Right to Privacy, Technology and Surveillance in Digital Age

Dinesh C Sharma

Citizens' right to privacy is increasingly being violated all the time as people remain blissfully unaware of such infringements. When you are moving on road, shopping in malls, entering or existing housing societies, commuting by public transport, all your actions are being recorded on thousands of CCTV cameras installed at public places, malls, individual shops and even homes. From the moment you log into the internet, every move of yours is tracked and followed, be it a personal mail you write about your travel plans or make a purchase or search for a book or a mobile phone. That's why when you discuss your travel plan over email or search for a particular book, you are bombarded with personalized ads about your travel destination and the book of your choice or on all the websites you visit. Information about your friends and contacts lists is freely used by different apps on your mobile. While this kind of invasion of privacy is usually authorised by users when they simply tick 'yes' against the box that says 'I have read privacy terms and conditions', much of the invasion occurs without the user knowing. At times, you are forced to fill out all personal details like mobile phone number and e-mail ID in forms even when they are not

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required at all. Such personal information goes into databases that are then shared with marketers.

The government and its agencies too are invading citizen's privacy. We share our personal information with government and its agencies but they never assure you that your personal details will not be shared with anyone or will not be misused. Now personal details are being shared even with commercial operators. For instance, when you apply for new passport or renewal online (you can do it only online now), you are given an option to tick two tiny boxes asking if you would like the passport office to share your personal details with a leading travel company and a travel insurer. If you unwittingly click on them or do not understand the language, then the passport office (an agency of the Government of India) gets authorized to reveal your personal details with external marketers. Without saying yes or no at this stage, you can't proceed to upload your form. This is just an example and may not affect every citizen because it is not mandatory for one to get a passport. What about a scheme like the Aadhar (Unique Identification) for which every citizen is supposed to enroll? Till date, 100 crore out of 120 crore Indians have deposited their personal biometric

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data (iris scan and fingerprints) with the government without fully understanding how the government is going to use this information or if a citizen has an option to delete his or her biometric data from this database if they wish to do so.

UID has been challenged in the Supreme Court on the grounds that it is a violation of one's right to privacy. As if UID is not enough, the government now wants to set up a DNA databank for certain groups of citizens like convicts, under trial prisoners, relatives of missing persons etc. The proposed law has gaping holes on privacy issue, as discussed elsewhere in this issue of *Transparency Review*.

The Aadhar case in the apex court has opened up the larger issue of right to privacy. Some petitioners argued that the right to privacy is implied under Article 21 of the Constitution of India while others asserted that such a right emanates not only from Article 21 but also from various other articles embodying the fundamental rights guaranteed in the constitution. The government has argued that "the legal position regarding the existence of the fundamental right to privacy is doubtful". Therefore, its lawyers submitted that a larger constitution bench of the court should decide if there is any right to privacy guaranteed under the and if such a right exists, what is the source and what are the contours of such a right. While referring the matter to the Chief Justice of India, the three-judge bench of SC observed that "the cases raise far reaching questions of importance involving interpretation of the Constitution. What is at stake is the amplitude of the fundamental rights including that precious and inalienable right under Article 21."

In international law, right to privacy has been recognized as a fundamental human right. The Universal Declaration of Human Rights states "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." Based on this principle, the United Nations Guidelines for the Regulation of Computerized Personal Data Files elaborated what constitutes the 'fair information practices' in the digital age. These guidelines recommended that countries develop national guidelines to protect personal privacy. India has not developed such private framework till now. Expert group headed by Justice A. P. Shah had in 2012 recommended an overarching law to protect privacy and personal data in the private and public spheres.

Digital technologies and their proliferation are posing new challenges to privacy, and also pointing to complex relationship between law and technology. New technologies are constantly invading privacy and it is for law to protect people from threats to their privacy.

The privacy debate in India has reached an interesting turn with the SC observations and directives to the government on the use of UID database.

The SC bench in its order issued on August 11, 2015 has directed the government to proceed with UID database with the following safeguards, till the matter is finally decided by a larger bench:

➔ The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card

➔ The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen

➔ The UID number or Aadhaar card will not be used by the respondents for any purpose other than the PDS scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme.

➔ The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Citizens and civil society can help protect RTI

The Right to Information Act came into being in 2005 after a long struggle by civil society groups and activists. The law has placed enormous power in the hands of citizens and has introduced a culture of transparency and openness in governance in the past one decade, though areas of concern still remain. To celebrate this important landmark, a discussion on "A decade of RTI – a long way to go" was organised by the Centre of Media Studies at the India International Centre on July 30, 2015. Vijai Sharma, Chief Information Commissioner, chaired the discussion, while Justice J Chelameswar, Judge of Supreme Court of India, was the chief guest. A special issue of "Transparency Review" to mark ten years of RTI and "RTI: Use and Abuse", book written by Sridhar Acharyulu, Central Information Commissioner were released on the occasion.

In his opening remarks, Dr N Bhaskar Rao, Chairman, CMS, said that CMS had been involved with the right to information campaign much before the law came into being in 2005. In the initial years of the implementation of this law, the organisation played a pivotal role in sensitizing government officials, information commissioners, civil society activists and other concerned citizens about the power and use of RTI Act. Effective implantation of the provisions of this law by the central information commission and state commissions became possible with the leadership provided by Wajahat Habibullah, the first Chief Information Commissioner. A decade after the law has been in force, concerns are rising about its effective implementation and attempts being made to dilute

The special issue of Transparency Review being released on July 30, 2015

its provisions. Citizens and civil society will have to guard against all such attempts.

Justice J Chelameswar said the country had traveled a long distance when government records were not shared even with courts to a time when the administration has become transparent. Recalling his experience as a government pleader in Andhra Pradesh, the judge said there was practically no coordination between different government departments in legal cases despite the fact that the court recognises the government as one entity and not different departments as such. Even simple information such as business rules of the government were kept as secret and available only heads of different government departments. "Files containing business rules of the government were marked 'confidential'. What is so confidential about this? They are just rules of business," the judge remarked.

Wajahat Habibullah, former Chief Information Commissioner, recalled how former President Abdul Kalam used to take great interest in implementation of RTI while he was in office. "Once he told me that he had gone through websites of many ministries and departments and how many of them were not updating the information there," Habibullah recalled. He said RTI had made a lot of progress in India, and now open information had become a worldwide movement.

On the question of government record keeping in India, he said while business rules were no more a secret and shared under RTI, overall record

keeping was still poor. When an RTI application for records of Privy Purse abolition came before CIC, it was found that relevant files were locked up in a cupboard of a joint secretary as he had forgotten to return the same to the National Archives of India where he had borrowed the files. Similarly, in another case the government said records relating to the Prime Minister meeting relatives of Netaji in Germany could not be revealed, whereas the fact was that no record of the meeting was kept by the government. "Government records should be kept in such a way that they are retrievable and accessible".

Though it is correct that some states are falling behind very badly in RTI implementation, it would be wrong to say that RTI was under threat in India, Habibullah said. "It is self sustaining because its guardians are citizens and civil society. It may see ups and downs, but it is not threatened", he remarked.

R K Jain, chairman of Tax Bar Association and RTI activist, he had been exercising right to information even before the RTI was enacted, through provisions of the Evidence Act which provide for 'right to inspect'. He said RTI is supposed to act as a bridge between the government and the public. For the first seven years after its enactment, the RTI Act had functioned smoothly but support from the government had been waning in the last three years. In his experience, the law has helped curb corruption in government to a great extent. RTI had helped in facilitating citizens in proper implementation of their other constitutionally granted rights, and had also helped as a remedial measure.
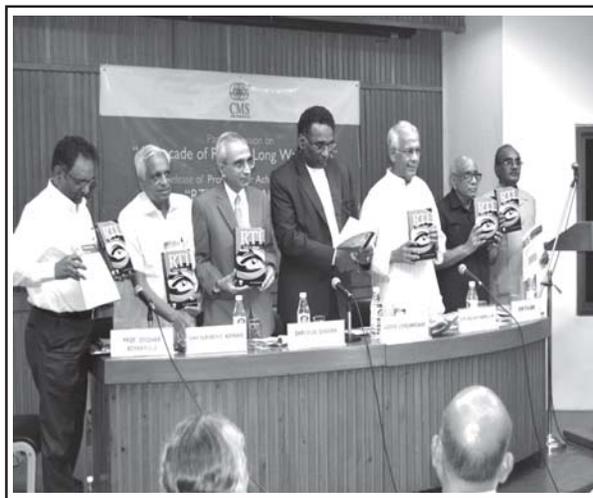
"RTI: Use and Abuse", a book written by Sridhar Acharyulu, Central Information Commissioner being released on the occasion

Jain suggested the scope of the law should be expanded by enlarging the definition and scope of 'public authority'. The system of appeal also needs to be changed as in most cases the first appellate authority is immediate boss of the chief public information officer. Ideally appellate authority should be an outsider.

