



# Transparency Review

**Journal of Transparency Studies**

## **TWISTS & TURNS OF GOVT. ON RTI**

Prime Minister, Congress President and some political leaders in New Delhi of late are talking of RTI as a key achievement of UPA Govt. While UPA could truly claim credit for the Act, its record in the last seven years has not been matching with that sprit. On the contrary, efforts to scuttle the very Act and dilute its implementation have continued in so many different ways. There were hardly any sustained efforts to promote the Act. As a result political cadres by and large maintained a distance. Only when it suited politically they talked of it. The Prime Minister himself is on record (in one pretext or other). The latest being his inaugural speech (raking up privacy, costs, "productive purpose") at the seventh convention in the presence of so many information commissioners from across the country. The credit to withdraw the proposal to amend the Act, which would have meant serious dent and dilution of the Act goes to Mrs. Aruna Roy, on whose crusade the Act became a reality seven years ago and interventions of Mrs Sonia Gandhi.

Compliance of suo-moto disclosure provision of the RTI Act by public authorities has been more an exception over these seven years. And yet hardly any initiatives are evident to correct the situation. In my key note address last year first ever discussion on suo-moto provision at Nizamabad conclave, I reminded the criticality of this mandatory provision and the urgency for the Govt and the Information Commissions to take up the issue with the State Secretariat (Transparency Review, December 2011).

I am happy seven year after this lapse was pointed out by none other than the Chief of Central Information Commissioner Satyanand Mishra, in his welcome address at the seventh convention in the presence of the Prime Minister on October 14th. And yet hardly it was picked up by any in that two day convention. It was Misra himself who reminded of it again at the 11th All India Lokayukta Conference on November 2, 2012. The CIC should also be thanked for its decision on CBI – that exemptions do not cover allegations pertaining to corruption and human rights violations. Even on bringing political parties under the purview of the RTI Act, CIC took a step in that direction. Political parties surely are public bodies and their income and expenditure are of public interest. So also in the case of news media of the country. Why should they be outside the pervious of the Act? I have been questioning from the very outset.

Another critical lapse in the implementation of RTI Act has been low use of it by women when in fact half or more of grassroot level problems of the country are women centric. Hardly around five percent of total applications filed so far any where in the country are by women. This is regrettable and calls urgent corrective. We need to rope in women activists to promote RTI Act and help women take this route for their concerns. And every information commission should have at least one woman commissioner.

Another disappointing area about which nothing specific is known is on networking of public offices/ services. But we were told that a huge budget (some Rs 40,000 crore?) has been allocated for

# CONTENTS

**Twists & Turns of Govt. on RTI** *Dr N Bhaskara Rao*

**Curbing Corruption**  
*Hari Jaisingh*

**Corruption - Causes, Consequences and Control: An Indian Perspective**  
*Dr N Bhaskara Rao*

**Cabinet backtracks of RTI amendments**

**The power of RTI**

**CIC slams public authorities for failure**

**If Parties Come Under RTI: CIC**  
*Nidhi Sharma*

**Netas try to escape RTI stick**  
*Himanshi Dhawan*

**Don't include us under RTI Act, say parties** *Shyamal Yadav*

**RTI doesn't trample upon privacy: expert panel** *Aloke Tikku*

**Thanks to RTI Act, govt no longer a mystery: CIC**

**Kerala Info Commissioner is Suspended**

**PM bats for limiting RTI to protect individual privacy** *Aditi Tandon*

**What is personal information**  
*Indu Bhan*

**\$ 6 Billion Road to Whitehouse**  
*S Narendra (Former Information Adviser to PM)*

## MEDIA REVIEW

**Living with the genie called social media** *Shashi Tharoor*

**The sting in the media**  
*P N Vasanti*

**Everyone is accountable**

**Media, Where is thy sting?**

**When will newspaper become 'news' papers again?** *Chandra Mitra*

**Lesson from BBC**

**CMS-India Corruption Study: 2012- Expanding Slums Growing Corruption**

**Every hour of TV you watch shortens your life by 22mins**

**Editor: Dr N Bhaskara Rao**

## **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.



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software and system software. There is no evidence of any substantial initiatives in this regard anywhere despite it is known that only then implementation of provisions of the RTI Act, including suo moto, becomes meaningful and only then responses could be specific and speedy. A forth area of disappointment is lack of independent research on the role and impact of RTI Act and

Information Commissions and on public institutions at micro and macro levels . This is despite certain leaders including Dr Manmohan Singh and Rahul Gandhi talking of its “impact in curbing corruption” during poll campaigns. I have been advocating from the very outset that the impact would be more evident only when civil society, media and academics work in tandem across the country.

NBR

*Review of N. Vittal's latest book “Ending Corruption” by Hari Jaisingh*

## Curbing Corruption

*Vittal, while providing an overview of corruption in India, is not brash in his comments. He handles the issue cautiously and in a guarded manner, writes Hari Jaisingh*

**N**Vittal's volume provides an overview of corruption in India in all its dimensions. His advantage is that he belonged to the IAS *biradiri* right from 1960 till 2002 in different capacities and has apparently observed several wayward practices of the establishment from close quarters. His last coveted position as Central Vigilance Commissioner probably provided him a special opportunity to get an insight into the entire system of governance.

He is not brash in his comments and has handled this multi-dimensional issue cautiously and in a guarded manner, occasionally taking shelter under the spiritual discourse of Adi Shankaracharya's *Bhaja Govindham* or the *Bhagavad Gita* and other global authorities on ethical business practices and clean governance.

Vittal rightly observes that the dynamics of business and governance operate with two basic parameters. First, the people who run the system and second, the set of procedures, rules and regulations. These are two basic yardsticks which decide whether the operational system, both in the private as well as the public realm, is clean or not. This is the crux of India's problems, as we see that wrong practices over the years have acquired dangerous overtones in today's scam-ridden polity.

Describing corruption as a serious case of multiple organ failure, the author says: “Every sector in the public sphere seemed to have been

compromised and mired in brazen corruption, from the judiciary, defence services, industry, politicians, bureaucracy, sports to the media. Besides its widespread prevalence, the 2010 scams also strikingly exposed the inter-connectedness of corruption in all sectors.”

This is a harsh reality of Indian system as has unfolded before us over the years, especially under the UPA regime. Vittal does not explain the hows and whys of specific scam cases under political settings. He seems happy with his broader analysis as a bureaucrat who enjoyed a fairly good reputation while handling the telecommunication sector.

As Secretary, IT and of Telecommunications (1993-1994), Vittal initiated policy for software technology parks and was deeply involved in shaping liberalisation of the telecom sector. Post-retirement, he was chairman of the Public Enterprises Selection Board and Central Vigilance Commissioner until 2002. I had an

opportunity to meet him in the 1990s and I found him to be a knowledgeable person. Looking at recent massive scams in the 2G spectrum, I wonder how he would have handled the situation. Well, this sensitive matter is beyond the scope of the book under review. The author has covered the subject in depth, with solid input by experts and data. It has also touched upon the Niira Radia affair and how some media personnel got trapped into it.



The author is of the view that honest public servants can play an effective role in fighting corruption. He suggests that they can “become the fifth columnists of the system and act against corruption”. But how, especially when there is no premium on one being honest? Still, I believe that an honest bureaucrat can make a difference in the system, howsoever limited it might be. Vittal is right in stating that civil society activists outside the system do not know the internal dynamics of work, though they can use the RTI Act to their advantage. Interestingly, the author takes cover under a broader philosophical framework to the question: What is the way out? He quotes Mahatma Gandhi as saying, “We should be the change we want to see. This means that each one of us should be honest in our lives and work.” Noble thought, indeed. Vittal opines, “Phenomena like Hazare’s fast and Ramdev’s threatened fast show that our tradition of injecting a dose of spiritualism into politics may help in a more effective mobilisation of civil society in fighting corruption.”

Perhaps we will have to look for a new set of socio-spiritual reformers in our changing value system. I believe that the system can only change if it is governed by the principles of transparency and accountability with a clear provision that wrong-doers will be punished by a fair and speedy process of justice which itself has to be conducted fairly and honestly. To have proper appreciation of Vittal’s work it may be worth recalling his observation in his last chapter, ‘From prescription to cure’: “I was uniquely placed to scrutinise the entire system of government... with hands-on experience. Using the medical analogy I started looking at the ‘experts’ or the ‘doctors’ who could cure our body politic. I identified three constitutional bodies — the judiciary, the Election Commission and the Comptroller and Auditor-General of India — and one statutory body

— the Central Vigilance Commission — as the ‘doctors’. If four horsemen signal the Apocalypse in the *Bible*, the four ‘doctors’ can be visualised as the harbinger for ending corruption, leading to our national redemption and renaissance.”

