and also the employability factor associated with most of the courses; review and revise education system;
- set up separate toilets for girls in all schools; incentivise education for girls through measures like crèche facilities at schools to support sibling surrogacy, enforce security measure for girls to attend school safely;
- give all possible help to girls to continue and complete school education;
- launch a national campaign for saving and education the girl child — 'Beti Bachao Beti Padhao'; and
- develop special pedagogy for differently-abled students.

The government's performance has been unsatisfactory except in Beti Bachao Beti Padhao campaign. The enrolment of girls in government schools has increased due to the continuation of scholarship schemes, and by providing financial support to girls from poor families.

The table below shows that with regard to scholarship for girls from marginalised communities, the progress in four years has not been satisfactory.



Data from 2014-15 to 2018-19

## Scholarship to girls: Dismal progress

**Health and nutrition:** While the government has sought to keep its promise of 'Health for All' by announcing the national health insurance at the cost of over Rs 16,000 crore, the share of budgetary allocation as percentage of total Union Budget has actually been on a steady decline. The share of child health and nutrition in the Union Budget from 2014-15 to 2018-19 has declined from 1.259 per cent in 2014-15 to 1.135 per cent in 2018-19. This is a decline of 9.85 per cent.

The other critical promises made in BJP's election manifesto with regard to children's health and nutrition were:

- Implement restructured ICDS, set up anganwadi-cum-crèches and extend coverage of temporary settlement to all migrant and street children;

- Ensure nutrition rich food for pregnant and lactating mother;
- Address the issue of under-nutrition and malnutrition; programme for women healthcare in a mission mode, especially focusing on nutrition and pregnancy with emphasis on rural, SCs, STs and OBCs;
- Improve delivery of midday meal scheme, including nutritional quality of meals;
- Revitalise mid-day meal scheme in terms of management and delivery.

On the above-mentioned promises, the government's performance has been below satisfactory.

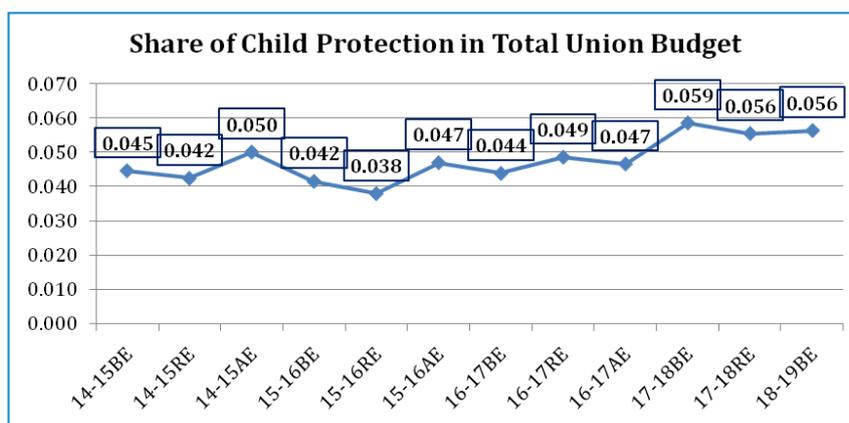
Allocation for ICDS has increased by 7.15 per cent in Budget Estimates 2018-19 over Revised Estimates 2017-18, from Rs 15,245.19 crore (RE 2017-18) to Rs 16,334.88 crore (BE 2018-19). But as percentage share of the total Union Budget, it is actually a decrease of 2.70 per cent between BE 2018-19 and RE 2017-18 for ICDS and factoring for inflation, this is actually an even higher decrease in allocation.

However, heeding the demand of many organisations working to improve children's nutritional status, the cost norms for Supplementary Nutrition Programme (SNP) has been revised (as per the minutes of EPC and Administrative Approval of revised APIP (2017-18) for Anganwadi Services Scheme under ICDS dated 8/12/17), as follows:

- Children (6-72 months) — Rs 8 per day per beneficiary. Earlier, it was Rs 6 per day per beneficiary;
- Pregnant women and lactating mother — Rs. 9.5 per day per beneficiary. Earlier it was Rs 7 per day per beneficiary;
- Severely malnourished child — Rs 12 per day per beneficiary. Earlier it was Rs 9 per day per beneficiary.

Child protection: Child protection as a focus area has not received adequate attention of policy makers and financial planners. Even the flagship Beti Bachao Beti Padhao campaign is underfunded. Despite the government's much-advertised attention to the girl child, the fine print betrays the claim. The allocation for Beti Bachao Beti Padhao has been raised to only Rs 280 crore in BE 2018-19 from Rs 200 crore in RE 2017-18. A much higher allocation for Beti Bachao Beti Padhao scheme is the need of the hour.

The Integrated Child Protection Scheme (ICPS) remains severely under-funded as does the total share of child protection in the Union Budget. The graph below reflects the sorry state of budgetary allocation for this crucial sector that deals with the protection of children from abuse, neglect and child labour.



Figures in percentage of Union Budget, from 2014-15 to 2018-19

## Child protection budget

The share of child protection outlay in the Union Budget has hovered around 0.0 per cent over the years. In financial year 2018-19, the allocation on child protection as percentage share in Union Budget has declined to 0.056 per cent (BE 2018-19) from 0.059 per cent (BE 2017-18).

The demand for grants of Ministry of Women and Child Development lists child protection services (ICPS) under the umbrella Integrated Child Development Services (ICDS). It raises huge concerns for already depleted child protection systems at the state and district levels. Would it mean scrapping of the state and district child protection societies and units and their submergence under the ICDS implementation machinery?

# Dalit Community : Broken promises and unbroken realities

Is there a road  
to  
fraternity and  
equality?

The NDA government came to power in 2014 with high emphasis on good governance and inclusive development for all. However, the policy declarations and the practical implications have two different stories to tell. The dichotomy is evident, while one hand, Dr. Ambedkar is lauded as the greatest visionary India has ever seen, on the other, his Dalit identity and social justice teachings are hidden under the glorious carpet. On one hand, a Dalit is appointed as the first citizen of the country, while on the other hand Dalit atrocities and inhuman behaviour like lynching and rape has increased colossally. On one hand, Government passes SC/ST PoA Act with necessary amendments, but on the other, they have overseen the dilution of the entire act resulting in negative impact to the community as a whole. From access to education to Swachh Bharat Mission, from decreasing unemployment to low allocation in budget, progress of Dalit communities has halted in the last four years.

## Access to justice: SC/ST PoA amendments bill and Supreme court dilution

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities –SC/ST PoA) Amendment Act 2015 was passed by this government to ensure the protection of Dalits and Adivasis from various forms of atrocities and violence. The implementation of the PoA act has resulted in more cases filed since 2016. The 2016 National Crime Records Bureau data showed a significant increase in the crimes reported against Dalits from 38,670 cases in 2015 to 40801 cases in 2016.

Among these staggering figures, Supreme Court in its judgment dated 20.03.2018, failed to recognize increase in atrocities against Scheduled Castes by 5.5 percent in 2016 (40,801) over 2015 (38,670) and increase atrocities against Scheduled Tribes by 4.7 percent in 2016 (6,568) over 2015 (6,276). The hon'ble apex court further failed to recognize the low disposal rate by courts in the recent years. A total of 144979 cases of atrocities against SCs and 23408 cases of atrocities against STs came for trial in the court and out of these in only 14615 cases, trials were completed for the cases against SCs and 2895 cases for STs. At the end of the year 89.6 percent of cases for SCs and 87.1 percent for STs remained pending trial.

The apex court instead of recognizing the low conviction percentage and the high acquittal percentage made its observation based on a small number of cases that found to be false. The judgment has not looked at the reasons for high number of increase in atrocities, low conviction rate and high acquittal rate and analysed its reasons. Some of the well-known hurdles and are shoddy investigation, incorrect and biased recording of victims and witnesses statements during investigation, filing of improper charge sheet and undue delay in filing charge sheets, in appropriate support mechanisms to the victims and witnesses by the investigating officers and public prosecutors and, as a whole, by the trial court. On the other hand there are hardly cases where the public servants have been convicted under Section 4 of the SCs and STs (PoA) Act 1989 for the above-mentioned wilful neglect of their duties to be performed under the PoA Act.

The highest body of judiciary in total failed to recognize the overall non implementation of SCs and STs (PoA) Act and various reasons for low conviction rate and high acquittal rate which has been reiterated by this court in many of its own judgments, including in Writ Petition (Civil) No. 140 Of 2006 - National Campaign On Dalit Human Rights & Ors. vs Union Of India & Ors, wherein the apex court recognizing the non-implementation of the Act have given several directions to the concerned authorities.

The amendments to the Act came in force in year 2016 and but the concern remains the implementation of the amended Act. Section 15 A of the newly amended Act, under victims and witnesses rights, a victim shall have the right to be heard in respect of bail, discharge, release, parole, conviction and sentence and similarly many other

provisions. However, the authorities hardly give attention to these progressive provisions.

The Supreme Court order of 20<sup>th</sup> March 2018 prohibits immediate arrest of the accused, removes the bar on bail. Further requires permission from higher administrative authorities or district police officers for arresting an accused. Given the prevailing social conditions, the apprehension that perpetrators of such atrocities are likely to threaten and intimidate the victims and prevent or obstruct them in the prosecution of these offenders during the whole trial process, if they are granted anticipatory bail or are not arrested immediately. The interpretation of the apex court of such provisions will further bring a loophole for the perpetrators of crime to evade the law, and hamper the whole trial process.

### **Public finance and budgets for Dalits – aims at welfare of strategic stagnation?**

Analysis of the first three year shows that out of the total Plan budget of Rs.15, 90,287 Cr for that period, only an average of 7.49 percent was disbursed for programmes under SCSP for SCs. A total amount of Rs.2, 63,988 Cr was not allocated under the SCSP in accordance with the guidelines. Similarly, under TSP for STs in the same period, out of the total Plan budget of Rs. 15, 90,287 Cr for that period, only 4.76 percent was disbursed for programmes under TSP. This meant that a total of Rs.1,36,765Cr was not allocated under the TSP in accordance with the ST population proportion as per Jadhav guidelines.

In the FY 2017-18 and 2018-19, the allocation for SCs and STs has been worse when compared to premerger (plan and non-plan) period. Analysis of these two years reveals that 7.73 percent was disbursed for the SC welfare schemes/SCC and 4.98 percent for ST welfare schemes/STC. A total amount of Rs.1, 32,016Cr was not allocated towards SC welfare and Rs53, 815Cr towards ST welfare, as per, Jadhav committee guidelines and budget circular of Ministry of Finance 2017-18 and 2018-19.

The proportionate allocation towards welfare of SCs and STs in last five year has seen only negligible 7.59 percent increase under scheduled caste component (SCC) and 4.85 percent increase under scheduled tribe component (STC). Both the quantitative and qualitative aspects of the budget is important for the development and advancement of SCs and STs. In all the years, including the present year, the proportion of the Outlay for SCC and the proportion of the Outlay for STC there has been a visible gap. This insufficient allocation towards SCs and STs development shows Government's apathy towards real development of SCs and STs in India. On the qualitative side, the performance of the government is not so impressive.

Qualitatively, in the last five financial years, the Union government has allocated majority of the SCC and STC funds for schemes and programmes that were non-targeted in nature and had no direct impact on the development of the Dalits and Adivasis. Analysis of the nature of allocation for SC welfare schemes shows that only Rs.28, 697.74Cr, which is 50.69 percent of the total SCC and Rs.19,623.25 Cr that is 50.14 percent of the total STC allocation has been allocated towards targeted 8 schemes for both SCs and STs. The non-targeted schemes constitute Rs.27,920.76 Cr that is 49.31 percent of the total SCC and Rs.19, 511.48Cr that is 49.86 percent under STC allocation in last 5 year. Thus, not only was the allocation of funds for these two programmes less than half of the stipulated norm, even this reduced allocation was being done in such a way that allowed the diversion of funds for schemes that did not directly contribute to the actual development of these communities. This was actually a violation of the policy guidelines to these programmes, that clearly states, "SCSP and TSP funds should be non-divertible"

### **Cutting edge policies or policies to cut the edge of Dalit communities?**

The 4 years of NDA government has diverted the focus from development to nationalism. In this process various "soft techniques of alienation" like the imposing of Sanskrit, banning consumption of beef and façade behind Swachh Bharat Mission to "hard techniques" of gross violence and lynching of Dalits and Adivasis, shutting down the social exclusion centres in universities and systemic targeting of the Dalit leaders like Chandrashekar and Jignesh Mevani have undermined the mobilisation and assertion among the Dalit communities, particularly youth.

The lack of release of scholarships has resulted in high drop-outs of Dalits from higher education. January 2016 suicide of Rohith Vemula, which led to a movement for more democratic educational spaces, exposed the layered violence and discrimination faced by Dalits. In a similar case reported by The Hindu, a PhD scholar at Jawaharlal Nehru University had not received his monthly stipend of Rs 25,000 for about five months, forcing him to borrow from his friends. The caste bias manifests itself in the lack of attention from teachers, unjustly failing them in exams,

social exclusion, physical abuse, and the universities' unwillingness to support Dalit students. A disproportionate number of SC/ST students have committed suicide in lack of availability of scholarships. After consistent pressure from Dalit students, the Finance Minister announced release of a backlog sum Rs.6000 cr post matric scholarship out of about Rs.14,000 cr in May 2018.

Swachh Bharat Abhiyan (SBA) is an ambitious programme promising clean India including toilets, solid and liquid waste disposal systems, clean villages and safe and adequate drinking water supply by 2019. All this pegged at an investment of Rs 1.96 lakh crore over the next five years. However, the Swachh Bharat Mission guidelines have completely missed out on the psychosocial aspect of the clean India campaign. All the cleaners of sewage, drains and streets happen to belong to Dalit communities. The segregation of work based on caste does not find place in SBM. Most of the cleaners are contractual workers who have no social security. And as a well known fact, the safaikarmcharis end up living in subhuman conditions in areas that absorb city's garbage. No cleanliness drives have reached the slums and bastis of cleanliness workers and they live with constant health issues and lack of health care facilities.

Even as the government promised 'sabka saath-sabka vikas' and continues to claim Dr Ambedkar to make electoral inroads into the Dalit population, there is little evidence addressing the traditional caste-bias to promote 'fraternity' or increased investment to promote 'equality'.

Undertaking an immediate comprehensive assessment of the performance of the economy at the conclusion of four years of the present national government is an exercise constrained by the lack of availability of relevant data. Some of this data, in fact, would become available long after the government's tenure is completed, while some of the preliminary data currently available would also undergo revisions over time before it becomes final. This is a usual problem that such assessments of past governments would have also confronted. This time around, however, the difficulties has been compounded for at least two reasons. The first is the introduction of a new GDP series during the tenure of this government, one that has involved important and controversial changes in the methods used to estimate the country's GDP and its growth.

The substantial instability of the data on GDP and its components through successive revisions has also been a marked feature of the new series. Interpreting GDP growth numbers, particularly comparing them with past trends, has therefore become difficult. The possibility that the current GDP series overestimates the growth of the economy, as has been argued by several economists, is accentuated by a second factor - namely, the demonetization announced by the government in November 2016. All reasoning and anecdotal evidence point towards a conclusion that demonetization had a more adverse effect on what is referred to as the 'informal' sector of the Indian economy. However, the data generation methods are perhaps not designed to capture the differential effects of such an exceptional shock on different parts of the economy. As such, the disproportionate reliance of GDP estimates on indicators directly related to the formal or organized sector of the economy may be the source of an additional overestimation of the growth in the last two years.

Notwithstanding the information constraints indicated above, there is perhaps still sufficient evidence that the great economic turnaround promised by the current government in 2014, the 'achhe din', has simply failed to materialize. For most people, the economic situation continues to be grim and offers little hope of an escape from a fate marked by poor and uncertain employment and income prospects.

### Deepening Agrarian Distress

Agrarian sector exerts an extremely important influence on the economic conditions of so many millions of Indians. Comparison between the total levels of agricultural production in the last four years (2014-15 to 2017-18) with that in the previous four years, indicates an extremely serious situation in the agricultural sector (Table 1). Foodgrain production in the four-year period ending in 2017-18 was less than even 3 per cent than the period before, that too substantially on account of an exceptional growth in pulse production. For non-foodgrain crops, which account for a quarter or so of the total area under cultivation, the same comparison shows a *fall* in production during the tenure of the current government.

*Table : Agricultural Production (in Million tonnes), 2010-11 to 2013-14 and 2014-15 to 2017-18*

Period	Foodgrains			Major Commercial Crops			
	Cereals	Pulses	Total Foodgrains	Oilseeds	Cotton	Jute & Mesta	Sugarcane
<b>2010-11 to 2013-14</b>	953.03	72.92	1025.95	125.97	138.32	44.64	1396.76
<b>2014-15 to 2017-18</b>	975.61	80.61	1056.19	113.92	131.3	43.12	1370.08
<b>Percentage Increase</b>	<b>2.37</b>	<b>10.55</b>	<b>2.95</b>	<b>-9.57</b>	<b>-5.08</b>	<b>-3.41</b>	<b>-1.91</b>

Note: 2017-18 figures are Advance Estimates

Source: 2<sup>nd</sup> Advance Estimates of Production for 2017-18, Agricultural Statistics Division, Directorate of Economics & Statistics, Ministry of Agriculture, Cooperation and Farmers' Welfare

The production picture presented above is, of course, an average picture and doesn't fully capture the problems faced by the agricultural sector. It includes years in which poor rainfall and poor production have adversely affected farm incomes as well as others in which better production has been neutralized by poor price realizations. Either way, with input costs rising, incomes of farmers have been under increasing stress, consequently impacting the entire rural economy. What has happened to rural wages provides a clear evidence of this.

*Table Real wage rates for unskilled labour occupations in rural India (in Rupees)*

<b>Category</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
Male	112.63	124.32	129.57	148.5	156.33	156.08	159.5
Female	85.77	95.18	99.53	112.35	114.58	114.51	119.92

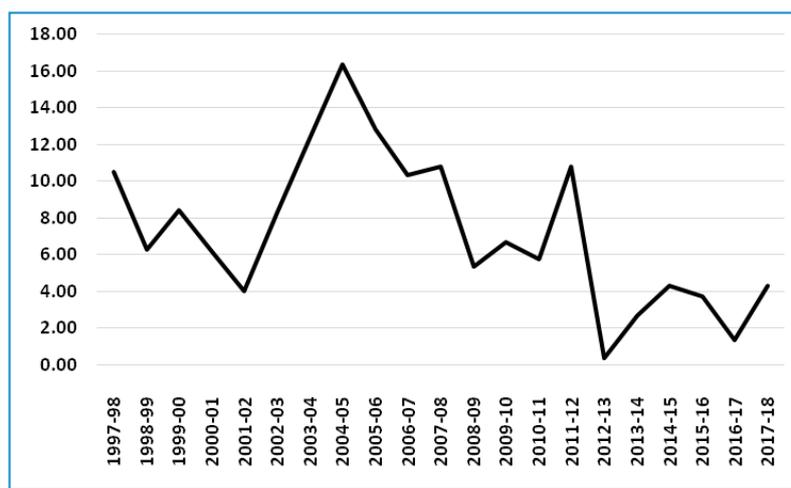
The long stagnation in rural wages had been broken for some years after 2008. This upward trend, however, has ceased since 2014-15 as is indicated in Table 2. This is further confirmed by the information provided by the Minister for Labour and Employment on 5 March 2018 in reply to a Parliament question. According to this, the annual average daily wage rates for General Agricultural Labourers went up in nominal terms from Rs. 233.84 in 2015 to Rs. 248.32 in 2016 and then Rs. 263.59 in 2017. The same figures for Non-Agricultural Labourers, were Rs. 246.82, Rs. 257.95 and Rs. 270.76 respectively. In both cases, the increases in barely covered the increase in prices over the same period.

The promised doubling farmers' incomes by 2022 looks remoter by the day. Agrarian and rural distress has thus been on the increase in the last four years. The spike in farmers suicides after 2014 and the spate of protests in recent times only serve as additional evidence of this.

### Investment and Industrial Stagnation Persists

For those being pushed to seek work elsewhere because incomes from agriculture are either unavailable or insufficient to sustain their households, the construction sector has proved to be the most important outlet in the last few decades. The numbers of such people have been so large that despite a prolonged construction boom that began in the second half of the 1990s, increasing employment in the sector from around 15 million in 1993-94 to 50 million by 2011-12, but wages have not been subject to any significant upward pressure. Nevertheless, the sector did provide an escape route but its capacity to play that role had become limited as it experienced a sharp slowdown in the current decade. As can be seen in Figure 1, this *has persisted over the last four years* as the growth has remained subdued and far below the earlier levels.

*Figure : Growth of Construction GDP, 1997-98 to 2017-18 (Per cent per annum)*



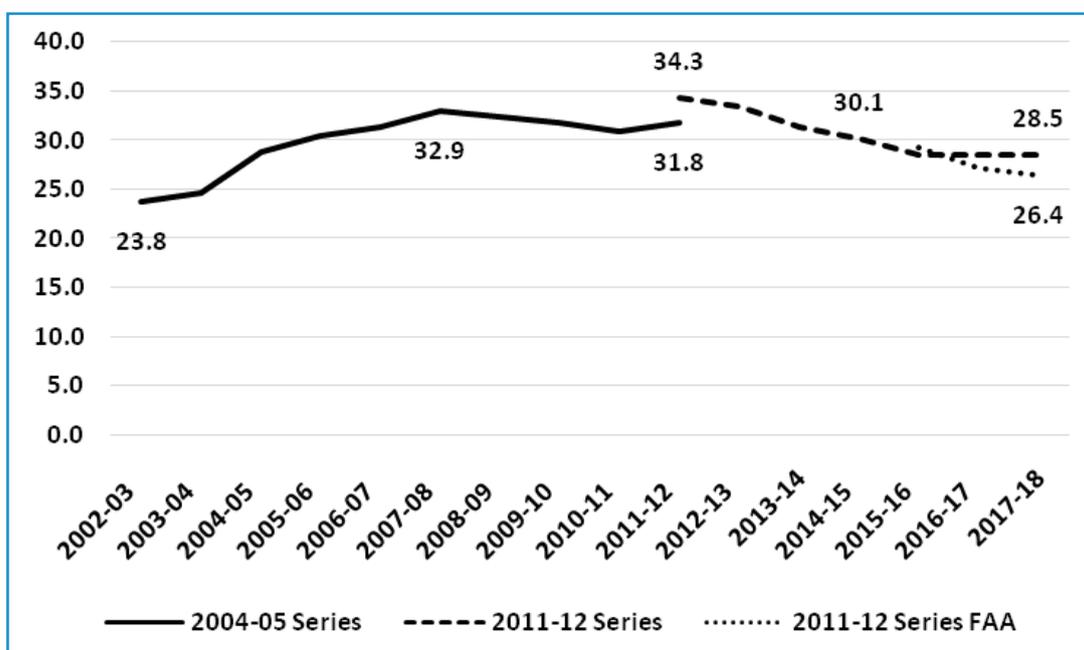
Note: Growth rate up to 2011-12 derived from the old (2004-05 base year) series and thereafter from the new (2011-12 base year) series.

Source: Central Statistical Organization, Government of India: National Accounts Statistics

The slowdown in construction is part of a larger story of investment stagnation that also began before 2014, but which the present government has not been able to extricate the economy from. At least, that is the way it appeared till 5 January 2018 when the First Advance Estimates of National Income and Expenditure on GDP for 2017-18 were released, containing the estimates of the Gross Fixed Capital Formation (GFCF) figures for three years from 2015-16 to 2017-18. In less than a month, however, when the First Revised Estimates for 2016-17 were issued, the growth rate of real GFCF for 2016-17 mysteriously increased from 2.4 per cent to 10.1 per cent. By the end of February, in the Second Advance Estimates for 2017-18, the growth rate of GFCF for 2017-18 increased to 7.6 per cent from 4.5 per cent in the First Advance Estimate. Even if these sharp fluctuations are attributed entirely to the pattern of data availability and the methods of estimation, they do raise serious questions about the credibility of data issued by the country's Central Statistical Organization. Despite these data problems though, the following can still be said:

- The big boom experienced by the Indian economy in the period before the eruption of the global crisis in 2008, during which GDP growth rates were in the 8-9 per cent per annum range, was characterized by extremely rapid growth of investment. The investment ratio (Gross Fixed Capital Formation to GDP) climbed very sharply during that period. Figure 2, which shows this, also brings out the fact that the 2010s have witnessed a reversal - a persistent downward trend of this ratio. Even after the recent upward revisions are incorporated, it is not possible to say that the last four years has seen any reversal of the trend.
- Investment or GFCF involves, apart from construction activity, expenditure on specific types of goods and capital goods (machinery and equipment) in particular. These have to be either domestically produced or imported. Domestic production trends of capital goods are captured in the Index of Industrial Production (IIP). IIP data, in fact, corroborates the picture of persistence in investment stagnation. It shows that capital goods production in India since 2011-12, including the last four years, has not grown at all (Figure 3). The data on quantity of capital goods imported also similarly reveals that there has been no recovery from the collapse that happened at the beginning of the decade (Figure 4).

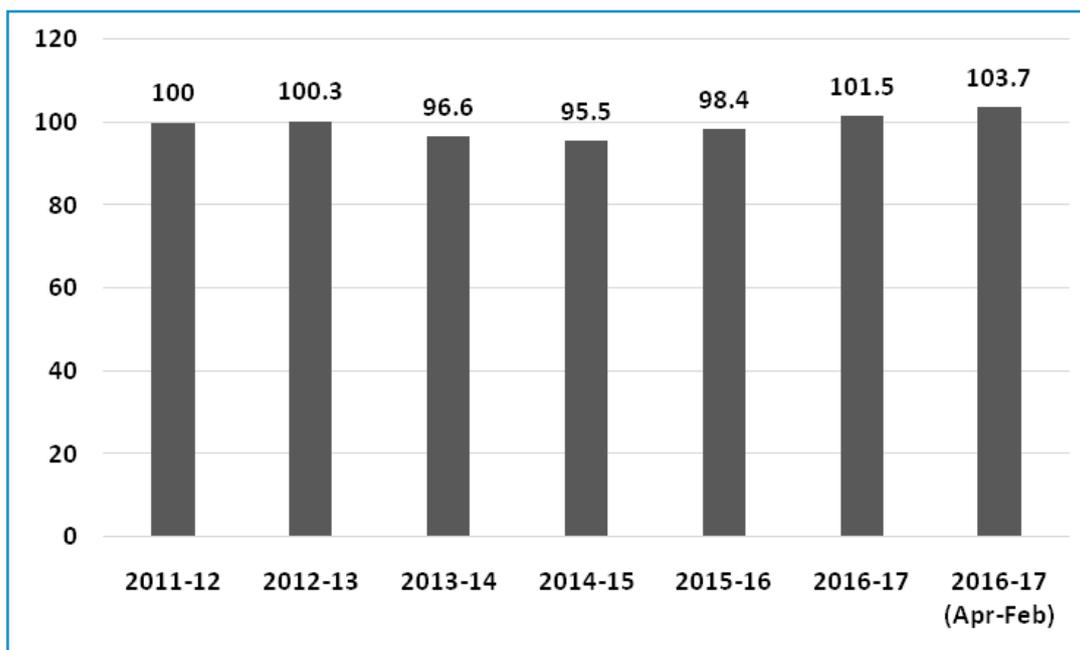
Figure Gross Fixed Capital Formation to GDP (Percent), 2002-03 to 2017-18



Note: FAA = First Advanced Estimates

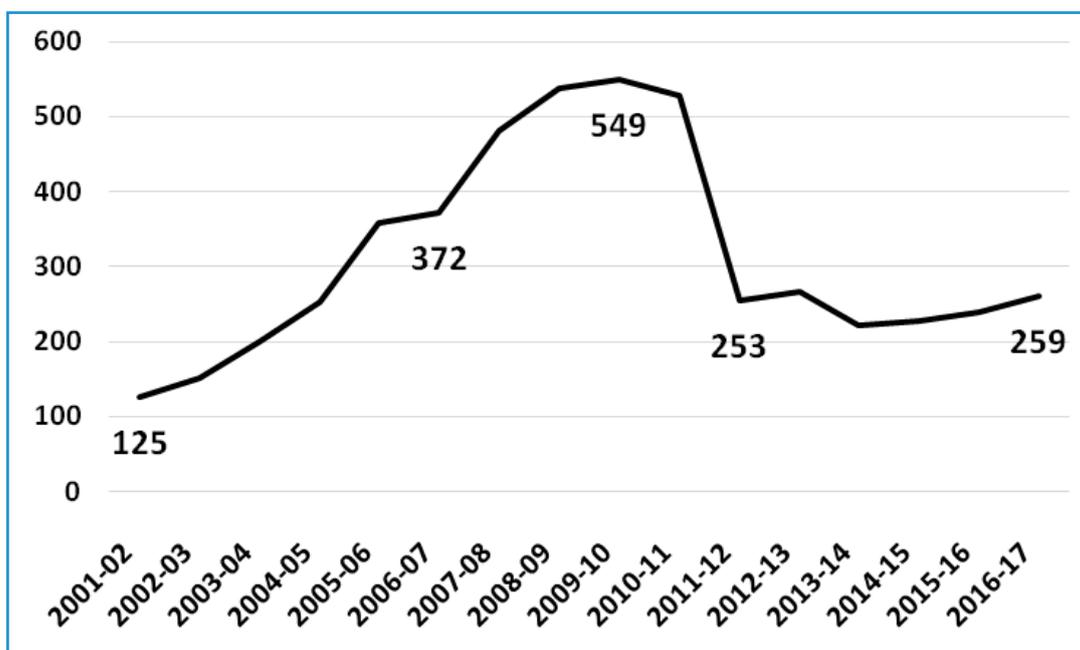
Source: Central Statistical Organization, Government of India: National Accounts Statistics

Figure Index of Industrial Production (2011-12 = 100) for Capital Goods, Annual Average Values, 2011-12 to 2017-18



Source : Central Statistical Organization, Government of India

Figure : Quantum Index of Imports of Machinery and Transport Equipment (1999=100), 2001-02 to 2016-17



Source: Reserve Bank of India, Handbook of Statistics on the Indian Economy

Manufacturing is both the sector which is the principal producer of capital goods and a sector which absorbs large investment expenditure. The stagnation in capital goods production in fact reflects both production as well as investment growth in manufacturing and industry remaining depressed. Indian industry is in the doldrums, but this again is obscured by the GDP data of the new series. It comes out very sharply, however, in the new series of the IIP, which was also issued recently, after the new GDP series was started and with the same base year. As Table 3 shows, industrial growth has seen no upturn since the current government took office and continues to be sluggish.

Table : Annual Growth of the Index of Industrial Production (2011-12=100), 2012-13 to 2017-18 (Percentage Increase in Annual Averages over the previous year)

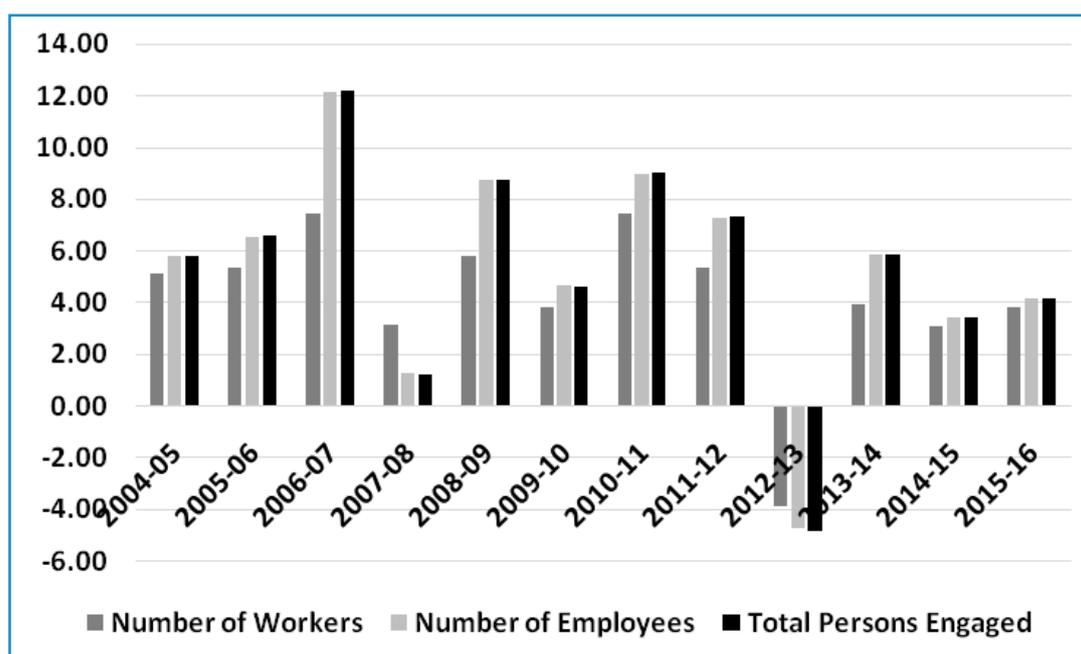
Sector	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18 (Apr. - Feb.)
Manufacturing	4.8	3.6	3.8	2.8	4.4	4.6
General	3.3	3.3	4	3.3	4.6	4.3

Source: Central Statistical Organization, Government of India

## The Employment Crisis

Limited industrial growth has meant that manufacturing too has been incapable, like the construction sector, to generate significant employment growth. Earlier data had already shown that between 2004-05 and 2011-12, employment growth in manufacturing had become almost completely concentrated in its organized segment as unorganized manufacturing was doing poorly. This organized manufacturing employment growth too had started tapering off from 2011-12 onward. The data on organized manufacturing available for the first two years of the current government confirm the continuation of that trend. Indeed, as Figure 5 shows the increment in employment in these two years was among the lowest in over a decade since 2004-05 – less than in all years barring two.

Figure : Annual Increases in Factory Sector Employment, 2004-5 to 2015-16 (in lakhs)



Source: Central Statistical Organization, Government of India: Annual Survey of Industries

The pointers to a grim employment situation indicated above are further confirmed by the estimates made by the RBI's KLEMS database, which shows that overall employment in the economy actually **fell** in the first two years of the current government– from 483.85 million in 2013-14 to 483.09 million and 482.70 million in 2014-15 and 2015-16, respectively. It was likely that the picture would have improved dramatically in the two succeeding years, which saw in addition the disruptive effects of demonetization and the introduction of the GST regime is a question in point. There may not be firm data to confirm the continuation of that situation, and the available limited data has been the source of some debate. Certainly, however, there is nothing in the overall economic trends which would indicate that the employment crisis is ending or even that its magnitude is decreasing.

## The Export-Led Growth that Never Was

The stagnation in investment, manufacturing production and employment are signs of the fact that programmes like Make in India, Skill India and Start Up India have not been able to make India and Indian industry take off. Yet another evidence of that is the extremely poor export performance over the last four years. The current government was lucky that international oil prices started declining sharply almost at the start of its term and stayed low for a significant period since. As a result, India's oil import bill declined sharply, easing thereby the foreign exchange situation.

However, leaving aside the oil trade, even as non-oil exports have stagnated, imports have increased with the result that the non-oil deficit in the trade has actually grown. In 2017-18 this deficit was more than twice the level in 2013-14.

Table : India's Foreign Trade (US \$ Million), 2014-14 to 2017-18

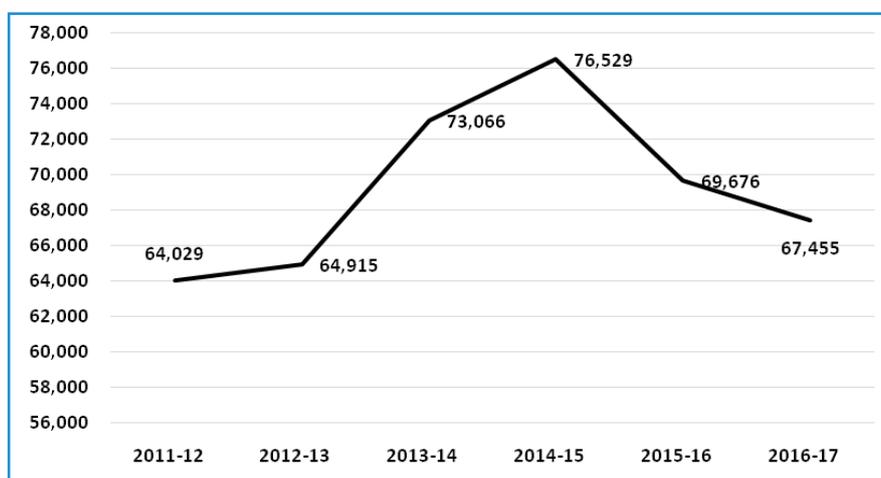
Year		2013-14	2014-15	2015-16	2016-17	2017-18
Exports	Oil	63179.4	56794.1	30582.7	31545.3	38885.9
	Non-Oil	251236.3	253557.9	231707.4	244306.5	263954.2
	<b>Total</b>	<b>314415.7</b>	<b>310352.0</b>	<b>262290.1</b>	<b>275851.7</b>	<b>302840.0</b>
Imports	Oil	164770.3	138325.5	82944.5	86963.8	109110.0
	Non-Oil	285443.3	309707.9	298062.2	297391.7	350556.6
	<b>Total</b>	<b>450213.7</b>	<b>448033.4</b>	<b>381006.6</b>	<b>384355.6</b>	<b>459666.6</b>
Trade Balance	Oil	-101591.0	-81531.4	-52361.8	-55418.6	-70224.1
	Non-Oil	-34207.0	-56150.0	-66354.8	-53085.3	-86602.4
	<b>Total</b>	<b>-135798.0</b>	<b>-137681.4</b>	<b>-118716.5</b>	<b>-108503.9</b>	<b>-156826.5</b>

Source: Reserve Bank of India, Handbook of Statistics on the Indian Economy

While India has tended to have a large deficit in her trade in goods (merchandise trade), a surplus in services trade and remittances have been keeping the imbalances in foreign exchange receipts and expenditures within check. However, the services export growth has been slowing down and the surplus in India's trade in this category has also begun to steadily decline (Figure 6).

Thus, in the last few years, India hasn't done very well in terms of moving in the direction of realizing its ambitions of following China in becoming the factory of the world or of retaining its position as the back-office of the same world.

Figure : India's Net Position in Services Trade (US \$ Million), 2011-12 to 2016-17



Source: Reserve Bank of India, Handbook of Statistics on the Indian Economy

## The Pursuit of Austerity Continued

The decline in international oil prices from July 2014 went a long way in allowing the government to counter the difficulties it has faced, like its predecessor government did, on the revenue front. The combination - of increasing the oil excise duties (thereby reducing the extent to which reduction in prices were passed on to consumers) and withdrawal of excise duty concessions that had been originally part of the post-crisis fiscal stimulus - enabled the government to mop up additional tax revenues under this single head. As can be seen in Table 5, the resultant increase in revenues from excise duties explains almost the entire increase in the central taxes to GDP ratio achieved in the two years 2015-16 and 2016-17. Even then, this ratio was still below the 11.89 per cent reached by 2007-08, before the subsequent fiscal stimulus dragged it down. In 2017-18, as international oil prices started firming up, the duties imposed earlier weren't withdrawn and consequently, domestic oil prices also started climbing up.