Subhash Chandra Agrawal, veteran RTI activist, said bringing the supreme court under the ambit of RTI was a major step and it became possible because of the intervention of President Kalam. However, the apex court is stonewalling information sought under RTI despite the 2006 landmark order of CIC. He also felt that abuse of RTI Act by vested interests was on the rise. For instance, contractors file RTI applications in the name of labourers because no fee is charged for applications filed by people who are BPL. The system needs to be reformed. Huge amounts of money are spent on printing of postal order, while proposal for cheaper options like RTI stamps has been languishing.

Agrawal also supported the demand to enlarge the scope of the RTI law to include all private-public partnerships as well as utilities services like telecom operated by private companies. Sridhar Acharyulu spoke about how RTI can be used as a tool to expose corruption and how commissioners can out to use various provisions of the law to open up new avenues. The evening ended with a lively question-answer session.

Report by Dinesh C Sharma

Lack of justice to victimised RTI users weakens India's anti-corruption movement

Manu Moudgil

"It seems like police have slackened. They have not yet acted against the main accused and only four of the around dozen persons named were arrested. These have also been released on bail now," said Babu Ram Chauhan talking over the phone from Ramgarh in Jaisalmer district of Rajasthan.

Chauhan, a government school teacher, was kidnapped on July 11, beaten up, his head shaved and urine forced down his throat. Currently, he's recuperating from two fractures in legs and one in hand.

Chauhan had been on the hit list of land mafia of Ramgarh as he exposed encroachment on 17,380 hectares around Indira Gandhi canal using right to information (RTI). The land was meant to be distributed among landless farmers on subsidised rates. That the encroachers belonged to upper caste and the landless to scheduled castes and scheduled tribes further aggravated the situation. Consistent efforts by Chauhan saw 200 poor families gaining a sustained source of income through land allotment.

Clearly, Chauhan was too much of a trouble for land mafia to ignore. But what's more disturbing is the slow investigation from local police. The local politics is charged up now. Upper caste villagers took out a celebratory procession to welcome those released on bail.

DSP, Jaisalmer, Narendra Kumar Dave says investigation is on and all claims will be examined.

Past experience shows these cases always die a slow death.

Take the case of Mangla Ram which caught media attention in 2011 when he was attacked for seeking information about development works done in his village in Barmer district of Rajasthan. Police claimed it was Mangla Ram who provoked the sarpanch's supporters and the man himself was not involved. A special investigation found glaring wrongdoings and unaccounted money amounting to Rs 361,750 in development works but no action

has been taken against the accused yet.

Another case is that of Vishram Dodia, a street hawker who questioned the functioning of a power distribution company and gangs involved in illegal liquor trading and gambling in Surat, Gujarat. He was killed in full public view, a few persons were arrested but the witnesses retracted their statements helping the accused walk free. There are many more such cases which die a slow death.

The murder case of Amit Jethwa would have also gone the same way but for the persistent efforts of his family and friends who approached the court for CBI investigation. The main accused, a BJP MLA from Gujarat, has finally been chargesheeted in the case.

Even after 10 years of the RTI Act, we don't have a concrete policy on protection of information seekers. A minor deterrent exists in the form of a decision of CIC that information sought by a harassed RTI applicant will be put into public domain. The state information commissions and respective government departments are yet to adopt the mechanism. The draft Whistleblowers' Protection Act, which is also meant to cover common citizens, is still stuck with Union Law Ministry. The all-India tally of 39 killed and 275 assaulted RTI crusaders will keep expanding till a speedy and fair justice delivery system is put in place in such cases. For the time being, there's little hope for RTI users who have to eventually give up and with them will go our dream of a corruption-free India.
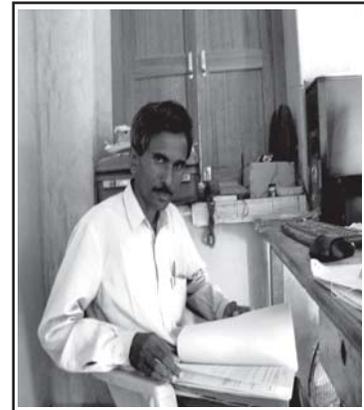
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Importance of National e-Governance Grid in RTI Envisioned

[Dr A P J Abdul Kalam, former President of India, was a great votary of free exchange of ideas, knowledge and information. In his first major speech on RTI, delivered on October 13, 2006, Dr Kalam presented his vision. As a tribute to his memory, we are reproducing the speech he gave while inaugurating the National Convention on RTI - Editor]

I am delighted to participate in the inauguration of the national convention on Right to Information Act organized by the Central Information Commission on completion of one year of its enforcement. I greet the Central Information Commission, information specialists, societal transformers and distinguished guests. The Right to Information Act has been in operation for the last one year. I am sure a number of citizens have benefited by seeking information on various aspects on Government and Government establishments. Sometimes, the information sought will lead to suggestions for improving the functioning of certain institutions, if the information is sought properly and the provided information is understood by the receiver. However, to derive maximum benefit from this Act, active participation of all stakeholders such as political leaders, civil services, media, societal transformers and the citizens is required. I am sure, the annual convention will give an opportunity for bringing about better cohesion of approach and better understanding of both objectives and expectations arising from the implementation of the Act. This will also make India a highly participative democracy. While we are working on the Right to Information Act, the country is also poised to implement e-governance at all levels.

E-Governance for transparent administration

Good governance is being recognized as an important goal by many countries across the world. They have taken up specific initiatives for open government. Freedom of information is being redefined and supported by detailed guidelines. The Internet revolution has proved to be a powerful tool for good governance initiatives and the world is moving towards Internet governance. An important dimension of the Internet potential is the possibility of providing services any time anywhere. Along with this, there is a conscious effort to put the citizen as the center of focus of the governance. Citizens are being perceived as customers and clients. E-governance has to be citizen friendly. Delivery of services to citizens is considered as a primary function of the government. Particularly in a democratic nation of a billion people like India, e-Governance should enable seamless access to information and seamless flow of information across the state and central government in the federal setup.

Typical scenario: I visualize an election scenario, where a candidate files his nomination from a particular constituency. Immediately the election officer verifies his/her authenticity from the national citizen ID database through multifactor authentication, through a multipurpose Citizen ID card. His education credentials come from the school or university records. His track record of employment comes from various employers with whom he had worked. His income and wealth resources come from the income-tax department, and other sources. His property record comes from the registration of land authority across the country. His credit history comes from various credit institutions like banks. His/her civic consciousness

and citizenship behaviour comes from the police crime record. His legal track records come from the judicial system.

All the details arrive at the computer terminal of the election officer within a few seconds automatically by the act of e-Governance software agents which crawls across the various state and central government web services directories through the network GRID and collects the information automatically and presents the facts in real-time without any bias. Artificial intelligence software analyses his credentials and gives a rating on how successful he will be as a politician. Election officer sitting at the remote block of the country decides on the spot and the election process starts. All the voters vote from their home through virtual polling booths. Is it a dream? Is it possible? If possible, when shall we have it? It is possible once India establishes national e-governance grid.

E-governance grid

Can we provide good governance to our one billion people? Can the governance speed up the delivery system? Can the governance differentiate between genuine transactions and spurious transaction? Can the governance ensure immediate action for the genuine cases, which satisfies the checklist for a particular service and pend the action on spurious transactions? Can this be done by e-governance at a cost affordable by our nation? If we have this system implemented, then I can call this an ideal example of the effective e-governance system for the citizens. E-governance system is a means to an end. We need enlightened citizens to realize the full benefits of the e-governance systems. It is people who finally uphold ethics, morality and righteousness.

