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SOCIAL MEDIA AND GOVERNANCE

Alok Srivastava

With social media to support media and civil society groups, Government should now be ready for more such kind of reactions, as witnessed recently, from citizens who had no vested interest or hidden agenda but reacted more for the cause.

Citizens now expect responsive government and transparent governance. The country in fact witnessed the use of networking tool for public mobilization (pg 11). As Santosh Desai (pg 6) rightly points out that interest in directly influencing modes of governance has

grown and democracy as a practice is increasingly detaching itself from the narrow idea of elections. He however feels that the political class has not understood this change. On the other hand, in another article (pg 5), NC Saxena is worried about the growing influence on policy issues of



activists who call themselves “civil society” and government yielding to their pressure. For democracy, one of the positive roles of social media is that it can influence voters’ turnout. No surprise that soon Facebook can create or damage the ‘face’ of a government or political party.

Therefore what is important to understand is the potential of social media in coming times, as India is already the third biggest country in terms of web-connected citizens inspite of the fact that users of internet and social media are mainly confined to urban and young

India. As per Census 2011, with more than half of the entire population of India having mobile phones, for the government as well as the public service providers, it is high time to realize the potential of social media, so that they are not caught unaware and on wrong foot with their action and reaction.

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ABOUT CMS TRANSPARENCY

The CMS Transparency team focuses on issues of good governance, raising awareness about the Right to Information Act (RTI) and empowering citizens to benefit from the legislation.

The Right to Information Act 2005 represents a historic breakthrough in recognising the citizen's democratic rights to monitor measures affecting the public good. Following adoption of the Act by the Parliament of India, the CMS has set up a Transparency Studies wing to document, examine and publicise the interrelation between governance and society in all its aspects. It facilitates dissemination of relevant material, confers with experts and field workers and networks with the media to promote implementation and awareness.

Priority is given to right to education, especially of children; right to work; right to justice and associated human and social rights, especially at the grassroots. Path breaking initiatives such as the Citizens' Charter, performance appraisal and social auditing, national annual corruption survey, the Zero-level Corruption Initiative in partnership with the CVC, and creation of forums for discussing electoral and judicial reforms have earned the team praise at the national and international levels.



CMS Transparency
Towards Responsive Governance

RESEARCH HOUSE, Saket Community Centre, New Delhi 110 017 India
P: 91.11.2686 4020, 2685 1660; F: 91.11.2696 8282
E: transparency@cmsindia.org, info@cmsindia.org
W: www.cmsindia.org/cmstransparency

Tackling Corruption

Some Alternative Approaches

Nandan Nilekani

The issue of corruption has captured the imagination of society at large. It has raised serious issues of governance as well as transparency in the functioning of our democracy. While the need to address the issue of corruption is not a subject matter of debate, it is the form and strategy of tackling corruption that often produces diverse viewpoints. Solutions offered by diverse stakeholders range from the simplistic to the often complex and non-implementable. The seriousness of the problem mandates a thorough look into the underlying causes of corruption while solutions offered must be sustainable, long-term, process oriented, systemic and institutionalized.

Often when people refer to corruption, they refer to multiple types of corruption interchangeably- one, Large-deal corruption; two-Retail-level corruption; and three, Tax evasion. Clearly no single strategy can address all types of corruption. To complement the initiatives being planned to address large-deal corruption such as auctions of natural resources (Chawla Committee), Lok Pal Bill, streamlined and more equitable land acquisition, better Public-Private Partnership structuring and better regulation, a strategy to tackle corruption at all levels can be effectively and systematically done leveraging Information Technology (IT). A couple of examples where IT can play a crucial role are E-auction platforms and E-procurement platforms.

Another important approach in the fight against corruption is the abandonment of working in “silos”. Both in the private and public sectors, missions are conducted in “vertical” silos that are either not adaptable across sectors or cannot be used as a platform. There is an urgent need to recognize the importance of “horizontal” governance reform which essentially is an innovative way of providing solutions that can be integrated and used across sectors. Technology enables this horizontal integration. This cuts across silos and is an efficient and smart way of undertaking reform.

Much of the public perception of corruption is the retail-level corruption that happens across millions of touch points whether distant level villages or cosmopolitan cities, involving the interface between the citizen and the State. The task force on Aadhaar-enabled Unified Payment Infrastructure, Inter-Ministerial Group on Delivery of Basic Financial Services through Mobile Phones, and the India Post Committee on Financial Inclusion have all recommended an interoperable payments network of 1.5 million Business Correspondents (BCs) equipped with micro ATMs to achieve the financial inclusion. The roll out of Aadhaar ensures that all residents of India get a unique biometrically linked number, which will help them gain access to all Government schemes. Beneficiaries will be able to access their subsidy funds from any BC of any bank, anywhere in the country. This move to electronic money is pro-poor since it maximizes choice and minimizes the opportunities for rent seeking by intermediaries.

Aadhaar as “Know Your Customer (KYC) norm for accessing financial services, mobile connections, and all Government services that require identification will greatly reduce rent seeking at service delivery points. Every Government subsidy scheme should, overtime, incorporate the beneficiary’s Aadhaar in their database for service delivery.

In order to bring about a systemic change, it is essential to think of a holistic approach to address the menace of corruption. The use of technology and re-engineering processes provide the platform to make governance more efficient as well as transparent. Needless to say, political support and civil society engagement is a sine qua non for this to happen. Single “magic wand” solutions do not exist in the real world. It is time that serious thought is given to finding innovative solutions by harnessing our strengths to tackle an age-old problem.

(Excerpts from his lecture delivered in the 19th Lovraj Kumar Memorial Lecture, November 1, 2012)

CMS-INDIA CORRUPTION STUDY 2012: *Expanding Slums.....Growing Corruption*

Alok Srivastava

BACKGROUND

The share of urban population to total population has grown from 17.3 per cent in 1951 to 31.16 per cent in 2011 (Census of India). On average, 25 per cent of the population in many Indian cities lives in slums. With this has grown demand for basic and essential public services, and increasing corruption. The “**India Corruption Study 2012**” by CMS is eighth round of India Corruption Study (ICS) undertaken by CMS since 2000. Using its unique model- **CMS-PEE Model**, captures peoples’ Perception (P) and Experience (E) with Public Services and further Estimates (E) the amount paid as bribe by common citizens of India to avail basic and essential public services.

The present round (2012) of India Corruption Study, referred as **CMS-ICS 2012**, focused on slums and basic public services usually availed by the residents of slums. For the sample household level survey, nine cities, which are geographically spread across India and have high concentration of slums dwellers in the country were visited between last quarter of 2011 and first quarter of 2012. The sample constituted 2533 slum households of nine cities, namely, Ahmedabad, Bangalore, Bhubaneswar, Chennai, Delhi, Goa, Hyderabad, Kolkata and Mumbai.

The eight public services covered in this study are: **Drinking Water, Electricity, Public Distribution System (PDS), Public Health/Hospital Services, Housing, Municipal Services and Police**. Further to see the trend

in prevalence of corruption in public services, the findings are compared with the earlier round conducted in 2007-08, which had urban slum population in the sample. All seven services except Municipal Service were also covered in 2007-08 round.

Salient Findings of CMS ICS 2012 *focusing on Urban Slums:*

➤ **Usage of Public Services:** The average number of public services utilized by the slum households was three out of seven public services selected for the study.

➤ **General Perception: More than half of the slum dwellers from nine major cities in the 2012 survey felt that corruption in general has ‘Increased’ in public services in the last 12 months while around 29% opined that**

corruption in public services continues to ‘remain the same’. This indicates that no measures towards improving governance, as claimed by central and state governments, are reaching to poor.

➤ **Service specific Perception: More slum dwellers (61%) perceived an ‘increase’ in the corruption in the Police services while the steep increase between 2008 and 2012, in terms of percentage points, was in water supply (21%), electricity (19%) and health (13%) services.**

➤ **Experienced Corruption in Public Services: The incidence of corruption has doubled since 2008 in urban India from 34% to 67%.**

EXPERIENCED Corruption in Public Service in 2012			
City	Households Asked for Bribe At least Once*	Households Paid Bribe At least Once**	Denied Service at least once as could not pay bribe**
Ahmedabad	23	94	7
Bengaluru	73	76	53
Bhubaneswar	64	44	81
Chennai	80	77	46
Delhi	65	93	16
Goa	91	99	4
Hyderabad	58	89	22
Kolkata	65	86	26
Mumbai	96	98	33
Nine cities combined	67	84	35

*Including those who had to use influence to avail the service
**Out of those who were asked for bribe at least once
Source: CMS-ICS 2012 (figures are in %)

Out of those who were asked to pay, 84% paid bribe to pay to avail the services.

