

Government of India
National Advisory Council

25th May, 2011

The Thirteenth meeting of the National Advisory Council was chaired by Smt. Sonia Gandhi on 25th May, 2011 at 2 Motilal Nehru Place, New Delhi.

Members who attended the meeting were Prof Narendra Jadhav, Prof. Pramod Tandon, Dr. Jean Dreze, Dr N C Saxena, Shri Madhav Gadgil, Ms. Aruna Roy, Ms Anu Aga, Dr.A.K. Shiva Kumar, Shri Deep Joshi, Ms. Farah Naqvi, Shri Harsh Mander and Ms. Mirai Chatterjee.

I - Land Acquisition, Resettlement & Rehabilitation

Shri Harsh Mander presented the proposal of NAC Working Group on Land Acquisition, Resettlement and Rehabilitation. NAC after due consideration decided to recommend a single comprehensive legislation, i.e. ***“National Development, Land Acquisition, Resettlement and Rehabilitation Act.”***, rather than the two separate ones as at present, namely, Land Acquisition (Amendment) Bill 2009 (LAA 2009) and Resettlement and Rehabilitation Bill, 2009 (R&R 2009). NAC further recommends that the proposed legislation has the following key elements:

- a. A single comprehensive law which would discourage forced displacement, and minimise adverse impacts on people, habitats, environment, food security and bio-diversity. The law should ensure that all possible options of more barren, less fertile and waste lands have been explored before acquiring agriculture land. It should also comprehensively define project affected persons/families, and provide for a just, timely compensation, resettlement and rehabilitation package through a humane, participatory, informed, consultative and transparent process, allowing for effective and fair implementation.
- b. On the condition that other less-displacing alternatives are not available, the law will provide for acquisition only for public purposes. This will be defined as acquisition necessary for strategic and infrastructural purposes, and for social services like education and health care.
- c. The NAC is deeply concerned above all that all persons who lose their lands, livelihoods and shelter because of acquisition for any public purpose must be brought under the protection of this law, and their rights to suitable compensation, resettlement and rehabilitation benefits are fully protected in all cases
- d. The processes will be transparent and participatory, requiring full information and consultation with affected communities.

- e. Compensation tends to be greatly under-valued, because registered sale deeds are under-valued. Therefore NAC proposes that compensation for those who lose land will be 6 times the registered sale deed value, including solatium. The assignees of government land will also be entitled to the same compensation. The option will also be offered to those who lose land to receive all or part of their compensation in the form of annuities.
- f. A very significant proposal for the poor is that not only those who lose land, but also those who lose livelihoods should be compensated. These include agricultural workers, artisans, fisher-folk and forest-gatherers. They would be entitled to a grant amounting to 10 days of minimum wages per month for 33 years.
- g. The land will be held jointly by women and men of the family, and other assets as well as cash will be paid into joint accounts held by women and men.
- h. If land is acquired for a public purpose and not used within five years, private property that was acquired should be returned to its original owners.
- i. Urgency clause shall not be used, unless it for national security and defense purposes.
- j. An independent Social Impact Assessment (SIA) should be conducted for all larger projects. The SIA would assess the social and environmental impacts from the project, and the R&R plan drawn up.
- k. Resettlement and Rehabilitation package is a legal right to the Project Affected Families and to be notified along with Section 6 notification, declaring acquisition of lands.
- l. At least one person from affected family will be given first preference in available employment in commercial projects, in conformity with their skills.
- m. A National Commission for Land Acquisition, Resettlement and Rehabilitation (NCLRR) should be set up, with powers to supervise, and exercise oversight over land acquisition, resettlement and rehabilitation. Penal fines are to be imposed by NCLRR based on responsibility fixed by state government by issuing job-charts

NAC advised the Working Group to workout details of the remaining key elements which require further discussion.

II. Integrated Child Development Services (ICDS)

1. Ms Mirai Chatterjee and Dr A. K. Shiva Kumar made a presentation on the proposal of the Working Group on ICDS reforms. NAC after detailed deliberations decided to recommend to the Government the proposed ICDS reform framework. The proposals suggest major changes in the ICDS and recommends core strategies as well as a comprehensive package of reforms that address institutional, programmatic and managerial gaps in the delivery of ICDS.
2. An integrated life cycle approach to early childhood care and development should be adopted if ICDS is to deliver outcomes.