As a final answer to the problem, the author draws from the story of monkeys in Japan as narrated in Carl Sagan’s book, *The Dragons of Aden*, in which monkeys improved the taste of nuts by soaking them in salt water and thereby improving their taste. He says that once the process of cleansing the system of governance begins by this principle, it is likely that the hundredth monkey principle may come into operation. The author states that as a result “India will emerge not only as a robust economic power but above all a clean, fair and well-governed nation”.

Well, if wishes (principles) were horses, India as a *dharma*-oriented nation would have been at the top of Corruption Perception Index in place of Denmark. But there are serious gaps in our wishes and practices. As things go, it seems only corrupt people in the system are enjoying the salted nuts. The only way out is to force them to realise that they cannot get away with ill-gotten wealth.

Public money cannot be diverted towards private gains. Public accountability has to be part of our working democratic system. A free and responsible media can help in this task. So can enlightened and vigilant citizens and NGOs. Democracy can be a potent weapon to fight against corruption. Herein lies our hope. We have to assert ourselves and call a spade a spade. A soft state can have no answer to the massive problem of corruption in the system of governance without right instruments of transparency, accountability and depoliticised professional investigative agency.

It’s a must-read book for one and all worried about growing corruption in the country.

*Courtesy: The Tribune (14 October 2012)*

## **Corruption – Causes, Consequences and Control: An Indian Perspective**

**Dr N Bhaskara Rao**

*A Paper presented at International Conference on Corruption, October 20- 21, 2012, Karachi, Pakistan*

**T**here is no magic formula to curb corruption in any country. It cannot be curbed over night, nor is it a one shot affair. And that task cannot be of only the Government; it has to be everyone’s concern,

commitment and endeavor. There is no one route or methodology to go about; it has to be a multipronged endeavor. More importantly, it has to be an ongoing concern, vigil and behavior. Government policies alone will not do, individual

behavior and civil society over sight and determination of political leaders - all have to work in tandem. Checks and balance mechanisms and proactive initiatives are essential. However, the extent of success eventually is determined by (a) restraints on greedy behavior at individual level, (b) criteria of competitiveness, (c) scope of consumerism and (d) limits on profit maximization quests. In all this, the role of mass media particularly news media has special significance as they set the agenda and priorities of everyone else in the system. Mass media's double edged character need to be recognized and moderated so that positive contribution overrides.

A '3 Cs' approach is a holistic view of corruption. It takes into consideration concern for a way forward with involvement of those who suffer more the consequences of corruption. This approach is driven by systemic improvements in delivery of public services. Our concerns should not be trapped in establishing "how much corruption" or in making corruption as an "indicator for development". The pursuit instead should be to understand how and why such a phenomena gets sustained and

what can be done for ensuring citizens get access to and also avail public services. The functioning of a government and effectiveness of its policies depend on corruption at this level of citizen interface, interaction and needs. Corruption at higher end, based mostly on greed, is more because of loopholes in laws and decline in political culture. Corruption involving needs of citizen is more to do with governance and grass root activism of civil society, including news media and political cadres.

A phenomena in the context of 3 Cs (driving the causes, consequences and control) which has become determining is perceptions. Corruption tends to get exaggerated and addressed in isolation mostly because of ignoring this phenomenon. Perceptions change the very scope and sensitivity about corruption. All most all corruption surveys

tend to be "hear-say" based, rather than on actual "experience". This is what I call "fire fighting" view of corruption, based on symptoms. The concern is limited to bring down the extent of perceptions, rather than actually ridding the system from the compulsions to corruption. It has been found that surveys, particularly rankings based, come up with temporal curbs rather than cures.

Experience and Perception of Corruption are two different phenomena. But are interlinked and parallel. One is determined on the basis of accumulated impressions and feelings of one self and neighbors, the other is based on encounter that one had gone through while seeking or availing a public service. The two are correlated. One intervening variable that influences or determines this correlation is the way the mass media covers and presents corruption. For example, if television channels broadcast specific corruption cases as frequently and hype them, the viewers are likely

to believe that corruption is all over or everywhere, although it is unrelated to the first hand experience of that particular viewing public. Coverage of corruption in news media over a long

period – the way Police, PDS, Land registration, etc are covered, for example, and talked about – perceptions formed out of such coverage and discourse cannot be reversed so easily and so early. Corruption itself cannot be curbed without dissolving perceptions. For an objective understanding of the problem and to address it reliably, one needs to desegregate the two phenomena.

One of the fallacy otherwise is that corruption is an independent phenomena. And that it can be curbed by preventing incidences of corruption. A perspective missed more often is that corruption is a process and interlinked with larger societal scene. Unless this linkage is understood better, can we control the incidents? For example, in the Indian context, I have been describing election time corruption as "mother of all corruption". That is

- # ***Transparency era***
- # ***Rights regime – Right to Information, Education, etc***
- # ***Obligatory provisions – service guarantee legislations***
- # ***Citizen initiatives – Citizen charter, social audit, Grievance redressal***
- # ***Vigilance Commissions***
- # ***Open House with users***
- # ***Networks of users of particular public service***
- # ***ICT. Social media, new media, more interactive***

without addressing certain tendencies at this level, corruption cannot be eliminated in the country and compulsions or basic causes for corruption cannot be addressed. Efforts to eliminate incidence of corruption in isolation involving citizen in availing public services remain temporary cure, rather than eliminating the root causes or motivating elements. This understanding assumes of course that if people elect those who are concerned and also determined to curb corruption, can make a difference. And, only then, the causes can be addressed and compulsions for corruption can be marginalized.

### Three pronged efforts

A basic premise in CMS framework is that corruption involving citizen in their availing often-used-basic-public-services is what sustains corruption in a country. The scope and structure of corruption at this level in turn depends on public policies, political decision making and public administration. In a democracy three key stakeholders are citizen, news media and politician. Of course, bureaucracy too matter significantly. Each of them has a determining role, as to the scope of corruption. One of these alone will not make the desired difference. In fact, the three need to work in tandem to realize and ensure corruption free public systems and governance.

An assessment or appraisal of corruption and its consequences is not possible without multi dimensional perspective. And it will be long way towards curbing corruption without such a view. Anything else is only a tunnel view of corruption. It has to be a three legged race and this race cannot be won without chase of each. If citizens continue to be passive and unconcerned of affairs at their end, no amount of Government efforts can

work. How can citizens activated against corruption and involved in such efforts? Similarly news media's role. The interest and keenness in corruption coverage. For example, if voters take cash or fall for such inducements at the time of elections they need to be sensitized on what implies. Elected representatives, who are part of such corruption, obviously tend to get back several times more than what they spent to get elected. And for that, they indulge/prompt and encourage corrupt practices in public systems and governance.

It is not mere media coverage of corruption alone that matter. More coverage is not necessarily merrier for discouraging corrupt behavior and the trends at individual and community levels. But the way that coverage is undertaken; For example, if the coverage of news channels is more of the same

without an analysis of linkage and more repetition, such viewing makes people immune and insensitive. Such coverage instead of sensitizing people, makes corruption appear as inevitable and normal. And in fact instead of provoking against, it promotes such acts or behaviors. A more specific example. By reporting how much money is

### TWO DIFFERENT APPROACHES

#### CMS PEE Approach

- # Not limited to quantifying perceptions, but experience
- # Not in general terms, but in specific context
- # Not only larger sample, but specific users and time context
- # Goes into linkage – factors & forces; users & providers
- # Flags systemic issues; success cases & initiatives

#### The Other Approach

- # Perceptions of a few, that too not representative
- # Generalized, not in specific context (of time period or service)
- # Limited to macro rankings, not for way - forward initiatives
- # No linkage to ground realities, changes

being given per vote in a particular constituency, voters in another constituency are made to demand money per vote and voters in another constituency to demand more money than what was reported by news channels. Techniques or methodology of corruption (without getting caught) is being spread (unintentionally) around by such coverage. It is based on what people read or see in news media that perceptions are spread around and take root. That is how corruption becomes a phenomena and often unrelated to actual experience (and go by experience long ago (before certain correctives were taken since). Such coverage tends to create

an exaggerated view of corruption, perpetuate it and echo the phenomena. As such, unless this process of recycling perceptions is understood and addressed, corruption cannot be curbed. This is even more a serious issue where news media have proliferated and operate in a competitive way chasing viewership “ratings” on a daily or weekly basis.

### Limited perspectives of news media coverage

- # Personalized or politicized view
- # Case by case approach, not so much systemic
- # Extent of corruption, not effects or implications
- # Failure angle – more, not solution or prevention
- # Blow hot & blow cold; Hype more of the same
- # “Scandal” interest, not “corruption” concern
- # Prompts “greed” in people more, perpetuates consumerism
- # Follow-up missing

Any ranking or assessment of corruption, based on quantification of such media driven perceptions, could be more misleading if actual experience in specific context is also not considered. The charts give an idea how perceptions and experience are different. Corruption cannot be curbed without doing something about the phenomena of perceptions about corruption. In that process perceptions too become a cause or contributing factor.