➤ Of those who experienced corruption in public services, about 47% experienced once during the last 12 months while another 31% came across such situations twice.

➤ **Three out of every four slum dwellers (75%) has been asked for a bribe** in at least one of the three public services-PDS, Public Hospital/ Health services, Municipal Services- in the previous 12 months prior to the survey.

➤ Not Paid Bribe so Denied Service: **Around 35 percent of the slum dwellers were denied service at least once as they could not pay bribe.**

PUBLIC SERVICE SPECIFIC HIGHLIGHTS OF CMS-ICS 2012

➤ Average number of public services interacted by a slum household was three.

➤ The most in demand ones were PDS, Municipal and Public Health/Hospital Services; least interacted is Housing service.

➤ ‘Perception’ about corruption in a particular public service was high across the seven public services. **More than three out of every four slum households opined that the level of corruption has ‘increased’ during the last one year; highest being in Police Service (88%) and least in water supply services (78%).**

➤ Among those interacted, highest percentage of slum dwellers ‘Experienced’ Corruption in Police Services - around 75 percent.

➤ Break-up by the public service reveals that **six out of every ten participants were asked to pay bribe either in the PDS or Public Health/hospital services**

➤ The ‘most often paid’ amount among services was highest in Police (INR 500).

➤ The highest amount paid by a single slum household was in the Housing service in Delhi ‘to get a housing plot’ (INR 7000). The least amount paid was in Kolkata (INR 5) ‘to get monthly ration’.

➤ Different reasons for which bribe was paid include: PDS (to take monthly ration, get a ration card); Electricity (adjust inflated bills, new connection); Water (repair/restoration of water pipe/supply); Municipal (drainage/sewage cleaning; removal of garbage); Public health/hospital (as in-patient; get OPD card); Police (get FIR registered; remove name as an accused).

This is the first time ever that such an exhaustive study of corruption in urban slums been conducted in India. This study also provides detailed analysis of each of the 9 cities covered in terms of bribe giving patterns for accessing public services. The study also mentions pointers for action to improve lives of more than quarter of urban population living in slums. These include:

➤ **A special review of Policies** to do with slums and slum dwellers in the specific context of basic services.

➤ **Social Audit of services** in urban slums will ensure better service delivery and plugging the gaps in supply and demand of public services.

➤ **Rights to Service** should be introduced in all big cities across the country for time-bound

Experienced Corruption		
Public Services	2008	2012
Police	46	75
Housing	41	52
Water	14	50
Electricity	13	35
PDS	12	34
Health	15	32
Municipal	Not covered	60

Source: CMS-ICS 2008 & 2012 (figures are in %)

service delivery.

➤ **Public Private Partnership should move beyond ‘pilot projects’ phase** for time bound availability of housing for poor, water supply, sewage cleaning and garbage collection.

➤ **Identifying Champions for slum free Cities** to expedite the planned development of cities and slums, in particular, it is important to identify in each city ‘champions’, individual or institutions. As an initiative, local academic centres/universities could be roped in and requested to adopt a slum to develop as a ‘model slum’.

➤ **Special Information and Redressal Cell to keep slum dwellers** informed about how and where to approach to avail the services. A single window facility for all public services will be of great respite for the families in slums.

The detailed report will soon be available on www.cmsindia.org

New day, New start

Abhijit Banerjee

The announcement that, starting today, the Aadhaar Unique Identity number will be used to make cash payments directly to beneficiaries in some areas has brought some much-needed excitement back into the political life of the chattering classes. After months, nay years, of drift, here at least was something decisive from the government, something to hate or love. In some of the economist circles it is being described as a game changer. The Right to Food Campaign, on the other hand, is organising, in its own words “against UID and Cash Transfers in the PDS”.

What is worrying is that neither side seems to be interested in what I see as the core question posed by the Aadhaar infrastructure—here is a new technology for identification, how do we use it to make our favourite programmes work better? For some of the opponents of Aadhaar, this is a part of a general suspicion of all new technologies: the ration card is better because it is familiar, no matter that it can get lost or stolen or torn or wet. No matter that Ram, with a little help from the local government, can end up with a ration card in Raghu’s name (as well as another one in his own name). No matter that Raghu could be dead or even never born.

This to me is one great advantage of Aadhaar. In the end my fingertips and my cornea are mine. No one else will be able to claim that he is me, and I should almost always be able to demonstrate that I am. That means that it is now possible to stop Ram from collecting Raghu’s kerosene, and Raghu not be deprived because his ration card got soaked when the rain came in through the broken roof. Moreover, now that every entitlement can be linked to a single ID, it should be possible to prevent Ram from collecting both subsidised kerosene and LPG cylinders at less than half the market price, given that the law says that no one can have both.

Like everything else in India, it will not work perfectly. Some will be asked for bribes, though the fact that, unlike in the case of the ration card, they could just go elsewhere to get their number

will protect them to some extent. Others will be turned away because their fingers don’t print, despite the fact that the Aadhaar rules say that no one can be refused. Sometimes the computers will freeze and the networks will be down, despite all attempts to build in backups. But then the comparison should not be with some ideal system that runs perfectly, but with the extant systems for an ID (a passport or a ration card), which can be infuriating, to say the least.

A lot of the resistance is however not to Aadhaar per se, whether it works or not, but to its association with the move to cash transfers. We are told that people do not like cash — they want food and fuel. There is a survey by Jean Drèze and Reetika Khera that purports to document this. I must say I have little faith in these results, not because the authors are anything but extremely competent, but because the answer to such questions must necessarily depend on exactly how they get framed, explicitly or implicitly. Whether I would want food or cash depends on what I believe about exactly how many times the PDS shop will refuse me my quota versus whether the cash will get stolen along the way, and about how the government is planning to adjust the cash for inflation

and a host of other factors about which no one really knows very much. So the answer must depend on exactly how I construe the alternatives based on the way they are described.

I have more faith in actual outcomes. The one study that I know of cash versus food, conducted by the Gandhian trade union SEWA in some Delhi slums, found that a move to cash made no difference in people’s cereal consumption but helped them when they had medical emergencies. There was no effect on consumption of alcohol or other “bads”. Moreover out of 100 people who were switched to cash, only four volunteered to go back to food when offered the choice after six months of cash. However this is one small study, with little pretence of being scientific about



controlling other factors that might have changed, and we absolutely need to wait for other, better evidence (there is a study in Andhra Pradesh that is about to announce its results). But in the meanwhile, if you believe that kind is better than cash, why not try to engage with Aadhaar and see how it can be used to make those transfers in kind more effective?

However there is a deeper source of resistance. A good bit of what, for want of a better word is called civil society, holds that the Indian State today is so committedly anti-poor that the presumption has to be that if it is something the State is enthusiastic about there must be something wrong with it. There are mornings when I open the newspaper and see exactly where they are coming from, but in the end I do not believe it. The Indian State is a contested terrain, indeed perhaps never more or so than now. The current system of transfers to the poor is not a product of some past State that was uniformly benign — after all Indira Gandhi did both *garibi hatao* and *Turkman gate* — but a result of electoral compulsions, occasional munificence and many battles lost and won, fought by the poor and their supporters. The State has always acted under many compulsions, and there is nothing inherent about Aadhaar that makes it less worth engaging with and appropriating for the right causes than any other government initiative.

And in a sense, the same imperative to engage also applies to those of us who are excited by Aadhaar's potential. The point is not to treat it as

a done deal, a solution to everything that goes wrong in government transfer programmes. Even with Aadhaar we would need to find a way to stop politicians and bureaucrats from putting their friends on the BPL lists. Is there a way to be creative about verifications that make that harder? At a more mundane level, given that there are bound to be glitches, should we not worry about the current push to start using the Aadhaar infrastructure for real government programmes before it has been field-tested through its uses in getting bank accounts and cell-phones? What is the right way to roll it out?

There is also a more long-term concern. When the Aadhaar infrastructure is in place and working well, which I predict will happen soon enough, would it not become extremely tempting for governments facing elections to start giving away larger and larger sums of money in key constituencies, given that money can be transferred to hundreds of millions of Aadhaar accounts with the press of a button? What stops an explosion of populism? I feel that now is the time to intervene. All political parties should agree on a number, some fixed fraction of GDP that can be used for all transfers, cash and non-cash - including the many boondoggles that we offer to the rich. If the government wants to give away more cash, it will have to cut back somewhere else, and perhaps this will persuade it to rein in the more egregious of our transfers to those who don't need it, such as the subsidy on LPG.