In 2017-18 at least, the introduction of the Goods and Services Tax (GST) has had a disruptive effect on revenues. If one excludes the GST compensation cess, which was essentially collected by the Central Government to compensate state governments for the loss of their revenues, the revised estimates for central tax revenues fell below budget estimates. Even here there is a catch. The revised estimates took into account the fact that corporate tax revenue performance till January 2018 had turned out to be slightly better than what the original budget estimates had indicated. However, the opposite situation with personal income tax revenues was completely disregarded and the budget estimates were not adjusted downward in the revised estimates, perhaps because it would have revealed that the hype about demonetization and its effects in unearthing black money was misplaced. From figures available till February 2018, it would appear that the final collections of income-tax may turn out to be Rs. 35,000 to 36,000 crores less than the figure in the revised estimates, which would make the central taxes to GDP ratio in 2017-18 around 11 per cent.

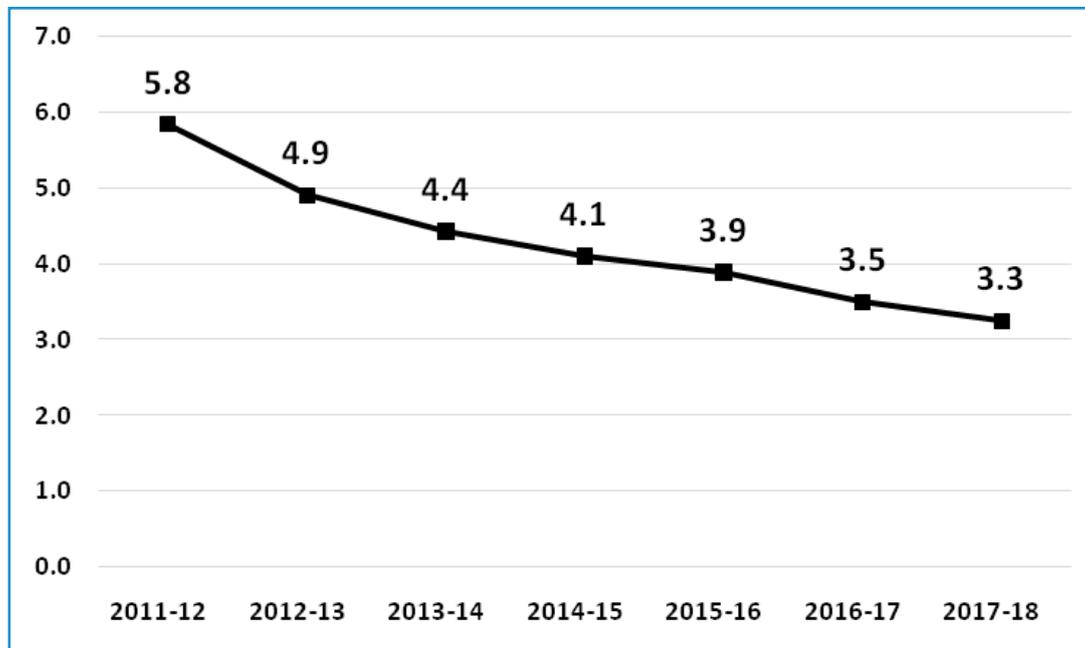
Table : Revenues from Central Taxes (as Per cent of GDP), 2011-12 to 2017-18

Revenue Head	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18 (RE)
<b>Gross Tax Revenue</b>	<b>10.07</b>	<b>10.37</b>	<b>10.04</b>	<b>10.01</b>	<b>10.64</b>	<b>11.25</b>	<b>11.23</b>
Corporation Tax	3.66	3.57	3.48	3.45	3.31	3.18	3.36
Taxes on Income other than Corporation Tax	1.86	1.97	2.10	2.14	2.10	2.39	2.63
Customs	1.69	1.66	1.52	1.51	1.54	1.48	0.81
Union Excise Duties	1.64	1.76	1.49	1.52	2.11	2.51	1.65
Service Tax	1.10	1.33	1.36	1.35	1.55	1.67	0.47
GST							2.28
<b>Gross Tax Revenue Excluding Excise Duties</b>	<b>8.43</b>	<b>8.61</b>	<b>8.54</b>	<b>8.49</b>	<b>8.54</b>	<b>8.75</b>	
<b>Customs+Excise+Service Tax+GST</b>	<b>4.44</b>	<b>4.74</b>	<b>4.37</b>	<b>4.38</b>	<b>5.19</b>	<b>5.65</b>	<b>5.21</b>

Source : Government of India, Union Budget

Even as the revenue situation has remained tight, the current government like the previous one, has been steadfastly committed to reducing the fiscal deficit or continuing down the path of fiscal consolidation initiated in 2011-12 (Figure 7). The steady process of retreat from the 'stimulus' has thus continued under the current government, with public expenditure growth kept under leash. Apart from the fact that this has meant that government fiscal policy has not been of a kind imparting an expansionary impetus to the economy, expansion of expenditure on social services has also been constrained.

Figure : Central Government Fiscal Deficit to GDP Ratio (Per cent), 2011-12 to 2017-18



Source: Reserve Bank of India, Handbook of Statistics on the Indian Economy

## Summing Up

Even when it has experienced boom like that before the global crisis, Indian economic development has not been very successful in being expansionary for most of the country's citizens and delivering jobs and growing incomes to them. A growth process of this kind has faced difficulties in sustaining itself, one important reason being the consequent inability of millions to provide an expanding market for a growing production. Since the beginning of this decade, the effects of these have been seen in the markedly sluggish trends in so many segments of the economy. Neither of these problems were the creations of the current government but it had indeed promised to fix them. Its formula for this, however, was no different from what the previous governments had unsuccessfully attempted to use – reviving the fortunes of the economy and the prospects of the people by unleashing the 'animal spirits' of private capital through "minimum government and maximum governance".

Even the minimal claim that the formula has been implemented better by the present government than the previous one is debatable, given the government induced disruptions like demonetization and the ban on the cattle trade. Nevertheless, what the last four years may have shown is the problem in the formula itself of putting the cart before the horse.

Of course, the Government could claim the taming of inflation as its great achievement. However, apart from the effects in fall in world oil prices, if lowering of inflation is achieved by making the agrarian crisis more acute, maintaining depressed demand conditions for important sectors of the economy and by checking employment growth – then it doesn't constitute much of an achievement. Indeed, one might say – what a price to pay for keeping prices down!

# Education – Universal education not on government's priority list

Disappointing mechanism of  
implementation of  
RTE Act aggravating  
the pathetic condition  
of education

Elementary education for children of 6-14 years became a fundamental right on April 1, 2010, with the passage of the Right of Children to Free and Compulsory Education Act, 2009. Through this, India, for the first time, adopted a holistic approach to universalise an important segment of school education within five years. This Act obligated the government to commit all resources required for its total implementation.

The main implementation challenges were: mobilising the required resources, undertaking a mapping of schools to determine the number of additional schools to be built, bringing all out-of-school children to school, recruitment of well-trained teachers, in-service training of untrained teachers, revamping teachers' training institutions, establishing School Management Committees and their empowerment and ensuring that private schools apply the prescribed norms.

It required the establishment of new institutions and recruitment of personnel on a large scale. But that did not happen. Even after completing a full eight-year implementation cycle since 2010, millions of children are out of school. According to 2011 Census, 8.4 crore children were out of school, although a 2013 report of the Ministry of Human Resource Development (MHRD) put the figure at only 60 lakh. Though the enrolment of children in this age group, according to DISE data, is 98.5 per cent, 50 per cent of those enrolled are not able to complete their education up to Class 8. According to UNICEF figures, the dropout percentage at this level is 41. Almost 10 per cent schools are single-teacher schools while more than half lack most prescribed infrastructure facilities. Only 8 per cent schools are fully compliant with the provisions of the RTE Act, according to RTE Forum Report 2017-18.

## Decline in public spending: A big barrier to universalisation of school education

A key reason for the shortfall in implementation is non-availability of resources. RTE Forum and education activists have been continuously demanding the flow of necessary funds to implement mandatory provisions of the Act, but these have largely been ignored.

In fact, budget allocations over the last few years have seen low outlays to Sarva Shiksha Abhiyan (SSA), the main vehicle for implementation of the Act. The situation worsened in the last four years. In its 2014 election manifesto, the BJP had promised to allot 6 per cent of the GDP for education. However, none of the four budgets presented by the NDA government has come anywhere close to it. The 2015-16 budget effected a cut of 23 per cent from Rs 28,258 crore in 2014 to Rs 22,500 crore for SSA. In the same budget, the ICDS programme, meant for providing health and education facilities to children below six years, saw a massive cut of almost 49 per cent. In the new budget, ICDS has received Rs 16,335 crore for ICDS Core (anganwadi services) with increase of 7 per cent only while allocations for the Ministry of Women and Child Development increased by 16 per cent from Rs 21,237 crore (2017-18) to Rs 24,700 crore. The 2018-19 budget has announced a mere 11.18 per cent increase in the outlay for SSA from Rs 23,500 crore in 2017-18 to Rs 26,128 crore and 7.61 per cent jump from Rs 3,915 crore in 2017-18 to Rs 4,213 crore for Rashtriya Madhyamik Shiksha Abhiyan or secondary education. Mid-day Meal Scheme observed increase of only Rs 500 crore from Rs 10,000 crore in 2017-18 to Rs 10,500 crore in 2018-19.

Allocations to SSA are consistently being cut. It was the highest in 2014-15 at Rs 28,258 crore. It now stands at Rs 26,128.81 crores (BE 2018-19). Instead, a 3 per cent education cess has been changed to 4 per cent 'health and education cess', which is estimated to bring in an additional Rs 11,000 crore. Currently, the government is spending only about 3.5 per cent of GDP on education. This indicates that the government is in no mood to prioritise education and clearly demarcate funds for it from its general revenue collections. It has, thus, shifted this responsibility to the public, who will now pay up more in cess. It is astonishing that 66 per cent of the total budget outlay on education is being financed through the cess.

	PAB approval for SSA (central share)	Budgetary Allocation (BE) for SSA by Union Govt	Allocation as % of approved outlay
<b>2013-14</b>	31,016	27,258	87.9
<b>2014-15</b>	36,391	28,258	77.7
<b>2015-16</b>	40,200	22,000	54.7
<b>2016-17</b>	46,702	22,500	48.2
<b>2017-18</b>	55,000	23,500	42.7

It is ridiculous to see the mention of 'Revitalising Infrastructure and Systems in Education by 2022' (RISE) and digital intensity in education in the recent budget without appropriate allocations. This neglect will severely impact children, especially those from the poor and marginalised communities and add to the already increasing number of out-of-school children. Hopefully, the focus on technology and IT would not be at the expense of addressing existing basic facilities in schools and implementation of norms and standards for each school mandated by the RTE Act.

## Two lakh government schools shut down

Nearly two lakh government schools across India have been closed down after the enactment of RTE Act in the name of consolidation/merger of schools for different reasons, prominently due to low enrolment. Instead of trying to enroll and retain children in government schools through their mapping and recruiting qualified and trained teachers, the unplanned closure of schools is leading to massive dropout of children, especially girls from the tribal areas in Odisha, Chhattisgarh and Jharkhand as well as in Rajasthan, Telangana and Gujarat. This is also leading to mushrooming of low-cost and unregulated private schools which provide extremely poor quality education. It is also a clear violation of children's right to education. In tribal areas like Rayagada and Kandhamal of Odisha, the government seems to favour young children studying in residential schools, leading to their cultural alienation. Another concern is the Public-Private Partnership (PPP) model sponsored by the Rajasthan government which is auctioning government schools through tenders for commercial business.

Rajasthan is one of the flagbearers of privatisation of essential services. Almost 13,000 schools have been shut down in the state. Last year, it decided to handover 300 government schools to the private sector under PPP and initiated bidding in the name of "adarsh vidyalayas". This led to massive protests from teachers, villagers and civil society organisations, who joined hands and mobilised the community as well. After the BJP lost the by-elections in Alwar and Ajmer, the government had to give in to pressure and create a sub-committee of three members to address their grievances. Eventually, faced with immense pressure, the government postponed the move. The Rajasthan case exemplifies the strength of community mobilisation and peoples' movement. People in other states are also resisting the closure of schools or handing them over to the private sector.

## Crisis of well-trained teachers

Non-recruitment of the required number of trained teachers is another major challenge. Eight years after the RTE Act came into force, there is 17.51 per cent (more than 9 lakh) teacher vacancy in government schools at the elementary level; it is 14.78 per cent at the secondary level. A deplorable pupil-teacher ratio exists, according to MHRD's National Education Policy (NEP) Report of the Committee for Evolution of New Education Policy 2016. The unprecedented delay in teachers' appointment, beside deployment and appointments on contractual basis, is making the situation worse. Around 20 per cent permanent teachers and 30 per cent temporary teachers have not obtained the professional qualifications required under the RTE Act. In the last budget, the Union Finance Minister had promised that the government would train 13 lakh untrained teachers by March 2019, but till date no institutional mechanism has been evolved for quality training. Instead of implementing Justice Verma Committee recommendations (2012) for face-to-face training of teachers, the government is taking it casually and providing

teacher training through open schooling and digital modes for few days which impacts the quality of training.

<https://timesofindia.indiatimes.com/home/education/news/raj-govt-puts-ppp-policy-for-school-edu-in-cold-storage/articleshow/62827157.cms>

<https://www.hindustantimes.com/jaipur/rajasthan-teachers-unions-warn-against-ppp-model-for-schools-line-up-protests/story-R8WJub8hjderTCZcloemvl.html>

## Mushrooming private schools

Only a strong public education system would prove helpful in achieving the goal of universalisation of education. But there is growing governmental thrust to privatise school education. In August 2017, the NITI Aayog recommended handing over “non-performing” or “hollowed” government schools to private players under the PPP model. In its three-year Action Agenda, suggestions were made to set up working groups which would explore and pilot “bolder experiments” like vouchers and local government-led purchase of schooling services. The assumptions that the government is incapable of providing quality education and that private education is better than public education are fallacies. Kendriya and Navodaya vidyalayas are examples of exceptionally well functioning government schools. As far as learning outcomes are concerned, studies have shown that equalising socio-economic backgrounds of the students, the results of government schools and low-cost private schools are almost equal.

## Privatisation trend in India

Public /Private Schools and Enrolment	2010-2011	2014-2015	2015-2016	Change in per cent (2011-2016)	Change in per cent (last year)
Total schools in India	13,62,324	14,45,807	14,49,078	6.35	0.22
Total government schools	10,64,604	10,80,757	10,76,994	1.18	-0.34
Total private schools	2,64,607	3,28,845	3,34,468	25.98	1.7
Total enrolment in schools	19,30,51,999	19,76,66,909	19,67,16,511	1.91	-0.48
Enrolment in government schools	13,00,89,841	11,89,73,934	11,69,21,077	(7.34)	-1.72
Enrolment in private schools	5,91,18,176	7,35,55,385	7,46,49,104	25.82	1.4

The figures clearly show the rise of privatisation of education, both through increase in the number of private schools as well as in the number of students enrolled in them. As per DISE data, there is steep difference in the percentage of growth of government schools as compared to private schools. While government schools increased in numbers by less than 2 per cent, private schools went up by 24.28 per cent. While enrolment in public schools declined by 8.5 per cent, it increased by 24.42 per cent in private schools.

## Integrated scheme for school education: A regressive step

The three flagship schemes — SSA, RMSA and Teachers' Education — have been merged as a single integrated scheme called Samagra Shiksha Abhiyan (SSA) with announcement to treat education “holistically without segmentation from nursery to Class 12”. But this will be possible only through complete implementation of the RTE and its extension up to the higher secondary level. India is still struggling to achieve the goal of universalisation at the elementary level. Obviously, this shift will not only dilute the focus of the RTE Act as a fundamental right, but will also prove regressive for children's holistic development if it is not made a legal right.

## Change in education discourse

We have had a rich discourse in education, including the recommendations made by Kothari Commission way back in 1966. But by its prolonged silence on the RTE Act, the Centre has relegated the goal of universalisation of quality school education within a time-bound framework to the background. Neither the Prime Minister nor the HRD minister has made any statement reiterating the government's commitment to the RTE Act. Since the deadlines for the implementation was over in March 2015, the government was expected to fix new datelines and a roadmap. But no such action has been taken. In fact, the government has neglected education in its priorities which is reflected in disappointing mechanism of implementation of the RTE Act and low public spending in the Union Budget, which caused the closure of government schools and aggravating the pathetic conditions of schools. In the process, it has also succeeded in changing the discourse on school education.

<http://niti.gov.in/writereaddata/files/coop/IndiaActionPlan.pdf>

[http://www.ncaer.org/uploads/photo-gallery/files/1382332145KM\\_NCAER\\_Lecture\\_Summary.pdf](http://www.ncaer.org/uploads/photo-gallery/files/1382332145KM_NCAER_Lecture_Summary.pdf)

# Environment: Governance over the past four years

Huge chasm  
between promise  
and  
performance

## The promise

The election manifesto of the Bharatiya Janata Party stated “we will put sustainability at the centre of our thoughts and actions, working on the principle that inclusive growth cannot be limited by the barriers of time and space - it has to be built on the foundations of the past, leverage on the opportunities of the present, and preserve and enhance its resources for the future. We will take climate change mitigation initiatives with all seriousness and work with the global community and institutions in this regard.”

The manifesto further talking about natural resources invoked Gandhiji and asserted “a country's progress depends upon its resources and how they are harnessed and protected. Those in power have to realize they are just trustees of the resources of the nation. The resources are neither meant for them nor for their masters. If we bring this basic shift in thinking of the Government, which Mahatma Gandhi also advocated, all problems will be resolved. In recent years, it has been noticed that country's tangible and intangible resources have been looted with impunity. The adverse result is being felt on two sides: firstly, the proceeds of the resources have not gone to the public exchequer. Secondly, because of this culture of usurping, the same resources are not available for public purposes. The management of natural resources is marred with either misappropriation or misallocation. This has to be set right.”

## The performance

### Attempt to wholesale dilution of environmental safeguards

The Government began the process by constituting a High Level Committee (HLC) to dilute the various provisions of the environmental legislations. The process and the report of the HLC led to severe disapproval and the report was placed before the Parliamentary Standing Committee (PSC) of the Ministry. The PSC observed, “The recommendations of the HLC report will not empower regulatory agencies to safeguard the environment. In many cases implementation of the High Level Committee Report will lead to multiplicity of institutions and authorities with little strength, power and capacity in the institutions such as the proposed National Environmental Management Agency and State Environmental Management Agency.”

The PSC rejected the report with the following recommendation, “Considering the various objections as aforesaid and comments of the Ministry, the Committee finds that objections raised by members of civil society/NGOs/experts are prima facie valid and require serious reflection.” Having failed in wholesale dilution, persistent efforts are being continuously made to dismantle these safeguards.

### Efforts to remove the construction sector from the purview of environmental scrutiny

Under the existing law, all building and construction projects from 20,000 sq mts requires an environmental clearance (EC) under the Environmental Impact Assessment (EIA) Notification, 2006. In addition, it requires consent to establish and operate under the Air Act, 1981 and the Water Act, 1974. Moreover, any concerned person can approach the National Green Tribunal to challenge the environmental clearance or seek action for violation.

A notification dated December 9, 2016 issued by MoEF&CC exempted real-estate projects upto 1,50,000 sq.m built up area from the need for undergoing EIA and obtaining EC and exempting the operation of the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974. The notification was challenged by a group of petitioners on various grounds including the reason for the exemption

being 'ease of doing responsible business' and the same cannot be a ground for exempting the application of environmental law. The petition also challenged that 'housing for all by 2022' is an attempt to 'hide behind' the poor while actually benefiting the builders lobby. Most significantly, all the exemptions were ironically done by stating that the exclusion of the application of environmental law was essential in order to improve the quality of environment. In the strongly worded judgment, the Tribunal condemned this act of diluting environmental safeguards in the interest of 'ease of doing responsible business' under the garb of 'housing for all' citing that the construction industry consumes enormous resources and has a significant energy footprint; the sector emits 22 per cent of India's total annual carbon-dioxide emission. The Tribunal also strongly reprimanded the Ministry for overlooking its own findings regarding the incompetence of local authorities to appraise real-estate projects as reported by the committee headed by Dr. K. Kasturirangan. Despite this, currently the Ministry has come up with a new effort to increase this limit from 20,000 sq mts to 50,000 sq. mts.

## The impunity of the highway sector

The dilution of the regulations is also best indicated in the roads and highway sector. The Ministry has exempted highways below 100 km from the purview of environmental impact assessments. This has led to widespread destruction the highways are causing to the environment and also generating pollution, dumping muck into reservoirs and wetlands, haphazardly quarrying for road materials. The classic case is of the Chandigarh-Rohtang National Highway 21, which goes along the Bhakra Reservoir. The four-laning of this road has been split in sections of less than 100 km to do away with all the due-diligence required. The Bhakra Reservoir area, which used to be the Govind Sagar Wildlife Sanctuary" was denotified, apparently to rationalise protected areas.

Highways passing thorough national parks and sanctuaries, ecologically sensitive areas are being bull-dozed into construction despite objections being raised by local communities and in some occasions by the relevant forest and wildlife departments. The irony is that these highways then become the toll-ways which add to the profit of the investors leaving the local people literally "in the streets". This is also one of the main reasons for many land related litigations.

## New effort to dilute coastal zone regulations

The CRZ Notification governs development on the Indian coastline. It demarcates the first 500 metres of land from the sea as Coastal Regulation Zone (CRZ) and divides it into ecologically sensitive areas, water areas, urban and rural areas. It also includes the area in the sea up to 12 nautical miles. Acknowledging the vulnerability of coastal ecosystems, it delineates the first 200 metres of the rural areas of CRZ as No Development Zone (NDZ).

Being obsessed with rapid and exponential development of ports and coastal infrastructure, with the assumption of office in 2014, the Government initiated a CRZ review by Shailesh Nayak Committee to the proposed MCRZ Notification, each review/revision process has only diluted the coastal regulation. The MoEFCC opened the CRZ Notification to review but with a narrow scope – it limited the Terms of Reference of the Shailesh Nayak Committee only to address state governments' grievances. Other stakeholders were kept out and the review thus conducted was obscure and skewed without an objective, inclusive and participatory assessment of the CRZ Notification. The inter-ministerial meeting does not fare any better. Fisheries and coastal agriculture, two livelihoods dependent on unhindered access to coastal commons are not represented in this 'stakeholder' meeting.

CRZ 2018 notification proposes a series of changes in the 2011 version. Among the most worrisome is the arbitrary reduction of the tidal influence on land. The draft notification states "CRZ limits on land along the tidal influenced water bodies has been proposed to be reduced from 100 metres or the width of the creek, whichever is less, to 50 metres or the width of the creek, whichever is less."

The draft complicates the understanding of the coastal ecosystems by dividing the CRZ into seven categories – CRZ-I A, CRZ-I B, CRZ-II, CRZ-III A, CRZ-III B, CRZ-IVA and CRZ-IV B compared to only four classifications (CRZ-I, CRZ-II, CRZ-III and CRZ-IV) in the 2011 version. Of the seven classifications, CRZ-I A is environmentally the most sensitive and critical, comprising areas like mangroves, coral reefs, sand dunes, biologically active mudflats, salt marshes, national parks, marine parks, reserve forests, wildlife habitats, turtle nesting grounds, nesting ground for birds, and heritage sites. These areas are also not spared from destructive development activities.

The draft notification states 'construction of roads and roads on stilts, by way of reclamation in CRZ-I areas, shall be

permitted only in exceptional cases for defence, strategic purposes and public utilities, subject to a detailed marine/terrestrial environment impact assessment, to be recommended by the Coastal Zone Management Authority and approved by the MoEFCC'. Further it goes on to state "in case construction of such roads passes through mangrove areas or is likely to damage the mangroves, a minimum three times the mangrove area affected/ destroyed /cut during the construction process shall be taken up for compensatory plantation of mangroves."

A series of public hearings are being done in the coastal areas currently. The recent public hearing in Chennai saw fisher communities resisting and rejecting the farce public hearing which were not in accordance with the 2011 notifications. The information on the basis of which the public hearing on the specific zonation was to be undertaken was grossly inadequate to make proper decisions. The pushing of these revised regulations to benefit tourism, real-estate and port based activities are going to be a death knell for the coastal fisher communities especially when combined with the ambitious "Sagarmala" project which aims to connect ports with roads across the country's eastern and western coasts. No wonder that these communities already living and eking out livelihoods in an uncertain environment exacerbated by the impacts on climate are deeply concerned about their future.

### **Dilution and destruction of institutions governing wetlands**

The Wetlands (Conservation and Management) Rules 2010 had clearly prohibited activities like reclamation of wetlands, setting up of new industries and expansion of existing industries, solid waste dumping, manufacturing or handling or storage or disposal of hazardous substances, discharge of untreated waste and effluents from industries, cities, towns and other human settlements, any construction of permanent nature and any other activity that is likely to have an adverse impact on the ecosystem of wetlands. The new wetland rules promulgated, in the guise of "wise-use" by the Government has severe implications to the already depleting water-bodies especially through dumping on these sites and large scale encroachment by real estate. The specific aspects of the dilution are indicated here but in the name of decentralising authority, the role has been assigned to those who are responsible for its degradation.

- i. Restricted, diluted definition of wetland by excluding zone of direct influence, catchment area, manmade water bodies/ tanks/ salt pans from the ambit of the definition.
- ii. The categorization laid down under the rules of 2010 has been done away with, and only Ramsar sites as well as wetlands identified by the central government, state government and the union territories' administration would be protected under the new regime.
- iii. Dismantling of the Central Wetland Regulatory Authority, and constitution of a National Wetlands Committee which has been given only an advisory role under the new regime envisaged under the impugned rules.
- iv. Arbitrary concentration of power with the state government as it has been empowered to notify the wetlands in their respective states and it is the Minister of Environment of the state that heads the wetland authority which has to identify and recommend wetlands for notification.
- v. List of prohibited and restricted activities that can be carried out on wetland and its catchment area has been severely diluted
- vi. Requirement of environment impact assessment has been deleted which was mandatory under the rules of 2010.

### **Ostrich like attitude on air pollution from coal based power plants**

Coal based thermal power plants were to adhere to stricter pollution norms from December 2017. The Government did not make any effort or push the industry to initiate action on this notification issued in 2015. While environmentalists concerned with the rising air-pollution across the country from these polluting plants have been reminding the government, it maintained that the norms will be adhered to by all industry by the said date of 7<sup>th</sup> December 2017. However, it surreptitiously approached the Supreme Court, with a dubious report to seek its intervention in extending the period for compliance to 2022. Coal based thermal power plants are the undoubtedly the biggest emitters of GHGs. Promotion of such a destructive energy source in a period when

renewables have become even financially attractive and dilution of the norms for their emissions clearly indicates the utmost lack of concern of the government towards the environment and in this case the very health of the citizens.

## **Decentralisation and lure to states of decision making as a tool for dilution**

While the constitution proudly proclaims our country to be a Republic, it has enabled or strengthened local institutions. Even state governments lack the institutional and technical basis for making several decisions. Further at the local level, decision-makers are themselves the vested interests in pushing ahead projects which are detrimental to local people. In almost all aspects of environmental decision making this is being used as a tool to enable easing of all the clearances. For instance, small projects are now cleared by a district environmental appraisal authority and the head of the irrigation or public works department happen to be among the members!

After the Supreme Court decision on the 2-G and coal scams, the law was changed to auction all mining leases. States are being lured into getting upfront money and the auction process is conducted keeping the people in the dark. Once the bid is won, the promoter and the state force all clearance to be granted. The government formed a "Post-Auction Mining Clearances and Approvals Facilitator (PAMCAF)" under which a more sophisticated acronym "TAMRA" - Transparency, Auction Monitoring and Resource Augmentation – has been created clearly to facilitate and expedite various clearances / approvals required after the mineral block is allocated. The consideration whether peoples' rights exist, environmental conditions allow for such mining to come up do not seem to weigh much in this governance process.

## **Directions issued from PMO forcing agencies to clear without due diligence**

Perhaps the most impactful of environment is the role of the Project Monitoring Group of the Prime Minister's Office. The role of the project monitoring group is to enable investors ( FDI of Rs 500 Crore or Indian Rs 1000 Crore) log in to the e-Suvidha portal and seek intervention in changing policies, obtaining clearances and changing rules to facilitate them. Once uploaded the PMG officials chase down the appraisal authorities to expedite the clearances which then become a fait accompli and without proper due-diligence they are merely papers generated to allow the activity.

A look at the current list of 914 projects in this portal is clearly indicative of the grossly climate unfriendly approach the government has unleashed. This has completely undermined the laws and policies; the mindless and relentless pursuit of "ease-of-doing-business" is completely destroying the edifices of the regulatory and oversight institutions.

India is 177<sup>th</sup> in the Environmental Performance Index among 180 countries even if it has inched to the 100<sup>th</sup> position in the Ease-of-Doing-Business Index. One dreads to think if further improvement in the facilitation of destructive corporate activities have to be undertaken, how much more degradation of environment and quality of life we need to suffer.

The huge chasm between the promise and the performance needs a herculean effort to reverse the very mind-set of the state and regulatory agencies if we were to be serious about the looming climate crisis and even our nationally determined commitments.

<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0170996>

[https://www.bjp.org/images/pdf\\_2014/full\\_manifesto\\_english\\_07.04.2014.pdf](https://www.bjp.org/images/pdf_2014/full_manifesto_english_07.04.2014.pdf)

<http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20S%20and%20T,%20Env.%20and%20Forests/263.pdf>

[http://envfor.nic.in/sites/default/files/press-releases/Final\\_Report\\_of\\_HLC.pdf](http://envfor.nic.in/sites/default/files/press-releases/Final_Report_of_HLC.pdf)

<https://counterview.org/2017/05/05/how-each-review-revision-of-the-proposed-mcrz-notification-only-diluted-coastal-regulation/>

<http://www.newindianexpress.com/cities/chennai/2018/apr/28/angry-tamil-nadu-fishermen-raise-a-stink-public-hearing-on-draft-czmp-ends-abruptly-1807369.html>

Based on detailed analysis by EIA Resource and Response Centre

<https://esuvidha.gov.in/>

# Fiscal policy : Corporate Friendly Reforms Regressing People's Rights

The corporate and international financing policies and partnerships must be assessed along parameters of sustainability, and social and environment justice.

The last 4 years have considerably changed the landscape of development finance in India, both in terms of its aggressiveness with which projects are being funded, and the quantum of investments. From tax reforms, policy changes, shifting towards a loose and lazy environmental and social governance; the current government has brought in changes to promote infrastructure investment climate in the country at the cost of people and environment. Rapid reforms conceptualised and executed by international financial institutions along with the national and State Governments are changing the investment landscape in the country, resulting in pushing the marginalised further on the peripheries of development.

## Trends and Changes in National Finance: 2014-2018

The NDA Government took the reins of the government at the Centre with a single majority, after 30 years, in 2014. The country has witnessed some significant shifts in the financial policies since then. Securities Laws (amendment) Act, 2014, Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, Insolvency and Bankruptcy Code, 2016, are a few of the legislations passed in these four years.

A trend that is indicative of the current administration is the introduction of decisive economic policies in between the Parliamentary Budget Sessions. Crucial policies like the Goods and Service Tax and demonetisation were brought in between the sessions, thereby bypassing the parliament. Furthermore, the Money Bill has been used to push in policies like Aadhar and electoral bonds, which are beyond the purview of the Bill. The scuttling of parliamentary procedures and debates have been a consistent practice in these four years. Some of these policies which have caused irreversible changes to the financial landscape of the country are as follows:

### Demonetisation

On November 8, 2016, the Prime Minister of India announced 86% of the value of Indian currency in circulation (500 and 1000 rupee notes) in the country to have ceased to be a legal tender. The following days witnessed a total lack of preparedness by banks and post offices that lacked institutional capacity to deal with such a huge magnitude of workload of accepting the deposits of these now invalid currency back into the system. Hordes of people began to throng banks and ATMs to put back the currency into the bank accounts lest they lost all their earnings and savings. This jerrybuilt policy enforcement led to chaos and aggression among the citizens; in some places, even breaking open shops for food as cash was not available to buy the essentials.

After over a year of demonetisation, it became clear that the Policy was not aimed at fighting black money as was touted to be, but as a push towards digitalisation. Though complete digitalisation is a long way away, demonetisation had affected the informal sector irreversibly.

### Goods and Service Tax

Another one of NDA Government's radical policy that ended up hurting the economy is the Goods and Service Tax, (Henceforth GST). Ten months into its rolling out the GST Council is still finding ways to deal with the lack of network infrastructure and failure of the E-Way Bill system. Once again in the process, small and medium businesses incurred heavy losses. The GST despite its rhetoric of accountability turned out to be just another pro-corporate policy.

### Banking Crisis

One of the macabre problems facing the Indian economy is that of the bad loans, the Non-Performing Assets

(henceforth NPA). The gross NPA, referring to credit/loans in jeopardy of default by the loanee, as of December 2017, was accounted at 8,40,958 crores. The problem came to the light with the Asset Quality Review of the Banks by the Reserve Bank of India (henceforth RBI) in 2015. It was found that the bad loans, primarily from the corporate sector, were restructured by the banks to keep them off the books. The government and the RBI have introduced various schemes to curb the problem of NPAs. These include the various Asset Reconstruction and Restructuring Schemes, introduction of the Insolvency and Bankruptcy Code (henceforth IBC), Recapitalisation, Prompt Corrective Action and the Financial Resolution and Deposit Insurance Bill (introduced and sent to the joint parliamentary committee).

Unfortunately, the government remained unsuccessful in recovering these loans from the corporate entities and fell short of addressing the crisis of NPAs effectively. Negligent recovery from IBC and pressure from the RBI to keep higher provisions brought the banks under heavy losses.

## **International Finance and its role in changing economic and financial climate in the country**

It was in 1991 that India launched its first comprehensive economic policy reform program, which the World Bank supported with a \$500 million structural adjustment operation (SAL). These reforms formed the base of the trajectory of development path that India chose leading to the next two decades of liberalisation and privatisation of the Indian economy. The current NDA government's economic policies and financial thrust are not very different but only more aggressive. In their party manifesto 2014, the BJP clearly stated that its agenda would be the transformation of India from a global market to global manufacturing hub. This meant creating easy and conducive environment for doing business in India. What followed was a rush towards policy shifts, single window systems of clearances, aggressive push for energy generation for industry use, setting up industrial hubs, easy environmental clearances for industrial ventures after they assumed power. This was actualised through the help of Multilateral Development Banks with World Bank and Asian Development Bank, whose agenda and priorities have been largely to open and liberalise economies.

### **World Bank Group's investment and role in India**

Currently, the World Bank Group's program consists of 123 active lending operations with US\$ 28.7 billion in commitments from the Bank. The pipeline lending operations are worth US\$ 5.1 billion. Their priority areas are developing smart cities and improving urban service delivery; improving rural sanitation and ending open defecation; providing 24/7 electricity, including the thrust on solar energy; skill development and training of youth; modernising India's massive railway system; and improving the country's business climate. Toward these objectives, the World Bank started accompanying the Indian government to improve its ranking on the ease of doing business index.

Apart from this, the World Bank is investing in roads and highways projects to the tune of US\$ 5.2 billion in the North-eastern region (Mizoram, Assam); Karnataka, Bihar, Rajasthan, Tamil Nadu and Uttarakhand. In the energy sector, the investment is close to US \$ 3.72 billion. Some of the projects include the much tainted Vishnughad Pipalkoti Hydro Power Project, shared infrastructure for solar parks, and wind energy projects. Though no new project for direct support to coal are active; World Bank found a backdoor support for coal through financing transmission lines coal based thermal power projects. Currently, there are 4 transmission and distribution projects that are active, besides the projects related to urban and rural development, public sector management, environmental and natural resource management and technical assistance projects with investment close to US\$ 5.8 billion.

Similarly, the International Finance Corporation's (henceforth IFC) portfolio in India shot to \$187 million from less than \$5 billion, even as its exposure to China declined by \$745 million, in just a year's time. As of February, 2018 IFC has 344 active investments and advisory services projects in India amounting of US \$ 4.55 billion. IFC focus priorities for South Asia are in infrastructure and energy, capital markets and financial inclusions etc. In fiscal year 2017, the IFC invested about \$2.8 billion in financing businesses in South Asia, including \$817 million mobilized from other investors, expanding India's portfolio in the region to more than \$7.5 billion for its own account. IFC is planning to invest up to \$6 billion in India over the next five years to support initiatives in renewable energy and

green buildings. Jun Zhang, India country head, IFC has stated that over the next five years until 2022, we will be investing \$5 billion to \$6 billion on climate change-led initiatives. IFC will also continue to back venture capital (VC) firms and invest in Indian start-ups directly. IFC said it will continue to scout for bets in consumer internet, education-tech, health-tech, clean-tech, B2B (business-to-business) e-commerce, and e-logistics.

## Ease of Doing Business

The 'Ease of Doing Business' has become a buzz word in the last four years. It is an index developed by the World Bank to rank nations on indicators of compliance to business regulations, published annually in the Doing Business Report. The present government tasked itself to enter the first 50 spot in the Ease of Doing Business. This stands in contrast to its earlier position where it raised questions on the robustness of the methodology and the ranking system. The race to get to the 50<sup>th</sup> spot saw some big changes in environmental governance and various laws that govern land, labour and environment. The Commerce and Industry Ministry in a question in the parliament informed that the Department of Industrial Policy and Promotion (DIPP) was working with states to remove constraints in doing business and have made more than 7000 small and big reforms.

India came out with the Business Action Reform plans, implemented across the country, which resulted in the changed governance policies across the Central, State and Municipality levels, with the aid of the World Bank to promote ease of doing business. The Standing Committee on commerce constituted a subcommittee on Ease of Doing Business that came up with suggestions, including the model of land acquisition being followed by the State of Gujarat as a best practice for other states to emulate. This practice simplified land acquisition procedure in the state with minimum direct government participation by an entrepreneur with less hassles. The Gujarat model has been critiqued by the affected communities, civil society and activists for diluting the Land Acquisition Act of 2013 including doing away with Social Impact Assessment and consent clause for acquiring land.

These circumvention is not just limited to acquiring land but also regulating labour welfare to four labour codes allowing for fixed term contracts, penalising strikes, and allowing for self-assessment by the factories and establishments, to suit the private investors' demand for flexibility to hire and fire, an indicator with the ease of doing business index.

The Ministry of Labour and Employment (MoL&E) has notified a compliance regime based on self-certification for Startups that would exempt them from inspection under nine labour laws in the first year. The Central Government recently allowed for fixed-term contract hiring across sectors to facilitate hire and fire as per the need of the company. According to the notification, "no notice of termination of employment shall be necessary in the case of temporary and badli workmen; and no workman employed on fixed term employment basis as a result of non-renewal of contract or employment or on its expiry, shall be entitled to any notice or pay in lieu thereof, if his services are terminated". This gives companies the freedom to hire contractual workers on short term assignments, which would only render the already distressed labour workforce even more economically fragile and insecure.

The Environment governance has also seen a big push back with the recommendations of the Subramanyam Committee and the draft environment laws (Amendment Bill 2015), which would fundamentally change the environment governance in the country. The Finance Act 2017 has diluted the National Green Tribunal by weakening the qualification of the judicial members of the green tribunal. Likewise, the Prime Minister's Office had directed 60 amendments to green clearance norms most of which have been met by the Ministry of Environment, Forest and Climate Change, according to news reports. Some of the major changes include mine prospecting projects have been exempted from the requirement of compensatory afforestation and Forests Rights Act certificate for grant of forest clearance. The Ministry has eliminated the requirement of public hearing for coal mines below 16 million tonnes per annum (mtpa), wishing to expand output by up to 50 per cent. This has now been extended to mines above 16 mtpa, permitting them to mine up to five mtpa more without consulting affected people.

The vast changes, which are being brought about to get higher ranking from the World Bank has brought about changes in laws for insolvency at the personal, firm and financial institution levels. The reduction of corporate tax and introduction of GST are also part of the reforms which are being projected to get a higher score in the Ease of doing Business ranking.