### Active Citizenry

One of the reasons for corruption being perpetuated is citizen passivism. Passivism was partly because of feeling of helplessness, lack of reliable avenues for redressal within and outside public systems and a tendency of isolation among citizens and even individual users. All that is changing. Governments themselves are creating redressal mechanisms and enablers; news media are showing new enthusiasm as outlets of people; newer and network technologies like internet, telecom tools and user groups are coming together. Thanks to private news channels and social media operators operating in a competitive spirit. They have brought in transparency and accountability than ever before? All that is needed today is concerted, coordinated and strategic efforts to resist, control and curb corruption in public systems.

A range of enablers and facilitators are available for citizen today. Broadly there are three types – Legislative, Citizen Activism and ICT based.

### Electoral Practices

Electoral politics everywhere perhaps even more in active democracies, involve luring voters. The difference is in the nature of lures and the extent. No matter what kind of electoral laws are in vogue, the lure continues as if unabated. The scope, strategy and methodology of doing that during poll time is different from one system to another. All that is needed is to enlighten or sensitize voters to restrain from quid pro lures at the time of elections at various levels. Simultaneously, candidates and party leaders need to be sensitized and even compelled to restrain from such informal lures. The elected representatives need to disclose any “conflict of interest” of office they were elected for and their own business or such other interests. Restraints and ceiling on election expenses by regulators have not worked. The ultimate protection is possible only with voters becoming conscious and concerned about poll practices. Because source for most corruption is cash-for-votes. In electoral politics if all candidates offer money per vote how could that be stopped?

### PEE Approach

Based on a decade long pilot studies, a more sustainable model of PEE (Perception, Experience and Estimation) has been developed for assessing, appraising and approaching corruption. In societies with frequently availed public services (like PDS) and with intense mass media (particularly television networks operating under intense competition), such (desegregated) framework can be more relevant and useful towards going about curbing corruption. The uniqueness of PEE model (perception, experience, estimation) of CMS is that it is not limited to quantifying “perceptions” in “general terms”. But goes beyond and quantifies “experience” in specific contexts of a public service and against a specific time context (in the last one year). Based on both perception and experience, in general and in specific contexts, the model estimates consequences in monetary terms, the extent of corruption in the process of citizen availing the particular public services. The model also quantifies those who could not avail a public service

because of having no clout or contact or not able to pay the bribe. Equally important, this model is representative and reflective of the ground level scenario. For, the sample includes specific and potential users of a public service. The sample size is usually large and systematically selected. Also, these studies took into account “service providers” perspective. Further, the entire procedures, concepts and methodology was finalized transparently by involving subject experts, activists and policy analysts at various stages of the study. Outcome of such studies is likely to help curb/curtail corruption involving citizens. There is no justification for research studies, particularly rating or ranking ones, unless they contribute towards

controlling corruption, help come up with initiatives particularly systemic ones and take measures for good governance. Field studies should bring out causes, indicate consequences and help control and curb corruption levels. The CMS India Corruption Surveys based on PEE approach in the last decade are an example in this regard. A forthcoming book by SAGE (Good Governance: Deliver Corruption-free Public Services) describes that process. Whether it is to do with NREGS or Judicial, CMS India Corruption Surveys which contributed in flagging the concerns, compelling the Government to come up with initiatives, helped news media to go beyond in their coverage and even provoked citizen groups become proactive.

## Cabinet backtracks on RTI amendments

### *Changes would have restricted disclosure of file notes to social, development issues*

Days after Prime Minister Manmohan Singh cautioned against the misuse of the Right to Information Act, the Cabinet on Thursday bowed to protests and withdrew a set of amendments it had proposed to the Act, among them an amendment to restrict the disclosure of file notes to social and development issues. The news came as a major relief to the RTI fraternity, which has been in ferment over Dr. Singh's speech and a recent judgment of the Supreme Court mandating the appointment of judges to the Information Commissions. Said RTI pioneer and member of the Sonia Gandhi-led National Advisory Council Aruna Roy: “For four years we struggled to get these amendments out of the Cabinet, and finally we have succeeded. This is a big day for us.”

### Cleared in 2006

The amendments were cleared by the Cabinet in 2006, though public protests ensured that they were never taken to Parliament for passage. Minister of State for Personnel V. Narayanasamy said the amendments were being withdrawn in view of the larger public sentiment against diluting the seminal legislation. He accepted that the decision

was taken in response to representations by civil society activists, NGOs and Information Commissioners.

### Sonia's opposition helps

NAC and government sources said Ms. Gandhi's strong opposition to the amendments was a major factor in their withdrawal. Ms. Roy said while the said file notes were at the heart of the RTI Act, and limiting their access would have destroyed the legislation, the two other amendments were equally pernicious. These were: Exemption of examination papers and selections to the Union Public Service Commission from the Act and disallowing information on ongoing executive decisions. The RTI Act already exempts ongoing Cabinet decisions from purview and extending the exemption to executive decisions would have rendered the government virtually out of bounds to RTI queries. Nikhil Dey of the National Campaign for People's Right to Information said the victory was proof that even a determined government had to give in to popular pressure ultimately. Added Ms. Roy: “We can now push for other accountability bills such as the ones for whistleblowers' protection and grievance redressal.”

*Courtesy: The Hindu (1 November 2012)*

## The power of RTI

The Right to Information Act was a marvel in a country that boasted unbreachable barriers between the ruler and the ruled. It was outside the imagination of the ordinary folk raised in a cloistered environment of fear and secrecy that they could actually call for and obtain records of decisions that critically impacted their lives. Yet in only seven years, the RTI law has not just penetrated the fortress that was official India, but more miraculously, acquired a resilience that its authors could not have envisaged. It is a testimony to the Act's strong survival instinct that last week the Union Cabinet finally withdrew a set of draft amendments to the Act which it cleared in 2006 but did not place before Parliament for fear of alienating the growing army of RTI stakeholders: citizens, activists and information commissioners. Two among the proposed amendments were potentially lethal: Disallowing access to government file notings in all areas except those deemed to be falling in the category of social and development, and placing ongoing executive decisions entirely outside the purview of the Act. Had the amendments gone through, they would have virtually rendered the government out of bounds for any RTI query, more so given that Cabinet papers, including records of deliberations of the Council of Ministers, are already exempt

from disclosure till such time as the decisions are considered final and complete.

Of the slew of rights-based laws initiated by the first UPA government, only the RTI Act has met with an impressive degree of success. The law has been empowering for the common person. And it has played an invaluable role in uncovering scams and scandals that would have been shut out of sight in an earlier era. From the Commonwealth Games to the 2G scam, RTI queries have been the starting point of exposure in a score of recent cases of corruption. Not surprisingly, the success of the law has been its greatest threat. Though the UPA government birthed the law with great fanfare, its effort from the beginning has been to restrict its use. It fought to exempt file notings from the Act knowing notings were tell-tale in nature; they could reveal why, how and under what pressure an official decision was taken. A few days ago, Prime Minister Manmohan Singh cautioned against the Act's misuse, and expressed himself in favour of privacy as opposed to disclosure. The same line was taken by the Supreme Court which also mandated that judges must be appointed to all Information Commissions. But whatever the challenge, the information law cannot be beaten back; the genie is out of the bottle.

*Courtesy: The Hindu (5 November 2012)*

## CIC slams public authorities for failure

Chief Information Commissioner Satyananda Mishra on Saturday criticised public authorities for failing to comply with the suo moto disclosure provisions of the Right to Information Act (RTI).

Speaking at the 11th All-India Lokayukta Conference here, Mr Mishra said, "The RTI has mandatory provision for proactive disclosure of a whole range of information by every public authority. I must say that almost all public authorities have failed to comply with this mandatory requirement even after seven years of the implementation of the Act". Section 4 of the RTI Act mandates all public authorities to maintain all its records duly catalogued and indexed, publish all relevant facts while formulating important policies, provide reasons for its administrative or quasi-judicial decisions and publish within 120 days 17-point information about the authority.

*Courtesy: Deccan Chronicle (3 November 2012)*

# If Parties come under RTI: CIC

Nidhi Sharma

*Parties yet to show inclination towards adopting legislation*

A full bench of the Central Information Commission, the final appellate authority on Right to Information (RTI) Act, will on Thursday decide whether political outfits should come under the purview of the Act. Political parties are yet to show any inclination towards adopting the transparency legislation.

