



# Transparency Review

Journal of Transparency Studies

*Issue celebrating the memory of dear Dr Abid Hussain*

## **Dr Abid Hussain - truly a friend, guide and philosopher**

**D**r Abid Hussain died in London some weeks ago. Many in India still do not believe he is no more, including many in New Delhi. He touched the hearts of leaders, administrators, academics, civil society leaders and many more irrespective of their seniority or position or their stand on any contentious issue. He was friend, guide and philosopher for many individuals, institutes, corporates and social activists. Fondly addressed as Abid Bhai, he inspired many more, young and old, for a longer period. He left his mark on whoever met him and where ever he worked over half century. He was an orator



par excellence and did not miss any opportunity to quote from his large repertoire. His simple life style, high moral standards was inspiring. He was a true secularist, an optimist and a visionary. Above all, he was a good human being to cherish. There are so many facets to his personality and each one deserve calibrating and celebrating.

As chair of Advisory Council, he guided CMS endeavors for equity, inclusive growth and social development efforts. Abid Bhai was also closely involved in the recent (2011-12) CMS initiative of 16 national lectures by role model personalities of the country that were organized at Nehru Memorial Library Auditorium on “Analysing and Envisioning India”.

Personally, I will miss a good guide and a philosopher- friend. But will continue to draw strength in all our endeavours. He continues to inspire all of us at CMS ! We rededicate ourselves to the concerns that Abid bhai was always engaged in.

**NBR**

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## ABOUT CMS TRANSPARENCY

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

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

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



**CMS Transparency**  
Towards Responsive Governance

RESEARCH HOUSE, Saket Community Centre, New Delhi 110 017 India

P: 91.11.2686 4020, 2685 1660; F: 91.11.2696 8282

E: [transparency@cmsindia.org](mailto:transparency@cmsindia.org), [info@cmsindia.org](mailto:info@cmsindia.org)

W: [www.cmsindia.org/cmstransparency](http://www.cmsindia.org/cmstransparency)

# Abid Hussain: Man of Many Parts

Arvind Panagariya

*Wit and charm were just a couple of traits of one of India's first practitioners of economic reforms*

On June 21, 2012, precisely a year to the day after Suresh Tendulkar passed away, India lost another of its leading light of economic reforms, Dr Abid Hussain. Affectionately known to his friends as *Abid Bhai* or *Abid Sahib*, he was a warm, wise and witty gentleman. His conversations and speeches were peppered with humour and memorable anecdotes. Those who came into contact with him or heard him speak invariably came away with interesting material for future conversations.

My own first substantive interaction with *Abid Sahib* followed a brilliant speech he delivered at the World Bank in 1990, soon after his arrival in the United States as India's ambassador. The speech narrated how protectionism and licensing had hurt India. Among other things, he noted the detrimental effect the controls have had on the quality of products, graphically illustrating the point by reference to Indian-made fountain pens that flowed more like fountains than pens. But his message was filled with optimism and hope for India. That inspired me to send him a note the same day stating that his speech had been electrifying, but would our politicians and bureaucrats let go of the controls? He wrote back saying that the two hundred million strong middle-class would force the change. In retrospect, I wonder if even he thought at the time that his prophecy would come true so soon.

A man of many parts, *Abid Sahib* began his career as a civil servant. He joined the prestigious Indian Administrative Service in 1949 and rose to the top, serving as secretary in the ministries of commerce and heavy industry before formally retiring. Such were his diplomatic skills that the government felt compelled to eschew the normal practice of appointing a member of Indian Foreign Service or a politician as the Ambassador to the United States and chose him for the post instead. His command of economic policy making earned him a membership in the Planning Commission at a time when such appointments were reserved for the best in the trade. Then again, he wrote prolifically on such diverse subjects as trade policy, the role of bureaucracy in Indian democracy, science and technology, and attributes of a good society.

*Abid Sahib* practiced liberalising reforms well before most civil servants became converts to them.

Two key committees had guided some of the earliest trade policy reforms in India: PC Alexander Committee on Import-Export Policies and Procedures in 1978 and Abid Hussain Committee on Trade Policies, 1984.

While the former led to some piecemeal liberalisation of imports of selected capital goods and raw materials through the Open General Licensing, the latter advocated measures aimed at expanding India's exports and making trade policy more predictable. Recommendations of the Abid Hussain Committee led the government to adopt the policy of announcing the export-import policy for three years at a time instead of annually. The first such policy, covering the period 1985-88, was announced in 1985. The report also led to the introduction of several East Asia-style export incentives in 1985-86 and 1986-87. Complemented by substantial depreciation of the rupee, these measures more than doubled India's exports in the second half of the 1980s.

*Abid Sahib* remained involved in catalysing reforms after they became systematic in 1991. In the second half of the 1990s, he helped push one of the most difficult reforms: effective end to the Small-Scale-Industries reservation.

The 1997 Abid Hussain Committee Report on Small Enterprises provided the intellectual foundation as well as a practical roadmap for this important reform. Recognising the political sensitivities in this area, the report carefully balanced its unequivocal recommendation of the abolition of the reservation policy by a strong case for support to the small and medium enterprises through alternative instruments. The process of trimming the list of reserved items got underway soon after and greatly accelerated under PM Atal Bihari Vajpayee and his finance minister Yashwant Sinha.

*Abid Sahib* effectively deployed his wit to silence India's critics. Once, when visiting a Middle Eastern country, a member of the royal family asked him if it was true that Muslims in India were an unhappy lot. Unperturbed, *Abid Sahib* replied that this was indeed true but went on to add that in India Hindus were equally unhappy! On another occasion, confronted with particularly hostile questioning on a foreign TV channel, he could diffuse the situation by remarking, "Gentlemen, there seems to be some

confusion here. I am Abid Hussain from India, not Saddam Hussain from Iraq.” My wife and I last met Abid *Sahib* over a memorable lunch this past March. He discussed serious matters such as how India could build up its academic institutions while treating us to his trademark humour. A gem from the afternoon: When a highly successful man was

asked what his greatest strength in life had been, he replied that it was his wife. When asked to name his greatest weakness, he answered it was his neighbour’s wife! With the passing away of this great son of hers, India has been left poorer in wisdom, wit and much else.

*Courtesy: The Economic Times (25 July 2012)*

## Recalling Abid Hussain

Jairam Ramesh

*Abid Saab was a liberal in every sense of the term, a wonderful product of the Nehruvian era, a man with a great capacity to listen*

I cannot imagine that Abid Hussain is no more. Even at 85 he was so full of life, ever smiling and zestful, nattily dressed as always, brimming with ideas and spreading hope and good cheer.

After two fleeting encounters in 1984 and 1985, I first met, in any serious way, Abid Hussain in August 1986. I had just finished my assignment in the ministry of industry and, sensing that I was at a loose end, he asked me to join the Planning Commission. This launched a very intimate personal and professional relationship - a relationship that, in many ways, shaped my subsequent career. I worked very closely with him for a little over three years, and it was he who got me together with Sam Pitroda as well, roughly over the same period. Working with both of them simultaneously was an extraordinary experience and gave me whole new capabilities that were to come in useful later.

Abid Saab was a great mentor and there are not many of that breed left in government. Lovraj Kumar, a contemporary of his, was another such person. And he was a mentor who did not become a tormentor, as quite a few end up becoming. Both spotted youngsters, created openings and gave them opportunities, and protected and projected them without feeling threatened in any way. All the “laterals” then in government – Montek Ahluwalia, Vijay Kelkar, Nitin Desai, Rakesh Mohan, Arvind Virmani and Deepak Nayyar, to name some of them – were part of Abid Saab’s orbit in some way or the other. His room in Yojana Bhavan would be a veritable intellectual adda, embracing people of diverse ideologies. He would be getting ideas from an Isher Ahluwalia in the morning, an S K Goyal in the afternoon and a Mohit Sen in the evening. He was among the most easily accessible people I have ever known, and the younger you were, the greater the attention he lavished on you.

Abid Saab was among the very first to roll the dice on industrial policy reforms that finally reached

their apogee in July 1991. Prime Minister Rajiv Gandhi had asked him to coordinate the preparation of a policy paper on this subject for consideration of the full Planning Commission. This paper was approved by the then Deputy Chairman of the Planning Commission Dr Manmohan Singh sometime in March/April, 1987. Presumably, subsequent political developments precluded the type of changes recommended in the paper. Between April 1987 and September 1989, he delivered a number of lectures at different forums in which he anticipated much of the reforms that were to come later. I said to him after he had given the final touches to the text of the J N Tata Memorial Lecture at the Indian Institute of Science: “Sir, I have one request. In return for my helping you with the preparation of these speeches, please allow me to be the first one to deliver the Abid Hussain Memorial Lecture.” His reply was quick and vintage Abid Saab. He said: “*Babu, tuh pehle jaa sakta hai par jaane ke pehle draft de kar jaana!*”

Abid Saab was a legendary Collector of Vishakhapatnam. The love was reciprocal. There is an Abid Nagar in that city and his only daughter was named Vishakha. He was commerce secretary at a time when Indira Gandhi wanted to make changes in trade policy to provide a fillip to exports. The process of simplification began during his tenure. It was this work that led to another great line of his. When V P Singh, as commerce minister, told him that he was thinking of an exhortation, something along the lines of “export or perish”, Abid Saab replied: “*Sir, choice mat dijiye. Given a choice, Indian industry would rather perish.*”

His contributions were not confined to industry and trade. He authored a landmark report on restructuring of the Council of Scientific and Industrial Research and on textile policy in the late 1980s, with his role extending to being much more than the titular chairman of the committees.