Courtesy: The Hindustan Times (1 January 2013)

The power of populists and naysayers

NC Saxena

Civil society activists in-a-hurry are acquiring a disquieting influence in the drafting of laws

The growing influence on policy issues of activists who call themselves “civil society” is a worrying trend and needs to be objectively analysed. Two recent policy pronouncements will illustrate how government seems to be yielding to their pressure.

It is well established that absenteeism of teachers and poor quality of outcomes in government schools is the main factor behind the popularity of private schools with poor infrastructure that cater to the needs of the underprivileged. The management pays pittance to the teachers but such schools are still attracting students because of better teacher attendance, personal attention to each student and testing of their homework by the teachers, faster scholastic

learning, and in some places greater emphasis on English. Often they run under a banyan tree or in a dilapidated building. However, the Right to Education Act insists that such schools would be closed down if they do not have an all-weather building consisting of at least one classroom for every teacher and an office-cum-store-cum-head teacher's room; barrier-free access; separate toilets for boys and girls; safe and adequate water facility to all children; kitchen for mid-day meals; playground; library; and qualified teachers.

Shutting down private schools that do not meet the required norms and standards will place an additional burden on *Sarva Shiksha Abhiyan* (SSA) funds at a time when the overall demand for primary education is still greater than supply. This

is particularly so in urban areas that cater to migrants and slum dwellers. At the very least, the answer lies in improving the quality of infrastructure and outcomes in government schools and not in shutting down the private schools, thereby denying access to education to the deprived sections. However, the lobby of “fundamentalists” in the education sector is so strong that these schools are under threat of being de-recognized under law.

A more recent example of the civil society influence on drafting of laws can be seen in the Land Acquisition Bill. A close examination of its clauses would reveal that acquisition of even one acre of land would take at least two years and the proposal will have to pass through about a hundred hands. The delay is caused mainly because the bill seeks to establish several committees adorned by activists and “experts”. To begin with, Social Impact Assessment would be carried out by a committee, and its report would be vetted by an Expert Group. In addition, there would be an R&R Committee, of course a State Level Committee and a National Monitoring Committee to pontificate over the reports generated by the junior committees.

As land cost is insignificant (between 1 to 5 per cent of the project cost), a simpler solution would have been to increase compensation several fold, and make land available to the project in a few months’ time. However, landowners cannot ask for more than the recorded price (it is common knowledge that it is often less than one-third of the actual price) in urban areas and not more than double in rural areas. The bill is anti-farmer and anti-growth, but certainly pro-civil society! Barring a few exceptions, many of these NGO activists think with their hearts and not with their brains.

They are populists and cater to a constituency of “habitual seminar participants”. One can easily predict their stand on any development issue. For instance, they would never say that profits are legitimate or that industry is creating jobs, or that agriculture has shown vast improvements in Gujarat. They believe in development being a “zero-sum game” where the poor can benefit only when the rich are losing out. Both cannot win, according to them. Ramachandra Guha rightly called them the “No No People”. In the past, they criticised the Green Revolution, in the 1980s their target was farm forestry, and now their target is infrastructure, dams, power plants, direct cash transfer schemes, UID, PPP, etc. Reality for them is either black or white, never grey. Everywhere, they see a conspiracy engineered by the World Bank/ IMF or the “neo-liberal state”. They pick up facts selectively, or distort them. They are people in a hurry looking for quick-fix solutions. Like journalists who only write but do not read, they too only talk but have no time for comprehensive analyses of such facts that do not support their biased views. Their favourite pastime is to hog media space and run down government. No wonder, their image amongst bureaucrats is that of wasters, dependent on foreign funding. Interestingly, their differences and rivalries with each other are at times quite open. Competition for funds, professional jealousies, differences in operational traditions and the desire to be seen everywhere, are common maladies that restrict inter-NGO collaboration.

The Planning Commission should critically examine their contribution before they acquire permanent space for themselves in all social ministries.

Courtesy: The Indian Express (2 January 2013)

2013: Time for society to revisit conventions

Santosh Desai

It is not easy to sum up 2012 without a deep feeling of despair. If 2011 was the year in which some fundamental structural issues with our political system were exposed, 2012 seems to have not only deepened our understanding of those shortcomings, but also made us alive to the deepening fissures in society. This was a terrible year in terms of crimes against women and the brutal gang rape of the young girl in Delhi and the subsequent callousness and insensitivity shown by the political class, underlined the fact that gender

discrimination is deeply embedded in the societal fabric.

If one were to try and tease out some patterns underlying the events of this year, they might broadly fall under two, somewhat related heads. For one, we are beginning to see the tentative first steps towards the formation of the idea of citizenry; the notion that as citizens there exists a reciprocal responsibility to not only respond to ones immediate environment, but also play an active role in managing it. Over the last couple of years, the

interest in directly influencing modes of governance has grown; democracy as a practice is increasingly detaching itself from the narrow idea of elections. The political class has not understood this change; one has only to look at the fact that in the recent protests in Delhi, virtually no elected representatives, not even local politicians, were involved. When a movement that holds the nations attention with such intensity fails to stir the representatives of people even a little bit, the schism between citizenry and the polity can be considered to be enduring.

The other pattern that has emerged is the deepening divide in society. If the gang-rape case underlines the deeply misogynistic character of society even today, 2012 saw many incidents that underline the struggle to reconcile the many contrasting pulls and pressures that have followed the sweeping change over the last few years. It is now clear that the new came without any accompanying compass, and asked questions of the old that it did not have answers to. The larger question of change penetrating beneath the skin of the modern, into our everyday lives, and finding genuine and widespread acceptance is the really big one that we are left grappling with.

A lot has been said about the sickness that lies within society and the need to change the mindset. The trouble is that society cannot be hectored into change, no matter how just the cause. Social change needs a whole ecosystem of actions, but above all it needs a real dialogue. We have seen unprecedented change in India that has come without any mechanism to justify itself or explain its implications. A small section of society has embraced enormous change and now looks at the rest of India with uncomprehending and often judgmental eyes. No intermediary mechanisms exist that would interpret this change and find place for it in the traditional way of life. The state does not function adequately nor do its institutions offer clear benchmarks, the market creates a sense of surface modernity while simultaneously reinforcing existing prejudices, and traditional institutions like the panchayat and religion have not really done their bit in making the new intelligible to the old, often acting to the contrary.

Along with pushing for comprehensive reform that makes the legal framework more effective both in concept and delivery, it is also important to carry out a sustained societal dialogue. This is not the same as one section lecturing to another or

educating them from a superior vantage point, but a genuine dialogue between peers that addresses each others anxieties and aspirations. So many Indians are experiencing things for the first time in their lives. New freedoms need new boundaries, which in turn requires a framework that is relevant for the times. The old sources of authority that drew boundaries cannot make sense of the new, and no institution is either facilitating a dialogue or stepping in to fill the void. The problems facing society have a lot to do with old mindsets being amplified by new freedoms, rather than being redefined by them.

The fact is that change is happening across the board in India. Women, in particular, are experiencing new freedoms and reveling in a greater sense of confidence and control that they increasingly have over their own lives. The need is to harness this and convert it into a deeper, more enduring reality. New conventions need to be formed; a new vocabulary of change needs to be established. The conversation needs to move away from the extremes to the centre, and the progress made, even if partial, needs to be welcomed and encouraged. Platforms that allow people, not just politicians or commentators, to communicate on a broad range of issues, are vital to fostering such dialogue. So much has been said about Indias economic progress but little is being communicated about the social change that has been embraced nor have there been any real conversations about the questions that have been thrown up as a result.

There was a time when the sense of right and wrong was received as a legacy from the past. The definitions were by no means perfect but clarity certainly prevailed on what was deemed desirable and what was not. As the past loosens its grip on us and we emerge as individuals that voluntarily organize ourselves as citizens sharing a common present and shaping a common future, we need to develop our own compass. The time to act exclusively as critics observing our lives must give way to becoming participants in determining not just the course of our life, but also play a role in framing the rules that govern it. And it is only when this compass has broad agreement across all sections of society that a common moral and ethical framework can be developed. For that there is no alternative to putting pressure on institutions to draw and guard the outer boundaries of behaviour and to negotiate through mutual dialogue, all that lies in between.