National e-Governance Programme

NeGEP (National e-Governance Programme) is recently launched by Ministry of Information and Communication Technology with an outlay of Rs. 23,000 crore for implementing government to citizen services and establishing State Wide Area

> **"Right to information enriches knowledge, Knowledge makes the nation great"**

Network (SWAN) with State Data Centres with 2 mbps connectivity up to Block level with 100,000 Common Services Centres as front end. The primary focus of this NeGEP is aimed at upgrading the quality of governance by vastly improved delivery of government services in G2C and G2B domains. It is essential to establish the G2G e-Governance GRID by connecting District Level Data Centres to State Data Centre there by linking National Data Centre through a VPN based secured network. G2G E-Governance GRID should enable the secured dynamic workflow system across the government units thus ensuring the seamless file flow with digital signature authentication mechanism under the PKI framework. In the name of security, we shouldn?ay the implementation of e-Governance system any further. Only in the digital environment, security implementation is highly possible according to the security policy of the organization. With that kind of secured IT environment in place, if any body wants to escape or try to erase their foot prints, it is thus making further foot prints; hence it is traceable at all level through system oriented and application oriented audit trails. But in the present manual system, security is more vulnerable and it is totally depends on manual process. Hence, a Secured G2G e-Governance GRID will provide the total life chain of the e-Governance system right from the top echelons of the state and central government up to the District level and Block level administration, so that the G2C and G2B services planned through NeGEP will become effective. If this connectivity is established in its true spirit, then the access to Right to Information, right from the bottom of the e-Governance Pyramid to the top level, the seamless information flow and access to information is thus ensured. Hence establishing G2G E-Governance GRID is the life line for the effective implementation of RTI Act.

In Rashtrapati Bhawan we have implemented an e-governance system to study all the management needs and determine the action requirements to be taken by Rashtrapati Bhavan and other agencies of Government and the relevant

institutions both public and private. We are in the process of establishing a total e-governance system with G2G and G2C connectivity. CIC may like to study the system in view of the implementation of Right to Information. Now, I would like to discuss the checks and balances required while dealing with Right to Information of the Citizens.

Right to Information with a check and balance

The largest democratic nation, India has survived all vicissitudes, turbulences of all kinds over the last half century and more. Our democratic system has been gaining from strength to strength though I am not even for a moment closing my eyes to or beguiling myself into believing that there have been no weaknesses in the system. Our strength has always lain in overcoming those weaknesses and setting ourselves firmly on the road to higher and higher levels of democratic efficiency and progress. In that context, the bringing into being of the Right to Information has been an important milestone. The Act that came into being last year assures every citizen the right to know what the citizen should, and throws open the system of governance to total transparency and therefore inescapable accountability. Adequate safeguards have been built in, in the Act to ensure that that right is exercisable consistent with the dictates of national security which by no means can ever be compromised. After all, every right has to have checks built in to prevent its unbridled sway which is sure to lead to the certain failure of the very system. Now, I would like to give an example, how the Right to Information can provide immense relief to individuals who feel that they have been wronged.

Grievance removal through information

While I am in the midst of people who are keen to provide quality services to the common man, I am reminded of a case which happened in 2004. On May 26, 2004 when CBSE announced Class 12 results for Uttar Pradesh, the student Akhil?ld collapsed. The 17 year old aggregated 97% in Maths, Chemistry and Computer Science, but, had got a mere 13 out of 70 in Physics. At Rampur?awath Modi School nobody believes Akhil?ks. Principal immediately faxed his concern to CBSE, Allahabad Regional Office. There was no way his star student could have done so badly. However, there was no response from the CBSE. On June 2nd 2004, Akhil sent an e-mail requesting me to intervene. On June 4, 2004 the case was referred to Ministry of Human Resource Development and the CBSE Chairman. CBSE acknowledged the mistakes and changed Akhil?k. His final score stood at 90.8%. I visualize such corrective actions take place without the need for individuals to go to apex system of the nation. Of course, then I was flooded with number of e-mails with such request. We could not find them to be genuine. Now, I would like to talk about the proactive actions which can be taken by organization in assessing the frequently asked information by citizens.

Assessment of the information needs

Every public authority should continuously assess the information needs of the people who contact them from time to time. This will help the authority concerned to ascertain what kind of information is generally requested for by the people. All such information which has been requested for by more than one citizen or a number of times should be uploaded in the CIS website and updated from time to time. This will also save the time and resources and will also diminish the chances of any divergent interpretation by the person seeking information. The best way to avoid such event is to make available as much information as possible by public authority itself. When information is available in public domain for access by anybody the possibility of its misuse diminishes. The governmental authorities will also have to ensure that the applicant

does not use the information for purposes other than the intended purpose stated in the Act. The seeking of information should always be in public interest and for public good, which is the essence of freedom of information.

Fundamental Right of Citizen

The Constitution of India has declared that fundamental right to speech and expression and also the fundamental right to life and liberty should include the right of the citizen to access information. Every public authority must try to implement the provisions of the Right to Information Act under this spirit of implementing the fundamental right of the citizen.

Rashtrapati Bhavan Experience

I am told that 99 percent of the applications coming to the Rashtrapati Bhavan Secretariat are on mattes unrelated to Rashtrapati Bhavan. Due to lack of awareness these applications are sent here as people, it seems, believe that the President of India is directly responsible and can rectify their complaints (right from issues related to departmental promotions to land disputes). Even complaints against State Government departments are sent to us. As per the provisions of the Act, we transfer these applications to the concerned departments (Central or State) for action. This may also be the situation with many other departments. This lack of awareness amongst the public leads to delays for them and also places a heavy burden on the working of government departments and the concerned persons and sections. I would suggest that the Central Information Commission may evolve guidelines and provide it to the seekers of information about where and how to get the information. Also the information may be put in the website so that same question will not be repeatedly asked.

Suggestions for the Commission

I would like to suggest that the Commission could run extensive publicity campaigns to inform the citizen about who deals with what in the Indian Federal set-up. The Commission could also find out how many applications are received by various departments and ministries which have to be transferred and how much time is lost in doing so.

I would also like to suggest that the website of the Commission (cic.gov.in) could have a search engine, where Central Public Information Officers (CPIOs) can quickly look up decisions of the Commissions on cases which have come-up before them. At present the Commission's website has a section, "Decisions of CIC" which gives the text of decisions arrived at in cases which come to them in appeal. The text is a scanned image and are stored Quarter wise and therefore if a CPIO wants to consult a case decision, it is a time consuming process as he has to go through every case decision to find one, which has a reference to the point of law which is sought. A search engine will be able to assist.

Conclusion

Conscience is the light of the Soul that burns within the chambers of our psychological heart. It is as real as life is. It raises the voice in protest whenever anything is thought of or done contrary to righteousness. Conscience is a form of truth that has been transferred through our genetic stock in the form of the knowledge of our own acts and feelings as right or wrong.

A virtuous and courageous person can alone use the instrument of conscience. He or she can alone hear the inner voice of the soul clearly. In a wicked person this faculty is absent. The sensitive nature of his / her conscience has been destroyed by sin or corruption. Hence he or she is unable to discriminate right from wrong. Those who are leading organizations, business enterprises, institutions and governments should develop this virtue of the ability to use their own conscience. This wisdom of using the clean conscience will enable them to enjoy freedom. Once the conscience is clear there is no difficulty in making it as a open book and as an available information to all the stakeholders of the system.

I inaugurate the National Convention on Right to Information and my best wishes to all the participants for success in the mission of promoting India as the most informed and participative society in the World.

Courtesy:- (http://www.abdulkalam.nic.in/)

Retired civil servants dominate state information commissions

On 20th June 2015, the Right to Information Act (RTI Act) completed a decade of existence. The text of this law was published in the Official Gazette 21st June, 2005 and several provisions such as the appointment of Public Information Officers, First Appellate Authorities and Information Commissions and the requirement of improving records management, preparing for the proactive disclosure of a deal of information [Section 4(1)(b)] and the exemption for 18 security and intelligence organisations became operational immediately. Other provisions detailing the procedures through which people can access information or file appeals and complaints against delays in and denials of access became operational a hundred and twenty days later in October. The Commonwealth Human Rights Initiative (CHRI) has conducted a rapid study of the working of State Information Commissions and use of the RTI law by people.