Chief Information Commissioner Satyananda Mishra and Information Commissioners ML Sharma and Annapurna Dixit would give their verdict on separate appeals by RTI activist Subhash Agrawal and Association for Democratic Reforms. The commission has been examining the matter since September. It had given notices to all political parties to appear before the bench and give their views on whether or not they should be treated as public authorities like government departments. All national parties, barring NCP and CPI, chose to ignore the notice and did not appear for the hearing on September 26. The bench decided to give time till the first week of October. However, even after a month national parties like Congress, BJP, SP, BSP and CPM have refused to respond. Till Wednesday evening, only NCP and CPI have given written submissions before CIC.

Political parties have been arguing that they are not government-funded entities and do not fall under the ambit of the RTI Act. CPI, represented by D Raja, had contended that morally RTI Act should apply to political parties, but technically there

was no ground for it. However, ADR has prepared a detailed presentation and argued that indirectly political parties get major benefits from the government. These include land at concessional rates, party offices on government land and media reach during elections. ADR presented that all political parties receive government funds, but claim tax exemptions on 100% of their incomes, under Section 13A of the Income-Tax Act. As per ADR's estimates, tax exemption by six national parties for financial years 2006-07 to 2008-09 is 510.02 crore. Congress received maximum tax exemption, 300.92 crore, during the period, followed by BJP, 141.25 crore. The tax rebates enjoyed by other national parties for the period are as follows: BSP: 39.84 crore, CPM: 18.13 crore, CPI: 24 lakh and NCP: 9.64 crore.

As per the RTI Act, a public authority is defined under Section 2 (h) as "any authority or body or

institution of self-government established or constituted - (a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by state legislature; (d) by notification issued or order made by the appropriate government, and includes any - body owned, controlled or substantially financed; non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate government." Interpretation of 'substantially funded' would be the key in the CIC judgement.

*Courtesy: The Economic Times (1 November 2012)*

# Netas try to escape RTI Stick

Himanshi Dhawan

Political parties claim to be public representatives but do not want to come under public scrutiny.

In a hearing before the Central Information Commission (CIC) some parties came up with several creative excuses to exempt themselves from coming under the ambit of the RTI Act. These ranged from expressing concern that revealing names of donors might endanger the contributors' lives, or that it would impact their decision-making process.

The responses from political parties came during a CIC hearing on an application filed by the Association for Democratic Reforms (ADR) and activist S C Agrawal. ADR had sought information related to donations and contributions received by political parties, which had initially been denied by outfits claiming they were not public authorities. The CIC full bench has reserved its decision.

On Thursday's hearing - the second and final one in the case - Congress representatives were conspicuous by their absence. Representatives of BJP, BSP, NCP and CPM were present.

While CPM said that it was willing to make its contributors public, it objected to being designated a public authority. The party said 40% of its funds come from its cadre, which is slightly over 10 lakh across the country accrued from individual membership of Rs 2 annually, while the rest come from 'levy' and donations and, hence it was not feasible to give such details.

NCP said that revealing the list of contributors could endanger their lives and that public interest was not a criterion to declare a body public authority. BSP claimed that there was not direct or indirect funding by the government and the facilities like free air time, buildings at cheap rents and other facilities do not constitute funding.

BJP also fought tooth and nail against being brought under the transparency law. A similar argument was made by other parties but they were even more strident. In the last hearing on September 26, CPI was the only party that had expressed its willingness to part with the financial information but said that internal discussions should not be made public as it would affect their public stance.

ADR has argued that political parties enjoy benefits and facilities from the public exchequer. Political parties get substantially financed by a very large amount by getting tax exemption on all their income. In addition, all the major political parties have also been provided facilities for residential and official use by the Directorate of Estates (DoE).

They have been given offices and accommodations at prime locations like Akbar Road, Raisina Road, Chanakyapuri and are charged only a token sum as rent or dues. "These facilities are not just provided to them at marginal rates but their maintenance, modernization, renovation and construction is also done at state expense. A large sum of money is also spent by the Election Commission of India on political parties for giving electoral rolls. Doordarshan and AIR also provide free broadcast facilities to the parties. If closely seen, the money spent on that basis actually runs into crores. State funding is also given for publicity of parties during elections," said Anil Bairwal, an ADR member.

The top five political parties enjoy income in crores. According to ADR, incomes of the parties between 2004-05 and 2010-11 showed that Congress had the maximum income with Rs 2,008 crore, followed by BJP (Rs 994 crore). BSP was ranked third with Rs 484 crore, CPM (Rs 417 crore) and SP (Rs 279 crore).

*Courtesy: The Times of India (2 November 2012)*

# Don't include us under RTI Act, say parties

Shyamlal Yadav

**C**utting across party lines, the BJP, NCP, CPI(M), CPI and BSP have told the Central Information Commission (CIC) that they should not be covered under the Right to Information (RTI) Act. The Congress, however, has not made its views known as it skipped the hearing before the full bench on Thursday.

The representatives of the political parties argued that since they already provide details to the Election Commission and the Income Tax department under the Representation of People's Act, there is no need to include them under RTI.

The full bench, comprising Chief Information Commissioner Satyanand Mishra and Commissioners M L Sharma and Annapurna Dikshit, reserved their order on Thursday.

The appeals before the CIC were filed by RTI activist Subhash Aggarwal and Anil Bairwal of the Association for Democratic Reforms (ADR), whose queries were reportedly returned by political parties which claimed that they did not come under the ambit of the RTI Act as they are not "public authorities".

"There are many things discussed at different levels of the party. Divulging certain details under

the RTI Act may distort the entire process of internal democracy of the party," argued Ramchandran Pillai, appearing for the CPI(M). He added that donors who contribute over Rs 20,000 are already disclosed to the EC and I-T department.

Amit Anand Tewari, appearing for the NCP, argued that the parties would have to divert a lot of resources to create a system of public information officers and first appellate authorities if they are covered under the RTI Act.

"This is not a valid point since it is true for every public authority," countered Sharma.

BJP's Subhasish Shourya said since the Act does not deal with the matter of political parties, it is clear that the intention of the Act was not to include them. This issue before the commission is whether the political parties can be included as "public authorities" as defined under 2(h)(d)(I), which includes "owned, controlled or substantially financed" bodies.

The appellants claimed that since the parties are allotted government land at subsidised rates and are allotted free time on All India Radio and Doordarshan among other things, they must be covered under the transparency law.

*Courtesy: The Indian Express (1 November 2012)*

## RTI doesn't trample upon privacy: expert panel

Aloke Tikku

**REVIEW:** Justice Ajit Prakash Shah panel recommends that the proposed Privacy Act must not circumscribe RTI ACT

**G**overnment officials riding high on hopes that privacy concerns could blunt the right to information are in for disappointment. An expert panel set up to build a framework for a privacy regulation in India has brushed aside suggestions that the information law was trampling upon privacy of public servants or individuals in public life. The Justice (retd) Ajit Prakash Shah panel has told the government that privacy was only a "narrow exception" to the citizens' right of information.

And when someone claimed exemption from providing information on grounds of privacy, the Information Commissioners used the public interest test to determine whether "the individual's right to privacy should be trumped by the public's right to information", the Shah panel said.

The panel's recommendations come weeks after Prime Minister Manmohan Singh spoke about concerns regarding possible infringement of personal privacy while providing information under the Right to Information Act.

Singh had gone a step further to stress that "citizens' right to know should definitely be circumscribed if disclosure of information encroaches upon someone's personal privacy. But where to draw the line is a complicated question".

The Shah panel - that had only three civil society members, NDTV's Barkha Dutt, researcher Dr Usha Ramanathan and Pranesh Prakash of advocacy group, Centre for Internet & Society - has indicated there was no need for concern.

The (proposed) Privacy Act should not circumscribe the Right to Information Act," the

Shah panel said, pointing that there were more than 400 cases where the Central Information Commissioner had pronounced decisions on the balance between privacy and transparency.

Singh's remarks at the convention to mark the seventh anniversary of the RTI Act - that reflected the discomfort within sections of the government at the use of the transparency law - had come in for severe criticism from RTI activists. Instead,

the panel listed out nearly six dozen laws or those in the pipeline that contained provisions impacting privacy. Government officials said many of these laws or their rules would need to be fine-tuned in line with privacy principles, particularly those relating to the financial sector and the two big databases of residents being created by the home ministry's National Population Register and the Unique Identification Authority of India's Aadhaar.

*Courtesy: The Hindustan Times (29 October 2012)*

## **Thanks to RTI Act, govt no longer a mystery: CIC**

***REVIEW says about 2 mm people across country have used the ACT which has revolutionized the way India is governed***

**C**rediting the Right to Information (RTI) Act with demystifying the government and how it works, the Chief Information Commissioner (CIC) of India has said the Act has revolutionised the way we are governed.