Courtesy: The Times of India (1 January 2013)

National Accountability Commission Bill 2012

Farooq Moin

The government desires to bring a good law for accountability and get the National Accountability Commission Bill 2012 passed unanimously by the Parliament by incorporating good suggestions in order to make it a consensus Bill and repeal the NAB Ordinance 1999 repealed. The government was within its rights to withdraw the old Bill with the permission of the Speaker and table a new one in the National Assembly, which was being considered by the same Standing Committee on Law and Justice. The government would welcome amendments to the new National Accountability Commission Bill 2012 by the opposition. There was imperative need for a new transparent law that was not used for persecution and victimization of anyone.

There has been criticism that all acts of corruption by public office holders prior to October 2002 have been legalised and no legal action will take place. Objectively speaking every law has to prescribe a certain date from which it will commence. The NAB ordinance 1999 commenced from 1st January 1985. Similarly the proposed law, if approved, will commence from 1st October 2002. However, if parliament felt that it should commence from any other date that would be duly considered by the house committee.

There has been objection that the chairman of the Accountability Commission will not be independent because the deputy chairman and the prosecutor general will be appointed without consultation with the Prime Minister and the Opposition leader. Under the proposed draft bill, the chairman of the commission will be nominated by the President in consultation with the Prime Minister and Opposition leader in the National Assembly. The deputy chairman and prosecutor

general will be appointed by the president in consultation with the chairman. According to another objection Section 18 of draft law allows corrupt public office holders to go scot-free by returning looted money without any punishment. This provision is not new. In NAB Ordinance 1999 Section 25 and 26 provided for voluntary returns and plea bargain followed by tender of pardon. The provision has been included to help recover the public money from the accused persons and grant of pardon would be decided by the Accountability Court in case the accused has been charged and the trail has commenced. Section 33B of NAB Ordinance 1999 provided for furnishing a copy of any contract of over Rs 50 million to NAB has not been included in the new bill. The scope of corrupt practices has been increased in the proposed new bill and it will apply now to all corrupt practices. The technical limit of Rs. 50 million had many loopholes and hence had not been effective in the past.

Section 39 of the proposed bill exempts several categories of corruption done in “good faith”. In legal parlance term good faith is an abstract and comprehensive term used for action which are committed by sincere belief and motive without any desire to defraud or gain any unfair advantage. The term has been used in almost every law of the land even criminal liability acts. The leadership of PML-N has also criticized the proposed legislation on similar grounds. The government has proposed the bill after months of deliberation. It is hoped that the opposition would demonstrate keen interest to propose desired amendments and to reach consensus in order to make it law for the purpose of ensuring transparency and accountability in the society as a whole.

Courtesy: Daily Times (18 October 2012)

Cash transfers can be a double-edged sword

Ravish Tiwari

Prime Minister Manmohan Singh and Finance Minister P Chidambaram’s push for reforms in subsidy delivery with the direct cash transfer mechanism came close on the heels of decisions allowing FDI in multi-brand retail and civil aviation, and cutting down subsidy on diesel

and LPG that were taken to shake off the impression of policy paralysis in 2012.

The unequivocal support lent by Sonia Gandhi and Rahul Gandhi despite reservations of influential members of the National Advisory Council, with which the Congress leadership shares an

ideological connect, proved another relief for the government as it sought to keep opponents within the ruling party under check.

2013, the year when this project has to be realised, will be either make or break for this major subsidy delivery reform measure.

Logistical issues eventually led to the government revising, on the last day of the year, its target and announcing a rollout only in 20 districts from the new year and for 26 schemes, as against 29 initially announced.

Getting all departments engaged in transferring benefits to individuals to move quickly to an electronic direct cash transfer system, with an Aadhaar-based payment platform, will still be a mammoth task.

The project requires collaboration among various departments, UIDAI, local governments, banks, telecom service providers and other stakeholders. The government departments will have to re-engineer their processes, cutting the red tape till the beneficiary level.

For the UIDAI, the first task is to ensure near-total Aadhaar coverage in the identified districts. The first phase of the project in 20 districts will be a real-time test for an idea that has been backed by the Prime Minister during the UPA-II. Local governments across the political divide will have to cooperate in the identification of beneficiaries to get the idea implemented swiftly.

Banks will have to create an inter-operable corresponding architecture to enhance accessibility

of banking services in the remotest corners. They will need also to increase the density of cash-in-cash-out points in remote corners for which they will have to use reliable micro-ATMs, another technological challenge.

Telecom service providers will have to provide reliable data connectivity in remote areas to ensure seamless functioning across the Aadhaar payment platform.

These are doable tasks within their respective verticals in the set timelines. The challenge is to get them to work in tandem within these time-frames. A slip in one vertical may give a reason for another vertical to go slack, and vice versa. This is a situation that can throw the entire project out of the gear. Over a dozen districts of those selected have less than 50 per cent Aadhaar coverage, with one district at just four per cent.

Given the fact that the project has the backing from the highest quarters, it is expected there will be no turf wars and the time-frames will be honoured. If all goes

well, 2013 may very well be annus mirabilis for reforms in subsidy delivery.

On the other hand, it is the over-enthusiasm on part of the Congress, and those who have sought to flaunt it as a Congress game-changer, that could cause it to backfire ahead of 2014. Any lapse will most likely be hurled back against the Congress by the likes of Sushma Swaraj and Narendra Modi in public meetings.

Courtesy: The Indian Express (1 January 2013)



Who is a whistleblower?

Jiby Kattakayam

Special Judge Vinod Kumar of P&H High Court coined five principles in the process to decide who is a whistleblower: “1. Law welcomes whistleblowers; 2. If whistleblower is innocent but was only a victim of circumstances, he must be cited as a prosecution witness; 3. If whistleblower had a minor role in the commission of the offence or in the conspiracy, the courts should come forward to his rescue and in appropriate cases should not hesitate to make him an approver; 4. If the whistleblower had a major role in the commission of such offences, he must come up with complete facts before the investigating officer and during trial he must testify on oath at the stage of defence evidence and should disclose the truth, the whole truth and nothing but the trust before the court. The trial court must certify in its judgment that the whistleblower has come out with the truth and has not concealed anything and, lastly, on such certification in the judgment, the court can proceed to award the minimum possible sentence to such convict, and, if possible, release him on probation with recommendation to the Government that no departmental action should be initiated against him for the said conviction.”

Courtesy: The Hindu (23 January 2013)

Govt wants to further privatize healthcare

Kounteya Sinha

The government is pushing for greater involvement of the private sector in health. A Planning Commission proposal, to be taken up by the National Development Council on Thursday, suggests including health with other infrastructure sectors which are eligible for viability gap funding up to a ceiling of 20% of total project cost under a public private partnership scheme. This means the private sector could propose and commission projects such as hospitals and medical colleges outside metropolitan areas, “which are not remunerative per se, and claim up to 20% of the project cost as grant from the government”.

“PPPs offer an opportunity to tap the material, human and managerial resources of the private sector for public good. But experience with PPP has shown that government’s capacity to negotiate and manage it is not effective,” the Planning Commission said.

An additional model for consideration of the NDC will be the Not-for-profit Public Private Partnership (NPPP) being followed in the International Institute of Information Technology (IIIT), which have been set up as fully autonomous institutions, with partnership of the HRD ministry, state governments and industry members.

“PPP and Not-for-profit PPP models can be considered in order to expand capacities for tertiary care in the 12th Plan,” the commission said.

Giving the example of Tamil Nadu which has issued guidelines to authorize medical officers in charge of particular healthcare facilities to enter into MoUs with interested persons to “receive contributions for capital or recurrent expenditure

in the provision and maintenance of facilities”, the commission has pushed for encouraging public facilities to part-finance their recurring costs by mobilizing contributions (including under Corporate Social Responsibility).

It said under the recently drafted companies bill, the government has proposed that companies should earmark 2% of their average profits of the preceding three years for CSR activities.

“CSR is mandatory for central public sector enterprises, the guidelines of which issued by the department of public enterprises include health service as one of the eligible components. To avail of this opportunity, all publicly funded healthcare facilities would be allowed to receive donations,

and funding from companies under their CSR head,” the NDC document said.

The commission said adequate safeguards have to be built in so as to ensure ‘no-frills funding’ and that donations are not used to influence policies or practices of healthcare facilities in any way.

All medical colleges will also be encouraged to develop their own corpus to attain financial flexibility over a period of time.

The NDC will also discuss a proposal for introduction of a health insurance scheme for central government employees and pensioners on a pan-India basis, with “special focus on pensioners living in non-CGHS areas”. The proposal is to make this scheme voluntary-cum-contributory for serving employees and pensioners. However, it is proposed to be made compulsory for the new entrants in government service.

