

Background Note for Sub-Group on "Accountability and Government"

The NAC has been credited with initiating a slew of rights based laws and policies that have the potential of transforming Indian society and governance. At the same time, it is widely acknowledged that weak delivery systems and tenuous accountability structures have undermined the potential of these path-breaking legislations. These inherent institutional weaknesses have also compromised the Constitutional commitment of the Government in terms of guaranteeing dignity of life and basic human rights.

That is why the NAC II in its first meeting has made a conscious decision to pay special attention to accountability issues that affect all spheres of delivery and democratic running of government. For this purpose, NAC has constituted a specific Working Group on "Accountability and Government".

In fact, accountability related issues will also be central to the debates relating to NAC's current initiatives such as Communal Violence and Right to Food Laws. For a country like ours, which is severely crippled by resource constraints and a disempowered citizenry, there is an urgent need for strong structures and mechanisms to ensure institutional accountability. This is essential to break through the colonial culture of our administration and ensure full impact through these rights based legislations. In this direction, path-breaking measures like the Right to Information Act, need to be conceived of and implemented effectively. We are also alive to the fact that important parts of even the RTI Act, like the proactive disclosure regime, are facing a lot of resistance from the government and need a decisive policy initiative to bring these into effect.

Along with a rights based approach, there is an urgent need not just adjustment and reform, but a paradigm shift that would generically change the institutional structure of government and make public functionaries, officials and representatives, truly accountable to the people. There is a widespread perception that violations of human rights are a direct result of a culture of impunity which has affected the government in some of the underdeveloped and troubled areas of this country. This is especially distressing because more often than not it is the marginalized, poor communities of this country (including the SC/ST) who are the victims of this unending cycle of deprivation and violence. It is in this respect that there is a crying need to bring some succor to the "underclass" communities, thereby restoring wholesome citizenship to them. This can only be achieved by designing mechanisms to hold the government accountable to the "rule of law" - a government which will feel bound by both the *civil and political rights* recognized under the Constitution and the laws of the country in addition to the *socio-*

economic entitlements which are a part of the advances which the country has made in the 21st century.

Some of the issues that affect governance as a whole are corruption, abuse/misuse of authority, apathy towards the plight of the citizen, inefficiency, and a systemic inability of the system to hold individuals accountable for their sins of commission and omission. The NAC needs to consider reform proposals to strengthen existing institutions and systems, and design and initiate new mechanisms and frameworks, for strengthening general governance, administration of justice and performance of accountability and oversight institutions in particular. Only a government which is transparent and participatory in its discharge of the duties and is accountable to the people in its dealings will stand the acid test of being able *to empower the citizenry it is serving*, especially the republic of the last and the least.

An illustrative (not exhaustive) list of the priorities in the sphere of governance could be:

1. Strengthening of the grievance redressal and Lokayukta systems in the country
2. Developing institutional mechanisms and safeguards to ensure that the fundamental human rights of the people are not trampled with, especially in relation to displacement due to "development" activities and projects, internal or external security concerns, law and order situations, or as a result of caste, communal, gender or age bias.
3. Evolving a system that ensures that the best available persons are appointed to various statutory and constitutional posts and authorities, and that political linkage and patronage play no part in such appointments.
4. Opening up the functioning of such posts and authorities to public scrutiny so that even they are accountable to the people, while rightly maintaining their distance and independence from the government of the day.
5. Electoral reform
6. Judicial accountability
7. Enforcing Rule of Law in the context of Human Rights excesses by the executive branch

Similarly, an illustrative list of some follow up priorities on transparency issues could include the strengthening of the RTI regime in this country, specifically by, among other things:

- Promoting proactive disclosure of information
- Raising awareness among the people on the value and processes of the RTI

- Creating an atmosphere that would provide confidence to citizens to apply for information and bring it in the public domain without fear of harassment and reprisals.
- Orienting and training the bureaucracy to be more effective providers of information
- Overhauling the system of record management in the country
- Orienting and strengthening our information commissions to function more effectively as , especially by ensuring appropriate appointments, autonomy, and support
- Making departmental response to the RTI Act an important parameter in the evaluation of departmental performance
- Widening and deepening the coverage of the RTI Act.