"No longer is the government a mystery. It (RTI Act) has robbed the government of its certainty. Everything can be questioned," said CIC Satyananda Mishra during a conference of Lokayuktas.

Enacted by Parliament in 2005, the RTI Act seeks to provide for setting out the practical regime of the right to information to citizens wherein any citizen may request information from a public authority, which has to be replied to within 30 days.

"With whatever information we could gather from the central government, and even with its limited penetration, we have come to know that over a million citizens have used the RTI Act. Countrywide, it would be about two million or so. It has ceased to be just a noun, it has become a verb and is here to stay," said Mishra.

Unlike other laws, this is perhaps the only law that has been enacted on popular demand. Mishra calls it the only serious and sustainable attempt in Indian society that government has made to address corruption. Sounding ominous, the CIC said the use of the RTI Act stands to go up in future. Referring to the climate of all-pervasive corruption and its exposes mainly through RTI in recent times, the CIC said: "It is not in the big exposes that the success of the RTI Act is to be sought. Its success should be seen in dismantling of the wall of hesitation and trepidation that separates the people from the government."

Mishra, however, lamented the poor state of record keeping by the government departments, which he said is harming effective implementation of the RTI Act.

The issue of protection for RTI activists found expression in what activist Aruna Roy had to say. "There is a need for a strong whistleblowers' law even for people within the system. There is no such avenue now."

*Courtesy: The Hindustan Times (5 November 2012)*

## **Kerala Info Commissioner is Suspended**

**K**erala governor H.R.Bhardwaj on Monday suspended state information commissioner K. Natarajan for allegedly trying to influence a vigilance officer probing the land allotment case against Opposition leader V.S. Achuthanandan. The governor also referred the case against Mr Natarajan to the Supreme Court for further inquiry. As per procedure, the Supreme Court will have to appoint a registrar to inquire into the allegations against the information commissioner and, if found guilty of misconduct, he would be removed from the post. Mr Natarajan had reportedly rung up Vigilance deputy SP V.G. Kunhan repeatedly and tried to influence him to take a lenient stand towards Mr Achuthanandan in the Kasaragod land allotment case. The deputy SP had recorded the conversations and complained to the higher-ups.

*Courtesy: The Times of India (13 November 2012)*

# PM bats for limiting RTI to protect individual privacy

Aditi Tandon

## Hints at Right to Privacy to secure people's interests post-RTI

Amid the ongoing public spat between the Congress and Gujarat Chief Minister Narendra Modi over UPA chief Sonia Gandhi's medical bills worth Rs 1,880 crore, Prime Minister Manmohan Singh today said one person's right to know can't be allowed to undermine another's right to privacy. He indicated that the government would soon bring an independent Right to Privacy legislation to secure people's interests in the light of the RTI Act.

"The citizens' right to know should definitely be circumscribed if disclosure of information encroaches upon someone's personal privacy, but where to draw the line is a complicated question," the PM said at the seventh Annual Convention of the Central Information Commission. The day marks the coming into force of the RTI Act on October 12, 2005.

Since then, the PM said, concerns had arisen over the possible infringement of personal privacy while providing information under the law. Citing constitutional obligations under Article 14, he said, "There is a fine balance required to be maintained between the right to information and the right to privacy, which stems from the Fundamental Right to Life and Liberty. The issue of a separate legislation on privacy is under consideration of an expert group under Justice AP Shah."

Minister of State in the PMO, V Narayanasamy, however, admitted that the government "was contemplating the right to privacy bill". The conference will also deliberate on the issue and recommend a definition of "privacy".

For his part, Chief Information Commissioner Satyanand Mishra has already clarified in Sonia Gandhi's case that any expenditure made by an

individual on medical treatment is private information that can't be covered under the RTI application. However, if such expenditure involves public funds, it could be covered. In neighbouring Bangladesh, which enforced RTI in 2009, private information covers medical records, DNA information and private investments. "But if public funds are involved in private dealings, privacy argument doesn't apply," the visiting former CIC of Bangladesh, Mohammad Jameer, told TNS. Renowned sociologist Andre Beteille, who gave the keynote address today, said, "Privacy is different from secrecy."

The PM for his part did acknowledge the criticality of the RTI for transparency in governance, but also voiced apprehensions over continued vexatious use of the law to seek information to target people. He went on to exhort delegates against blanket extension of the law to private entities in PPP tie-ups, saying such an extension could discourage investment even as blanket exclusion could harm accountability. "Please find a way forward here," he told Information Commissioners.

The PM also made an oblique reference to RTI activist Arvind Kejriwal and his NGO India against Corruption's continuing tirade against the government. "The RTI legislation should not be only about criticising, ridiculing, and running down public authorities. It should be more about promoting transparency and accountability, spreading information and awareness and empowering our citizen. There's a need for all of us to work towards building an environment where citizens see the government as a partner and not as an adversary," he said.

*Courtesy: The Hindustan Times (5 November 2012)*

## What is personal information?

Indu Bhan

### Bounced cheques can be prosecuted even later

Overruling its own 1998 decision in the Sadanandan Bhadran's case, the Supreme Court has held that a payee or a holder of a cheque can initiate prosecution proceeding on the second or

successive dishonouring of the cheque if action has not been initiated on an earlier default.

Settling the law on bounced cheques, the apex court in the case of MSR Leathers vs S Palaniappan has now held that the initiation of proceedings under Section 138 of the Negotiable

Instruments Act 1881 is permissible even if the complainant had failed to do so when the cheque bounced for the first time.

“There is in our opinion no real or qualitative difference between a case where default is committed and prosecution immediately launched and another where the prosecution is deferred till the cheque presented again gets dishonoured for the second or successive time,” it said, adding that “so long as the cheque is valid and so long as it is dishonoured upon presentation to the bank, the holder’s right to prosecute the drawer for the default committed by him remains valid and exercisable,” it said. The apex court as well as high courts till now have been following the wrong judgment given in the Sadanandan Bhadran vs Madhavan Sunil Kumar case. According to the court, the object underlying Section 138 is to promote and inculcate faith in the efficacy of banking system, giving credibility to negotiable instruments in business transactions, to safeguard and prevent harassment of honest drawers and punish those unscrupulous persons who issue cheques for discharging their liabilities without really intending to honour the promise.

In the present case, the payee had not issued notice to MSR Leathers when the cheques for R10 lakh had bounced for the first time in August 1996. The cheque got dishonoured even for the second time in January 1997. This led to the filing of a complaint before the trial court, which rejected the complaint primarily on the ground that it was not filed within 30 days of the expiry of the notice based on the first default. However, the Madras High Court had quashed the lower court’s orders.

### **Third parties’ rights in arbitration agreements**

Stating that even a non-signatory party to an agreement can demand and be referred to arbitration under the Arbitration and Conciliation Act 1996, the Supreme Court in the case Chloro Control Ltd vs Severn Trent Water Purification Inc has referred the disputes between various parties to arbitration, which will be conducted according to the rules of the International Chamber of Commerce.

According to the apex court, in cases of group companies, where various agreements constitute a composite transaction with all other agreements ancillary to it and for complete implementation of

this composite agreement, the court may have to make references to arbitration of the disputes existing between signatory or even non-signatory parties. However, the discretion of the court has to be exercised in exceptional, limiting, befitting and cases of necessity and very cautiously, it added.

In the current case, the top court said that all agreements executed between the parties were to further the Shareholders Agreement and were intended to achieve only one object, i.e. constitution and carrying on of business of chlorination products by the joint venture company in India and the specified countries. The parties having signed the various agreements, some containing an arbitration clause and others not, performance of the latter being dependent upon the principal agreement, reference to arbitration of the complete stated cause of action was inevitable, it said.

### **IT returns, performance report out of RTI ambit**

The details of a person’s income tax returns and performance of an employee are “personal information” which cannot be divulged under the provisions of the Right to Information Act unless a larger public interest is involved, the Supreme Court held in the case of Girish Ramchandra Deshpande vs Central Information Commissioner.

It added that “the performance of an employee or officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression ‘personal information’, the disclosure of which has no relationship to any public activity or public interest”. “The disclosure of such information would cause unwarranted invasion of privacy of that individual,” it said while dismissing a plea against the denial of information regarding a government servant’s service matters and also the details of his assets and liabilities, movable and immovable properties.

However, the top court said that if the Central Public Information Officer or the State Public Information Officer was satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed. The information-seeker had approached the Regional Provident Fund Commissioner (Ministry of Labour) in 2008 seeking various details relating to a person employed as an Enforcement Officer.