In 2014 – 2015, a total of 142 posts of Information Commissioners (including the Chief Information Commissioners) had been created across the country (including the JKSIC). At the time of writing this report, a little more than 20% of these posts (Chief ICs and ICs) were lying vacant. In July 2014, the vacancy figure was considerably lesser at 14.28% (of 140 posts). At the time of writing this report, the total number of Information Commissioners serving across the country is 111- down from 120 in 2014. As it was last year, the maximum number of vacancies (4)

➔ Only 12.6% of the Information Commissioners (11 out of 87) serving across the country are women. In 2014 there were 12 women ICs across the country. The appointment of the woman IC in Gujarat was quashed by the High Court for not having any of the specialisations specified in Section 15(5) of the Central RTI Act

➔ A little more than a third of the women ICs (4 of 11) are retired civil servants. A similar proportion of women ICs are from social service background. Two women ICs from Andhra Pradesh and Tamil Nadu have a specialisation in law. The Woman IC from Andhra Pradesh is also an academic specialising in public administration.

➔ 42.5% (35 of 87) of the Information Commissioners across the country are retired civil servants belonging to either the All India Services or the State Civil Services. In 2014 this proportion was almost 50% and much higher at 53% in 2012. The proportion of retired bureaucrats appointed as ICs is slowly declining. Uttar Pradesh has the unique distinction of not having any retired career civil servant serving on the State Information Commission (the SCIC is a retired IAS officer though).

➔ Almost 23% (20 of 87) ICs across the country are either retired judges or practised as advocates or have taught law as a subject at an academic institution. In 2014 this proportion was 21%.

➔ A little more than 17% of the Information Commissioners across the country have a specialisation in journalism or the mass media. Most ICs with these specialisations are serving in Uttar Pradesh (7).

➔ The number of ICs with a specialisation in social service or social work has more than doubled in 2015 (from 3 to 7) as compared with the figures reported in 2014. This is a steady increase since 2012 when only 1 IC was from social service background.

➔ One doctor and engineer are serving in the SICs of Karnataka and Punjab respectively. However, two ICs in Maharashtra and Jammu and Kashmir are engineers who were also career bureaucrats.

➔ 11 of the Information Commissioners appointed since September 2013 have a specialisation in journalism or mass media. This number has gone up from 10 in 2014. Most of these ICs have been appointed in Uttar Pradesh.

is in Jharkhand. Gujarat and Tamil Nadu with 3 vacancies each are close behind. Uttar Pradesh and Punjab have the largest number of serving SICs (10 each) followed by Andhra Pradesh and Haryana (9 each) and the Central Information Commission and Maharashtra (8 each). Despite the bifurcation of the erstwhile State of Andhra Pradesh into the successor States of Andhra Pradesh and Telangana, Telangana has not constituted its SIC yet. The SIC of Andhra Pradesh is hearing appeals and complaints submitted by residents of Telangana as well.

Four State Information Commissions namely, those of Goa, Odisha, Tamil Nadu and Uttarakhand were headless at the time of writing this report as the State Chief Information Commissioners had retired (SCICs). The remaining 25 Information Commissions including the Central Information Commission are all being headed by retired civil servants. More than 3/4ths (76%) of the Chief Information Commissioners across the country are retired IAS officers. This proportion has gone up from 69% in 2014 and 74% in 2012 (when we first reported on the state of Information Commissions across India). Two officers who retired from the Indian Foreign Service are heading the Information Commissions in Manipur and Mizoram. A retired IPS officer continues to be the SCIC of Kerala while the J&KSIC continues to be headed by a retired officer of the Indian Revenue Service. Two retired State Civil Services Officers are heading up the Information Commissions in Madhya Pradesh and Nagaland. The Chief Information Commissioner of the CIC

has multiple specialisations – a postgraduate degree in law and a long career in public administration.

Only one Information Commission namely, that of Nagaland is headed by a woman SCIC. All other Information Commissions are currently headed by men. The State Information Commissioner of Meghalaya officiating as the SCIC is scheduled to retire soon. One IC in Uttarakhand is officiating as the SCIC. The SCIC's posts have not been filled up after the retirement of the previous incumbents in these States.

It appears that state governments are increasingly preferring retired civil servants over candidates with other specialisations referred to in the twin RTI laws despite the Supreme Court advising the governments to look beyond that pool in 2013. No retired High Court judges or persons with specialisation in journalism, mass media, science and technology or management are currently serving as Chief Information Commissioners anywhere across India.

Use of RTI law by people

Although the Central RTI Act has completed ten years of existence, there is no report in the public domain about total number of citizens who have used the RTI Act for seeking information across the country in any given year, nor is any data available about the total number of RTI applications received by public authorities all over the country. In October 2013, CHRI compiled statistics about RTI applications filed as recorded in the latest annual reports of Information Commissions wherever such reports are available for the period

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➔ At Rs. 21.45 lakhs per case, the Mizoram SIC appears to be the most expensive across the country. Despite the miniscule number of cases the big budget allocated to the SIC is the main factor behind the inflated figure.

➔ Meghalaya SIC comes a distant 2nd with Rs. 1.25 lakhs per case followed by Sikkim SIC with an average cost of Rs. 85,772 per case. The Jammu and Kashmir SIC spent an average of Rs. 13,885 per case while this figure is Rs. 13,270 for the Himachal Pradesh SIC.

➔ Maharashtra SIC incurred the lowest average cost at Rs. 1,459 per case amongst all ICs for which comparative data is available. The per capita cost in Karnataka was Rs. 3,704 and as high as Rs. 6,857 in Chhattisgarh.

➔ Amongst the other Information Commissions with heavier workload, the per capita cost of disposing a case was the lowest in Gujarat at Rs. 2,018, Rajasthan at Rs. 2,145 and Odisha at Rs. 2,939.

➔ The CIC's average cost per case comes to Rs. 3,772 in 2013-14.

2011-2012. In the present report, statistics have been compiled from the annual reports of 15 ICs for the period 2012-2014.

Data culled out from the annual reports of the CIC and 12 SICs indicates that a total of 24.94 lakh applications were filed in those jurisdictions in a given year between 2012 and 2014. In 2013 the total number of RTI applications that we reported was 20.39 lakhs based on data available up to the time of writing that report. By extrapolating this data it can be conservatively estimated that about 45-50 lakh (4.5 to 5.0 million) RTI applications may have been filed in various jurisdictions across the country during a 12-month period between 2012-14. The actual figure may be closer to 50 lakhs because several States where RTI is being used very prolifically, such as Andhra Pradesh, Bihar, Uttar Pradesh, Tamil Nadu and Kerala have not reported their RTI applications statistics for the period under scrutiny in this report.

On the national scale the proportion of RTI users during an year between 2012-14 may will be between 0.37% - 0.41% of the population (of 121 crores). As a proportion of the electorate – aged 18 years and above - between 0.5% - 0.6% of them might have used the RTI laws. Despite a decade of the Central RTI Act being in existence and the J&K RTI Act being in existence for more than five years the proportion of RTI users has not risen to even 0.5% of the population or even 1% of the electorate.

The Central Government tops the list of jurisdictions receiving the most number of RTI applications in 2013-14 at 8.34 lakhs (73% public authorities reporting). Maharashtra comes in second with 7.03 lakh RTI applications received in 2014 followed by Karnataka in the 3rd place with 4.25 RTI applications, Gujarat at 4th place with 1.72 lakh RTI applications and Rajasthan taking the 5th place with 1.40 lakh RTI applications filed by citizens.

Public authorities in the Central Government and the State Government of Maharashtra received 62% of the RTI applications filed across the 12 jurisdictions for which data is available and used in this study. RTI users in Maharashtra constitute

about 0.6% of the population (11.2 crores). As a proportion of the electorate - aged 18 and above (8.07 crores) - 0.87% of them are RTI users. This is the closest that any State in India has come to the 1% desirable benchmark of RTI users during the last 10 years.

Gujarat has reported a 41% increase in the number of RTI applicants in 2013-14 while Karnataka has witnessed a 31% increase in the number of RTI applications at 4.25 during the same period as compared to the previous year. Odisha is the only State which has reported a decline in the number of RTI applications. In Odisha 52,305 requests were filed in 2011-12 this number fell by 17.76% to 43,011 in 2012-13. Himachal Pradesh also reported an 18% decline in the number of RTI applications filed in 2012-13 (61,202) as compared to the previous year, this could be due partly to a 16.6% decline in the number of public authorities (110) reporting their RTI statistics to the SIC as compared to 2011-12 (132 public authorities). Only two SICs have captured gender break up of RTI applicants. In Chhattisgarh women constituted 6.9% of the RTI applicants while in Nagaland they comprise 2.53% of the RTI applicants. None of the other ICs including the CIC have captured gender breakups in their annual reports.