Courtesy: The Times of India (27 December 2012)

NDC to discuss shortage of docs, nurses

Severe shortage of trained manpower in the country’s health sector will be a major challenge facing the PM-led National Development Council. The document to be discussed by the NDC on Thursday shows that India has just 57 physicians for 1 lakh people or 1 physician for over 1,700 people. When it comes to dentists, the density is a low as 7 dentists per lakh population while there are just 61 nurses and 41 pharmacists per lakh people. The current availability of health personnel in the country is below the minimum requirement of 250 lakh of population at 241. India can expect an availability of 354 health workers by ‘17.

‘Rating agencies are like restaurant critics’

I personally think there should not be such services because they really create impossible situation for many countries: Jagdish Bhagwati (Professor of economics Columbia University)

Global credit rating agencies act like restaurant critics commenting on the food quality without any liability, said internationally acclaimed economist Jagdish Bhagwati.

The agencies also do not have enough economists to pass judgements on sensitive issues like sovereign risks, he said in an interview to PTI.

“I know they (rating agencies) think like restaurant critics saying the food is good or bad and they are not liable for anything”, Bhagwati said observing the rating actions often have far reaching implications for the countries.

“I personally think there should not be such services because they really create impossible situation for many countries.

They are not even like IMF or World Bank which at least have huge number of economists and so on. They have just minor operations actually”, said Bhagwati, Professor of economics at the Columbia University.

Any downgrade will impair the ability of Indian corporates to borrow, he said, when asked about the threat of the global agency Standard and Poor’s to lower India’s rating to junk grade.

Standard and Poor’s in its report on October 10 had said that there was one-in-three likelihood of rating downgrade for India in 24 months if “the country’s economic growth prospects dim, its external position deteriorates, its potential climate worsens, or fiscal reforms slow”.

Fitch had also talked about the possibility of lowering India’s sovereign rating.

In the backdrop of the downgrade threat, the government had announced a slew of reform measures, including opening up the retail, insurance, pension and information & broadcasting sectors to foreign investment.

A rating downgrade raises the cost of overseas borrowings by corporates of the country.

Courtesy: The Asian Age (14 November 2012)

The networking tool that’s now a weapon of public mobilization

Finance minister P Chidambaram recently tried to sum up the phenomenon by likening social media-driven snap protests to a flash-mob phenomenon. **Flash mob is a new phenomenon..sometimes they gather to dance and sing. But sometimes they gather to protest...I don’t think we are fully prepared to deal with it.** Going by the last fortnight, when the government fumbled in dealing with widespread protests over Nirbhaya, the ministers admission was an understatement. Let alone being fully prepared, they didn’t have a clue.

The unbridling of the power of the social media was undoubtedly a top, if not no.1, trend of 2012 in India. In many cases, it set the agenda of public discourse. As in Palghar, where young Shaheen Dhadas Facebook comment on the shutdown of Mumbai after Bal Thackerays death kicked off a storm, the virtual world triggered several real-world controversies. In fits and starts, politicians and the

government realized the folly of not joining the fast unfolding revolution, the exceptions being the Twitter-savvy Shashi Tharoor and Omar Abdullah. The @PMOIndia Twitter handle was born, and today 3.5 lakh people follow it. A host of politicians soon hopped on, realizing the freedom the platform offered for comment on issues, which TV studios didn’t. For Bollywood celebs and cricketers, it became a great way to keep in touch with fans. But the real power of this irreverent and often insolent medium lay with the young aam admi who used social media fearlessly. They voiced their opinion and unsparingly ridiculed leaders with hash tags like #theekhai, making powerful headlines out of what otherwise would have been just whistling in the air.

What’s the USP of the social media? On this platform, free speech is unhindered. It’s a virtual megaphone with a global reach, as the numbers show. Whether it’s Twitter or Facebook, India is a

huge presence. Facebook has more than 65 million active users here, putting the country among the top five worldwide in terms of users. Twitter, which has 200 million active users globally, doesn't provide country-specific numbers. But SemioCast, a Paris-based research firm, said in a report in July that India had around 18 million Twitter accounts, placing it sixth among the biggest Twitter nations.

A lot of this social media boom happened in 2012. Research firm Social Bakers estimated in November that the number of Indian Facebook users swelled by 14 million in the past six months. While internet penetration in India is just 11% three times lower than the global average around 137 million users make the country third biggest in terms of web-connected citizens. Most

of these users are urban and young. A Comscore report says 75% of web users here are under-35.

Unlike youngsters in many other countries, Indians are politically active on the web. A Pew Research study this December established that nearly 45% of Indian web users, most of them from urban areas, connect on social media to discuss politics. Only Arab countries scored higher than India on this account. The numbers are backed by Global-Web Index, which noted in a September report that India is the third most socially active country with around 78 points.

But this unfettered, unfiltered flow of information and messages showed its ugly side as well. The mischievous rumour-mongering in the wake of the Assam riots was a case in point, as MMSs and incendiary text messages triggered an exodus of people belonging to the northeast from Bangalore, Pune, Chennai and Hyderabad.

Facebook and Twitter started off as friendship and networking tools. But, they have evolved into potent weapons of social mobilization. In a way, India Against Corruption can be credited with starting it in mid-2010. "If you have a worthy cause, social media provides you an unbiased, unfiltered avenue," says Shivendra Chauhan, social media

manager for the outfit. "Without it, we wouldn't have got the kind of overwhelming support we received from the youth".

But Sunil Abraham, executive director of the Bangalore-based Centre for Internet and Society, cautions against being overly technologically deterministic. "Technology doesn't have agency; human beings do. Transferring energy from social media on to the streets isn't something that'll happen every time. It depends on whether the message resonates," he says.

While the anti-corruption movement ran on a sophisticated social media strategy and campaign, the ongoing anti-rape protests have no single organizer or banner, just a message that resonates, says Abraham. On the other

hand, when Anonymous India called for boots on the ground at its protests against internet censorship, the turnout was poor, far lower than the number of hash tags on Twitter would have indicated, he adds.

Abraham points out there are close linkages between internet, text messages, social media and mainstream media. "These channels leak into each other and the causal connection becomes unclear," he says. Madhuresh Kumar, national coordinator of the National Alliance of Peoples Movements (NAPM), an umbrella organization of grassroots movements of the marginalized, agrees. "We use social media, not so much to mobilize people to come to our protests, but to mobilize the mainstream media." The message determines the power of the medium. If it's something that connects viscerally, like the Nirbhaya protests, its power and reach can be beyond imagination. If it is a more niche message, like an SOS for a dwindling fish species, it will reach a smaller, targeted audience such as environmentalists. But it will reach unhindered in the palm of your hand.

Look at it any which way, it is here to stay. So, it's time for the state to learn to deal with the new power of the ordinary citizen.



Courtesy: The Times of India (31 December 2012)

New heads possible for info panels

Shyam Lal Yadav

Seven years into the RTI Act, retired bureaucrats serving as chief information commissioners could all be replaced with retired judges. Appointments are on hold with the Supreme Court having ordered these posts be given to retired SC judges and high court chief justices. The government has filed a review petition and if the SC has upheld the order (the verdict has been received but not yet announced), the new mechanism will be effected after amending the RTI Act.

Of the 84 information commissioners, six will retire within the next six months. Appointments were put on hold in September. Also in store are decisions on the RTI's ambit. Those that claimed exemption in 2012 included Goa's Governor House. After the state's information commission and high court bench ruled the Governor's House is a public authority and not exempt, the SC will

hear the appeal on January 7. A proposed constitution bench to be set up by the SC will decide whether the CJI's office is a public authority.

Cooperatives such as NAFED and KRIBHCO are fighting for exemption. The CIC is yet to decide on appeals against IFFCO, and is waiting for the outcome of a high court case on other cooperatives. IFFCO has filed a similar plea.

Cases are pending before courts and information panels include some involving correspondences between the President and the prime minister, and between the Lok Sabha speaker and the PM. The CIC is yet to decide whether political parties are covered under the RTI. There are also appeals to disclose information sought by those who had filed RTI appeals and were later killed.

Four appeals of the UPSC and eight of the SEBI are pending before the Delhi and Mumbai high courts.

Courtesy: The Indian Express (2 January 2013)

Govt holds back info sought under RTI

Aloke Tikku

KEEPING RECORDS PM Office tells RTI activist it was too much of a pain to provide list of files held by one of its sections

The Prime Minister's Office (PMO) has refused to provide a list of live files held by one of its sections on grounds that it would disproportionately divert its resources, prompting RTI activists to wonder if the government practices what it preaches.

RTI activist Lokesh Batra had asked the PMO and the Department of Personnel & Training's RTI Section to provide a list of live files, the files lost since 2005 and the number of files digitised.