I saw Abid Saab interact with politicians from across the spectrum. And it was a real lesson. He used to tell me of his interactions with S K Dey, the man Jawaharlal Nehru picked to implement the community development movement in the country. He spoke often about his association with K Brahmananda Reddy, the Andhra politician who did much for that state's industrial development. Rajiv Gandhi was fond of him, but so was V P Singh. It was the latter who appointed him as our ambassador to the US. When he became prime minister, one of the first things P V Narasimha Rao asked me to do was to speak to him and get his ideas on what needs to be done to deal with the financial crisis of 1991.

I once heard P Shiv Shankar, who became deputy chairman of the Planning Commission after Dr Manmohan Singh had left for the South Commission, describe Abid Saab as a quintessential Hyderabad, epitomising the best of the city's secular

and cosmopolitan traditions. I recall Abid Saab's great ability to laugh at himself without taking umbrage. He used to tell me: "Young man, take your work seriously but don't take yourself too seriously." He could never be brief in public speeches and would often meander and lose all sense of time. Once I told him: "Sir, if I was ever chairing one of your speeches, I would begin by saying Abid Hussain needs no introduction but badly needs a conclusion." He laughed uproariously and would often repeat that line in public, of course, not failing to mention where it came from. Abid Saab was a liberal in every sense of the term, a wonderful product of the Nehruvian era, a man with a great capacity to listen, a man with an unparalleled capacity to reach out and communicate, a man who never harboured a grudge or a grouse, a man who always thought positive and wanted to bring out the best in people — even in those who did not necessarily share his ideas.

*Courtesy: Business Standard (13 August 2012)*

## Let's Not Create Artificial Barriers

Aruna Roy

*Civil society and the political establishment need each other to make democracy work*

Many middle-class Indians, when questioned are quick to answer that they are 'non-political'. The same people would strongly advocate that every adult should vote - the most obviously political act in an electoral democracy. Politics permeates almost every aspect of our lives, and to create artificial divisions between our politics, and ourselves, causes confusion in how both our society and our politics is shaped.

No social movement could therefore fail to recognise its relationship with political thought and action. The discourse in recent times has created arbitrary lines separating social and political movements. It has projected the 'political' as being tainted and this separation has alienated many of us from reasoned political thought and action.

"Civil Society" in the immediate context, is a buzzword wrapped in ambiguity. The media has helped project it as an utopian monolith expected to cleanse the rot in the political system. Even the way we define 'civil society' spells exclusiveness. It was expected to bring together an intrinsically hierarchical and divisive society which would confront politicians and their institutions. A popular protest can bring these divergent sectors together for some time.

However, it would be a mistake to romanticise or worse, equate 'civil society', with a movement. A campaign needs to work out details, and a movement

needs to have its own internal logic. Sweeping away all complexities and reducing the debate to black and white, raises a threat to democracy itself. Social movements recognise this complexity, and see themselves as a part of a larger political process. There is an innate understanding of the politics of fighting oppression and exclusion, and many have enriched and used democratic spaces that electoral politics does not offer.

The leaders of the independence movement were political but with symbiotic connections with a vast range of social movements with stated ideologies. Social movements had strong ideological and political differences, but they demonstrated a deep commitment to democratic debate, with a fundamental respect for difference and dissent. The Independence movement was therefore a collection of a variety of socio-political movements of depth and vision; some sustained the political parties they shaped. Gandhiji, Ambedkar, Netaji, M N Roy, the communists and many more, continued to influence our political future. They fought for independence from the British, despite sharp differences of a vision



of India. Those visions were shaped by the social movements they helped establish. Some took public office, others like Gandhiji and Jayaprakash Narayan, did not. Embedded as they were in political discourse, these visionaries believed that sustained change would primarily emerge from participatory democratic processes. Leaders do not give birth to movements; on the contrary leaders emerge from them. A legal framework by itself is insufficient, and is only a consequence of a movement that has already drawn large numbers of people into a sustained process. Social movements relied on their belief in the involvement of ordinary people, to pressurise the system for delivery and accountability. It developed the politics of conscience, to temper the simplistic reduction of democracy to numbers.

Post-Independence social movements, based on this tradition of grassroots work and struggle, have raised concerns of the weakest and most marginalised. Groups have worked tirelessly and unacknowledged for years on a host of important issues in multiple ways. To quote both Gandhiji and Shankar Guha Niyogi-the murdered architect of the CMM, and organiser of the poorest tribals of Bastar - Sangharsh (struggle), Seva (service) and Nirman (development) are equally important to build political awareness and pressure. India has a rich tradition of struggle without funding from agencies, foundations or the government. Today, India's social movements are seen as powerful and independent. Most movements have kept away from public office, and therefore have been less prone to corruption.

The explosion of NGOs is in another framework, and they also need to be transparent and accountable. Each formation for struggle, whether NGO or movement is carefully watched by their own constituencies, and the standards of transparency, accountability and democratic functioning must cover everyone working in the public domain.

While it is undoubtedly true that political parties are facing a crisis of credibility, it is also unwise to berate the political class and their institutions for all failures. The "civil society" group that just joined the ranks of the political class has consistently attacked them. It is to be seen how they perform in their new avatar. They are grossly mistaken to believe that the Lokpal will only be enacted when and if they come to power. We need to appreciate and nurture the very important role that will always be performed by socio-political movements. The movement for the Right to Information, and the Right to Work grew out of small but intense struggles of very ordinary people. Issues had to be understood, analysed and internalised to prepare the grounds to frame an appropriate law. The fact remains that it was Parliament that passed the laws. However, the implementation of radical enactments at the grassroots, where dreams turn to reality, is a continual challenge. The political class would do well to return to its socio-political base, and "civil society" to realise the intrinsic value in politics. Democracy demands a dialectical relationship between the two, to make promises real.

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

## **‘Whistleblower Bill is captive to high-profile Lokpal debate’**

*Activists who use the Right to Information (RTI) law to expose corruption are being brutally attacked. They stand a better chance if Parliament, rising above political differences, can pass the Whistleblower Protection Bill urgently, says Aruna Roy, the pioneering RTI crusader, to Rashme Sehgal in this interview*

**T**here is news of Right to Information (RTI) activists being attacked all the time. A prominent recent case is that of Ramesh Agrawal in Chhattisgarh. What explains the trend?

Attacks on such activists are part of a deeply worrying trend. Anyone challenging the power nexus of corporate-states-big money is sought to be brutally silenced or clamped down upon. I do believe such attacks are on the rise as the stakes are high. More and more private capital is in search for investment opportunities.

The Jan Chetna Manch, of which Ramesh Agrawal is a part, has been working in Chhattisgarh to ensure environmental compliance and monitor water pollution and social impact issues of different development projects being proposed in the state. Legislations relating to mining, land acquisition and environment laws are heavily dependent on environment impact assessments and social impact assessments being conducted in a free and fair manner. People like Mr Agrawal, who work at the ground level, mobilise to spread awareness, and to facilitate independent public hearings on which rest

crores of rupees, are constantly under threat. Working against huge corporate giants is unfortunately fraught with potential violence as all opposition is sought to be suppressed. Periodic threats have been received by the Jan Chetna Manch for a long time. Violent attacks on Right to Information (RTI) users, who question inefficiency and mala fide governance, are steadily on the increase across the country. In this context, we think it is important that a strong and effective Whistleblower Bill (Public Interest Disclosure and Protection for Persons Making the Disclosure Bill, 2010) be passed immediately in Parliament.

### **Given such a trend, how should governments respond?**

I am worried and distressed by continual attacks on RTI users, and the lack of protection from the system. The RTI is revolutionary and has challenged power equations. It has brought to light massive scams and has had unfortunate repercussions. When the late Prabhash Joshi captioned his editorial in the *Jan Satta* “Hum Janenge, Hum Jiyenge” (We Will Live If We Know) in 1996, he was referring to the livelihood issues of the poor. Today, the same slogan has a more direct — and diabolical — meaning as people have been killed for using the RTI.

The RTI Act came into force on October 12, 2005. Up till now, the serious attacks (killing, assaults, harassments) on RTI users total 150. More than 15 were fatal attacks. The risk that RTI users face must be taken seriously. As soon as there is an attack on a user, the State Information Commission must immediately disclose *suo motu* on their website all the information that the threatened user had applied for. The Centre and state governments must also institute effective mechanisms for providing protection to RTI users and anti-corruption crusaders.

### **Why do you feel the Whistleblowers Protection Bill and the Grievances Redress Bill are being held up? What consequence is this having for activists who expose wrong-doing?**

Unfortunately, both the bills have become captive to the more high-profile and politicised Lokpal debate. In fact, the National Campaign for People’s Right to Information (*of which Ms Roy is leader*) sees Whistleblower Protection independently, and thinks the law to safeguard them should be enacted immediately. Regardless of how long it takes to pass the Lokpal Bill, RTI users and other whistleblowers continue to face immediate threat to their lives.

While the India Against Corruption (the Anna Hazare movement) felt that only the Lokpal can provide effective protection to whistleblowers, the NCPRI saw whistleblower protection as part of a basket of measures and wanted it passed separately.