*Courtesy: The Financial Express (10 October 2012)*

*Based on its first ever study covering 29 states, CMS has brought out a couple of years ago, how “note-for-vote” phenomenon is at the root of all corruption. It was against that background, I have been advocating curbs on media advertising to avoid falling into US election model involving large expenditure of billions of dollars collected from people. S Narendra, former PIO of Govt. of India and advisor to three Prime Ministers has been keeping track of campaign strategies in US Presidential Elections including the just concluded 2012 one - Editor*

## \$ 6 Billion Road to Whitehouse

S. Narendra (Former Information Adviser to PM)

**W**ith the official nomination of President Obama by Democrats to face Republican, Mitt Romney in November presidential election, the ‘race’ to White house has touched the home stretch. This ‘race’, according to Reuters, (quoting Center for Responsive Politics) is likely to involve \$6 billion, almost equal to the GDP of a small country like Nicaragua. This makes the political ‘race’ shame any Derby where people gamble bare millions.

### Powerful Partisan Non-Official campaigns

America introduced state funding of elections in 1976 aiming to reduce the influence of money on poll outcomes and on elected offices. Neither of the candidates this time has accepted such funds because such funds fall far short of what it takes to fight for office, come with strings and demand greater level of transparency in accounting. While the Internal Revenue department and the Federal Election Commission require political parties and candidates to furnish full disclosure of sources of funds and spend, yet loopholes in laws and rules allow large room for their circumvention. Poll watchdogs (like ProPublico) complain that the two agencies turn a blind eye to violations given the scale of rule breaking. A Supreme Court decision in 2010 removed all restriction on non-political entities such as wealthy corporations to spend unlimited amounts, either for or against parties and contestants, while observing technical separation

from contestants. This Supreme courts single majority vote conceded to powerful corporations, that were already close to political power - ‘freedom of speech’ similar to that enjoyed by citizens. And this freedom is bringing in huge money into election, and for the first time playing a far bigger role, mostly against Obama, in this presidential elections. The corporate money is routed to super Political Action Committee (sPACs) maintaining a hand-shake distance with candidates’ official campaigns.

Strong supporters of candidates, technically sever their previous links to them and engage in fund raising from individuals, corporations, interest groups and Lobbyists. So far in this current race, they have raised \$226 million, mostly being used against Obama. According to media reports Obama was unhappy about sPACs role and had not encouraged his supporters to create them. However at the penultimate election

stage, in order to meet the Republican challenge on this front, he has also fallen in line and his ex-Whitehouse chief is hoping to raise \$60 million for meeting the Republican challenge.

Second, less big but significant source of campaign funds is the social welfare non-profit organizations governed under IR 501 sub-clauses (similar to sec 25 companies under the Indian company law). Such 501 bodies ( trade unions, church organizations, temporarily registered bidders that close shop after the election), can receive funds from any source and are not required to file returns

### 4700 Campaign Ads a day: US Presidential Election 2012

*In Florida alone, considered as a crucial state in the Presidential race, both candidates spend \$38 million and screened about 40,000 TV ads. In Las Vegas, over 50,000 ads televised at a cost of \$40 million. Both candidates spend over \$700 million in critical 10 states; 80-90% of the ads are negative.*

to IR or FEC so long as the money is spent on ‘social welfare’ including communication services. Because of their proliferation and loose oversight by IR and FEC) such bodies flout rules with impunity and launch political campaigns. By June this year, according to a low estimate these bodies had spent \$60 million. According to Kantar Media Campaign Analysis, they had spent by Aug 8<sup>th</sup>, more than \$71 million on ads mentioning a candidate for president, as against. Super PACs spend of \$56 million for a similar purpose.

## The Official Campaign

The American top race is a 15-18 month long one, starting with primaries and ending with party nomination conventions and the election concluding around November 20<sup>th</sup>. This is a test of political endurance, political flexibility for compromises, capacity for fund raising by presidential hopeful from each party. In the present election, the Republicans began with several contenders. Poll watch dogs state that in the run up to nomination the different Republican candidates could have spent up to \$2 billion. Obama did not have to go through this process. It is reported that he is likely to raise \$800-900 million, as against \$790 he had raised for his election campaign in 2008. The Republican Romney is likely to top Obama’s fund raising. By September this year, Democratic Party had spent \$196 million, President Obama’s own campaign another 237 million. On the other hand Republican had splurged 437 million.

## Higher TV Spend on Negative Ads

A look at the official party expenditure shows that nearly 30-40 of it had gone for TV advertising, followed by Internet Ads. A very disturbing feature of this electronic effort went into creating a negative picture of the opponent. The independent groups or outside interests involvement has increased 1100 more times than in 2008. And they can also be singled out for increasing negative TV ads. Analysis show that in 2008 the Interest group airings, though few in 2008, were overwhelmingly positive (75 percent) in that year, compared to only 14 percent positive this year. Candidate airings, which made up the bulk of the

airings in 2008, were only 9 percent negative in 2008. So far in this election cycle, more than half of the ads sponsored by candidates (53 percent) have been negative.

## Un conventional Partying

Lobbyists and trade groups, virtually all with business before Congress and federal government agencies, splurged money for hosting nonstop schedule of beach parties, concerts and cocktail hours during the party nomination conventions in Aug – Sep, according to New York Times. In many ways, their activities amounted to a parallel convention, one in which access to elected officials, party leaders and delegates provides corporations, interest groups and lobbyists a chance to advance their causes as the party goes about its official business nearby. As Obama is seen to be keen on healthy regulations on financial and corporate activity, all those who oppose them were present at the Republican nomination convention in Florida.

## Is Reform of the Political System Possible?

Let’s hear Nancy Pelosi, the majority leader in the House of Representatives on this:’ There’s plenty of room for growth: currently, women claim 73 of 435 House seats and 17 of 100 seats in the Senate, according to Rutgers University’s Center for Women in Politics. There are also 44 African-Americans representatives and zero African-American senators, and two Hispanic senators and 25 Hispanic representatives, according to the *National Journal Almanac*.

If campaign finance reform efforts fail, said Pelosi, the future would be in the hands of a small group of donors like casino billionaire Sheldon Adelson and the Koch brothers, who have investments in a variety of industries (these two are the biggest donor for pro-Romney super PACS).

“We might as well cancel the election, forget the convention, and just go to the five guys and say, ‘Who do you want to be president?’” said Pelosi. The Supreme Courts’ 2010 ruling in *Union Vs Citizen* has negated the one -man –one- vote principle by making the wealthy corporation decisive shadow voters.



## Living with the genie called social media

Shashi Tharoor

The nature of the era we are living in today — the era of the information revolution, the Internet, the World Wide Web — was illustrated startlingly by our own First Citizen last month. Just a day after he was sworn in as our 13th President, Pranab Mukherjee announced that he would be opening a Facebook account to receive and respond to comments and queries from the public. In fact his fellow Bengali, Paschimbanga Chief Minister, Mamata Banerjee, has beaten him to it, with a popular and widely-read website that the media mines daily for news stories about her views. Just three years ago, when I first went on social media, it was fashionable for Indian politicians to sneer at the use of Twitter and Facebook. Today, our new President has made it clear that these are essential tools for credible and accountable political leaders.

This is all the more striking because I once asked a distinguished senior politician what he thought about the emergence of these social media tools. Wouldn't they help getting our message across, I asked; why weren't they more widely used — was it ignorance or was it apathy? He replied: "I don't know, and I don't care." Which rather explains what we're up against! Social media reflects the great technological transformations of our time, where information that in the past could only be delivered through the heavy apparatuses of traditional media is now instantly available on mobile phones. This means news travels faster, is more widely accessible, and is easily portable. Governments can't keep up: if they try to suppress a news story, some passer-by or tourist with a cellphone could have filmed the event, thereby undermining the official story. Most people now carry in their pockets a level of technology that just a decade ago would have required many more (and much larger) pieces of equipment.

Each of us can be what the BBC's Nik Gowing calls an "information doer"; each of us can make, transmit and receive news in ways that the governments of the world cannot fully control.

Gowing writes, "It was a chance video taken by a New York investment banker that dramatically swung public perceptions of police handling of the G20 protests (in the UK). Those 41 seconds swiftly exposed apparently incomplete police explanations of how and why a particular protester, Ian Tomlinson, died. They alone forced a level of instant accountability from the police about their orders, behaviour and operation... Such examples confirm how new information technologies and dynamics are together driving a wave of democratisation and accountability. It shifts and redefines the nature of power in such moments. It also creates a new policy vulnerability and brittleness for institutions, who then struggle even harder to maintain public confidence." Globally, it remains true that most major institutions of power still do not appreciate the full scale and implications of the dramatic new real-time media trend and its profound impact on their credibility.