It turned out that the DoPT's RTI section had only one file-relating the exemption of the CBI from the RTI - in digital form. The PMO, on the other hand, refused to provide any information.

"The information sought by the applicant is not specific and spread over a substantial period of time. This is certainly a constrain on time and resources and would result in disproportionate diversion of the internal resources of this office," the PMO responded.

Batra said this was a surprise since it indicated inefficient record keeping. And this, when Prime Minister Manmohan Singh has been calling for

better information housekeeping. "With the improvement in data management, the time may not be far when citizens may locate on their own, the status of their requests in the work flow artery of public authorities. The RTI Act itself mandates such disclosure and record management," Singh told the 2011 convention of information commissioners.

"It seems the PMO does not preach what it practices," Batra said, pointing that there were formal instructions too requiring departments to maintain all records duly catalogued to make retrieval of information easier.

RTI activist RK Jain, however, believes this was just an excuse to deny information.

"He is the chief executive of the country. How can his office not maintain proper records," Jain said, pointing that the PMO certainly had catalogued its files. "This is only an excuse to deny information," Jain emphasised.

The PMO has already stopped providing photocopies of its files under the information law but gives a transcript of the file notings.

Courtesy: The Hindustan Times (21 January 2013)

‘Upload files sought by RTI applicants’

Aloke Tikku

The Central Information Commission has asked the Department of Personnel & Training (DoPT) to upload files that are frequently sought by RTI applicants on its website, such as those relating to appointment of information commissioners and amendments to the information law and rules.

The information panel also rejected DoPT’s contention that they could not provide the information since the files concerned were under submission to higher authorities. The commission held the public information officer had to make an assessment if the file would come back within the 30-day period.

If this did not look likely, the officer should inform the “higher authorities” about the RTI request, and let them take a call if they will provide the information directly or send the file back to enable the information to be provided. The information panel directive with a 30-day deadline came after DoPT’s public information officer sought a waiver of the penalty for delayed information on grounds

that he did not have the required infrastructure to deal with information requests.

CIC Satyananda Mishra accepted the plea but urged the department to provide the necessary infrastructure facilities. Simultaneously, Mishra also asked the department to take a decision on putting out complete files on topics on which RTI applications were received frequently as part of proactive disclosures.

The department had taken more than eight months to provide access to files relating to amendments to the RTI Act and RTI Rules on an RTI request filed on behalf of HT.

“For example, the files relating to the appointment of the CIC/ Information Commissioners, amendment to the RTI Act and Rules, staff strength and infrastructure facilities for the CIC are most often demanded by the citizens,” Mishra said in his decision. Mishra — who retired as the DoPT secretary — said there could be very little in these files which would come under any of the exemption provisions.

Courtesy: The Hindustan Times (1 January 2013)

No records to back Singh’s RTI concerns: PMO

Himanshi Dhawan

Prime Minister Manmohan Singh’s recent speech expressing concern over frivolous and vexatious RTI applications, infringement of personal privacy and bringing public private partnerships under the RTI Act had sparked off a debate and was severely criticized by activists. Now, the PMO has said that it had no basis for making such a remark.

In reply to an RTI application asking for documents on the basis of which these “concerns” were raised, the PMO said no such records were available with it. The response was based on an application by Dev Ashish Bhattacharya. When asked for available records on the basis of which the PM made the “observations” the PMO said, “No such information is available on the records held by this office.”

The PM in his speech at the Central Information Commission’s convention in October had said that there were “concerns about frivolous and vexatious use of the Act in demanding information the disclosure of which cannot possibly serve any public purpose”. “Sometimes information covering a long time-span or a large number of cases is

sought in an omnibus manner with the objective of discovering an inconsistency or mistake which can be criticized. Such queries besides serving little productive social purpose are also a drain on the resources of the public authorities, diverting precious man-hours that could be put to better use. Such requests for information have in fact come in for adverse criticism by the Supreme Court as well as the Central Information Commission,” he added.

Singh had said that there were also concerns regarding “possible infringement of personal privacy while providing information under the Right to Information Act”, suggesting that a fine balance was required to be maintained between RTI and the right to privacy.

“The citizens’ right to know should definitely be circumscribed if disclosure of information encroaches upon someone’s personal privacy,” he said.

He had also said added that the issue of inclusion of public private partnerships under the RTI Act may “discourage” private industry.

Courtesy: The Times of India (3 December 2012)

Guardian RTI citizens' angel

Gyanant Singh

THE Right to Information (RTI) is fast becoming the guardian of all rights by assisting ordinary citizens and entities in winning cases against injustice.

The Act has armed citizens with crucial evidence which would have otherwise never formed part of case records.

The Commonwealth Human Rights Initiative (CHRI), an NGO working towards realisation of human rights in Commonwealth nations, last week released a compilation of cases where information obtained under the RTI Act formed the basis of judicial decisions.

The study, titled "The Right to Information: An Aid for Litigation," has highlighted two dozen cases dealing with environment, licences, permits, land, employment and other areas in which information obtained through RTI had triggered a chain reaction leading to enforcement of rights which would have

remained elusive. In an apt introduction to the booklet, the CHRI said RTI had indeed tilted the power equation in favour of the people and against officialdom. "Access to previously hidden information has revealed how the government runs," it said.

The case study shows that information was not just hidden from ordinary citizens but even public sector entities had to take recourse to RTI to question government decisions in favour of private companies competing with it.

The human rights body has pointed out that the National Mineral Development Corporation (NMDC) had to take to legal recourse after its claim to a mining lease in Chhattisgarh was ignored and permission to undertake mineral exploration in the area was given to Tata Iron and Steel Company.

Courtesy: Mail Today (3 December 2012)

'Aided school trusts liable to disclose info under RTI'

Kanchan Chaudhari

High Court Ruling to view an educational institution separate from the trust would mean that citizens' right to information has been compromised, HC said

Holding that an educational institute and the trust managing it cannot be termed as separate legal entities, the Bombay high court (HC) ruled that public trusts running aided educational institutes are bound to disclose information sought under the Right to Information Act, 2005.

The court was hearing a petition filed by the Shikshan Prasarak Mandali - a public trust managing several aided educational institutions in Pune - challenging the state information commissioner's September 2010 order on disclosure of information under RTI.

Advocate Bhalchandra Radkar had sought some information on the trust under the RTI Act. However, in October 2009, the trust rejected his plea stating that the provisions of the Act do not apply to the trust. Radkar then appealed to the state information commissioner, who held that the trust was covered under the legislation and directed it to disclose the information sought by the lawyer. The trust moved the high court last year challenging the state information commissioner's order.

Narendra Bandivadekar, counsel for the trust, contended that though several educational

institutions managed and controlled by the trust received grant-in-aid from the state government, the trust receives no government aid. Consequently, the trust need not disclose information under the RTI Act.

Justice Dharmadhikari rejected the contention stating it would defeat and frustrate the very purpose of the legislation. To view an educational institution in isolation and as a separate legal entity would mean that citizens' paramount and predominant right to information would be rendered nugatory.

The court also took note of the fact that the power to utilise the grant received from the government is with the managing committee of the trust. It observed that the accounts of the educational institutions run by Shikshan Prasarak Mandali and of the trust were consolidated and even the audit was single.

The court dismissed the petition filed by the trust. It, however, continued the three-month the stay granted in March 2011 to the order of the information commissioner to allow the trust to approach the Supreme Court against the order.

Courtesy: The Hindustan Times (30 November 2012)



A jury of their peers

Markandey Katju

Media freedoms come with responsibilities. A stronger Press Council, composed of media professionals, would be the best regulator

THE *Indian Express* carried a report about two television reporters, from India TV and ABP News, accused of blackmail for allegedly trying to extort Rs 20 lakh from a person by threatening to implicate him in a false case of rape ('Two television reporters accused of sting and blackmail: 'Rs 20 lakh or we air sex tape'', November 9). Earlier, Jindal Steel alleged that Zee News attempted to extort Rs 100 crore from it. There are other allegations of such practices by media personnel. Paid news is apparently a common practice. Madhu Kishwar, a senior journalist herself, said on Rajya Sabha TV that many media people are bribable and manipulable.

When I spoke of regulating the media, there was a hue and cry in a section of it, which painted me as some kind of dictator who, at the behest of the government, wanted to gag or muzzle the media and crush media freedom.

Although I have expressed my views earlier, I would like to give a comprehensive clarification.