The Whistleblower Bill, that was passed in the Lok Sabha and is pending in the Rajya Sabha, is not, in our opinion, a perfect piece of legislation. But we feel that it should be passed so that RTI users and whistleblowers within the system have some legal protection. We strongly feel that the potential of even one life protected, or some attacks prevented, make it imperative that this Bill be enacted right away. The Grievances Redress Bill, though less controversial than the Lokpal, will potentially have a far-reaching and lasting impact on issues of accountable governance. The current bill, which has been sent to the Standing Committee, has many fine provisions. With a few amendments, it can really be another legislation that empowers the common person to enforce accountability.

In many ways, it is the next generation law that can build on the initial successes of the RTI. In fact, this law will help reduce the pressure on the RTI. In the absence of a grievance redress law, many RTIs are filed as a means to redress grievances.

Not passing these two laws indicates how partisan our political climate has become. It is surprising that there could be opposition from any political party to these bills. The government needs to make their passage an immediate priority, and put them up for enactment in the upcoming Monsoon Session of Parliament. The Opposition must support their passage. As the RTI has shown, political workers themselves are amongst the most frequent users of transparency and accountability legislations.

### **Has the National Advisory Committee (headed by Sonia Gandhi), of which you are a member, officially taken note of the rising violence against RTI activists?**

The NAC has not officially taken up the issue of attacks on RTI users, although I have personally submitted petitions to the chairperson which have been forwarded to the relevant departments in state governments. However, real protection cannot come from the NAC but from an effective Whistleblower Protection law being passed which will afford some protection to people seeking information and fighting corruption. Finally, this depends on the political will to act against vested interests. For that we will have to put pressure through every forum, including the NAC.

*Courtesy: The Asian Age (29 July 2012)*

# The Information Warriors

Harsh Mander

*The story of little-known activists who use the RTI as their main weapon, and the dangers they live with everyday*

The most significant governance reform since Independence is unarguably the Right to Information Act of 2005. Overnight, the statute created potentially a billion Lokpals, because every citizen acquired the right to seek information and documents from government, in order to interrogate the integrity and justice of official actions.

But many doubted if citizens would stir and organise themselves to actually use this right: it required the careful and tedious study of government procedures and rules, combined with patience and persistence. However, people proved the sceptics wrong. Many times more than any official oversight body, ordinary citizens held local officials to account in ways that were unthinkable even a decade earlier. In villages and small towns across the country, the law has sparked a million tiny non-violent mutinies.

## Upsetting the status quo

Wherever battle lines are drawn between those who benefit from corruption and those who suffer from it, it has challenged power. Honest officials are more fearless. Some are learning to function more carefully within the boundaries of rules and prescribed procedures, or at least to leave fewer obvious footprints of malfeasance. Some are paralysed into inaction. But there is evidence also that the beneficiaries of corrupt administration are also fighting back. It is increasingly commonplace to hear of attacks, sometimes fatal, on little known RTI activists from distant corners of India's hinterland.

In the middle class imagination, what is described as "civil society activism" tends to be dominated by the larger-than-life persona of a few well-known, highly celebrated fighters. Many, therefore, do not recognise the extraordinary heroism of several battles for clean and fair governance, fought by tall "little" warriors, with scant protection and even less public glory. One of this multitude of faceless combatants is Ramesh Agarwal, intrepid middle-aged activist committed to struggles for justice for persons dispossessed and displaced by private mining and power companies in the forested tribal district Raigarh in Chhatisgarh. On July 7, 2012, I was stunned and grieved to learn that two men armed with a loaded pistol had driven to the cyber cafe that Ramesh ran for a living, and shot him after an

altercation in the thigh. At the time of writing, I heard to my great relief that surgeons in Raipur had worked on his wounds, and declared him out of danger.

I have known Ramesh for over two decades, from the time I served in Raigarh in 1990 as the District Collector. I was privileged to lead a campaign for Total Literacy of the district, an exhilarating mass movement which successfully canvassed more than 30,000 youth volunteers to teach 300,000 non-literate adults in the district. The idealism of throngs of young women and men was infectious and heady. For some, those intense months of collective service and camaraderie altered the direction of their lives forever. Among these was Ramesh, who joined hands with several comrades to constitute an organisation called Lokshakti, dedicated to carrying forward the radical idea of "conscientisation" of impoverished and oppressed people. Building on the foundations of new-found literacy, they tried to build awareness of rights for collective, democratic resistance to injustice.

In 2005, Ramesh and his old literacy activist partner Rajesh Tripathy, launched a separate platform called Jan Chetna Manch. A number of large industrial houses had acquired and occupied enormous tracts of forest, tribal and farm land to establish a dense battery of coal mines, thermal power plants and ancillary industries. Rajesh and Ramesh were worried by what they believed to be the unjust, illegal and often brutal forceful expropriation of the resources of lands and forests, the pauperisation of their people, and the destruction forever of the natural habitat which had nurtured them for generations. They discovered an invaluable democratic weapon for effective non-violent challenge to their immeasurably more powerful adversaries, of RTI applications, and they deployed these tirelessly, fearlessly and imaginatively. Through their applications, they exposed that large tracts of forest and farm lands had been mined without being legally being diverted and transferred; mandatory consultations with gram panchayats were bypassed, manipulated or falsely recorded; lands and standing trees were grossly under-valued to drastically reduce compensation claims; legal land acquisition processes were routinely subverted to benefit private companies; and land was illegally acquired from tribal landowners even though this is



prohibited under the law. Their first victory in village Rabu for a captive dam was to force raising of compensation from Rs. 10,000 rupees per hectare to up to Rs. 10 lakh.

### **Hitting back**

Not surprisingly, their exertions were not welcomed both by the private companies and complicit government officials. Initially they were offered bribes to end their confrontations, by lucrative transport contracts, or employment in “corporate social responsibility” enterprises. Some of their colleagues succumbed, but not them. When these inducements failed, they were often openly threatened. Ramesh’s cyber cafe was ransacked. He was attacked and injured. Rajesh’s motor cycle was almost run over on many occasions by transport trucks. Their police complaints were rarely registered, even less acted upon. But a complaint from a private company employee claiming that they

threatened to take his life led to the arrest of both Ramesh and Rajesh, and they spent three months in jail in 2011, before they were finally awarded bail from the Supreme Court.

I met them in Raigarh a few months ago, deeply worried about the continuing threat to their lives by their stubborn and unwavering struggle. They responded without bravado but with quiet resolve: “We take precautions now: we do not announce in advance our travel plans, we use different vehicles each time, and so on. But these are poor people’s issues, and we cannot let them down. We have to continue to struggle. What has to happen will happen”. There is no law to protect information warriors like them, and little public outrage or solidarity when they are assaulted.

As I heard them, I wondered how much India deserves them. And thousands of information warriors like them: unsung, unprotected, unassuming. And heroic.

*Courtesy: The Hindu (14 July 2012)*

## **People’s movements will catalyse the political establishment**

*Aruna Roy, social activist and founder of the Mazdoor Kisan Shakti Sangathana (MKSS), has been a powerful force behind agitations for NREGA and the Right to Information (RTI). Speaking with Manoj Mitta, Roy discussed the Lokpal agitation, the disbanding of Team Anna-and how the anti-corruption movement can proceed:*

**Do you see Team Anna’s disbandment as a vindication of the reservations you had over its approach to the Lokpal Bill?**

Anna Hazare’s team has decided to become a political party for bringing ‘total revolution’. The switch from a campaign to a party will bring a different set of dynamics. A party cannot be uni-focussed - a campaign can. With this shift, the enactment of the Jan Lokpal Bill is dependent on their winning elections. The Lokpal issue continues to be important for the National Campaign for Peoples’ Right to Information (NCPRI) and others. We’re convinced that fighting corruption needs multiple legal measures, years of committed work and a plurality of efforts from the village upwards.

**Why do you think this anti-corruption movement lost its mass appeal so suddenly?**

All sustained campaigns have to budget for years of hard work, continual engagement with the people and numerous battles with the establishment. This campaign lost hope much too soon and it didn’t seem to take into account the whimsical nature of popularity. Movements should be gauged by their

capacity to sustain a campaign through multiple modes, a lesson the NCPRI-RTI campaign learnt through 11 years of struggle. Even after its enactment, the mass appeal of the RTI movement continues to grow through struggles against corruption and the arbitrary use of power-but without drawing large numbers of people to one location.

**What is your view on the fast-unto-death as a means of protest?**

Every campaign has a right to choose its mode of protest. The MKSS, after two hunger strikes in 1990 and 1991, came to an understanding that in the current climate, this is not a prudent tool. It puts great pressure on protesters with little impact on an insensitive and intractable adversary. We understood that we do not have the stature of Gandhiji. We also realised the democratic process of advocacy, based on truth and logic, is overtaken by concerns of an individual’s health.

**Is the collapse of Team Anna’s campaign a setback to social movements in India?**

Social movements are dynamic and India has a strong living tradition of social movements. For

instance, the Ekta Parishad's been walking through thousands of villages on the land issue since October 2, 2011. An estimated one lakh villagers and tribals are expected to march to Delhi later this year. Many thousands of local efforts, the mainstay of social movements, continue to exist. We need to recognise that social movements like the RTI have brought transparency and governance issues to the threshold of a new accountability regime, without taking recourse to electoral politics. People's movements will continue to catalyse the political establishment and bring accountability to the system - before, during and after elections.