In Maharashtra individuals from BPL families constituted 1.11% of the total number of RTI applicants, while in Chhattisgarh this proportion was 4.16%, and Mizoram and Nagaland have reported 3 and 9 BPL applicants respectively. No other State has captured the economic profile of the RTI applicants.

In Chhattisgarh 6.37% of the RTI applicants belonged to the Scheduled Castes. This proportion has nearly doubled since 2013. RTI applicants from the Scheduled Tribes constitute 5.5% of the total. In 2013 they constituted only 3.06% of the total. No other State has captured the caste profile of RTI applicants in this manner. The steady increase in the absolute numbers as well as in terms of percentage augurs well for the success of the RTI Act as it is primarily aimed at empowering the disadvantaged segments of society to hold government and its instrumentalities accountable.

Children of Government servants and peoples' representatives should study in public schools - Allahabad High Court

Dr N Bhaskara Rao

Over the last couple of years there has been a deliberate effort in the country to defame government public schools as if they are inferior to private schools. One of the allegations is about absence of teachers. In fact, since the Right to Education Act, the school education has been shamed even more. *Transparency Review* had analyzed thrice in the last two years how government itself has been making it difficult for public schools to correct many ills they are suffering from. The government both in states and at the centre did nothing to protect government schools from a psychological damning. There is enough evidence to conclude that governments themselves are party in support of private education which has become a business proposition in a blatant way and implications to the very foundations of the country. As this lobby keeps gaining, enrollment into public schools is on decline including drop outs.

It is against this background comes the Allahabad High Court's landmark judgment in August 2015. At a time when no political leader in the country has taken the lead to be concerned about the deteriorating situation, Judge Sudhir Agarwal has come out with a much needed order that all government servants and people's representatives should send their children to government primary schools. This order is being rightly appreciated in editorials in most regional news papers across the country. The order is unusual and indicative of the kind of concern the judge had. There has been overwhelming support for this judgment in the country, notwithstanding what fate awaits this judgment in the higher Court.

The Court has directed the Chief Secretary of Uttar Pradesh to take initiative and report back actions in six months. Going beyond, the judge suggested that appropriate action be taken to ensure the order is implemented, including revoking penal provisions against defaulters from the next academic session. The judge cared to explain the compulsions for the judgment. He felt that there was not enough realization and seriousness in the government about grassroots realities, and this was resulting in neglect of the public schools. He thought this judgment helps mobilize awareness and boosts social equations between deprived families and well off ones with access to private education.

One of the compulsions for this landmark judgment is the way lakhs of teacher vacancies are kept for long in junior and senior primary schools as if unaware or unconcerned of implications on public schools. It is a mindless neglect and casual approach, the order observed. There is ample evidence for this trend in many other states as well. For example 1700 residents in seven villages of Mehaboobnagar district wrote a letter to the local court and complained that the government was not filling vacancies in the local schools which the Court noted as shameful and directed the authorities for taking action. (Some of the schools I visited three months ago include from this district). Despite 14 years of Sarva Siksha Abhiyan and 8 years of RTE, thousands of public schools are languishing without teachers.

In the wake of this Allahabad judgment, it is to be seen what specific measures HRD Ministry will take now towards changing the impressions about Government schools which the Minister Smriti Irani had indicated to take at the Advisory Council meet in August around the time this judgment was delivered. The least the Ministry should do is to bring out in a campaign mode what the minimum requirements for acceptable standards are for primary and upper primary schools. Public schools, with basic infrastructure and trained teachers, have no tuition fees, provides free books, free midday meal and even uniform. And well laid review and supervisory mechanisms. (That they are not strictly being observed is a different issue). None of these could be said about private schools, in rural India more particularly. Despite frequent increase in tuition fees without any improvement in infrastructure, the Governments have been reluctant to intervene. The Governments did nothing on violation of obligation of 25 percent reservation to the poor by private schools. Even Delhi High Court regretted and called for correctives. Now some States are even trying to close down public schools on the pretext that enrolment has declined.

Good governance not without citizen activism and civil society concerns

Dr N Bhaskara Rao

In the ultimate analysis what distinguishes a Government from another? From an *aam admi* perspective more particularly what should differentiate a Government? When would a Government qualify to be described as a good Government? In my analysis a common denominator is when ordinary people get basic public services delivered promptly without having to pay any extra or and without requiring a contact or approach. There would be anywhere between ten to twenty basic public services that a citizen tries to seek from Government departments or outlets with one frequency or other. A good governance is the one which is concerned and enables delivery of these services transparently and responsively.

While the responsibility for service delivery is that of the Government, it should also be the concern of the civil society to ensure that citizens in fact avail those basic services. To facilitate this process, Governments have created recently certain administrative mechanisms. These work better and more reliably with intervention and initiatives of civil society. A series of India Corruption Surveys of CMS in the last decade have indicated that between five to twelve percent of those citizens seeking one or other of these basic public services did not avail the service as they could not pay the extra amount needed to pay or and had no approach or a contact to get at. This is the challenge. No governance could be good if the per cent of such deprived people is more than one percent at any one point, in any one public service and place.

The "Rights Regime" in the country with basic rights guaranteed to citizen today is an ideal time to work for a breakthrough in governance. Political parties and news media too come under RTI regime, al that becomes feasible. Without concerns of civil society and political parties doability remains a Government centric. Citizen Charter, Social Audit, Service Delivery Guarantee, Grievance Redressal, etc instruments ensures fair play. We need to give fair chance to these instruments to prove themselves. If we cannot even implement "Right to Education" with honesty, what else can we take seriously? Also ideas like Antyodaya (Rajasthan), prajala vadaku palana (AP) experimented in the earlier decades, need to be repositioned. ICT is a new hope. Expecting the Government for everything is ofcourse a root cause for doubts on doability which the previous Governments went all out to make citizen dependent on Government for everything.

A better way for ensuring good governance is not more and more reforms but ensuring existing instruments or mechanisms are taken seriously and implemented both by the Government agencies and the civil society groups. In my opinion this approach works faster and more reliably. This is want I call citizen centric approach. In this approach, these enabling instruments work better in combination rather than expecting any one approach to yield desired outcomes. RTI activists should also take to citizen charter and right to delivery of basic public services act (which more than ten states had already adopted) together to make their interventions far more effective notwithstanding provisions in the Whistleblower legislation. I have put this proposition in a formula form to reiterate an integrated approach to get better out of these various mechanisms. I have explained the modalities in my book "Good Governance: Delivering Corruption-free: Public Services" (SAGE, 2013) with specific reference to ten basic public services.

Citizen centric Good Governance formula in my opinion is: RTI + (CC+SG+GR)+(SA+ICT)

(Where SA is Social Audit; CC is Citizen Charter; SG is Service Delivery Guarantee; GR is Grievance Redressal; ICT is Information Communication Technologies)

With digitalization gaining momentum, Spreading of network technologies and mobile communication tools becoming part of life style, ICT could be a differentiator. Social audit is yet another instrument as it could be adopted specific to issue, people and region for addressing service delivery gaps.

Key challenges in water and sanitation sector

Anisur Rahman

Due to Poor quality of water and presence of chemical/bacteriological contamination, many water borne diseases are spread, which causes untold misery, and in several cases even death, thereby adversely affecting the socio-economic progress of the country. From an estimate by WaterAid, it has come out that these diseases negatively effect health and education in children, and further what is worse, 180 million man days or INR 4900 Crore approximately are lost in the working population to India every year.

For the most part, the Court has upheld the right to water under Article 21. In one of the earlier cases relating to unclean drinking water in the city of Guwahati in 2000, the Court resolved that water is essential for life, therefore protected under Article 21 of the Constitution. Therefore, every Government, which has its priorities right, should give foremost importance to providing safe drinking water even at the cost of other development programmes.

Water is essential for life, therefore protected under Article 21 of the Constitution

Water-related diseases put an economic burden on both the household and the nation's economy. At household levels, the economic loss includes cost of medical treatment and wage loss during sickness. Loss of working days affects national productivity. Government spends a considerable amount undertaking water supply projects including water purification and providing safe drinking water to all in rural India in adequate quantity and within minimum distance, including piped supply to within the household. These are challenging and enormous tasks. Given the diversity of the country, solutions have to be diverse, and given the quantum of biological and chemical contamination in water in rural India, an all out effort is required by all concerned to solve this gigantic problem which will improve the overall health and thereby the productivity of the Nation.