There is no such thing as absolute freedom. In our Constitution, Article 19(1)(a), which provides for media freedom (as part of freedom of speech), is subject to Article 19(2), which states that the freedom in Article 19(1) (a) is subject to reasonable restrictions in the public interest. Thus, there cannot be freedom to defame, incite religious riots, or extort and blackmail.

There is a difference between control and regulation. Where there is control, there is no freedom; while under regulation, there is freedom but it is subject to reasonable restrictions. I am in favour of regulation and am opposed to control. The question arises: who is to do this regulation? I am opposed to regulation by the government, but

am in favour of regulation by an independent statutory authority like the Press Council of India.

The Press Council has, apart from its chairman, 28 members, 20 of whom are representatives of the press (six owners, six editors, seven working journalists and one from a news agency). These 20 members are not appointed by the government but elected by the press. Of the other eight

members, five are members of Parliament and there is one person each from the Bar Council of India, the UGC and the Sahitya Akademi. Decisions

in the Press Council are taken by majority vote and even I have to respect the verdict of the majority.

If the Press Council Act is amended and broadcast media comes under the Press Council (which can be renamed the "Media Council"), it can have an additional 20 members from broadcast media. Hence, 40 of 48 members will be media representatives. If this media council decides to take penal action by majority vote against a media person or media house, it will be a judgment by one's peers and thus a form of self-regulation.

It may be mentioned that the Bar Council can suspend the licence of a lawyer, but Bar Council members are themselves lawyers. Similarly, the Medical Council has doctors as its members and can suspend a doctor's licence. The proposed media council should have the power to suspend the licence of a media person or outlet, but such a suspension should be by majority vote of the media council.

This media council must be statutory and have penal powers, including the power to suspend licences. The News Broadcasting Standards Authority, which professes "self-regulation", is a

IF THE current attitude continues, I am afraid it will be counterproductive and may ultimately result in the severe curtailment of media freedom

non-statutory body with no penal powers and is therefore toothless.

The Press Council has only the power of admonition or censure and no power to impose a fine or suspend a licence. I have advocated enlarging this body and making it a media council with penal powers, but the penal power should not be exercised by the chairman or the government, but by a majority of members. It will thus be a judgment by one's peers. What reasonable objection can there be to this suggestion? Objecting to it implies that some media houses do not even trust their peers.

Those who accuse me of trying to crush media freedom can see my track record. I have fought for media freedom every time it was threatened, whether in Jammu and Kashmir, Maharashtra, the Karnataka legislative assembly, Uttar Pradesh, Bihar, etc. I was the strongest critic of the arrest of the cartoonist Aseem Trivedi, and Virbhadra

Singh's statement that he would break the camera of a media person. I genuinely believe that the media should be broadly free, and I have appreciated the good work done by the media in exposing scams. There are many excellent journalists who are doing a good job.

At the same time, I have also said that freedom comes hand-in-hand with responsibility. Evidently, media owners accustomed to having a free ride and making a lot of money (through advertisement revenue, etc), or who are using their media house to protect their other businesses where they are under suspicion of malpractice (one newspaper owner is said to have several other businesses, like sugar factories, coal blocks, etc), do not want any kind of regulation. If this attitude continues, I am afraid it will be counterproductive and may ultimately result in the severe curtailment of media freedom.

Courtesy: The Indian Express (17 November 2012)

CCI may probe TV channels

Mahua Venkatesh

AD SLOT FIXING Consumer body set to move panel on alleged move to deny viewers right to watch show

The Competition Commission of India (CCI) may launch an investigation against major television channels to find out if they have abused their dominance or formed cartels against consumer interest in programming advertising slots.

The TV channels may be probed for scheduling advertising slots during programmes in such a way that viewers are denied their right to choose by switching channels and are forced to watch ads.

CUTS (Consumer Unity & Trust Society), a non-profit consumer advocacy group, has prepared a preliminary investigation report on this, which it is expected to present to the CCI.

Ashok Chawla, CCI's chairman, said that though the anti-trust body has not yet received any official complaint on the matter, it would look into it once it receives such a proposal.

"We will look into the specific competition angle in this particular matter," Chawla told *Hindustan Times*. Some 500 channels serve 450 million viewers in India.

"We have prepared a preliminary investigation report on television channels and how they have been going in for advertising breaks around the

same time," Pradeep S Mehta, secretary-general, CUTS, told HT.

"We would send the report to CCI and would seek a probe into the matter to ensure that consumers are not deprived of choice," he said.

"Just when you want to flip a channel in search of some content you realize that there are commercial breaks in most channels. This can be frustrating as I am almost forced to watch the ads despite paying a subscription fee to channels," said Jyotika Anand, a resident of Saraswati Vihar, New Delhi.

India's advertising pie was estimated at Rs. 30,000 crore in 2011, of which Rs. 11,600 crore went into TV channels. As per regulatory norms, channels can use no more than 12 minutes per hour for advertising breaks.

A senior official representing a television broadcasters' association who did not wish to be identified said that due to the time slots available for programmes, most channels go into breaks around the same time. "It is not a conscious effort. But there is no need for micromanagement," the official said.

Courtesy: The Hindustan Times (9 May 2012)

SC slams electronic media over 26/11 coverage

Bhadra Sinha

Even as the Supreme Court upheld 26/11 convict Ajmal Kasab's death sentence, it criticised the electronic media's "reckless coverage" of the attacks.

A bench of Justice Aftab Alam and Justice CK Prasad observed that instead of serving the interests of the nation, TV channels had made it difficult for security forces to fight back.

Live telecast of the operations could have even resulted in security personnel suffering casualties, they added. Electronic media's argument to have a regulatory mechanism for itself has come under cloud with SC's scathing words.

"The coverage of the Mumbai terror attack by the mainstream electronic media has done much harm to the argument that any regulatory mechanism for the media must only come from within," the bench said.

Taking note of the tapped conversations between the attackers and their collaborators across the

border, the court said coverage helped the assailants counter security movements as their positions were being reported live.

The operational movements were being watched by the collaborators across the border on TV screens and being communicated to the terrorists, the court added.

On the other hand security forces had no means to know terrorists' exact position or even the kind of firearms and explosives they possessed.

"Any attempt to justify the conduct of the TV channels by citing the right to freedom of speech and expression would be totally wrong and unacceptable in such a situation. The freedom of expression, like all other freedoms under Article 19, is subject to reasonable restrictions," the bench said. The apex court felt that the news channels could have shown the shots and visuals after the security operations were over.

Courtesy: The Hindustan Times (29 August 2012)

CCEA raises FDI cap to 74% in broadcast sector

Cabinet gives nod to financial restructuring of Prasar Bharati

The Cabinet Committee on Economic Affairs on Friday decided to raise FDI cap to 74 per cent in various services of the broadcasting sector, except the TV news channels and FM radio where the cap of 26 per cent will continue.

The move is expected to boost investment and help in the expansion of the broadcasting sector in the country. The government decision will apply to broadcast carriage services providers, including Direct-to-Home, Head-end in the Sky (HITS), Multi-Service Operators (MSOs) and cable TV.

Till now, 49 per cent FDI was allowed in cable TV and DTH while it is 74 per cent in HITS.

HITS is a satellite multiplex service that provides TV channels for cable operations.

Among other segments, 74 per cent FDI was allowed in Mobile TV, which is an area of future growth.

Speaking to reporters late Friday evening, commerce minister Anand Sharma said of the 74 per cent, 49 per cent will be through automatic route while the rest will be allowed through the Foreign Investment Promotion Board clearance.

However, he clarified that for TV news channels, current affairs, FM radio and content providers, the FDI limit will stay at 26 per cent.

India is estimated to have about 106 million households with cable and satellite TVs in India, of which 26 million use DTH and 80 million get feed from the cable network.

Union information and broadcasting minister Ambika Soni stated that financial restructuring of Prasar Bharati was also cleared by the Cabinet. "The Cabinet has approved 100 per cent expenses related expenses of Prasar Bharti for the next five years in form of grants rather than loan," she said.

She said the spectrum charges have also been waived off. "This will help Prasar Bharti to move forward and fulfil role its role as the national broadcaster," she added.

Meanwhile, the CCEA has also approved the proposal of the Department of Industrial Policy and Promotion for permitting foreign investment up to 49 per cent, in Power Trading Exchanges.

Currently, two power exchanges, Indian Energy Exchange (IEX) and Power Exchange India are operational.

Courtesy: The Asian Age (14 September 2012)

Youth have poor reading habit: NBT survey

Three fourth of total literate youth in the country do not read books other than their textbooks, be it classics or best sellers, according to a nationwide survey commissioned by the National Book Trust (NBT).