**With the Lokpal Bill pending before a select committee in Parliament, what is your strategy for the 'basket of measures' you espoused?**

The NCPRI's campaign for these measures has made significant progress. The Grievance Redress Bill and the Whistleblower Bill should ideally be passed in the monsoon session. We must all hold the government to its assurance that the Lokpal Bill will be enacted as soon as possible.

We will intensify our campaign, dialogue with all political parties and continue to build popular pressure to demand effective accountability and anti-corruption legislations.

*Courtesy: The Times of India (8 August 2012)*

## **'Slow disposal of cases is undermining faith in RTI'**

*The only RTI activist appointed in the Central Information Commission as an Information Commissioner, **Shailesh Gandhi** has set the bar high for the other Commissioners by clearing nearly 20,000 cases in four years. On Friday, July 6, as he demitted office at the end of his term, he spoke to **Gaurav Vivek Bhatnagar** about how to improve the delivery of information through the Right to Information Act. Excerpts*

**How do you reflect on your stint in the Central Information Commission?**

It has been a very interesting and challenging assignment. In the last 45 months, I have been forced to think more cogently about the law. [I have] gained some insight into the reasons for our unsatisfactory governance. I have realised it is possible to work within the system and force change. When I joined the CIC, most Commissioners disposed of less than 2,000 cases annually. I set an example of disposing over 5,000 cases and making disposals a key issue; most Commissioners now dispose over 3,000 cases.

**Has the Commission succeeded in meeting the objectives for which it has been established?**

Not adequately. Most Information Commissions are slowly going towards a situation where pending cases will pile up for three to four years. The pressure on Public Information Officers (PIO) will disappear and the common man — in whose name we cherish and promote RTI — will stop using it. The adherence to good record keeping and Section 4 disclosures by Commissions are not satisfactory.

**Has the Commission been able to provide information to RTI applicants in the measure it should have?**

It should have done much better. The Commissions should take the responsibility of

delivering RTI to citizens. They should also put in greater effort in getting Section 4 compliance.

**Do you believe the tool of imposing penalties on Central Public Information Officers (CPIO) not providing information under the RTI Act has been used effectively? Would you advocate its greater use to act as a deterrent against denial of information to applicants and to encourage greater flow of information?**

The RTI Act works to a large extent because of the threat of penalties. However, Commissioners have been rather reluctant to penalise PIOs. In over 50 per cent of the cases before most Commissioners, PIOs have defaulted in providing information. For penalty to remain a viable threat, at least around 10 per cent of defaulting PIOs (this would mean about five per cent PIOs) should be penalised. Instead, it is often less than 0.5 per cent. This results in the PIOs losing any real fear of defaulting in RTI.

**As an RTI activist yourself, what would your advice be to other applicants on how they should file their appeals?**

RTI queries should be short and focused. The information seeker should basically seek records or anything which is likely to be on records. In a good RTI application, the queries seeking information would generally be less than 250 words. It is useful

to seek information which will be available with one department and put different RTI applications for different departments. This is not stated in the law, but in practice, a short and focused RTI application gives much better results.

**Are you satisfied with the manner in which most Information Commissioners are handling work?**

No. Information Commissioners must primarily take decisions based on the law and have belief in transparency. They should also conduct hearings for around five hours each day and give their decisions on the day of the hearing in most cases. Section 4 (1) (a) mandates computerisation of records. Most Commissions are doing nothing in this direction.

**What is your opinion on the disposal of cases per Information Commissioner and how do you feel it is impacting the RTI movement?**

The national average of disposal must be around 1,000 cases annually. I have disposed over 5,900 cases last year and believe that with proper systems and trained staff it would be possible for an Information Commissioner to dispose over 6,000 cases annually. Because of the slow disposals, matters are languishing in Commissions for years making the information irrelevant and reducing the citizen's faith in RTI.

**Any specific satisfying achievements?**

Deploying systems and templates in work; using over a 100 interns for short periods to give useful work inputs, besides exposing them to RTI — two have become IAS officers; working without paper files and running an e-office since the last two years, and disposing of around 20,000 cases in less than four years.

**From engineer to entrepreneur to RTI activist to Information Commissioner. Where is Mr. Shailesh Gandhi headed next?**

I plan to work on RTI from Mumbai. I will teach citizens to use RTI; persuade Information Commissions to deliver on the promise of RTI and become accountable to citizens, and voluntarily declare their Citizen's Charter. Having seen the pathetic state of our government in delivering to citizens, I also plan to work towards getting governments to go for complete computerisation, since this could result in reduction of corruption by around 30 per cent, besides improving the ability to deliver to citizens in time. Citizens need to work for getting a good government which is capable of delivering good governance. Unless we get a first-rate government, we cannot get a first-rate nation.

*Courtesy: The Hindu (7 July 2012)*

## **I don't think government has been very serious about RTI**

Anuja

*Problem area: Gandhi says the information commissions are becoming a major bottleneck for RTI*

Shailesh Gandhi, a key campaigner for the Right to Information (RTI) Act, became an information commissioner at the Central Information Commission (CIC) in 2008. After a stint of nearly four years, Gandhi will retire on 6 July.

In an interview, Gandhi talked about the implementation of the Act and on the government's attitude to the transparency law. He said RTI had become a "problem child" for the government and it did not seem too serious about implementing the law. Gandhi, an alumnus of the Indian Institute of Technology, Bombay, plans to return to activism and continue to work in the field of RTI. Edited excerpts:

**You were one of the initial campaigners for the RTI Act. How has the experience been on the other side—as an information commissioner?**

There are no two sides. When people say on the other side, I have never been on the other side. I think I have been a citizen primarily, I am a citizen

today as a commissioner... I really don't think I have changed my perception anyways... I can't see a second side to it.

**What has the response of the government been on the Act, especially in terms of its implementation? Do you think the government is serious about the RTI Act?**

I don't think it (government) has been very serious about it. It is just one of the many Acts for the government and I don't think any specific, special importance is being given to it except in terms of lip service. If anything, in the last one or two years there are a lot of signs to show that at fairly high levels, the government is thinking that the RTI is something of a problem child which has got created.

(In the) initial years, maybe there was a greater euphoria about it but as people have begun to realize the power of the RTI Act, power of citizens to question...power is getting actually transferred to

the citizens, which is making people (in the government) uncomfortable,...(these) people are facing the heat now.

**What according to you is the single largest factor which ails the effective implementation of the transparency Act in the country?**

If it is to be one, it is the lack of capability of the government to govern. Lack of capability of the government to deliver. I don't think there is any design for this. I have seen the government, now from the other side a little closer, and what I am beginning to realize is that our governments are not designed to deliver...and that is a major cause for RTI not getting implemented. The information commissions (too) are not delivering where there is adequate activity...the commissions are becoming a major bottleneck for RTI.

**Including the Central Information Commission?**

Yes, including the Central Information Commission.

**Many in the administration say that they "waste too much time" in replying to RTI queries. Do you think there is a need now to create another line of bureaucracy to handle RTI?**

This problem is because of two-three reasons. One, extremely pathetic record keeping and that leads to bad governance because you don't know what you are doing, and the inability to deliver.

To some extent, coupled with that is the fact that at very high levels, a lot of senior officers are insisting that they will look at the RTI information being given. It is actually meant to be done at the PIO's (public information officer) level. Statements have been made that a lot of judges are spending time on RTI; it's not required.

**Stay orders have been sought on many of your decisions. While some have been upheld, like making the crucial Western Ghats ecology expert panel report public, most others have been stalled. How much of an impediment are stay orders on the CIC's decisions? How does it delay the whole process of getting information?**

Whenever we challenge powerful forces, people go and get stay orders... I believe the courts should give a little more thought before giving stays on orders of the commission and other such bodies because once a stay is obtained in a court, the Indian judicial system is such that... one decade (of delay) is guaranteed. Now, if you delay everything by one decade, I don't know what survives and I have no solution for this. We have committed ourselves to a system where we say delay does not matter but to keep delaying like this, I don't see where you will get succour.

**How did an RTI activism background help you in the tenure as an information commissioner?**

I knew the RTI Act backwards-forwards, if I may put it like that. Most commissioners do not know the RTI Act countrywide when they join. (This is) because there is nothing specific that links them to RTI, they have just thought of it.

I had thought of transparency and RTI for at least five years, I had almost lived RTI in a way. It helped me relate to the citizen's anger and angst about the whole system.

**What next after you retire?**

Back to being an RTI activist, back to trying to see how to improve governance, to get people sensitive to, to get people (to) understand that we need to fight these battles.

*Courtesy: Livemint (2 July 2012)*

## **Intervention and Interpretation of the Right to Information Act: The court steps in**

**Kumkum Sen**

*The difference that the Act has made is undeniable and yet there is a distinct disenchantment*

**T**he Right to Information Act ('the Act') was introduced in 2005, and the efforts that were invested were intended to provide transparency in governance, create accountability and eradicate the rampant corruption in the echelons of Government and public bodies, from which obtaining information without passing bucks was virtually impossible and extortion was the order of

the day. The difference that the Act has made to the citizenry at large is undeniable, and it has inspired similar legislation in other jurisdictions.

Yet there is a distinct disenchantment. No less a person than the Chief Justice of India has deprecated the misuse that is being made of this law. Sections 3 and 4 of the Act entitle all citizens of India to this right, which is not available to corporations or



foreigners and the process under Section 6 (2) specifically provides that an applicant making the request for information is not required to provide any reasons for requesting for the information. Section 8 provides for the information which is to be exempted, which includes various items requiring confidentiality or protected by privilege, such as cabinet papers, investigation in process and personal information which is not connected with any public nexus.