Though India achieved a higher ranking in 2017 on the Ease of Doing Business Index, by jumping about 30 points due to these changes, it came at a heavy price of giving up the people centric governance. But soon afterward, the myth of leap in ranking was dispelled by critics who discovered it to be a result of mere methodological changes, and not the actual scoring. The story of the last four years in reality has been that of a blatant surrender to the international finance institutions by drastically altering the laws and policies on environment, governance and labour.

Apart from this, the World Bank through its Country Partnership Framework (henceforth CPF), is assuming to shape India's trajectory for development. In the past, the World Bank's Country Assistance Strategy (CAS) has influenced India's five year plans. Currently, the World Bank is conducting the Systematic Country Diagnostic (SCD), the findings of which are based on limited stakeholder consultations, have raised some serious concerns. The findings do not echo the view some of the most important stakeholders like the civil society organisations and grassroots movements, and present a superficial and flawed understanding of the challenges facing India. This understanding almost feeds the private sectors narrative for development challenges in India.

The SCD findings again fall into the trap of envisioning deregulation as a way forward for Indian firms to grow to medium and large scale. It sums that reforms would be needed across four broadly connected policy areas – addressing obstacles in the major factor markets (land and labour); easing access to domestic and global markets; increasing the availability of finance, and creating a skilled workforce that can provide the backbone for productive modern industries. Issues of protection of local markets, small and medium scale industries, self-employed and protectionism for local industry have completely been side-lined in the findings which essentially form the backbone of the Indian economy. Finally, the SCD findings emphasised strengthening the public sector. But, this is looked at primarily from the narrow perspective of efficiency and effectiveness. It also states that the public sector must be adequately resourced and 'right-sized'. The sector being right-sized is a very ambiguous and uncertain finding. If this remains the narrative for CPF, this could have grave consequences for our national economic planning and policies.

## **ADB's Investment and Role in India**

Similarly, the Asian Development Bank (ADB), has redefined and influenced the development agenda for Asia. In February 2017, ADB came out with a report titled 'Meeting Asia's Infrastructure Needs', where it identified that India had an annual infrastructure need of \$230 billion, while the current investment (2015 estimate) investment stood around \$120 billion being roughly 4% of GDP. Further, ADB estimated that Asia will need to invest \$26 trillion in 15 years from 2016 to 2030 or \$1.7 trillion per year to meet its infrastructure investment needs, along with responding to climate change. In ADB's Country Partnership Strategy (henceforth CPS) document for 2018-2022 released in September 2017, ADB had raised concern that private sector participation in infrastructure had dropped from \$55 billion in 2010 to \$5 billion in 2015 as non-performing infrastructure assets of previous Public Private Partnership (PPP) investments increased. In the CPS, ADB had proposed annual lending of \$3-4 billion for 2018–2022 including private sector operations in CPS, compared with an average of \$2.65 billion per year in 2012–2016. However, in November 2017, ADB Country Director in India mentioned that ADB would raise its annual funding to India up to \$4 billion between 2018-2022 (\$20 billion in 5 years).

With ADB's strong focus on infrastructure in the CPS, the emphasis is placed on developing key areas such as Economic Corridors, Industrial Clusters, Smart Cities, Coastal Economic Zones, Trunk Infrastructure (railways, expressways, ports and logistics facilities) and Urbanization and Municipal Infrastructure (including Urban Local Bodies reform). While CPS talks about inclusive growth and reducing regional disparities, their impetus predominantly lies on further liberalizing the economy, which has strong adverse impacts on the marginalized communities and the labour workforce. ADB sees a much higher role of private sector participation in boosting the economy and calls for scaling up financing from private sector to meet the country's growing infrastructure needs, along with a major thrust on PPPs. At the same time, ADB wants the government to exercise tighter fiscal discipline, thus impacting government's spending on social sector such as education and health sector. Moreover, even though ADB puts a lot of emphasis on climate change adaptation and increasing climate resilience in the CPS, but the heavy push for large scale infrastructure projects contradicts this as these projects would add a humongous stress on the fragile eco-systems across the country.

## AIIB's Investment and Role in India

India has also emerged as a top borrower from the Asian Infrastructure Investment Bank (AIIB) with more than USD 1 billion worth of loans last year and USD three billion more in the pipeline. AIIB also has a co-financing model which serves its interest well, particularly if other institutions, such as the World Bank and Asian Development Bank, do not charge the AIIB all the costs they incur for due diligence and oversight. With low-cost co-financing fees, the AIIB can make significant profits since its own loan charges can easily cover its low administrative expenses. The other institutions, with their full suite of safeguard policies, also protect the AIIB from reputational risks associated with infrastructure projects. Of the two projects, the one approved namely, Transmission System Strengthening Project, is co-financed with ADB and the other proposed project Amaravati CCP being co-financed with World Bank and Andhra Pradesh 24x7 – Power for All project leaves AIIB absolved of any obligations. The policies and due diligence applicable are the responsibility of the lead financier. There is no clarity on the role and liability of AIIB. Also, a number of projects are financial intermediary projects. One of the approved projects is India Infrastructure Fund with one of the proposed projects being National Infrastructure and Investment Fund, both being FI projects.

Furthermore, India is also a borrower from the New Development Bank, with funds close to the tune of US\$1.4 Billion. In India, NDB's investments have gone in the sectors of agriculture, irrigation, water and sanitation, rural development, road and renewable energy. Although the NDB has already begun financing projects, it is still in the process of developing the internal rules that will govern project selection and implementation. In August 2017, the Bank disclosed a set of policies, including an Interim Information Disclosure Policy and an Environment and Social Framework. Despite repeated calls to engage with civil society, these important policies were developed without civil society input or consultation.

## Influence and Role of Bilateral Investments on Economic Policy & Investments

When it comes to bilateral trade, the last few years have seen a surge in development projects in India. In the last two years, Japanese FDI into India increased from US\$ 2.08 billion in 2014-15 to US\$ 2.61 billion in 2015-16 and further to US\$ 4.24 during the first nine months of FY 2016-17. These investments are not limited to financial aspects alone as these countries yield a greater power by being a part of the governing bodies of these projects. Their stakes and geographical expanse make them yield far greater influence and power to sway and change decision making than a financier would otherwise have. For example, Japan had agreed to collaborate on the USD 100 Billion Delhi–Mumbai Industrial Corridor (DMIC) project in 2006. Of this, \$4.5 billion is being initially funded by the Japanese government as a loan for a period of 40 years at an interest of 0.1%. The core focus of the DMIC project is the development of 24 investment regions, 8 smart cities, 5 power projects, 2 airports, 2 Mass Rapid Transportation Systems (MRTS) and 2 logistics hubs. The programme was conceptualised in partnership with the Government of Japan. DMIC Development Corporation was set up to raise funds, allocate funds and liaison between the Centre and six states on all matters relating to the execution of the project. The Government of India owns 49% stake in the DMICDC. The Japan Bank for International Co-operation owns 26% stake.

Similarly, Japan and India in 2016 also signed the highly controversial civil nuclear deal as Japan agreed to sell India civil nuclear power equipment and technology, as the Japanese nuclear industry seeks markets overseas because of shrinking business at home since the 2011 Fukushima disaster. The pact allows India to reprocess fuel and enrich uranium, though highly enriched uranium that can be used to make nuclear weapons is not permitted without written agreement by Japan.

The project for India's first bullet train, a 505-km line, which would run from Mumbai to Ahmedabad is slated to be completed by 2023 for which Japan has offered to invest USD 15 billion in the project. Japanese steel and engineering companies are in the driver's seat to bag major supply contracts for a \$17 billion Indian bullet train with the key component of the NDA Government's economic policy 'Make in India' pushed to sidelines.

Similarly, the Export Import Bank of Germany is playing a very significant role in the trade between Germany and India in various sectors including renewable and non-renewable energy projects, manufacturing, urban development through loan and guarantee. In India, the total investment by Exim Bank of Germany in last eight years has been USD 9866.656 million in various sectors focusing mainly the energy sector. In last two years,

Germany's commitment in urban infrastructure was about USD 896 million. Under the urban development sector, KfW Development Bank is working on developing urban transport and infrastructure projects. The three partner cities of Germany under the Smart City Project are Kochi, Bhubaneswar and Coimbatore.

Similarly, post Prime Minister Modi's South Korean visit in 2015, India and South Korea have agreed to work together in the fields of energy, electronics, and shipbuilding. The authorities have decided to set up a Joint Working Group for Cooperation on the shipbuilding sector and another in the field of electronics hardware manufacturing. Countries like China, France, Canada, UK etc. are investing in sectors like, defence, technologies, infrastructure, energy generation, pharmaceuticals, manufacturing, retail, financial and insurance activities, industrial machinery, automobile. This is also bringing about greater role of these countries in promoting their own industries and interests in India.

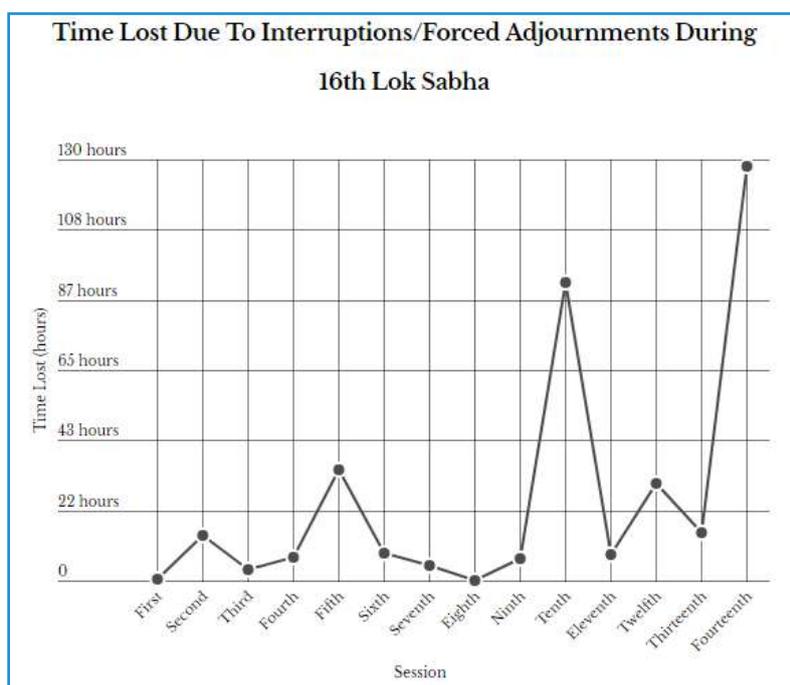
## Conclusion

The last four years of the current government has been able to successfully position itself as a global investment hub. This has come along with a hard push for the need for infrastructure finance in India. The government has aggressively pushed forth its manifesto agenda. The result of these rapid changes in financial policies and infestation of development projects has only left the country with external debt of Rs.11247 crore as of 2017. The NPAs have consistently increased and to top it all, the tall claims of getting the black money back in the economy have fallen flat. The mad rush for projecting India as an investment destination is neither sustainable nor fulfilling any development agenda which is only coming at the cost of undermining the basics of environmental and social justice. It's high time the government reviews its policies and blind rush for attaining unsustainable growth targets at the cost of people and environment.

# Functioning of Parliament during 2014-18

Disruptions and ordinances setting new standards

Parliament is the mirror of and for the government. The National Democratic Alliance (NDA) led BJP emerged as the single largest party in the 16<sup>th</sup> Lok Sabha elections in 2014. Further, after 2017 BJP emerged as single largest party in the Rajya Sabha too. The majority representation in both houses and a weak opposition helped the government to carry on the parliamentary affairs rather comfortably. During the last four years (May 2014-April 2018) Lok Sabha had 287 sittings, in which 1414.41 hours were utilized and 351.36 hours lost. The Rajya Sabha had 287 sittings in which 1073.30 hours were utilised and 580.47 hours lost.



Source: Lok Sabha website <http://loksabha.nic.in>

## Parliaments functioning in 2017-18

Disruption to the parliamentary functioning was highest during May 2017 to April 2018, amounting to about 172.33 hours lost in the Lok Sabha and about 121 hours lost in the Rajya Sabha, particularly in the current budget session. The Lok Sabha speaker used the 'guillotine' power to pass many financial demands without discussion and debate, quoting the loss of functional hours due to disruptions. Demands from 99 Indian government ministries and departments, including two bills and 218 amendments were passed without discussion. The Lok Sabha also passed the Finance bill 2018 and the Appropriation bill to approve spending for the next financial year without any debate. The Finance Minister moved 21 amendments to the Bill which were approved by voice vote. There was no Question hour in the Rajya Sabha for 27 days in its 245th session. According to PRS Legislative Research, this year's budget session has been the least productive since 2000. During this budget session, the Lok Sabha worked for 4 hours 52 minutes out of a maximum 109 hours and 48 minutes, Rajya Sabha functioned for 9 hours and 26 minutes out of a maximum of 112 hours and 30 minutes. The opposition did not want to allow debate on government business to take place, while the government did not seem to particularly care if debate took place or not.

The discussions in the parliament were disrupted on many of the issues brought by the opposition for debate – the lynching in Dadri (Uttar Pradesh), religious intolerance, secularism, National Herald case, re-promulgation of the

Land Acquisition Ordinance, derogatory remarks made against members, agrarian crisis and farmers' suicides, non-establishment of a separate high court for Telangana, widening the scope of tapping phone calls of parliamentarians, Vyapam scam, appointment of the Governor of Bihar without consulting the State government, political crisis in Uttarakhand, and allegations of bribery and corruption in Agusta Westland Chopper Deal. Neither were these discussed nor other legislative matters. The Lok Sabha lost (49.9%) and Rajya Sabha lost (52.82%) of their times during 2017-18.

## Overall Promises and performance

The 2014 election manifesto of the (NDA) government led by Bhartiya Janta Party (BJP) highlighted steps will be taken by the government to end corruption, bring black money back, ensure good governance, ensure accountability, the 'development for all'. A review of the bills passed by the parliament however does not reflect these promises. Bills that were passed included Goods and Services Tax (Compensation to States) Amendment Ordinance, 2017, the Indian Forest Amendment Bill, 2017 and the Insolvency and Bankruptcy Code (Amendment) bill, 2017, the National Bank for Agriculture and Rural Development Amendment Bill, 2018, the Companies Amendment Bill, 2017, the Indian Institute of Management Bill, 2017 and the Indian Institute of Petroleum and Energy (IIPE) Bill, 2017, Sugar cess (Amendment) Bill, 2015, the Indian Trusts (Amendment) Bill, 2015, and the Atomic Energy (Amendment) Bill, 2015, the Real Estate (Regulation and Development) Bill, 2013, the Juvenile Justice (Care and Protection of Children) Bill, 2014, the Coal Mines (Special Provisions) Amendment Bill, 2015, the Constitution (Scheduled Castes) Orders (Amendment) Bill, 2014, the Andhra Pradesh Reorganisation (Amendment) Bill, 2015 and the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016.

The past four years have seen serious financial scams involving the banking sector like Nirav Modi's Rs 11,500-crore fraud with Punjab National Bank and by Vijay Mallya Rs 9,000 crores fraud and money laundering. To address them, a spate of banking and finance bills have been passed - *the Insolvency and Bankruptcy Code (Amendment) Bill, 2017* this Bill prohibits certain persons from submitting a resolution plan in case of defaults or participating in the liquidation process. Apart from this the parliament has also passed *the Banking Regulation (Amendment) Bill, 2017*, this bill seeks to amend the Banking Regulation Act, 1949 to insert provisions for handling cases related to stressed assets. (Stressed assets are loans where the borrower has defaulted in repayment or where the loan has been restructured such as by changing the repayment schedule). This bill has authorised the Reserve Bank of India (RBI) to issue directions to banks for initiating proceedings in case of a default in loan repayment. An yet another concern in the banking sector is that of the non-performing assets (NPA).

On the issue of good governance, efficient, transparent and targeted delivery of grants, benefits and services the government passed The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016. Interestingly, this bill has been adopted by the Lok Sabha as a money Bill. Thus, it could not be rejected or amended by the Rajya Sabha. This bill has been criticized on various fronts by scholars, leaders and subject experts for labelling it as a money Bill. Pratap Bhanu Mehta, Centre for Policy Research, termed it "subversion of the spirit of the Constitution". The former secretary general of the Lok Sabha P D T Achary expressed concern about the attempts to pass off financial bills like Aadhaar as money bills, as a means to circumvent and erode the supervisory role of the Rajya Sabha. Senior advocate Arvind Datar said if the primary purpose of a draft law is not governed by Article 10(1), then certifying it as a money bill is unconstitutional. The Aadhar act has been under considerable criticism including a petition pending before a five-judge bench in the Supreme Court on various counts – experts opine that the Act is violation of privacy, there are data safety challenges, making Aadhar mandatory to access government benefits and services is leading to high levels of exclusion errors, etc. There is also a petition that claims Aadhaar may be in violation of the right to privacy.

The government has initiated reforms in the education system to provide autonomy, privatise and liberalise the institutions. In this regard, the government has introduced and passed *the Indian Institutes of Information Technology (Public-Private Partnership) Bill, 2017*. The Bill declares 15 existing Indian Institutes of Information Technology established through public-private partnership as institutions of national importance. This bill has provided the methodology to link between Centre, state and industrial partner to establish the institute. This bill has mentioned the centre will examine the proposal based on certain criteria—the capital investment for

establishing the proposed institute, to be borne by the centre, the concerned state government and industry partners (ratio 50:35:15); expertise and standing of the industry partners; the assessment of the capability, financial and other resources of the industry partners to support the institute; As per the bill the industry partner will play pivotal role it includes; (i) co-creating programs as per the requirements of the industry; (ii) actively participating in the governance of the institutes; and (iii) funding and mentoring startups in the institutions. However, there are big concerns about privatization of national institutions and public good like education and how this will negatively impact marginalized and disadvantaged sections whom the government has promised 'sabka saath-sabka vikas' and an enabling environment for promoting equality in its manifesto.

The passing of the Constitution (101st) Amendment Act, 2016 allows both the Centre and states to levy Goods and Services Tax (GST). Before the 2016 amendment, taxation powers were divided between the Centre and states. For example, while the Centre exclusively taxed services, the states exclusively taxed goods at the time of sale. The 2016 amendment replaces various Central and state taxes such as excise duty, service tax, sales tax, entry tax and entertainment tax with GST. It is slated to boost GDP by about 2 per cent and check tax evasion. The issue has been under criticism for the lack of detailed planning and institutional mechanisms for implementation. There are also concerns about its negative impacts on small and micro enterprises, particularly given the large scale informal economy in the country. Similarly debates abound the Specified Bank Notes (Cessation of Liabilities) Bill as per the specified bank notes (old Rs 500 and Rs 1,000, demonitisation as popularly known).

On the social sphere, the government has passed the Maternity Benefit (Amendment) Bill, 2016. As per the Act, maternity leave has been extended from 12 weeks to 26 weeks. However, many important bills are pending in the parliament since several years – The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Bill, 2015, the Factories (Amendment) Bill, 2014, the Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014, the Indian Medical Council (Amendment) Bill, 1987, the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Third) Bill, 2013, the Prevention of Corruption (Amendment) Bill, 2013, The Provisions of the Municipalities (Extension to the Scheduled Areas) Bill, 2001. The Women's Reservation Bill (Constitution 108th Amendment) Bill, 2008 proposing 33 per cent reservation for women in Lok Sabha and state Assemblies has been pending. The representation of elected women representatives in Parliament at 11.1% is lower than neighboring countries- Pakistan (20.7%), Bangladesh (20.3%) and Nepal (29.9%).

The government has taken the ordinance route for making changes in legislations and policies without adequate discussions and debates. It promulgated ordinances on the Land Acquisition Act, increasing FDI in insurance, coal auction and regularising 895 unauthorised colonies in Delhi. An ordinance was even issued to allow e-rickshaws ply on Delhi's roads. The appointment of Mr Nripendra Mishra, former chairperson of the Telecom Regulatory Authority of India (TRAI) as the principal secretary to the Prime Minister violated the TRAI Act. The government at once amended the TRAI through an ordinance. The NDA government also promulgated ordinances to give life visas to Persons of Indian Origin, the Citizenship Act 1955, the Motor Vehicles Act, the Arbitration and Conciliation Act 1996, besides issuing the Mines and Minerals (Development and Regulation) Ordinance. It is of concern to have such important issues pass through ordinances without due parliamentary debates.

Even as the NDA government has majority in both houses, it continues to blame the opposition in disturbing and distracting the houses from functioning. The lack of debates and the ordinance route reflects the falling standards of the parliamentary functioning. The government cannot be absolved of its responsibility for smooth functioning and consensus building across parties on policy issues, especially electoral promises. The opposition cannot escape its responsibility to hold debates on issues of importance to the people who voted them. The functioning of the government particularly in the latest budget session in 2018 is nothing but a colossal betrayal of the people who voted the members to the parliament.

The past four years provide a grim picture of neglect of public health by the government and further, a disdain towards policies that promote welfare. The period has seen several outbreaks of infectious diseases such as dengue and chikungunya, often reaching epidemic proportions in many parts of the country. The epidemics have laid bare the inability of the country's health systems to protect people's health. Yet successive budgets presented by the Central government have strengthened the perception that this government is ideologically committed to reducing public expenditure on welfare and public services. The period also saw examples of extreme failure to provide healthcare of acceptable quality both in the Public and Private sectors. The failure of public services was epitomised by the horrendous report of deaths of hundreds of children in a hospital in Gorakhpur, which lies in the constituency of the Chief Minister of UP. Yet we were informed from the ramparts of the Red Fort that the children who died in Gorakhpur's hospital were victims of a 'natural calamity'.

Rudolph Virchow, the 19th century German pathologist had famously remarked "It is the curse of humanity that it learns to tolerate even the most horrible situations by habituation." A nation that is prepared to accept this calamity as 'natural' is truly cursed. That the deaths occurred in the parliamentary constituency of the CM of UP compounds the enormity of the crime. For a crime it is, when callous disregard for the well-being and welfare of the most vulnerable, results in the loss of lives that could have been saved. Possibly it is the enormity of the crime that has triggered the massive cover up mounted by the government, both in Lucknow and Delhi, which has involved the incarceration of Dr.Kafeel who was made a scapegoat though evidence clearly suggested that he had been instrumental in preventing a greater calamity.

Simultaneously, several reports of gross misconduct and overcharging came to light in some of the elite private hospitals, such as Fortis and Max.

### 'Fiscal discipline' versus people's health

The bogey of 'fiscal discipline' has been repeatedly raised to restrict public financing of the health sector. Within months of assuming office, in end 2014, the government signaled its intentions clearly by slashing 20% of committed central funds to the health sector. The Union budget of 2015-16 continued in the same vein and effected 5.7% cut in total allocation to the health sector. Since then the budget for health has either stagnated or has been slashed in the case of crucial sectors.

The 2016-17 budget provided indications that the government intends to continue with its policy of promoting 'managed care' where **publicly provided services are progressively starved of resources and even public funded services are increasingly outsourced to the private sector.** Overall, allocation to the Ministry of Health and Family Welfare (MoH&FW) saw a marginal increase from 32,819 crores in the Revised Estimates (RE) for 2015-16 to Rs.37,061 crores. After adjusting for inflation this represented a **mere 5% per capita increase.** Even the grossly understated ambition of the (then)draft National Health Policy was to increase healthcare expenditure to 2.5% of GDP. This would require a doubling of current expenditure and even simple mathematics would indicate that this would entail a 25-30% per capita increase in allocation every year, if the target of 2.5% of GDP spending on healthcare is to be achieved in the next five years.

While the Union Budget of 2015-'16 effected a 5.7% cut in total allocation to the health sector, the 2016-'17 budget allowed a marginal rise of just 5% when adjusted for inflation and there was a similar marginal increase in the 2017-'18 budget. In fact, the sum allocated in the 2017-'18 budget was less than the 2011-'12 allocation when adjusted for inflation.

What is particularly worrying is that the trend of starving the National Health Mission (NHM) of funds continues. Allocation for the NHM saw an insignificant rise – from Rs.19,135.37 crore in 2015-16 year to Rs.19,437 for 2016-17. Given the impact of inflation and population increase this actually represents a **6-7% decrease, per capita, in allocation for the NHM.** The underfunding of the NHM should be read in the light of the draft National Health Policy's comment that "*Strengthening health systems for providing comprehensive care required higher levels of investment and human resources than were made available. **The budget received [for the National Rural Health Mission] and the expenditure thereunder was only about 40% of what was envisaged for a full re-***

### **vitalization in the NRHM Framework”.**

In the medicines sector we have further indications that the government is planning to further liberalise regulations. It is understood that the government is actively considering the NitiAayog's recommendation that regulation of drug prices should be delinked from the National List of Essential Medicines and that the National Pharmaceutical Pricing Authority in its present form should be wound up. Reports leaked in the Press also provide evidence that the Government has assured US Companies that it would not issue compulsory licenses to bring down the costs of exorbitantly priced patented medicines being sold by multinational corporations.

A positive step taken by the government was the order to ban 348 irrational combinations of drugs in 2014. This order was however overturned by the Delhi High Court and subsequently upheld by the Supreme Court in 2018.

### **Obsession with insurance schemes which don't work**

*In its 2014 manifesto the BJP had promised that “the overarching goal of healthcare would be to provide, 'health assurance' to all Indians...”. That “health assurance” in the BJP's lexicon is synonymous with health insurance and public-private partnership was made clear within weeks of assuming office by the then health minister, Dr. Harsh Vardhan. In one of his first interactions with the media, Dr. Harsh Vardhan said that “the government would work to provide 'health insurance coverage for all through a national insurance policy for health”. Dr. Harsh Vardhan, echoing the BJP's core philosophy also said that that he is “not in favour of taxpayers' money being used to push a one-size-fits-all health policy”. In other words the BJP made it clear, right from the time it assumed office, that it would not expand public services and would instead roll out the red carpet for private providers of health care.*

In contrast to the clear and deliberate intent to choke financial resources available to public health services through the National Health Mission, is the headline declaration in the 2016 budget speech of the H'ble Finance Minister that the public funded health insurance scheme would be expanded. As we shall see later, the National Health Protection Scheme, announced in 2018 seeks to do just that.

The government's obsession with the promotion of insurance based care (which involves public funding but outsourcing of over 80% of services to the private sector) need to be examined in the context of mounting evidence that existing national and state health insurance schemes have failed to rein in catastrophic health expenditure incurred by the poor. The latest NSSO data indicates that the penetration of such insurance schemes is just 13% in rural areas and 12% in urban areas.

The problem lies not only with inadequate coverage but also with the way the system is milked by unscrupulous private providers for financial gains. These schemes, largely implemented

through partnerships with private providers, have been indicted in several states for defrauding the system of hundreds of crores by performing unnecessary surgeries (for example a huge rise in unnecessary uterus removal operations) and for not contributing to better health outcomes.

### **Gap between rhetoric and delivery**

This government's approach to welfare services is characterized by a basic lack of honesty and a huge gap between rhetoric and delivery. Thus, for example, the 2016-17 budget, announced with considerable fanfare a plan to set up 3,000 **Jan Aushadhi** shops, which would sell medicines by generic names at fair prices. A closer look at the budget papers show that the scheme has been allocated **a mere 35 crores in the 2016-17 budget**. Even the centrally funded health insurance scheme (renamed the 'Rashtriya Swasthya Suraksha Yojana') received an allocation of only 1,500 crores in the 2016-17 budget. 1,500 crores to cover a population of 120 crores is a crude joke and lays bare the hypocrisy implicit in even schemes that the government tom-toms as one of its key priorities.

The impact of these policies started being felt within months of the election of the new government. The NHM's activities faltered in many states and in some states it stuttered to a standstill. Serious shortages of consumables and human resources surfaced, with widely reported periodic stock-outs of medicines for the HIV and TB programmes.

## A vision based on aggressive privatisation

The government's approach to health care is driven by neoliberal economics which seeks to promote private provision of hitherto public services and an overall withdrawal of the government from financing or providing public services. India's health system is one of the most privatised in the world and public expenditure is one of the lowest. Yet the unstated game plan of the BJP Government is to cap public expenditure at a minimum level and at the same time, through public policy measures, encourage the growth of private providers.

The parliamentary committee report about the working of the Medical Council of India (MCI), released in 2014, pointed to high levels of corruption that permeates private practice and medical education. The Government continues in its desperate bid to suppress the murky details of the 'Vyapam' scam in the BJP ruled state of MP. The scam involves corruption at the highest levels of the bureaucratic and political structures in the state, who have connived to make a mockery of medical education. Yet the government refuses to address the twin problems that fuel corruption in the health sector – the unbridled growth of private medical colleges (nationally the number of seats in private colleges has grown from less than 10 percent to around 50 percent in the last quarter of a century) and the rapid expansion of unregulated private medical care. While the government sheds crocodile tears about the state of the MCI and proposes various reforms, the new regulations legitimize the ownership of medical colleges by profit making companies, thus clearing the way for medical education to become a commercial enterprise.

### National Health Policy

In 2017 the Union Cabinet approved the National Health Policy, finally adopting a plan that has been in the drafting stage for more than a year and a half. The 2017 policy admits that “growing incidences of catastrophic expenditure due to health care costs” are estimated to be “one of the major contributors to poverty”.

The National Health Policy 2017 has actually rolled back promises in two significant areas. The policy proposes that the government undertake an increase in health expenditure as a percentage of GDP from the existing 1.15 percent to 2.5 percent by 2025. The draft policy released in 2015 had promised that this will be achieved by 2020. Even if this is achieved, it will be half of what the World Health Organisation recommends as optimum public spending on health.

The National Health Policy 2017 has also retreated from tentative claims that the government had started making that healthcare would be made a justiciable right. The policy now says: “The policy therefore advocates a progressively incremental assurance based approach, with assured funding to create an enabling environment for realising healthcare as a right in the future”.

The policy also falls short on ambition with other targets. The document says that the target that life expectancy at birth should be 70 years will be achieved in 2025. This future target is less than what both Sri Lanka and Bangladesh have already achieved. The policy has set targets that mortality for children below the age of five should be brought down to 23 deaths per 1,000 live births and that neonatal mortality should be brought down to 16 deaths per 1,000 live births, both to be achieved by 2025. These rates would still be more than twice of what Sri Lanka has already achieved – 9.8 for mortality of children under five years and 5.4 for neonatal mortality. Clearly, the National Health Policy's targets are a decade or more behind what our South Asian neighbours have already achieved.

### Market mechanisms

How does the National Health Policy propose to organise healthcare services? The answer lies in the oft-repeated term in the document: “health assurance”. The government's role as provider of healthcare services is repeatedly qualified by emphasising its role as a “strategic purchaser” of services. While the policy claims that the priority would be to “purchase” services from public facilities and not-for-profit private facilities, it also foresees purchasing from for-profit private facilities.

Critiques of a public sector-led model to provide healthcare point out that private providers need to be harnessed and given dominant roles if healthcare needs to be universalised in India. But private facilities barely exist in underserved areas where the gap in healthcare services is the worst. This raises the more important question of whether there is a plan to progressively strengthen public services. The overall prescriptions in the policy regarding

insurance schemes that rely largely on private sector provisioning in cases of secondary and tertiary level care are designed to further strengthen the private sector and denude the public sector.

Till now, the discourse on outsourcing care to the private sector was confined to secondary and tertiary services or hospital-based care. But the new policy now says: "for achieving the objective of having fully functional primary healthcare facilities – especially in urban areas to reach underserved populations and on a fee basis for middle class populations, government would collaborate with the private sector for operationalizing such health and wellness centres to provide a larger package of comprehensive primary health care across the country. Partnerships that address specific gaps in public services: these would inter alia include diagnostics services, ambulance services, safe blood services, rehabilitative services, palliative services, mental health care, tele-medicine services, managing of rare and orphan diseases."

This is what is being attempted even in the face of public protests in several states such as Rajasthan, Madhya Pradesh, Chhattisgarh and Uttar Pradesh. The 2017 policy thus puts its stamp of approval on opening up primary healthcare services to the private sector as an additional avenue for them to make profits. The 2017 policy, contrary to claims about it made in Parliament, is part of the same vision that reduces the government's investment in welfare and opens up public services to private actors.

## National health protection scheme

The big-ticket promise of a National Health Protection Scheme (NHPS) announced in the 2018 Budget speech, euphemistically termed as 'Modicare' by critics and supporters alike and officially as 'Ayushman Bharat', appears to signal a clear intention of the current government. The basic contour of the scheme is that of an insurance scheme for those seeking hospital based care, which would provide coverage of upto Rs.5 lakhs to 10 crore families. The sense of disbelief among people who follow the health sector, merits some examination.

A similar promise was made in 2016, albeit with much less fanfare –to cover a similar population as envisaged under the NHPS with Rs.1 lakh annual limit. The five times increase in the upper limit is actually not very significant as most claims are settled at a level below Rs.1 lakh. Nothing really changed in the past two years – the scheme distributed a paltry Rs.456 crores in 2016-17 and allocated just Rs.1,000crores in 2017-18. These numbers pale into insignificance when compared to the Rs.10,000 crores per year projected by the government and a perhaps more realistic figure of Rs.20,000 crores to Rs.50,000 crores projected by the insurance industry and public health practitioners. Will the naysayers be proved wrong this time? Presumably time will tell.

It would be prudent however to recall that public funded health insurance schemes have been around for more than a decade in India, since the launch of the Congress Government's Arogyashri scheme in the then Andhra Pradesh, and similar schemes now extend to many states and also includes a national scheme. While claimed to cover a third of the country's population, latest surveys still find that coverage (not disbursement of benefits) stands at 11-12 percent of the population. Will it be different this time? We don't have evidence either way to even start making an educated guess.

Will the NHPS, if rolled out adequately, lead to access to comprehensive healthcare services for those who need them the most? Actually the scheme is not designed to do so. It seeks to cover a package of hospital care packages. In reality hospital care, though financially the most catastrophic for families in the immediate sense, consumes a fraction of out of pocket expenses on healthcare. A much larger burden is posed by illnesses that do not require hospitalization or are not covered by the insurance package. A study of Arogyashri claimed that the scheme covered only 4% of illnesses and yet consumed a quarter of the state's health budget.

Will a mega insurance scheme revive the moribund public system? Actually, going by past experience, insurance schemes are designed to do the contrary as they essentially involve outsourcing of hospital care to the private hospital sector. For the latter a Rs.10,000 plus payout is a bonanza but it comes at a cost. The public system gets further squeezed while the natural proclivity of an unregulated private sector towards ethical malpractices and over charging comes into play. A functioning public sector is a national asset; a burgeoning private hospital sector may well be a national calamity. Most critics of the NHPS will be happy to be proved wrong. Unfortunately on current evidence there appears to be little cause for optimism.

# Housing and Urban Poor : Unequal Realities : The Challenges of Urban India

Inter-sector and departmental convergence with community ownership and cooperative federalism are needed to develop inclusive urban India

## The Urban in India

About one third of India's population lives in urban areas and contributes two third of the country's GDP accounting for ninety percent of government revenues. The urban India today comprises is an agglomeration of segregated range of large and small cities mushrooming across the country. Of the 7,935 towns in the country, 468 are Class I cities (having at least 1,00,000 persons as population) and constitute 70 percent of the total urban population (Census 2011). Out of these 468 Urban Agglomerations (UA)/Towns, 53 UAs/Towns house a million or above population each. 42.6 percent of the urban population living in these UAs/Towns known as Million Plus UAs/Cities.

The NDA launched various schemes in the first year itself after coming to power to foster financial inclusion, infrastructure development and empowerment of the poor in urban areas. With the smart cities and varied housing infrastructure promised, the urban centres continue to be spattered in myriad critical issues of weak local governance, feeble finances, high costs of housing (specifically in Tier I (Metropolitan) cities); critical infrastructure shortages and major service deficiencies that include water, power and transportation crisis coupled with deteriorating environment (World Bank News, 2011).

## Housing, Homelessness and Smart Cities

The NDA's election manifesto outlined an ambitious urban agenda to make cities, "symbols of efficiency, speed and scale." Toward this, it prioritised building housing and public transport and 100 new smart cities, using technology to improve urban services. Sustainable housing and urban development became the nucleus of the New Urban Agenda of Habitat III, 2016. On June 17, 2015, the Union Cabinet gave its approval to the 'Housing for All Mission' which promised to build 20 million affordable houses by 2022. However, only 3.61 lakh houses were constructed and Rs. 49,562 crores sanctioned from Central assistance for construction of 32 lakh houses in over 2.5 years. Around 87% of the houses constructed belong to the subsumed programmes of erstwhile housing programs like the Jawaharlal Nehru National Urban Renewal Mission and Rajiv Awas Yojana with only 13% houses constructed under Pradhan Mantri Awas Yojana Urban [PMAY(U)] (Lok Sabha Unstarred Question No. 1167, 2017). Evaluation of financial performance under PMAY revealed issues of insufficiency of funds, significant gaps in allocation and releases, and under-utilization of the released amount in the last few years were (YUVA, 2018).

The Smart Cities Mission launched in June 2015 aimed at building 100 smart cities to provide technology driven solutions to urban problems has shown tardy progress with respect to its developmental landmarks. The proposed investment of Rs. 1,91,155 crores for 90 Smart Cities, with about 80% of the Area Based Development projects directly impacts only 9% of the city's population.

Over 90 percent of the urban homeless in the country still don't have a roof over their heads despite release of financial assistance of Rs 2,000 crores by the Central Government for construction of shelter for homeless under the National Urban Livelihood Mission renamed as Deendayal Antyodaya Yojana-NULM (DAY-NULM) in 2016. With MoHUA's target to provide all-weather shelter to the homeless i.e. 17.73 lakh (Census, 2011) in the country, the road ahead appears to be very tardy and arduous (The Times of India, 2017). The plight of homeless, street vendors and city workers is exacerbated by persisting threats and acts of forceful evictions. A total of 213 incidents of forced evictions and demolition of 53,700 houses were documented by the Housing and Land Rights Network in

2017, even as the highest percentage of reported evictions (99 out of 213 cases) were carried out for 'slum clearance' drives and 'city beautification' under Smart Cities Mission projects.

Subsequently post institution of the Special Purpose Vehicles, a central government grant of Rs 9,863.20 crores (which is 5 percent of the proposed budget) was released to the respective state governments for 60 Smart Cities. Presently, nearly 70 percent of the projects proposed under the Mission are still in project development stage with completion of only 5 per cent projects so far. The mission also failed in empowering the municipal governments to bring together the institutional framework for urban development and rather proposes selective development (YUVA, 2018).

## **Water, Sanitation and Sewage Management**

The water networks are quite invisible to the citizens and communities living in the slums, not having enough to meet their daily requirements. The government launched Atal Mission for Rejuvenation and Urban Transformation (AMRUT) in 2015 as a measure to address urban poor's access to water, towards which only 19% central assistance was released so far. The lack of basic amenities exponentially increases the cost of living in the cities, thus, forcing the poor to the margins. A survey report revealed that in cities like Mumbai people in slums end up paying high charges for water amounting to Rs. 900 per month per household. (YUVA, 2016). The complexities of water distribution in urban areas (cities specifically) are spread across many levels. Moreover, apart from requiring water for daily needs, many small-scale occupations have inseparable link with water bodies, which explains the need to distribute water through the municipalities.