The potential impact of social media going "viral" thanks to today's interconnected technologies has already been apparent in the Arab Spring, where Twitter, Google and Facebook messages helped create the famous Jasmine Revolution. In India, we have seen the more malign side of this problem with the spate of distorted, harassing and threatening messages, Web posts and SMSes earlier this month. These widespread (and frequently redistributed) transmissions first roused Muslim anger about alleged atrocities against their co-religionists in the Northeast (often using doctored images from such benign events as Tibetan earthquake relief to suggest the victims had suffered anti-Muslim violence) and then instilled panic amongst northerners about the threat of reprisals. It is almost impossible for governments to counteract such malicious use of social media, and any steps they do take are often too late to prevent the damage that has already occurred. This is a phenomenon we must be conscious of even if there are no easy prescriptions to remedy its dangers.

The world is full of examples of what Gowing calls “non-professional information doers”: hundreds of millions of amateurs with an electronic eye who can now be found anywhere. As many as five billion people worldwide — including 84 per cent of Americans, more than 70 per cent of Chinese and perhaps 60 per cent of Indians — now use mobile phones. This has led to an extraordinary transformation in the reach and range of our freedom of expression. These mobile phone users all get messages out.

The core implications are striking. We have all heard about the so-called 24x7 news and information cycle, but with social media the pressure of the news cycle can build up not just over a few hours but often in no more than a few minutes. As images, facts and allegations emanating from cellphones and digital cameras go viral, they undermine and discredit official versions, present an alternative reality in the face of government denials and, fuelled by dissenters and expatriates, rebound onto the evolution of the situation itself. Twitter and digital cameras had a

*Social media is a genie that cannot be put back into the bottle. We have to learn to live with it - and adapt our own ways to its demands*

huge impact on the Iranian protests after the disputed re-election of President Mohammed Ahmedinejad. Despite Tehran’s attempts to manage the crisis, social media kept the protests alive for far longer, and with more prolonged intensity, than they could have survived without that digital fuel.

With such instant scrutiny, governmental power is rendered more vulnerable. The WikiLeaks saga demonstrated this too, since the publication of classified material on the Internet circumvented both government control

and the restraints that are normally observed by traditional media. In the old days, governments assumed they could command the information high ground in a crisis. That is simply no longer true.

These are all trends of which governmental policymakers must be aware. In a democracy, knee-jerk reactions against social media, including attempts to shut down inconvenient messages, are doomed. This is a genie that cannot be put back into the bottle. We have to learn to live with it — and adapt our own ways to its demands.

*Courtesy: The Asian Age (31 August 2012)*

## **The sting in the media**

**P N Vasanti**

***Some sting operations have actually been used as evidence to prosecute corrupt officials***

A very unusual thing happened last fortnight—the media got a taste of its own creation, a sting.

There was a sting operation on a media channel by a major corporate house where the channel’s editor was heard demanding a large amount of money in lieu of suppressing controversial information regarding the company.

Amidst the surfeit of corruption stories that we hear and see nowadays, this is certainly a man-bites-dog story.

Sting operations are quite popular with both print and electronic media. Visuals and video footage of politicians taking bribes, actors asking for sexual favours, or just about anybody indulging in the kind of behaviour in private that will embarrass them in public have become easy to capture with new-age surveillance tools and cameras. They also make fascinating stories with all elements of drama, especially for television channels. Not surprisingly, it is a rare channel that doesn’t “sting”, although

some go too far. One channel did just that with the story of a Delhi school teacher “caught” on camera forcing students into sex work. This later led to public humiliation and lynching of the teacher. The Delhi high court took suo motu notice of this fake sting operation in which the reporter fabricated recordings to make these false allegations.

Since then, there have been numerous sting operations led by journalists or media organizations. Some such as the expose of cash for votes raised questions, serious questions. Some sting operations have actually been used as evidence to prosecute corrupt officials. However, people have also raised concerns about the sheer disregard for privacy in most sting operations. And even the courts have suggested guidelines for reporters to prevent the abuse of undercover journalism.

Until the incident mentioned at the beginning, the media itself had never been stung. In this case, the company has gone to the extent of filing a complaint against the editor and the owner of the

channel based on the recorded discussions. After a special review by a three-member committee, the accused editor has been removed from an important position at the Broadcast Editors' Association (BEA). Even the News Broadcasters Association (NBA) is now looking into the matter at the Press Council of India (PCI).

Corruption is not alien to Indian media; one often hears about instances of media coercion and extortion, especially by smaller, regional media. PCI's report on paid news has also confirmed institutionalization of such corrupt practices in our popular media. It started with Page 3 events, and now, political candidates are paying newspapers and TV channels to put out news favourable to them.

Today, newsrooms are competing for popularity, high ratings and advertising. With low accountability, most media outlets have ceased to be reliable source for information. I also think such cases highlight one of the paradoxes of the profession of journalism. For all the power journalism may have to topple governments and

expose the inner secrets of giant multinationals, it can also be an exceptionally fragile edifice, vulnerable to the petty greed of a single reporter/editor or strained economic circumstances of the owner.

Journalists are also from the same society we all belong to, where such practices of corruption have become a norm. It is just that we expect more from those who are watchdogs of our democracy. We respect and give them special privileges in our society because of these high expectations of integrity standards.

Ultimately, such incidences affect the long-standing repute of the media organization and also television news in general. For once, peer bodies such as BEA have drawn a line and emphasized self regulation by prompt action in this matter.

To address the issue of the eroding credibility of journalism, media owners, managers and editors must adopt, publicize, and then stick to a policy of zero tolerance for such corrupt practices.

Till then, I suspect we will see and hear many such sting expose on the media.

*Courtesy: Livemint (24 October 2012)*

*Editorial in The Asian Age*

## **Everyone is accountable**

The Fourth Estate should be aware of its special position in society as the watchdog of probity in public life. That is good enough a reason why those taking the high moral ground and turning the media spotlight on possible wrongdoing in the public sphere should be seen, like Caesar's wife Calpurnia, to be above suspicion. But there are occasions when representatives of the media stand exposed as suffering from the same frailties as those against whom they point a finger. Whom does society turn to when bad elements with feet of clay are seen manning a vital function in a vibrant democracy?

The demand for an independent inquiry is strident at a time when Congress MP and industrialist Naveen Jindal, who was also in the eye of the storm over the coal allocation scandal, which reportedly runs into several thousand crores of rupees, turned the tables on his accusers by running a reverse sting on a group controlling several television channels. Some representatives of the media house are alleged to have figured in negotiations for advertisement commitments up to '100 crore as a quid quo pro for burying negative coverage of the company. A few rotten apples do not make the whole orchard bad and the media are only doing their duty when they expose the high and the mighty and the entrenched members of a political system who suffer from extreme self-interest whenever leading lights are challenged in public. While no special privilege is called for when it comes to dealing with members of the media, it is only right that such issues be thoroughly probed before blame is apportioned because the public has every right to know the rights and wrongs of it. The media has come a long way since early exposes that depended solely on paper and money trails. Today's advanced electronic communications arm society with the power to eavesdrop or run stings of the type that have brought many a scandal into the public domain. While those trapped in this manner, or in elaborate honey-traps the media in developed countries are known to spring on unsuspecting evildoers, may feel they have been tricked, they too have a right to a fair and free trial before they are punished.

**The media too must be prepared to face a probe if their members are caught in similar traps while they indulge in blackmail, extortion and skulduggery that help convert such knowledge into cash for silence. Press Council chairman Markandey Katju's call for a statutory body to monitor the media may sound draconian but accountability is something from which the media cannot shy away. To accept a system by which excesses are monitored must be welcomed.**

*Courtesy: The Asian Age (27 October 2012)*

## Media, where is thy sting?

**O**n the face of it, paid news may seem no more than advertising camouflaged as reports or editorials. Naveen Jindal's shocking 'reverse sting' — aimed at exposing how two editors of the Zee network attempted to cut a shady deal with his company — shows that it can be much worse than this. It is a reminder of how easily the culture of paid news can lead, ineluctably, towards extortion. There is only one word for promising to back off on an investigation in exchange for lucrative advertising revenue: blackmail. And that is the essence of Mr. Jindal's allegation against Zee. Of course, the hidden camera recordings, which seem to show the two editors making such an assurance, need to be assessed on many counts, including authenticity and the context in which the conversations took place. The Zee editors have denied all wrongdoing, claiming they were victims of an attempt to bribe them, implying they played along because their channels were conducting their own sting operation. But it boggles the mind why the two should have been discussing an advertising contract with executives of Jindal Steel and Power Ltd at a time when their channels were running a series of investigations on the company's coal block allocations. While it is for the police and courts to probe, and decide on, the facts of this case — a case of extortion has already been filed against Zee — Mr. Jindal has thrown a spotlight on an issue which has begun to darken the Indian mediascape: the increasing number of deals between corporate houses and media outlets, whether in the form of paid news or private treaties, to guarantee favourable press and, whenever required, to black out unfavourable news. If his so-called reverse sting creates a ripple of fear among those in the media industry who think nothing of cutting such extortionary deals, then there will be a positive takeaway from the sordid revelation. Such illegal and unethical practices only serve to strengthen the voices that would like some control over the media in the form of external regulation. It was only this May that a private member's bill seeking to regulate the working of the press and the electronic media was introduced in Parliament. The media itself must refrain from conducting itself in a manner that harms its own argument that any regulatory mechanism must come only from within. One should remember that the ongoing Leveson Inquiry in the U.K. was a result of the phone hacking scandal and the increasing public disenchantment with the ethical standards in the British press. While there is no reason for external control, the Indian media should refrain from giving those who want this, the handle to push in that direction.