The definition of “Information under Section 2 (e)” has a wide scope that includes memos, advises, records et al in its ambit. The Government position has been that notings are not part of records. There have been ongoing debates on whether file notings should be exempted, but this has not travelled very far. What has been challenged is the locus of the applicant and the purpose of his query.

Sometime in 2009 a proposed amendment was mooted requiring applicants to provide reasons for seeking any information, and be provided the same, subject to the public information officer’s discretion – a proposal which is inconsistent with the purpose of the Act and runs contrary of the concept of transparency. This too fizzled out.

But the recent face offs between other regulators and the chief information commissioner(s) (CIC), on the issue whether the provisions of RTI could be invoked by a citizen even if there is an existing specific mechanism prescribed by the authority is a matter of concern. In the case involving the Supreme Court Rules, the CIC passed an order that it was the citizen’s prerogative to select a mechanism of his preference, thereby holding that the specific mechanisms ie the Supreme Court Rules were overridden by the RTI Act. In appeal, the Delhi High Court has stayed the CIC order on the basis “that an important question arises” as to whether information on court proceedings could be sought under the Act regardless of staying the operation of the CEC order, even though Section 22 of the Act has an overriding effect notwithstanding anything contained in any other law or by effect of its virtue thereof. This matter is still to be decided.

Meanwhile, the Delhi High Court has passed a judgment in the last week based on a writ petition preferred by the registrar of companies for NCR/Delhi (ROC). In the instant matter the querist required the public information officer (PIO) of the ROC, who had taken a stand that this information could be accessed under Section 610 of the Companies Act and therefore need not be provided

under the Act. The CIC show caused the PIO as to why he should not be subjected to the consequences for non-performance under Section 20 clause (1) of the Act. Under the above circumstances, ROC has filed the writ petition which was entertained by the high court in spite of Section 27 of the Act providing for a bar of jurisdiction of courts other than by way of appeal.

The CIC web reports show that certain documents which form part of the CIC’s record including complainant’s statement reveal that MCA’s website was inspected but no information was available. The respondent claims to have physically inspected the files available and paid a total sum of ‘1,200. The CIC complaint is claimed to have been filed thereafter. But the judgment does not deal with this. The court has dwelt in detail on the scope of Section 610 of the Companies Act, its accessibility to ‘any person’ for any information seamlessly. The court has not paid sufficient heed to the fact that PIO had responded to only two questions under the RTI, before insisting the applicant to apply under Section 610 and pay the requisite fees.

The legal issue squarely rests on the issue of interpretation of the non obstante clause where, with due respect, the Hon’ble Court has erred in applying the law. As stated, the provisions of the Act have to apply notwithstanding anything inconsistent therewith contained in the extant law.

The court has interpreted this to mean that since there are no inconsistencies in the provisions of the RTI and Section 610, the latter should prevail. The court has failed to appreciate that inspite of the requirements of Section 610, if the office bearers do not provide what is required, citizens recourse is under the Act. Even otherwise, the Act as it is worded permits the citizen to approach the RTI without any condition precedent. Further, the courts finding that the Companies Act will prevail being the older law is totally contrary to the principles of interpretation of the statutes as such, and the position of the Supreme Court that the later law, even though general would always prevail over the special has not been followed.

Having said that it’s not denied that laws are misused and enquiries under the Act often form the basis for vexatious and motivated litigation. But on balance what has to be viewed are the benefits that enure – this is fundamental in any democracy, and the present case in hand does not warrant an exception.

*Courtesy: Business Standard (16 July 2012)*

# It's easier to find god than govt: Shailesh Gandhi

Himanshi Dhawan

**O**utspoken RTI activist-turned-information commissioner (IC) Shailesh Gandhi slammed judicial and quasi-judicial authorities for the tardy pace of disposal adding that citizens are not “immortal”.

“Judicial and quasi-judicial authorities don’t think timelines are important. Cases remain pending for 15-20 years. Citizens and issues are not immortal but no one seems to give this importance,” he said. His statements come at a time when the Central Information Commission (CIC) continues to hear cases dating back to 2010. Gandhi, who retired on Friday, described ICs as a “senior citizens’ club”, taking a dig at the government’s penchant for appointing retired bureaucrats. “We need younger people in the Commission,” he said, adding that the number of civil society representatives as commissioners should be higher too.

Targeting government inefficiency at delivery of services, Gandhi said scathingly, “It is easier to find God than government today.” He added that simple steps like computerization of records would bring down corruption by 30% making it difficult to use excuses like the file is “lost or damaged”.

Gandhi said that the process of appointment must be transparent and through public consultation. He has even written a letter on this issue to DoPT minister V Narayansamy elaborating on the procedure which should be initiated through an advertisement. He said that each commissioner should be given a benchmark of 5,000 cases to dispose of. Gandhi has given decisions for an unprecedented 20,400 cases in the last four years, with 5,900 since the last year.

When asked if the Central Bureau of Investigation (CBI) should remain exempted under the Act, Gandhi said that the immunity given to the agency was not as per law and it was “unfortunate” that citizens’ groups had not protested more vehemently on the issue.

Gandhi said he hoped that the Commission would make a commitment that the pendency would be between three to four months, if not now, in the next three or five years. “I have proposed this in the Citizen’s Charter which initially had found favour but ultimately the Commission refused to accept the Citizen’s charter. It has not been willing to make commitments to citizens,” Gandhi.

*Courtesy: The Times of India (7 July 2012)*

## Info panel streamlines process to file appeals

Aloke Tikku

**T**he government has notified a new set of rules for moving the Central Information Commission (CIC) against government departments, laying down the basic standards that an RTI appeal must have before it is taken up by the information watchdog.

The new rules were notified by the Department of Personnel and Training (DoPT) at the request of the CIC that has been grappling with incoherent and incomplete appeals.

Chief Information Commissioner Satyananda Mishra said the commission had not insisted on a format or content of an appeal in the initial phase since the implementation of the law was still in its infancy.

“But now that the number of RTI appeals has gone up, it has become extremely difficult for us to cope with incomplete, and sometimes illegible appeals,” Mishra told Hindustan Times.

In the past, the CIC has accepted letters written to the commission as formal appeals and got around to putting together the necessary paperwork on its own.

With nearly a million RTI pleas filed annually, the proportion of appeals has also increased considerably. As the commission head, Mishra has to deal with about 1,233 pending appeals.

As a result of the backlog, the applicants will have to wait for about 8 to 12 months before the information commissioner can take up the cases.

The new rules — notified on July 31 but not yet put in public domain by the DoPT — not only lists the documents that will need to accompany an appeal but also lays down a format for the applications.

Deviation from the format, however, will not be a ground for rejecting an appeal. This is to ensure there is no discrimination against the poor.

*Courtesy: Hindustan Times (10 August 2012)*

## CJI's remark to adversely affect RTI drive: CIC

**D**ays after Chief Justice of India S H Kapadia said that irrelevant RTI queries were impeding the working of judges in courts, Central Information Commission said the remarks would have a significant negative impact on RTI. Information commissioner Shailesh Gandhi, in a letter to the CJI, said that his comments could “dampen the RTI journey of India”.

Gandhi admitted that RTI was being used in a trivial manner in certain cases but he argued that it was also possible to show that progressive laws like dowry act and atrocities act were being used in a “trivial manner or to harass innocent people”.

He added, “It is also true that most public authorities including information commissions and courts have not fulfilled the promise of Section 4 of the RTI Act consequent to which they are then complaining about increasing RTI requests,” he said. Section 4 provides for public authorities to proactively disclose information that could be of public interest. The information commissioner said

the legislation was beginning to make a small difference in the “power equation between citizens and the government”.

“Most of us are aware that the average citizen’s interactions with government are usually humiliating and annoying for citizens. Most delivery systems are failing badly in terms of delivering services to citizens. In this scenario RTI is showing hope of bringing correction, and perhaps has a potential of making our nation a true democracy which recognizes sovereignty of the Indian citizen,” he added.

The letter comes on the back of comments made by CJI in court recently. When a bench of the CJI and Justices D K Jain, S S Nijjar, R P Desai and J S Khehar was deliberating on reporting guidelines of sub-judice matters, Justice Kapadia said, “In RTI matters, since I took over as CJI, I have given answers to all questions except very few things. But the kind of questions and their number is also exceeding the limit.”

*Courtesy: The Times of India (19 April 2012)*

## Reports of all panels should be made public, rules CIC

**I**n a significant ruling, the Central Information Commission (CIC) has said reports of all expert committees and commissions, constituted by the government, should be made public to ensure greater transparency in decision-making. Allowing a petition seeking a copy of a report of the Western Ghats Ecology Expert Panel (WGEEP), the Commission has rejected the contention of the Public Information Officer (PIO) that the disclosure would adversely affect the economic interests of the nation. (It issued the directive while hearing the plea of G. Krishnan of Kerala, who sought copies of the summary of the report of the WGEEP, under the chairmanship of Professor Madhav Gadgil, on the Athirappally hydro-electric project in Kerala, reports PTI). Set up in 2010 by the Union Ministry of Environment and Forests, the WGEEP was mandated to assess the ecological status of the Western Ghats region; demarcate areas required to be notified as ecologically sensitive; and make recommendations for conservation, protection and rejuvenation of the region. The Commission said Sections 8 and 9 of the Right to Information Act (RTI) only exempted disclosure of information that undermined the country’s sovereignty and integrity, security or strategic interests. And it did not agree with the PIO’s contention that the disclosure of the report would impact on the “scientific or economic interests of the State.”