The NDA launched the Swachh Bharat Mission (SBM) in October 2014, with the main objective to eliminate open defecation by constructing over a crore toilets in the country and promoting scientific management of municipal solid waste by 2019. However, only a little over 37 lakhs (34%) toilets were constructed till 2017 against the total target of 1.04 crores toilets (YUVA, 2018). The failure to achieve its proposed targets subsequently resulted in lowering the targets to 66 lakh toilets midway to ameliorate the rate of performance. In the competition to attain high ranking in the Swachh Sarvekshan (survey), a competitive survey was conducted by MoHUA to rank cities according to their sanitation status. Families in Indore who paid for the toilets and were midway through construction alleged that their houses were destroyed before surveyors came around. The presence of residential areas without functioning toilets would have marred Indore's rating and so the local authorities sought it fit to rid the city of its informal settlements, which could be done faster than constructing toilets. Nevertheless, the result of Swachh Sarvekshan ranked Indore number one (YUVA, 2016).

Ambitious plans and proclamations like the 'Housing for All' by 2022 and 'Open-Defecation Free' India by 2019 drew criticism from the Parliamentary Standing Committee on Urban Development (2017-18) for lack of realistic projections and planning. A recent report of the Committee revealed about the gross non-utilisation of budgets allocated to major flagship initiatives, thus raising questions on the ground implementation of the government's high profile national programmes.

## **The Insecurities Encircling Food Security and Health**

The Global Hunger Index 2017 ranked India 100<sup>th</sup> out of world's 119 hungriest countries, faring worse than some of its smaller South Asian counterparts. The Food and Agriculture Organisation (FAO) in its report titled, 'The State of Food Security and Nutrition in the World, 2017' depicted a grim picture — a staggering 190.7 million people or 14.5 per cent of the population undernourished in India. Also, 51.4 percent of women in reproductive age between 15 and 49 years are anemic. Further, 38.4 percent of the children aged under five are stunted (height too short for their age), while 21 percent suffer from wasting (weight too low for their height). Malnourished children have a higher risk of death from common childhood illnesses such as diarrhea, pneumonia, and malaria. The paradox of self-sufficiency in food availability, being one of the world's largest grain producers, and yet about 25 percent of the Indians going to bed without (The Wire, 2016) hunger speaks volumes about the mismatch in priorities, weak governance and systemic failures.

Some of the key problems surrounding food security and Public Distribution System in the urban area include (i) difficulty in acquiring BPL ration cards by the migrant workers and residents of unauthorised settlements; (b) mortgaging of the ration cards for money by the poor, (c) creation of numerous documentations/cards to avail of

the entitlements for the poor due to bad planning, and; (d) lack of proper information about the benefits of the cards discouraging BPL families from registering for new cards. Migrant workers and the homeless seldom possess ration cards, and those who have are not able to use them in the cities where they work since ration cards are issued at the place of their original domicile. Though the process to avail a ration card is fairly simple, the hurdles to access are multiple and based on a range of factors. While getting a ration card issued for the slum residents is a difficult task, it is exceptionally arduous for the urban homeless (YUVA, 2016).

The nearly exclusive emphasis on health care for rural areas resulted in a relative neglect of urban health issues in emerging economies like India. With the increasing urban population comes the challenge of universal health coverage. The Government's efforts to strengthen urban health systems have focused on programmes like the National Urban Health Mission (now a part of National Health Mission). Urban India has a high concentration of healthcare providers, yet, not everyone has easy access to health care. The unprecedented growth of the private sector in health insurance and the corporate sector in healthcare has changed the political economy of urban healthcare with notable inequity (Duggal, 2011). The commodification of healthcare resting on 'paying capacity' has relegated the poorest groups to resort to inadequacies of public healthcare systems or shelling own money to avail off expensive private healthcare services.

Although the National Health Policy promises distinct focus on the health of urban poor, most slums are still deprived of health post or a fully functional anganwadi. Most children in the urban slums are malnourished, revealing the failure of the Government in providing holistic mechanisms to address health concerns specifically for women and children and other vulnerable groups.

### Livelihood of the urban poor

According to the Report of the Committee on Unorganised Sector Statistics, 93 percent of India works in the informal sector (Sengupta 2007), which was reported to be 67 percent in 2012, by a National Service Scheme (NSS) report. The share of women in the informal sector in urban India constitute 62 per cent. Construction, manufacturing, wholesale and retail trade activities together form the main providers of employment with 72 percent employed in these activities. 52 percent of women workers in the informal sector, by contrast of 15 percent men, reported working in their own dwelling, structure attached to own dwelling unit, open area adjacent to own dwelling unit, and detached structure adjacent to own dwelling unit. .

The livelihoods approach has been considered an effective way for urban poverty alleviation in India (Ray, 2010). With the aim to provide gainful sustainable employment to the urban poor the NDA continued with the existing National Urban Livelihood Mission. Since its launch, the scheme's progress has been slow for reasons of lack of will of the State/UT administrations, sub optimal utilization of the NULM funds, lack of coordination among planning agencies and lack of institutional preparedness at the level of Urban Local Bodies (ULBs) as per the Ministry of Labour & Employment, while the role of the Central Government is restricted to providing financial and technical support to the State Governments.

With regard to the street vendors' livelihood promotion, their livelihood is threatened continually by forceful eviction. Even as the NDA declared its intent to promote entrepreneurship, the self-generated livelihoods continue to face disruption and destruction due to evictions of street vendors across the country. Most of the states have not been able to form Town Vending Committees (TVCs) as per the regulations of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. So far, only 42.9% of the total allocated Rs. 4,00,106.9 lakhs has been utilized under DAY-NULM.

The economy is being rigorous informalized, with activities of the urban informal economy taking place at homes, on the streets, roadside and pavements, on-site and at unplanned and unauthorized industrial zones or markets instead of factories, workshops and shops in planned commercial offices/areas. More than 90% of the workforce in India is working as informal labour, who are without any written contract, social security benefit and security of tenure. Most workers are not even aware about the role of the Construction Workers' Welfare Boards, which collect one percent of the cost of construction; major chunk of which goes unutilised (Bhowmik, Zerah and Chaudhuri, 2011).

In 2017 the Ministry of Labour and Employment proposed to concise over 44 labour laws into four broad codes namely Wages, Industrial Relations, Social Security and Occupational Safety and Health and Working Conditions, with the ostensible aim of ensuring a statutory national minimum wage and other protections to all wage workers in the country. The Code on Wages Bill, 2017, amalgamates to simplify the relevant provisions of the four labour laws i.e., the Minimum Wages Act 1948, the Payment of Wages Act 1936, the Payment of Bonus Act 1965 and the Equal Remuneration Act 1976 (The Economic Times, 2017). The Bill handed over sole discretion to the Central and State governments to formulate minimum wages. Hence, reducing the 'national minimum wage', even as the phrase is repeatedly used –to a 'state-level minimum wage. This stands in contradiction to the government's claim to improve the wage levels and ensure a minimum living standard to workers by fixing a national minimum wage. The Bill also did not clarify if the minimum wage would vary or be the same across industries, creating scope for employers to suppress the wages in the establishments/industries in the erstwhile schedules where wage level was higher than the others. All for ensuring 'ease of doing business' in an unscrupulous manner (Newsclick Report, 2017).

## **The Road Ahead**

The history of urban India represents segregation and exclusion of the urban poor and the informal and providing them equal space and opportunities in cities is necessary as a part of their right to the city. The SDG 11 aims to make cities and human settlements inclusive, safe, resilient and sustainable, which would include cities that offer opportunities for all, and which provide access to basic services, energy, housing, transportation and universal access to safe, inclusive and accessible spaces, particularly for women and children (UN India, 2016). To achieve the SDGs, India would have to effectively integrate them into national and subnational development strategies and plans (Bizikova and Metternicht, 2017).

## **Policy Recommendations**

1. Ensure the Right to Adequate Housing and Basic Services in informal settlements:
  - The UN Guidelines on Forced Evictions must be enforced and fair compensation in the cases of loss of property and physical injury must be made compulsory.
  - Enact a law to guarantee housing for all so that it specifically sets out the requirements of proper housing and includes provision of land tenure and infrastructure development in informal settlements.
  - Create provision of rental housing should be introduced to help the urban poor find an alternate solution to the problem of lack of land ownership documents and cut-off dates which hinder their access to housing.
  - Ensure that funds are utilised to provide adequate shelters for the urban homeless in each city, empowering the municipal bodies in monitoring progress of targets and making them accountable to fund un/underutilisation.
2. Ensure Universal Health Care and high priority be given to National and Household Food Security
  - All state governments must undertake an annual mapping and counting of slums and homeless settlements, and a periodic census of BPL (and AAY) households, to address exclusion of urban poor from their entitlements.
  - Strengthen the institutional delivery mechanisms and the procedures and documents needed for accessing health, ensure simplified and inclusive social security schemes (Mander and Manikandan, 2009).
3. Safeguard decent employment, adequate social protection and recognition of the rightful place of the informal economy :
  - Constitute welfare boards for each category of informal sector workers, and ensure full coverage of social services schemes and proper utilisation of funds by the boards.
  - Stop the eviction of street vendors immediately until town vending committee is constituted in each city.

4. The Government should aim for transformative change :

Ensure a multi-level inclusive and participatory planning for developing local tools and non-negotiable principles for implementation of SDGs, with special attention to participation of marginalised communities in the process.

## Conclusion

The problem in India is not of poverty of schemes/policies but that of convergence. Horizontal as well vertical coherence of governmental departments alongside cross sectoral convergence of ministries is the need of the hour. Community ownership needs to be promoted for reflective communication and outreach. The Government of India needs to work to promote cooperative federalism and not competitive federalism.

\*\*\*\*

## References

1. Aiyar, Y. (2017) Three Years On, the Modi Government Still Has Gaping Holes in its Social Policy. The Wire. Retrieved May 3, 2018, from <https://thewire.in/economy/social-policy-three-years-modi-government>
2. Bizikova, L., & Metternicht, G. (2017, March 17). How Can We Successfully Integrate the Sustainable Development Goals Into Our Current Policies. Retrieved May 2, 2018, from <https://www.iisd.org/blog/how-can-we-successfully-integrate-sustainable-development-goals-our-current-policies>
3. Choudhury, A. A. (2017, August 27). No Shelter for 90% of Urban Homeless SC Panel Study. The Times of India. Retrieved May 2, 2018, from <https://timesofindia.indiatimes.com/india/no-shelter-for-90-of-urban-homeless-sc-panel-study/articleshow/60240240.cms>
4. Dreze, J (2004) Democracy and Right to Food, Economic and Political Weekly, 39(17): 1723-1731.
5. Dupont, V et. al (2011) Urban Policies and the Right to the City in India: Rights, Responsibilities and Citizenship. New Delhi, India: UNESCO.
6. Forced Evictions in India in 2017. New Delhi: Human and Land Rights Network. Retrieved May 6, 2018, from [http://hlrn.org.in/documents/Forced\\_Evictions\\_2017.pdf](http://hlrn.org.in/documents/Forced_Evictions_2017.pdf)
7. Gajjar, S. (2016, June 17). More than 'AMRUT', Indian Cities Need Nature-Based Solutions to Revive Themselves. The Wire. Retrieved May 3, 2018, from <https://thewire.in/environment/despite-focus-on-resilience-nature-based-solutions-are-underutilised-in-indian-cities>
8. Government Unlikely to Slow Down on Labour Reforms. (2017, December 29). The Economics Times. Retrieved May 9, 2018, from <https://economictimes.indiatimes.com/news/economy/policy/govt-unlikely-to-slow-down-on-labour-reforms-in-2018/articleshow/62292870.cms>
9. Mander, H., & Manikandan, V. (2009). Darkness Under Lamps: Urban Slums and Food Entitlements in India. Retrieved May 9, 2018, from [http://centreforequitystudies.org/wp-content/uploads/2018/03/DARKNESS.UNDER\\_LAMPS\\_.pdf](http://centreforequitystudies.org/wp-content/uploads/2018/03/DARKNESS.UNDER_LAMPS_.pdf)
10. Narendra Modi Repackaged 23 Welfare Schemes of UPA Government. The Indian Express. Retrieved May 2, 2018, from <http://indianexpress.com/article/india/narendra-modi-repackaged-23-welfare-schemes-of-upa-government-says-rajeev-shukla-4959249/>
11. National Sample Survey Office. (2012, January). Informal Sector and Conditions of Employment in India. Retrieved July 24, 2017, from [http://mospi.nic.in/sites/default/files/publication\\_reports/nss\\_rep\\_539.pdf](http://mospi.nic.in/sites/default/files/publication_reports/nss_rep_539.pdf)
12. The New Urban Agenda. (2016, May 23). The Hindu. Retrieved May 2, 2017, from <http://www.thehindu.com/opinion/editorial/the-new-urban-agenda/article6094999.ece>

13. The World Bank: India's Urban Challenges. (2011, July 14). Retrieved May 4, 2018, from <http://www.worldbank.org/en/news/feature/2011/07/04/indias-urban-challenges>
  14. The Planning Commission Report: The Challenges of Urbanisation in India. (2016). Published by Govt. of India. Retrieved May 4, 2018, from [http://12thplan.gov.in/12fyp\\_docs/17.pdf](http://12thplan.gov.in/12fyp_docs/17.pdf)
  15. Trade Unions Reject the Wage Code Bill 2017. (2017, September 15). Newsclick Report. Retrieved May 9, 2018, from <https://newsclick.in/trade-unions-reject-wage-code-bill-2017>
  16. SDG 11: Sustainable Cities And Communities. (2016). Retrieved May 2, 2018, from <http://in.one.un.org/page/sustainable-development-goals/sdg-11/>
  17. Sen, A (1999). Development as Freedom. Anchor Press, New York.
  18. Sengupta, A. (2007). Condition of work and promotion of livelihoods in the unorganised sector. New Delhi: National Commission for Enterprises in the Unorganised sector.
  19. Shaw, A. (2017). The Challenges of Urbanization in India: Towards a more Human Urbanism. Retrieved May 4, 2018, from <https://ncgg-new.princeton.edu/file/306/download?token=1LG6PWuO>.
  20. YUVA (2017). Unequal Realities: Identity, Housing and Basic Services in Four Indian Cities(City Se). Published by YUVA (Youth for Unity and Voluntary Action). Retrieved on May 3, 2018 <http://yuvaindia.org/wp-content/uploads/2017/03/BSFC-Report-2016.pdf>
  21. YUVA (2017). Unequal Realities: Forced Evictions in Five Indian Cities (City Se)YUVA (Youth for Unity and Voluntary Action). Retrieved on May 3, 2018 <http://yuvaindia.org/wp-content/uploads/2017/03/Eviction-Report-2016.pdf>
- YUVA (2018). Parliamentary Watch Report: An Analysis of Questions answered on Urban Issues in the INdian Parliament (City Se). Published by YUVA (Youth for Unity and Voluntary Action).

# Human rights : a looming threat

Threat and  
violence growing by  
the day

In the last four years, India has seen a rise in demonization of certain communities, especially on the basis of their caste, religion and political beliefs, by hardline Hindu groups, pro-government media and some state officials. Abuses of human rights by both state and non-state actors remained widespread, as did the apparent impunity around them. Mob violence intensified, including by vigilante cow protection groups. The government did little to stop hate crimes against marginalized communities. Adivasi and other communities continued to be frequently ignored in the government's push for faster economic growth. Press freedom and free speech came under attack, and the government worked extensively to silence critics. Repressive laws were used against journalists, lawyers, activists, etc., to curb freedom of expression. Authorities clamped down on civil society organizations that were critical of their policies.

## Caste-Based and Communal Violence

Caste based and communal violence continued with growing attacks against Dalits, Adivasis and Muslims in several parts of the country including Uttar Pradesh, Bihar, Karnataka and Tamil Nadu. Divisive fear-mongering was done by certain groups which led to an increase in hate crimes and instances of mob violence against Dalits and Muslims. In 2015, two Dalit children were burned to death in an arson attack near Delhi allegedly by dominant caste men. In 2016, the suicide of Dalit student Rohith Vemula led to nationwide protests and debates on the discrimination and violence faced by Dalits in universities. The period also saw the rise of vigilante cow protection groups, who continuously harassed and attacked people in states including Gujarat, Haryana, Madhya Pradesh and Karnataka in the name of upholding laws prohibiting the killing of cows. Authorities failed to prevent hundreds of incidents of communal violence across the country. In 2017, dozens of hate crimes were reported against Muslims across the country. At least 10 Muslim men were lynched by vigilante cow protection groups. The ruling party, BJP's campaign for cow protection appeared to embolden vigilante groups, who seemed to operate in some cases with the tacit approval of state authorities.

Ethnic clashes in the north-east part of the country were also reported. In 2014, 10 people were killed and 10,000 were displaced during ethnic clashes over the disputed land at the Nagaland- Assam border. While in 2015, at least eight people were killed in ethnic clashes in Manipur state over demands for regulating the entry of non-domicile people into the region, and the enactment of laws affecting the rights of Indigenous people. In 2017, three people were killed in Darjeeling, West Bengal in violent clashes between police and protesters demanding a separate state of Gorkhaland.

Black people also faced racist discrimination and violence in various cities. In 2016, a woman was stripped and beaten by a mob in Bengaluru. The same year, a man from the Democratic Republic of Congo was beaten to death by a group of men in New Delhi. In 2017, mobs carried out with impunity a string of racist attacks against black African students in Greater Noida, Uttar Pradesh.

## Shrinking Civic Space

Space for civil society came under attack during the period, with authorities taking several measures to repress civil society organisations (CSOs). In 2014, the government used the Foreign Contribution (Regulation) Act (FCRA)—which restricted organizations from receiving foreign funding – to harass NGOs that received funding from abroad. Later that year, media organizations reported on a classified document prepared by India's internal intelligence agency, which described a number of foreign-funded NGO's as "negatively impacting economic development".

The government took a series of actions against CSOs like Greenpeace India and People's Watch. The authorities prevented one of Greenpeace India's campaigners from travelling to the UK in 2015 by freezing the bank accounts

of the organization and later cancelling the organizations FCRA registration. The Ministry of Home Affairs also cancelled the FCRA registration of thousands of NGO's for violating provisions in the law. The same year, the Central Bureau of Investigation registered a case against human rights activists Teesta Setalvad and Javed Anand for allegedly violating provisions of the FCRA. In September 2015, the authorities suspended the registration of the NGO run by the activists.

In 2016, the authorities suspended the FCRA registration of Lawyers Collective in June and cancelled it in December. In April, the UN Special Rapporteur on the right to freedom of peaceful assembly and of association said that the FCRA restrictions were not in conformity with international law, principles and standards. In 2017, the Home Ministry said that it had refused to renew the foreign funding license of the NGO known as People's Watch because it had allegedly portrayed India's human rights record in a "negative light" internationally.

### *Freedom of Expression*

Activists, journalists, artists, lawyers and academics came under increasing attack from the government for exercising their right to freedom of expression. The government used archaic and draconian laws like criminal defamation and sedition to harass and prosecute journalists, human rights defenders and others for peacefully exercising their right to free expression. The government also used broad and imprecise laws to curb free expression on the internet. In 2014, a number of people were arrested for statements made about Prime Minister Narendra Modi, which the police said amounted to criminal offences. The authorities also did large-scale surveillance of telephone and internet communications, without disclosing details of these projects or safeguards to prevent their misuse.

In 2015, two activists were killed in Kerala for possessing "pro Maoist" literature. The same year, a Dalit folk singer was arrested in Tamil Nadu for writing songs criticizing the state government and Chief Minister. The Maharashtra state government even propagated the use of the draconian sedition law by issuing a circular on how it should be applied.

Freedom of expression in universities remained under threat. The student body of the Hindu nationalist organization RSS used threats and violence to block events and talks at some universities. In 2016, two students at JNU were arrested by the police in Delhi for sedition after they raised "anti-national" slogans. The same month Delhi police also arrested an academic for raising "anti-India" slogans in a closed-door event. In 2017, eight Lucknow University students were arrested and detained for 20 days for protesting against the Uttar Pradesh Chief Minister. The same year, Uttar Pradesh police personnel baton-charged students, mostly women, protesting against sexual assault at Banaras Hindu University.

Year 2017 saw journalists and press freedom coming under severe attack. In September, journalist Gauri Lankesh, an outspoken critic of Hindu nationalism and the caste system was shot dead outside her home in Bengaluru. The same month journalist Shantanu Bhomick was beaten to death near Agartala for covering violent political clashes. In September, photojournalist Kamran Yousuf was arrested in J&K for allegedly instigating people to throw stones at security forces, under a law which does not meet international human rights standards. In December, a French filmmaker conducting research for a documentary on the Kashmir conflict was detained for three days in J&K. State governments also banned books, and the central film certification board denied the theatrical release of certain films. In November, five state governments banned the release of "Padmaavat", a Hindi period film, on the grounds that it would "hurt community sentiments".

### **Jammu and Kashmir**

In the said period, Jammu and Kashmir region saw numerous violent clashes between protestors and security forces; the use of unnecessary and excessive force on several occasions; a brazen case of cruel, inhuman and degrading treatment; and incidents of intimidation of civilians by suspected armed groups. Hundreds of people, including children were placed in administrative detention. Dozens of schools were set on fire by unidentified people.

In July 2016, the killing of a leader of the Hizbul Mujahideen armed group sparked widespread protests. At least 14 people were killed and hundreds blinded by the security forces using pellet-firing shotguns, which are inherently inaccurate and indiscriminate.

The curfew, which extended for over two months, imposed by Jammu and Kashmir government, undermined a range of human rights; residents reported being unable to reach medical assistance in cases of emergencies. The state government also prevented the publication of local newspapers in Kashmir for three days. The same year, Khurram Parvez, a Kashmiri human rights defender, was arrested and detained for over two months on spurious grounds, a day after he was prevented from travelling to a UN Human Rights Council session in Geneva.

The condition worsened in 2017 with reports from the valley of use of excessive force by security forces against civilians and protestors. Security forces continued to use inherently inaccurate pellet-firing shotguns during protests, blinding and injuring several people. Authorities frequently shut down internet services, citing public order concerns. In April 2017, eight people were killed by security forces, by the use of excessive force. One voter, Farooq Ahmad Dar, was beaten by army personnel, strapped to the front of an army jeep and driven around for five hours, as a warning to protestors.

In June, a military court set up under the paramilitary Border Security Force acquitted two soldiers of killing 16-year-old Zahid Farooq Sheikh in 2010. The force had successfully prevented the case from being prosecuted in a civilian court. In July, an appellate military court suspended the life sentences of five army personnel convicted by a court-martial of the extrajudicial executions of three men in Machil in 2010. In November, the State Human Rights Commission repeated a directive issued to the state government in 2011 to investigate over 2,000 unmarked graves.

## Women's Rights

Violence against women has remained widespread in India. While reporting of crime has risen, under-reporting is still considered to be widespread. Dalit women and girls continue to face multiple levels of caste based discrimination and violence. Marital rape is still not recognized as a crime if the wife is above 18 years of age. A number of public officials and political leaders made statements that appeared to justify crimes against women. Self-appointed village councils issued illegal decrees ordering punishments against women for perceived social transgressions. In November 2014, 16 women died after participating in a botched mass sterilization drive in Chhattisgarh. Caste based village bodies continued to order sexually violent punishments for perceived social transgressions. In 2016, two groups of Adivasi women reported that they were raped and sexually assaulted by security force personnel during search operations in Chhattisgarh. A Dalit law student from Kerala was found raped and murdered at her home. In July, a flawed draft was released on trafficking without adequate consultation. Indian law continued to criminalize soliciting in public places, leaving sex workers vulnerable to a range of human rights abuses.

## Refugees and Migrants Rights

In August 2017, in a circular issued to all state governments and union territory (UT) administrations, the Union Ministry of Home Affairs (MHA) labeled all Rohingya refugees and asylum-seekers in India as "illegal immigrants" and ordered mass expulsion of Rohingya to Myanmar, where they are at risk of serious human rights violations. The circular said the "detection and deportation of such illegal immigrants from Rakhine state, also known as Rohingyas is a continuous process". The MHA advised all states and UTs to "sensitize all the law enforcement and intelligence agencies for taking prompt steps in identifying the illegal immigrants and initiate the deportation process expeditiously and without delay". They included more than 16,000 who were recognized as refugees by UNHCR, the UN Refugee Agency. In September, the Home Ministry said that it would grant citizenship to about 100,000 Chakma and Hajong refugees who had fled to India from Bangladesh in the 1960s.

## Recommendations

- Ensure justice for those who have faced rights abuses because of their caste, religion, race or other status.

- Strengthen human rights institutions and protect human rights defenders, including by repealing the FCRA.
- Protect people's rights to freedom of expression and association, and repeal laws on sedition and criminal defamation.
- End the use of arbitrary, unnecessary or excessive use of force by security forces and prosecute those suspected of responsibility in civilian courts.
- End discrimination and violence based on gender, including by criminalizing marital rape and registering, investigating and prosecuting cases of violence against women from marginalized groups.
- Respect the right to seek asylum and uphold the principle of non-refoulement.

# Human Rights : Freedom attacked

An atmosphere of  
violence and a sense of  
fear prevails as the  
government continues with  
its excesses

The current political climate has legitimised a dangerous discourse — those who question the state, its policies and actions are a threat to nation and its interest. The state and its allies, mostly the [Rashtriya Swayamsevak Sangh](#) (RSS) and other right-wing outfits under the Sangh Parivar, have orchestrated this discourse.

As an atmosphere of violence prevails, people have chosen silence over dissent. The overt attack on the long-cherished constitutional values, evidently poses a threat to democracy and India's secular and ethnic fabric. Criminalisation of dissent is an attack on civic space, and acceptance of criminalisation of dissent is an indirect attack on democratic space with serious implications on civil society and civic space.

At present, the attack on democratic space is one of the biggest challenges for the Indian democracy. Some of the factors that have triggered the dangerous trend are:

- Rise of RSS and right-wing forces and their control over the power centres;
- redefinition of public sphere by the right-wing, which is often intolerant and permits no dissent;
- convergence of right-wing and crony capital forces, which are dispossessing the marginalised and controlling the state, its powers and institutions;
- degradation of state institutions leading to a gap between laws and policies, and their implementation on the ground adversely impacting people's rights; and,
- construction of a homogenous narrative of a nation and nationalism in an attempt to rewrite history and the Constitution, directly impacting religious and ethnic minorities and those protesting against such attempts.

## Journalists, writers, media gagged

The recent years have witnessed systematic attacks on media and journalists. As India stands 136<sup>th</sup> out of 180 countries in the [World Press Freedom Index](#), it also features on the list of countries that have high impunity for the killers of journalists, according to [2017 Global Impunity Index by the](#) Committee to Protect Journalists.

A good number of journalists have been grievously attacked for pursuing stories against the government, politicians and corporators. They have been targeted for vengeance, to silence them, and to discourage others scribes from daring to perform their professional duty. The action is often veiled with a plethora of legal charges such as sedition, contempt of court, public disorder, obscenity, Officials Secrets Act, and defamation. Media freedom is further restrained with corporations taking control of media houses and putting pressure on journalists to report in line with their thinking. The impunity with which such attacks take place shows that freedom of speech and expression cannot be taken for granted in the country.

Free speech and expression once formed the premise on which Indian democracy matured, but dissent of any kind today is stifled. Senior journalist [Gauri Lankesh](#) was assassinated in front of her house on September 5, 2017. Editor of Kannada weekly [Lankesh Patrike](#), [Gauri](#) criticised the RSS and other right-wing Hindutva organisations for the killing of rationalists and thinkers, questioned attacks against religious minorities, and condemned hate speeches.

In June 2017, the Central Bureau of Investigation [raided](#) NDTV offices and the home of its founder on the pretext of investigating corruption and money laundering. A [defamation](#) suit was filed against a journalist and her news website [The Wire](#) after it published a [story](#) highlighting conflict of interest in a financial firm owned by the son of the BJP president. The editor of [Economic and Political Weekly](#) (EPW) was forced to resign after the journal published articles that exposed a deal benefitting a corporation through [tax evasions](#) facilitated by the government. The corporation demanded to "remove/delete and unconditionally retract" authors of the article, the editor of EPW, and the trust which owns and runs it.

In this saga of fear and intimidation, cartoonists were not left untouched either. On November 5, 2017, the crime branch arrested G Bala, a freelance cartoonist based in Tirunelveli, for criticising the Tamil Nadu Chief Minister and other district officials in a case of self-immolation in the district.

The BJP has heavily invested in developing an online army of trolls and spearheading an online hate campaign.

## Human rights defenders harassed

From 2015 to 2017, Human Rights Defenders Alert (HRDA) India has documented over 300 cases of attacks on HRDs across the country. Along with their families, they are harassed, intimidated, ill-treated and subjected to hateful abuse in the media. Their physical security and lives are threatened in a systematic manner. They are arbitrarily arrested or detained and a number of cases are filed against them. Their offices are raided, files stolen or confiscated. In extreme cases, they are tortured, made to disappear or even killed.

Many a time, HRDs have been charged in fabricated cases. There are many instances of the state manipulating the judiciary. The 2017 report by international non-profit Global Witness shows that India documented a three-fold increase in cases of murder of land rights defenders, and has been placed fourth in global rankings of the worst affected.

In recent history, the Right to Information (RTI) has been, perhaps, the most powerful law that empowered people. But many activists have come under direct attack of the government for using RTI.

According to data compiled by the international non-profit Commonwealth Human Rights Initiative, since 2005, as many as 67 RTI activists have been killed, 6 have committed suicide, 166 were assaulted and 182 were harassed and threatened. According to HRDA, between 2015 and 2017, as many as 8 RTI activists were killed and 23 were physical attacked or charged in fabricated cases.

## Freedom of assembly no more

A crucial aspect of civic space is freedom of assembly, guaranteed in Article 19 of the Constitution. This right is restricted by frequent application of Section 144 of the Code of Criminal Procedure (CrPC) which prohibits assembly of five or more persons in an area. Section 144 is routinely clamped to restrict protests and to stifle people's movements, even when peaceful. Authorities demand protest organisers to obtain prior police permission to assemble, impinging on the right to peaceful assembly. Several protests pertaining to land and natural resources have witnessed brutal police action. HRDA has recorded 25 such cases between 2015 and 2017. Peaceful protests in big cities like New Delhi and Mumbai were meted with excessively disproportionate and violent police action.

In October 2017, the National Green Tribunal banned protests at Jantar Mantar, a place legally marked for protests and peaceful assemblies in New Delhi. Jantar Mantar has witnessed a series of protests on a range of social and political issues for over 25 years. The tribunal directed the Delhi government, Delhi Police and New Delhi Municipal Council to stop all protests at Jantar Mantar and shift the protesters to Ramlila Ground, a place far from central Delhi. Jantar Mantar is accessible to all, including the fourth estate of the democracy. Worse, protesters never paid money to hold protests at Jantar Mantar. Now, pre-booking is required at Ramlila Ground which costs Rs 50,000. While at least 10 protests could happen simultaneously at Jantar Mantar, no two protests can occur at the same time at the new venue.

The story in conflict-affected areas such as Kashmir is even more grave. Here, the authorities have used excessive force against protests. Since July 2016, over 100 protesters have been killed and thousands more injured. As per local media reports, more than 15,000 people sustained eye injuries caused by pellet gun shooting. The Central Reserve Police Force told the Jammu and Kashmir High Court that it had used 1.3 million gun pellets in just 32 days.

## Freedom of association denied

Freedom of association, especially of organisations possessing licenses under the Foreign Contribution Regulation Act (FCRA), has been drastically and systematically trimmed. The government did not renew FCRA registration of

many Civil Society Organisations (CSOs). In other cases, it was renewed and later cancelled, or suspended and later cancelled. These organisations were critical of the government and its policies, were advocating human rights and social justice, and providing legal aid. The Ministry of Home Affairs (MHA) initiated these actions solely on the basis of intelligence bureau reports. CSOs are never given the opportunity to respond to the allegations before MHA's action.

The ministry cancelled the registration of 4,470 CSOs between May 5, 2015 and June 9, 2015. It alleged that the CSOs had not complied with FCRA and had failed to submit tax returns. In April 2016, licenses of 9,000 CSOs were cancelled for FCRA violation. MHA website states that licenses of more than 11,000 organisations were cancelled in August 2017. Some prominent organisations whose FCRA registration were either not renewed, renewed and then cancelled, or suspended and cancelled are Indian Social Action Forum, Centre for Promotion of Social Concerns, Lawyers Collective, Sabrang Trust, Centre for Justice and Peace, Navsarjan Trust, Greenpeace India, and Church's Auxiliary for Social Action.

Unable to receive funding, the CSOs have been left in limbo, which is impacting a large base of human rights work in the country and affecting many activists depending on their meagre remuneration for their work.

On October 4, 2017, MHA made it mandatory for all NGOs possessing FCRA accreditation and those seeking it to register on NITI Aayog's NGO-Darpan portal and generate a unique identification number. This despite the fact that FCRA and its allied rules do not mandate any such requirement. There are basic challenges as well — one member cannot register with more than one organisation. Not surprisingly, these developments are inversely proportional to those on foreign direct investments.

### **No freedom of cultural expression and religion**

Religious minorities and those working with them are increasingly coming under the government's radar. The BJP government has made a concerted effort to instil fear among religious minorities, particularly Muslims and Christians, comprising close to 20 per cent of the country's population. Many cases have been reported of physical attack, lynching, murder after fuelling beef hysteria in the name of cow protection, smear campaign in the name of 'Love Jihad', forcible reconversion known as Ghar Wapsi (returning home), distortion of history, and a series of hate speeches against Muslims by BJP ministers.

As per the submission of the Union Minister of State for Home in the Parliament, 111 people were murdered and 2,384 injured in 822 communal clashes in India in 2017. This was a considerable increase from the previous years. During religious festivals, BJP and outfits associated with it held multiple provocative marches and resorted to inflammatory sloganeering. The government criminalised cow slaughtering. This bolstered support to the right-wing cadres and set in a sense of fear among the minorities.

Indian Cultural Forum's study titled 'Lynching Without End' shows that from 2015 there were 24 cases of lynching and vigilante violence, resulting in the murder of 34 people and rape of 2 women. Almost all the victims are Muslim. The bulk of these were in Haryana, where 9 persons were killed and 2 raped; Uttar Pradesh, where 9 were killed; and Jharkhand, where 8 were killed. Not surprisingly, 94 per cent of deaths occurred at the hands of vigilante, or Hindu extremist, groups. Their existence is linked to the government's efforts to protect cows. Over 91 per cent of the attacks involved accusation of cow smuggling, possessing or consuming beef. Police inaction to protect the victims and to act against the perpetrators emboldened the former, resulting in repeated attacks leading to deaths. Often, the perpetrators record their crime and share it with others as a show of valour. Their message to people is that nothing whatsoever can happen to them. In most of the cases, the accused are scot free.

Karni Sena, a Hindu extremist group, burnt theatres and sent violent threats to actors of the film *Padmavat* in its attempt to oppose its release. Chief ministers of many BJP-ruled states supported this. In Uttar Pradesh, the Chief Minister withdrew 131 criminal cases against those charged with rioting, murder and arson in the 2013 Muzaffarnagar riots. He also declared his intention to withdraw cases of hate speech against two BJP parliamentarians and a Hindu monk accused of rape.

This apart, the Sangh Parivar, particularly RSS, wants to rewrite Indian history. Saffronisation of education has begun with the government changing school and college textbooks. New curriculum has been introduced, references to key figures during the freedom movement have been deleted, mythology has replaced history, and

references of Muslim kingdoms during the medieval period have been removed.

## Rise in extra-judicial killings

After the BJP came to power in Uttar Pradesh in March 2017, the state came to limelight for a drastic spike in the number of “encounters” by the police and security forces. In a strongly worded notice to the Chief Secretary of Uttar Pradesh, the National Human Rights Commission (NHRC) sought improvement in law and order. It stated that in six months of the BJP government, Uttar Pradesh had witnessed 433 encounters with 19 deaths. Uttar Pradesh Police records show that 921 encounters occurred between March 2017 and December 2017. Of these, 196 residents and 210 police personnel were injured.

Shockingly, Uttar Pradesh Chief Minister himself said that criminals in the state will “either be sent to jail or killed in police encounters”. This gave the police a free hand to resort to extra-judicial means. The legitimacy and patronage given by government to such acts is anti-thesis to the principles of rule of law.

## Torture

“Torture is completely alien to our culture and it has no place in the governance of the nation,” the then Attorney General Mukul Rohatgi told the world during the Universal Periodic Review at the 36<sup>th</sup> session of United Nations Human Rights Council in May 2017. Asked about the incident when a person was tied to an army jeep in Jammu and Kashmir, Rohatgi defended the army for the use of the “human shield”.

In April 2017, while hearing a petition seeking ratification of the UN Convention on Torture, the Supreme Court observed there was extreme urgency to frame an effective law to prevent torture and inhuman treatment of individuals in custody. It called this a matter of national interest.

The Centre responded to this by stating that the Law Commission has considered the matter. Though the Law Commission submitted its 273<sup>rd</sup> report favouring a separate statute to prevent custodial torture, inhuman and degrading treatment, the Centre has not introduced the draft bill in the Parliament yet. India is one of the 160 countries which has signed the UN Convention on Torture. However, it has not ratified the convention since 1997 despite repeated recommendations within and outside the country.

The Law Commission observed in its report that the government had faced problems in the extradition of criminals from foreign countries due to non-ratification of the anti-torture convention. It proposed a draft anti-torture law titled The Prevention of Torture Bill, 2017, which expanded the definition of torture to “inflicting injury, either intentionally or involuntarily, or even an attempt to cause such an injury, which will include physical, mental or psychological” and not just inflicting physical pain. The report calls for ratification of the UN convention on Torture and compensation to the victims of torture. The government must accept these recommendations and ensure that the draft bill is passed in both houses of the Parliament.

## Death penalty

The year 2017 saw 109 persons sentenced to death in the country. During the Universal Periodic Review in September 2017, India did not accept the recommendations made by 16 countries, which included the ratification of Second Optional Protocol to the International Covenant on Civil and Political Rights. This aims to abolish death penalty.

In its 262<sup>nd</sup> report, the Law Commission recommended that death penalty should be abolished except in terror-related cases citing national security. The Centre has not acted upon the recommendations. In 2017, of the 109 death sentences, only five were terrorism related.

On September 29, 2017, the United Nations Human Rights Council passed a resolution which called for the protection of the rights of foreign nationals and minorities facing death penalty. It must be ensured that death penalty is not imposed on the basis of discriminatory application of law, it states. There should be equal access to justice to the economically vulnerable. India was among the 13 countries which voted against the resolution.

# Judiciary : A house not in order

Constitution recommends sharing of power between legislative, judiciary and executive. But the executive is making attempts to nullify the importance of judiciary

When the Bharatiya Janata Party formed the government, it seemed to be in a hurry to rebuild India of its dreams. But in the process, it ended up demolishing in parts, or totally, many institutions. Judiciary is one such institution.

## Promises galore in election manifesto

The BJP made a number of promises to the nation in its election manifesto. Many of these were merely reworded policies of the previous government — addressing high pendency of cases, setting up National Judicial Appointments Commission (NJAC), filling judges' vacancies, opening new courts, clearing backlog cases, setting special courts for commercial cases, encouraging the Alternate Dispute Resolution mechanism, and so on. The only big change was the clever and veiled emphasis on a universalist and propagandist functioning style.

While professing to bring reforms in the judiciary, the manifesto stated, "BJP is committed to ensure justice for all." This may sound innocuous, but it is part of an agenda to usher "nationalist universalism" and abolish group rights, minority rights, pluralism and federal principles.

The manifesto's key motto Sabka Saath Sabka Vikas, unless understood in its historical and ideological context, may seem ideal. But it is important to understand that the motto is nothing more than a campaign to annihilate the special rights of the minorities and specified categories like Scheduled Castes, Scheduled Tribes and the Backward classes.

Another motto in the manifesto — Ek Bharat Shreshtha Bharat — is a unitarian agenda to devalue the federal structure of the government and the separation of power of the legislative, judiciary and executive. The idea is to create a situation where the judiciary and the legislative become subservient to the office of the Prime Minister.