The proportion of leisure readers among the youth is higher in urban India with 31.2 per cent compared to the rural youth. Only one fifth of the youth from the country's rural areas are involved in reading books other than their textbooks.

"It has been observed from the survey results that one fourth (25 per cent) of the literate youth at the all India level, read books other than text books," the survey noted.

An analysis of the NBT survey, released here on Tuesday, noted the reading habit of youth in the north-eastern states was much superior compared to that of other states in the country.

"Reading habits face a real challenge in the world of TV and internet," Human Resource Development Minister M Pallam Raju noted, expressing happiness over the findings of the study that youth from the north-eastern states have much better reading habits than those in other parts of the country. Reading as a habit grows in a

conducive eco-system, where libraries, book shops and teachers encouragement play an important role. "I would definitely like to see growth in reading habit among the youth," the minister said, commenting on the findings of the nationwide survey. Raju promised that his ministry will use every opportunity at various forums to promote leisure reading among students. The survey and its analysis in the north-eastern states was carried out by the National Council of Applied Economic Research (NCAER) on behalf of the NBT under the National Action Plan for the Readership Development among the Youth (NAPRDY).

41.7 per cent of a total 332.7 million literate youth between 13 and 35 years of age read fiction, 23.8 per cent non-fiction and 34.5 per cent read both. Only 26 per cent of the total literate youth read books other than their text books every day, 48.8 per cent weekly and 8.9 per cent monthly and 1.6 per cent once in a year, the survey noted.

46.4 per cent of the youth like leisure reading because they feel it will enhance their knowledge, 19.8 per cent do it for pleasure and another 19.3 per cent read books other than their textbooks for relaxation. Just 9.2 per cent youth were found to be having leisure reading as their hobby, it added.

Courtesy: Deccan Herald (20 November 2012)

Learning to teach

S Giridhar

ASER's findings highlight the dismal state of school education. Improving teacher training programmes could lead to better outcomes

Iremember Rukmini Banerji of Pratham telling us in 2005 that ASER — the Annual Status of Education Report — will be a national survey that will hold up a mirror to the condition of education in India and shake us into urgent action. For nine years now, every January, ASER is released and the spotlight turns to the morass our education system is embroiled in. But things stop there. Each successive year shows no change or, as in the case of ASER 2012, only a further drop. There is a parallel with the annual Human Development Index (HDI) report commissioned by the United Nations Development Programme. Over the years, India has not budged from its dismal ranking of around 130 among 187 nations. Both

ASER and the HDI results should not surprise us — if conditions remain the same, however much and howsoever often we measure, the results will remain the same.

In the last 12 years, we have placed a school in virtually every hamlet in the country and enrolment of children is nearing 100 per cent. The mid-day meal scheme reaches over 85 per cent of our children, thus providing many of our rural poor their only hot meal. But what has not changed is the quality of learning inside the school. Multiple studies of learning achievement have shown no improvement over the past 15 years. Tie all of these together with the fact that, for years, the quality of our teacher education has remained the same.

Based on an extremely inadequate and shaky graduation in science or the arts, our teachers go through the charade of a nine-month course in teacher education. That 99 per cent of the candidates failed to clear the recent Central Entrance Test for teachers is not as much of an indictment as the fact that we have allowed teacher education over the years to slip to such levels.

The ASER report is unlikely to find better results in the next few years. But if we get our act together now, we can be certain that there will be glad tidings. It will take years, but there will be results to show. It will take a systemic overhaul. In a complex system with multiple inter-linkages, it will mean simultaneously addressing many fronts. We will have to identify these critical levers and then stick to them.

The first priority is a complete revamp of teacher education. The government has identified this as a key item in the 12th Five Year Plan. The Justice Verma Commission on teacher education appointed by the Supreme Court has come out with recommendations, incorporating suggestions from knowledgeable people in the country. The key is to implement well, for we have a history of excellent policies and poor execution. We cannot afford to miss this time. Good pedagogical training can never be built on a poor disciplinary foundation. The complexity of this exercise becomes clear when we realise that we need to simultaneously address our undergraduate programmes too.

Research has shown that the head teacher, the pivot in a school, is the second-most important determinant of school performance. It is good that there is a visible urgency to institute an appropriate development and certification programme for head teachers. Institutions such as the National University of Education Planning and Administration, Azim Premji University and others will have to play a serious part in this journey.

But while long-term measures like the overhaul of teacher education and school leadership are

being taken, state education leaders can also take some immediate steps. I will list a few that require only strong will, commitment to good governance and empathy for the rank and file. One, the state education secretary can personally ensure that the best candidates are appointed as the principals of the District Institutes of Education Training, the apex body in districts for pre-service diplomas and training of serving teachers. Two, create a strong academic resource cadre from among the best teachers and teacher trainers of the state, and create a career path that works as a clear incentive for them. Third, rationalise the pupil-teacher ratio. The fact is that although the average pupil-teacher ratio seems to be close to what the Right to Education Act stipulates, many rural schools have adverse ratios. We have empirical evidence to show that such schools have little chance of achieving any kind of learning. To move teachers against their will to remote rural locations, the state leadership can institute a good strategy of supportive incentives. And finally, it is necessary to ensure the active participation of parents and community representatives in monitoring and publicly declaring the attendance and punctuality of teachers, so that it is the community that enforces accountability. These steps will actually get the graph off the floor; the long-term investment in teacher education and head teacher leadership will ensure that our schools not only do better, but that we have a system that can deliver sustained quality.

All these are not really alternatives, but imperatives if we want to build the society that we have promised ourselves through our Constitution and provide the education to our young people that we have committed to through several policy documents. At times of war, a nation finds the character and courage to gather itself and do things that make us feel proud of ourselves. The current scenario in education is such that we have no choice but to respond to it as a national emergency.

Courtesy: The Indian Express (22 January 2013)

'Paid news is about candidates... watching their expenses'

Leena Misra

How is 2012 different from 2007?

It is different in terms of media certification, expenditure guidelines, expenditure monitoring guidelines. Also, revision of rolls was totally technology-based, the first election where it has been done real-time. The roll revision was based on a house-to-house verification process.

Can you elaborate on media certification?

When political parties want to put an ad or a jingle or a rap on TV, radio and cinema, they have to get it certified by my media committee. This is a Supreme Court decision. It looks into whether there is any violation in terms of provocation, or a personal attack. Those things we ask them to modify. When they do, we pass the ad... The media certification and monitoring committee (is) headed by the additional CEO. It monitors paid news.

Will paid news be acted on suo motu or based on complaints?

It can be suo motu and it can be based on complaints. We have a system in all districts, officials who are checking newspapers, looking at television, listening to radio.

How do they decide it is paid news?

This will be our first experience, so it is very difficult to say. But in UP (121 cases filed), the cases were typical. They used the same words, the same news with a photograph of the candidate appeared in different papers... except for the headline changing slightly.

There has been no case in Gujarat?

Paid news is about candidates. The candidate has a limit on expenditure, Rs 16 lakh. The party does not have that. So it is the candidate's expenditure we are watching closely. If we catch something, we check if he has put it in the accounts. If not, we give him a notice.

But he can put it in his account and have something published. Then, is it not an offence?

Then it is not paid news. He says, "Look, here is my account, I have already put it."

So that way paid news is allowed?

We don't call it "allowed". It can be a part of his expenditure as long as he shows it. And he cannot do something and then say I have not spent money on this.

Is this just text or also visuals?

Everything.

Where does NaMo TV figure in this?

It is a private channel. As long as it has taken permission under all the Acts concerned, it does not violate anything.

So, it can go on showing whatever or whoever it wants to?

Yes, but it cannot violate the model code of conduct. Also, if there is any paid news on that channel, we will have to look into it.

If they keep talking about one politician, isn't it paid news?

The commission has clarified that if somebody is a star campaigner, then he is considered a person who is campaigning for the party. But the moment that star campaigner becomes a candidate and starts saying, "Vote for me in such and such constituency," he is considered a candidate and the paid news rule will apply.

The EC is also issuing voter slips this time. How will it help?

Yes, this apparently started in 2010 in Bihar when a district took this up. It was given as an alternate document to the election photo identity card, because people often lose their EPICs. After that it became mandatory in Assembly elections. We feel it motivates people to come out and vote.

Why does EC stress women electors?

There is a huge gap between the female and male turnouts. The average gap in Gujarat is 5 per cent but we have places in districts where is a 10 and even a 12 per cent gap... And I think social context may not be the real issue, we are not able to understand the issue.

Courtesy: The Indian Express (19 November 2012)

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