Under Section 4 of the Act, it was mandatory to disclose all reports of panels, experts, committees and commissions set up by the government with public funds. If parts of such a report were exempted as per the Act, this should be stated, and such portions could be severed after stating the reasons. “If the entire report relates to the security or strategic interest of India, this should be stated. Such a practice would be in accordance with the provisions of Section 4 of the RTI Act and would result in greater trust in the government and its actions.” It said there was no provision in the Act that exempted disclosure of a report that had not been finalised or accepted by a public authority. The Commission said Section 4 was a statutory direction to all public authorities “to provide as much information *suo motu* to the public at regular intervals through various means of communications, including internet, so that the public have [a] minimum resort to the use of this Act to obtain information.” “The government sets up such panels, committees, commissions or groups and selects members whose expertise and wisdom is recognised by it. Significant amounts of public funds are deployed for this purpose in order to address the nation’s concerns. Therefore, it is imperative for citizens to know about such reports,” it said. If such reports were put in the public domain, the Commission said, citizens’ views and concerns could be articulated scientifically and reasonably.

*Courtesy: The Hindu (11 April 2012)*

# Heroics not needed

S. Vijay Kumar Secretary, Ministry of Rural Development

## *Equip bureaucrats to mitigate, rather than take risks*

There is a widespread perception that decision-making systems in the bureaucracy, at all levels, have become slow and inefficient. While public perception is linked to a multidimensional reality, it will be useful to look at these issues within a framework that focuses on the commonly held belief that even “good” decision-makers are no longer willing to take risks and that the passing of the buck and abdication of responsibility are reasons for the poor quality of decision-making. This framework, however, does not include cases where the decision-maker is fundamentally ill-motivated.

Any analysis of the risk involved in decision-making needs to begin by defining it. Here, the risk is that the decision may be “wrong”; and we broaden it by including a situation where there is a widespread perception to this effect. It goes without saying that if the risk is to be defined as, say, adversely affecting one’s career advancement, the results of the analysis will be quite different though, of course, equally illuminating. With respect to wrong decision-making, any analysis would reveal that some of the factors contributing to it are inadequate knowledge, particularly of the techno-economic-social-environmental interfaces; lack of clarity of the time frame, whether short term, medium term or long term; an understanding of the public purpose for which the private sector is a stakeholder; the possibility of crossfire in a corporate warfare situation; simultaneous media coverage hindering decision-making processes and, finally, the interface of Parliament and the courts or audit in relation to accountability incidentally impinging on decision-making in an unconnected matter. The recent cases related to the allocation of natural resources, mining, defence acquisition, among others, can be analysed from this perspective. It is sometimes wrongly postulated that in such a situation it is necessary that key decision-makers are selected for their risk-taking ability, and that such risk-taking should be encouraged. In such circumstances, as in any “fog of war” situation, a high proportion of decisions could inevitably be perceived as wrong. What is really needed is to ensure that decision-makers know how to mitigate, that is reduce, risk and then manage the residual risk as best they can, using their manifest expertise. Broadly, risk-mitigation would involve risk-

allocation to or risk-sharing with technical and regulatory agencies. Here risk-allocation and risk-sharing must be distinguished from buck-passing by ensuring that the responsibilities of the partners are based on the respective management or technical domain expertise; by developing and using systems and institutions to generate, manage and analyse techno-economic data; by creating more transparency in the system and disclosure from those in the higher echelons of decision-making; and, finally, by fostering an informed stakeholder community of experts, media, civil society organisations, industry or sector associations. A little reflection would show that the space we have created for ourselves for risk-mitigation is clearly insufficient and is a major reason why residual risk is still so high. Additionally, we may not have created enough capacity for residual risk-management.

The problem is compounded by the fact that the decision-maker is already immersed in a risk-averse environment, where even normal decision-making is often subject to prolonged, repeated or intense scrutiny, sometimes by people with inadequate knowledge of the relevant domain; where potential conflict-of-interest situations are embedded or non-level playing fields are created; or where analytical tools are used unpredictably (for instance, legal instead of economic, or social instead of environmental). In such a situation, when residual risk is high and managing risks require special skills that are in short supply, what is really required is to reduce risk-aversion at the systemic level rather than fire-fight at the situation level. What can be done to reduce risk-aversion and ensure that residual risks can be well managed? Each sector will need to work its own way through the problem, but generic solutions include a few key factors.

One, encourage independent and semi-independent advisory bodies, techno-economic think-tanks, policy research institutions, sector regulatory bodies that can provide considered and attributable consultancies to departments, parliamentary committees, courts and civil society organisations.

Two, create internal institutional units in technical and regulatory organisations for better evidence-based policy analysis.

Three, have a stronger emphasis on creating competent HR. This has multiple implications in



terms of the quality of recruitment, sufficiency of tenures, promotion of specialisation and facilitation of multidisciplinary expertise, among others. Today, those with technical expertise do not, in most cases, develop the ability to contribute at the highest levels of sectoral policy-making, preventing the use of credible techno-economic mechanisms to mitigate or manage risks, that too at a time when decision-making is increasingly technical and complex.

Four, have stronger engagement with parliamentary committees, including robust mechanisms to enable their secretariats to easily access technical and techno-economic analysis and advice.

Five, encourage serving and retired senior policy-makers and technocrats to appear or write in the media, explaining or analysing public policy.

Six, develop enterprise-level communication strategies as against programme-level strategies as at present, with professional inputs on an ongoing basis, so that the optimality of decisions can be seen in relation to outcomes and time horizons and as per the vision and strategy of the organisation or the department as a whole. Finally, in high-risk situations, high rewards (recognition, advancement, etc) are required not to encourage people to unnecessarily take risks, but to attract people who have the skills, experience and expertise to be able to mitigate risks.

*Courtesy: The Indian Express (18 July 2012)*

## **Six years after... As a flagship, MGNREGS needs streamlining**

**Dr N Bhaskara Rao**

**O**n July 14, 2012, Prime Minister Dr Manmohan Singh released a comprehensive and impressive Sameeksha (review) of MGNREGS. It reported a decline of 20 percent in the demand and that a number of states could not spend their allocated funds. Whereas, on the other, a high percentage of workers were waiting to receive their wages for more than a week. Five different issues of Transparency Review dealt with implementation of this much hyped flagship programme during the last six years. The issue of June 2006, was based on a field report immediately after the launch of the programme in Anantapur, Andhra Pradesh. It suggested focused awareness rather than a general awareness. The issue of January – February 2007 featured NREGS with special articles on the implementation of first such legislation “to recognize the urgent need to provide livelihood” to poor and deprived in villages. In his editorial in that issue (late) Ajit Bhattacharjea, who was the editor of this journal during the first five years, observed about “mal-administration, corruption and biasness in implementation” of NREGS. While emphasizing importance of effective monitoring, Ajitda said the task of good implementation of NREGS is “as much a challenge to civil society organizations as to the government”. Writing in that issue, based on a CMS study in Anantapur, conducted at the end of first year of NREGS, I observed that “corruption and irregularities were as much a problem as with any other scheme. Soon after Andhra Pradesh quickly

took to social audit and showed some improvements. The article also concluded that transparency in the operations of NREGS at implementation level in villages was missing. It was further pointed out in the same issue that specific information about type of works being taken up under NREGS, work schedule and the number of days of work provided, could be expected. That report also indicated the need to streamline payment modalities and schedules and that families being targeted cannot be expected to wait even for a week to get the payment (from a post office or a bank). The study findings also warned of implications of Panchayat Secretary or someone else keeping the job cards. Of course, one year is too short a period to expect decline in out migration. At the end of the first year migration from Anantapur district to Bangalore continued as before.

The CMS study suggested that NREGS should be positioned and viewed as a “national programme” rather than as of “UPA Government”. June 2006 issue of Transparency Review warned of likely consequences of hype of NREGS (with full page advertisements at national and state levels), as it could cause certain disappointment with implementation. The article indicated at that early stage lack of enthusiasm among opinion leaders at the grass roots, certain apprehensions about NREGS among local farmers and that enthusiasm among political cadres was not sufficient for better implementation. They were accusing each other on party lines.

## **An update for 2012**

CMS field research now in July 2012, including in Anantapur district where from NREGS (now MGNREGS) was launched six years ago, indicates that social audit initiatives in Andhra Pradesh did limit some of the pitfalls in the implementation as compared to other States where social audit has not been availed and civil society hardly played an active role.

Over all, it comes out now that the number of days of employment in a year is nowhere near the promise and chance of improvement in this regard are bleak. Some of the reasons for that include. (a) Percent of allocations for “procurement” from out of NREGS funds is on increase, beyond 40 percent; (b) use of machinery or contractor for the projects is labor displacing more often when used; (c) Irrespective of budgetary allocations, what is actually reaching down is not increasing in percentage terms but the delays in payment have been reduced; (d) daily wage amount is being increased by State Governments (some abruptly) and more works are brought under MGNREGS (going beyond what the Rural Development Ministry notifies).

### **Critical Concerns**

Who keeps the job cards, how promptly muster roles are maintained, how accurately attendance is recorded and payments are accounted, transferred and kept up with the records – all these functions without expecting any favour or bribe. These are the operational issues which determine the efficiency of MGNREGS.