The manifesto also comprises a half-hearted promise to "enhance the number of women in the Bar as well as Bench, reducing the gender gap in judiciary". It deliberately kept silent on adequate representation of SCs, STs, OBCs and the minorities.

Evidently, the NDA government worsened the situation instead of improving it.

## NJAC: Assault on the independence of judiciary

In its election manifesto, the BJP specifically stated that it would "set up a national judicial commission for the appointment of judges in higher judiciary." This would replace the existing Collegium system of appointing judges to the Supreme Court and high courts. As per the Collegium, Supreme Court judges are appointed by the President in consultation with the Chief Justice of India.

However, the system faced criticism and several attempts were made to replace it. Just before NDA came to power, during the tenure of Law Minister Salman Khurshid, a bill was passed in the Rajya Sabha in 2013 for the formation of NJAC. Hoping to ride on the consensus on NJAC, the NDA government made a constitutional amendment. It provided that NJAC would comprise six persons — the Chief Justice of India, two most senior Supreme Court judges, the Law Minister, and two eminent persons. These eminent persons would be nominated for a three-year term by a committee consisting of the Chief Justice, the Prime Minister, and the Leader of the Opposition. They would not be eligible for re-nomination.

Opposition members and experts criticised NJAC saying it would violate the independence of the judiciary and make way for the primacy of the executive. They objected to the clause which provided that appointment of any judge would not be cleared if two or more members of the commission were against it. This would allow the executive, through the law minister, to hijack or scuttle the appointment process completely. This would also nullify the importance of the Supreme Court and the Chief Justice, as the judges would be mere members of the

commission not necessarily bound by the processes of the Supreme Court.

On October 16, 2015, the constitution bench of the Supreme Court struck down NJAC by 4:1 majority. It held that though the Collegium system was not entirely flawless, the NJAC Act was “against the basic features of our Constitution”. Former Law Minister Salman Khurshid said the Supreme Court had to choose between two imperfect systems and it opted for the less imperfect system. But Congress leader and lawyer Kapil Sibal said, “It was an attempt to have inroads into the judiciary. Just like CBI, which, from a caged parrot has become a captive parrot, the government wanted the judiciary to become captive judiciary.”

What the Supreme Court disapproved of was not the idea or the constitutionality of the commission, it condemned NDA's assault on the independence of the judiciary and other constitutional safeguards. In words of Prof Upendra Baxi, “What the court ruled as unconstitutional was the ousting of the judicial primacy, and presence and voice of the Union Law Minister.” He further added, “Any future amendment and law giving effect to a National Judicial Appointments Commission, or a similar body, may well be held valid if it respects these constitutional conditions and conventions.”

### Carrot and stick for judiciary

The Constitution upholds the separation of power between the judiciary, the legislative and the executive. Yet, the executive indulges in using the carrot and stick practice with the judiciary. A number of times, the judiciary toes the line of the executive for fear, favour, or to follow the ideological path of the executive chair. The BJP government, under the aegis of “good governance”, ropes in the judiciary to further its agenda.

Soon after NDA formed the government in 2014, former Chief Justice of India Justice P Sathasivam was appointed the Governor of Kerala. Media called it a quid pro quo for quashing the FIR in the Tulsiram Prajapati case against Amit Shah, who later became the BJP president. The Financial Express wrote: “Asked to comment on the Congress's allegation that he was being rewarded for pleasing Prime Minister Narendra Modi and Amit Shah, Sathasivam said, ‘When we dealt with the case (FIR against Shah), nobody knew that he would become the BJP president. We did not give him a clean chit in the case. In fact, I shifted the Sohrabuddin case to Maharashtra. It is wrong if such an allegation is levelled against a former CJI.’”

The NDA government appointed Dr Justice B S Chauhan chairman of the Law Commission and was given the job to report on its pet topics such as the Uniform Civil Code, and simultaneous elections to Parliament and State Assemblies.

On the other hand, the NDA government humiliated many high court Justices who had passed orders that were unfavourable to the NDA or its leaders. Justice Jayant Patel had ordered a Central Bureau of Investigation probe into the Ishrat Jahan case in November 2011 after a special team concluded that the encounter, allegedly involving 20 police officers, was “not genuine”. Nineteen-year-old Ishrat Jahan, along with her friend Javed Sheikh and two others, was gunned down by the Crime Branch officials in 2004. Justice Patel had to accept many unjustified transfers, prompting widespread protests from lawyers of Gujarat and Karnataka high courts. On September 25, 2017, Justice Patel submitted his resignation to the President.

There are several such cases of the executive inducing fear in the judiciary. Former Solicitor General Gopal Subramaniam was not appointed judge at the Supreme Court in 2014 despite the Collegium recommending his name for it. Subramaniam was responsible for the CBI probe order into the disappearance of Kauser Bi and Sohrabuddin Sheikh.

Justice Rajiv Shakti was transferred from the Delhi High Court to the Madras High Court after he set aside a lookout notice issued by the Intelligence Bureau against Greenpeace activist Priya Pillai preventing her from going abroad to address a UK parliamentarian group. Justice Shakti upheld her right to travel and express dissent.

### Unfilled vacancies

The BJP manifesto stated that the party will “accord high priority to judicial reforms to address the issue of appointment of judges, filling the vacancies, opening new courts, setting up a mechanism for speedy clearance of the backlog of cases at various levels in the judiciary” and “initiate a mission mode project for filling the vacancies

in the judiciary and for doubling the number of courts and judges in the subordinate judiciary.”

At a meeting on April 14, 2016, Chief Justice of India asked Prime Minister Modi, “How do you think judiciary's present strength of 18,000 can dispose of case pendency of three crore?” He bluntly told the Prime Minister that it is “not enough to criticise; you cannot shift (the) entire blame on (the) judiciary.” The Prime Minister gave an evasive reply saying the government “will look into it (vacancies) seriously and try to solve this.” The apex court Collegium sent at least 170 recommendations for the appointment of high court judges. The Chief Justice pointed out, “I don't understand why they are held up; where are those proposals stuck, we should know.” Even today, there are huge vacancies in the judiciary.

## Deadlock on Memorandum of Procedure

After NJAC was set aside, in December 2015, a Constitution bench of Supreme Court directed the government to finalise a Memorandum of Procedure (MoP) for appointment to the higher judiciary in consultation with the CJI. But the government dragged its feet on this. A stand-off prevailed between the government and the collegium. This resulted in delay in judicial appointments and transfers.

Later, the government formulated a draft MoP with a clause that gave the Centre power to reject a candidate on the ground of “national security”. It also suggested that the Attorney General and the Advocate Generals of the respective states should have a say in selections. The draft suggested involvement of retired judges. The Collegium rejected these recommendations as it was destructive for the judicial independence.

## Judges' press conference

On January 12, 2018, four senior-most judges of the Supreme Court held a press conference and announced that all was not well in the judiciary and that democracy was in danger. While a part of the media supported it, another part criticised it. Senior journalist Harish Khare wrote, “All four of them looked so human, so vulnerable, so concerned and sincere, as well as so unfamiliar with the rough, chaotic rituals of a press conference.” So, there is no reason not to take them seriously.

According to the judges, the administration of the Supreme Court was not in order. The independence of the judiciary and the future of democracy was at stake, and they had “no choice but to communicate to the nation to take care of this institution.” They had collectively tried to persuade the Chief Justice to take remedial measures, but their efforts failed.

The press conference made it clear that the administration of the Supreme Court was working to obtain pre-determined outcome in sensitive cases where the executive had a huge stake. This was endangering the independence of the judiciary and eventually democracy itself.

## Slighting the judiciary

In the first week of January 2018, the collegium recommended the elevation of Justice K.M Joseph and senior advocate Indu Malhotra to the Supreme Court, besides the transfer of several other judges. An unprecedented delay in government response followed, which prevented the collegium from sending the recommendations back to the government, and finally forcing it comply with them.

Reacting to this, Justice Kurian Joseph, who is amongst the senior-most judges of the Supreme Court, wrote to Chief Justice of India Dipak Misra that the “very life and existence” of the Supreme Court was under threat. He suggested that the Supreme Court should take it up and “immediately constitute a seven-judge bench to pass orders on the pending appointments.”

## Tribulations of the tribunals

In India, the judiciary cannot be complete without the numerous tribunals adjudicating several disputes. The [Finance Bill 2017 seriously threatened the](#) independence of these tribunals. Contrary to the convention, the Bill this was passed as Money Bill. It provided for the merger of several tribunals, which was considered illegal by many. The Bill included amendment to legislation on multiple subjects. In effect, what used to be 26 tribunals came down to 19. The Competition Appellate Tribunal merged with the National Company Law Tribunal, while Telecom

Dispute Appellate Tribunal is now also doing the work of Cyber Law Appellate Tribunal and Airports Economic Regulatory Authority Appellate Tribunal. Similarly, the tribunal relating to Employees' Provident Fund is subsumed in the Industrial Tribunal. As a result of the amendment, the qualifications, tenure, conditions of service, removal and emoluments of the chairpersons and members of these tribunals now come under the control of the Centre.

The Madras Bar Association has challenged the validity of these amendments in the Madras High Court. While questioning how adjudicatory bodies under different laws can be abolished by the Money Bill, the petition also slams the Centre for taking over the entire process of removing the presiding officers.

The doctrine of separation of power has been violated and the independence of the judicial bodies compromised.

## Conclusion

The assault on the independence of the judiciary began as the BJP government started functioning. Evidently, its end is nowhere in sight.

The Justices at the Supreme Court, sitting and adjudicating under the dome of the rule of law, could not have been forewarned of the demolition nearby of the historic buildings at the Pragati Maidan. It was an attempt to demolish the composite constitutional culture of India that was upheld by the likes of Mahatma Gandhi, Rajendra Prasad, B R Ambedkar, Jawaharlal Nehru and Sardar Patel.

Yet, hope lies in the fact that the democratic structure, with its judicial independence, separation of powers and judicial review are so deeply rooted in the Indian masses that NDA's model of demolishing institutions may fail in its attempt.

# Labour and Employment : An assessment at the current juncture

Electoral manifesto -  
paper promises on  
employment  
generation

It is generally well-acknowledged that both, the quantity and quality of employment, have been among the most serious challenges confronting the Indian economy; in fact, by most accounts, the gravity of the problem has increased during the period of so-called economic reforms since the early 1990s. India's count of the unemployed is likely to increase from 18.3 to 18.9 million between 2017 and 2019 and the share as well as the absolute numbers of those in vulnerable employment is also likely to increase. The share of informal jobs, for all sectors and non-agricultural sectors, are put at approximately 90 per cent and 80 per cent, respectively. A recent World Bank report titled "Jobless Growth?" paints quite a bleak picture: "the demographic transition is swelling the ranks of the working-age population across most of South Asia. In this context, keeping employment rates constant would require massive job creation. But there is a widespread perception that increases in the working-age population have been offset by declining employment rates, and that women accounted for the most of the decline (page 29)." Based on its estimate of the number of people aged 15 and above, the Report projects that to even maintain constant employment rates up to 2025, India will need to create at least 8 million jobs per year. We may also note that India's own official estimates of the net new entrants in the job market at the current juncture have been put between 10 to 12 million every year. In other words, simply focusing on the quantity of jobs required itself; there is a huge challenge at hand. Further, given that India's GDP growth rate, for almost four decades now, has been quite respectable at more than 6 per cent per annum, but employment elasticity has shown a secular decline for more than three decades now, it is obviously pertinent to ask whether rapid growth rate of GDP alone can address the requirement of massive additional job creation.

This article briefly reviews the electoral promises of the BJP in 2014 and the performance of the National Democratic Alliance (NDA) government after four years. Recognising the dire situation of unemployment and the 'utter failure of the UPA government' to promote employment, the BJP manifesto promised to create 10-20 million jobs per year.

The structure of this note is as follows: Section II offers a very brief glimpse into the relevant data sources; Section III provides a snapshot regarding the evolving labour scenario during the Neo-liberal Era so as to situate the current challenges in perspective; Section IV flags a couple of major concerns pertaining to the performance of the current NDA regime and concludes this note.

## II

As regards the official sources of information on labour and employment, there are multiple entities and institutions that are involved in collection, compilation and dissemination. Apart from the Registrar General and Census Commissioner of India, responsible for the Decennial Censuses, the Ministry of Statistics and Programme Implementation (MoSPI) and the Ministry of Labour and Employment (MoLE) are among the major coordinators and producers-in-chief of labour statistics. The National Sample Survey Organisation (NSSO), the Central Statistical Office (CSO), the Labour Bureau, and the Directorate General of Employment and Training (DGET) are among the major institutions and offices, which are responsible for a variety of regular as well as sporadic surveys, involving both the household and the enterprises. Apart from such surveys, we also get useful labour statistics from administrative sources ---- such as Employees' Provident Fund Organisation (EPFO), the Employees State Insurance Scheme (ESIC), National Pension System (NPS), etc. ---- and data from employment related government schemes ---- such as those collected under Mahatma Gandhi National Rural Employment Guarantee Act

(MGNREGA). The administrative and scheme based data are typically focused on particular segments and thus have limited coverage, for obvious reasons.

Among all these sources, the quinquennial household employment-unemployment surveys (EUS) are relatively most ambitious in scope and are generally considered more comprehensive than any other source for employment situation in the country, providing country-wide coverage including both the organized and unorganized sectors. The obvious problem with this source is that the information is collected every five years and the dissemination takes another one to two years. The most recent data from this source is for 2011-12 (Employment and Unemployment, NSS 68<sup>th</sup> Round). Of course, the NSSO has also experimented with the so-called thin samples with limited coverage, which are the annual surveys. As regards the enterprise/establishment surveys, the Annual Survey of Industries (ASI), launched in 1960 with 1959 as the reference year, which has been the continuous and main source of information on registered manufacturing sector for employment, investment, production, etc. The most recent data from this source is 2014-15. The NSSO also occasionally carries out surveys of enterprises (in industry and services) in the unorganized sector and the most recent such survey on the so called unincorporated enterprises was its 73<sup>rd</sup> Round for the year 2015-16. These surveys classify the unregistered enterprises into three types: (a) Own Account Manufacturing Enterprises (OAMEs); (b) Non-Directory Manufacturing Establishment (NDMEs) and (c) Directory Manufacturing Establishments (DMEs). Thus, using the NSSO data for the unorganized non-agricultural enterprises, the most recent feasible comparison is between 2010-11 and 2015-16. In addition to these enterprise surveys, the CSO conducts the Economic Census, which is considered the most comprehensive data base for the non-agricultural establishments in the country. The most recent round of the Economic Census (EC) was the 6<sup>th</sup> Round (done almost a decade after its predecessor, the 5<sup>th</sup> EC) was conducted from *January 2013 to April 2014*. It is worth noting here that the information generated from these difference sources are often at significant variance with each other even when the same sectors are covered.

The other huge concern, as should be evident from the foregoing remarks, with labour and employment data in India, whether from households or enterprises/establishments, is lack of 'real-time' information as most of it becomes available with considerable time lags of several years. In fact, it was due to the growing dissatisfaction with this major handicap that the policy makers embarked on the annual as well quarterly Employment and Unemployment Surveys (EUS) data by the Labour Bureau since 2009-10, which continued till 2015-16 (unfortunately, after which it was discontinued). The current Union Government set up a Task Force in 2017, to examine major concerns and issues relating to timely and comprehensive data systems on employment, which made several important recommendations. Thus at the moment, on the basis of household or the enterprise survey, we have very little information to talk about trends relating to the world of work during the last three to four years. Of course, we have some information based on administrative data and from schemes which are of limited utility as we discuss in Section IV.

### III

Of India's approximately 1.3 billion populations, almost 70 per cent live in villages and 40-45 percent can be categorized as the working population. This proportion, or the so called worker population ratio, has roughly remained the same since Independence. Work being segmented along the lines of caste, religion, gender, region, etc. a huge problem is labour immobility for different groups, in particular women, huge wage differentials and discrimination, etc. For instance, the proportion of women in the labour force has been consistently lower than male workers by close to 20 percentage points, and the gender wage gap in India is among the highest in the world, at 26 percent. This is significantly higher than the average for the countries in the Asian continent, which stands at 23 percent, and the mean average gender wage gap of less than 15 percent in the developed economies.

The overcrowding of the workforce in agriculture close to 50 percent contributing approximately one-sixth of the GDP reflects 'underemployment', growing numbers of 'wage labourers' and declining numbers of 'cultivators'. The non-agricultural sector accounts for about half the work force and contributes approximately 80 percent to the total GDP, with a very small segment of less than 10 percent being in the organized sector. Of the total employment in the organized sector, almost 65 to 70 per cent is in the public sector (including public administration and defense services). Approximately 29.2 million people work for the private sector, largely corporate manufacturing and a variety of services, 16 percent of which in informal employment.

The share of the manufacturing sector in the overall national income has been stagnant around 15-16 per cent since the early 1990s. Almost, 85 per cent of all manufacturing enterprises work with either one or two workers, underlining their vulnerability and fragility and an overall trend towards self-employment since the 1990s. The core of the growth pattern currently is centered on the expansion of the service sector, which has a preponderance of both vulnerable casual and self-employment. This has created a scenario of the persistence of high informalisation which is among the defining features of the contemporary Indian political economy.

A major worrisome trend is the relentless informalisation of work in the formal sector. Thus, as per the NSSO estimates of 2011-12 (which is the latest available estimate), count of informal labour was a whopping 447.2 million out of a total labour force of 484.7 million of the total working people. Most of these workers can be classed as 'vulnerable' who work in insecure jobs with negligible social protection. As already noted, informality and vulnerability has been on the rise, despite, relatively high economic growth rates of GDP in the reforms era; withdrawal of the Indian state from several key areas in the social sector has only aggravated the vulnerability of the working-class.

Recent data indicates that the changing organization of production and the smallness of production system impacts on the access to decent working conditions. The increasing preponderance of self-employment fits in with this conclusion as the production within these units took place in a location which cannot be designated as conventional or designated places of work. Thus many of these workers have not been given the recognition of being 'workers' and are outside the scope of any labour legislation which sets out the parameters of workers' rights.

As per the official estimates, there is a need to create 10-12 million jobs every year to absorb the potential entrants to the labour force. The latest estimates, available from the Labour Bureau, paint an extremely depressing picture with respect to the pace of job creation. *Apart from being nowhere near what would be required to facilitate near full employment, there has been a staggering decline by about 90 per cent in creation of new jobs; the figure for new jobs has come down from about 11 lakhs in 2010 to 1.5 lakhs in 2016.*

#### IV

Thus, based on relatively comprehensive large scale official systems on labour statistics, we get very little as regards the performance of the current NDA regime and we have to get some pointers from limited and ad-hoc sources of information, mostly of the administrative nature and compilation from different government schemes. There are Non-Official data sources in the public domain (such as the reports from Centre for Monitoring Indian Economy Pvt. Ltd. – CMIE), which increasingly used by researchers. But as a careful perusal of many of these Non-Official sources would indicate, conclusions from these different private sources are often contradictory, again to a large extent due to differences in coverage, methodology, etc.

Nonetheless, as regards the employment performance during the last four years of the NDA regime, it would not be off the mark to conclude that most of the official as well as private data sources indicate significant adverse outcomes on the employment front, much of it on account of two major 'disruptions' by the Union Government, namely Demonetization and the rolling out of the Goods and Services Tax (GST). Even the latest Economic Survey of the Government of India acknowledged serious negative fallouts of these measures for the different dimensions of the economy, including the employment generation. Likewise, according to the CMIE-CPHS data about 1.5 million jobs were lost, during the first four months of 2017, which was attributed to Demonetization. Several industry and manufacturing associations and field studies from individual researchers (many of these published in Economic and Political Weekly, the Wire, Firstpost, Scroll.in, etc.) reported very significant job losses due to the shocks of Demonetization and GST during 2017 and 2018. There were reports of large scale retrenchment of workers, substantial instances of return migration (from urban to rural areas) and increase in the employment demand under MGNREGA, etc. If we take all these in conjunction with the trend reported by the Labour Bureau annual surveys between 2011-12 and 2015-16 mentioned earlier, it would appear that the performance of the current government with respect to labour and employment has been pretty grim.

However, the official spokespersons and senior functionaries of the Union Government (including the Prime Minister and several other ministers, the vice-chairperson of the NITI Aayog, among others have used a recent

study, published in January 2018, by Soumya Kanti Ghosh and Pulak Ghosh have been claiming a robust increase in formal sector jobs; the claim is based on significant increase in registration under various administrative arrangements, such as the EPFO, NPS, and ESIC. But, as others have pointed out (e.g. Praveen Chakravarty and Jairam Ramesh) that this claim is based on methodologically very slippery foundations. For instance, it may well be the case that those already employed have been registered due to the recent government policies. To illustrate just one factor in this regard: prior to 2016 only enterprises with more than 20 employees on the rolls required mandatory registration under the EPFO, which was brought down to 10 in 2016; thus, because of the definitional shift, much of the presumed increase in formal jobs is not really a net increase in jobs.

The other major basis for the rosy claims on the employment front advanced by the government spokespersons is on account of the presumed success of the so-called the Pradhan Mantri Mudra Yojana (PMMY). However, as a recent study notes, under this programme, the share of substantial loans (above Rs. 5 lakhs), which have the potential to create jobs, was as little as 1.3 per cent of total disbursement in 2017-18. The average loan size of Rs. 52,700 appears to be far too small to have any employment generation potential. But if one goes by the total disbursement under the Mudra Yojana, which was worth Rs. 2,53,677.10 crore and distributed to 4.81 crore beneficiaries in 2017-18 (without examining the issues of viable business model, employability, etc.) and simply counting each beneficiaries a net addition to employment, clearly one can arrive at fantabulous figures of employment increases!

Finally, with respect to schemes and programmes, I would like to stress here that the performance of any government with respect to relevant indicators must include how it deals with the vulnerable sections of the population. In this context, the performance of the current government with respect to MGNREGA ought to be considered an appropriate benchmark. By now, there are quite a few studies (e.g. such as Rajendran Narayanan et al.), which show that this job guarantee scheme -- which is a kind of lifeline to those at the bottom of India's economic and social hierarchy -- has been continuously hammered by the current government. For instance, the budget allocation during the current union government regime has not only been insufficient but going down in real terms. In fact, adjusting for inflation, the allocation for 2018-19 is substantially lower than what it was in 2010-11. Two, the functioning of the scheme has been persistently plagued during the last few years by a problem of "pending wages"; for the year 2016-17, the total amount of pending wages (i.e. the amount to be paid by the union government to the state governments for works already performed) for the country as a whole was around Rs. 11,000 crore. This obviously becomes a major disincentive for the state government to run the scheme in a demand-driven sense. Third, by delinking the MGNREGA wage rates from the Minimum Wages Act, 1948 and choosing not to increase the former in real terms has dealt yet another blow to the functioning of the scheme and consequently large segments of the most vulnerable segments of India's workers. In my judgment, the way MGNREGA has been dealt with is possibly the most damning indictment of *the current NDA government at the Centre*.

To conclude: to make sense of the multiple dimensions of the world of work in India, including the quantity and quality of jobs, both in the organized and unorganized sector, it is imperative to address the problems and deficiencies in the architecture of labour statistics in the country. Generating real time employment data is just one of the important tasks and there are several other issues which need to be addressed. However, as pointed in Section III, to anyone familiar with India's labour scenario it should be obvious that there are serious structural and persistent employment problems that the country is confronted with. The basic question, with respect to labour and employment, has to do with the strategies of appropriate economic transformation that is inclusive and can generate decent work. The period since the early 1990s, has been anything but what can be considered a move towards an appropriate strategy. Based on whatever fragmented evidence we have, the current NDA regime may have made it even worse.

# Land Rights : Wrongs instead of rights

The State's radar fails to notice the unfinished land reforms or the urgency of provisioning or the right to land

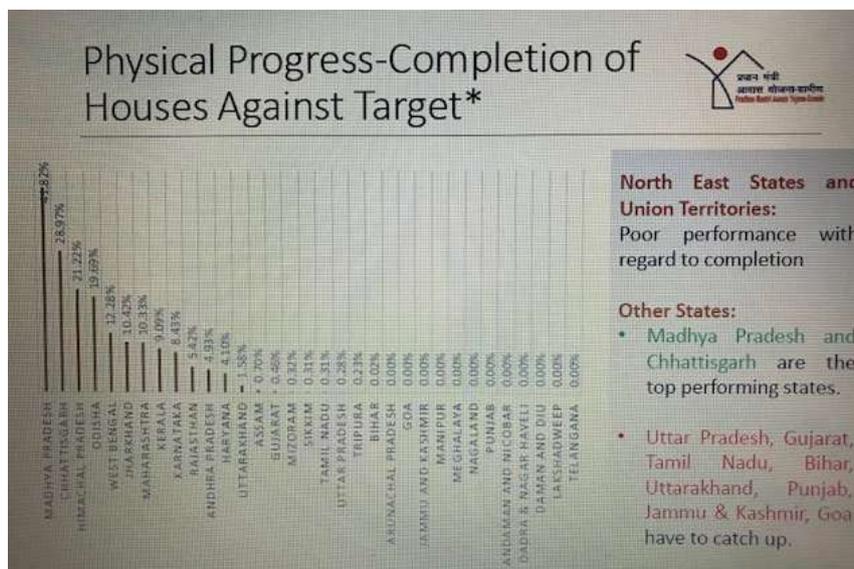
India is witnessing significant increase in the rural landlessness, resulting in inequality, injustice and violence. Growing landlessness is pushing a large number of deprived people into further poverty, constantly threatening their livelihood and dignity. According to the 2011 Census, nearly 29.97 per cent of the population is landless – close to half (45.15 per cent) of whom are Dalits while 29.84 per cent are tribal people. Of the 170.92 million rural households across the country, 100.08 million (or 56 per cent) do not own any agricultural land. Further, of a total of 240.39 million households in the country, 100.69 million are bracketed as deprived households. The deprivation data (part of Census 2011) points out that 50.37 million (29.97 per cent) households in the rural areas were "landless deriving a major part of their income from manual labour", and facing structural inequalities at various levels. In spite of the visible reality that the growing rural unrest is an outcome of the 'unfinished land reforms/rights issues' as repeatedly reported since the past few decades, the issue of land, its provisioning or the right to land, is nowhere in the political radar of the State(s).

The 2014 manifesto of Bhartiya Janata Party displayed a sincere commitment for social justice and social harmony to the most marginalized communities (Scheduled Tribes/Scheduled Caste/Other Backward Caste etc.). But this was not accompanied by a focus on land reforms keeping land aside from institutional and political priorities. This flies in the face of 'land rights & ownership' a preconditions for dignified social justice and harmony to the poorest communities. This also means that political framework for 'rural development' actually undermines any possible land reforms for the rights and justice of millions of resource-deprived communities. In effect, the array of 'rainbow schemes' of the government actually focus on ad-hoc charity for the critical political mass and keep them dependent on non-responsive, overburdened institutions and systems. Sadly, Gandhi's dream of self-reliance has been completely buried by the so-called 'welfare State'.

## **RICH LAND-POOR PEOPLE**

In the recent past we are witnessing the huge flux of rural-urban migration especially in and around big and mega cities which adding large number of 'deprived homeless' mass in gross urban population. With high political dreams the central government launched the Pradhan Mantri Awas Yojana (PMAY) in 2015, to provide housing for the Economically Weaker Sections (EWS) and Low Income Group (LIG) of the society by 2022. In 2017, the government decided to provide 'Housing for All' by including even the Middle Income Group (MIG) under the ambit of the scheme. The Central Government set aim to construct more than 50 lakh homes by March 2018, while overall target is to construct one crore new houses by March 31, 2019.

The growing inequalities among (and between) rural and urban poor are hardly addressed by the State(s) flagship mission of 'Housing for All by 2022'. The means and meanings of housing in the rural context are yet to resolve the issues, wants and security of 'land entitlement', as pointed out by Socio Economic Caste Census (2015) report of the Government. Over and above this, the massive (structural) shift from villages to cities without any dignified space has resulted in exaggerating the divide between cities and slums which are yet to be addressed by 'urban missions' of the State(s). OECD Economic Survey (2017) revealed that deprivation is pronounced in rural areas and urban slums and further, regional disparities are increasing between rural and urban.



Only 16,54,462 houses were built as against target of 50 lakhs, by October 2017, according to PMAY. PMAY is facing multiple challenges of implementation at various levels, the high political commitments notwithstanding. Until March 2018, PMAY Urban hardly met 8 per cent of its target while only 21 per cent of the total allocated funds have been used over last four years. A picture of rural displacement and evictions will help appreciate the conflicting narratives over targets and real achievements. According to Housing and Land Rights Network (HLRN 2018) report nearly 2.6 lakh people (both in rural and urban areas) were displaced because of various projects. This means that nearly 150 homes were destroyed daily. It is not very clear whether or not these displaced families are anywhere in the list of priority beneficiaries. But certainly the flagship move of 'Housing for All by 2022' remains a dream for a majority of homeless poor both in rural and urban India.

## LAND WRONGS

The critical 'absence' of land reforms and the 'prominence' of reverse land reforms (land acquisition, land pooling, land transfer, land bank etc.) is heaping miseries on millions of deprived families. The political drive behind the 'land ordinance' of 2014 for amending the Land Acquisition Act (2013) actually set a challenge for any possibility of securing land rights to the marginalized communities. In fact, the Land Acquisition Act- historically has yet to be used for allotment of acquired land to the marginalized landless and homeless poor. Clearly, between 2014 and 2018, land rights and land redistribution have never been in the political priorities. Yet, this clearly establishes the State(s) obstinate and conscious positioning for 'land acquisitions' for mega-infrastructure projects.

Interestingly, the political excuse for the 'land ordinance' actually opened the options for State(s) for the 'desirable' changes in respective land legislations and making it more 'market' friendly and affected people were reduced merely to a 'unit of compensation'. The serious absence of compensation criterion like 'land for land' forcefully pushed thousands of landowners (including farmers) as 'landless' forever. The central government has failed to provide any safeguards to the farmers whose land has been acquired for various projects. The silent positioning of 'rehabilitation and resettlement' displaced people actually aggravated the social unrest in rural as well as semi-urban areas which has resulted into growing structural violence.

According to various independent estimates nearly one million acres of land will be acquired for various industrial and infrastructural corridors and other industrial, commercial and developmental projects planned by the State(s) since 2014. The dominant market-friendly idea of 'land bank' was adopted, promoted and popularized extensively with a popular slogan for 'creating jobs' for the people (voluntarily?) stepping out of the agriculture sector. In reality, however, national unemployment rates stand at 3.4 per cent (2017-18) and is a particularly serious concern in these industrial pockets. Thus the huge amount of land (bank) transferred to mega-infrastructure ventures has resulted in 'jobless' ventures and is thus facing strong people's resistance across the country.

Is the State able to assure for more dignified 'employment' to the evicted farmers? What about the State's promise of increased farm profits and for 'strengthening agriculture'? The proposed Delhi-Mumbai Industrial Corridor (DMIC), Chennai-Bengaluru Industrial Corridor (CBIC) and many similar mega projects aggressively promoted by

State have turned a deaf ear to the genuine concerns of people who were forcefully uprooted. In spite of promising 'consent' and 'social impact assessment' provisions of Land Acquisition Act (2013) are completely omitted in the majority of these cases. Will the State see this 'non execution of Land Acquisition Act 2013' as a success or the pooling of land through all other means as a 'failure'? This question begs an answer.

## FOREST RIGHTS ACT .....(UN) DOING HISTORICAL INJUSTICE

Forest and forest land is culturally deep-rooted in lives (and livelihoods) of millions of tribal people and forest dwellers. During last general elections this 'politically sensitive' subject witnessed a phenomenal shift in the political mandate – thus becoming even more significant for political delivery. Until 2015, some circulars issued by the Government were immediate outcomes of counter-response to the critical mass. But a growing demand for forest land, especially for mining, industrial and infrastructural projects, finally broke down the momentum of ground execution. The recent status report of the Ministry of Tribal Affairs on execution of the Forest Rights Act revealed that 1.7 million individuals and 64,238 community titles were recognized as of November 2017. According to the Citizens Report (CFR-LA, 2016), only 3 per cent of the minimum potential of community forest rights has been achieved in the last 10 years.

Year (Unit)	Individual Claims Filed	Individual Claims Settled	Community Claims Filed	Community Claims Settled
September 2013	3197255	1399625	70269	18028
December 2015	4299589	1669716	114138	41329
December 2016	4057533	1697197	112429	50310
April 2017	4031766	1729923	138425	62893
January 2018	NA	NA	139266	64328

Source : Status Reports by Ministry of Tribal Affairs (Government of India 2010-2018)

Interestingly, the period between 2014 and 2018 shows the slowest execution of the Forest Rights Act since its inception. According to reports of the Ministry of Tribal Affairs, government authorities have rejected more than 43 per cent claims filed by forest dwellers across India. The significant number of long-pending cases show the State(s) failure to stop historical injustice.

Forests and forest land are home to nearly 19.5 crore tribal people and other traditional forest dwellers living in about 175,000 villages. They have claim over 3.2 crore hectares of land across the country. What is more significant and relevant is that their due rights over 'land and forests' are the only means for ensured dignified life and livelihood. The denial of rights and ownership over 'tribal land' was the key force behind the Forest Rights Act and that is how freedom from 'historical injustice' was devised through institutional and legal safeguards in this law. The gross failure of State(s) in ensuring due rights to tribal and forest dwellers cannot be politically excused. Yet, it is important to understand the intentional institutional inaction leading to a 'continuum of historical injustice' for the millions of deprived people. The State(s) need to understand that the idea of social justice for tribal and other forest dwellers remains a reality.

In 2017, the State(s) move on Compensatory Afforestation Fund Management and Planning Authority (CAMPA) actually threw multiple challenges for the implementation of Forest Rights Act. CAMPA was, in fact, envisaged as an independent body that would manage a corpus — collected from industries that have used forest land for projects — that accumulates around ₹6,000 crore annually and is already worth around Rs 42,000 crore. These funds are meant to be used by states to implement agro-forestry in non-forest land to compensate for felled forest. The question, however remains: By whom? The inter-ministerial claims over authority and available fund pose a serious challenge to 'community rights over common property resources' with special reference to legitimate rights of 'conservation and management' as secured under the Forest Rights Act. The growing conflicts between an 'institution centric CAMPA' and a 'community centric FRA' ultimately resulted in denial over claimed land – hence proven as a continuum of historical injustice.

The denial of land and livelihood rights is also reflected in a recently introduced draft 'National Forest Policy' (2018) which is sowing the seed of privatization of forest land and resources. The visible contradictions between Forest Rights Act, the proposed National Forest Policy and CAMPA are actually setting huge challenges for the majority of 83 million tribal people and other forest dwellers for whom the constitutional safeguards of self-rule established under the 5th and 6th Schedule are at risk. The growing tribal unrest can easily be understood in the denial of rights over land and forest resources. Interestingly, the long awaited 'National Tribal Policy' (2008) which at one point of time was viewed as a ray of hope for getting their rights is completely forgotten and not even mentioned in the political manifesto.

Likewise, the State is completely silent over the 'National Homestead Rights Act' and the 'National Land Reforms Policy' drafted in 2013. Repeated reminders on the agreed 'land reforms' between Ekta Parishad and Central Government during 2012 have elicited no response. The State also failed to execute the long awaited first ever meeting of the 'National Land Reforms Council' constituted in 2008 after Janadesh (2007) mass action and meant for ensuring land rights to millions of landless and homeless poor.

The lack of concern regarding 'reputational risks' for political mandate remains a real crisis in the path of dignified democratic rights. That is how the discourse on land and livelihood rights are nowhere in the 'political code' of State(s). These political vacuum could only be fulfilled with strong people's verdict for long-awaited dignified 'land and livelihood rights' to the millions of landless and homeless poor. Devising these peoples' verdict for their 'rights' is a serious challenge today.

### **The 'People's Verdict' for Land Rights**

- Introduce and execute -National Homestead Land Rights Act and ensure homestead land to every homeless poor
- Introduce and execute National Land Reforms Policy and ensure agricultural land to every landless poor with special focus to tribal, dalit, nomads, fisher folks, single women and other marginalized communities
- Introduce and execute Women Farmer Entitlement Act towards recognising women as land owning, right-holder farmer
- Ensure enforcement of Forest Rights Act 2006 with special focus to community rights over land and forest resources
- Ensure enforcement of Panchayat (extension in Scheduled Area) Act 1996, in its letter and spirit across Scheduled Areas with special focus to secure land and livelihood rights
- Introduce and execute Land Tribunals and Fast Track Courts for resolving land disputes and ensure legal services to the marginalized communities
- Ensure strong enforcement of the 'Consent' and 'Social & Environmental Impact Assessment' provisions of Land Acquisition Act (2013)
- Introduce and execute National Tribal Policy and ensure constitutional safeguards to the community

# LGBTQ Promises and Reality: Being LGBTQ in India

Whither LGBTQ  
in the sabka  
saath-sabka  
vikas mantra?

Prejudices and violence against the Lesbian/Gay/Bisexual/Transgender/Queer (LGBTQ) communities in India has gone unchallenged under the cover of section 377 of the Indian Penal Code (IPC) which makes sex with persons of the same gender punishable by law. Members of the LGBT communities bear with untold forms of social and economic exclusion, discrimination and rights violations and legal recourses are a thing of the recent years. The Transgender Persons (protection of rights) introduced in the Lok Sabha by the Ministry of Social Justice and Empowerment in 2016 is flawed in many ways. Despite continuing social and economic exclusions and human rights violations against members of the LGBTQ community, the government is not taking up the bill with urgency. The following review is a summary of legislative and policy decisions at the national level regarding the rights and issues of those individuals marginalized on the basis of their gender identity and sexuality.

Justice K.S. Puttaswamy (retd.) vs Union of India (Right to Privacy judgement) and people with diverse sexual orientation: On August 24, 2017, a nine judge bench of the Supreme Court, led by Chief Justice Khehar, unanimously ruled that the right to privacy is a fundamental right of all Indians in that it is subsumed under the right to life and liberty, which are inalienable rights protected under Article 21 of the Indian constitution. The landmark ruling stated that privacy and personal liberty extends to individual autonomy and the right to govern personal choice, further clarifying that sexual orientation is an "essential attribute of privacy." Justice DY Chandrachud, one of the nine judges, said, "Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone." The ruling stated that discrimination on the basis of an individual's sexual orientation was "deeply offensive to the dignity and self-worth of the individual," and that the right to sexual orientation lay at the core of the fundamental rights guaranteed by Articles 14, 15, and 21 of the constitution, i.e. equality before law, right to anti-discrimination, and right to life and personal liberty respectively.

Section 377 of Indian Penal Code: This ruling further clarified the bench's view on arguments made in the 2013 case Suresh Kumar Koushal and Another v. NAZ Foundation and Others which ruled Section 377 of the Indian Penal Code to be constitutional. The 2017 right to privacy ruling stated that the rights of the LGBTQ community are not "so called" but real and that sexual orientation is an inherent component of identity. The ruling also dismissed the 2013 Koushal argument that the LGBTQ community constituted a "miniscule minority" (wherein a few individuals were prosecuted in comparison to majority) as a flawed premise and that it was in fact hindering the "fulfilment" of one's sexual orientation - an element of privacy and dignity. Having overruled the Delhi High Court's landmark judgement in 2009 regarding Section 377 by declaring Section 377 constitutional in the case Suresh Kumar Koushal and Another v. NAZ Foundation and Others in 2013, the Supreme Court agreed, in 2016, to hear a curative petition on the same in response to writ petitions that were filed.