*Courtesy: The Hindu (27 October 2012)*

## When will newspapers become 'news' papers again?

**Chandan Mitra**

**L**ord Beaverbrook, a particularly iconoclastic British media baron once said that news is the stuff needed to fill the space between ads. Between the ads, did he say? Were he around to see the state of affairs in India today, he would have probably said newspapers don't have to put out news at all; people would buy them only to stare at the ads they carry. Hopefully, today will be the last day, at least for some weeks, that major Delhi newspapers come wrapped in several jackets or full-pages carrying advertisements. Over the last fortnight, trying to read the first news page of Delhi's leading dailies has become a veritable struggle. Getting to the news one has to rummage through a growing clutter, page after page of meaningless ads; then fold the paper in a way one

can avoid looking at them before getting to the purpose behind subscribing to a newspaper in the first place: That is, to read the news. As if a bundle of pages outside the main paper were not enough, nowadays there are jut-outs that push them in a manner that you can't turn pages normally; the finger automatically goes to that page containing a huge ad, before you can gingerly retrace and go to page 3 or 5, which you want to read. And that is if you are lucky not to have diamond necklaces or apartment blocks staring at you in place of news.

Before I am accused of hypocrisy or told that this piece is motivated by a "grapes are sour" syndrome, let me clarify that The Pioneer is not a charitable organisation and that running a newspaper group requires serious money, which can be raised only through advertisements. To that

extent I cannot blame the leading papers that attract such volumes of advertising on account of their high circulation. But there are papers, including ours, that have managed to survive commercially without selling out every page. Arguably the biggies' huge establishments are cash guzzlers, but shouldn't there be limits to the brazen pursuit of corporate profit at the cost of reader comfort?

The problem to a great extent arises from the cartelised functioning of print media groups. The biggies launched a conscious strategy in the mid-80s to cut the cover price of the product, recognising that the Indian consumer is highly price sensitive. The move, initiated by the biggest media organisation of the country was quickly replicated by its close competitors, first in the English language market and then by regional barons. At one point in the 90s, major papers were sold for one rupee each under the garb of "invitation price".

Although the madness has now ceased, papers are still sold way below their cost price. Even a relatively medium-sized paper like The Pioneer subsidises each copy to a significant extent.

As a result of this "beggar thy neighbour" strategy, the dependence on advertising revenues went up in a big way. In a sense, the lower cover price helped attract more readers, so did the combo or "jodi" pricing of English and Hindi papers belonging to the same group. The growth in circulation undoubtedly became a factor helping the print industry stave off the challenge from television, which threatened to gnaw away at newspaper profits at one stage, but eventually failed to do so. But the professionalism of newspapers took a nosedive in consequence. Papers started undercutting one another in advertisement rates. Not content with the reasonable growth of revenues, the biggies went

in for more and more "innovations", selling everything that could be sold - even the news, so-called. They launched their own "response" units that were willing to display "news" of your daughter's wedding with big photo spreads showing a horde of pot-bellied nonentities and their overdressed wives at the reception - all for a hefty fee. The disease spread further in the early years of this Century with regional papers willing to sell even political "news", especially at election time. Full-fledged blackmail was resorted to with political parties and individual candidates. Parties and candidates were compelled to meekly succumb to the demand to pay a packet for a package that included promoting the paying party, while refusal to pay resulted in the organised boycott even of press conferences and publication of negative reports on the "offending" party's poll prospects. But, paid news is a phenomenon that has come to stay and except for vigorously wringing hands in despair, toothless regulatory bodies have virtually given up trying even to probe, leave alone curb this disgraceful practice. Emboldened by these tendencies a proprietor of a leading newspaper chain recently told a foreign journal that the reason why he runs a paper is not to disseminate news but because it's a "platform for business promotion". The regrettable part of all this is that the biggies get away with such brazenness because readers lap up the cocktail of glamour and sensation they peddle. The discerning reader can only pray that the limit is reached soon and advertisers realise that it is pointless putting out a surfeit of huge ads (discounted ad rates currently on offer notwithstanding). Hopefully, the intelligence of readers and the negative feedback will persuade advertisers from stopping their vicious campaign to rob people's reading pleasure.

*Courtesy: The Pioneer (13 November 2012)*

### ***Editorial in The Asian Age***

## **Lesson from BBC**

The British Broadcasting Corporation has over the years built up the general approval of a majority of its viewers, listeners and readers in many countries. In spite of having lost its premier position in the dissemination of news and analysis in the post-modern world now dominated by American television news networks, BBC takes itself seriously enough to admit that horrendous mistakes were made in a couple of events, notably the one involving wrongfully ac-

cusing an innocent politician of being a paedophile and leading to the resignation of its director-general, George Entwistle.

Being in the media committed to pointing fingers at wrongdoers, whether individuals or governments, and calling for the setting of higher standards in public behaviour demands a level of internal probity that is not easily sustained. Where the BBC, an institution founded on a model of public funding that somehow strikes an ideal balance

between financial dependence and journalistic autonomy, may have gone wrong is in assuming it still is the gold standard of journalism.

Steadfast refusal to stand up to the antics of the now dead sexual predator Jimmy Savile and shoddiness in producing an episode of one of its flagship programmes focusing on exposés were pointers to a decline in standards. What has happened in

the UK is of equal relevance to India where networks, in the name of being fair purveyors of information, indulge freely in dramatising what really is mudslinging by politicians of all hues. It is time to raise the bar of accountability. The BBC has shown willingness. What about Indian news corporations?

*Courtesy: The Asian Age (13 November 2012)*

## **CMS-INDIA Corruption Study: 2012**

### **EXPANDING SLUMS...GROWING CORRUPTION**

**W**ith a marked shift in the country's economic structure, from a predominantly agrarian economy to a manufacturing and services sector-oriented economy, 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 2011). On average, 25 per cent of the population in many Indian cities lives in slums. One of the main problems slum dwellers encounter when accessing public services is corruption. With growing slum population in Indian cities and increased allocations for transforming lives of slum dwellers, the present round of CMS-India Corruption Study (CMS-ICS 2012), focused on slums and basic public services usually availed by the residents of slums.

The “**India Corruption Study 2012**” by CMS is eighth round of India Corruption Study (ICS) undertaken by CMS since 2000. The uniqueness of CMS-ICS is its methodology which 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. This method of CMS to capture the magnitude of corruption in public services, known as ‘CMS PEE Model’ has played an important role in bringing to the notice of policy makers, civil society groups and citizens, the quantum of corruption and need for action to curb corruption in public services and make citizenry aware to raise voice against such fraudulent practices and to foster effective public service delivery by the service agencies. The data collection was carried out in the nine cities between last quarter of 2011 and first quarter of 2012. The nine cities visited were Ahmedabad, Bangalore, Bhubaneswar, Chennai, Delhi, Goa, Hyderabad, Kolkata and Mumbai. The study limited itself to eight public services namely, Drinking Water, Electricity, Public Distribution System (PDS), Public Health Care, Housing, Municipal Services and Police.

Soon to be released report will be available on CMS website ([www.cmsindia.org](http://www.cmsindia.org)).

### **Every hour of TV you watch shortens your life by 22mins**

**C**ouch potatoes, watch out! Every hour that you spend in front of the ‘idiot box’ could be taking 22 minutes off your life, a new study has warned. Australian researchers have found that watching television could be shortening your life by 4.8 years.

Researchers have found that for every hour of television viewed by a person over the age of 25, their life expectancy is reduced by 22 minutes. The study was based on an average six hours viewing per day, compared to a person who watches no TV, News.com.au reported.

Using data from the National Bureau of Statistics and the Australian Diabetes, Obesity and Lifestyle Study, the researchers generated life-expectancy tables based on the viewing habits of average Australians.

“TV viewing time may be associated with a loss of life that is comparable to other major chronic disease risk factors such as physical inactivity, smoking and obesity,” the study found. “These findings suggest that substantial loss of life may be associated with prolonged TV viewing time among adults,” it said. The research claims that a sedentary lifestyle is as bad for health as smoking and obesity, because of the dangers posed by inactivity.

*Courtesy: The Times of India (17 October 2012)*



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