The rural population of India comprises more than 833 million people residing in about 1.69 million rural habitation spread over 15 diverse ecological regions. Providing clean safe drinking water in adequate quantity and with in minimum distance to such a large population is an enormous challenge. The health burden of poor water quality is enormous. A recent report by the United Nations says that in India, over one lakh people die of water-borne diseases annually. WaterAid has estimated that around 37.7 million Indians are affected by waterborne diseases annually.

The provision of clean drinking water has been given priority in the Constitution of India, with Article 47 conferring the duty to the State for providing clean drinking water and improving public health standards. The government has undertaken various programmes since independence to provide safe drinking water to the rural masses. Till the 11th plan, an estimated total of Rs.72, 165.42 Crore have been spent on providing safe drinking water to the rural population in India. The expenditure has been substantial, but it remains a fact that despite such expenditure, lack of adequate quantity safe and secure drinking water within minimum distance (including piped house supply) to rural population in India continues to be a major challenge. Although India has met the MDG targets on water coverage, however quality, quantity, distance and sustainability still remain key issues

Overview of sanitation s ector

India has a massive problem of open defecation. The World Health Organization (WHO) and United Nations Children's Fund (UNICEF) estimate that there are more than 620 million people practicing open defecation in the country, or nearly half the population of India. Open defecation is prevalent among all socio-economic groups in rural India though the bottom two wealth quintiles bear the heaviest burden. Children—already vulnerable and marginalized—pay the highest price in respect of their survival and development.

The Ministry of Drinking Water and Sanitation administers the Swachh Bharat Mission-Gramin (SBM-G) in the rural areas of the country. As per the Census 2011, the rural coverage of access to toilet facilities has reached 32.70%. The Ministry is committed to having India Open Defecation Free (ODF) by 2019, but to achieve this, requires

combined fresh action and efforts/initiative from all quarters whether from Government, Corporate or from Non Government organizations.

In a country like India, where more than 26% rural people live below the poverty line, assuring basic hygiene for one and all is a major task. Poor sanitation affects the health of the people of the country, also the development of the nation. Women are the most affected by lack of proper sanitation. For instance in India a large number of girls drop out of school because of lack of separate toilets in the school for girls. Only 22% of them manage to complete class 10.

Coming to waste management in India especially in rural areas, waste is a severe threat to public health. Though, solid waste generated in rural areas is predominantly organic and biodegradable, yet it is becoming a major problem as the solid waste generated (organic and recyclable alone) is of the order of 0.3 to 0.4 million metric tons per day. It is further estimated that rural India is also generating liquid waste (greywater) of the order of 15,000 to 18,000 million liters per day. As a result, in the absence of proper disposal of solid waste and disposed of greywater/ waste water from hand pumps etc, it is leading to vector born diseases such as diarrhoea, Malaria, Polio, Dengue, Cholera, Typhoid, and infections like schistosomiasis. Close to 88% of the total disease load in rural areas is due to lack of clean water and sanitation and due to improper solid and liquid waste management: Even with large advancements in supply of clean water to rural areas, the major problems still remaining to be solved are in sanitation and in liquid and solid waste management.

The water and sanitation related disease not only affects the nutritional status of the children but also impacts their attendance in the school. Close to 50% of school going children in rural areas do not ach class V.

Key challenges

Insufficient financing: The annual government budget of The Ministry of Drinking Water and Sanitation for designing and implementing sanitation

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programs is insufficient and it is only recently that the Ministry of Finance has opened a separate account for the Swachh Bharat Abhiyan to generate finances for the program. While INR 4,000 crore has been allotted cumulatively to Gram Panchayats across India there has not been any administrative department for sanitation at the state, district and panchayat level.

Weak national capacity to execute WASH plans: Despite strong support from Government of India for universal access to water and sanitation countries national WASH plans that are not being fully implemented, funded and regularly reviewed.

Water Source Sustainability: One of the most critical challenges that face rural villages is to secure an adequate source of water in terms of quantity and quality. There is lack of a holistic approach to water resources management with communities taking the lead in preparing their own water balance to ensure that they manage their available surface water, groundwater and rainwater resources and competing demands for drinking water, irrigation and industry.

Operation and Maintenance: Another major challenge is to move from a project mode which focuses on creating infrastructure, to a programme mode which focuses on providing, improving and sustaining high standards of drinking water supply services

Institutional roles and responsibilities: It is clear that local governments and communities cannot succeed on their own. They need to be given clear-cut roles and responsibilities. These include Panchayat Raj institutions, line departments, training institutions, and the local private sector and NGOs. Before the NRDWP Support fund was created there was no provision for regular funding of Support activities under the main programme.It is now possible to take up capacity building programmes on redefining roles and responsibilities using these funds.

Critical gaps in monitoring: Reliable data is vital to identify gaps in access to WASH services and inform policy decisions. The Ministry of

Drinking Water and Sanitation have WASH monitoring frameworks in place, a majority States reported inconsistent or fragmented gathering of data and weak capacity for analysis. However, since the emphasis placed on the Swachh Bharat Abhiyan by the Prime Minister's office there is now an atmosphere created for strong intervention in sanitation by elaborate MIS system with online data for upto 8.85 crore households and by the end of March 2015 this number will increase to about 15 crore households

> According to WHO estimates, for every dollar invested in water and sanitation, there is a US$ 4.3 return in the form of reduced health care costs for individuals and society. Millions of children can be saved from premature death and illness related to malnutrition and water-borne diseases

Neglect for WASH in schools, health facilities: Water and sanitation services in schools can ensure that children, especially girls, stay in school and learn lifelong hygiene habits. In health clinics, WASH services ensure the privacy and safety of patients, particularly expectant mothers during delivery, and are essential to prevent and respond to disease outbreaks. Schools are learning laboratories where habits of good sanitation practices, personal health and hygiene by children can go a long way in inculcating these habits when they become adults.

Collection of User Charges: Collection of user charges of water from the community is a major challenge for the State implementing agency. Most of the community across India believes that providing water is the responsibility of Government.

Sustaining Behaviour Change: One such study undertaken by UNICEF in 2008, it was found that out of the 81% of the population having access to sanitation only 63% was using the facilities.

Handling disused/misused sanitation facilities: One of the important factors as emerging from various studies for lag between coverage and usages has been poor quality construction of sanitation facilities and dysfunctional toilets for reasons like pit/septic tank full, no water available, chocked pan/pipes, wrong location, filled with debris and used as storage space among others.

Investments pay off

Investments in water and sanitation yield substantial benefits for human health and development. According to WHO estimates, for every dollar invested in water and sanitation, there is a US$ 4.3 return in the form of reduced health care costs for individuals and society. Millions of children can be saved from premature death and illness related to malnutrition and water-borne diseases. Adults can live longer and healthier lives.

The benefits cut across many sectors. Economic and environmental gains include, for example, greater productivity in the workplace and reduced pollution of water and land resources. Gains in quality of life include improved school attendance, greater privacy and safety – especially for women, children and the elderly – and a greater sense of dignity for all.

Anisur Rahman is Team Leader- WASH at CMS

Need for extreme caution on DNA Profiling Bill

Dinesh C Sharma

In the legislative business listed for the monsoon session of the parliament is an important piece of legislation called the Human DNA Profiling Bill 2015. It may not received adequate public attention like the GST Bill but it is highly sensitive and far reaching piece of law that is bound to touch the lives of millions of people. The final draft of this Bill has not yet been made public, but the draft that was available in public domain in January 2015 and details that have filtered out from various sources paint a scary scenario. The DNA Bill has been in the making for more than a decade now but it has never been discussed in an open and transparent way. The

avowed objective of the proposed law is to regulate DNA fingerprinting labs in the country and establish a National DNA Profiling Database under the aegis of a proposed National DNA Board. For years, the scientific community has been suggesting a proper legal framework so that DNA fingerprinting can be used as evidence in the judicial process. Subsequently security agencies too have aired the need for a DNA profiling bank to speed up crime detection and to help in important tasks in national security. The exercise to develop a law to meet these objectives was initiated during NDA-1 and now NDA-2 seems to be keen to push the law.