Even six years after, one out of five who registered, the job card is not with them (kept with Panchayat Secretary or someone else). In the case of one out of every four MGNREGS work sites, muster roles are not checked or verified by any and attendance specifics are either not available or vague. Payment details too are not recorded promptly. In fact, in the case of 15 percent muster roles were found fudged. In the case of anywhere upto 10 percent “extra” or “out of the way” payment is involved for getting the wage amount released –

which in turn also adds to the delay in wage payment. Cash transaction is still the way for paying wages in the case of one-third despite all the talk of opening accounts in post offices or local banks. They are able to release wage after 7 or 8 days mostly and instances of delay of a couple of weeks is not an exception in some states. There is no evidence of civil society taking much interest at micro or macro level. These were all the issues cautioned five years ago Transparency Review. We now hear that even “on-line payment” has not eliminated delay in payments. No significant improvements can be expected without reforms in the operations such a way that MGNREGS becomes truly a flagship scheme and it helps poor truly to move up earliest. The limit of six percent for “administrative costs” of MGNREGS allocations is being exceeded in some cases with no correctives.

### **Impact of MGNREGS**

What difference MGNREGS has made on the socio-economic-ecological conditions of the BPL households, individually and as communities? The number of days of work provided for or even the number of people brought under MGNREGS is indication for operational efficiency. Real indicator for impact is whether these families are acquiring assets and durables, whether their children are having better care, health, food and educational opportunities and the idea of savings or entrepreneurship is on the increase or not among these families. What kind of multiplier effects are there. Has MGNREGS offered a level playing opportunity in the community and minimized out-migration and reduced the extent of distress information and altogether unemployment? It is an over claim to say millions are being provided “employment” under MGNREGS. It only offers critical supplementary assistance. Workers are not expected to depend on this programme for ever or even fully. In fact, they should not. But the “independent professionally – run concurrent evaluation network” that the dynamic Minister has promised should soon help streamline MGNREGS.

## XII plan priorities on public health

Dr N Bhaskara Rao

Transparency Review of March 2012 argued that Planning Commission and the five year plans have outlived. We now have yet another example to bring out its insensitivity. Dr K Srinath Reddy has saved the situation of public health services under threat because of (mis) adventures of Planning Commission. The Minister for Health & Family Welfare, Mr Gulab Nabi Azad, too should be thanked for averting yet another faux pas of the Commission. He saved the UPA government from a disgraceful proposal which in essence meant State withdrawing from basic health care delivery in favour of privatization and corporatization, instead of strengthening the public infrastructure built over five decades. There are a number of studies and reports over the years bringing out what ails the public health services and what need to be done so that the poor could rely on public health facilities. Government's own review for 2011 indicates a shortfall of (76 percent) doctors, (53 percent) nurses, (88 percent) specialist doctors, (80 percent) of lab technicians and others. Prime Minister himself had said that real time evaluation of public schemes

by the Commission is languishing. Instead of pursuing such concerns, Planning Commission is adding to the problem as if to destabilize the public health service further.

Under investment into health sector is one of the things talked for long and every time of finalizing a Five Year, we end up with much lower allocations. For example, the XII Plan is allocating now a meager 1.58 percent of GDP for health when the need is at least three percent, making its own mandate of inclusive growth, a mere rhetoric. Even 65 years after independence, health has not become a priority concern of Governments clearly amounts to State abdicating a primary responsibility in favor of private sector. Also, National Health Mission with such tilted priorities as if expanding or extending Rural Health Mission, serves little in improving the health of the nation and in correcting the neglect of rural needs. Mr. Motek Singh Alhuwalia, Deputy Chairman of the Commission, appears more active in getting basic public services privatized and facilitate FDI into any number of sectors.

## Govt to gift mobiles to 6m BPL families

Mahendra Kumar Singh

₹7,000Cr Sop Planned With Eye On 2014

In what could turn out to be its calling card for the 2014 general polls, the UPA government is finalizing a Rs 7,000 crore scheme to give one mobile phone to every BPL family. Sources in the PMO said that the scheme, Har Hath Mein Phone, expected to be announced by Prime Minister Manmohan Singh on August 15, will not only aim to give away mobiles to around six million BPL households, it would also provide 200 minutes of free local talk time. Top government managers involved in formulating the scheme want to sell it as a major empowerment initiative of the UPA-II. While the move will ensure contact with the beneficiaries of welfare programmes worth thousands of crores, there is also a view the scheme will provide an opportunity for the ruling dispensation to open a direct line of communication with a sizable population that plays an active role in elections. The scheme is likely to be funded from telecom departments universal service obligation (USO) funds. According to a source, 50% of the cost is likely to come from the bidder who gets the right to provide service and the remaining from the USO fund. According to estimates, the scheme will involve a monthly expenditure of Rs 100 per cellphone. PMO is involved with the Planning Commission and telecom ministry in giving shape to the scheme. The government has already launched a national infrastructure initiative under PM's advisor Sam Pitroda that aims to link 2,50,000 panchayats in 16 months through Internet so basic communication facilities can be provided.

*Courtesy: The Times of India (8 August 2012)*



## Keep television at arm's length

Kalpana Sunder

*"I find TV very educational. Every time somebody switches it on, I go to another room and read a good book!" — Groucho Marx*

I've reached my three-month mark without cable television. And it's showing on me. I am healthier, my creative juices are flowing and my relationships are richer. I am now a self-appointed messiah to take the message to people — eliminate TV from your lives and see the difference!

**Television eats into your time.** It is a stimulation that takes charge of your life. Statistics in the U.S. say that the average person watches more than four hours of television a day. This must be true for most Indians too. This is about one-fourth of one's waking hours! Imagine if you had that time, you could exercise, cook gourmet meals, pursue a hobby, write a novel or do volunteer work!

**The evils of television are legendary.** Eating in front of the TV set is common. It could end up adding more calories and obesity. People rarely have meaningful conversations while watching the idiot box. There is little time for parents and children, and watching TV together does not grow a relationship! Before the advent of television, families played together, went on picnics, took long walks together and pursued hobbies. Why don't families reap the real benefits of quality family time rather than watch dysfunctional families waging war on the screen? Having dinner together is a timeless ritual which has been taken over by watching weepy soap operas.

Television is known to interfere with sleep patterns, the body's circadian rhythms. Many people prefer watching TV to lulling their body to sleep with a book or music. Going to sleep with TV on your mind is to wake up exhausted. The greatest evil of TV according to me is a sedentary lifestyle. This mindless watching of re-runs and reality shows, sitting on the couch with a drink in one hand and a snack in the other can, lead to heart ailments, diabetes and other health problems. More time outdoors? You have to turn it off. Play an active

game of football or badminton or just take a brisk walk on the beach. See what you have been missing with only the remote for company!

The American Academy of Paediatricians recommends that children less than two years should not watch TV at all — TV is linked with attention problems in kids. **Children need to listen to intelligent adult conversation to build the capacity for linear thought.** Let's face it. **Progress comes from being in the real world** — talking and interacting with people, reading inspiring literature, picking up valuable skills and not from isolation which is what TV perpetuates. The worst fact is that TV is addictive! No matter how noble your intentions are, once you are in front of the box, you will be ensnared by its sheer banality. Like any other addiction, we use TV to calm down, we are on edge when we don't watch it and we just don't seem to be able to control our hours of viewing! We often put off tasks like paying our bills, stocking up the larder or putting our homes in order for the pleasure of watching a clichéd saas bahu soap opera! The result is an overwhelming stress and guilt about the undone tasks and all those things we could have done in that precious time.

**TV kills imagination.** Everything is portrayed for you at the flick of a button, you just have to sit back and enjoy the product of someone else's imagination. Programmes are also loaded with commercials and a constant barrage is spawning desires. **Fantasy becomes more satisfying than real life!** Insidiously, television puts the viewer in a mental frame where he always wants something. A bigger TV set, a flashier car, more luxury products and the list goes on.

I do agree that television is a medium that can inform, inspire and educate. The clincher, however, is that **why should we sacrifice our health, money and relationships for something that humanity has done well without for thousands of years?**

*Courtesy: The Hindu (15 April 2012)*



# Media self-regulation has not worked: Khurshid

*Media freedom should not be tampered with, argue others*

Where does the media derive its freedom from? Is it a profession driven by social good or a business motivated by profits? Have journalists become too powerful and arrogant? Is the media abusing its freedom and is it time to put it on a leash? These were some of the questions raised at a seminar on “challenges facing the media” and “threats to media freedom and independence” organised by the Editors Guild of India and the India chapter of International Press Institute here on Friday.

While some speakers like Union Law Minister Salman Khurshid and former law minister Ravi Shankar Prasad made a case for media regulation, several senior editors argued that a free media was paramount to a democracy and any effort to regulate it, especially by the government, did not bode well for the country. Khurshid said his government did not support the idea of regulating the media but he said self-regulation by the industry was not working either. He said the media needed to be accountable for the freedom it had been given. Referring to the Supreme Court’s proposal on guidelines for reporting court proceedings, he said even the judges needed some guidelines for themselves.

He suggested that the court proceedings be telecast live over the internet so as to avoid any chances of misreporting. Khurshid clarified that the Supreme Court’s efforts were limited to legal correspondents and the government had no intention to extend them to the entire profession.

While Prasad also emphasised the need to regulate media excesses, he defended its freedom and said it should not be tampered with. Prasad held the television rating points (TRP) system as the bane of the broadcast industry.