While the curative petition is still pending, in January 2018, the Supreme Court issued a notice on the writ petition filed in 2016 by five gay and lesbian celebrities (Navtej Singh Johar and Others v. Union of India) and referred it to a larger bench. Besides, Supreme Court admitted two separate pleas by Arif Jafar and Keshav Suri, and a petition by a few individuals from The Humsafar Trust and placed it before the constitutional bench (along with Navtej Singh

Right to Privacy a Fundamental Right, Says Supreme Court in Unanimous Vote, 2017.

*Justice K.S. Puttaswamy and Anr v. Union of India and Ors*, 2017.

Right to Privacy verdict: By terming sexual orientation an 'essential attribute', SC brings cheer to LGBT rights, 2017.

*Justice K.S. Puttaswamy and Anr v. Union of India and Ors*, 2017.

Ibid.

Ibid.

Supreme Court to Reconsider, Review Section 377 of IPC: Apex Court's 2013 Judgement Upheld Criminality of Gay Sex, 2018 and SC admits please to quash Section 377

Johar and Others v. Union of India). It also issued a notice to the Centre seeking a reply from the ministries of law and Justice.

**The Transgender Persons (Protection of Rights) Bill:** The Bill was introduced in August 2016 by the Ministry of Social Justice and Empowerment (MSJE) as an alternative to the Rights of Transgender Persons Bill, a private member bill introduced by MP Tiruchi Siva that was passed unanimously in the Rajya Sabha in April 2015 following the 2014 NALSA judgement by the Supreme Court granting transgender their fundamental rights and self-determination of gender.

The initial draft of the 2016 MSJE Bill grossly undermined the NALSA judgement in that it conflates the definition of a transgender person with an individual with intersex variations and did not allow for self-determination of gender, requiring a bureaucratic process to certify one's gender as transgender. Furthermore, the bill did not outline a clear definition of discrimination or recognize the various ways in which transgender individuals are discriminated against. It is telling of the government prejudices that MSJE bill did not incorporate the positive understanding that was already available in Tiruchi Siva's 2015 Bill.

The bill, in its problematic state, was introduced in the Lok Sabha's winter session on August 2, 2016. In October 2016, in the wake of strong critique and protests by various citizens groups and NGOs, the Lok Sabha's Standing Committee related to the MSJE invited feedback on the bill. The Standing Committee released its report on July 21, 2017. While the report recommends that the bill define discrimination, include private and public institutional discrimination within that definition, and outline a redressal system for those discriminated against, the report and the bill remain highly problematic. In addition to using pejorative/derogatory language such as "eunuch," the report does not address the conflated definition of transgender, the medical screening committees that take away individuals' right to self-determination of gender, the need for livelihood schemes and employment opportunities, and the criminalization of begging among other issues. The bill is currently pending in Parliament as of April 2018.

**Anti-Discrimination and Equality Bill:** Member of Parliament (MP) Shashi Tharoor introduced the Anti-Discrimination and Equality Bill (2016) in the Lok Sabha in March 2017. This bill seeks to comprehensively address the various forms of discrimination faced not only by those individuals marginalized on the basis of gender identity and sexuality but also by Dalits, Muslims, disabled persons, people from the North Eastern regions of India, and other individuals oppressed or persecuted based on identity. Despite the urgency of its necessity, the bill remains pending in the Lok Sabha as of April 2018.

## Recommendations

- The Transgender Persons (Protection of Rights) is in urgent need of revision that brings the text in line with the 2014 NALSA judgement, correctly define "transgender," provide a definition of and means of redressal for various types of discrimination, do away with medical screening committees that propose to provide individuals certifications of their transgender identity, decriminalize begging, and address the various other issues brought before the Standing Committee by concerns citizens groups and NGOs.
- The Supreme Court must hear the curative petition for Section 377 and respond to the various writ petitions submitted regarding this matter. The bench hearing the curative petition must take into account the right to privacy judgement that states that right to sexual orientation is an element of privacy and dignity, i.e., a fundamental right.
- The Lok Sabha must move forward on the Anti-Discrimination and Equality Bill and seek to address the urgent need for such a bill.

## References

- First Post (January 9<sup>th</sup>, 2018): Supreme Court to Reconsider, Review Section 377 of IPC: Apex Court's 2013 Judgement Upheld Criminality of Gay Sex (<https://www.firstpost.com/india/supreme-court-to-reconsider-review-section-377-of-ipc-apex-courts-2013-judgment-upheld-criminality-of-gay-sex-4292727.html>)
- First Post (August 24<sup>th</sup>, 2016): Right to Privacy Verdict: By Terming Sexual Orientation an 'Essential

Attribute,' SC Brings Cheer to LGBT Rights (<https://www.firstpost.com/india/right-to-privacy-verdict-by-terming-sexual-orientation-an-essential-attribute-sc-brings-cheer-to-lgbt-rights-3969307.html>)

- First Post (May 2<sup>nd</sup>, 2018): SC judgment on privacy was catalyst: Humsafar Trust's Ashok Row Kavi on petition to quash Section 377(<https://www.firstpost.com/living/sc-judgment-on-privacy-was-catalyst-humsafar-trusts-ashok-row-kavi-on-petition-to-quash-section-377-4453715.html>)
  - India Today (August 26<sup>th</sup>, 2016): Surrogacy (Regulation) Bill 2016: 12 Facts about the Bill Banning Commercial Surrogacy (<https://www.indiatoday.in/education-today/gk-current-affairs/story/surrogacy-bill-337358-2016-08-26>)
  - Justice K S Puttaswamy (Retd.) and Anr v. Union of India and Ors([http://supremecourtindia.nic.in/pdf/LU/ALL%20WP\(C\)%20No.494%20of%202012%20Right%20to%20Privacy.pdf](http://supremecourtindia.nic.in/pdf/LU/ALL%20WP(C)%20No.494%20of%202012%20Right%20to%20Privacy.pdf))
  - LiveLaw (May 1<sup>st</sup> 2018): SC Notice To Centre On Fresh Pleas For Scrapping Sec 377 IPC And Legalise Homosexual Acts(<http://www.livelaw.in/sc-notice-to-centre-on-fresh-pleas-for-scrapping-sec-377-ipc-and-legalise-homosexual-acts/>)
  - Orinam ([www.orinam.net](http://www.orinam.net)): The Transgender Persons (Protection of Rights) Bill, 2016 (<http://www.orinam.net/resources-for/law-and-enforcement/trans-persons-protection-rights-bill-2016/>)
  - Orinam ([www.orinam.net](http://www.orinam.net)): First as Apathy, Then as Farce: The Transgender Persons (Protection of Rights) Bill, 2016 (<http://www.orinam.net/apathy-farce-trans-rights-bill-standing-committee-report/>)
  - PRS Legislative Research ([prcindia.org](http://www.prsindia.org)): The Surrogacy (Regulation) Bill, 2016 (<http://www.prsindia.org/billtrack/the-surrogacy-regulation-bill-2016-4470/>)
  - PRS Legislative Research ([prcindia.org](http://www.prsindia.org)): The Transgender Persons (Protection of Rights) Bill, 2016 (<http://www.prsindia.org/billtrack/the-transgender-persons-protection-of-rights-bill-2016-4360/>)
- The Wire (August 24<sup>th</sup>, 2017): Right to Privacy a Fundamental Right, Says Supreme Court in Unanimous Vote (<https://thewire.in/law/supreme-court-aadhaar-right-to-privacy>)

# Media NDA-II legacy in the shadow of a general election

Modi years have  
registered  
the sharpest  
decline  
in media freedom

Last year's story of the Indian media is best understood against the backdrop of structural changes in the sphere of public expression that the Narendra Modi government began in May 2014.

During the April 2017-April 2018 period, four decisive calibrations took place:

- Personalisation of politics;
- Adoption and expansion of high-tech means of communication to create supportive public;
- Deep control of media information; and,
- Coercion of independent media along with intimidation of journalists.

## Personalisation of politics

Modi's projection as the guarantor of everyone's "*achche din*" ("*Sabka Saath, Sabka Vikaas*") had conspicuously marked his electioneering in 2014. It was the most expensive poll campaign that India, perhaps the world, had ever seen. The BJP politician's speeches then had sent out many subliminal messages that signaled future communal polarisation. But the mainstream media, overwhelmed as it was by the Modi magic, did little to tell voters about the possible consequences that a creeping Hindutva would have on India's democratic order.

This uncritical reportage continued after Modi became the Prime Minister. The personality-centred trope "*Abki baar, Modi Sarkar (This time, it's Modi government)*" got translated into a distinct style of government where personalisation of politics combined with centralisation of political authority. All major decisions and policy changes made by the government now bore Modi's imprimatur. Launch of the Swachh Bharat Abhiyan, the new government's first important project, was a case in point. The Prime Minister himself wielded the broom symbolising the cleanliness drive; the display board on the stage showed only two faces, those of Mahatma Gandhi and Modi; the prime ministerial speech self-constructed his persona as synonymous with the country at large: "This is not about Modi... Modi is only one of its 1.2 billion people... This is a people's task." News media have internalised this Modi-centred projection ever after. News of Modi's campaign in Karnataka were couched in terms like "BJP unleashes its *Brahmastra* (Lord Brahma's weapon)", used in the most uncritical way.

Such high degree of personalisation/centralisation would not have been possible without a carefully crafted communications strategy spearheaded by the BJP's eponymous IT cell, comprising techies and volunteers using their downtime to buttress Modi's profile and undermine those framed as his enemies. Deliberate use of fake content was part of this method.

## High-tech communication

The first calibration dovetails into the second. The adoption and expansion of high-tech means of communication had a very clear aim: to create supportive publics. A combination of communication technologies, from old to new and from distant to immediate, was used to achieve this.

*Mann Ki Baat*, Modi's monthly radio broadcast that began in October 2014, reached out to schoolchildren and pensioners alike. By 2015, the "people-centric website" [mygov.in](http://mygov.in) and a NaMo Mobile App were installed to enhance a feeling of virtual intimacy between users and the prime minister. User bases of both platforms run into hundreds of millions. They bridge many other media platforms used by the Prime Minister to create a "360 degree media strategy" for different uses and categories of supporters. Recently, all major news channels aired Modi's Karnataka election commentary put out through the NaMo App.

## Content control

Technology embrace has surely led to an iron grip over what the media can relay. Since Indira Gandhi's 22-month emergency rule from June 1975, no government other than Modi's has ever shown such enormous appetite to achieve content control. Income Tax raids on NDTV last June or information and broadcasting minister Smriti Irani's move to fight "fake news" by snatching journalists' accreditation are two recent examples of this. The moves to tighten the screw on the media are being undertaken when editors are sparing no effort to prove their loyalty to the ruling dispensation. Last July, a report of Amit Shah's income having increased by 300 per cent since 2012, which appeared on the *Times of India* website, vanished into thin air soon.

The Right to Information is recognised as a fundamental right. Yet, one of the first instructions issued to ministers and bureaucrats after the Modi government came to power was to keep away from interactions with the media. Recently, the Prime Minister himself enjoined his colleagues not to give "masala" to the media. So far in four years, Modi has not held a single genuine press conference.

The Prime Minister often chooses to keep quiet even when incidents that need a response from the top political authority happen — be it a murderous vigilante attack, a riot-instigating hate speech or a multi-crore swindle. When Modi does speak, he couches his words in generalities, and they invariably come too late. This pattern was as evident during the Dadri lynching of 2015 as it was after the gang rape of an eight-year-old Bakerwal girl in Kathua this year.

The Prime Minister's response to instances of financial malfeasance has been no different. He never said a word after the media reported that the turnover of a company owned by Amit Shah's son, Jay Shah, rose 16,000 times in the year following Modi's coming to power. His silence remains unbroken even on the Rs 11,380-crore scam involving diamond merchant Nirav Modi. Handpicked editors, granted face-to-face interviews with him, never pose difficult questions. These interactions once again showcase Modi's supposed aura.

Such inversion of the adversarial role to the ruling elite, the hallmark of an independent media, can be traced directly to two prevailing realities. The corporate-centric business model that now marks most media houses; and the capture of a large number of influential media platforms by corporate entities, even as major media houses seek to corporatise themselves by setting up business concerns. Within this framework, complementary interests are easily reconciled. The monochromatic, pro-corporate, pro-establishment coverage that emerges from such a nexus also reflects the strong monopolies that have emerged in this sector. Thanks to poor regulation of cross media ownership, a few private media houses now control a large number of media platforms from newspapers and television to websites and news portals — all of which tend to feature similar content. In the process, the plurality and diversity that define a vibrant media stands compromised. The last year report of the parliamentary committee on information technology specifically observed that the emergence of vertical monopolies and cross-media holdings have "serious implications for print and electronic media" and they should not simply be left to market forces.

## Coercion and intimidation

The most disturbing calibration is the open coercion of independent media and the systematic intimidation of journalists. Very early on in this regime, a prominent minister used the term "presstitutes" to define journalists. This indicates more than just the intemperate nature of a particular functionary, it reflects the contempt the regime has for journalists.

The murder of Gauri Lankesh, editor of the *Gauri Lankesh Patrike*, in September 2017, was a profoundly tragic moment for Indian journalism. That it happened under Modi's watch speaks volumes for how a brand of politics can render the constitutional right to freedom of speech and expression redundant. Lankesh's killing resulted from a deliberate design to cultivate communal agenda for political purposes. It was also a part of the careful nurturing of constituencies of hate that has come to mark mainstream politics. This became evident after those who put out the most vicious tweets celebrating her murder were found to be part of a network of trolls encouraged by the government. One of them, Nikhil Dadhich, who is among the 1,859 Twitter users that Modi was following at that point, had tweeted: "A bitch died a dog's death and now all the puppies are wailing in the same tune." Not a word of condemnation came from the corridors of power. Other journalists were eliminated too, including two in poll-

bound Tripura in 2017. The deaths of two others — mowed down while riding motorbikes in Bihar's Bhojpur and the Madhya Pradesh's Bhind this March and April respectively — are suspected to be targeted killings.

A general culture of communal permissiveness has manifested itself in different ways. There has, for instance, been the free circulation of the most extreme hate content in the social media such as the video that was uploaded by Shambulal Regar showing him hack Mohammed Afrazul, a Muslim migrant worker, to death and burn his body in order, he argued, to uphold Mewar pride and fight "love jihad".

Simultaneously, incidents of assault, intimidation and elimination of mediapersons have sharply escalated. The last year has seen the wielding of multi-crore SLAPP (Strategic Lawsuit Against Public Participation) suits to gag independent reporting and managements being pressured to dismiss editors courageous enough who speak truth to power. The mysterious exit of a senior editor of the *Hindustan Times*, who had introduced a feature that audited hate crimes in the country; the summary treatment accorded to the editor of the *Economic and Political Weekly* for his relentless investigation into the affairs of the Adani group, known for its proximity to the Prime Minister; and, most recently, the resignation of a respected editor-in-chief of *The Tribune* for a report on how vulnerable the Aadhaar system is to data leaks, were just three of the more high-profile sackings that took place over the last 12 months.

Disciplining journalists is clearly viewed as politically important for the government and its large army of "influencers", and covers the entire spectrum from detaining journalists for Facebook posts — a recent case involved the booking by the Chhattisgarh police of Bastar-based Kamal Shukla under the sedition law for a cartoon that lampooned the government and judiciary — to the shocking instance of the trolling of woman journalist and author Rana Ayyub through the use of the vilest fake content in order to demoralise her and delegitimise her work.

One of the biggest stories of the last 12 months concerned the mysterious death of Justice Brijgopal Loya, who was presiding over a sensitive case that could potentially implicate Amit Shah, considered the second most important man in the country, as well as senior police officers of Gujarat. The treatment meted to that story, broken by one of the more courageous media institutions left standing by other media platforms, is telling. *NDTV* and *The Indian Express*, two of the supposed "independent" news organisations, even carried reports that tried to discount it. Whether or not this was done at the government's behest will never be known. The same institutions, which should have seriously scrutinised the case, reneged on their responsibilities, with even the Supreme Court dismissing a petition seeking investigation into the death as a "*spate of scurrilous allegations*".

The cumulative impact of these four years on the media can be summed up telegraphically by two figures. In 2010, India stood 122nd in the World Press Freedom Index, an annual ranking conducted by Reporters Without Borders. Today, eight years later, it occupies the 138<sup>th</sup> spot. Admittedly, some of this decline happened under the Congress-led UPA. Who can forget how two young women were arrested in 2012 for a Facebook post criticising the funeral arrangements for Shiv Sena supremo Bal Thackeray? But there can be no disputing that the Modi years have registered the sharpest decline in media freedom.

What is disturbing is that the Prime Minister can still present himself as a staunch upholder of media freedom and tweet the words "A free press makes a stronger democracy!" on World Press Freedom Day without any sense of irony. What is worrying is that the value of independent, courageous journalism continues to be rarely understood and even more rarely defended by ordinary citizens. How much has been lost because of the lack of credible news gathering and editorial independence has not been sufficiently emphasised in strategies of resistance to Hindutva politics by civil society activists.

The lack of critical engagement with the media content has today reached a point where the distinction between truth and fake news has been erased and it no longer seems to matter for many living in their own bubbles of information coming in through WhatsApp texts and Facebook posts. This is a slippery slope that could lead directly to an authoritarian, hegemonic, upper caste/class political order driven by the RSS's majoritarian agenda.

If the BJP-led government can be credited for anything, it is in making us realise that the media constitute one of the biggest crises facing India today.

# Minority Communities : Reeling under Violence in the NDA regime

Lynching, impunity and the abdication of governance

The past four years of the NDA government has been a time of communal polarization and violence that have bruised both the Constitution and the psyche of the country. A wave of lynching of Muslim men, specially youth, and several Dalits on the suspicion that they may have slaughtered a cow, carried its meat or cooked beef, marked the peak of violence against Muslims and Christians. The period is also marked by hate campaigns by state and non-state actors, including several ministers of the union and state governments and senior functionaries of the BJP party. Aggravating it is state impunity, official collusion in harassment, and the use of the Freedom of Religion act to create threat and fear, even as India is a signatory to United Nations and other international declarations, covenants, and treaties on this most fundamental of human rights. The BJP has also become the first ruling party since independence without a single Muslim MP in the Lok Sabha. In the 2017 Uttar Pradesh and Gujarat elections, it didn't field a single Muslim candidate.

## Lynching becoming new norm

Over 90 lynchings have taken place in India in the last four years, including of civilians and soldiers in troubled Kashmir and men and women suspected by mobs to be thieves, witches or child lifters. The last 18 months have seen 24 lynching connected with the issue of cow slaughter or suspected smuggling of cattle in the northern states. Karawan-e-Mohabbat, a civil society initiative, in 2017-18, traversed the breath of the country from Guwahati in Assam to Gujarat visiting every family where sons or husbands had been lynched. The members of the team reported how they were struck by the isolation of the terrified families of the victims, the arrogance of the police which routinely filed criminal cases against survivors. An obnoxious accompaniment of the murder was its filming, mostly by mobile phone cameras, which was then transmitted through social media and Apps such as WhatsApp and You Tube. "Are Muslims no longer allowed to keep cows in India," a Muslim asked the Karawan in Mewat in the state of Haryana.

In his article on lynching, Asgar Qadri wrote: The more pressing question then becomes the how, not the what, of the question: how do ordinary members of a nation, in large numbers, come to acquire the cognitive frames that motivate them to lynch? For the lynching to become routine in the way they have in India, a considerable number of a nation's members must come to harbour a willingness to be potential killers. It is only then that a regime can tap into this willingness and provide the institutional environment in which free will, translates into practice. Social scientists have noted that the wave of lynching, and "the near-normalisation of the scenes of crowds flogging Muslim men," has marked a new low for India's democracy.

In his extensive writings following the spate of lynching, Harsh Mander wrote "Muslims are today's castaways for virtually every political party -political orphan with no home. This despite India being home to a tenth of the world's Muslims, around 180 million people, making it the largest Muslim country after Indonesia and Pakistan. There has never been a harder time to be a Muslim in India, not since the stormy months that followed India's Partition. But today the large majority of Indian Muslims feels even more profoundly alone and abandoned. Open expressions of hatred and bigotry against Muslims have become the new normal, from schools to universities, workplaces to living rooms, internet to political rallies. Even worse, they're forced to live with the everyday fear of hate violence."

## Violence against minorities

There has been consistent mis-match in the reporting of communal riots and other crimes against minorities between the National Crime Record Bureau (NCRB) and the Ministry of Home Affairs. In 2016, NCRB recorded 869 cases of communal riots, while the Home Ministry reported 703 cases. The NCRB reported 336 cases of “offences promoting enmity between different groups” in 2014, of which 323 were offences for promoting enmity between groups based on—among other things—religion and race. In 2015, the corresponding numbers were 424 and 378, respectively. In 2016, 478 cases “offences promoting enmity between different groups” were reported by NCRB, of which 447 were offences promoting enmity between groups based—among other things—on religion and race. The home ministry reported 63 communal incidents in Rajasthan in 2016. NCRB did not report any communal incident case in Rajasthan in 2016 while it reported 22 cases of promoting enmity between groups. NCRB gets the data from state police departments, and these data are based on the sections mentioned in the First Information Report (FIR) of the cases filed. For 2014, in states such as Haryana, Jharkhand, Tamil Nadu and West Bengal, the NCRB numbers were significantly higher than the ones reported by the home ministry. But in states like Karnataka, Madhya Pradesh, Rajasthan, Gujarat & Uttar Pradesh, the home ministry numbers were higher than those reported by NCRB.

Muslim and Christian organisations have condemned the violence on their communities. The Christian community has seen a total of at least 1500 incidents of targeted violence against its clergy, believers and religious institutions including big and small churches in cities, towns and villages in India. Cardinal Baselios Cleemis, president of the Catholic Bishops' Conference of India (CBCI) raised serious concerns after a group of Christmas carol singers in Satna, Madhya Pradesh were attacked.

News Portal India Resists, which monitors the Sikh situation, noted that the Rashtriya Swayam Sewak Sangh leaders consider Sikhism and Buddhism as part of the Hindu fold, an idea that is vehemently denounced by Sikhs and Buddhists. “Tensions between all these groups and the BJP government have grown rapidly,” it noted.

## Hate speeches inciting violence

The ruling party's senior leaders were repeatedly recorded spewing hate and fanning communal tensions especially when an election was in the offing. The appointment of Yogi Adityanath in 2017 as the Chief Minister of Uttar Pradesh was least expected. A five-term member of the Lok Sabha, he was known for hate speeches inciting violence against the Muslim community. He has been caught on camera when he exhorted a cheering crowd: “If they kill one Hindu, then we will kill 100 Muslims.” He is reported to have said that Mother Teresa was part of the conspiracy to Christianize India. Yogi Adityanath has a number of First Information Reports, and cases filed against him by the police, either directly or indirectly, for attempt to murder, rioting, carrying deadly weapons, defiling a place of worship, trespassing on a Muslim graveyard, and promoting enmity between two religious groups. The UP government discharged him from all cases saying they were filed by the preceding government as acts of political vendetta.

In the Gujarat elections, Shailesh Mehta, who won on a BJP ticket from the Dabhoi constituency, in a campaign speech in Dabhoi, advocated the reduction of the Muslim population, “If any 'topi, daadiwala' [anybody wearing a cap and sporting a beard] is sitting here (in the crowd), pardon me, but there is a need to reduce their population. Many leaders asked me not to say this, as it may go against me, but if 90 percent of people are supporting me, why should I stop speaking about the 10 percent people?” (NDTV report).”

While hate speech has been recorded earlier and in several political parties, the victory of guilty candidates points to an ugly new trend in Indian electoral politics. In 2016, an IndiaSpend analysis of politicians and their criminal records uncovered the disturbing fact—candidates accused of hate-speech were thrice as likely to win as their non-criminal counterparts. At the time, 28 sitting MPs and MLAs of the BJP party had hate-speech cases against them—the highest of any political party. The second place went to the TelanganaRashtraSamiti (TRS), with nine cases, and the third place to the All India Majlis-e-IttehadulMuslimeen (AIMIM) with six. The Indian National Congress had three. Citizens expected that the Prime Minister would have taken more immediate and stringent actions against these violations.

## Violence against the Christians

It has been a painful four years for the Christian community, but 2017 and the first four months of 2018 has been most traumatic. The Religious Liberty Commission of the Evangelical Fellowship of India, which lists cases of persecution and runs a national helpline in conjunction with the United Christian Forum and the Alliance Defending Freedom India, documented at least 351 cases of violence in 2017, by no means an exhaustive compilation as it is based on voluntary reporting and civil society investigations. They fear that many cases go unreported either because the victim is terrified or the policeman a blind eye and refuse to record the mandatory First Information Report. On an average, 250 incidents have been recorded and verified each year.

An analysis of just the 2017 data shows Tamil Nadu emerge as the most hostile state where Christian are concerned, with 52 cases. Uttar Pradesh with 50 is a close second, and Chhattisgarh, 43, Madhya Pradesh, 36, Maharashtra, 38, are bunched together. The National Capital of Delhi, its police controlled by the national government, recorded 6 cases. Barring Tamil Nadu, the other states are either ruled by the BJP directly or in collusion with other parties. The Tamil Nadu violence has a disturbing overlay of caste discrimination, and the victims largely come from the so called lower castes in villages where the dominant groups object to prayer houses and even the entry of Christian religious leaders. While the violence is evenly spread across the months of the year it is more severe during the prayerful period of lent and Christmas which involves larger participation of people. April saw 55 cases and Christmas month 40. Internationally the World Watch List 2017 ranks India 15th worst among nations where Christians are persecuted. Four years ago, India ranked 31st on the list.

Christmas 2017 was unique in that it saw a considerable targeting of carol groups, independent pastors and even clergy and women religious among the victims. In Satna in Madhya Pradesh where carol singers were arrested after a man accused them of trying to convert him to Christianity. The state is one of six others with strict anti-conversion laws in India. One of those arrested was a professor at a theological college. The group said it was only visiting villages to sing carol songs, something they have done for years. A car used by the carol singers was also set on fire. The priest-professor and others had to spend several days in jail before they were let out on bail.

Christian children have also been victims. A group of Christian children travelling for church functions was attacked by Hindu Dharm Jagran Manch activists, and it was more than a week before the Madhya Pradesh High Court handed over the children to their parents. A habeas corpus petition had been filed before the Indore bench by the parents who contended that the children were going to Mumbai to attend a Bible-reading session with their consent but were illegally detained and kept at a secret location.

Frightening aspects of this violence is rapes, particularly of Catholic nuns, and other gender violence. At least three cases of rape were recorded, including on Nuns. Recent years have seen an increasing trend to polarize the people in villages, leading to social exclusion, ostracisation and denial of employment and social services. Protests by Christian groups against persecution in New Delhi have been brutally crushed. Agitators, including nuns and other women, clergy and professions have been cane-charged, dragged to police vans and detained.

Government organizations, including the National Commission of Minorities, have expressed their helplessness in the matter. Many government structures and functionaries, including in the State Minority and human rights organizations, are enmeshed in bureaucratic red tape. Most such organizations consist of political appointees reluctant to take affirmative action.

The persecution of Christians in India is also rooted in highly bigoted laws that have invited international scrutiny, including by the Special Rapporteur for Freedom of Religion and Belief of the United Nations Human Rights Council. The prime among them is Article 341 Part 3, which effectively criminalizes conversion of Indian citizens of Christianity and Islam, its punitive measures denying the country's 180 million Dalit population [once described as untouchables till the term was outlawed] all affirmative action including reservations in legislatures, government employment and institutions of higher learning.

The Freedom of Religion act operative in 6 states not only robs Tribals and Dalits of their rights to Freedom of Faith; some of them have punitive measures against pastors connected with the people. Most dangerously, the anti-conversion laws seem to provide a 'carte blanche', or licence to non-state actors to target Christians and their institutions.

# Minority communities and religious freedom

Legislations need to protect not violate religious freedom of minorities

India over the last four years has witnessed a sharp increase in the communal and targeted violence. According to data presented before the parliament by the Ministry of Home Affairs, communal incidents increased 28 percent over three years. 822 "incidents" were recorded in 2017, which led to as many as 111 people being killed and 2,384 others were injured.

## Culture of impunity

The violence against religious minorities is set in a backdrop of frequent speeches by senior political leaders inciting violence and in a culture of impunity, which allows the mob violence to continue unabated. Furthermore, laws which purportedly were enacted to protect the freedom of religion are being misused to target religious minorities and restrict basic human rights such as the freedom of religion and association.

The violence against religious minorities is further compounded by the failure of the police to take necessary measure to curb the violence and the shoddy investigation and prosecution of individuals who actively engaged in mob violence. In July 2017, the Supreme Court came down heavily against the Madhya Pradesh police for failing to produce relevant evidence before the trial court highlighting the role of the accused in a case of mob violence against members of a minority community

In a report on the Muzaffarnagar gang-rape survivors' struggle for justice, Amnesty International India highlighted the complete failure of the police to protect the victims and to take necessary action against the accused. Media reports also suggested that the prosecution of the accused was also undertaken in a very casual manner. As on March 2016, of the 1,475 accused arrested in cases of murder, rape, arson and dacoity only 37 are behind bars. Thirty-nine of the accused have been acquitted and the others are out on bail. Furthermore, instead of taking firm action based on the observations of the supreme court to rectify the failures of the prosecution and the police, the Uttar Pradesh government in March 2018, initiated the process of withdrawing 131 cases - all naming Hindus as the accused - including 13 murder and 11 attempted murder cases, related to the mass violence in the cities Muzaffarnagar and Shamli in 2013.

In violence against the Christian minority community, faith based human right organizations recorded over 800 incidents in the past four years. Out of 29 states in India, at least 16 states regularly witness attacks on Christians. Chhattisgarh topped the list, followed by Tamil Nadu, Uttar Pradesh, Madhya Pradesh and Maharashtra. Bihar, Delhi, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Punjab, Telangana, Uttarakhand and West Bengal are the other states which were susceptible to violence against Christians. The states of Chhattisgarh, Tamil Nadu, Madhya Pradesh and Uttar Pradesh accounted for over 50% of the incidents recorded. The incidents of violence included ghar wapsi; refusal to grant permission to establish and run places of worship; false accusation of forceful and fraudulent religious conversions: physical and verbal assault on church pastors and members; damage and desecration of places of worship and arson; disruption of prayer services and restrictions on religious gatherings.

Some local gram panchayats in Chhattisgarh, passed official orders which prevented non-Hindus to enter the village and conduct any prayers or religious gatherings. Local Christians were also under tremendous threat and pressure to refrain from practicing their religious faith. In Madhya Pradesh, catholic institutions were threatened by local student bodies, allegedly under the influence of the ABVP, to conduct prayers for Bharat Mata and to install a painting depicting Bharat Mata.

## Legal restrictions, draconian laws and arbitrary action

Freedom of Religion Acts, more commonly known as anti-conversion laws were previously enacted at the state or province level in Odisha (previously known as Orissa) in 1967, Madhya Pradesh (1968), Arunachal Pradesh (1978), Chhattisgarh (2000), Gujarat (2003), Himachal Pradesh (2006). Despite these laws being present for over fifty years very few instances of conversion were reported or prosecuted. Compared to this, more states have passed the freedom of religion act in the past four years and cases and mob violence related to religious conversions have seen exponential increase in the past four years of the NDA government.

In August 2017, the Jharkhand Assembly passed the Jharkhand Freedom of Religion Act, which penalized conversion by force, fraud and allurement with penal provision of three years. If the person converted is a member of the scheduled caste/ scheduled tribe, a minor or a woman, the prison term would be four years, besides a fine. Furthermore, the law requires that anybody willing to convert on his own volition will have to inform the Deputy Commissioner and also give the details about the date, place of conversion and who supervised over it.

In December 2017, the Rajasthan High Court, in a Habeas Corpus petition relating to an inter-religious marriage, laid down 10 guidelines regulating religious conversions with far reaching consequences including the violation of the fundamental right of privacy, conscience, freedom of religion and equality. The judgment was pronounced in spite of the fact that the assent of the President of India is pending to a freedom of religion bill passed by the state legislative assembly in 2006.

In February 2018, the legislative assembly of Uttarakhand passed a Freedom of Religion Act. While official copies of the act are unavailable in public domain, according to media reports, the legislation "proposes an imprisonment of no less than two years in case of forced religious conversion of a minor, woman, or a person belonging to Scheduled Castes or Scheduled Tribes. It defines the term "convincing for conversion" as somebody making an individual or individuals agree to renounce one's religion and adopt another religion."

The Act further states "that any marriage, which was solemnized for the sole purpose of conversion by the man of one religion with the woman of another religion, may be declared null and void by the family court. It also stipulates any person who desires to convert one's religion, shall give a declaration at least one month in advance to the district magistrate. Such a person will also give a written undertaking that he/she wishes to convert his/her religion without any coercion.

Similarly, the religious priest, who performs purification sanskar or conversion ceremony "shall give one month's advance notice to the district magistrate". The official concerned, after receiving the information shall get an inquiry conducted through police "with regard to the real intention, purpose and the cause of that proposed religion conversion"

People taking the law into their own hands have also increased during this period. For instance, in Madhya Pradesh, on three separate occasions in 2017, in blatant abuse of the law, Christian children traveling in a train for a Christian camp were taken into custody at railway stations by the Railway Police on the grounds that the children were being "kidnapped to be converted." On May 22 and 23, 2017 nine elders and a minor were arrested by the Railway Police when they were accompanying 71 Christian children for a summer Bible camp to Nagpur from Indore. On June 3, a Catholic nun and four girls were detained at the Satna railway station. On October 21, two elders and seven children going for Bible Studies were detained and not allowed to meet the parents.

These instances bring deep sense of insecurity among the Christian community who cannot freely practice their faith in the state where anti-conversions laws have been enacted.

The UN Special Rapporteur on Freedom of Religion or Belief, noted in her report after a visit to India that, "Even in the Indian states which have adopted laws on religious conversion there seem to be only few – if any – convictions for conversion using force, inducement or fraudulent means. In Orissa, for example, not a single infringement over the past ten years of the Orissa Freedom of Religion Act 1967 could be cited or adduced by district officials and senior officials in the State Secretariat... However, such laws or even draft legislation have had adverse consequences for religious minorities and have fostered mob violence against them."

The report further stated that, "there is a risk that Freedom of Religion Acts may become a tool in the hands of

those who wish to use religion for vested interests or to persecute individuals on the grounds of their religion or belief. While persecution, violence or discrimination based on religion or belief need to be sanctioned by law, the Special Rapporteur would like to caution against excessive or vague legislation on religious issues which could create tensions and problems instead of solving them.”

## Speech inciting violence

Over the last four years, there was an upsurge in speeches made by political and social leaders inciting violence against religious minorities. In a report by NDTV it was stated that from May 2014 to the present, there have been 124 instances of VIP hate speech by 45 politicians, compared to 21 instances under UPA 2, an increase of 490%. The NDTV also found that little or no action was taken against political leaders who had engaged in speech that targeted religious minorities.

According to a report by Association for Democratic Reforms (ADR), a total of 58 Current Member of Parliament (MP) and Members of Legislative Assembly (MLAs) have declared before the election commission that they have cases related to speech inciting violence and hatred towards other communities pending against them. 10 Sitting Lok Sabha MPs and 17 MLAs with declared cases related to speech inciting violence and hatred towards other communities pending against them are from the BJP.

According to a report of Reporters with Borders, “In India hate speech targeting journalists is shared and amplified on social networks.” Senior BJP lawmaker Vinay Katiyar was reported in the media as saying that Muslims have “no business being in India” and they should go live in Pakistan or Bangladesh. And in Jharkhand, the Chief Minister claimed that those involved in conversions of tribals were behind the protests against the state government’s attempt to make an amendment in local land laws, relating to the protests against the amendments to the Chotanagpur tenancy act. The Government of Jharkhand in August 2017 published a full-page advertisement in many local newspapers misquoting Gandhi, denouncing Christian missionaries for their act of conversion and proselytising among Adivasis and Dalits.

### Recommendations to the Government of India

- Guarantee the safety and security of religious minorities: There should be a clear signal, from central, state governments and police, that the protection of the safety and security of religious minorities is vital aspect of the ethos of India.
- Enforce legal protections for religious minorities: In addition to ensuring the rights guaranteed in the Constitution, the Government of India should take strict measures to end the culture of impunity, ensuring that violations are effectively identified and appropriate and timely action is taken by police and the judiciary.
- The government should implement a process of education and training on rights of religious minorities among police and judicial officials.
- The legislature should actively identify and repeal various discriminatory laws and policies which curtail the freedom of conscience and the freedom of religion or belief.
- The government should take steps to strengthen human rights monitoring mechanisms, including the National Commission for Minorities and the National Human Rights Commission.

# Persons with Disability: Focus on the sector a must

Government's  
baby steps  
are not  
enough

Statistics lays reality bare. A good 2.21 per cent of India's population comprises persons with disabilities, shows Census 2011. About 63 per cent of them are non-working. Women with disabilities form 44.10 per cent of the total population with disabilities. Of this, 40 per cent have not attended any kind of school, while 3.44 per cent have studied till the graduation level. Data also shows that 69.49 per cent of the population with disabilities lives in rural areas, with 2 million households consisting of more than one person with disability.

After India ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2007, the process of enacting a new legislation in place of the existing Persons with Disabilities (PWD) Act, 1995 began in 2010. On December 28, 2016, the Rights of Persons with Disabilities (RPWD) Act was notified. This Act is a paradigm shift in the way disability is perceived. From a social welfare concern, the Act makes it a human rights issue. It lays stress on non-discrimination, full and effective participation and inclusion in society, and respect for difference and acceptance of disabilities as part of human diversity. The Act emphasises the right of children with disabilities to preserve their identities, and talks about equality in opportunities and accessibility.

It was encouraging when the Sustainable Development Goals 2015 were framed in consultation with the [global disability sector](#). Of the 17 goals, disability found mention in 11 goals.

Together, the CRPD, RPWD Act, and the SDGs should ensure a multi-sectoral and rights-based approach to include disability in government schemes which are, at present, replete with marginalisation.

## BJP manifesto

In its 2014 election manifesto, the Bharatiya Janata Party had a separate section for the "specially abled". When it came to power, the BJP kept its promise and enacted the RPWD Bill. State governments framed Central rules in this regard. The manifesto stated that the government would use technology to deliver low-cost and quality education to specially-abled students through e-learning. Data on its progress is not available yet.

The government initiated the Accessible India Campaign to make public places disabled-friendly. It promised to make at least 50 per cent of all government buildings in the national capital and all state capitals fully accessible to persons with disabilities. As many as 50 cities have been selected for the campaign. However, no step has been taken as yet to make public facilities and public transport easily accessible to the disabled.

The BJP manifesto promised maximum economic independence to the disabled by creating more income generation models for them. No data is available on this at present.

The BJP promised support to voluntary organisations working for persons with disabilities, but has not enacted any new scheme.

In its manifesto, the BJP stated that it would identify each special needs person across the country, establish a web-based disability registration system, and issue them universal IDs. This would help them avail government benefits in healthcare, jobs, education etc. This project has started in Madhya Pradesh, Odisha, Rajasthan, Maharashtra, Tamil Nadu, Kerala, Uttar Pradesh, Chhattisgarh, Jharkhand and Gujarat.

The government promised higher tax relief to the family member taking care of the disabled. There has been an increase in tax exemption of Rs 25,000 under Sections 80DD and 80U of the Income Tax Act for families having persons with disabilities.

The government has taken its political manifesto forward with some key initiatives. It has scaled up programmes

such as skill development and provision of accessible environment into the government's flagship programmes. It has set up the Sign Language Research and Training Centre, and released the Indian sign language dictionary comprising 3,000 words. In 2016, it launched the Sugamaya Pustakalaya, an online platform that makes content accessible to the visually disabled and people with other print disabilities. The library offers over 2 lakh books in diverse languages and integrates libraries across the globe, including the largest international library Bookshare.