3. The core strategy should include the complete package of services focusing, apart from feeding, on the 1000-day window of opportunity for children under 2, child survival and growth through assured health care and nutrition, early childhood care and development, provision of crèche facilities and effective early childhood education.
4. Other elements of the core strategy should include decentralized management and a flexible architecture, home-based nutrition counselling and related services, enhanced training and capacity building, community ownership, extensive public education on nutritional well-being, and convergence at different levels (village, block, district, state and national) and across sectors.
5. Programmatic reforms should ensure that anganwadi centres (AWCs) be adequately and appropriately resourced to offer day-long crèche facilities with flexible timings, balanced and nutritious diets to all children, structured early childhood education and effective nutrition and health counseling. Further, systems be put in place that ensure effective growth monitoring, early screening and detection of children with special needs, care of severely malnourished children as well as education and communication on care practices.
6. Managerial reforms should ensure accountability for outcomes, convergence of services, active engagement of Panchayats, non-governmental organizations and community-based organizations, improved monitoring including mandatory social audits as well as independent evaluations. New flexible financing mechanisms and a review of cost-sharing arrangements between the centre and states need to be considered to ensure better flow of resources based on need and performance.
7. Institutional reforms include setting up of a Nutrition Mission of India (NMI) to accelerate delivery of ICDS with quality and develop a time-bound plan of action to reduce child malnutrition across the country. To be headed by a Chairman (with the rank of Cabinet Minister) and with officials from relevant ministries, the NMI should be staffed by experts and consultants in different fields, and empowered with appropriate structures and resources to ensure reach of technical support at the community level. The Mission should, over the next six months, hold in-depth and broad-based consultations with stakeholders and develop a Mission Document setting out the vision, goals, strategies and detailed time-bound plans of action. Details of phasing options would need to be worked out including the proposed piloting in the most nutritionally vulnerable 200 districts and the roll-out of the revamped ICDS across the entire country.
8. Finally, the NAC endorses the move being contemplated by some states to introduce a pre-primary section in all government primary schools.

III - Eradication of Manual Scavenging

Shri Harsh Mander gave a presentation on eradication of manual scavenging. While acknowledging the initiatives shown by the Government for eradication of the practice of manual scavenging the Shri Harsh Mander emphasised the need to address manual scavenging not as an issue of sanitation but of human dignity as guaranteed to all citizens by the Constitution. He highlighted the need for a new law to end the practice of manual scavenging, as the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 has failed to eradicate this dehumanizing practice even after 18 years of its enactment.

The NAC decided to recommends the following essential features of the new legislation to be brought out on manual scavenging.

- Immediate demolition of the dry latrines and immediate liberation of those manually handling human excreta in dry latrines (coming under the narrower definition of the 1993 Act), together with full rehabilitation package. For those engaged in sewer and railway workers, their liberation could take a little longer but **not more than 5 years** from enactment of the law.
- Livelihood rehabilitation to be implemented within three months of identification. A guaranteed BPL Card to all families in which one or more member was engaged in manual scavenging. Special housing scheme for liberated persons. Education package for children from these families including free education with provision of fellowships up to 12th standard.
- For the sewer workers and railway workers, liberation will come from technological changes which will render the occupation humane, dignified and safe, and avoid any direct human contact with excreta.
- Guarantee that no person who is employed at the time the Act comes into force in casual, contract or regular employment, will be terminated, instead s/he will be confirmed in regular employment.

IV -- Law for Street Vendors

Ms Mirai Chatterjee and Mr Harsh Mander presented the issues concerning Street Vendors. They opined that Street Vending is not a matter of municipal regulation but of livelihood, employment and social security of a significant number of urban poor households. Though there exists a National Policy on Street Vendors, they pointed out major shortcomings in its implementation as it lacks legal enforceability.

NAC after due consideration decided to recommend formulation of a Central Law drawing from the strong points of the National Policy on Street Vendors.

1. The aim of this Act should be to preserve existing employment and livelihoods through street vending, and providing opportunities for the future growth of employment in the growing cities, while protecting the interests of the consumer, pedestrian and traffic.
2. Principles of natural markets should be incorporated in the law, as central to determining vending zones, weekly markets, and holding capacity.
3. Minimum quantitative norms should be prescribed for the numbers of street vendors to be accommodated. It was recommended that 2% of the urban land should be earmarked for street vending.
4. A Town Vending Dispute Redressal Forum should be constituted for each Town Vending Committee (TVC).
5. State level appellate authority presided over by a retired judge of the High court should be constituted.

6. Vendors should be recognized as a legal entity and their livelihoods should be secured, besides making available affordable retail services to the public.
7. Procedures for registration of both mobile and stationary vendors, confiscation and eviction procedures should be followed as per the National Policy Guidelines and included in the central legislation.
8. There should be strong and mandatory transparency provisions with regard to all of the above procedures.

V Denotified, Nomadic and Semi-nomadic Tribes (DNTs)

Dr Narendra Jadhav appraised the NAC of the consultations initiated by the Working Group on DNTs. The Working Group will hold national consultations with the representatives of the DNTs and the NGOs working with the DNTs for formulating recommendations to address specific problems being faced by DNTs

VI Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS)

1. Ms Aruna Roy Convener of the Working Group on Transparency, Accountability and Governance made a presentation on the recommendations of the WG on MGNREGS. NAC decided to make the following recommendations to the Government.
 - a. Expeditious notification of Social Audit Rules.
 - b. Institutional strengthening by establishing a Mission at the MORD and Technical support unit for Central Employment Council.
 - c. Technical support to the States through Resource Groups on various aspects of the implementation of the MGNREGA like:
 - Payment of Wages
 - Transparency and Accountability, Grievance Redress
 - (including Social Audit)
 - Planning, Natural Resource Management, Convergence, and expanding the category of permissible works
 - Demand for Work
 - Capacity Building, Training, Staff, and Management

VII Constitution of new Working Groups

NAC has decided to constitute 3 Working Groups on i) Dalit issues, ii) Gender and sex ratio and iii) Social Security, for the unorganised workers.

The next meeting of the NAC is scheduled to be held on 22 June, 2011.