In a session moderated by T N Ninan, chairman and editorial director of Business Standard, Raghav

Bahl, founder and editor of Network18 Group, said media’s excesses were no more and no less than the excesses displayed by various other sections of society. He said media’s actions needed to be viewed in the larger context of what has been happening in society and should not be judged in isolation. He also pointed out that plurality and competition in the Indian media gave it a much-needed balance, yet it could do with some course correction in the manner of its reporting, especially regarding the government and its agencies.

**Shekhar Gupta, Editor-in-Chief, The Indian Express, said there was no threat to the fraternity’s freedom from the government; the threat, instead, was from within. He said journalism had become the most incompetent profession in the country and arrogance, incompetence and greed had become the defining traits of journalists. It was this inner weakness that had made them defensive of their position and apprehensive of any efforts on the part of the government to regulate them, he said.**

Some journalists, he said, were overwhelmed by the responsibilities that freedom brought and were too afraid to exercise their freedom, thus, seeking to be put on a leash. The other panelists in the session included Ajay Upadhyay, consulting editor, Amar Ujala, and N Ravi, former editor of The Hindu.

In the following session on paid news, former chief election commissioner S Y Quraishi highlighted the extent to which the phenomenon of paid news had penetrated the industry and spoke of efforts needed to rein it in. This session was moderated by Prasar Bharati chairman and journalist Mrinal Pande.

The seminar was attended by various current and former senior editors and journalists.

*Courtesy: The Indian Express (6 July 2012)*

## No peg to hang a news story on

Pamela Philipose

*Media coverage of sexual crimes must necessarily balance society’s right to know, with the survivor’s right to privacy*

Two primary concerns overlap in the Guwahati molestation case of July 9: one, the deeply pervasive culture of sexual harassment/assault in the country; two, aggravated media coverage that follows no norms and sets few limits for itself.

Neither of these are startlingly new developments. We need just recall the media treatment accorded to the battered body of an English teenager in February 2008 in Goa, the murder of another teenager in Noida a couple of months later that same year, and the reported gang rape of a student at the

Tata Institute of Social Sciences in 2009. And these are just a few cases that came to national attention. One need only visit YouTube to see how ubiquitous are stories put out by news channels all over the country that revolve around women being stripped, assailed, slapped, assaulted, violated — on the streets, in police stations, inside homes.

In all these instances, the salaciousness of the television footage, or in the details faithfully garnered for news reports, are only matched by the sanctimoniousness of the accompanying script. After News Live “broke” the Guwahati story, it was a virtual free-for-all, with every channel rushing for a piece of the high decibel action. But anchors always made sure to speak of how society has been shamed, shocked, cursed by the incident and lament copiously over the fate of a schoolgirl being mauled by barbarians.

### Looking at coverage

What is striking about such coverage is that its aim — despite the pretence of representing a higher morality — is to titillate, not correct; sensationalise, not sensitise. This, in turn, means that more of such coverage does not lead to less sexual violence in society. Take two other cases from Assam. In November 2007, a tribal woman was kicked and stripped on the streets of Guwahati, when she was part of a rally demanding tribal status to tribals working in the State’s tea plantations. Five years later, in a strikingly similar repeat, you see hoodlums kick a woman MLA in a recent incident in Karimganj district. In the first incident, the woman was being ‘chastised’ for making an outrageous demand on behalf of her community; in the other, the woman was being ‘punished’ for entering into a marital relationship that went against dominant norms. But somewhere it appears that the largely unquestioning coverage accorded to such incidents actually helps to normalise bestial, sexually charged behaviour of vigilante individuals or mobs and drive home the justification that women who transgress need to be checked, and if this means assaulting their bodies, so be it.

It is entirely of a piece with this script that you have statements from various hallowed corners of the country, the head of a woman’s institution here, a minister there, which don’t talk about these indefensible actions but focus on the ‘behaviour’ of the assaulted woman. They demand that she dresses more appropriately, conducts herself more carefully, etc, etc. By transferring the guilt from the perpetrators of such attacks to the subjects

themselves, these high eminences are actually condoning the culture of entrenched misogyny that leads to the routine denigration of women everywhere.

So what is to be done? Should there be some “enlightened” regulation of media coverage of such matters? The storm of protest that greeted the Supreme Court deliberations on framing guidelines for media coverage of matters that are sub judice — one of the related petitions before the apex court interestingly argued for minimising the portrayal of sexual abuse and violence in television coverage — indicates that there is a justifiable concern that any attempt to regulate the media could mean bringing in a censorship regime through the back door.

### Self-regulation

**But if external regulation is an abomination, then we need to ensure that media functioning is not anathema. How serious are the media in India, including those that have come to be termed as the corporate media, about self-regulation? How seriously are they, and the professionals who comprise them, willing to subject themselves to the rigours of setting standards for themselves and defending these standards every day?** Rupert Murdoch, let us remember, had a very thick manual called “Standards of Business Conduct” for News Corp — some might say his ethical problem first arose from the fact that he saw his media empire as a business empire. But that manual didn’t take News Corp very far when it came to the hacking scandal which eventually rendered the *News of the World* extinct.

When it comes to self-regulation in terms of covering sexual crimes against women, things get complicated given their exceptional and intimate nature. It would help, of course, if basic but little understood principles are understood once and for all, and not just at individual, but institutional levels.

That women have equal rights, including the right to free movement and bodily integrity; that coverage of sexual crimes must necessarily balance society’s right to know, with the survivor’s right to privacy. That such coverage should be premised on the fact that in a case of rape or sexual assault, a victim’s personal life, physical appearance, wardrobe, and past history cannot deflect from their status as crimes that demand justice. Finally, that the media must not, in its hunt to beat the competition, use women’s bodies as pegs on which to hang their stories.

*Courtesy: The Hindu (26 July 2012)*

# When politicians own the media

Vanita Kohli-Khandekar

Last month the ministry of information and broadcasting decided to extend the June 30 deadline to digitise TV homes in the four metros. The new deadline is October 31. There are various reasons for the delay (“Digitisation delay is not a good sign”, June 22). The biggest, however, is cable TV ownership. In many states, local politicians who own cable networks do not like the idea of subjecting their fiefdoms to the scrutiny that digitisation would eventually force. Most had been pushing for an extension.

This, however, is not about digitisation. It is about the politicisation of media ownership and how it is changing the fabric of the Rs 80,000-crore Indian media and entertainment business.

More than a third of news channels are owned by politicians or politico-affiliated builders. An estimated 60 per cent of cable distribution systems are owned by local politicians. These have influenced and funded several local elections. There are dozens of small and big newspapers owned by politicians or their family members that influence the course of several local elections. Many newspaper chains with political affiliations also own broadcast networks. Most now have Internet portals.

Much of this, then, begs the question: shouldn't we be discussing the political ownership of the media and its impact on the nature, quality and course of debate in the country? What harm does this ownership do to the long-term fabric of this business? Will it make it unviable in the long run? Will it put off legitimate Indian and foreign investors because policy could be changed to accommodate this class of owners?

The television news business is a good case in point. Going by TAM Media Research figures, there are 133 news channels in India, the highest in the world. They are fighting over a stagnant ₹1,800-crore to ₹2,000-crore ad pie. Of the four listed TV news companies, only one – TV Today – made post-tax profits in March 2012. Most of the unlisted ones are barely recovering their operating costs. Yet many more news channels await permission to launch.

**A cursory analysis of news channels shows that roughly one-third are owned by companies or individuals not interested in building a news brand. Many are just political vehicles; others peddle influence for builders. As a result, the companies that want to make money by running a good old-fashioned news outfit end up competing with ones that have no shareholders**

**or investors to answer to.** So they can burn as much cash as they want. One consultant recounts that a news channel in Andhra Pradesh was advised that the optimum number of OB (outside broadcasting) vans for a channel in that genre was four; it insisted on having 30 OB vans simply because it had no need to control costs or make a profit. The result is: declining standards and unhealthy competition as channels vie with each other for every scrap of news.

Take a look at cable TV. Digitisation will force transparency, plug revenue leakages to the tune of ₹10,000-odd crore and bring in more taxes. Little wonder, then, that no cable operator wants it. In the normal course of things, any government would have pushed it through simply because it makes so much sense. But given the ownership pattern of cable TV, this has proved difficult for most governments. No one wants to risk a blackout and a consumer backlash. There are several such examples of media ownership by politicians proving to be harmful — not just because of the influence factor, but also because of their dodgy business logic.

How can this be tackled? Largely, governments are too afraid to touch the media (the paid news scandal in newspapers) or love to meddle with it (content). Either way, its intervention does not come from a neutral, big-picture perspective. The exceptions to this are the radio policy and digitisation law — both are forward-looking and robust. But usually a ministry will always be subject to the pulls and pressures of coalition partners, party members and other individuals.

The answer, then, seems to be an independent-of-the-government media regulator a la the UK's Ofcom or America's Federal Communications Commission. If a regulator is truly independent — like the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority — it is stronger. It is backed by an act of Parliament and its decisions are usually harder to challenge, which creates more stability. For instance, the Telecom Regulatory Authority of India's coming in as broadcast regulator actually helped clean up a lot of the on-ground mess in cable TV.

This media regulator could then decide on a policy vis-a-vis ownership and the dozens of other issues that the industry faces. The question is: which government will show the “political” will to outsource media regulation?

*Courtesy: Business Standard (3 July 2012)*



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