The ministries of health and family welfare, human resource development, rural development, information and communication technology, and labour and employment have specific programmes that target persons with disabilities.

On the other hand, steps have been initiated in state-level institutional structures and legislation. States and Union Territories have appointed state commissioners for persons with disabilities. As many as 24 states have declared district collectors as deputy/additional commissioners, disabilities. All the state governments and UT administrations have constituted medical boards for issuing disability certificates in all the districts. The number of persons with disabilities who have been given disability certificates has improved. State rules associated with the Rights of Persons with Disabilities Act, 2017 have been notified by four states — Madhya Pradesh, Uttar Pradesh, Meghalaya and Bihar.

## Concerns and challenges

In four years of rule, the government's adherence to the manifesto has been minimal. The list of unfulfilled promises is long. Some are as follows:

- In 2014-15, the government promised that currency notes would come out in Braille.
- Heritage sites were to be made accessible to persons with disabilities in Goa, Maharashtra, Karnataka, Rajasthan, Gujarat, Varanasi, Jammu & Kashmir, Punjab and Hyderabad/Telangana. The promise was made in 2015-16.
- The government announced in 2016-17 that senior citizens living below poverty line would get assistive devices.
- Certain assistive devices, rehabilitation aids and other goods for persons with disabilities, and Braille paper was to be exempted of custom duty. This was promised in 2016-17.
- In 2017-18, the government announced that 500 railways stations would get lifts and escalators.

The apart, there are some key areas in the disability sector that need urgent attention.

**Urban focus :** With 69.49 per cent people with disabilities based in rural India, a strong rural and grassroots focus on disability inclusion in all government schemes is critical. The skill development programme, designed to cater to one lakh population in one year, is implemented in partnership with NGOs. But these NGOs are concentrated in towns and cities. The skill development programme also needs to address accessibility and reasonable accommodation as persons with disabilities are experiencing high restriction in participation.

Accessible India Campaign is yet to address rural and semi-urban areas. At present, only a few buildings are being audited for accessibility standards in urban areas. Modification of infrastructure to meet the universal design and accessibility standards is still pending.

Greater focus is required to create accessibility in processes and procedures around government schemes and programmes.

**Budgetary allocations :** The country is witness to two landmark legislation — RPWD Act and the Mental Health Act. However, the corresponding overall increase in budget allocation has been marginal. Budget allocation to the department of Empowerment of Persons with Disabilities has increased from Rs 855 crore last year to only Rs 1,070 crore this year.

The budget statement regarding women with disabilities also shows a disturbing trend.

**Implementation of RPWD Act:** At both national and state levels, the rules of the Act must reflect clear implementation strategies. However, till now, rules have been notified in only Madhya Pradesh, Uttar Pradesh, Meghalaya and Bihar. The Act lacks specific mention of sensitive and crucial provisions such as legal capacity (Section 13) and support to exercise one's legal capacity (Section 15). This may result in continuation of the existing discrimination.

The new legislation extends the number of disabilities from seven to 21. But the assessment procedures and allocation of resources for each of the 21 categories under RPWD Act are yet to be worked out.

Another proactive measure promoted by the Act is to provide speedy justice. Except in Assam, special courts have not been set up anywhere in the country.

Awareness drives to make persons with disabilities know their rights and to empower them must be initiated at state and national levels.

Information and technology such as websites, documents, circulars and notifications generated by the government must be made available in a format accessible to persons with disabilities.

**Access to benefits and schemes :** Registration of the Universal Disability ID (UDID) is a challenging exercise for many persons who have high support needs. The process mandates Aadhaar enrolment number, but acquiring it remains a strenuous process for many.

A recurring problem is denial of benefits of government schemes such as poverty alleviation programmes, disability maintenance allowance, and scholarship for children with disabilities.

The implication of GST is an overwhelming burden on persons with disabilities. Products and services that are required daily, and which minimise dependence on others are slowly becoming unreachable. For instance, products for communication and personal mobility such as battery for wheelchair, smart phones, writing material used by the blind, and walking canes are more expensive now.

**Gender and disability :** United Nation's Convention on the Elimination of all forms of Discrimination Against Women, or CEDAW, includes women with disabilities in its concluding observations for India. The focus is on accessible education and toilets in schools and public spaces. Since 2014, no proactive action has been taken to include women with disabilities in government programmes, policies or flagship campaigns. Swachh Bharat Abhiyan and Accessible India Campaign are two glaring examples.

Worse, women with disabilities lack access to justice in cases of gender-based violence and sexual abuse despite legal reforms and provisions since 2013.

**Engagement with DPO :** Some states engaged District Programme Officers (DPOs) to draft rules for the RPWD Act 2016. This helped attain a perspective on key issues for persons with disabilities at the grassroots level. Attention was given to areas such as health, education, housing, and economic empowerment.

So far, the focus has been on accessibility and skill development. Now, expansion is required and specific attention needs to be given to design vis-a-vis grassroots. This can be achieved by creating space for, and ensuring meaningful participation of persons with disabilities in planning and implementation processes at all levels.

A positive step is the incorporation of the recommendations by Apno Sansthan, DPO in Rajasthan, in the draft prepared by the government. These are currently under review. Some of the recommendations are:

- Formation of a drafting committee and inclusion of Apno Sansthan as its core member.
- Government to be responsible for ensuring houses to persons with disabilities.
- Appointment of a nodal person to handle issues related to education of children with disabilities.
- Allowance to persons with disabilities who have not received employment in two years despite being registered with the employment exchange.
- Monthly pension of persons with disabilities to be linked to inflation.

- Train government officials on the rights of persons with disabilities.
- Government to ensure awareness on the rights and entitlements of persons with disabilities across all districts.
- Establish special employment exchange offices for persons with disabilities.
- The post of State Disability Commissioner to be held by a person with disabilities.
- Equal opportunity to persons with disabilities in private companies with less than 20 employees.
- Representation of persons with disabilities in all government committees, be it at the state, district or block level.

Recommendations have also been made by a shadow reporting consultation on the United Nations CRPD with women with disabilities in Madhya Pradesh in April 2018. These are:

- Separate treatment to women with disabilities as their problems are different.
- Schools to be made accessible to persons with disabilities. These should have special teachers and books in Braille.
- Ramps in government and private schools, hospital, banks, bus-stands and all buildings.

After the RPWD Act increased the types of disabilities from seven to 21, members of DPOs and disability rights activists in Odisha demanded an increase in the number of trained professionals for the disability sector. Following this, the State Disability Commissioner directed the institution of a department of Disability Studies in all state universities. The Commissioner has also recommended that the "government should establish a training institute to produce special educators in the state to provide and promote inclusive education to differently-abled children with special needs."

## Key recommendations

- Since the primary responsibility in ensuring the rights of persons with disabilities lies with the Department for Empowerment of Persons with Disabilities, effective convergence with other ministries and departments is critical. There needs to be a mandate to ensure that this department functions as a nodal department to review government policies and programmes on disability inclusion. This also points to the need to develop a mechanism to ensure that all the policies and programmes in all departments and ministries are responsive to the issues experienced by persons with disabilities in accessing schemes and policies.
- Even though eight ministries have specific mention of persons with disabilities in their programmes, there is no data to understand their actual performance in disability inclusion. A policy needs to be developed that mandates all allocations towards persons with disabilities, which is disaggregated and presented as a separate statement at both the Union and sub-national levels.
- A multi-sectoral approach and specific focus is needed to tackle the issues of women with disabilities and their families and care givers. Convergence is essential in all departments under the ministries of human resource and development, social justice and empowerment, women and child development, drinking water and sanitation, health, urban development, and rural development. Interlinking of all their schemes is essential. Regardless of their disability, community, caste, and economic status, women with disabilities should get 5 per cent reservation in all Central and state government schemes. To ensure access to justice and compensation associated with gender-based violence and sexual abuse, it is important to implement the 2013 amendments, such as providing police and judicial trainings to create an enabling and supportive environment for the survivors with disabilities.
- It is crucial to converge all ministries and departments for the Accessible India Campaign. This apart, the accessibility compliance should be mandatory. Other flagship campaigns such as Swachh Bharat Abhiyan, and Education for All should run in consonance with the Accessible India Campaign as accessibility is not a mandate of the Department of Empowerment of Persons with Disabilities, and the Ministry of Social Justice and Empowerment alone.

- Accessibility should not be agenda only in the urban areas. In fact, it should be made mandatory in rural, semi-urban and slums as majority of the people with disabilities live in rural areas and are below poverty line. Accessibility to them means enhanced opportunities to education, livelihood, health facilities and quality life.
- The procurement policy should be amended to ensure that all procurement of works, goods and services are accessible to all persons with disabilities, including the creation of posts for sign language interpreters across all offices and services along with concrete guidelines and monitoring systems.
- The government should relook at the existing social protection programmes, including cash transfer programmes. The programmes should be reframed to include the disability additional cost and designed in such a way that it leads to social participation.

A policy that focusses on community-based inclusive development that addresses the issues concerning majority of population living in rural areas where services are not available.

# Renewable Energy : Look beyond laurels

A crucial player in the global climate fraternity, India must keep the promise of transforming to a sustainable world.

When the NDA government assumed office in 2014, Indians rejoiced over the expectation of “*acche din* (happy days)” while the world was enthusiastic about its promise of 175 GW of renewable energy by 2022. As the Narendra Modi government enters its last year, both promises remain largely unfulfilled. India is a power-surplus nation now. But this no longer inspires the renewable enthusiasts. The euphoria over renewable energy has subsided. The 175-GW target looks distant due to inappropriate policies, failure to attract investments, fund under-utilisation, and misplaced priorities.

A parliamentary standing committee recently expressed disappointment with the government's performance: “The committee observes that for the year 2017-18, against the target of 10,000 MW of grid-connected solar power, the ministry has been able to achieve only 6166.15 MW (40 per cent short of the target).” It said the government should have installed 32 GW of solar capacity by 2017-18. However, only 18.45 GW has been installed as of 31 January. In the rooftop solar segment, the committee is disappointed that only 953 MW has been installed, with the target for 2022 being 40 GW.

The committee observed that for the last two years, the Ministry of New and Renewable Energy (MNRE) had not been able to fully utilise the funds allocated to it. In 2015-16, 2016-17 and 2017-18 (up to December 2017), MNRE had utilised only 63, 65 and 70 per cent of funds respectively. With this performance, it seems unlikely that the government will achieve its target.

The barriers include confusion over the Goods and Services Tax. While GST on solar panels is 5 per cent, inverters attract 18 per cent and batteries 25 per cent. As India is already slipping to meet the renewable targets, overall allocations to MNRE have declined by Rs 326 crore (6 per cent) from last year's Rs 5,473 crore.

MNRE is also considering an import duty of 70 per cent on solar panels from China and Malaysia. While this could help domestic manufacturers, it would definitely slow down the solar market. India imports more than 38 per cent of its solar panels from China as it has not been able to build the national capacity to manufacture them. Such a drastic import duty would adversely impact our targets. The huge fall in solar tariff in India, hitting a new low of Rs 2.44 per unit in May 2017, was largely due to 80 per cent reduction in Chinese module prices.

There is an urgent need to examine the needs of the power sector and renewable energy to fulfill India's global obligations on climate change and energy, besides its national commitments.

## Global commitments

India is a signatory to the Paris Agreement adopted in November 2015. Under the agreement, it has committed to reduce emission intensity of its GDP by 33 to 35 per cent by 2030 over 2005 standards, achieve 40 per cent of power by non-fossil sources, and create a sink of 2.5 to 3 GT CO<sub>2</sub>e by afforestation on 5 Mha and improving forest quality on 5 Mha.

Under the Copenhagen Accord 2011, India had voluntarily committed to reduce its energy intensity by 25 per cent by 2020 over 2005 standards. India has also committed to scale up its installed renewable energy to 175 GW (100GW solar+65 GW wind +10 GW small hydro+5GW biomass) by 2022.

India has taken the following steps to meet the commitments:

- Prime Minister's Council on Climate Change constituted in June 2007
- National Action Plan on Climate Change launched in June 2008

- Expert Group on Low Carbon Strategies for Inclusive Growth (EGLCSIG) to provide recommendations for 12<sup>th</sup> Five Year Plan submitted its report in April 2014
- Union Budget 2010-11 introduced a clean energy cess of Rs 50 per ton on domestic and imported coal, and a National Clean Energy Fund was created from the proceeds. The cess was gradually increased to Rs 400 per ton
- Starting with petrol in 2010, subsidies on petroleum products have been significantly reduced. The subsidies on diesel were reduced in 2014. Restrictions have also been placed on subsidised LPG
- Ministry of Power (MoP) and Bureau of Energy Efficiency (BEE) introduced Perform, Achieve and Trade (PAT), a market-based “cap and trade” incentive scheme for energy-intensive industries, aimed at saving 6.886 MToe in 2012
- National Electric Mobility Mission Plan (NEMMP) 2020 was launched in 2013 to promote adoption of hybrid vehicles and electric cars. Union Budget 2015-16 earmarked Rs 75 crore for the faster adoption and manufacturing of electric vehicles (FAME) scheme
- In April 2015, government introduced a National Adaptation Fund for Climate Change (NAFCC) with an initial outlay of Rs 100 crore to support adaptation
- India has also introduced State Energy Conservation Fund, Renewable Purchase Obligation (RPO) for state electricity boards, Renewable Energy Certificates (RECs), standards and labeling programmes for household appliances and energy conservation building codes

## Performance on global commitments

Although more ambitious than the US, EU and China, except for renewable energy, India's climate commitments can be delivered without much effort. Climate action tracker notes that India will over-achieve its Nationally Determined Contributions (NDCs) with the existing policies. But several irritants need urgent attention:

**Renewable energy :** India has seen rapid growth in renewable energy. By 2017 end, renewables constituted 18 per cent of India's installed power capacity of 331 GW, up from 13 per cent in 2014. But this is much below what is required. During 2017-18, 4.8 GW was added as against a target of 14 GW. To stay on course, India will have to add 3 GW every month till March 2018, that is, a capacity equal to what it used to add in four months earlier. During 2016-17, as against the target of 16.66 GW grid connected installed capacity, it added only 11.3 GW, falling 32 per cent below the target.

During 2016-17, India added 5.5 GW of wind power capacity, its largest addition ever, surpassing the target by 38 per cent. Since then, however, and till November 2017, India fell short of its target by 88 per cent, adding 0.46 GW instead of 4 GW. Similarly, India added 5.52 GW, the largest ever addition, of solar power capacity till November 2017, but missed its target of 10 GW for 2017-18 by 44.8 per cent. Rooftop solar projects are supposed to provide 40 per cent (40 GW) of India's solar target of 100 GW by 2022. The government has sanctioned 1.7 GW of such projects and no more than 0.86 GW capacity has been installed in 2017. At this rate, it would take up to 2064 to meet the 2022 target.

The growth of renewables is dependent on the incentive of energy subsidies. A report by think-tanks International Institute of Sustainable Development (IISD), Overseas Development Institute (ODI), and ICF India, a consultancy, less than 7 per cent of energy subsidies went to renewables in 2015-16.

While India's 175GW target looks ambitious, it falls far short of providing clean energy to the majority. It is estimated that between 2014 and 2030, solar and wind energy will grow at 3 per cent per annum, which is only half of the growth in overall power production.

**Reducing emission intensity :** India has pledged to reduce emission intensity of its GDP by 30 to 35 per cent by 2030 over the 2005 standards. Emission intensity has been reduced by 14 per cent between 2005 and 2010. EGLCSIG had projected that 45 per cent reduction in emission intensity was possible. Climate Action Tracker projects that by 2030, emission intensity should be 51 to 53 per cent below 2005 standards exceeding India's NDC commitments.

**Forest-related commitments and increasing carbon sinks :** India's NDC relies on ambitious projections of forest cover increase that would enhance net sequestration by 2.5 to 3 GT CO<sub>2</sub>e by planting new forests in 5 Mha and improve the quality of extant forests in an equal area. This is not a reasonable goal. By MoEFCC's own admission, India is likely to have a carbon sink of only 1.9 GT CO<sub>2</sub>e by 2030. Many experts refute MNRE's claim about increasing forest cover. Forest Survey of India (FSI) also includes single-species tree farms, fruit orchards and coffee plantations in the forest category. These land uses vastly differ from native forests in their biodiversity values and sequestration rates.

**National Action Plan on Climate Change and State Action Plans in limbo :** Although NAPCC was launched 10 years ago, the government has admitted there is little progress on it except in missions on solar energy and enhanced energy efficiency. The government had also announced new missions on wind energy, coastal health, and energy from waste. But there has been no forward movement. By now, almost all states have developed their climate change action plans. But most of these plans remain on paper due to lack of political will, direction and funds. The bulk of proposed climate actions, except those which were already on sectoral department's plans, remain unfunded. UNDP project officer G Padmanabhan says all states have made SAPCC and got it approved from the Centre, but none is actually implementing them. While much of the mitigation actions are to be taken at the state level, there is no plan to divide the tasks between the Central and the state governments. State plans are focused mostly on adaptation.

**Money a major constraint :** India has huge financial requirements. According to an estimate, India needs US\$ 2.5 billion to implement NDCs till 2030. This is just the tip of the iceberg. EGLCSIG had estimated that India will need US\$ 37.16 billion to implement NAPCC. MoEFCC estimates that implementing all SAPCCs will require budgetary support of US\$ 188.6 billion. In the absence of any foreseeable external public climate finance, it would be difficult to get so much money.

**Clean energy cess squandered :** India still has no clarity over the domestic climate finance except National Clean Energy and Environment Fund (NCEEF) and National Adaptation Fund for Climate Change (NAFCC). NCEEF was founded from the proceeds of the clean energy cess imposed on domestic and imported coal in 2009-10 to support research and development on clean energy. In 2016-17, the cess was raised from Rs 50 per ton to Rs 400 per ton. But out of Rs 53,967.23 crore collected as clean-energy cess over six years up to 2016-17, less than 30 per cent had been transferred to NCEEF, according to a December 2017 audit report by the CAG. Of the money transferred to NCEEF, less than one-third was spent on projects while the lion's share went to augment budgetary support to various ministries, including MNRE, water resources and Ganga rejuvenation, power, environment, forest and climate change. In 2017-18, more than 97 per cent of MNRE budget came from NCEEF. None of the projects supported by NCEEF relate to research and development on clean energy, which was the fund's original objective. The biggest disappointment is that an unspent amount of Rs 56,700 crore is being diverted to states to make up their loss of revenue in implementing GST. As for NAFCC, it grants small projects up to Rs 25 crore to states to support adaptation. This meager amount is all that SAPCCs have on adaptation besides budgetary support to various departments.

**Scheme to provide clean cooking gas to rural households without LPG connection :** In May 2016, the Pradhan Mantri Ujjwala Yojana (PMUY) was launched to provide 50 million free LPG connections to rural poor households by 2019. The target has now been increased to 80 million households. The Centre claims to have already provided free LPG connections to over 33 million families. The objective is to ease the life of poor women by moving them away from smoke. Prime Minister Modi has said the target would be met before the deadline. Under PMUY, the government subsidises cylinder security deposit and installation charges. It pays Rs 1,600 to the public sector gas companies for each free LPG connection provided to the beneficiaries. But the cost of stove and refills has to be borne by the beneficiary in one go or in installments. The inability to buy a refill, besides the delay in getting one, has become a major problem in PMUY's success. According to the data of the government's Petroleum Planning and Analysis Cell, ever since PMUY's launch, the number of LPG connections has increased by 16.26 per cent but the sale of gas cylinders has seen an increase of only 9.83 per cent, which is lower than the rate recorded before the scheme started. A large number of PMUY beneficiaries are not buying refill cylinders after the first one dries up. An analysis by CAG also says that in 2015-16, the number of cylinders used per household was

6.27 which came down to 5.6 after the launch of PMUY.<sup>18</sup>

**Rural electrification :** In April 2015, the NDA government identified 18,452 unelectrified villages. It has now announced that all of them have been electrified. An 'electrified village' may not necessarily have power connected to all its houses. It refers to a village where basic electricity infrastructure is in place; power is being supplied to health centres, schools and other public places; and at least 10 per cent of the households get electricity. Government data shows that so far, 100 per cent household connectivity has been achieved in only 1321 (8 per cent) villages. The definition of an 'electrified village' also needs to be revised.

**SDGs, no firm step yet :** India adopted the Sustainable Development Goals in September 2015. Speaking at the SDG summit, Prime Minister Modi declared that much of India's development agenda is already mirrored in SDGs. Two years hence, however, India is yet to have a clear road map. The government is still to decide whether it will prioritise implementation of only a few SDGs or pursue all goals and targets with the spirit of leaving no one behind. At the United Nations High-Level Political Forum (UNHLPF) on Sustainable Development in July 2017, India presented a Voluntary National Report on SDGs. The report reiterated India's commitment to SDGs, but it highlighted only a few flagship schemes instead of doing a meticulous exercise on progress, achievements and real challenges. An exercise to identify national indicators for SDGs, started early last year, remains incomplete. Meanwhile, all states have been asked to develop their own Vision 2030. Many states have already started doing that, but they have little connect with the State Action Plans on Climate Change. States are said to be scaling up their SAPCCs in the light of the Agenda 2030.

India is an important player in the global climate fraternity. The Paris Agreement and the SDGs must triumph in India to succeed. The world is watching us. India has claimed global leadership in transforming to a sustainable world. India must claim this leadership by walking the talk. There is a need to look beyond laurels.

# Tribals : Adivasi report card on NDA II governance

Adivasis disappointed,  
disillusioned and  
disempowered

The National Democratic Alliance (NDA) – II government is about to finish its term and stocktaking is warranted especially from Adivasi perspective. The BJP Manifesto of 2014 general elections had clearly committed to the guiding principles of Samajik Nyay (Social Justice) and Samajik Samrasta (Social Harmony) while dealing with tribal affairs of the country. The party had promised to bridge the development deficit between Adivasis and rest of the population by “creating an enabling ecosystem of equal opportunity” by furthering economic justice and political empowerment as per the Constitution.

But the Adivasi experiences of past four years have been overall disappointing, disempowering and disillusioned. The promise of social justice and harmony has only remained rhetorical and tokenistic just like that of all previous political parties in power. In the four years, the number of Adivasi under-trials in jail in LWE areas has increased while Adivasi women have been sexually assaulted and tortured with impunity. Various Constitutional provisions and safeguards are undermined while rule of the law is seriously compromised to the extent that Supreme Court orders are openly disregarded.

The much vaunted attempt of undoing the historical injustice to Adivasis in form of Forest Rights Act 2006 by recognising the individual and community rights has failed due to relentless land grabbing by the mining companies. Various provisions of Panchayat Extension in Scheduled Areas (PESA) Act continue to be systematically diluted pushing the Adivasi communities to the margins. The saga of denying development rights to the Adivasis year after year in form of under allocation, notional allocations, under-spending non-transparency in Tribal Sub Plan.

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

## Tokenistic approach towards Adivasi rights

While the NDA – II government made several policy announcements from Adivasi perspective, but most of the government initiatives have been tokenistic and disillusion. Firstly, a National Tribal Advisory Council with the Prime Minister as its Chairman was constituted in 2015 as a nodal body to plan and monitor tribal development schemes. This decision seriously undermines the constitutional status of Tribal Advisory Councils in the states as well that of the Governor's position and its overlapping mandate with National Commission for Scheduled Tribes (NCST). Another major programme announced was the “Stand-up India” Scheme to promote Adivasi entrepreneurs in business ventures. The idea is appreciable, but this reminds us of the Prime Minister's pet project “Vanbandhu” scheme which was announced in 2014 with 200cr allocation and has disappeared without any trace. The three tribal universities set-up in Madhya Pradesh, Andhra Pradesh and Telangana have been starved of sufficient human and financial resources. Similarly there are public announcements about the National Tribal Development policy but no consultations or initiations have been done till now. The promise of granting Schedule Tribe status to Adivasis of Assam working in tea gardens has only been limited to election rhetoric till now.

Adivasi experiences of NDA-II government's past performance on various issues:

## I. Non-implementation of Forest Rights Act :

Last year, Prime Minister himself made an ambitious announcement that all kinds of individual and collective claims under FRA will be settled in two months. But in reality, only 20-25 percent of claims have been settled till now. Adivasi communities are being systematically denied their traditional rights by using the legal loopholes and in many cases in Odisha, Chhattisgarh and Jharkhand, the government is watering down the provisions to divert the forest land for mining purposes. For example, in Latehar district of Jharkhand, fake Gram Sabha consent was submitted for getting permission for a coal mine. In another instance from Chhattisgarh, the officials denied recognising FRA claims for 12 villages because an iron ore mine is proposed in that area. In Sarguja district, the government actually cancelled CFR because Adani group had plans to set up a mining project. In this way, thousands of CFRs have been denied in favour of promoting mining activity in the forested region.

## II. Non-implementation of Tribal Sub Plan:

The implementation of Tribal Sub Plan has been a farcical exercise since its inception in 1974. Under this policy, the Union and the State governments are required to have separate fund allocation in proportion to the Adivasi population in schemes which are directly beneficial to the community. But experience shows that not a single year the Union government has followed this policy in letter and spirit.

Scheduled Tribe Component (STC) - 5 Yr Trend Analysis of Union Budget FYs 2014-19 (Rs.Cr)									
Sr. No.	Financial Year	Total plan Outlay/ CS+CSS Schemes [A]	Due as per Special Component Plan Guideline (8.6% to A) [B]	TSP/STC Allocation (Statement 10B of BE) [C]	Proportion of TSP/ STC Allocation (C% to A) [D]	Gap in Allocation - ST [B] - [C] [E]	Total Targeted Schemes-ST [F]	Total Non-Targeted Schemes-ST [G]	Total Gap -ST [E+G] [H]
1.	2014-15 (BE)	575,000	49,450	32,348	5.63%	17,102	8,497	23,851	40,953
2.	2015-16 (BE)	465,277	40,014	20,000	4.30%	20,014	7,469	12,531	32,545
3.	2016-17 (BE)	550,010	47,301	24,005	4.36%	23,295	8,791	15,215	38,510
4.	2017-18 (BE)	588,025	50,570	31,920	5.43%	18,651	15,643	16,276	34,927
5.	2018-19 (BE)	863,944	74,299	39,135	4.53%	35,164	19,623	19,512	54,676
	TOTAL	2,178,312	261,634	147,407	6.77%	114,227	60,023	87,385	201,612

**Note:** Post Plan & Non-Plan Merger in 2017-18, the Due amount for Scheduled Tribes Component is calculated as 8.6% of those Central Sector Schemes and Centrally Sponsored Schemes that have made allocations to the Welfare of SCs as per statement 10B.

**Source:** Budget Circular 2018-19 (OM) MoF No. (F).2(1)-B(CDN)/2017, Dated 30th Dec2016 , Union Budget Expenditure Profile Vol 1, 2014-5 to 2018-19,

If we analyse the trends of TSP allocations at the Union level for the past 5 years, there is a serious denial of financial resources due to the tribal communities of the country. In no year the allocation has been more than 5.5 % whereas the policy requires that the allocations under TSP must be atleast 7.5 % of the total development outlay, which is gross denial of Adivasi development rights. There are significant budget cuts in the programmes meant for development of Particularly Vulnerable Tribal Groups (PVTGs), merit cum means scholarship, appointment of language teachers and Panchayat training programmes.

## **CAG Audit of Tribal Sub Plan**

In 2014-15, CAG, the Supreme Audit Institution of India initiated a country wide Audit of TSP sponsored programmes and released its report in 2015. CAG found that notional allocations on large scale have been made by the government especially in education and health sector which is totally unacceptable. There are evidences that although the central ministry allocates TSP money in centrally sponsored schemes but it doesn't go to states. Apart from this, there are major diversions of funds from the tribal sub plan by the Central government ministries and serious action needs to be taken. But the CAG report recommendations have been intentionally buried and the government is following the same trend all over again.

### **III. Passing of Mines and Minerals (Development and Regulation) Amendment Act (MMDR):**

Despite clear evidences about adverse impact of mining on Adivasi communities in the massive displacement, land alienation, destruction of natural habitats, the NDA-II government managed to pass the MMDR Amendment Act, without any sincere engagement with stakeholders. This amendment Act is crucial because it has undone the efforts of civil society in formulating the original Act which in principal had made way for benefit sharing and participation of communities in mining process. For instance, as per the 2011 bill, notification of public lands for all types of mining concessions had to be done in consultation with the gram sabha or district council in fifth and sixth schedule areas. In non-schedule areas, district panchayats were required to be consulted, but this clause has been removed in the 2015 amendments. Similarly, MMDR 2015 Act has denied and removed the provision of compensation, rehabilitation and resettlement of persons having usufruct and traditional rights over land and resources which was there in the 2011 Bill. Now all compensation, rehabilitation and resettlement are limited to occupational rights. MMDR 2015 Act does not safeguard the rights of communities and discourages consultation and excludes affected people from decision-making from the mining sector.

### **IV . Suppressing the Xaxa Committee HLC Report:**

In 2013, the UPA government formed a high level committee chaired by Prof. Virginius Xaxa to look into the socio-economic issues faced by the Adivasis and suggest future action plan. The committee submitted its report last year to the Tribal Ministry presenting an indepth analysis of how development activities and strategies in India have increased the socio-economic gulf between tribals and rest of the citizens of India and left the former worse off on many counts. The report says that about 40 per cent of all people displaced in India due to development activity have been tribals. Adivasi communities face disregard for their values and culture, breach of protective legislations, serious material and social deprivation, and aggressive resource alienation. The panel recommended radical changes to the laws, regulations and rules to protect Adivasi communities from land alienation and to ensure their rights over resources are handed back and protected. The report also laid out an overhauled, expansive and detailed framework for providing better education, health and opportunities to tribal communities across the country. If the recommendations of Xaxa committee report are implemented, it will surely have an empowering effect on Adivasi communities but the present government has suppressed the HLC report and there has been no follow-up or discussion raised by the committee.

### **V . Violence against Adivasis in LWE areas:**

The extremist violence continues unabated on the Adivasi communities especially in central India. The response of the state in the left wing extremist areas very often targets the Adivasis while the perpetrators enjoy total immunity. Thousands of innocent Adivasis are tortured, jailed, killed or forced to migrate to safer places. Adivasi women are the worst sufferers who experience rape and sexual assault on day to day basis. The government has pitted Adivasis against the Adivasis by arming them with deadly weapons who assist armed forces in raiding and destroying Adivasi villages. There is a clear support of mining companies in this whole conflict as it will help to clear the mineral rich region for mining activities.

### **VI . Plight of the Tea Tribes:**

There are around 70 lakh Adivasis who had migrated from the Chota Nagpur region during the pre independence

period to work in tea gardens of Assam. These migrant Adivasis face serious problems because many of the tea gardens are closed and there are several cases of starvation deaths. These tea tribes are not recognized as Scheduled tribes, therefore they are unable to access entitlements or basic amenities. Although several political parties have promised to resolve their issues, it remains mostly electoral rhetoric. In the 2014 general elections, the Adivasis in tea gardens had supported the NDA on the promise that they will be provided ST status but two years in the government, promises have not been materialized as yet.

## **VII .Increasing communalization of Adivasis**

The Sister organisations of BJP like the Akhil Bhartiya Vanvasi Kalyan Ashram (ABVKA) and Saraswati Shishu Mandir have been working in Adivasi areas for decades preparing strong cadre base by following the agenda of assimilation in the Hindu religion. With the present government, these organisations have also got administrative support and resources to implement the communal agenda in Adivasi areas. As a result, there have been several attacks on minority organisations, civil society groups, scholars and journalists who work among the Adivasis. Last year, ABVKA released a national vision document suggesting a comprehensive action plan for working in Adivasi areas. Apart from the development issues, there is also demand of stringent anti-conversion law which has been used as a tool to divide the Adivasi communities on the lines of religion. The communal agenda of these organisations has gradually created a fear among people who don't subscribe to the dominant discourse of assimilating the Adivasis in the Hindu fold. As a result, the harmonious relationship between various Adivasi and forest dependent communities have been broken and communal violence is also increasingly experienced in Adivasi areas.

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

# Voluntary organisations : Shrinking Space

An environment of collaboration between the government and NGOs would be in nation's interest

The formation of the National Democratic Alliance (NDA) government in May 2014 came as a ray of hope for the voluntary sector. The expectation was that it would strengthen the government-civil society engagement and usher in a work cohesive environment. The government's relationship with the NGOs has, however, remained similar to its predecessor United Progressive Alliance (UPA) regime, oscillating between adversarial and collaborative.

The BJP-led government has pushed development initiatives like National Health Mission, Swachh Bharat Mission and Beti Bachao Beti Padhao Mission. It has been appreciative of the civil society interventions in health, water, sanitation and education and lauded its reach into the remotest areas. But it has also asserted control, ranging from generalised to targeted, through restrictive legislation and penalising practices on the sector as a whole, and particularly with regard to organisations working on certain thematic areas.

Things took an unexpected turn soon after the government was sworn in. The news of selective leakage of an Intelligence Bureau report, terming voluntary sector as "anti-development" and raising doubts over its allegiance with foreign funding entities, made waves. A series of debates, articles and media coverage ensued, which immensely tarnished the sector's image. Though the government did not react to the IB report, what followed was the imposition of stricter measures and controls to discourage foreign funding through the stringent Foreign Contribution Regulation Act (FCRA) rules.

## Hits

The sector has been seeking an enabling environment from the government for long. A notable step was taken when in 1992, Prime Minister Atal Bihari Vajpayee proposed the introduction of a National Policy for the Voluntary Sector. The fairly progressive policy document was drafted in 2007 with intensive participation from the sector. But the incumbent or the previous government did nothing concrete thereafter.

The NDA government replaced the Planning Commission with National Institute for Transforming India (NITI) Aayog. An excerpt from NITI Aayog's first Annual Report (2014-15) is heartening to read: "The role of voluntary sector in the development of the country is well recognised. Voluntary Organisations (VOs) reach all corners of the country and their proximity to the people on ground is one of their biggest advantages. They are now treated as partners in development, instead of just being implementers of government schemes and promoters of awareness". Continuing with the positive trend to showcase democratization and participation, the NDA government too engaged with the civil society by organising pre-budget consultations and meetings.

India hosted the 8<sup>th</sup> BRICS Summit in October 2016. In order to get their voices heard by officials and ministers, a social event called BRICS Civil 2016 was organised by the Ministry of External Affairs, Forum for Indian Development Cooperation (FIDC), and Research and Information System for Developing Countries (RIS). With the objective of creating and organising a collaborative space (with government) for smooth functioning of civil society in development agenda, Voluntary Action Network India (VANI) organised Prelude to International BRICS, in collaboration with FIDC. It was a mutual exchange and learning platform with civil society organisations from Brazil, Russia, China, South Africa, Bangladesh, Nepal, Philippines, Latin America and Zimbabwe. Since then, FIDC has been involving the civil society in various development agenda, including South-South partnerships.

Recently, the media reported about the Union Home Minister's concern with the gap between Gross Domestic Product (GDP) and Human Development Index (HDI). The minister said "the rankings need to be bridged by the civil society NGOs and government working together", adding that "these organisations operate in the remotest

parts of India, including Left Wing Extremism (LWE)-affected regions where even the local administration finds it difficult to reach. For a stronger India, government, civil society and India need to work in cooperation for the development agenda". The minister's statement comes as a positive signal to the sector which has always hailed government's encouragement and support for unified efforts for the betterment of society. But the government needs to do more to enable the sector to play an important role.

NITI Aayog recently formed a Voluntary Action Cell (VAC) and constituted a standing committee on Institutionalisation of Engagement of Service Delivery Civil Society Organisations (CSOs). The standing committee met in mid-March this year and five sub-committees were formed. One of the sub-committees would deal with the critical issues of Self-Regulation and National Regulatory Framework for the Voluntary Sector. This appears to be a step in the right direction.

## Misses

Quite often, the spirit of the law is not upheld and arbitrary action, denying NGOs a fair chance of defence before the organisations concerned, is taken. The UPA government set a precedent in July 2012 and April 2013 when it arbitrarily froze the FCRA accounts of Centre for Promotion of Social Causes (CPSC) and The Indian Social Action Forum (INSAF). The present government continued it. While CPSC was protesting the setting up of nuclear plant in Kundankulam (Tamil Nadu), INSAF was engaged in resisting globalisation, combating communalism and defending democracy. The NDA government suspended and then cancelled the FCRA registration of Greenpeace India because of its alleged retaliation campaign against coal and aluminium mining. Notwithstanding a rebuke from the Delhi High Court for its "irrational behaviour", the government continued giving a raw deal to Greenpeace India and subsequently gave it an interim relief at the high court's behest. Lawyers Collective was treated similarly. In March 2018, as many as 42 organisations were served notices for alleged FCRA violations. The list included the Bengaluru-based Centre for Internet and Society, which had reportedly highlighted the issue of breach of Aadhar data.

FCRA aims to curb terrorism and money laundering. It permits government action based on reasons and grants the right of defence to the other party. In April 2017, media reports said that FCRA registrations of around 10,000 NGOs were cancelled due to their suspected non-compliance with mandatory requirements over the past three years. But this was done in absolute secrecy, often denying NGOs a chance to defend themselves.

The April-September 2016 period was full of anxiety for most voluntary organisations. It was the first year for the renewal of FCRA registrations. FCRA-registered organisations were expected to apply online for their renewal by June 31 and non-compliance could lead to the termination of their validity after October 31. Improper planning, lack of appropriate briefing, infrastructural and technical glitches (erratic internet services in remote areas and inability to upload documents due to server hang-ups) added to the woes of the NGOs. Many organisations managed to complete the online procedures and get the renewals. But a good number of NGOs, despite having clean and legally-compliant records, experienced a long phase of uncertainty since their online application status kept showing "under process". The grievance redress helpline number was mostly non-responsive. The provision to meet Director FCRA once a month did not help as the likelihood of getting an appointment was extremely rare. The FCRA department's recent annual reports, which could give a clear picture of annual receipts and foreign funds' utilisation, are missing too.

The recent suspension/cancellation of FCRA licences of 4,842 NGOs and organisations who did not file their annual returns from 2010-11 to 2014-15, lists academic institutions like Indira Gandhi National Open University (IGNOU) and Delhi's Guru Teg Bahadur Khalsa College. This highlights issues concerning laws under which such organisations are registered. Voluntary organisations in India are registered under three major laws — the Societies Registration Act 1860, the Indian Trust Act 1882 and the Indian Companies Act 2013 (Section 8). Most NGOs are registered under the 158-year-old Societies Registration Act. It allows registration of bodies, entities, organisations, institutions of varying composition, activities, size, role, under the generic aegis of 'Non-Governmental Organisations'. The nature and work of voluntary organisations have undergone substantial changes since 1860. Penal actions resulting from regulatory non-compliance by organisations like those mentioned above have tarnished the image of the sector as a whole. Some of these bodies do not even qualify to be called civil society organisations.

The Income Tax Act 1961 has been amended for stricter time-frame adherence. The Finance Act 2017, for instance, has inserted Clause (ab) in Section 12A(1) of the Income tax Act 1961. The new clause mandates a charitable trust, society or company registered under Section 8 of the Indian Companies Act 2013 to apply afresh for registration under Section 12A in the new online Form 10A, in case they have changed or amended the objects of their organisation. This is to be done within “thirty days from the date of such adoption or modifications of the objects”. The changes are made with strict deadlines, without considering the operational constraints under which most NGOs, especially those functional at the grassroots, work. Quite often, information about these changes does not reach the organisations on time, thus constraining them from taking appropriate action.