Hyderabad is home to all scientific activities relating to DNA fingerprinting. Dr Lalji Singh, former director of the Centre for Cellular and Molecular Biology (CCMB), is widely considered pioneer of DNA fingerprinting technology in India. He is credited with developing a Bkm-derived probe for DNA fingerprinting in the 1980s. The technique has since been used a number of forensic investigation, in settling paternity disputes and scientific studies. Courts have accepted scientific reports presented by scientists as evidence and settled hundreds of cases, including the assassination of Rajiv Gandhi and paternity dispute involving former Andhra Pradesh Governor N D Tiwari. In 1995, the DNA fingerprinting related work at CCMB was hived off into a new lab, Centre for DNA Fingerprinting and Diagnostics (CDFD), under the Department of Biotechnology. Now DNA related services are being offered by labs other than CDFD also, hence the need for uniform protocols and a regulatory authority. The DNA Profiling Bill provides for setting up a regulatory authority. There can't be much disagreement with this objective. India certainly needs a regulator for DNA labs – both private and public. However, this is just one part of the Bill.

Main objective of the Bill is to develop a DNA Profiling Database and establishing a national DNA profiling bank. It is proposed to collect DNA samples of undertrials, convicts, suspects, missing persons, unclaimed deceased bodies and 'volunteers', analyze the samples to create their DNA profiles and preserve them in a database. The bank will also be custodian of all samples too. The profiling information will be made accessible to law enforcing and investigative agencies. This kind of information, it is argued, will help in nabbing criminals and terrorists by establishing their identities. The idea is fraught with ethical, privacy and human rights issues. If DNA profiles of all under trial prisoners is made and kept in the database, what happens if some of them are not convicted and not found guilty. There are also provisions for non-forensic use of the database such as research. For instance, Section 39 permits instances when DNA profiles or DNA samples may be made available. These instances include "for the creation and maintenance of a population statistics Data Bank that is to be used, as prescribed, for the purposes of identification research, protocol development or quality control". Under Section 5, the DNA board will be empowered to make regulations to allow access of DNA information for purposes other than identification of victims of accidents, disasters or missing persons or for purposes related to civil disputes and other civil matters and other offences or cases lists. Civil society bodies like the Bangalore-based Centre for Internet and Society have argued against non-forensic use the database. A member in the expert panel on privacy issues has also written a dissenting note. Overall, privacy safeguards relating to accessing, sharing and use of data have been left open and for the DNA Board to develop them.

Before rushing through the Bill straight to the Parliament, the government should have made all its provisions public for an open debate. There are serious concerns that should be addressed first.

This article first appeared in Metro India, August 2, 2015

> **If DNA profiles of all under trial prisoners is made and kept in the database, what happens if some of them are not convicted and not found guilty. There are also provisions for non-forensic use of the database such as research**

New forum for media and communication educators launched

A new platform called Alliance of Media and Communication Educators has been formed to deal with issues relating to media and communication education in India. The forum was launched at a symposium organized on August 7, 2015 on 'Vision for Media & Communication Education in India', which was attended by senior media professionals and academics from across the country.

An assessment conducted by CMS Academy revealed inconsistencies in media education programmes being offered, in the absence of lack of parameters for evaluating courses and institutes for their quality. Journalism and mass communication institutes have grown in number with close to 150 media and communication courses ranging from bachelors, masters, post graduate diploma to diploma and certificate programmes on offer. The Symposium was a follow-up of this study, brought together media practitioners and academics on a single forum for the first time to develop a vision for media and communication education.

Dr N Bhaskar Rao, Chairman of CMS, said, "it was important to take a long term view to observe the inter-linkages of the sectors within media and communication." Ms Vasanti, Director General of CMS and project leader of the Indo-UK study on media education, said the state of media and communication education needed a standardized system. In order to address all issues like curriculum and faculty training, a new platform called Alliance of Media and Communication Educators has been formed.

Over 50 media academics from across the country (Shillong, Pondicherry, Hyderabad, Mumbai, Wardha, Jaipur, Banglore, Bhopal) attended the day-long symposium. Participants discussed development of quality parameters to evaluate media and communication programmes in the country. The seven main quality parameters that emerged out of the CMS Academy study are: student quality, teacher quality, learning and teaching resources, curriculum quality, learning and teaching practices/quality, employability and entrepreneurial ability/ knowledge and skills acquisition quality.

The group consisting of senior academicians, journalists, media critics and researchers laid down their points/ weightage on each of the above mentioned parameters that will help CMS Academy draft a final quality parameter document to evaluate specialized media courses.

The panel discussion on vision for media and communication in India dealt with necessity of standardizing media education sector. In view of the findings of the CMS study, panelists felt that there are far too many factors that are ailing the sector. Veteran journalist, Q W Naqvi suggested that under-graduate journalism courses must be scrapped as students need to build their foundation in a particular subject before studying journalism. He also suggested a qualifying examination to screen quality of professionals entering this sector.

Dr B K Kuthiala, Vice Chancellor of Makhanlal Chaturvedi Rashtriya Patrakarita Vishwavidyalaya, Bhopal, wanted professionals and academics to be engaged regularly to enable greater synergy between the newsroom and the classroom.

Dr Nalini Rajan and Professor B P Sanjay also reiterated that media education sector should train students to adapt to various organizational

requirements. With the digital revolution, news media has changed the way it functions. However, the news media education sector has not been able to keep up with these advancements. Nidheesh Tyagi from BBC Hindi observed that media teaching should be focused outside the classroom.

N K Singh, general secretary, Broadcast Editors Association (BEA), supported the launch of AMCE to deliberate with issues affecting media education quality and to set standards in the spirit of self regulation. He suggested that media professionals who are interested in teaching and research or even in contributing in this quality debate should register online and become members of AMCE.

In the afternoon, two parallel group discussions were held on "media and communication industry requirements" and "employer expectations and harmonizing curriculum and teaching practices". The discussion covered necessary components of

developing a curriculum and adoption of innovative teaching practices.

The concluding session was on "Indicators of Quality Media and Communication Education". "The journalism institutes are not at all aware of the changes in the industry; there were hardly any books to teach on the media scenario in India", observed K G Suresh, Consulting Editor of DD News. Advertising professional Rajkumar Jha said the approach of media and communication institutes needs to be revamped. Professional experience for a longer duration during the course can play an important in adapting to the current industry needs. Ashish Sinha, secretary general, Broadcasting Content Complaints Council (BCCC), emphasized that developing content for entertainment channels should also be part of media education as entertainment constitutes major chunk of the media industry.

CMS Academy is a training and resource centre committed to provide quality Professional Development Programs (PDPs) in media and communication education. It's research based Professional Development Programs specifically focus on innovation and enhancing quality standards of the education system in the country. It develops

professional development programmes, designs curriculums/courses, ranks courses/programmes etc. Its annual ranking of media and communication programs/courses will advocate for establishing global standards for media education in the country.

Parliamentary panel wants policy to curb 'paid news', private treaties

In the 47th Report (15th LS), the Standing Committee on Information Technology had extensively examined various aspects of Paid News and its ramifications on different sections of the society. It had recommended formulating a viable and enforceable mechanism to curb the menace of paid news, framing of guideline/code to demarcate between "Advertisements and News", need for defining Paid News, reviewing the working conditions for media personnel, enforcing guidelines/code for bringing transparency in "Private Treaties" , framing rules to for regulate cross media holdings, implementation of proposals made by the Election Commission of India, strengthening of Press Council of India, etc. Majority of the recommendations made in the 47th Report have been accepted by the government.

In their Action Taken Notes, the I & B Ministry has stated that the issue of formulating a comprehensive policy and institutional mechanism to address the phenomenom of Paid News is under consideration of the government. The Ministry of I&B is of the view that any action on Paid News through legislative action would require Parliamentary approval for which political consensus is a pre-requisite. Accordingly, Ministry of I&B has submitted a note to the Ministry of Law and Justice on issues namely, (a) Representation of the People Act, 1951, be amended to make incidence of Paid News a punishable electoral malpractice and (b) The Press Council of India must be fully empowered to adjudicate the complaints of Paid News and give final judgement in the matter. On the basis of examination by the Ministry of Law and Justice, the issues would be considered further and if required the proposal would be submitted for approval of the Cabinet accordingly.

The Ministry has stated that based on the recommendation of the Standing Committee on Information Technolgy 'Press and Registration of Book and Publications Bill', inclusion of provisons in the Bill to check the incidents of Paid News has been proposed. The government in principle has accepted the recommendation of the Committee to forumulate a comprehensive policy and institutional mechanism to address the phenomenon of Paid News.