The Goods and Services Tax (GST) introduced in July 2017 has impacted the sector's sustainability. There is lack of clarity on its applicability on the voluntary sector. In cases where commercial activity is undertaken, GST has to be complied with. This has cost implications on the already cash-starved organisations. Ministries and institutions extend grants and assistance to voluntary organisations through tenders which project the participating voluntary organisation as “contractors”, thus attracting taxes, including GST, against service provisions. Exemption provisions for services of a charitable nature also lack clarity.

Financial sustainability of the voluntary sector is getting adversely affected in many ways. Foreign funding to NGOs has dropped drastically from Rs 17,773 crore in 2015-16 to Rs 6,499 crore in 2016-17. The post-demonetisation economic slump has reduced the paying capacity of individual donors. The scrapping of Section 35 AC of the Income tax Act after March 2017 has aggravated the situation. It has significantly reduced individual donations that allowed 100 per cent tax exemption on contributions to NGOs for eligible projects.

The Companies Act 2013 came into effect from April 2014. It mandates corporates with net worth of Rs 500 crore, or revenue of Rs 1,000 crore, or net profit of Rs 5 crore to spend 2 per cent of their average profits of previous three years on social development activities. This too was seen as a welcome step by the social sector. A news report published in October 2016, however, stated that Rs 1984 crore was the unspent CSR fund. Of the Rs 8,345 crore spent on CSR activities, majority went to education, healthcare, Prime Minister National Relief Fund and other funds set up by the Central and state governments. Now, there is a growing trend of corporates routing their CSR funds to their own 'foundations' rather than NGOs.

India needs a buffer sector to provide services to those who cannot afford them from the market. Mandatory legislative and technically restrictive practices exclude civil society organisations from applying for government grants. The requirement of online registration of all NGOs seeking government grants on the NGO-Darpan portal is an example. Many NGOs, especially those working at the grassroots, could not register on the portal within the stipulated time, due to technical snags. This has restricted their ability to receive government grants.

Many organisations, which followed the home ministry's orders of December 2017 and opened FCRA accounts with one of the 32 designated banks, are still facing problems with receipt of funds. They are unable to get access to funds because their applications, requesting a change in bank details (to the new bank), are still “under process”. Such bureaucratic delays have threatened the very existence of small and genuine organisations, who mostly work on shoe-string budgets.

On the partnership front, the government portrays itself as a firm believer in “inclusive decision-making”. But the reality is quite different. Despite the important role played by social organisations in implementing various government programmes, they are seen neither as confidante nor partners. India is a signatory to Agenda 2030 for achieving Sustainable Development Goals (SDGs). In July 2017, the government presented its first Voluntary National Report (VNR) and was ranked dismally at 116 out of 157 nations on the Global Performance Index. While the civil society is collaborating with the government and private sector in implementation of SDGs, their role as a key player is not being articulated well and monitoring is getting completely missed in the reports.

The sector feels that the government's idea of pre-budget consultations to seek its inputs has turned out to be more “symbolic” than “substantive”. For instance, the government began the process of preparing Union Budget 2018-19 in September 2017 while the meetings with civil society were organised only in December 2018 and later. In a recent survey, India scored 48 out of 100 (even below Afghanistan and Nepal) in its Open Budget Index.

## Way forward

The social sector acknowledges the need to bring in accountability and transparency in its work. But to enable it to increase its efficiency and contribute in the holistic development of society, it needs a supportive government that understands its constraints, acts as a facilitator and provides an enabling environment.

The government and the regulators need to distinguish between genuine and errant NGOs. The sector supports the government in acting against the non-genuine NGOs. But for doing this, there is an urgent need for all stakeholders to estimate the exact size and shape of the sector. It is equally important to replace the archaic laws governing the sector with a comprehensive, vibrant, clear and enabling legislation. This would help the sector establish itself as a credible and accountable entity and contribute towards social development.

The government needs to incentivise individual contributions for social development by offering tax benefits. Clear policies are also required to increase the flow of corporate funds, as part of the CSR policy.

The sector recognises the importance of effective governance, accountability and transparent activities. But with scarce resources, the capacity building of voluntary organisations, especially those working at the grassroots, becomes highly restricted. A Government-CSO-Corporate partnership model seems to be the order of the day.

There is also a need to create robust mechanisms within the government for frequent government-NGO engagement. Voluntary Organisation networks, which play an important role in collectivising the sector, can play an integral role in dissemination of critical information about regulatory requirements to grassroots organisations working in remote areas and also build their capacities around compliance.

---

NITI Aayog Annual Report 2014-15

<http://www.newindianexpress.com/business/2018/mar/09/ngo-civil-society-can-play-important-role-in-improving-human-index-rajnath-singh-1784596.html>

<https://timesofindia.indiatimes.com/india/fcra-violations-mary-koms-ngo-rajiv-gandhi-charitable-trust-nasscom-under-scanner/articleshow/63387734.cms>

<https://economictimes.indiatimes.com/news/politics-and-nation/registration-of-10000-ngos-cancelled-in-last-3-years-government/articleshow/58146080.cms>

<https://timesofindia.indiatimes.com/india/ignou-another-4800-bodies-lose-fcra-licence/articleshow/60715890.cms>

<https://scroll.in/latest/862178/foreign-funding-of-indian-ngos-fell-by-rs-11274-crore-in-2016-17>

<http://indianexpress.com/article/business/business-others/corporate-social-responsibility-spend-up-still-short-of-target-3101342/>

Study conducted by International Budget Partnership, a Washington-based non-profit that works with civil society groups on transparency and inclusiveness in the budget process,

<https://www.internationalbudget.org/wp-content/uploads/open-budget-survey-2017-report-english.pdf>

# Water and sanitation: Long way to go

Sanitation practices still need strengthening and must be made sustainable

In his maiden speech to the UN General Assembly in New York in September 2014, Prime Minister Narendra Modi expressed concern over lack of basic sanitation across the globe and equitable distribution of resources among countries. He said his government was committed to work towards it. "When we think of the scale of want in the world — 2.5 billion people without access to basic sanitation; 1.3 billion people without access to electricity; or 1.1 billion people without access to drinking water, we need a more comprehensive and concerted direct international action. In India, the most important aspects of my development agenda are precisely to focus on these issues," he said.

As an active participant in securing inclusive growth, the government played a decisive role in shaping the Sustainable Development Goals (SDGs) in September 2015 and voicing its code of conduct, *Sabka Saath Sabka Vikas*. The country's national development goals have been mirrored in the SDGs. Even the launch of initiatives like Swachh Bharat Mission, Smart Cities, and Atal Mission for Rejuvenation and Urban Transformation (AMRUT) reflect India's commitment towards the SDG agenda.

Government's flagship programme Swachh Bharat Mission (SBM) was launched on October 2, 2014. It aims to achieve universal sanitation coverage and eradicate open defecation by 2019. The agenda of AMRUT, launched in **June 2015**, is to establish infrastructure that ensures adequate and robust sewage network and water supply for urban transformation.

The National Rural Drinking Water Programme (NRDWP) has been restructured to increase the coverage of sustainable piped water supply. Water, sanitation and hygiene (WASH) initiatives in schools are guided by *Sarva Shiksha Abhiyan* (SSA) and *Rashtriya Madhyamik Shiksha Abhiyan* (RMSA) of the Ministry of Human Resources Development. In healthcare facilities, WASH are taken care under Kayakalp and Swachh Swasth Sarvatra schemes of the Ministry of Health and Family Welfare.

## Progress in sanitation

SBM, the revamped Nirmal Bharat Abhiyan, goes beyond the goal of eradicating open defecation. It aims to ensure water availability for hand-washing, cleaning toilets, and even for storing. With 100 per cent scientific management of solid waste, the government wants to achieve its goal by October 2, 2019.

Government data shows that since the launch of the mission, the number of people defecating in the open in rural areas has reduced from 550 million to 320 million. As on April 19, 2018, there are 16 states and 368 districts which have become Open Defecation Free (ODF). The 16 states are Arunachal Pradesh, Assam, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Kerala, Maharashtra, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttarakhand and West Bengal.

Target for 2019	Achievement till April 2018	To be achieved in 1.5 years
<b>IHHL to be constructed under BM (rural)*</b>		
11.11 crores	6.95 crores	37.43 per cent
<b>IHHL to be constructed under SBM (urban)*</b>		
104.12 lakhs	46.36 lakhs	55.47 per cent
<b>Urban wards for door-to-door waste collection (urban)*</b>		
81,000	51,734	36.13 per cent
<b>Waste processing into compost or energy under SBM (urban)#</b>		
100 per cent	23.73 per cent	76.27 per cent
<b>Open Defecation Free states/UTs under SBM (rural)*</b>		
35	16	19
<b>Open Defecation Free Cities under SBM (urban)*</b>		
4,041	2,029	2,012

Sources: PBI, SBM- Urban, MHUA

IHHL: Individual Household Latrine

\*Data as on April 19, 2018

# Data as on December 2017

National Annual Rural Sanitation Survey (NARSS) 2017-18 done by an Independent Verification Agency under a World Bank-supported project assessed the progress of Swachh Bharat Mission-Gramin (SBM-G). It stated that the mission showed a progressive trend. The survey revealed that 77 per cent of the surveyed households have access to toilets, and 93.4 per cent of the households which have access to a toilet, use it. Minimal litter and stagnant water was found in 70 per cent of the total villages surveyed.

NARSS confirmed the ODF status of 95.6 per cent of the villages which the state governments had declared ODF.

## Access to safe water

Sanitation tops the government's priority list, but water seems to have been ignored. The right to sanitation and the right to water are distinct but integrated rights, and must be addressed together. Access to safe water supply is, therefore, essential for safe sanitation practices.

Drinking water is supplied in rural areas under the National Rural Drinking Water Programme (NRDWP). The Ministry of Drinking Water and Sanitation has chalked out a strategic plan for the rural drinking water sector from 2011 to 2022. It aims to ensure that by 2022, piped water supply reaches at least 90 per cent of the rural households, and less than 10 per cent use hand pumps or other private water sources.

The ministry's Integrated Management Information System reports that 94.38 per cent of the rural population have access to safe drinking water. But rural households that have access to piped water supply, receiving more than 55 litres water per capita per day, is a meagre 16.6 per cent. The data used is till August 7, 2017. Compared to April 2014 data, the increase is only a marginal 4.6 per cent. Given the Centre's target, at least 35 per cent rural households should have had access to piped water supply by 2017. The country lags as 50 per cent of target has not been met yet as yet.

## Hygiene

The Swachhta guidelines and the Kayakalp awards by the Ministry of Health and Family Welfare have enabled healthcare facilities at all levels, from public health centres to district hospitals. These initiatives have helped assess

water, sanitation and hygiene at healthcare centres and plan for improvements.

The Swachh Swastha Sarvatra, an inter-ministerial joint initiative between the Ministry of Drinking Water and Sanitation and the Ministry of Health and Family Welfare, aims to further catalyse improvements in blocks and districts that have been declared open defecation free. This initiative is indicative of an important thought process whereby the focus is not just on curative services, but also on preventative and health promotion actions related to WASH.

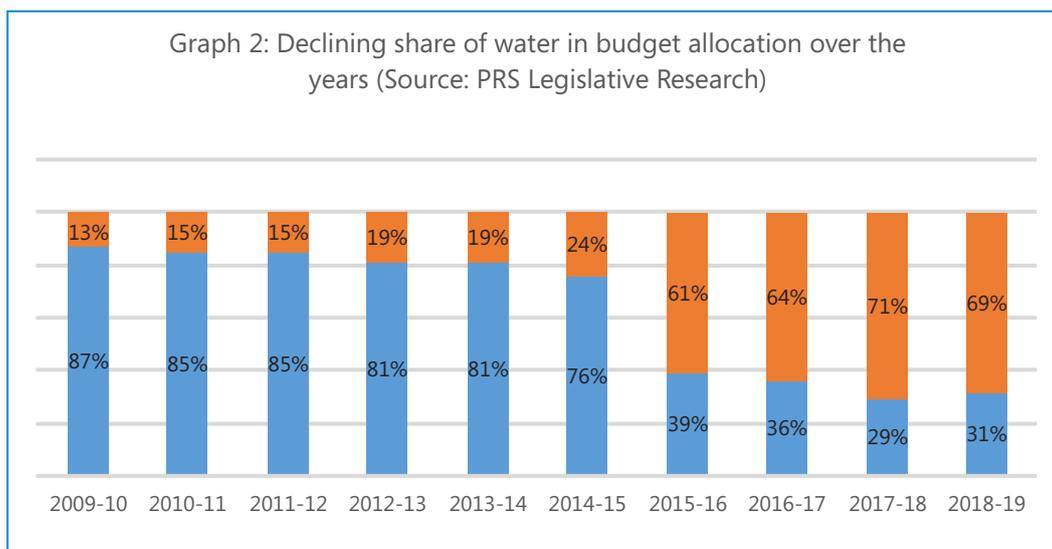
A survey conducted in 217 healthcare facilities by WaterAid India in its operational areas across 10 states in 2017 revealed that only 112 healthcare facilities had toilets, and 105 had handwashing facilities.

## WASH budget

An amount of Rs 1,00,447 crores has been allocated for SBM-G for five years till 2018-19. Of this, 48 per cent has not been released as yet. The disconcerting gap between the resources and its utilisation indicates the many unaddressed areas under the scheme.

Even the amount spent on Information, Education and Communication activities dropped from 4 per cent in financial year 2014-15 to 1 per cent of the total expenditure till February in 2015-16. This is far below the recommended **8 per cent** of the total **expenses**.

The ministry has now shifted its priority to providing sanitation facilities in rural areas and mobilising behavioural change. Allocation to rural sanitation has increased from 13 per cent in 2009-10 to 69 per cent in 2018-19. However, this has also led to a decrease in allocation towards drinking water. From 87 per cent in 2009-10 it has dropped to 31 per cent in 2018-19.



## Challenges under WASH

Achieving a high level of sanitation in India is challenging, as practices still need strengthening and made sustainable. NARSS 2017-18 analysis exposes the weak solid-liquid waste management system and piped water supply in rural areas. Problem areas exist even in states that have been declared Open Defecation Free. Himachal Pradesh, for instance, has 25 per cent households with Individual Household Latrine (IHHL), but without access to water within the household premises. Improvements can be made at the same pace as the construction of toilets.

Likewise, SBM, both urban and rural, faces the humongous challenge of effectively managing the **huge** quantity of **waste generated in cities and villages**. In door-to-door collection of garbage, 35 per cent of the target is still left unachieved, and 76 per cent of the target in scientifically converting solid waste into compost or energy remains unmet

Moreover, quantitative surveys like NARSS cannot capture aspects like toilets being low-cost, terrain **specific**, having acceptable technologies and design, and being user-friendly.

Operation and maintenance of toilets, such as lack of hygiene and absence of handwashing facility, act as deterrent in using them.

SBM has sidelined the inclusion of SC, ST, regional minority or Antyodaya households. Fewer such vulnerable households have sustainably safe technologies, or have had access to information, or have received the incentive. Provisions for the differently abled is equally lacking.

### Box: Studies bely government claims

WaterAid India conducted a rapid assessment of technologies under Swachh Bharat Mission-Gramin. The key findings of *Quality and Sustainability of toilets, October 2017* indicate:

- Among the toilets under construction, there was sharp increase in the construction of substandard single-pits. It almost caught up with the twin pits.
- Water was unavailable in 12 per cent of the constructed toilets.
- Almost 31 per cent of the constructed toilets surveyed were unsafe despite being functional—they failed to guarantee the prevention of human contact with faecal matter. This apart, 4.64 per cent of the regional minority had single-leach pit toilets, a substandard technology.

Another study conducted by the Accountability Initiative of the think-tank Centre for Policy Research investigated the *process of implementation* of SBM in 7,500 households of 10 districts spread across five states. The key findings of the study are:

- Government's MIS data is no guarantee that the household actually has a toilet. It was found that 29 per cent of the households *did not have toilets although government data show that they did*.
- Having a toilet does not mean it is usable. About 36 per cent of the households reported that the toilets constructed in their homes were *unusable*, for reasons such as broken pits, and unsanitary conditions.
- Names of 40 per cent **households featured in the MIS list of receiving money from** the government, but did not.

WASH in schools is another complex territory where government data has been fluctuating to report progress. A year after the government committed to provide separate toilets to girls and boys in schools, it announced on 15 August, 2015 that it had met this target. However, a recent release by Press Information Bureau disclosed that under the Sarva Shiksha Abhiyan (SSA), 10.54 lakh toilets were sanctioned in elementary schools from 2001 to December 2017. Of this, construction has been reported in 9.95 lakh, or 94 per cent, toilets.

Under Rashtriya Madhyamik Shiksha Abhiyan, 70,244 toilets were sanctioned in secondary schools from 2009-10 to February 2018. Of this, states and union territories reported construction of 49,636, or 70.66 per cent, toilets.

Even if we assume that 100 per cent gender-appropriate toilets exist, factors such as accessibility for children and the differently-abled, water inside toilets, hand-washing facilities, **access** to potable drinking water, and appropriate solid waste management, remain some of the operational and management lacunae under school WASH.

With rapid urbanisation, the flawed system of waste disposal and management presents a big challenge for the Central government. Cities like Alappuzha have sought solutions by adopting **decentralised waste management** practices, pushing for 100 per cent segregation in the city.

Faecal Sludge Management has also been identified as a central challenge in achieving the vision of an Open Defecation Free India. A distinct preference for centralised advanced engineering solutions exists rather than for appropriate decentralised septage management. Manual scavenging is found to be widespread though prohibited by the law.

Interestingly, while access to water supply is being taken up in government's policies, the alarming vulnerability caused by depleting aquifers remains unaddressed. The Central government had released a Model Bill for the Conservation, Protection, Regulation and Management of Groundwater in May, 2016 and a National Water

Framework Bill, 2016. This would provide uniform national legal framework to manage river water at basin-level more efficiently. Both the bills could have had a large implication in controlling exploitation of groundwater and managing river water, but in the absence of being enacted, the threat of water shortage and recurring drought continues.

### **Towards safe water, sanitation and good hygiene practices**

A key step towards total sanitation, good hygiene practices and access to adequate and clean water will be an ongoing assessment of the situation, documentation of the lessons learnt from it, and determination of the areas that need to be addressed. The plan should encompass sustained advocacy to build political will around WASH; greater and better utilisations of funds to meet the targets timely; inclusion and prioritisation of the most marginalised community; strengthening the capacity and performance of PRI and urban bodies; and, tackling the massive waste **management** challenges facing the country.

A beginning has already been made with the development of understanding between the Ministry of drinking Water and Sanitation, Department of Health and Family Welfare, and Human Resource Department on the need to collaborate for effective implementation of water and sanitation programmes in India.

# Women's empowerment : Too many gaps

Government initiative to address women's safety and to safeguard their dignity is lacking

Putting an end to crime against women was a big promise of the Bharatiya Janata Party in its 2014 election campaign. So was ensuring women's empowerment. The slogan was: "*Bahut hua naari par waar, abki baar Modi Sarkar* (Enough of crimes against women, choose Modi Government)!" The party's manifesto projected women as nation builders and gave high priority to women's welfare. It promised women-oriented skill development, healthcare and other structural schemes incorporating the best of the earlier programmes. Similar promises were made for the economic uplift of women through customised financial facilities. Another highlight was women's safety, including robust fund allocations for rape and acid attack survivors.

The importance given to the *Beti Bachao Beti Padhao* campaign was a positive development. It has been able to address the declining sex ratio by creating significant public awareness. The government has successfully tried to change the social perception towards the girl child in several states and districts. The Pradhan Mantri Ujjwala Yojana was launched to provide free LPG connections to women of below poverty line families. Apparently, crores of women have bid adieu to oven smoke. The government has done well on its promise to provide energy access to women. The Sukanya Samridhi Yojana was meant to ensure the girl child's equitable share in the resources and savings of a family. This can help eliminate gender-based discrimination. The Swachh Vidyalaya push has also done well on papers because government data shows that the target of toilet construction in villages and schools has been achieved.

However, there is a significant gap in the implementation of the Ujjwala scheme. While there has been an impressive increase of around 16 per cent in LPG connections, the actual use of gas cylinders rose by only around 9 per cent because after the first free cylinder got used up, most poor families went back to wood stove since they could not buy the next cylinder.

It is not known whether the Swachh Vidyalaya scheme has actually checked girls' school dropout rate. In many places, toilets have been built but without any sustained provision of water or drainage. Scant allocation of operational and maintenance funds has turned out to be yet another problem.

Besides opening of zero-balance bank accounts, the Pradhan Mantri Jan Dhan Yojana also provides account holders access to credit and pension facilities, debit cards and inbuilt accident insurance cover for Rs 1 lakh. The account holders can get government subsidies delivered directly into their accounts. The scheme has done well in removing barriers to financial access. A paper published in 2017 by Manuela Kristin Günther from the Overseas Development Institute, states that 78 per cent of the Jan Dhan households already had a regular savings account and important gaps remain in ensuring active use of these accounts.

The Prime Minister has often made a special mention of women in all his speeches while highlighting the inclusion and contributions of women. Today, a good number of women are MPs and ministers. But huge gaps remain in government's initiatives to address women's safety and security or in up-keeping their dignity. Crime against women has steadily increased, adding more dimensions like cyber crime, lack of single-window reporting, huge delays in settling court cases of rape and violence against women and lack of political will to deliver gender justice. While the survivors of such crimes are immediately categorised according to their race, religion and caste, there seems to be no haste to punish the perpetrators. A large number of politicians, accused of committing crimes against women, continue to remain in office.

The conditions imposed on the qualification of candidates contesting panchayat elections has limited rural women to come in the forefront. This is a regressive step because panchayats can provide ample opportunity to women to assume leadership roles in addressing grass root challenges.

Allocation of funds for gender disaggregated data collection, impact evaluation of schemes meant for the benefit of women and gender integration in government policies are still a distant dream. The cuts made in fund allocation for ICDS, which is perhaps the only scheme meant for women, has affected a large number of poor women who were already struggling with the meagre honorarium paid to them. The government's thrust seems to be on upholding only the traditional roles played by women and abetting the patriarchal norms. In essence, this is a story of taking one step forward but several steps backward.

# Youth Development : High on promises - low on performance

Youth development can not be ignored as the youth are future of tomorrow

India is one of the youngest nations with the advantage of a young population with median age of 22 years in 2020, within a global scenario of ageing population. 54 per cent of the working age population in India (15-59 years) is below 25 years age. The 2014 BJP election manifesto articulated its youth agenda - '*Youth – Making India Unstoppable*'. Time and again the Prime Minister has highlighted the 'youth population dividend' with the twin purposes of *empowering the youth of the country to achieve their full potential and through them enable India to find its rightful place in the community of nations (National Youth Policy, 2014)*.

## Election promises

The 2014 election manifesto states '*We commit to review and revise policies to seek participation of youth in decision-making and nation building process and actively get the youth to participate in decision-making bodies*'.

Under the youth agenda, the manifesto details:

1. *We will initiate the 'young leaders programme' in all sectors to recognize, reward and involve these exceptionally talented youth to serve as role-models and mentors for others.*
2. *Set up the 'national youth advisory council'.*
3. *BJP will initiate nation-wide 'district level incubation and accelerator programme' for encouraging innovation and entrepreneurship.*
4. *Procedures to avail student's loans will be simplified and loans made affordable.*
5. *Set up neighbourhood children's/youth parliament across India that leads to vibrant student committees.*
6. *Will launch a programme 'youth for development'.*

Other election promises in the manifesto that are of importance to youth are:

- BJP will accord high priority to job creation and opportunities for entrepreneurship.
- Encourage and empower youth for self-employment.
- Initiate a multi-skills development programme, focus will be on job creation and entrepreneurship, in both rural and urban areas.
- Transform employment exchanges into career centres.
- Generate IT based jobs in rural and semi-urban areas.
- Make technology enabled products affordable for students.
- Set up high speed digital highways to unite the nation.
- Services of youth in particular will be tapped to contribute in governance with fellowship and internship programmes launched at various levels.

Election promises in the manifesto that are of importance to youth from marginalized sections include:

- Our government will be a government of the poor, marginalized and left behind. The fruits of growth and development must reach the weakest, most deprived and remotest of people with firm belief in Antyodaya.

- BJP is committed to bridge the gap following the principle of *samajik nyay*(social justice) and *samajik samrasta* (social harmony). Steps will be taken to create an enabling ecosystem of equal opportunity for education, health and livelihood.
- BJP believes that in India's unity in diversity lies India's biggest strength. BJP is committed to the preservation of the rich culture and heritage of India's minority communities, alongside their social and economic empowerment.
- It is the duty of the government to enable every Indian to realize his or her full potential, ensuring equitable growth and development through promoting health and education, increasing opportunities for job creation.
- BJP is committed to ensure justice for all – justice which is prompt and accessible.
- Focus to bring SC/ST, OBCs and other weaker sections of the society within the IT enabled development

Reviewing the performance at the end of four years of the NDA government

## Employment Generation

Evidently the manifesto lays high priority on generating employment and entrepreneurship for the youth. Skills training is a flagship programme in this regard. However, the employment situation has been grim and not promising. The government data released by RBI reports that the employment fell from 483.85 million in 2013-14 to 483.09 million in 2014-15 and to 482.70 million in 2015-16. The labour minister Shri Santosh Gangwar reported in the Rajya Sabha that the number of unemployed persons in India is expected to rise to 18.6 million in 2018 and 18.9 million in 2019, from 18.3 million in 2017. Centre for Monitoring Indian Economy (CMIE) reported 2 million jobs increase in 2017 which is mere 0.5% growth; urban employment grew by 2% while rural employment shrunk by 0.3%. Further, CMIE reports 1.5 million jobs lost during the first four months of 2017, a likely side effect of demonitisation in late 2016. Of great concern is the higher unemployment rate among graduate persons aged 18-29 years in urban areas at 12.6% on usual principal status compared to 1.9% among those who were not literate. Nobel-prize economist, Paul Krugman has noted; "India's demographic dividend can help spur the economy only if the country can provide jobs for the working age population. The lack in the manufacturing sector could work against it as it doesn't have the jobs essential to sustain the projected growth in demography." Indeed the manufacturing sector does not show a positive growth rate.

Reports of employment generated under important flagship schemes of the government The Prime Minister's Employment Generation Programme (PMEGP), Pt. Deen Dayal Upadhyaya Grameen Kaushal Yojana (DDU-GKY) and Deen Dayal Antodaya Yojana-National Urban Livelihoods Mission (DAY-NULM) do not reflect positive trends.

### Employment generated in important schemes: (persons in lakhs)

Schemes/Year	2014-2015	2015-2016	2016-2017
PMEGP	3.58	3.23	4.08
DDU-GKY	0.54	1.35	0.85
DAY-NULM	0.99	0.93	2.36

Clearly the employment generation has not performed as per the manifesto or the promise and this is evident around us. The higher unemployment rate among the graduate youth and the lower unemployment among the non-literate youth are both crisis signs; reflecting poor planned employment generation for young people.

There does not seem to be a silver lining for young people in the employment generation sector from the analysis by CMIE -According to CMIE investment ratio has fallen from 34% in 2011-12 to 26.4% in 2017-18 and hence new investment proposal announcements have fallen from Rs.25.5 trillion to Rs.10 trillion in the same period. The increasing bank NPAs is a crisis for investments.

*The deep crisis in the employment generation can be seen from the case study analysed here: ShivajiSarkar in the railway recruitment : '2.8 crore applications were received for 90,000 jobs advertised by Indian railways – 311*

applicants for one vacancy – i.e. 81.7% of the youth workforce in the 18-30 years age group applied for it. Even if we consider that some of them may be working elsewhere and applying too, the situation is serious.

## Skills Training

Enhancing skills among the youth is an important objective linked to employment generation in the given context of low levels of formal skills training in India. Only 4.69% of the total workforce in India has undergone formal skills training compared to 68% in UK, 75% in Germany, 96% in South Korea.. Even as skill development was identified by the earlier government, it gained priority and focused attention under the current NDA government. The National policy for skill development and entrepreneurship 2009 was revised in 2015. The Prime Minister places high value on skills development “Millions and millions of youth should acquire the skills which could contribute toward making India a modern country. I also want to create a pool of people who can create jobs and the ones who are not capable of creating jobs and do not have the opportunities, they must be in a position to face their counterparts in any corner of the world keeping their heads high by virtue of their hardwork and their dexterity of hands and win the hearts of people around the world with their skills”. It is estimated that 109.73 million additional skilled man-power will be required by 24 key sectors by 2022. The Prime Minister's Kaushal Vikas Yojana (PMKVY) targets to skill 10 million youth by end of 2020 and as of now around 20 lakh candidates have been trained. Another concern is the gaps in the placement and employment of the youth who undergo skill training. As per data reported on the Skill Development Management System (SDMS), as on 28.02.2018, out of 13.97 lakh trained candidates under Short Term Training component of PMKVY, 9.63 lakh candidates are certified. Out of the certified candidates, 3.49 lakh candidates have been placed in various sectors across the country.

## Innovation

The focused attention on innovation by the government seems to be reaping results. The Global Innovation index 2014 ranked India 76 - up from 66 places out of 173 countries.

## Youth leadership and development programmes

The manifesto has articulated launching the '*youth leadership programme*', '*national young leaders programme*' '*neighbourhood youth parliament*', '*national youth development fund*', '*national young leader's award*' and the '*national youth advisory council*'.

i) The Minister for Youth Affairs and Sports had made an announcement in 2015 about the intention to form a National youth advisory council speaking at the Asia region commonwealth youth minister's meeting in ..... Its progress is not in the public arena.

ii) The neighbourhood youth parliament programme was a top up on the youth groups organized under the Nehru Yuvak Kendra (NYK) programmes. NYK reported that 4640 and 4930 Neighbourhood Youth Parliaments at Block level were organized across as many Blocks in 2014-15 and 2015-16. In each programme, about 80 youth from a Block participated. Similarly the NSS has also been included in these programmes - Till the end of 2015, NSS had about 36.42 lakh volunteers on its rolls spread over 351 universities, 16,056 colleges/Technical Institutions and 12,004 Senior Secondary Schools.

One does not find any innovation or added dimensions to these programmes of youth leadership development. These seem to be the routine programmes under the regular set up of the NYK/NSS and not in any special direction keeping with the aspirations under the youth population dividend.

iii) Regarding enhancing youth participation in decision making, the portal –*MyGov.in* has been set up for the youth to give suggestions on a wide-ranging governance issues. Further social media engagement and Mann kibaat are envisaged to be youth information and decision-making spaces. However, how these reach youth from rural areas and marginalized sections engage with these programmes are not clear. Further, there is evidence that social media spaces are also being used for undemocratic and unsocial activities.

## Youth from the marginalized sections

The manifesto promised social justice and social harmony to youth from the SC/ST, OBC and Minority

communities. It promised an enabling environment for equal opportunities and bridging the gap between them and other youth. There are serious concerns in this regard. Young people from the SC/ST and Muslim communities have been at the brunt of serious human rights violations under the garb of cow protection. Lynching has become a national phenomenon reported from Dadri in Uttar Pradesh, Una in Gujarat, Alwar in Rajasthan, in Jharkhand and even spread to states like Kerala. Certain forms of cultural domination is evident in putting pressure on young people regarding their clothing, their food habits, their social life, their relationships etc causing serious concerns about social harmony and enabling environment building. Sexual violence against girls from SC/ST communities, particularly rape and murder has been on the increase.

The issue of decision-making spaces for youth and social harmony has also been undermined by the unrest across university and college campuses in many parts of the country. There clearly are political undertones in the student unrest and unhealthy trends in student relationships. How these relationships will impact on the general environment in the country and also the growth and development is of concern.

An important avenue adopted by young people from the SC and ST communities has been accessing higher education with the support of Post matric scholarship. Over the past four years, budget analysis has shown negligence towards this important provision. The death of RohithVemula from Central University, Hyderabad stands out in this regard. Scholarships have seen under-allocation, delayed releases, under-utilization. Students across universities have protested against this, the latest being students from Tata Institute of Social Sciences (TISS). With the high pressure, the Finance minister has just announced the release of Rs.6000 cr towards the backlog of the post matric scholarship in February 2018.

## Reviewing the situation

While employment generation, entrepreneurship and skills development has been an important agenda, despite flagship programmes and investments, the outcomes have not been commensurate or promising. The larger investment scenario or policy framework does not seem to have any silver-lining for the immediate future. The focus and attention on development and inclusion of youth from socially excluded and marginalized/minority communities do not show any specific planned strategies. On the other-hand, there is concern about the larger environment of conflict, violence and student unrest. Hence how we can, as a country, take forward the potential and possibilities of the youth population dividend may indeed be critical challenge before any government.

Also, the essence of the diversity of the youth has to be captured for an effective implementation, diversity not only in terms of rural-urban but also having special emphasis on the socially marginalized community youth who are mostly first generation learners and have limited or no access to information. Youth who are disabled have a specific set of needs which has to be acknowledged, also, the need to facilitate the youth who are in conflict areas is of utmost importance. If the above mentioned vectors are incorporated, then the essence of the youth and their needs could be taken cognizance into.

The duty bearers and the other stakeholders have to be sensitive enough towards the youth and must have a larger vision for the development and empowerment of the Youth. The grievance redress mechanism for the youth who has not been able to access the schemes or provisions of the Government has to be proactive so that the gap in accessing could be addressed to.

Budget too is an important component that has to be given special care because if there is budget deficit then the idea of development would not be able to prosper.

If the mentioned recommendations are taken into account while reviewing and re-structuring the policies intended for the youth, it would be more equitable in nature and would have a better understanding of the youth and their needs and aspirations.

# List of Partners:

1. 4B Foundation
2. Akhil Bhartiya Jyoti Mahila Sansthan
3. All India Samaj Sewa Kendra
4. Ambdul kar Samajik Trust
5. Ambedkar Samajik Trust Palamu, Jharkhand
6. Aneka Sawaama
7. Apna Theater
8. ASER Center
9. Ashram Trust
10. Azamgarh T.B.Welfare Society
11. Behavioural Science Center
12. Bhandarberia Iron Star Club
13. Bhartiya Jan Sewa Ashram
14. Bhartiya Viklang Sangh, Bihar
15. Bheem Sena Dalit Samiti
16. Bihar Voluntary Health Association
17. Bihar Aadhivasi Adhikar form
18. Bihar Social Watch
19. Bihar Voluntary Health Association
20. Bihar Yuva Sarvangin Vikas Sansthan
21. Bodhimanav Kalyan Samiti
22. C.G.Prachar Evam Vikas Sansthan
23. CECODECON , Rajasthan
24. Center for health And Social Justice
25. Center for youth and Social Development
26. Centre for Dalit Rights, Jaipur
27. Centre for Development and Human Rights (CDHR)
28. Centre for Social Justice
29. Chandarika Sangatik Uthan Evam Gramin vikash Sansthan
30. Child Rights Advocacy Foundation (CRAF)
31. Chirag Social Welfare Society
32. CHITRA Centre for Human Rights Initiative Training & Research Association
33. Cohesion Foundation Turst
34. Confederation of Voluntary Associations (COVA)
35. Centre for Social Justice (CSJ)
36. CYSD
37. Dakshina Rourkela Unnayana Parishada (DRUP )
38. Dalit Viksh Parishad, Jharkhand
39. Dalit Jan Kalyan Samiti
40. Dalit Manch
41. Dalit Manerathika Samiti/ center for dalit rights
42. Dalit Mukti Samiti
43. Dalit Mulazum Sangarsh Commnitte
44. Dalit NGO Forum
45. DANAK DRISHTI
46. Deepshikha
47. Dham Garmin Vikas Kendra
48. Disha Social Organisation
49. Dr. Bheem Rao Ambedkar shiksha Sansathan
50. Earth care Hunger free the arshinawar project
51. Family Planning Association of india
52. Freelace Development Consultant
53. Gandhi Seva Sansathan
54. Garmin Mahila and Bal Vikas Sansthan
55. Gelaya
56. GLRF
57. Gramin Mazdoor Sabha
58. Gramin mitra
59. Gramin Punarnirman Sanstahn
60. Gramin Vikash Manch
61. Gramin Yuva Pragalik Mandal
62. Gujarat Social Watch
63. HCE
64. Himalaya Niti Abhiyan
65. HNYKS
66. Human Rights Alert
67. IMSE
68. Indian Welfare society
69. IZAD
70. Jaagriti Sewa Sanmiti
71. Jan Adhikar kendra
72. Jan Chetna Kendra
73. Jan Kalyan Evm Gramin Utthan Sansthan
74. Jan Sanghash Vaitini
75. Jan sarokar
76. Jan Vikas Kendra
77. Jan Vikas Sansthan,
78. Jupiter Academy
79. Jyoti Kanyan Kendra

80. Kalinde Foundation ,Pratapgarh, Uttar pradesh
81. LEADS
82. Lok Chirag Seva Sansthan
83. Lok Jagrit Kendra
84. Lok Kalyan Seva Kendra
85. Lokmitra
86. Lokratha
87. Lokswar
88. Love of Trinity Universal Society Lotus
89. MAHILA MARGADARSHI
90. Manav Seva Bharti
91. Manthan Kotri
92. Mission Reconstruction
93. Mo Gaon Vikash Abhiyan
94. MPSSMDA
95. MP Dalit Forum
96. Nari chetna Samiti
97. Nari-o-Sishu Kalyan Kendra
98. National Aids Activist
99. National Campaign on Dalit Human Rights (NCDHR)
100. National Council of Social Welfare
101. Nazariya: A Queer Feminist Resource Group.
102. Nine is Mine
103. Nirman Seva Sanmiti
104. North East Youth Foundation
105. P R D T I
106. PAJHRA
107. PANI
108. People's Action for Rural Awakening (PARA)
109. Pariyavaranmitra
110. Peoples Action for Devlopment (PAD)
111. Pragati Prayas Kendra
112. Pragati shilpa kala sanstan
113. PRANJALI TRUST –PATNA
114. Pravah
115. PVSVS
116. RCDC
117. Rope Disha
118. Rural Technology and Development Centre (RTDC) PCSEEHC
119. Sahyogi Gramin Vikas Evam Sodh Sansthan
120. Samadhan Manav Sewa sansthan
121. Samaj Sewa Sansthan
122. Samajik nyay arm vikas samiti
123. Samarthan
124. Samudaik Kalyan Evam Vikas Sansthan
125. Sanjeevani
126. Savera Swayamsevi Sangathan
127. Shahabad Gramin Mahila bal Vikas Sansthan
128. SHIKHAR PRISHIKSHAN SANSTHAN
129. ShikharYuva Manch
130. Sikshasandhan
131. Sitara Sawmsewi Sansthan
132. Social Acion Foundation
133. Social Watch Tamil Nadu
134. South Asian Network for Social & Agricultural Development (SANSAD)
135. Srijan Kendra
136. Srusti
137. Tajmahal Gram Vikas Kendra
138. Tarun Chetna Trust
139. The Hunger Project
140. Tirmorti Kalyan Seva Santhan
141. United Reform Organisation
142. UPVAN
143. URO Bhopal
144. Vasundhra Seva Samiti, Barmer
145. Vikalp
146. Vikas Samvad Samiti
147. Vikash Foundation
148. Vikash Path Bikran Patna
149. Voluntary Action Network India (VANI)
150. Voluntary Health Association Payas (VHAP)
151. VSSESS
152. YUVA
153. Yuva Parishad
154. Yuva Rural Association





Wada Na Todo Abhiyan, C-1/E, IInd Floor, Green Park Ext,  
New Delhi- 110016.  
Ph. 011-46082371  
Email: [info.wadanatodo@gmail.com](mailto:info.wadanatodo@gmail.com) | [www.wadanatodo.net](http://www.wadanatodo.net)  
Facebook: <https://www.facebook.com/wadanatodoabhiyanindia>  
Twitter: [@wadanatodo](https://twitter.com/wadanatodo)