"It is disquieting to note that despite lapse of considerable time, there has been no tangible progress in the policy making front. The Committee desire that the Ministry of Information and Broadcasting, should urgently take up the matter with the Ministry of Law and Justice for expeditious examination of the proposal for amendment of the Representation of People Act, 1951 to make Paid News a punishable electoral malpractice and also empowering the Press Council of India to adjudicate the complaints of Paid News and give final judgement in the matter,", the committee observed in its report. The Ministry should swiftly act in the direction of placing the matter before the Cabinet and thereafter initiate legislative action for formulating appropriate policy to curb Paid News and report back to the standing committee within six months.

On the issue of "private treaties", the report has recommended to the Ministry and regulatory bodies to strictly enforce all the existing guidelines and codes for bringing transparency in 'Private Treaties' and to identify and revise the short comings in the existing guidelines/legislations. The Committee noted that the Press Council of India (PCI) has advised the Securities Exchange Board of India (SEBI) to initiate steps for tackling Paid News in 'Private Treatise' in Securities field and it has also sensitized the media on this matter. The Committee trust that bringing transparency in 'Private Treaties' will curb paid news to a great extent. The Committee desire to be apprised of the concrete steps taken by SEBI in this regard so that the shortcomings identified in the existing guidelines/legislations should be taken up for revision at the earliest.

Concern over government directive on Yakub coverage

The Broadcast Editors' Association (BEA) has expressed its concern over apparent tendency among governments, both at the centre and in some states, to serve notices on media organisations in a selective manner.

The apex body of editors of news channels in India has expressed concern over the notices reportedly issued to three channels- ABP News, Aajtak and NDTV- on the questionable pretext that their coverage pertaining to Yakub Memon's death sentence amounted to contempt of the institution of the President as also the judiciary. The BEA has decided to take up this issue with the government.

In a statement, the association also expressed concern over the Cable Television Networks (Amendment) Rules, 2015 which limits the media coverage of anti-terrorist operations to "periodic briefings" by an officer "till such operation concludes". This amended rule does not mention (1) what constitutes a terrorist operation as different from any other encounter, (2) at what stage should the government notify the nature of incident to the media and (3) does it mean restriction on only airing of the operation "till such operation is over" or does it deny the right to cover the incident per se. While the BEA does not believe in live visual coverage of terror incidents, it does believe that media coverage cannot be restricted to official briefings. However, there are ample self-regulatory guidelines regarding coverage of terror incidents which this body strictly adheres to. The BEA has also decided to take up the defamation notices issued by the Rajasthan Government to Times Now and privilege proceedings initiated by the UP Assembly against Aajtak.

Government against political parties under RTI

The Centre has contended before the Supreme Court that bringing political parties under the Right to Information (RTI) Act would lead to a large number of malicious applications, hampering the outfits' smooth functioning. In its view, the Central Information Commission (CIC) made a liberal interpretation of Section 2(h) of the RTI Act, leading to an "erroneous conclusion" that political parties are public authorities under the law.

"Political parties are registered under the Representation of People Act. If they are brought under the RTI Act, it would hamper their smooth functioning as rivals might file RTI applications with malicious intent.The financial aspects of political parties are already subjected to the Income Tax Act. The Election Commission also places the information provided by political parties in the public domain through its website," said the Department of Personnel and Training in the affidavit.

The affidavit further pointed out that a bill was moved in 2013 in the 15th Lok Sabha to annul the effect of the CIC's 2013 order, which was subsequently referred to a Parliamentary Standing Committee, but could not be passed after dissolution in the House. Political parties are not established under the Constitution or a law made by Parliament. The 2006 RTI law never visualised or considered bringing political parties under its ambit, it added. On July 7, the apex court had asked the Centre as well as the Election Commission to respond to a plea by the Association of Democratic Reforms and noted RTI activist Subhash Chandra Agrawal to bring six national political parties — the Congress, the BJP, the CPM, the CPI, the NCP and the BSP — under the ambit of the transparency law.

The petitioner claimed political parties should be made accountable and transparent as they exercise de facto power and significant control over the legislature and the executive by disqualifying MPs and MLAs if they did not toe the party line.

The petition referred to the 255th report of the Law Commission of India, citing the practice in various countries, such as United Kingdom, Germany, the United States, Australia, Japan, and Philippines and also in France, Italy, Brazil, Bulgaria, Bhutan and Nepal, where details of all donors and their donations to parties are available for public scrutiny under the RTI.

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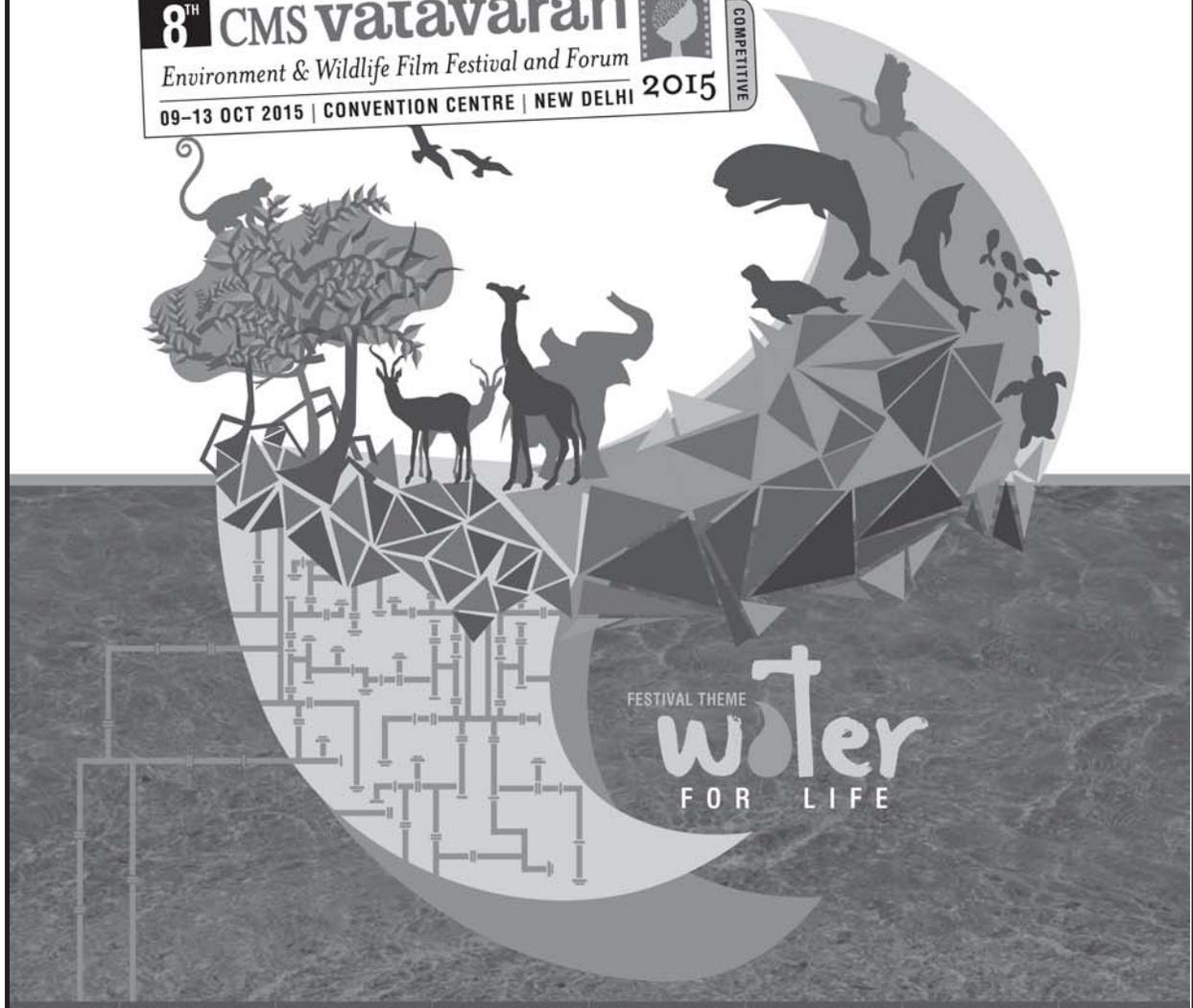
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